Inside this issue

Djadi – Dugarang

The Newsletter of the Indigenous Social Justice Association
Volume 5 Issue: 1
October 2003

Deaths in Custody – An Aboriginal Inquisition

EDITORIAL

The production of this Newsletter has been, again, very much in a state of flux and confusion brought about by further deaths in Michael's Family and pressure of work on both he and me.

On behalf of ISJA and our Members and Friends, I sadly, once again, extend to Michael and his Family our deepest sympathy and condolences for the tragic and untimely deaths occurring. We also sadly farewell Michael as our Master of Information Input.

With some coordination and good fortune, Djadi-Dugarang will continue and hopefully now on a more regular basis.

For this we can thank Gordon Weston and our good friend, Rose. Welcome to both our MII.

It has been decided that we are changing the format of the Newsletter from one of a generally scattered theme to that of a single theme.

This is to overcome the general lateness of each issue. That is the downside; the upside is that by having a thematic issue we are better able to analyse the relevant issue and then hopefully come up with some positive criticisms of the Systems that impinge upon Aborigines and Torres Strait Islanders in their day to day lives.

This Issue will be dealing with Reports of Deaths in Custody but we will also be looking beyond or behind those Deaths in Custody Reports at what is commonly called, "the underlying causes." We must do this to remain true to the Principles of the Royal Commission into Aboriginal Deaths in Custody. It was, after all, strongly argued by the Police, Gaol and Gaol Health Unions, Australia-wide, who submitted that the Commissioners must look at the "underlying causes" rather than just the actions or inactions of their Members. This Principle was accepted. The rest is History. All 100 Families were blamed!

Whilst looking at the "underlying causes," it will become necessary to squarely challenge those views put by howard and those apologists who attempt to rewrite our Histories to better suit their own political and amoral ends. WA Premier Geoff Gallop has now united himself with these elitist individuals and groups, including the Bennelong Society.

The Bennelong Society is a Government supported Think Tank, set up as an alternative source of advice and information to ATSIC.

Not only has this Government attacked ATSIC's limited independence, it is also not interested in listening to advice about Sovereignty, Treaty and Social Justice issues from ATSIC.

It is the ultimate arrogance and insult to name a group, which will be working against the interests of Aboriginal people after an Aboriginal person.

This merely highlights the utter insensitivity to Aborigines and Torres Strait Islanders from these politically motivated chattering classes. These political groups are well known for condemning what is called, derogatively, "the Black Armband View of Australian History". We counter-balance this warped view with what we Aborigines see as the "White Blindfold View". I intend to go into this discussion further on, but I will say now that I see the howard, Gallop, Windschuttle, et al, attacks as being very destructive and extremely divisive. What they are doing to the Black and White History of this Country is nothing less than criminal. To put it into its correct context, it is not so much a "White Blindfold View", rather it is a cynical exercise of invoking and implementing a Constructed Silence.

What is a Constructed Silence?

A Constructed Silence is the construction of an Immoral Cocoon that is woven, strand by poisonous strand, to better protect those within the howard world. A world where at the start of each new day, the National Prayer is made. 'White is Right, and always will be.' We Indigenes must never be allowed to be Right, and even when we are, the Laws are reconstructed to make us wrong.

A Constructed Silence is not based on mere ignorance of our Black and White History. A Constructed Silence is a deadly exercise in actively reconstructing known History to remove the crimes of white colonisation.

A cocooning to silence those voices of the past that cause so great an embarrassment to the white establishment, and their apologists. More on this later.

Deaths in Custody, of course, is not merely restricted to the deaths of men, women and children in gaols, police Category One and Two deaths or Juvenile Justice Centres.

Any study of Deaths in Custody must also include Coronial Inquiries and the outcomes arising from those Inquiries. We will be looking at 3 Coronial Inquiries of which ISJA has given various levels of assistance to the Families involved.

I intend also to introduce Reports on Capital Punishment, mainly from the USA, due to the fact that howard is becoming very interested in reintroducing the death penalty for Terrorism. For now it is terrorism, but rest assured once it is legally introduced it will become a practice for other social crimes.

Should such eventuate I can very well envisage our death rows being mainly made up of People of Colour. More on this later.

We'll be looking at the Report from the Australian Institute Of Criminology, Deaths in Custody in Australia, in which they inform us, among other things**, that during 2002 there were no hanging deaths of Aborigines in Australian gaols.** We all must be very thankful for this eventuality and hope that the trend continues. The why remains a point of puzzlement. The gaol Administrations will claim it is due to their collective expertise. If so?, repeat please. Alas, sadly an impossibility, as hanging deaths in gaols, as well as in escort vans, have already occurred during 2003.

We will also be looking at individual cases of Deaths in Custody, Australia-wide, and, where

possible, the circumstances surrounding those deaths.

Police deaths will also be closely scrutinised, especially a new (at least to me) phenomenon- drowning deaths. As usual, deaths caused by trigger-happy cops also play a part.

The alleged strange connection between the tragic death of a two year old boy and the suicide (perhaps?) of an Aborigine in a NSW gaol, will be examined. This gaol death should never have happened.

As previously stated, deaths by hanging in transport vans are also now happening.

The death of a young Aboriginal woman in Townsville gaol in early August 2003 will also be reported on.

Deaths by high-speed police pursuits will also be looked at. As usual. This will include further thoughts on the Constructed Silence initiated by W.A. Premier Gallop.

We will, however, begin with the Australian Institute of Criminology, (AIC) Report titled Deaths in Custody in Australia, a very handy 46 page booklet which I highly recommend. Firstly we must clearly understand and accept, what constitutes a Death in Custody.

The Report explains the definitions of what is recognised as a 'Legitimate' Death in Custody. There are, and have been, Deaths in Custody that are arguably just that but are not recognised as such by the Authorities. I believe that the AIC has Files on these so-called 'questionable deaths.'

The following excerpts come from the Report and I thank the AIC for allowing me to use it.

Definitions

Deaths in Prison Custody

Deaths in prison custody include those deaths that occur in prisons or juvenile detention facilities.

This also includes the deaths that occur during transfer to or from prison or juvenile detention centres, or in medical facilities following transfer from adult and juvenile detention centres

(RCIADIC 1991, pp. 189-90)

Deaths in Police Custody

(Introduced and accepted by the Authorities only during 1994—rj)

Deaths in police custody are divided into two main categories.

Category 1

Deaths in institutional settings (for example, police stations or lockups, police vehicles, during transfer to or from such an institution, or in hospitals following transfer from an institution).

Other deaths in police operations where officers were in close contact with the deceased. This would include most raids and shootings by police. However, it would not include most sieges where a perimeter was established around a premise but officers did not have such close contact with the person to be able to significantly influence or control the person's behaviour.

Category 2

Other deaths during custody-related police operations. This would cover situations where officers did not have such close contact with the person to be able to significantly influence or control the persons behaviour. It would include most sieges, as described above, and most cases where officers were attempting to detain a person, for example, during a pursuit. (Of the high-speed car chase variety.—rj)

What type of cases are borderline cases?

For the purpose of the (2002 National Deaths in Custody Program Annual Report), NDICP, a person is considered to be "in custody" when they are not free to leave the detention or arrest of police or corrections officials. This also includes deaths that occur in a hospital if the injuries or illness suffered while in custody caused or contributed to that death. In cases where police were clearly in the process of detaining or detaining or attempting to detain a person immediately prior to death, such as shootings, sieges, raids and pursuits, the person is considered to have been "in custody" at the time of death.

In all borderline cases the difficult question centres around whether the deceased was in custody at the time of death. Below are some brief examples to illustrate situations where borderline cases may arise and therefore be excluded pending a Coronial Inquiry.

Police engage in a pursuit after observing a car that has been reported stolen. The police attempt to make the driver pull over, however the driver speeds away from police. When speeds reach dangerous levels police, (may—rj), call off the pursuit. The police are still following behind the stolen vehicle and it is in sight when the driver loses control and is fatally injured in the resulting car accident. (We will look at this type of Borderline example later—rj)

Police pursue a driver who is behaving erratically and driving in a dangerous manner. The police want to question the individual and will arrest the driver if he/she is intoxicated. The police pursue the car in attempt to make the driver pull over, the driver speeds away from the police and the pursuit continues. The police lose sight of the vehicle temporarily. A short time later the police come across the vehicle which has veered off the road and into a power pole, to find the driver dead at the scene. (Depends on the semantics and accuracy of the interpretations of "temporary" and "short."—rj)

The police detain a person who is intoxicated in a public place and hold the individual for several hours. A short time after being released the individual is struck by a motor vehicle when crossing the street approximately one kilometre from the police station. The individual dies in hospital as a result of injuries sustained. (Depends on the levels of intoxication upon being released.—rj)

All Custodial Deaths

In 2002 a total of 69 deaths occurred in police and prison custody in Australia. This figure represents a decline from the 87 deaths recorded during 2001 and is the lowest overall figure recorded (pending coronial outcomes for 2002) since 1992. Australia's most populous jurisdiction, New South Wales, recorded the highest number of custodial deaths with a total of 29, followed by Victoria and Western Australia with a total of 11

deaths each. There were 10 custodial deaths in Queensland, three in Tasmania and the Northern Territory, and two in South Australia There were no deaths recorded in the Australian Capital Territory during this period.

Demographics

Consistent with previous years, the majority of deaths involved non-Indigenous males (n=48). There were eight female deaths in custody during 2002, four of which occurred in New South Wales. Victoria, Queensland, Western Australia and the Northern Territory all recorded one female death during this time. Approximately 20 per cent of all custodial deaths during 2002 involved Indigenous persons (n=14.)

During 2001 the mean age of persons who died in custody was 41 years; the mean age for Indigenous persons was 37 years and the mean age for non-Indigenous persons was 42 years(the median ages were 36 years and 42 respectively.)

Cause of Death

In terms of cause of death, deaths due to natural causes were most common in custodial settings during 2002 (25 out of 65 deaths). For Indigenous persons the most common cause of death was natural causes (seven out of 14 deaths). There were no Indigenous persons who died as a result of a hanging during 2002 in either police or prison custody- a reduction from the average of five hanging deaths per year during the 1990s and a decline from the eight such deaths recorded in 2001. For non-Indigenous persons, 35 per cent of deaths (18 out of 51) were a result of natural causes, while approximately one-third of deaths were caused by hanging (15 out of 51 deaths).

Manner of Death

When the manner of death is classified as an "accident", this includes deaths that result from toxicity of drugs and/or alcohol, head injuries, burn injuries, drowning and fatal injuries following a motor vehicle accident. It also includes hangings where the coroner has found the incident to be accidental. It is important to note some alcohol and drug related deaths are classified as accidental death unless the coroner has clearly stated that the death was intentional and therefore was self-inflicted. "Self-inflicted" cases include all deaths where the manner or responsibility of death is considered self-inflicted rather than accidental. For example, most hangings, self-inflicted gunshot wounds and deaths due to drug or alcohol toxicity would be classified as self-inflicted.

Overall, self-inflicted deaths accounted for the majority of all custodial deaths in 2002 Twenty-three of the 51 non-Indigenous deaths and three of the 14 Indigenous deaths were self-inflicted. Deaths due to natural causes were also a significant manner in which people died in custody during 2002-half of the Indigenous deaths were a result of natural causes (seven out of 14 deaths), and 18 of the 51 non-Indigenous deaths were also a result of natural causes. (Sometimes the official manner of death can be quite controversial and is very much open to interpretation. Some deaths I, and others, will never accept as being "accidental" or of "natural causes." But then I am not the Coroner, so there it is.—(rj)

Deaths in Prison Custody

There were 50 deaths in Australian prison custody during 2002, down slightly from the 56 prison deaths recorded in 2001. Eight of these deaths were of Indigenous people (16 per cent). The majority of deaths occurred in the jurisdictions where the majority of Australia's prisoners are located- New South Wales recorded 20 deaths, Victoria 10 deaths, Western Australia eight deaths and Queensland seven deaths. There were no deaths recorded in juvenile detention in Australia during 2002.

Demographics

Of the 50 deaths that occurred in prison during 2002, the youngest person who died was aged 19 years and the eldest person was aged 71 years (the mean and median age for prison custody deaths was 43 years). Non-Indigenous persons who died were older than their Indigenous counterparts (a mean age of 43 years versus a mean age of 40 years). During 2002 there were five women who died in prison custody, all of whom were non-Indigenous. Of the 45 male deaths in prison custody, 37 were of non-Indigenous persons and eight involved persons of Indigenous origin.

Manner of Death

In terms of death, most deaths were either self-inflicted (n=19) or due to natural causes (n=23). Non-Indigenous deaths were more likely to have been self-inflicted (18 out of 38 deaths), while Indigenous deaths were most often due to natural causes (six out of eight deaths). There were three deaths during 2002 that were classified as "unlawful homicide", that is, as a result of murder or manslaughter.

Location of Death

More than half of non-Indigenous prison deaths occurred in a prison cell (n=23), approximately one-third occurred in a public hospital (n=13) and the remainder took place in other areas of the custodial facility (for example, the exercise yard). The majority of Indigenous deaths occurred in a public hospital (five out of eight deaths), while the three remaining Indigenous deaths occurred in "other" custodial locations as above. In terms of the type of prison that the death occurred in, 43 were in government-run prisons (86 per cent) and seven occurred in privately run facilities in New South Wales, Victoria and Queensland

Category 1 and 2 Deaths

During 2002, 74 per cent (n=14) of the 19 deaths were classified as category 2 deaths; that is, deaths in custody-related police operations (such as, for example, deaths following sieges and motor vehicle pursuits). The remaining 26 per cent (n=5) compromised Category 1 deaths, which occur during closer police contact with the victim, such as shootings, raids and deaths that occur in police stations. The five Category 1 deaths that occurred during 2002 represent the lowest figure recorded for this category since 1990.

Demographics

There were 16 males and three females who died in police custody or custody-related police operations in 2002. Of these, six were Indigenous and 13 were non-Indigenous. The mean age of Indigenous deaths in police custody was 34 years, while for non-Indigenous persons the mean age at time of death

was slightly higher at 37 years. Persons who died in police custody- the mean age of death for prison custody deaths was 43 years, while the mean age of death for police-related deaths was 36 years. The ages of persons who died during police custody operation ranged from 15 to 69, with the median age being 34 years.

Manner of Death

In terms of the manner of deaths in police custody, the majority of cases were either accidental or self-inflicted deaths. For Indigenous persons, accidents accounted for three of the six deaths that occurred during 2002, while non-Indigenous persons, self-inflicted deaths accounted for five of the 13 deaths. There were three deaths during 2002 where the deceased died after being shot by police (classified as justifiable homicide). **End**s. (Or not, as the facts may show—rj).

So, to summarise, Indigenous custodial deaths in Australia have fallen from 19 in 2001 to 14 in 2002. Deaths in gaols, Australia-wide, have decreased from a high of 14 in 2001 to 8 in 2002. Police deaths, in both Categories, have increased from 4 in 2001 to 6 in 2002. No Indigenous deaths in custody occurred in Victoria, South Australia and Tasmania. All deaths in custody in the Northern Territory were Indigenous, 3 in total. There were no deaths in custody in the ACT.

The 'legitimate' death list numbers to 2002 are listed as being 304. Our list runs much higher but becomes very difficult to quantify due to the Borderline Cases. I believe that it would be roughly 350, maybe even up to 400, since 1 January, 1980. The questionable deaths have mostly fallen in the Police Category 2 area. Non-Indigenous deaths in custody since 1 January 1980 total 1,294. Police deaths to 2002 equal 564 of all deaths. Gaols number 1,018 whilst Juvenile Justice of all deaths account for sixteen.

*Roll on 2003 .**(RJ)***

We begin our News analysis on a positive note with what we hope will bring about real change to the generally dismal and destructive scene that is Deaths in Custody.

ABC Indigenous News
20 November 2002

Diversionary Centre aims to stop deaths in custody

A new Diversionary Centre in Cairns, in far North Queensland, is expected to help prevent Aboriginal deaths in custody.

It is the fifth such Centre to open in Queensland as a result of Recommendations by the Royal Commission into Aboriginal Deaths in Custody in the 1980s.

The Minister for Aboriginal and Torres Strait Islander Policy, Judy Spence, opened the Lyons Street Diversionary Centre yesterday.

"Where they operate there has been no death in custody or death in a watch-house where Diversionary Centres are operating, so they have proven very successful in diverting from those tragic statistics that we were seeing a decade or so ago," she said.

The Centre's Manager, Sam Savage, says the purpose-built facility is proving successful and several clients have been referred to a rehabilitation facility.

"Yes, very, very beneficial. We've had a lot of clients say, 'I want to get off the alcohol, I want to do something different'…and we've been able to refer people directly on to our Douglas House facility."
Ends.

As I said, a good news story, but why does it take Governments so long to properly implement the Recommendations, and especially 79, 80 and 81. Victoria had such Centres in operation during the early 90s. NSW initiated 'Proclaimed Places' but use by arresting police was fairly scattered. Some police decisions not to use these "Places' directly led to deaths in custody in police cells. The ACT re-established a Sobering-Up Centre in 1997.

It is now up to the Queensland cops to make it work.

Staying with the police for a while, we now need to move over to the Northern Territory where a Sergeant of police shot a young Aboriginal man in the back and wounded another. The following Report from the Australian gives some background to the situation as it evolved. We must also remember that media reports are generally biased in their reporting of Aboriginal issues.

The Australian
By Paul Toohey
18 November 2002

Killing hurts the Aboriginal Community

Canberra bureaucrat to former Port Keats President Theodora Narndu:

"Where are all the men?"

"They're down at the cemetery."

"Are they having a ceremony?"

"No, they're dead."

A fatal swath has cut through Port Keats, a small coastal town 300km southwest of Darwin.

Liquor, sometimes alone but mostly liquor and cars, has killed off a great many of the Community's men or put them in jail. Hundreds of young adult men have grown up barely knowing their fathers. They too are headed for jail or early graves.

Unlike Arnhem Land, which has thrown up many powerful leaders-

Yunupingus, Marikas, Djerrkurras- Port Keats, also known as Wadeye, has not. Which is strange, considering that with a population of 2500, the Catholic-influenced Port Keats is the largest Aboriginal Community in the Northern Territory. Think instead of more historical figures such as Nemarluk, the warrior-assassin who campaigned against the whites and Japanese.

The warrior mentality lives on, proudly at times, out of control at others.

The young hard men are hard, powerfully built and have serious attitude.

Which is why Port Keats, along with Groote Eylandt in the east, is responsible for making up most of the numbers in Darwin's Berrimah jail. The events of the past few weeks show why. What led to Senior Constable Rob Whittington shooting dead an 18-year-old youth on October 23, (2002), may have its roots in a decades-old clan battle, but the attack on the highway into Port Keats on October 18 is a more connected starting point.

Three middle-aged Aboriginal men waiting by a broken-down car near Peppimenarti, a Community visited every day by Port Keats residents because it, unlike Keats, has a licensed club. A group of about seven younger men from Keats saw the three and laid into them with rocks and pieces of firewood. Albert Jongmin was left with a punctured lung after four of his ribs were broken, Giovanni Jongmin had bruising to his back, and Bede Lantjin had his leg and arm broken.

The injured were left on the roadside and found by a contractor the morning after the attack.

The dead youth, whose surname is Jongmin, sought to avenge his Uncles in what has been described as a controlled series of fist-fights at the Port Keats oval five days later. The fights were said to be organised by the dead youth's father, Ambrose Jongmin, as a way of settling the peace.

Accounts of what happened vary, a situation not assisted by the police, who have maintained almost total silence except to confirm that their Officer killed the Jongmin youth and shot and wounded another.

Initially, the suggestion from police was that Whittington had gone to the oval alone and in breach of the Standing Order that states they must travel in pairs. Assistant Commissioner Doug Smith said the Officer had gone to "keep the peace" and things had got out of hand.

It is now understood there were three officers watching the fight. When word got out of the conflict, hundreds of people flocked to the oval. A young man named Tobias lost a fight. Humiliated, he went home and grabbed a single-barrel shot gun. Witnesses say he fired it into the ground in anger. The most consistent version is that the Jongmin youth began wrestling the gun off Tobias. In a Statement released on behalf of the family by the North Australian Aboriginal Legal Aid Service, it was said the Jongmin boy was "acting heroically and courageously to disarm a man".

According to NAALAS lawyers, it was in the seconds after the situation was defused that Whittington began firing. (my emphasis-rj). He may have been up to 30m away and fired three or four rounds. Another Officer, First-Class Constable Carmen Butcher, was there but was unarmed. The third policeman had reportedly already gone for cover.

Again, versions vary, but it is believed the Jongmin youth was hit in the back, the bullet emerging from his throat. It has been suggested Tobias was hit in the elbow or upper arm by the same bullet.

Whatever happened, it is known that two bullets from Whittington's 17 shot semi-automatic. 40-Calibre Glock gun slammed in the side of an occupied house behind where the youths were wrestling.

(The issuing of Glock semi-automatic pistols to the Australian Police Forces has removed forever any police argument that they do not shoot to kill. Straight up. Never mind the fancy shots---just shoot to kill.

NSW police were issued their Glock Pistols, despite some virulent public protest, back in 1997. Then Police Minister, Paul Whelan, said at that time that the Glock outperformed all other tendered weapons in safety features, accuracy, reliability, endurance, design and construction. He said the killing of two police officers at Crescent Head, in NSW, in 1995 had spurred him on to introduce the new pistols. I assume the Police Associations would also have been dead keen to obtain the complete killing machine.

As an activist at the time said, "Glocks are the street equivalent of an elephant gun. They will stop you. Dead"-rj)

Ambrose Jongmin, obviously distressed, picked up the shotgun and smashed it.

Given that the police always shoot to kill, questions are being asked as to whether Whittington overreacted. (my emphasis-rj) According to one man who has seen such situations before, the boy with the shotgun just wanted to save some face by firing the shot.

The police silence over the shooting can be read two ways - as a protective wall around their mate or a big step away from him. Some sources think it is more a case of the latter. (my sources agree-rj)

The job of being a bush Sergeant is, if you're any good, one of the most exacting positions in the Territory Force.

What's needed is an ability to look at an unmanageable situation and not see it as the end of the world, to realise that while sometimes the tension is electric, the heavy weight of welfare-induced languor will soon return. It cannot be easy.

Port Keats residents differ greatly on the weight they place on the gang system that has seen many groups of boys naming themselves after metal bands rather than their clans. The dead boy was in Judas Priest, the wounded boy in Pantera**. Port Keats is an artificial Community in which seven main, very different, Clan groups have been forced to live together on one Clan's Land. That is the basis of all the town's problems.** (my emphasis-rj)

But in this post-anthropological era, no one seems to understand the area's often jail-hardened young men, even though the dead youth had no record. "To reach the age of 18 in Port Keats without a criminal record is the criminal law equivalent of the Victoria Cross," said a legal aid lawyer.

When the youth's funeral was announced for Wednesday this week, there was panic. Half the population, fearing all-out war, fled.

The situation was made worse two weeks ago when police Prosecutor Sergeant Peter Hales persuaded Magistrate Jenny Blokland to postpone last week's scheduled bush circuit hearing at Port Keats, fearing violence.

Sergeant Hales said there had been "ambushes and incidents" and the place was unsafe. "The situation is severe and likely to escalate into open violence at (the funeral of the Jongmin youth) at Port Keats next week," he said. "From a police point of view, police can't guarantee that members of the Court party, travelling to and from Port Keats, even from the airport to the Courthouse, (we) can't guarantee that safety would be achieved."

This seemed a remarkable and unprecedented admission by police that Port Keats was utterly lawless. It caused the postponement of about 70 listed Court cases. But when the Australian broke this story, Port Keats Council rang and said it was having a meeting of senior public servants from Canberra and Darwin last week. Council officials said they would not cancel the meeting because there was no danger.

The police, perhaps realising they had created a public relations problem with their claims that there would be violence at the funeral, reversed their position and claimed they were not expecting any trouble. Still, there were at least four Tactical Response Group Officers flown in for the funeral.

It went off without incident. But Ambrose Jongmin still wants Rob Whittington charged. "This situation needs to be fixed up as quickly as possible," he said. "Long delays will only cause further trouble**." Ends.**

For information, Wadeye is located 275km south-west of Darwin, on a rugged stretch of coastline close to the border with Western Australia. It has been made a dumping ground of many Clans which, unsurprisingly, causes many cultural and social problems. Unemployment is rife and drugs and alcohol rule. Palm Island has a similar history.

To my understanding, there is still no result arising from the police and Coronial enquiries. into the shooting death and wounding of the youths involved. Senior Constable Rob Whittington has been committed to stand trial on the Charge of Dangerous Act Causing Death.

The statement that the funeral went off quietly is false. Toohey was refused access to the Community on the day of the funeral but he came anyway. This blatant show of disrespect to the Families and the Community caused much anger and the police, at the behest of the Community, charged Toohey with trespass. When the case came before a Court, Toohey was found guilty by the Court but did not fine him or record a conviction. The Court argued that the sanctity of 'the Press' must be upheld, and further that the matter was one of 'public importance.'

We must wait to see what Justice brings.

This next Report involves some very bizarre actions and reactions involving the tragic death of a 2 year old and the unlawful detention of a 22 year old. We see the hanging death of that inmate, the apparent complete breakdown of the NSW Parole System, a Government cover-up due to a NSW election - along with the Menangle Bridge fiasco - and finally a Minister taking some responsibility. This was followed by an Apology to the young man's Family by Commissioner Woodham.

Bizarre indeed!

We begin with a Report re the disappearance and death of Joedan Andrews.

THE AGE
By Julie-Anne Davies
8 January 2003

Police find new leads in case

Police investigating the disappearance of Mildura toddler Joedan Andrews have made a breakthrough in the case.

At the same time the child's family and Aboriginal welfare workers have accused Victoria's Protective Services of ignoring serious child abuse allegations concerning the two year old and his two brothers.

Last night NSW police confirmed that they had found several items of interest which had provided them with important new leads. Their discovery followed an anonymous tip-off.

Police with cadaver dogs, State Emergency Services and Rural Fire Brigade workers yesterday conducted a line search of the rear of the Aboriginal Reserve at Dareton, just across the Victorian border in NSW.

"Several items of interested were located and will be examined by forensic experts," a NSW police spokesman said. "Several lines of inquiry are now being pursued," the spokesman said.

The boy's mother, Sarah Andrews, told police she last saw her son about 6am on December 14, following a party at her home. Three cars, at least one belonging to her defacto partner Colin Moore, have been seized by police for forensic testing.

Although police have interviewed a number of people living in the Namatajira Avenue Settlement, including many who attended the party, their enquiries have been mostly met with silence. One of the strongest leads to date has been reports of a possible car accident on the night the child went missing.

"No one is saying anything because they are scared, especially the women," said the child's Aunt, Candice Andrews. "We have to face the fact that police are not going to find our little Joedan alive, They're looking for a body now."

The children's Grandmother, Veronica Andrews, said she repeatedly informed Protective Services in Mildura of her fears for the welfare of Joedan and his brothers.

"I notified the Department several times that the children were at risk of physical abuse, mental abuse and neglect and asked them to do something but they did nothing," Mrs.

Andrews said. That was in April last year.

In June the case was referred to the Mildura Aboriginal Corporation, which runs foster care and family support services for Indigenous Families.

The Corporation claims that after Joedan's mother refused to comply with the Programme, the Department closed the case. That was four months ago. In early December she moved across the border to live with her new boyfriend, Mr. Moore.

The Corporation's Coordinator, Sally Scherger, said there was nothing the Organisation could do because it was a voluntary programme. "The next thing we heard the Department had closed the case claiming there were no protective concerns," she said. "We were stunned."

The Department has refused to comment because the matter is still being investigated.

Mrs.Andrews is seeking a Family Court Order to be granted custody of Joedan's brothers who are living with her in Mildura**. Ends.**

There are issues enough arising from this Report but they are not the issues of this Newsletter. We do however need to have an understanding of the circumstances of the death of Joedan because of the possible link to the hanging death of the 23 year old, who cannot be named, at the John Moroney Gaol at Windsor.

I was first informed of this death in late January but as there were no official Gaol Reports, police or Coroner's Reports, and finally, no media reports it soon faded from importance and memory. I just assumed that, somehow, my contacts had been mistaken.

My anger and disgust at the Government and Departmental politics of cynicism was palpable, upon reading the following media reports.

AAP

April 11 2003

Aborigine dies in jail 18 days after release date.

A 23 year old Aboriginal man died in custody nearly three weeks after he should have been released, NSW Justice Minister John Hatzistergos said today.

Mr. Hatzistergos described the death at the John Moroney Correctional Centre at Windsor as an appalling tragedy.

The man, whose name was not released for Aboriginal cultural reasons, died on January 22 **– 18 days after he should have been released, he said.** (my emphasis-rj).

A miscalculation had the man's release date as April 10, 2003, and had not taken into account three months already served.

The cause of the man's death has not been revealed as a Coronial Inquiry has not yet been completed.

"Due to an administrative error made by the Parole Board Secretariat staff in August 2002, the balance of the inmate's sentence was miscalculated, Mr. Hatzistergos told reporters.

"In calculating the sentence, the three months he previously served in custody was not taken into account."

It is not known whether the inmate knew of the sentencing error, Mr. Hatzistergos said.

"He was aware of the miscalculated expected release date which was yesterday, April 10."

"This is completely unacceptable. This is an appalling tragedy."

Mr. Hatzistergos offered a full apology to the inmate's Family.

They were today visited by Corrective Services Commissioner Ron Woodham who explained the sentencing error and conveyed the Department's deepest sympathy.

The man was originally sentenced to six months Periodic Detention, but failed to report as required and his periodic detention order was revoked by the Parole Board, Mr. Hatzistergos said.

"He was arrested in April 2002 and served three months in fulltime custody before the Parole Board ordered his release in July pending a Home Detention assessment."

"In August 2002, the Parole Board determined he was unsuitable for Home Detention and issued a warrant for his arrest to serve the balance of his sentence in fulltime custody."

Mr. Hatzistergos said the man was in jail for multiple driving offences and theft offences.

"He had both a city and country background."

A Coroners Inquiry was still under way into the man's death.

But Mr. Hatzistergos said he decided to disclose details of the matter now because of the circumstances surrounding the sentencing error and because it was in the public interest.

As a result of the man's death, all release date calculations will now be supervised by a judicial member of the Parole Board, he said.

There have been three other miscalculated sentences this year, Mr Hatzistergos said.

However, that's got to be seen in the context of 37,000 prisoner movements per year**. Ends.**

To begin at the end, No Minister, what has to "be seen," what has to be exposed is the sickening hypocrisy of the blatant political cover-up by the Carr Government prior to the NSW Election in March 2003.

I find the references to an "ongoing" Coronial Inquiry laughable. Two references are made, yet most know that a Coronial Inquiry will not be held within three months, or even six months of the death. We have now reached October and to my knowledge, still no date has been set for the Inquiry.

The Minister refers to the knowledge of the victim of this "appalling tragedy" and wonders if he knew of the "sentence miscalculation."

Yes, he did. It would be a virtually brain-dead inmate, Minister, who has not calculated down to the hour, his/her earliest release date. He knew.

He knew and yet it appears that no one else did. Not the Parole personnel responsible for tracking the records of

the inmates to make sure they are neither released too early or that the wrong person is released, as has happened. They must also assure that no inmate goes over their release date.

With the amount of inmate movements, 37,000 says the Minister, mistakes are bound to occur. And, generally, they are not hidden. One mistake referred to ISJA involved a miscalculation of nearly 18 months! The mistake was corrected after several phone-calls.

I am not blaming the Parole Board for this error. I am certainly not going to put the blame at the feet of a virtual Parole trainee. That is the disgusting act of a coward.

The buck stops at the top. And the top at the time of death was Minister Richard Amery. Richard wanted to stay but he was persuaded to move on – for the good of the Party, I presume.

What perplexes me is the seemingly complete breakdown of the System at the John Moroney Gaol. Where were the Parole Officers working at the gaol? Were they not made aware by the inmate of the error? Why did nothing happen? Surely, a Corrective Services Officer would have been made aware? They do get many many queries and problems every time they are on duty.

Where were the Welfare Officers? Did they not hear any plea for assistance. Or were they, as usual, into inmate overload, and there were matters of more importance? Where to, were the Official Visitors who are assigned to each gaol? The John Moroney Complex of gaols has two assigned to the Complex. Did they know of the circumstances?

Every thing surrounding this death is "appalling." But one needs to ask when the new Minister, John Hatzistergos became aware of the death and the following very questionable actions? It took 11 weeks and 2 days for a public statement on the "sentence miscalculation" to be finally made. Surely the error was as "completely unacceptable" and "an appalling tragedy" in January as it proved to be in April?

Why not "a full apology to the inmate's Family" in January rather than wait until April? I am sure the Family would have appreciated the visit by Commissioner Ron Woodham in January rather than in April, had Minister Amery directed him to do so.

The System seems to be totally blind to the cynical political machinations that have caused so much grief and pain to the Family.

The plain inarguable facts of the whole exercise was to allow the NSW election to be held with no political points taken from Carr and the re-election of a Labor Government. The construction problems of the Menangle Rail Bridge were also hushed up, again for election purposes. Carr gambled that the bridge, if it was going to collapse, would do so only after the election. Bob is well known for his cynicism.

Previously to this Death, the Carr Government had toughened up the Law that introduced the practice of gaoling lapsed Periodic Detention detainees. As a result the System became choked and errors increased.

I believe that it was not the death of a young Aboriginal man in gaol that worried Carr. Rather it was the complete stuff-up of the Parole System that would have caused him electoral damage.

Carr was claiming we had the perfect Government, in the perfect time with the perfect Leader. Nothing should be allowed to interfere with his fairy tale world.

ISJA asks - who directed and organised the cover-up? And what did Ministers Amery and Hatzistergos know? And when did they know it?

These questions cannot be answered by a Coroner. They can only be investigated by an independent investigator, or perhaps, a referral to ICAC by either the Family, or maybe the Aboriginal Legal Service representing the Family. Blatant cover-ups are normally not condoned and they are investigated.

Will this cover-up follow that normal path? We live in hope.

The next article looks at these questions in part.

Sydney Morning Herald
Editorial
14 April 2003

How to prevent deaths in custody

Aboriginal deaths in custody are the awful markers of the destruction of a people. The death of an unnamed 23 year old man in the John Moroney Correctional Centre at Windsor on January 22 has struck the public consciousness like few other such cases because of its appalling and unusual circumstances. The man should have been released 18 days earlier. And he would have been, but for what the NSW Justice Minister, John Hatzistergos, describes as "an administrative error made by the Parole Board Secretarial staff" last year. Because of a failure to take into account three months already served, his release date was miscalculated as April 10, 2003.

A Coronial Inquiry is proceeding. The Opposition Leader, John Brogden, says an ICAC Inquiry might also be required if the Government fails to "tell the truth." Mr. Brogden also asks whether – because the man's death occurred during an election campaign – there was any cover-up. Mr Brogden's stern warnings are a reminder of the limits of the usual machinery of accountability in Government administration. An ICAC Inquiry, or the threat of one, might indeed be what is required to get to the bottom of the administrative bungle. It will do little or nothing, however, to illuminate the far more complex and difficult questions surrounding the man's death.

Some will think it always impossible to understand fully why so many Aboriginal men die in Australian jails. They will point to the Royal Commission into Aboriginal Deaths in Custody, begun by Justice James Muirhead in 1987, expanded by the appointment of three more Commissioners the following year,

and which made its Final Report in 1991. That long and painstaking Inquiry, which examined 99 of the 110 Indigenous deaths in custody in the 1980s, quickly became a deeper Inquiry into the conditions of Aborigines generally. It found the most significant factor contributing to the high rates of incarceration of Aborigines was, put most simply, the disadvantaged and unequal position they held in Society.

Who seriously thinks that has changed? The rate of incarceration of Aborigines certainly hasn't been significantly reduced. Nor has the rate of their deaths in custody, despite the many Recommendations of the Royal Commission. The answers, as always, lie in the multitude of measures needed to help Aborigines to help themselves, through education, and by preserving and strengthening their identity and sense of self worth.

Sadly, these still require action, by Governments, Aboriginal leaders and all Australians**. Ends.**

Any highlighting of a problem has its own merits, as long as it is managed in a positive manner.

Whilst there are some factual errors in the SMH Editorial the fact that Deaths in Custody is being given some consideration is a pretty good thing. The Editorial states that 99 of the 110 Indigenous Deaths in Custody in the 1980's were looked at. Actually, 124 deaths were offered to the Commissioner but only 99 were considered to be within the RC parameters. One of the deaths, originally rejected, was later proven to be valid (the victim was proven to be an Aborigine) and was included thus giving a total of 100.

The "deeper inquiry" looking at the underlying causes of Aborigines in Custody, arose from an agreement between the Commissioners and the Police, Gaols and Goal Health Unions that was brought about by the Unions, on behalf of their respective Members, threatening not to co-operate with the Commissioners should the Commissioners concentrate their enquiries on the events leading to the actual death in custody. That is why no officer was to be found guilty of anything but the slightest of misdemeanours whilst the 99 (100) Families were all found to be guilty. Comissioners Wyvill and Wooten did refer Cases to the DPP but nothing became of them.

On the same day a further media report was made quoting Opposition Leader, John Brodgen, who reiterated most of the points already made. He was, though, a bit keener to find the reason for the "cover up" and he called for the resignation of the Commissioner of the Department of Corrective Services, Ron Woodham. He further demanded that the then Minister for Corrective Services, Richard Amery, should come clean about what he knew of the cover up.

ISJA, incensed at the goings on surrounding the Death in Custody, wrote a Letter to the Editor of the Sydney Morning Herald.

THE EDITOR

Your Editorial (How to prevent deaths in custody, Herald, April 14), correctly raises the ongoing problem of the increasing incarceration, not only of Aborigines, but non-Aborigines also.

With well over 8000 inmates in the NSW gaol system and with the consequent need of all staff, at all levels, to attempt to make sense of the bedlam that is occurring, it is not surprising that the so-called "administrative errors" are being made on a daily basis. Most are sorted. Tragically this one was not.

Having worked within the NSW gaol system as an Aboriginal activist for over ten years, I can say with some authority that the problems concerning Probation and Parole are well known to myself and other gaol activists and, further, such errors are becoming more and more common.

One particular case that I became involved in last year concerned an inmate who had breached his parole and had been returned to gaol. He was informed that he had a further 18 months of sentence to serve. After some investigation and negotiation it was proved that the 18 months was an "administrative error".

The most frightening aspect to myself and others, is not that the error was made because such errors are common, but the fact that he had served 18 days over his release date and apparently was unable to have the gaol welfare workers, the gaol Probation and Parole workers, or even the Official Visitors to actively advocate on his behalf. Somehow or other, the checks and balances that the system provides all failed.

Another major concern was that the death, according to NSW Opposition Leader, John Brogden, seemed to be "yet another cover up". An ABC Report, (11 April 2003), stated that the former Corrective Services Minister, Richard Amery said that he knew about the error on January 24 but didn't release the information on the advice from the Parole Board.

Deaths in custody procedures are very well known to all who work within the gaol system. Probation and Parole, I believe, do not have the power NOT to report the full facts of a death in custody that should never have happened.

Somebody much higher would have needed to have made that decision. Somebody at the Corrective Services Executive Level, or at the Government level, or both.

Only full and proper implementation of the Royal Commission Recommendations will change the current deadly scene of the gaol system. Lower gaol numbers equate to less "administrative errors".

Ray Jackson

President/Public Officer **Ends.**

The letter was not accepted for print.

To round off this particular examination, a further media report was made on May 7 2003 in which the System attacked an unnamed junior officer working in the Parole Department.

As I said previously, the actions of a coward.

The Sydney Morning Herald
By Paola Totaro
7 May 2003

Death in jail followed junior bureaucrat's error

A 23-year old man who committed suicide in prison after his release date was miscalculated was "unlawfully detained" due to the "inexperience and substandard" work of a junior Parole Board Officer, a Report has found.

The Inquiry's findings were tabled in Parliament last night by the Minister for Justice, John Hatzistergos.

The Review was undertaken by a former Chairman of the Corrective Services Commission, Vern Dalton, after it was revealed that the Aboriginal man, who could not be named for cultural reasons, had died at John Morony Correctional Centre in Windsor on January 22, 18 days after he should have been released.

The Report not only found that the miscalculation was a result of work by an inexperienced and new officer **whose work was inadequately checked,** (my emphasis-rj) but that she returned to the position despite an unacceptable number of errors.

"In light of this, it is inexplicable that her work was not more thoroughly and intensively checked," the Report said**. Ends.**

One major problem for Corrective Services, as with most Government Departments, is the continuing cut-back of resources, both monetary and personnel. There is a growing expectation that more can be done with less. For many, many years, Corrective Services Personnel, at all levels, have complained endlessly about the lack of good and proper training. This unnamed junior officer is accused of making an "unacceptable number of errors" in doing her tasks. Vern Dalton stated that her work was inadequately checked by her Supervisors. So the fault lay not with the Junior Officer but with those who are responsible to check her work.

It is my opinion that Vern's enquiries would have been much more productive had he investigated the raison d'etre relative to the cover-up.

Within days of the death there were some within the System who were mouthing the links between the inmate and young Joedan. What those links were, specifically, are somewhat tenuous in meaning. I have been unable to make any in-roads into this area but I, and others, understand that there is indeed a link there somewhere.

I will give the last media report relative to Joedan which only, unfortunately adds to the mystery.

Herald Sun
By Leela de Krester
12 July 2003

Plea for boy's body

The remains of dead toddler Joedan Morgan have still not been returned to his family - six months after police found them.

The Aboriginal boy's paternal Great-Grandmother and Aunt yesterday slammed police for failing to deliver either an arrest or their boy's body back.

"We just want to say goodbye," Aunt Darlene Thomas said.

"We're not happy about any of this - the remains, the investigation, the whole lot. We want things to be done as it would be if Joedan was white."

The Family of Joedan 2 ½, killed on the infamous Namatjira Ave Aboriginal Settlement, 20km from Mildura, said the lack of a police investigation was allowing a murderer to roam free.

"Nobody's doing anything about it," Great-Grandmother Peggy Thomas said. "It makes you sick to think what he might do to another child."

Peggy and Darlene Thomas said they were angry they no longer got updates from police.

"We don't get phone calls. We don't get anything. At the start there was one who kind of told us what was happening but now we get nothing," Peggy said.

The pair were also critical that in six months no homicide detective from Sydney or Melbourne had visited the rural outpost to help investigate the child's death.

"What do they do when a white child gets killed?" Peggy Thomas. "It's got to be more than this."

Dareton police said they were doing what they could.

Acting Insp Mark Rowney said police were conducting forensic procedures and still did not know how Joedan Morgan, also known as Joedan Andrews, died.

"We want to do a thorough job the first time around. We are trying to seek out the best forensic people for the job," he said.

But he refused to comment on his contact with the Family, saying it was a matter between them and the police.

As to an arrest, he said: "We have different versions from different people and we need to find out where the truth lies."

Joedan is believed to have died on September 15, (2002). Several people living on the crime-ridden Mission have told the Herald Sun a man playing a game of chicken was responsible for his death**. Ends**

Be in Peace little one.

Now to other matters.

There have been two deaths in transport vans, one of which involved Community Police in Queensland. We begin with the Report on the death that occurred in Queensland.

The Courier Mail
Jason Gregory and Kristen Smith.
3 May 2003

Community man in paddy wagon death

A far north Queensland man found dead in a paddy wagon after he hanged himself with his own belt is the first death in Community Police custody.

Desmond Mark Bowen, 27, from the Aboriginal Community of

Hopevale on Cape York, was discovered not breathing after Community Police drove him to Cooktown Police Station. The death will be the subject of a Coronial Inquiry.

Bowen's arrest on Monday night followed a violent domestic dispute about 10pm.

Detective Inspector John Harris said the man was in a different cabin to the three Community Police Officers during the 35 minute drive.

On arrival at the police station, Bowen was motionless in the rear of the vehicle. Police and paramedics administered CPR but could not resuscitate him.

The fact that Bowden died in police custody has raised questions about the training of Community Police Officers and their adherence to Queensland Police Service Policy and Procedures.

The Federal Government commissioned a $30 million Report in 1991 to prevent deaths like that of Bowen.

One of the main focal points of the 339 Recommendations resulting from the Royal Commission into Aboriginal Deaths in Custody was the removal of hanging points from all places of detention.

A spokesperson for Police Commissioner Bob Atkinson said the Queensland Police Service was implementing the Recommendations of the Inquiry that were relevant to policing.

"The Service has been developing policies, procedures and safe environments to minimise harm to people in custody including the identification and removal of potential hanging points in cells and the removal of objects from at-risk people in custody who may use those objects to use harm," the spokesperson said.

Indigenous Social Justice Association President Ray Jackson said the circumstances surrounding Bowen's death made it different from other deaths in custody.

"It was his own mob carting him around, but they have very limited training," Mr Jackson said.

"As far as the recommendations of the RCIADIC go, I don't think (the Community Police) would even know them."

Police said Bowen had displayed violent behaviour during and after his arrest.

But Mr Jackson said that was no excuse for not noticing Bowen was dead until arriving in Cooktown.

"If he's put up such a great fight, I imagine it would have been a rowdy event. If everything then went quiet, maybe that should have raised their concern," he said.

"If these people are trained properly they'd be aware that sometimes it's better to err on the side of safety and check things rather than just accept the man has gone quiet because he's gone to sleep, calmed down or lost his voice."

The QPS spokesperson said police worked closely with Community Police and provided support and training.

Aboriginal Community Police are employed by local Councils.

They are a State Government initiative and are the subject of a push which will see more comprehensive training and their eventual conversion to QPS officers.

Indigenous people make up less than 2 per cent of the population, but account for more than 17 per cent of all deaths in custody**. Ends.**

Recommendation 165 calls for the screening of hanging points in police and gaol cells. Now it must be updated to include transport vehicles also. This Recommendation was first made in the 1989 Interim Report, to be followed by the definitive 1991 Report.

Will nothing hasten those responsible to properly implement this Recommendation? Apparently not.

The West Australian
By Pamela Magill and Cian Manton
7 May 2003

Man hangs himself on way to court

A man hanged himself while in custody in a transport van travelling to Perth Law Courts yesterday.

The 30-year-old used a bootlace to end his life in the back of an Australian Integrated Management Services transport van during the brief journey from East Perth lockup.

He was due to face a charge of breaching a Violence Restraining Order in the Court of Petty Sessions.

He was found dead on arrival.

It is understood AIMS staff attempted to resuscitate the man. Staff were distraught and were being counselled yesterday.

It is the first death in Custody for AIMS since it took over the Court Security Contract in July 2000. AIMS has control of prisoner security before, during and after Court appearances.

Attorney-General Jim Mcginty said the death was a tragedy that should not have occurred.

He said there was a closed-circuit television in the van.

"This person should have been monitored, something should have been able to be detected earlier," he said.

"It disturbs me greatly that we are now having deaths in custody on transit to the courts, that is not acceptable," he said.

AIMS faces a $100,000 penalty for the death under its Contract. Mr McGinty said the penalty was insufficient and it was yet another case of the AIMS Contract being deficient.

Deaths in Custody Watch Committee Chairman Glenn Shaw said he believed the man was classed as being an at-risk prisoner.

"When he was placed in the van, the last time he was seen, he was seen to be in a slumped position," Mr Shaw said.

"When they got to the Law Courts about 13 minutes later he was still in the same slumped position.

"He had hung himself."

Mr Shaw said it was a concern the man was at risk, seen in a slumped position and he was not checked.

"He should have been watched at all times. There should have been someone in there with him," he said.

The man should not have had the bootlace to hang himself with and should not have had access to hanging points, Mr Shaw said, and called for the transport process to be reviewed.

A spokesman for AIMS was unable to comment yesterday, due to restrictions in the terms of their Court Security Contract.

A Coronial Investigation will be conducted.

A St John Ambulance spokesman said it only takes a matter of minutes for a person to die of asphyxiation.

Late last year a teenager taken into police custody for a driving offence, fell out of the cage on the back of the police utility on a dirt track in the Kimberley and died as a result of serious injuries**. Ends**

Glenn has asked the right questions, and I take this opportunity to greet him as a tireless fighter in the cause of Social Justice. Glenn, I hope that all is well with you and yours.

The concern I have is the Commercial-in-Confidence crap that appears to be creeping in on the Privatisation push in the Penal System. Jeff Kennett tried this in Victoria and the Community Legal Centres, and other active groups took the System on and busted it open.

There must never be any such thing as Commercial-in-Confidence Death in Custody. Such must always remain within the Public Domain whereby the truth may be sought and found.

Would that the $100,000 go to the victim's Family as an initial down-payment of Compensation.

Reference is made in the above Report of a teenager falling out the back of a police van and dying of his injuries. The following Report gives further detail.

ABC Indigenous News
1 October 2003

Family protests Inquest location

The family of an Aboriginal teenager who died in custody in north-west Western Australia's Kimberley region has criticised a decision to hold most of the inquest hundreds of kilometres from their hometown.

Police say the 17-year old died after falling out of the back of a police car near Fitzroy Crossing last year.

Although one day of the coronial inquest in November will be held in Fitzroy Crossing, the bulk of the hearing is set down for Broome, 400 kilometres away.

The boy's family say more than 100 relatives want to attend the inquest, but many cannot afford the trip.

Spokesman Ivan McPhee says they are entitled to hear the evidence first-hand.

"He's our son and he's our boy…he left us and we need to hear it in Fitzroy. That's where it happened in Fitzroy and we need to bring everything up to Fitzroy," he said.

A spokesman for the coroner's court says the decision to hold some of the hearing in Fitzroy Crossing was made as a compromise after the family voiced concerns**. Ends.**

The practice of some Coroners to hold their Inquests far removed from where the person actually died, or where the Family lives, is becoming an undesired common practice.

There was the tragic case in Queensland, whereby the Coroner refused to hold the inquest where the Family lived even though the baby died in Country. The Coroner expected the Family to travel to Mount Isa for the Inquest because he did not wish to travel to the Community.

Like the story above it is Aboriginal Custom for the Family to be involved in death matters. Coroners need to accept the requirements of the Culture and be prepared to travel to the Community.

For just the Parents to go to the Inquest is an absolute insult to the Victim's extended Family and Ssignificant Others within the Tribal group.

Unless the Coroners begin to do this, there most certainly will be no closure of the Sorry Business for the Families.

Whilst Coroners are dealing with Aborigines living in remote Communities, they must abandon the Eurocentric legal practices that dominate people's lives.

For our International Section I intend to concentrate on State-sanctioned Death in Custody. The last person hung in Australia, of course, was Ronald Ryan and there are still arguments to this day as to whether he killed the gaol officer or whether the gaol officer was killed by "friendly fire." Either way it mattered not as Ryan was hung anyway.

Regardless of facts or otherwise, his was the last execution in Australia. So why even bother at looking to this area and how could it possibly affect our Indigenous Peoples?

A few weeks ago I was contacted by Radio 2SER-FM, (in Sydney), as to the view of ISJA on the mutterings of howard to re-introduce the death penalty to Australia. ISJA was absolutely bloody horrified to accept that such a barbaric concept could, or would, even be a topic of conversation by the Australian Government.

It is my understanding that after the Bali bombings and at the strong urgings of the Bush Government in the USA, there was intense pressure to adopt the death penalty for Terrorists, at least those operating in Australia.

As a necessary aside I believe that whilst many questions are being asked of the so-called Iraq War as to

WMD, Al Qa'ida and legitimacy, nothing is being said of Bali.

I, along with every other Australian abhorred the incident and the consequent loss of life. But an interesting article of news that got completely buried was about the fact that no American personnel had been present in the Sari Club on the night of the bombing?

The Club was identified as a popular R and R venue and yet all American personnel had been pulled out of the area two or three days before. Why? And had Australia been warned of a possible Terrorist attack upon "a Bali nightspot,' as it is alleged the Americans were?

But I digress. My fear, and the fear of others that I have spoken to, is that should Australia and all its Governments accept the Death Penalty/Execution of Terrorists as a satisfactory reaction to Terrorism, then how long before it is re-introduced for Civil crimes?

And like our gaol systems, what level of over-representation will occur for Aborigines and Torres Strait Islanders being held on Death Row? Gaol over-representation, as we are very well aware, fluctuates between 16 and 19 times for Indigenous Peoples.

There is of course though a worse case scenario - the State-sanctioned death of innocent people. That is, people who are not guilty of the crimes they have been found guilty of by the State, eg a fit-up. That appears to not bother Bush, and it may not be of much concern to howard, but it frightens the hell out of me.

New York Times
By Adam Liptak
12 August 2003

Signs grow of innocent people being executed, judge says

A Federal Judge in Boston said yesterday that there was mounting evidence innocent people were being executed. But he declined to rule the death penalty unconstitutional.

"In the past decade, substantial evidence has emerged to demonstrate that innocent individuals are sentenced to death, and undoubtedly executed, much more often than previously understood," the Judge, Mark L. Wolf of Federal District Court in Boston, wrote in a Decision allowing a capital case to proceed to trial.

He cited the exonerations of more than 100 people on death row based on DNA and other evidence.

"The day may come," the Judge said, "when a Court properly can and should declare the ultimate sanction to be unconstitutional in all cases. However, that day has not yet come."

Judge Wolf wrote that the crucial question for Courts was "how large a fraction of the executed must be innocent to offend contemporary standards of decency." (What! Is not one innocent life offensive to contemporary standards of decency? Or does the offensiveness or otherwise only rely on the colour of the innocent?-rj)

His Decision means that the case against Gary Lee Sampson, including the capital charges against him, will be tried next month. Mr. Sampson has acknowledged responsibility for three murders in Massachusetts and New Hampshire. Over a few days in 2001, he killed three men who had picked him up hitchhiking.

Mr. Sampson was willing to plead guilty to murder charges against him in Massachusetts and accept the maximum sentence available there, life in prison without parole. Instead, the Federal Government indicted him on capital charges based on the fact that the murders involved car-jackings, a Federal crime.

Judge Wolf, a former Federal Prosecutor and Official in the Justice Department, was appointed to the Bench by President Ronald Reagan. He appeared to be critical of recent changes in Justice Department practices in seeking the death penalty.

"Juries have recently been regularly disagreeing with the Attorney-General's contention that the death penalty is justified in the most egregious Federal Cases involving murder," he wrote.

In 16 of the last 17 Federal capital prosecutions, Judge Wolf wrote, juries rejected the death penalty. A lawyer for Mr. Sampson, David A. Ruhnke, who specializes in capital cases, said Judge Wolf's numbers were outdated. The count, Mr. Ruhnke said, stands at 19 acquittals or life verdicts in the last 20 Federal capital cases. The most recent acquittals were this month in Puerto Rico, which does not have the death penalty. Thirty-eight States do.

The Supreme Court has held that Courts may take account of evolving standards of decency in deciding whether punishments violate the Eighth Amendment prohibition on cruel and unusual punishment. Those standards may be determined by looking at trends in, among other fields, Legislation and jury verdicts.

"If juries continue to reject the death penalty in the most egregious Federal Cases," Judge Wolf wrote, "the Courts will have significant objective evidence that the ultimate sanction is not compatible with contemporary standards of decency."

That statement suggests that the Justice Department, in seeking the death penalty more often and in more places, may actually be engaging in a counterproductive exercise from the perspective of supporters of capital punishment.

Judge Wolf acknowledged that there had been no Legislative trend corresponding to the one reflected in the recent verdicts. "However," he wrote, "the increasing and disturbing new evidence concerning the execution of the innocent may generate Legislation and jury verdicts which manifest a public consensus that the death penalty offends contemporary standards of decency and should no longer be deemed by the courts to be constitutionally acceptable."

He also noted that the Department's Policies about whether to take into account local opposition to the death penalty had changed. Until 2001, the Policies said the absence of a local

death penalty did not by itself justify a Federal capital prosecution.

"It appears," Judge Wolf wrote, "that the fact that a State's Laws do not authorize capital punishment may now alone be deemed sufficient to justify a Federal death penalty prosecution."

A Spokeswoman for the Justice Department, Monica Goodling, said it had an obligation to ensure the fair and consistent application of the Federal death penalty.

One Federal jury has sentenced a defendant to death in a jurisdiction that did not have its own death penalty since the Federal death penalty was reinstated in 1988. The case was last year in Michigan.

The only other Federal Judge in Massachusetts to hear a Federal death penalty prosecution in recent years later described what he had learned in The Boston Globe in 2001.

"The experience," Judge Michael A. Ponsor wrote, "left me with one unavoidable conclusion: that a legal regime relying on the death penalty will inevitably execute innocent people - not too often, one hopes, but undoubtedly sometimes." **Ends**

A further example of the legal pitfalls attendant upon the execution of those on death row, is the case of Delmar Banks Jr.

New York Times
By Bob Herbert
24 April 2003

Pull the Plug

Delmar Banks Jr. had eaten his last meal and, in a controlled panic, was starting to count off the final 10 minutes of his life when word came last March 12 that his execution was being postponed because the Supreme Court might want to review his case.

Last Monday the Court decided that, yes, it would hear Mr. Banks's appeal. This should throw a brighter spotlight on a case that embodies many of the important things that are wrong with the death penalty in the United States.

Here are just some of the problems. There is no good evidence that Mr. Banks, who was accused of killing a 16-year-old boy in a small town in Texas in 1980, is guilty. A complete reading of the Record, including facts uncovered during his Appeals, shows that he is most likely innocent.

There is irrefutable evidence of gross prosecutorial misconduct. The key witnesses against Mr. Banks were hard-core drug addicts who had much to gain from lying. One was a paid informer, and the other was a career felon who was told that a pending arson charge would be dropped if he performed "well" while testifying against Mr. Banks. The special incentives given to the two men for their testimony were improperly concealed by Prosecutors. Both witnesses have since recanted.

And, as in so many capital cases, the race issue runs through this one like a fatal virus. Mr. Banks, who had no prior criminal record and has steadfastly proclaimed his innocence, is black. The victim, the Prosecutors and all the carefully selected jurors, were white.

It is time to pull the plug on the death penalty in the United States. Shut it down. It is never going to work properly. There are too many passions and prejudices involved (and far too many incompetent lawyers, Prosecutors, Judges and jurors) for it to ever be administered with any consistent degree of fairness and justice.

A Columbia University Study released last year documented extraordinarily high percentages of death penalty cases that had been tainted by "egregiously incompetent" Defence Lawyers, by police officers and Prosecutors who had suppressed exculpatory evidence, by jurors who had been misinformed about the Law, and by Judges and jurors who were biased.

A Study on Race and the Death Penalty in the U.S. that is being released today by Amnesty International notes the following:

"Since 1976, blacks have been six to seven times more likely to be murdered than whites, with the result that blacks and whites are the victims of murder in about equal numbers. Yet 80 percent of the more than 840 people put to death in the U.S.A. since 1976 were convicted of crimes involving white victims, compared to the 13 percent who were convicted of killing blacks."

The Amnesty Report asserts, correctly, that Studies have consistently found that the criminal justice system "places a higher value on white life than on black life."

The mishandling of the Banks case by local Prosecutors led three former Federal Judges, including William Sessions, a former Director of the F.B.I., to urge the Supreme Court to intervene and block the execution. "The questions presented in Mr. Banks's Petition directly implicate the integrity of the administration of the death penalty in this country," the Judges wrote in a friend-of-the-court brief. "The Prosecutors in this case concealed important impeachment material from the defence. In addition, the District Court found, and the Court of Appeals agreed, that Mr. Banks received ineffective assistance from his lawyer, at least in the penalty phase of his trial."

None of these issues mattered to the state of Texas, which was ready and oh-so-willing to kill this man at 6 p.m. on March 12, and is still ready and willing to do so.

When State Officials have no qualms about executing people even though there are clear doubts about their guilt and about whether they have been treated fairly by the Justice System, it's time to bring the curtain down on their ability to execute anyone.

The Supreme Court will examine just a few very specific aspects of the Banks case. It will not, for example, address the Race Issue. But the death penalty is a rotten edifice, and you will find terrible problems no matter where you look.

Lying witnesses. Lousy lawyers. Corrupt prosecutors. Racism.

The death penalty is broken and can't be fixed. Get rid of it. **Ends.**

My sentiments exactly.

I can think of three cases whereby Aborigines spent many years in gaol only to be found 'not guilty' at a later date. All three have received enough publicity and would already be known to Readers of this Newsletter. I do not intend to name them.

The first occurred in South Australia where an Aboriginal man was fitted up by lazy and racist police, along with a lazy and racist Court system of rape and murder. He was found guilty and spent many years in gaol. Some strongly believed the decision to be unsound and fought to have a fair trial based on real evidence. This finally happened and our Brother walked free but badly traumatised by his experience.

A Sister in Queensland was gaoled for the police/Court finding of murdering her brutal and violent husband. Many who knew of her and her circumstances fought for years to have the murder charge removed due to mitigating factors. The struggle was won and our Sister had the murder charge dropped to one of justifiable homicide. Further explanations are not necessary.

The third event also took place in Queensland. A Brother, after doing many years in gaol, had new evidence presented and a retrial set him free. This particular case was only half a victory as the Queensland Government would not allow the original charges to be wiped in case the Brother wanted to sue the Government for false arrest and illegal imprisonment.

I raise these three cases merely to argue that had the death penalty been the Australian norm during the times of these Innocents, the racist probability is that these three would have all been executed by our Law and Order Governments of the day. There have been many examples across Australia, for black and white, that sentencing practices do not always get it right.

Even the NSW ex-Minister for Police, Paul Whelan, stated that there are a significant number of innocents in NSW gaols. Of course he only said this when he was making himself ready to leave politics.

Death Row politics in the USA has now reached ridiculous levels. In the face of irrefutable evidence (including DNA) that shows Death Row victims to be totally innocent, still some Prosecutors are arguing that the victim should remain on Death Row. They argue that it is likely they are guilty of other crimes, yet unproven and it is therefore erroneous or unsafe for them to be set free.

The sentiment being put is that of, 'if not this crime, then surely another.' Some Judges are accepting this argument, especially when the victim on Death Row is a person of colour.

These outrageous claims are not always successful, as the following Report shows.

New York Times
By Rick Bragg
22 April 2003

DNA clears Louisiana man on Death Row, lawyer says

NEW ORLEANS

A skin cell, and a little spit, could save Ryan Matthews from Louisiana's death row, and shift the blame for his crime to a man across the prison yard.

On April 7 1997, a masked gunman shot Tommy Vanhoose to death in the store he owned in Bridge City, a little riverside place in the shadow of the Huey P. Long Bridge. Eight months later, and half a mile away, a killer slashed the throat of Chandra Conley. Her 5-year-old son found her dead in a pool of blood.

The State of Louisiana tried and convicted Mr. Matthews in the first killing, which took place when he was 17. Rondell Love, a convicted drug dealer, was found guilty in the second. Both men went to the prison farm in Angola, and both cases were closed.

But, Mr. Matthews' lawyers say, DNA tests of saliva and a skin cell found on the ski mask worn by Mr. Vanhoose's killer raise the question of whether investigators should have been searching for two killers, or only one.

This morning, lawyers for Mr. Matthews filed that evidence with the Louisiana Supreme Court, saying it not only proved their client was not guilty but also revealed the real killer. The DNA on the mask was not Mr. Matthews', but matched that of the man who slashed Ms. Conley's throat, said Billy Sothern, a lawyer for Mr. Matthews. That killer, Mr. Love, is not on death row. He is serving a 20-year sentence at Angola for Ms. Conley's death.

Mr. Sothern asked the Court for a hearing on whether Mr. Matthews should be exonerated.

In an interview, he said that the State had sent an innocent man to prison on shaky eyewitness accounts and implausible evidence, and that it had let the real killer go free long enough to kill one more time.

"It's our feeling that if the police had gotten the right man, then Chandra would still be here," said Mr. Sothern. Mr. Sothern first became involved in the case last year as an Appeals Lawyer, when he filed a Motion citing his client's borderline mental retardation. But soon he began to hear that Mr. Love had bragged about killing Mr. Vanhoose, he said.

He sought out Mr. Love's trial record and learned that DNA tests had been done to prove that blood on Mr. Love's shoes was Ms. Conley's, not Mr. Love's. Mr. Sothern then compared the DNA report on Mr. Love's blood with the DNA report on the mask. It matched, he said.

District Attorney Paul Connick of Jefferson Parish said he found the new evidence worth considering.

"Of course we take this very seriously," Mr. Connick said. "The defence has done their investigation and we will do ours"

Mr. Love could not be reached for comment. He apparently does not have a lawyer, and prison officials would not give a message to him. The lawyer who represented him at his trial could not be reached for comment. An aunt of Mr. Love, who would not let her name be used, refused to talk about the case, except

to say, "They already got somebody for that murder."

Pauline Matthews, Mr. Matthews' mother, said she had never believed that her son was guilty.

"Do you want to solve a crime with anybody, just to say that you solved it?" she said. "If this is what's happening with other people, it needs to stop. The system should be better."

But Mr. Vanhoose's son, Rocky, said no amount of DNA evidence on the mask would change his mind.

"Anybody could have worn that," said Mr. Vanhoose, 25, who was just out of high school when his father was killed. "When you try on jeans at the store, you think you're the only person that's ever put them on?"

By April 1997, Ryan Matthews had been causing his mother trouble with minor brushes with the law for two years, selling drugs and going for joy rides, but never doing anything violent, his Mother said.

On April 7, witnesses saw a masked man walk into Mr. Vanhoose's store and demand money at gunpoint. Mr. Vanhoose refused and the gunman shot him several times, then ran out of the store, firing shots at the witnesses as he ran.

A large American-made getaway car, primer grey in colour, was idling around the corner. The gunman dived into the car through the open passenger window, and the driver pulled away.

Later that night, the police stopped a primer-grey 1981 Pontiac Grande Prix and arrested Ryan Matthews and Travis Hayes, both 17 and both described as being borderline mentally retarded. Mr. Hayes was behind the wheel.

After hours of questioning, Mr. Hayes told the police that he had gone with Mr. Matthews to the store but that he had not known he was planning a robbery. Mr. Matthews never confessed.

One detail in Court records puzzled Mr. Sothern after he took the case. Witnesses said the masked gunman had dived through the open car window, but the window on the Grand Prix the police believed was the getaway car had been stuck closed for as long as anyone could remember. (a mere detail surely?-rj)

The eyewitness testimony also seemed unreliable to Mr. Sothern, he said. One witness said he had pulled his car in front of the robber's car and fishtailed for a while so it could not get past him. The witness said that as he was dodging bullets from the gunman, he saw the gunman's face clearly in the rear-view mirror. Another witness said she had seen Mr. Matthews briefly pull up the mask in the store while she was in the parking lot.

There was no physical evidence linking Mr. Matthews to the murder. DNA testing of the mask, which had been discarded by the road near the store, conclusively excluded both Mr. Matthews and Mr. Hayes.

After all the evidence was submitted, at 10 p.m. on the third day of the murder trial in 1999, the Judge ordered the closing arguments to be given, despite the late hour and then, despite objections, sent the jury out to deliberate at midnight, Mr. Sothern said.

At 4:20 a.m., the jurors sent a note saying that they had not yet come to a verdict, but the Judge ordered them to continue. At 5 a.m., they found Mr. Matthews guilty of murder.

Two days later, Mr. Matthews was sentenced to die. The Judge told him not to feel sorry for himself, and that he was responsible for his problems.

Mr. Hayes had earlier been sentenced to life in Angola, and his case is on appeal.

"Jefferson Parish law enforcement has failed Ryan Matthews," said Mr. Sothern, who is handling the case with a colleague, Clive Stafford Smith.

There have been 107 death row exonerations in the country since 1973, only 3 of which have involved juveniles. During that period Louisiana has had five exonerations, two of which have involved juveniles.

"This case answers the question, `What's wrong with the death penalty?' " Mr. Sothern said. "It's the death penalty trifecta: a juvenile, who's mentally retarded, and in fact innocent."

Outside the Courthouse this morning, Mr. Matthews' mother was cautious. "Just to know this evidence is coming out, my prayers have been answered," she said. "For some people it takes 20 or 30 years**." Ends.**

Or never.

Australia nor Australian Society, such as it currently is, has nothing to gain by continuing the murderous mistakes of America and other Countries that continue to legally gamble with the lives of their Citizens. As I said earlier, this type of regime might turn howard on; me, it just leaves cold.

In a future Newsletter, and further on in this one, we will be looking at the immunity of the police to lie under oath, manufacture evidence and generally become involved in other nefarious practices at will, and without any fear of retribution arising from their actions.

The following Media Report gives a view of how a Death in Custody is handled in America, after it has become public of course. If only the Federal and Northern Territory could morally accept their responsibilities in the murder and double hanging of Douglas Bruce Scott in Darwin Gaol in July 1985. More on the Letty Scott saga later.

New York Times
By Elissa Gootman
1 April 2003

Suit is settled in inmate death, lawyers say

Lawyers for Nassau County agreed today to pay $7.75 million to relatives of an inmate who was beaten to death by guards in the county jail, lawyers for the inmate's family said, settling a Federal civil rights lawsuit.

The settlement, which still requires approval from the Nassau Legislature, comes a little more than four years after Thomas Pizzuto, 38, a heroin addict serving a 90-day jail sentence

for traffic violations, was assaulted by Correction Officers who, investigators said, were perturbed that he was clamouring for his methadone treatment.

Mr. Pizzuto's killing, coupled with several other high-profile cases of brutality that came to light around the same time, focused intense scrutiny on the jail, in East Meadow. The United States Department of Justice initiated its own investigation and lawsuit after Mr. Pizzuto's death, uncovering widespread problems that the County has since agreed to address.

Peter J. Neufeld, a lawyer with the firm of Cochran, Neufeld & Scheck, which along with other lawyers represented Mr. Pizzuto's widow and son, said he believed that the award was among the largest Nassau has agreed to pay in a case with a single victim. He said that Mr. Pizzuto's widow, Virginia, was "very pleased" with the amount, and that he hoped the sum would serve as a warning.

"This huge settlement will inspire Nassau County to make sure that procedures are in place to reduce the risk of this kind of thing happening again," Mr. Neufeld said, "because they simply as a financial matter can't afford it."

Jeffrey S. Lisabeth, an East Meadow lawyer, said he believed that the County Legislature was likely to approve the settlement, particularly given that Mr. Pizzuto died under a previous Administration's watch.

"This is part of a mess that had been left to the current Administration, which they're attempting piece by piece to remedy," Mr. Lisabeth said. "I would expect approval."

About a year ago, the Justice Department announced that in order to stave off a Department lawsuit, the County had agreed to adopt new policies to improve inmates' medical care and limit the use of force by Correction Officers. Conditions at the jail are still being monitored to ensure compliance with those guidelines.

The authorities have cited significant improvements. **Ends**

High speed car pursuits by police

Let us move on to the activities and profundities of Western Australian Premier, Geoff Gallop.

The death of a 12 year old Aboriginal boy in a high speed car chase of a stolen car, by police, has been overshadowed by deep and personal discussions on the ongoing and eternal argument - who really has the responsibility, even ownership, for Death in Custody victims

Is it the victim who should be blamed? Is it those who have a recognised Duty of Care to the victim who should be blamed? Or is it the Family of the victim who is at fault and therefore should be blamed? Perhaps it is all of these or perhaps none.

Perhaps we should be looking at our current Society as the true repository of any Blame. Maybe, just maybe, is the fault of all of us, but especially those who are themselves locked into an Historical Canvas that becomes either Armband or Blindfold, dependent on your View of History.

Constructed silences serve to maintain howard and friends' racial ignorances and prejudicial interpretations. The Government's introduction of Constructed Silences kills off any chance of reaching an understanding that is close to the truth of the last 215 years.

If you do not recognise the true Histories, then you cannot be expected to accept any of the social horrors arising from the 'underlying causes' of that History. That is the dialectic of a blind bigot. To move on.

The stealing of a vehicle by the youth of this Country, whatever their racial origin, must always be recognised as a criminal act, a criminal act that must have the force of the accepted Law put upon it.

What it must never become is a Death Sentence, a Death Sentence perpetrated by those sanctioned by the Law, to uphold the Law.

No police have the right to adopt the role of being the Jury, the Judge and,,most definitely, not adopting the role of an Executioner. I well remember my attempted intervention to bring some sanity into the Verbal Vomit produced by WA's answer to Laws, Jones, among others, one Harold Sattler. He was adamant that the death of Aboriginal youths in high speed car pursuits by police, was justifiable. They, the dead, would steal no more. He would not tolerate any alternative view and he pulled the plug on me. So much for these alleged scions of the Principle of Freedom of Speech and Freedom of the Airwaves.

The Verbal Vomit are vigorously active in pushing their own private Constructed Silences to all those who will listen. The only History presented to their listeners is the Black Armband View, interspersed with their own racist meanderings. Sattler would be an avid supporter of the Gallop point of view. And, it appears, Gallop is an avid supporter of the Sattler view.

Oh, Australia. We do it to ourselves.

Firstly, an Overview.

The three Letters to the Editor following, the first from Queensland, the second from Victoria, and the third, also from Queensland, giving a rebuttal of the first two shows a good example of how replacing the seeking of the truth surrounding the death events, with the more esoteric argument raised by Gallop, that he, (read 'all'), opts for placing the blame squarely with both the victim and the Family. All Families of criminal victims in fact. The tactic worked very successfully before, eg., the Royal Commission into Aboriginal Deaths in Custody. Why should it not be successful once more.

Especially in these current times of differing Views, and with the assistance of the so-called Cultural Wars.

That these three Letters, and many, many more, come from all over Australia, highlights that howard and his Culture Wars, or History Wars, have bitten deep into the Australian

psyche, both Indigenous and non-Indigenous. We are all touched by the current Social Values. Or lack of them.

The formulation of the Constructed Silence continues. Not only in the rarefied world of Academe but also, now, very much at street level. Including at all strata of Society, Black and White.

Everyone has an opinion; everyone knows the true Truth. Why should I be an exception? I do not intend to be.

I do not use the three letters below because I believe that they represent the be-all and end-all of the debate. I don't. I do use them to convey, however, where I see the people of Australia now stand on issues of Social Justice. One third remains committed to Social Justice issues. Unfortunately, two thirds believe, or don't even want to know about, the Constructed Silences that this Country has pushed for 215 years.

The Australian
Letters to the Editor
August 21, 2003

Geoff Gallop touches a nerve

#1 Accusations of political point-scoring levelled against West Australian Premier Geoff Gallop seem (at best) muddle-headed and naive or (at worst) designed to mislead and obfuscate ("Premier attacks black culture of denial", 20/8).

When Boni Robertson labels Mr Gallop as "racially inciting", she is applying a twisted form of logic. While the suggestion that similar tragedies occur often in white families is unreservedly true, it is not the case that such families cite historical events as a major contributing factor behind their bereavement.

The Premier is quite right in saying that the issue is about "youngsters stealing a car and going on a joy-ride". As a parent I need to be reminded that this is a human tragedy; that it is inclusive to all races and not exclusive to one. Paul Best Herston, Qld. E**nds**

#2 GEOFF Gallop is right to attack the culture of denial that white socialists have fostered in the Aboriginal Community. The myth that Aboriginal drunkenness and violence is an inevitable result of historical wrongs denies Aborigines' basic human dignity and free will.

Some Aborigines have learnt to parrot expressions of white liberal guilt and self-loathing: "It all comes back to the Stolen Generation". If Society does not expect them to meet accepted standards of behaviour, there is little incentive to do so.

Until Aborigines believe they can influence their lot in life, and that they are not prisoners of fate, no amount of subsidy will rescue them.

By challenging the patronising assumptions of historical determinism, Mr Gallop is being a true friend to Aborigines.

Alan Anderson Richmond, Vic. **Ends**

#3 Fractured families, an increasing rich/poor divide, Society asking much more responsibility from young people without bestowing the commensurate respect due.

Young people are increasingly finding themselves disfranchised by Society. Young people from low socio-economic backgrounds or minority cultures are further removed from youth sub-cultures and Society. Indigenous young people suffer from a combination of these.

Is it any wonder then that they suffer for their own actions? What is required is co-operative, intelligent and effective efforts to redress these problems. What is most certainly not required is insensitive commentary by Geoff Gallop.

Johnathon Grassby

Wooloowin, Qld**. Ends**

So what did Gallop say that excited the minds of so many? Did he apologise for the death to the Family, as Woodham done in NSW? Did he question the role of his police in high speed pursuits as to their application of the pursuits?

If he asked these or other questions, they were most certainly not asked in the intrusive glare of any media. What we got was concrete examples of Constructed Silences.

Kafkaesquely, in the way of their Secret English, they identify these Constructed Silences as us, the Traditional Owners of the Stolen Lands, by not accepting them, as living in a 'Culture of Denial.'

The first Report sets out the circumstances of the death of the 12 year old and is reasonably sympathetic to the victim and the Family

August 19, 2003

By Ben Martin, Amanda Banks and Kate Gauntlett

A 12 year old boy who died in a horrific car crash yesterday was just learning to read and write.

But enjoying school was a rare experience for the boy.

One of a family of eight children aged 6 to 22, he had been on the move for much of his short life, occasionally homeless and evicted many times from public and private housing.

The family, including the eldest girl who is disabled, face almost certain eviction tomorrow from their Mirrabooka home.

Housing advocate Betsy Buchanan said there had been battles since April to stop the family's eviction after neighbours' claims of anti-social behaviour.

A police officer told The West Australian yesterday he was saddened to watch members of the family grow up in a life of anti-social behaviour and petty crime.

He said it was clear there were serious social factors, such as housing problems, peer pressure and role models, which affected the children's behaviour.

"When you grow up being moved from place to place and when your older brothers, cousins or whatever are efficient car thieves, you tend to follow in their direction," the officer said.

Though members of the South Side Sneaks car theft and joyriding gang

were not directly related to the family involved in yesterday's crash, police said it was clear that many young Aborigines were aware of the notorious gang's activities.

"It's like with any group - you look up to those older than you," the police officer said. "And the older kids love having the little ones following them."

It is understood that other police had begun an operation targeting some members of the family after a spate of burglaries and robberies.

About 20 crimes have been attributed to members of the boy's extended family who are alleged to have developed efficient but disturbing Fagin-like tactics.

It is suspected older youths and even adults have been loading family members as young as 10 into a car and driving around picking targets such as service stations and shops.

The adults are suspected of distracting the shopkeepers or attendants while the younger ones sneaked around the back of the counter to steal money, food and other goods.

Police were concerned at the level of organisation displayed by the group and disturbed that the children were beginning to use violence in crimes.

But Ms Buchanan said the boy who died had been making excellent progress at school.

"I think since the family had been housed and not finding so much insecurity, they had shown marked improvement," she said. "The teachers pulled together and really supported these kids."

She said the looming eviction had put enormous stress on the family, particularly the mother, who was the full-time carer for her disabled daughter.

"I don't now how (the mother) will cope with this," Ms Buchanan said. "She tried so hard to keep the kids at school."

Yesterday morning, when the fatal crash occurred, Ms Buchanan had been negotiating with the Equal Opportunity Commission to stop the eviction, claiming discrimination on the grounds of disability.

It is understood police crash officers will investigate whether any of the children were under the influence of solvents. A suburban officer said many of the children's associates were known solvent abusers. **Ends**

As I said, except for the snide remarks by the police, the Report showed some sympathy to the Family and their historical and current circumstances. Then the second Report hit the airwaves.

Aboriginal group seeks police talks on car theft death

ABC Indigenous News
19 August, 2003

The Aboriginal Legal Service, (ALS), in Western Australia wants to consult with police to address the problem of car theft, after yesterday's high speed chase in which a 12 year old boy was killed.

The boy died when the allegedly stolen car he was in crashed into another vehicle, just minutes after it had been in a high-speed chase with police in the suburb of Wilson.

Four other occupants of the car were taken to hospital.

A police investigation is continuing into the incident but the ALS says it again highlights the need for a review of procedures covering high-speed chases.

ALS Chief Executive Dennis Eggington says he is not criticising police, but there must be better options than high-speed chases to catch car thieves.

"We will always hope that people will strive to at least come to terms with the fact that chasing people in cars usually ends up in tragedy and there may be better ways to do it," he said. **Ends**

A sensible request one would have thought. But not to the police ears and the way they interpret the words. Police, Australia-wide, will only agree to meet 'outsiders' when they have total control of the Agenda, the discussion, but more importantly, the outcome.

In some 17 years of involvement, at various levels, of Death in Custody issues, including many high-speed pursuit deaths, never have the police accepted even a scintilla of blame for the deaths arising from such pursuits. Always the police state that within seconds or minutes, immediately prior to the crash, they disengage from the chase. For safety's sake of course.

It is old news but it must be stated once again. Police are trained to a very high degree in how to handle a vehicle during a high-speed pursuit. In NSW the police are colour coded to match the speeds that they may pursue the other car. I assume the WA police are also well trained and colour coded. They are fully aware of what they are doing at all stages of the pursuit.

The mainly young people who steal the cars are not trained to drive at high speeds. They are generally under the influence of a drug of some kind, or even multiple drug use. The police play them like a fish, continuing to chase them at ever higher speeds and the resultant higher risks to the young person driving.

The police are well aware of the signs of a vehicle becoming out of control. The vehicle gets the wobbles and with no known skills, the car begins to lose control. Within that time and the time of the crash, police 'call-off' and disengage from the chase. They still follow but at a lesser speed. The vehicle crashes with, sometimes, death and/or injuries, but as the police always claim, "we were not in pursuit when the vehicle crashed." Jury, Judge and Executioner.

The ALS request changed the situation from 'some sympathy' to outright hostility. The Police Union would have made their position known and the System came into play. The gloves were on!

The Australian in its Editorial sets the new battleground.

The Australian
Editorial
20 August, 2003

Stable families will save young lives.

Another member of the Stolen Generation (sic) died in Perth on Monday; a 12 year old boy killed

when the car he and four of his mates – all Aborigines – had taken, crashed. This little bloke may have been a thief but he had his life stolen from him by the adults who failed in their obligation to protect him. The family circumstances involved in this case are not known, and we should make no judgement about the situation in which the dead boy lived. But it is clear that too many young Aborigines have their lives blighted by the collapse of family life that too often follows alcoholism and the domestic violence that accompanies it. Around Australia there is a generation growing up whose parents "have passed on or are drinking" as ATSIC Commissioner Alison Anderson, put it on ABC radio last Sunday. No amount of blaming the policies of past or present governments will answer the problem of indigenous communities where adult authority has collapsed. West Australian Premier Geoff Gallop defined the situation yesterday when he said "youngsters need leadership from their parents, they need leadership from the wider community, and finger-pointing at government agencies, finger-pointing at the past, is simply not on."

That past generations of indigenous (sic) Australians were monstrously mistreated is beyond doubt – but this neither excuses nor explains the failings of adults to keep safe the children in their charge and to teach them right from wrong. In speaking out, Mr Gallop joins indigenous (sic) leaders, such as Noel Pearson and Ms Anderson, who place the welfare of their people above the ideological orthodoxy that seeks to blame everybody and anybody but the adults involved when families fail. The way forward is not easy – but encouraging stable families and communities where the grog and domestic violence do not strip parents and other carers of authority is a fundamental first step.

As Ms Anderson said, many young Aborigines "have lost all respect for their own elders, (sic), their law and culture." The failing of a minority of indigenous (sic) families to look after their children are hard for many Aboriginal leaders to accept. It is much easier to blame the past – or the Government. That the ATSIC board did not elect Alison Anderson as leader this week demonstrates that many Aboriginal leaders are still not willing to hear a universal truth; that without a stable family life, children – whatever their race – are always at risk. **Ends**

Absolutely mind blowing stuff! How's that for a Constructed Silence? There is enough in this Report to take pages of rebuttal and I do not intend to do so, but, a few comments must be made now whilst other comments can be made later.

The utter lack of respect to and for Aborigines, whether Elders, Leaders or whomever, is staggering in its audacity. The absolute refusal to accept any figment of the Invasion History, and up to the present day, is nothing less than insulting. The stated ease of 'the (white) solution' defies implementation.

The fallacious point re Ms. Alison Anderson puzzles me. Is the Editor attempting to suggest to the ATSIC Board, and to all of us, that if only they had voted Ms. Anderson into the top job, then all the social ills besetting Aboriginal Australia would be no more. A bloody omnipotent Sister indeed.

One more point. How the ATSIC Board votes is not the business of ANY non-Aboriginal person. Mr.Editor, you vote for howard, we will vote for us.

The parameters of any investigation into police operational practices and procedures have now changed. Any investigation, should one be held, is now internal to police and Government. On a 'for your eyes only' basis. We are locked out.

The argument is now squarely upon our backs. The argument is now made that it is not the fault of racist police and police practices, nor past and present Government racist and genocidal practices. 215 years of collective actions taken against us has now to be cocooned as being irrelevant as to why our Communities, our Families and us as individuals are so over-represented in the socio-economic minefields to which we have been relegated to.

To return to Premier Gallop and his high profile role in leading the charge.

AAP
August 21, 2003

Gallop stands by indigenous (sic) claims

West Australian Premier Geoff Gallop today stood by claims indigenous (sic) leaders and parents needed to stop blaming past injustices for their children's bad behaviour.

Aboriginal leaders and families blamed anti-social behaviour among indigenous (sic) youth on historic dispossession after the road crash death on Monday of 12 year old Carl Morrison on a Perth highway in a stolen car.

Dr. Gallop's comments sparked anger in the indigenous (sic) community but he said today he had no hesitation in repeating them because the issue had to be dealt with.

"We've got an issue with a young, but nevertheless significant, group of Aboriginal children who are engaged in anti-social behaviour, criminal behaviour," he told the Nine network.

'And instead of sweeping these issues under the carpet and trying to make excuses for them, I think we have got to work together to deal with the issues.

'We have a situation in Western Australia where there's some out of control aboriginal (sic) youngsters throughout the state causing enormous problems for the community but more than that, putting themselves at risk."

Dr. Gallop said mixed messages could not continue to be sent to young aboriginal (sic) people.

'We've got to say to them, 'This behaviour is wrong," and all too often we see our aboriginal (sic) leaders making excuses for that type of behaviour," he said.

"You can point the finger at history quite justifiably and I'm completely committed to reconciliation."

"But when it comes to this sort of behaviour it's got to be dealt with for what it is – and that's bad behaviour, criminal behaviour, anti-social behaviour." **Ends**

The outcry was instantaneous and voluminous. The Family was appalled, Indigenous Leaders were angry and in high dudgeon and just about everybody else had, if not a solution, at least something to say. Gallop sold his soul to the Media Push and was unhearing of the entreaties to not stigmatise and vilify the Family and/or the victim. And so it went on.

ABC Indigenous News
26 August, 2003

WA Premier to meet Aboriginal leaders over boy's death.

West Australian Aboriginal leaders want today's meeting with Premier Geoff Gallop to solve long-running issues between the Nyoongah community and the Government.

The Premier called the meeting with Aboriginal leaders after the death of a 12 year old boy allegedly involved in a high-speed chase with police.

Dr. Gallop was later criticised when he urged Aboriginal leaders to stop making excuses for out-of-control behaviour by Nyoongah children.

Aboriginal Legal Service chief executive Dennis Eggington, says relations between the community and the Government are at a low ebb. Mr. Eggington says this could change if real progress is made at today's meeting.

"If it's a very genuine meeting and the state want advice from Aboriginal people, then he is in a good forum for that, Mr. Eggington said.

One Aboriginal group is furious it has not been invited to the meeting. Iva Heyward Jackson, **(no relation-rj),** from the Nyunghah Circle of Elders says the Government is ignoring the views of a large section of the community by not including it in the discussions.

'How does he think he is going to solve problems without speaking directly to the elder (sic) concerned. **Ends**

A very good question indeed**.** Gallop has done what the Politicians of this Country have always done, and that is to not only set the Agenda but to also handpick the attendees. Outside noise, from wherever, must be silenced at all costs.

Initiating a monologue with handpicked Indigenous Leaders, however much the appearance of openness, will not be successful. Governments and their Representatives must include the Community Elders. Recognition of our Customary practices of including our Community Elders. Respect is a two way street.

The Cape York Agreement, from Media Reports, is on a somewhat bumpy road because Community Elders believe they have been left out of the processes, to be replaced by others who do not have the Cultural authority to speak for others in their respective Communities.

That Gallop went to this meeting with a closed mind is clearly shown in the final Report below.

The West Australian
27 August, 2003.
Charlie Wilson-Clark and Kate Gauntlett

Gallop refuses to say sorry to grieving family.

Premier Geoff Gallop has refused to apologise for comments he made about the family of a 12 year old boy killed in a stolen car last week.

Members of the family called for a public apology outside Dr. Gallop's offices yesterday while he met a group of 15 Aboriginal leaders to discuss the tragedy. Rockingham MLA Mark McGowan took the boy's grandfather, uncles, aunts and cousins inside government offices for a discussion but they were not given access to the Premier.

The boy's uncle said Dr. Gallop had said nasty things about the family and they deserved a public apology. "He's just taken public opinion, what everyone else said, he's taken it on board," he said.

Dr. Gallop said after the fatal crash that Aboriginal leaders and parents should stop making excuses for their law-breaking youngsters. Yesterday, Dr. Gallop said he did not believe an apology was in order. But he offered his sympathy several times to the family. The meeting with the Aboriginal leaders was "very open and very frank" and he had expressed his firm view to move beyond reconciliation to reconstruction.

"I reject the notion that in any way, shape or form that I am being racist in raising these issues," Dr. Gallop said. "What I am doing is raising my concerns about the future of these young people and we have got to have some honesty in how we deal with it."

It is understood Dr. Gallop will push for a joint agreement with the Federal Government at Friday's Council of Australian Governments meeting in Canberra, aimed at ensuring better co-ordination of Aboriginal programs and funding.

Aboriginal and Torres Strait Islander Commission State manager Mick Gooda said the leaders made a forceful representation to Dr. Gallop which included asking him to consider issues, such as the Stolen Generation, (sic), as a reason for current behaviour – not an excuse.

Aboriginal Legal Service boss Dennis Eggington said Dr. Gallop was left in no doubt about the need to apologise. **Ends**

Geoff, the following words are for you. In the real, real hope that you just may take the Blindfold from your jaundiced eyes.

. The fact hat Gallop refuses to apologise to the Family for the utter insensitivity of his words shows most clearly where he is coming from. Gallop is doing a howard. Historically it is well proven that winners write, and interpret, history, and what arises from that history. When one enters into the making of a Constructed Silence, the mind can

then be made to focus upon what must be seen as the problem, and to identify the predisposed cause of that problem.

With howard, the problem is the victims being unable to enrich their own pitiful lives by becoming practising Christians and becoming Capitalists. The 'pull yourself up by your (British) bootstraps' scenario. The fact that we, generally, don't have any bootstraps becomes a mere quibble. And that is our fault as well.

Gallop also argues that we 'allow,' perhaps even encourage, our youth to become anti-social and criminals. If there is no History, then it must be 'your fault.' Even the argument of the Stolen Generations is distorted to be singular. It was not, it was multi-generational. I understand that it became State policy to remove Aboriginal 'mixed bloods' from their Parents/Families during the 1890's. It was not stopped until the late 1970's. That is multi-generational. I am one of many. In 1943. Some are concerned that today the process is being re-introduced, but that's another Newsletter.

What the Invasion Society cannot and will not accept is the inalienable truth that we Indigenous Peoples have within our psyche the collective trauma of 215 years of the Invasion History. I have said elsewhere that we are fed trauma in our Mother's milk. The total disrespect of our Culture, our Lands, our Elders, our Communities and , of course, our Families.

We became the Slaves, the Sex Toys, the Sweat that built the riches of this Country for the benefits of the White Society only. Our resources enriched only your Society.

The Stolen Wages campaign attests to that. Your State robbed and cheated our People. Our Mothers, Sisters and Aunts were used and abused by the men of your Society. Your Society forced our Women to prostitute themselves, so as to keep their Children alive.

We were denied health and education resources. We still continue to have worse than Third World health statistics. Our Children were either banned from your schools or ignored if we were included

Our abject poverty allowed us, as a natural extension of that poverty, to fall into, and fill, your criminal justice and penal systems.

Every thing was done to eradicate us from our Traditional Lands, and when your Courts recognised and gave us Rights, the Law was changed. You took our Land and gave us Alcohol so we would kill ourselves.

Our Cultural and Family structures were smashed, almost to the point of obliteration. Our Respect for ourselves, our Culture and our Laws were poisoned and pissed on.

Still we fought back. And we continue to fight back. But Geoff, do not expect us to match your ideals and ethics. We carry too much "Sorry Business" for us to act in your way. Fractured Families, whose every day is a struggle to survive, to protect ourselves and our Children from the racist and insulting abuses meted out to us on a daily basis by your Society; we cannot work to the high 'white' standards that you are attempting to apply.

If you and your peers refuse to recognise our Joint History, if you are adamant that the 'underlying causes' hold no sway upon our existence, then do not moralise our situation by your Rules.

We firstly must survive.

Geoff, there are roughly 78 528.75 reasons for the social situations that we find ourselves in. That is, roughly, the number of days since the Invasion. It was only in 1967 that we were counted for Census purposes, and so could vote Federally. It was only in 1991 that the Lie of Terra Nullius was put to rest.

Constitutionally, we are mere babies. We must be allowed to grow. You and your Society have caused us to suffer from a complete breakdown of our Families, to the point whereby we now have a gross over-representation of Families that are based totally on Familial Anarchy that worsens exponentially Generation after Generation.

We can never accept your Constructed Silence. Our Society is now the Cultural equivalent of the Twin Towers Terrorism. We need time. We need you and yours to hear us.

Please, do not make us mute. Stop the Invasion Terrorism from continuing.

We have a long way to go, Geoff. Maligning our Families and our Children is not helping. It is only pushing us off the bottom rung of the ladder.

Allow me to refer you to a Report in The West Australian by Quentin Beresford on 18 January, 2002. I believe your Government actually agreed with it.

ENOUGH!

But before we do move on there is one final Report on high speed pursuits by police leading to the death of the driver or other occupants of the car.

ABC Indigenous News
6 September 2003

WA police visit pursuit crash victim's family

Senior police have travelled to the remote Indigenous community of Balgo in the Kimberley in Western Australia to visit the family of a man who died during a police pursuit.

The 47 year-old died earlier this week when the car he was a passenger in rolled over west of Halls Creek.

Police say an officer followed the vehicle after receiving several complaints a man was driving erratically.

Officers from the major crash section are investigating.

Kimberley superintendent Fred Zagami says the police made the decision to visit the man's relatives to clarify the events leading up to the crash.

"I think one of the things we've got to appreciate, they are in sorry time

out there – it's just an advantage to us to be able to go out there and express our sympathy to them and also give them that information that sometimes it's difficult to obtain…so they're in possession of all the facts about the incident and the crash," Mr Zagami said. **Ends**

The comment made by Superintendent Fred Zagami that the police need to visit the victim's Family so they can give them "the facts about the incident and the crash," I think leaves the System open to abuse. I also think it could be argued that they are interfering with the Family by possibly laying the seeds of their view on how the crash happened. That should be left to the Coroner and not to the police who are implicated up to their collective eyeballs.

Now for a change of pace.

Coronial Inquisitions? True or False.

ISJA has been involved in supporting three Deaths in Custody Families in the Glebe Coroners Court. Arising from this assistance comes a very real disquiet at current Coronial procedures. A disquiet that has grown over the years.

There has been over the past few weeks, on Channel 2, a series called Reality Bites: A Case For the Coroner, whereby the NSW Coroners open their Courts to the 'fly-on-the-wall' process much used by Reality TV. And Social Voyeurs

ISJA has no role as a TV critic, we do, however, remain a critic of processes involving Indigenous Peoples being screwed or otherwise mistreated by The System.

In the promotions for the series we are shown, among other things, the NSW State Coroner, John Abernathy. I have known John since circa 1994. We have interacted during several Cases up to the present day. I believe that we have mutual respect despite our differences over the years. We now have another difference.

During those promotions John nominates himself, and by extension the other Coroners, that he/they are there to find the Truth. The "Coroners' Inquisition" as he termed it. I find these words to have a hollow ring.

I will give three reasons why I believe this is so. Three Inquisitions. Three reasons.

Senior Deputy State Coroner Jacqueline Milledge had carriage of the Death in Custody of Eddie Russell who was found hung in his one-out cell. I have written about this death in a previous Newsletter and I do not intend to go into the circumstances, as tragic and problematic as Eddie's death was.

Having been contacted by the Parents with a request to attend, I attended the hand-down of the Decision and Recommendations by Ms.Milledge on 19 September 2002.

I was astounded when the Decision contained 26 Recommendations to both Corrective Services and Corrections Health.

26? This is an astounding number of Recommendations. It is certainly the greatest number of Recommendations arising from a Death in Custody investigation by a Coroner that I was ever aware of.

The Recommendations range far and wide and include, inter alia, that the Corrective Services Minister audit the gaols for RCIADIC compliance and the Coroner be given a copy of the Report. (RCIADIC and the Recommendations were later buried by the Carr Government and the State Aboriginal Justice Advisory Council. Partnerships were introduced. Some worked, some didn't.)

That both Corrective Services and Corrections Health work on producing safe custody procedures for at-risk inmates.

That the recently established Aboriginal Offenders Social and Emotional Wellbeing Committee be supported and that a copy of its Report and Recommendations be provided to the State Coroner within one month of its publication.

And so on and so on.

The normal process for Recommendations by the Coroner is that the recipient of the Recommendations implements them. On some occasions the Recommendations come after the implementation. I am indeed extremely curious as to the implementation of these Recommendations.

What concerns me about this Inquisition is that despite the recognition of so much that went wrong, so many deadly errors were made and anything even remotely resembling Duty Of Care from all Officers concerned was proved to be not present, no Officer was found to be at fault. The Systems were, the lack of Systems were, but not the Officers who are responsible for operating the Systems to make them work..

And this has always been so. Officers are never to be found guilty of ANY misdemeanour. It is as though the Royal Commission understandings are accepted here as well. Only inmates are ever found to be required for a Civil Trial. Police and Gaol Officers, at all levels, are outside the Inquisition. We are continually reminded that the Coroners Court is a place where adversarial arguments or submissions are not welcome. Yeah right!

The second Inquisition involved the input of the State Coroner John Abernathy.

The police investigations, relied upon by the Coroner, into the Death in Custody of the son of Ms. L Brown was a particularly cynical exercise by police investigation teams over a six and a half year timeframe.

The original Inquisition began with John Abernathy but circumstances forced the adjournment on at least two occasions. I believe six and a half years is the longest NSW Death in Custody case handled by the Coroner.

I have written before on the details of the Death in a previous Newsletter and do not intend to repeat the analysis.

ISJA became involved when we were made aware that Ms. Brown was appearing in the Court, without any

legal representation. Whilst this fact horrified me, what horrified me more was the statement made by the Coroner that, and I paraphrase, "You do not need to be represented legally. I, the Coroner, will represent your interests."

Excuse me! I thought the statement to be said more for the sake of compassion and concern rather than as a work practice. But then, in another Case, Ms. Milledge said it as well. Both Coroners, to my understanding, were prepared to proceed regardless. This is a Coronial practice that must cease. It appears that the Coroners have greater faith in the impartiality of the system than does the Families and ISJA.

Families, whether Indigenous or not, are generally represented by either the Aboriginal Legal Service, NSW Legal Aid or with private legal representation. The Coroner relies on a member of the police to assist in investigating the Case, normally a Police Sergeant. In this particular case, the legal representation was as follows, for Corrective Services, for Corrections Health Services and for the two CHS Nurses. Why should the Family be treated differently?

If it is, as alleged, a non-adversarial situation, why then are people and Institutions legally represented? They are represented in an attempt to lessen any damage to those involved. So also must the Families be legally represented.

It is my understanding that the role of the Coroner is to be independent. The Coroner can not, and must not, be seen to be favouring any of those appearing in the Court. The police members assisting the Coroner always informs those assembled, as does the Coroner on occasions, that the proceedings are not adversarial. The intention of the Court is to find out **only** the circumstances involving the Death.

People appear as witnesses, on oath or affirmation, and explain their role and/or understandings of the Death incident. Some have better memories than others, some explain the circumstances better. It is, in a word, friendly, and that is how the system works. But not always to the advantage of the particular Family involved.

On the intervention of ISJA, finding Ms. Brown in a rather vexed state, we asked for the Case to be adjourned once more so we could find legal representation. SC Abernathy agreed. Although he was prepared to also continue the Case there and then. .

ISJA found legal representation and the Inquisition at long last began. The police assistant to the Coroner pushed the line that Ms. Brown had supplied the drugs on which he had overdosed, the same argument put by the police six and a half years ago. Three police investigations, same result.

The Family, represented by Solicitor Martin Churchill, forcefully submitted that the drugs causing the Death were supplied from inside the gaol. Over the course of the Submissions put to the Coroner, there were objections raised that our Solicitor was being adversarial and was too strongly putting the Family argument.

When one is meeting strong resistance to the point that you wish to make, then, I suppose, one gets a bit adversarial. Martin fought a good fight but found it somewhat hard going.

The Coroner found for an accidental drug overdose supplied by whomever. At the very least, the Family were not blamed. It is, surely, enough that the Family suffers. I and others believe the police are too keen to place the blame on the Families. Both sets of Submissions, their's and ours, had run into a brick wall.

Number of Recommendations? Zero.

The third Case was also well into fiasco mode. ISJA was alerted that once more a Family was appearing before the Coroner, again in an unrepresented situation.

The 14 year old son of Ms. C. Brown was found dead, at home, whilst on Day Leave from Reiby Juvenile Justice Centre in January, 2001.

The Gosford Police, who attempted the investigation, favoured the Family link as the cause of Death. The police Sergeant, assisting the Coroner, also favoured this line. Indeed, Sgt. Fordham became so avid in his support of the Gosford Police spin, that he "recommended' to Deputy Coroner Milledge that this was the only argument worthy of her consideration. Case solved! Let us move on! The two months that HB spent at Reiby, some of which was spent in the Therapeutic Unit, was of little consequence and was not worthy of investigation.. Apparently some investigations have more investigation than others.

Original autopsy samples, of which the Gosford Police had some responsibility for, went missing. Initial medical examination found no evidence of any drug taking.

Eight months after the burial, an exhumation, under the responsibility of the Gosford Police, took further samples. No Family members or their representatives were present.

Those samples found 'some evidence" of a drug overdose. Or was it? There were more twists and turns in this Case than in a Politicians mind.

The Gosford Police acted most unprofessionally throughout the so-called Investigation to the point that the Family, through ISJA, requested that another "outside" police team come in and do a re-investigation. This request came to nothing but the Coroners did have some dissatisfaction with the Investigation. Time and Money held sway.

We were more successful in having Sergeant Fordham being removed from the Case due to his perceived bias in the conduct of the Case. The Coroner disagreed.

When ISJA first became involved, again, the Family was not legally represented. I requested of Deputy Coroner Millidge that the matter be Adjourned to enable ISJA to find that representation. There had already been one day's hearing of some of the evidence and DC Millidge had expected the Case to continue. She

did however accede to my request but put a time limit upon me to report back to the Court with details of who was going to represent the Family.

The other participants had not expected this and, I believe, also expected it to be finalised over the next two allotted days of hearing.

ISJA approached Solicitor Martin Churchill who agreed to represent the Family. This fact, along with available dates, was reported back to the Court.

DC Milledge had the need to pass the Case over to SC Abernathy who sorted out the necessary procedures and dates.

Of course, this lengthened the hearing date out further still but the Family were more relaxed than previously.

When the Case began again, we found that Sergeant Fordham had been replaced by representatives of the Crown Solicitors Office and the other participants were all now legally represented. The others were Juvenile Justice, the Gosford Police and the Office of the Police Commissioner. A veritable Rumpole of Legality.

The Witness List had also been expanded.

The Case hit the skids again when our Solicitor pulled out virtually on the Courthouse steps. The Coroner was far from happy and we had to plead, yet again, for another adjournment. It also meant losing SC Abernathy, due to ongoing work commitments.

ISJA approached Daniel Brezniak, Barrister, who agreed to accept carriage of the Case. Legal aid and the Aboriginal Legal Service were not available. The Brother of HB agreed to pay, and did.

In between all these fits and starts ISJA, on behalf of the Family, requested an Inspection of Reiby Juvenile Justice Centre. Horror of Horrors. After explaining to Deputy Coroner Dorelle Pinch why the request was made, the Crown Solicitor, supported by the Juvenile Justice legal, objected to that happening as it was viewed to be unnecessary, and worse, adversarial. I reported this event to Daniel and after firing off a letter of protest that there was interference in his construction of his Submissions to the Court.

Daniel was unable to attend but I was able to attend, and tour the Centre, accompanied by the Centre Manager, Michael Vita whom I knew when he was the Governor of the Reception Induction Centre at the Long Bay Gaol Complex some years before.

A further request to view the videotape of the exhumation by the Gosford Police was also granted, and the tape was viewed at the Crown Solicitors Office.

All legalled up, we began. The questions and Submissions flowed from all. I do not intend to cover the Case in detail but I do need to highlight one particular aspect of the desperation of the Gosford Police to have the Family blamed for the death of their son.

Ms.C Brown as a ex-taker of drugs is on the Methadone Programme. Her defacto is also a ex-drug taker and is not on Methadone. Both Ms. Brown and he are well known to the Gosford Police. The Gosford Police believed, and told anyone who would listen, that the drugs that killed HB were supplied by his Mother and/or his Step-Father.

The Family and ISJA thought differently and we had fought for a full and open Investigation.

The Gosford Police had given their collective evidence, under oath, of their searching of the house where HB died. They stated they had searched the Lounge room and the Bedroom, although HB had died in the Lounge room. They stated that only these rooms had been searched, some hours after the Life Support had been switched off. They all stated that nothing was found, except for a small piece of foil in the waste-paper basket in his Bedroom. Ms. Brown claimed it as a Menthol wrapper and the police did not take it with them for Forensic purposes. They repeated that no drug paraphernalia had been found.

The Case continued. After further Submissions and evidence being given, the police, apparently, became aware that Ms. Brown was a taker of Methadone. The Inspector and two junior officers were given the opportunity to return to the witness box. They had all given the evidence as outlined above.

Beginning with the Inspector, the Court was told that during their previous evidence, he had 'forgotten' to mention that all three officers had also searched the kitchen and in the fridge was "some bottles, maybe two or three, in plain brown paper bags" that, although they did not actually look inside the bags, was the methadone that was for Ms. Brown.

What was left unsaid, was that HB had drunk the "bottles" of Methadone and died. So even if the Family did not directly give drugs to HB, the Family were still guilty for allowing their son to have access to it. End of Story. Wrap the Case up and we can all go home.

Except for one small irritating point. No one can overdose on Methadone. It is a complete pharmacological impossibility.

Oops!

The male junior officer backed his Inspector to the hilt.

The female junior officer did not support what had been said and stated that she had no memory of entering the kitchen area, of looking in the fridge or of seeing any bottles in a plain brown paper bag. We must thank her for her honesty.

Ms. Brown, under questioning, put to the Court that she does not keep her Methadone in the fridge; there was no Methadone in the house at the time of the police search as she had yet to pick it up; she keeps her Methadone on the top shelf of her Bedroom wardrobe and finally, the Methadone is obtained from a Chemist and is bagged in the Chemist's bag with advertising on it.

The Deputy Coroner showed, and voiced, her disbelief at the new evidence put and dismissed it out of hand as being most untrustworthy.

The Deputy Coroner finally found that HB had suffered from a drug

overdose but could not say as to how the drug was obtained or administered. The Family, of course, still have unanswered questions but at least they do not carry the ignominy that the Gosford Police had tried to put upon them.

Recommendations ? Seven.

Two for the Minister of Health, relative to autopsy samples and Five for the Minister of Police, relative to the transportation of autopsy samples, investigation of Death in Custody issues and the identification of Aboriginality by police.

And so it ended.

But it didn't. Not as far as ISJA and the Family were concerned.

For some time now, as has been stated previously, ISJA has had concerns arising from Coronial practices and decisions.

The first problem, we see, is the acceptance by the Coroners to allow Cases to continue without Families, especially Aboriginal Families, being legally represented. This cannot and must not be a Role that can be adopted by the Coroners. Regardless of the compassion involved in that decision.

I keep being told in no uncertain terms that Coronial Investigations are not adversarial. I cannot accept this explanation as being honestly representing the investigative processes. I will only accept that the Coronial System is non-adversarial when the Coroner stops having legal representation for ALL involved in the process, and not just the Families.

The Coroners, the System, cannot have it both ways. It would only be a non-adversarial process if the Coroner ONLY was to question the Witnesses and the Families.

This will not be allowed to happen. Accepting that can only lead to one sensible conclusion----all must have the Right of legal representation.

The second concern relates to the timidity of the Coroners in their decisions. I do not make that statement lightly and I understand the possible outcomes of making it. But I believe it is long overdue in being said.

I have yet to be made aware where any NSW Coronial Decision has been critical of any Officer, in a Deaths in Custody investigation, to the point where a Recommendation has been made against that particular Officer.

It almost seems that the Royal Commission Understandings are relevant in this situation also.

My concern has been further excited by Coroners in Western Australia and the Northern Territory doing just that. Making a Recommendation, in WA against gaol officers and in the NT against the police. Recommendations that the relevant Officers be charged and appear in a Civil Court.

Is NSW that different? Is our Coroners Act more protective of those Officers involved rather than the victims and the Families? I believe that the Victorian Coroners have a greater investigative role than do our Coroners.

Maybe the blame lies with the Attorney-General of the current Carr Government? Maybe I owe the Coroners in NSW an apology?

I don't know. What I do know is that the Coronial System is badly failing the Death in Custody Families of NSW. I also know that the System needs to be fixed.

And while someone is fixing it, perhaps they may look at why police on Oath are allowed to get off scot free for perjuring themselves, the better to fit-up a Death in Custody Family.

Deputy Coroner Pinch made no Recommendation to the Police Minister or the Police Commissioner that the Inspector and his junior officer be charged with Perjury and dealt with accordingly. Even though she expressed concern and contempt for the despicable actions of the Inspector and his junior officer. Had it been a Member of the Public, black or white, they would most probably have been charged. Are the police exempt from being charged? Regardless of the Perjury? Regardless of the fit-up?

Does it not matter?

If any legal system is expected to be one of Justice for All, then the police must also answer to the full weight of the Law.

There must be Integrity as Process at all times.

I must admit to being angrily depressed by our Two Tier Justice System.

ISJA is investigating what legal avenues the Family has to attempt to bring the Perjurers to Justice.

A System of Inquisition, John? I do not believe it to be.

We must move on.

Letty Scott Report

We begin with a Media Report, and that is followed by some analysis of her latest High Court appearance.

ABC Indigenous News.
14 July, 2003.

Court upholds ruling on custody death.

The Federal Court in Darwin has dismissed an action against the federal and Northern Territory governments by the wife of an Aboriginal man who died in prison in 1985.

Letty Marie Scott alleged her husband had been beaten and then hanged by prison officers.

Handing down his decision, Justice Madgewick said he had no reason to overturn the original finding of suicide by the Northern Territory coroner and the Royal Commission into Aboriginal Deaths in Custody.

Justice Madgewick said while he understood Mrs. Scott's efforts to probe her husbands death, there were doubts about much of the new evidence presented. **Ends**

Justice Madgewick sat in Sydney, not Darwin. He did not dismiss it summarily, he told Letty to return to the NT to have the matter heard. His was a reply to a Jurisdictional point of Law.

After Letty sacked her Barrister for him being forced to accept a lesser charge, very much against the wishes of Letty, J. Madgewick allowed her and Daniel to present evidence of Murder.

He would not accept it in his Court and told her to take her Submissions and her evidence to the NT Courts.

I certainly have no recollection of J. Madgewick having doubts "about much of the new evidence presented."

Perhaps my problem was that I was actually in Court and the Truth was not being filtered through the Media Office of the NT Government.

The NT Government has offered Letty to allow the Case to run, but on lesser charges. Letty has said NO.

The NT Government has asked Letty to name her own price in an effort to get her to let the Case become extinguished. Letty has said NO.

Letty wants Justice. So must we.

High Court Report.

3 October, 2003.

We gathered in the Courts' 14th Floor Café. Letty, her Family and her Supporters, ready to appear before the Full Bench of the High Court.

Two Submissions had been made. The first was an Appeal against the Decision of the Federal Court, Justice Madgewick who after hearing Argument, decided that Letty should return to have her Case heard in the Northern Territory as they had original carriage of the Matter.

The High Court Full Bench was made up by Justices Kirby and Hayden. Pressure of work allowed for only those to represent the Full Bench.

J. Kirby, after hearing Arguments from Letty and Daniel Taylor, with some input from Nathan Scott, and the Barrister representing the NT Government and three of the four Murderers. (one was no longer locatable), quickly found that J. Madgewick had not erred in Law and Letty needed to return to the NT.

Letty informed the Court that she had no intention of EVER physically retuning to the NT.

The second Matter was then dealt with which was that J. Martin, of the NT Supreme Court, had erred on matters of Law which needed to be overturned. After hearing Submissions the Full Bench found otherwise.

Letty has vowed to not return to the NT and considers her next step to now go International as she will never find Justice in this Country.

Letty and Daniel are now considering there legal options with the NT Coroner and the NT Supreme Court.

My understanding of the Judicial tactics is that they are operating under a very strict Code of Hard Law. Any moral argument, any Human Rights argument, indeed, any argument put by Letty and Daniel is listened to but is then weighed as to its 'legal correctness and strict legal functionality' as interpreted by Their Honours. Letty and Daniel were always going to find it extremely hard to match the legal expertise of these Guardians of the Law.

It seems to me that some one, or some group, had made a decision to give Letty her 'day in Court.' By continuing the very tight legal interpretations, they would not only control the Process, but would also control the outcome. The outcome? Shut up or go to the Northern Territory. The Judicial System seems to be saying to Letty and the NT Government and their Judicial System, "Look, this is not our mess, this is a mess of your own making. Both of you need to sort it out. We have no intention of being tarred with your brush."

Despite the pleadings by Letty that her life, Nathan's life, along with the rest of her Family, that to return to the NT would be to place their very lives at risk, was summarily dismissed by J. Kirby, speaking as the Court, that he could not accept that plea. Australia is not like that was another comment made. Letty argued that all Australians, black or white, had a Right to Life. J. Kirby replied that, whilst he agreed, it was not a Constitutional Right.

We have here a polarisation of not understanding the History and day to day lives of Aborigines. Especially in the 'Red Neck" North of Australia. Letty reminded their Honours of the Coniston Massacre in 1928 and the subsequent cover-up by the legals and Courts of the time. This occurred in Letty's Country. Letty grew with the horror of Coniston from her Family and Community Elders.

Whilst some Judges may be able to accept the Moral and Social facts as put, tragically this is not Law. Your Honours, you are right. It is not Law; it is though, our Life.

The NT Police were responsible for contacting the police of Bribie Island, Qld. to harass, arrest or do whatever was necessary to stop Letty and Daniel from faxing information to their overseas contacts and ISJA. They were taken to the police station, after Daniel was wrestled to the ground and injured. They were released after the police learnt that what Letty and Daniel were doing was quite legal. The Bribie Island police stated that they had no wish to become involved in the illegal and criminal acts of the NT police.

The NT police, since Letty began her fight for Justice, have done all in their power to harass and intimidate Letty and her Family, including the kidnapping of Nathan from his home and dumping him far from home. Nathan was a young child at the time.

And our Courts Systems expect her to return to that?

Go overseas Letty for there is no Justice in this Country for you or yours.

Coronial Courts, a Royal Commission, Supreme Courts, Federal Courts, High Courts.

The Courts of this Country prefer to protect the Murderers by invoking their Legalese.

Costs have been found against Letty and have been added to the NT Supreme Court costs.

I wonder what their Interest Rates are?

Other Coronial Reports.

These are the two Reports mentioned earlier. I've said enough, so please, just read on.

Northern Territory News
Bob Watt, Court Reporter
27 February, 2003

NT Coroner Greg Cavanagh has strongly suggested two former police officers should face a criminal charge after failing to take into protective custody a woman who died after a "domestic" assault.

While not permitted under the Coroner's Act to include in his findings that a person was or might be guilty of an offence, he could make a report.

"If I believe a crime may have been committed in connection with this death I must report to the Commissioner of Police and the Director of Public Prosecutions," he said.

John Joseph Collins who assaulted the woman (who died of internal bleeding), had already been sentenced by the Supreme Court for doing a dangerous act causing death.

Mr Cavanagh said a section of the Criminal Code on criminal negligence cast a wide net, including omissions endangering life, health or safety where the risk should have been foreseen. "In my view.. I am firmly of the belief the risk to the deceased ought to have been clearly foreseen," he said. "Accordingly, I refer the matter of the death back to the commissioner and the DPP for their attention as I believe crime(s) as defined by... the Criminal Code were committed..." The Coroner, bringing down his findings into the death of the woman, 41, at Wulagi on October 3, 2001, was highly critical of the initial police response. His report to the DPP, if adopted, could see former police officers Dean Goldstein and Steven Cook prosecuted. Mr Cavanagh said despite police giving domestic disturbances high priority, a unit was not despatched for 23 minutes after a call from the Brolga St house. Goldstein and Cook were about to take the woman (name suppressed for cultural reasons) into protective custody when they decided to respond to a call about an armed man near Uncle Sam's takeaway in the city.

Mr Cavanagh found the very drunk woman was already in the police van when the two officers allowed her attacker to"reef" her out of the van and throw her over his shoulder. They failed to realise the man was also drunk, made no inquiries of nearby residents and should not have left the woman in his care. The Coroner said officers of the second unit which arrived later and found the woman unconscious tried to save her life. Assistant Commissioner John Daulby said outside court there was "a lack of judgement across the board" in this sad case. Deputy Commissioner Bruce Wernham said later because the matter was before the DPP he could not comment on the actions of the officers. Police would look at the recommendations. Police were already looking into shift lengths and fatigue management**. Ends**

The WA Rep[ort may be somewhat dated but it does show that WA Coroner Alistair Hope was quite acceptable to Gaol Officers being charged for "breaches of Duty of Care."

If only……

I do not intend to give the whole Report as it has appeared in an earlier Newsletter.

The West Australian
Bronwyn Pearce and Sean Cowan.
13 December, 2001.
Coroner damns jail death.

A prison guard was suspended from duty yesterday after Coroner Alistair Hope handed down a scathing report on the hanging death of an inmate at Roebourne jail.

A gross breach of duty of care by Roebourne Regional Prison guards contributed to remand prisoner Phillip Lionel Joseph, 33, taking his life on January 6 last year Mr. Hope said**. Stop.**

A further Report from the Northern Territory.

ABC Indigenous News.
29 March, 2003.

NT Coroner prompts Govt. over commission findings.

The Northern Territory Coroner Greg Cavanagh has reminded the Federal Government of recommendations made by the Royal Commission into Aboriginal Deaths in Custody.

Mr. Cavanagh was speaking in relation to the hit-and-run death of a woman who had just been released from a police watch house in December 2001.

The inquest heard the 38 year old woman was severely intoxicated when taken into police protective custody because Darwin's Sobering-Up shelter had not opened yet.

Her body was found on the Stuart Highway not far from the Berrimah watch house less than two hours after she was released.

An autopsy revealed the victim must have been lying on the road when run over by a large vehicle.

In his findings, Coroner Cavanagh reiterated the commission's recommendation for adequately funded non-custodial facilities to care for and treat intoxicated people. (Recommendation 80-rj).

Mr. Cavanagh says alcoholism is one of the greatest problems facing the Territory community, and more than talk is needed to address the problem**. Ends**

A Category 2 Police Death in Custody.

To give our Coroners here in NSW their due, they too remind the NSW Government and the Department of Corrective Services of thr Royal Commission Recommendations as required.

The only problem here is that the Federal Government and the NSW, SA, WA, NT and, I think, Qld Governments have all abandoned the Royal Commission Recommendations. The arguments are that the Recommendations are old, out of date, already implemented anyway, and Governments now wish to go into Partnership Agreements as they, the Governments, can control the Agreements better.

Some, like the Circle Sentencing Project, are successful. Most are not or are way too new to be able to fairly judge them.

Below we present a Death in Custody view from a grieving Mother.

The Australian
Thea Williams
1 March, 2003.

Prison rape blamed for black death

Aboriginal prisoners raping fellow Aboriginal inmates were a hidden cause behind deaths in custody, a mother told the inquest into her son's death in an Adelaide jail.

Merva Varcoe said her son, Alexander Wayne Keith Varcoe, told her he had been raped by two Aboriginal men at Yatala Labour Prison in 1994, when he was 18.

She believed this was mainly why her son "slashed up" in prison, why he damaged her home after he was released, and why he hanged himself when he was back in Yatala in 2000.

"I think Aboriginal people have been silent about rape in jail for too long," Mrs Varcoe told the South Australian coroner in an affidavit submitted yesterday.

"Aboriginal prisoners say they are staunch in jail and can cope with it, but they shouldn't rape other people in jail. Rape in jail puts people at risk of death in custody."

Her lawyer, Chris Charles, told the coroner the statement was more than an explanation of Varcoe's motivation: "This is a wake-up call for the Aboriginal community."

The statement was tendered on the last day of hearings as lawyers summed up the reasons the prison's admission and induction processes failed to identify Varcoe as at risk, despite a history of self-harm.

Varcoe was arrested in April 2000 for defying a warrant, but was later charged with rape, threatening life and false imprisonment.

Varcoe had asked his case officer for access to his lawyer and help in getting photographs of his second child, born after he entered prison. He had few if any visitors.

On December 12, 2000, he was forced to move cells after a tattoo gun was found hidden in an air vent in the cell he shared.'

Varcoe was placed with a non-Aboriginal prisoner who was taken to the infirmary after a psychotic attack on December 16, leaving him alone.

Hours later, Varcoe was found dead in the jail's E division at the age of 24.

The four-day inquest this week heard from Aboriginal liaison officer Alban Kartinyeri, who said he was shocked when he heard Varcoe had killed himself.

He said it was difficult to provide as much support as was needed by Aboriginal prisoners at Yatala.

Department of Correctional Services custodial systems manager Stephen Johnson said that since Varcoe's death, Velcro shoes had been introduced in E division. The department had sought funding three years running to modify the cells.

A spokesman for the Department of Correctional Services told The Weekend Australian the department had received $107,000 over two years to modify the cells**. Ends**

In the following piece I do not know whether the victim was an Aborigine or not, but I admit to being grabbed by the headline. I do not have much faith that he will do time. The cops always get away with it, so I think he will to.

Sydney Morning Herald
5 March 2003

Officer charged over prison murder

A 28-year-old prison guard faced Melbourne Magistrates Court charged with the shooting murder of a prisoner who was allegedly trying to escape.

Fab Federico was charged with murder and walked through the front doors of the Melbourne Magistrates Court unshackled, but in police custody.

He has been charged with shooting remand prisoner Garry Whyte, 39, at St Vincent's Hospital, in May last year.

The prisoner was allegedly running from an in-patient area when Federico fired at him.

Whyte had been on remand at the Melbourne Assessment Prison for minor property offences and was moved to the hospital after complaining of illness.

Federico sat in the body of the court during the brief filing hearing before being moved into custody.

He was represented by Con Heliotis, QC, and David Brustman, who are expected to make a bail application for him in the Supreme Court on Wednesday afternoon. **Ends**

Another overseas Report showing that, sometimes, they just do things differently.

El Porvenir, Honduras
Tim Weiner
20 May, 2003.

Cover-Up Found in Honduras Prison Killings.

After the shooting and the screaming and the smoke faded away, the guardians of state security scrambled to write the story of how 68 people were killed inside the prison walls here on April 5.

They said 59 of the dead were vicious gang members who shot other prisoners, then barricaded themselves inside two cellblocks and set a suicidal fire, killing innocent victims in the process, as the police arrived to restore order.

But that first draft of history is now crumbling into dust. What happened at El Porvenir, according to an independent report commissioned by the president of Honduras, was in fact among the worst prison massacres of this sort in many years.

A draft copy of the report, which is to be sent to President Ricardo Maduro this week, says 51 of the dead were executed - shot, stabbed, beaten or burned to death by a force

of the state police, soldiers, prison guards and prisoners working with the guards.

All were members of the Mara 18, a feared youth gang. It was, with a handful of exceptions, the Mara who died at El Porvenir. Almost every member of the gang who survived was wounded.

"It is not true that the police opened fire to break up a chaotic fight, as some have attempted to establish," the report says. "They fired on a defined group within the prison population."

Church leaders said the Porvenir report, written by three outside experts appointed by the Ministry of State Security, might force the nation to deal in a different way with its most despised citizens - the growing number of teenage gang members.

Their emergence reflects the acute social problems of Honduras, one of the poorest countries in the Western hemisphere, where half the population of 6.5 million is under 18. Honduras, like other Central American countries, is struggling to create a democracy. It is trying to build a justice system and a civil society out of very little after three decades of military rule.

From 1963 until 1993, the police were under military control. The army, which received millions of dollars in military aid from the United States, killed and tortured citizens, including prisoners, the Central Intelligence Agency found in a 1998 inspector general's report.

Today, although Honduras is a constitutional democracy, "the judiciary is poorly staffed and equipped, often ineffective, and subject to corruption and political influence," says the latest State Department report on the nation, dated March 31. Prisons are filled far beyond capacity, increasingly by children who have turned to crime, like the Mara 18.

El Porvenir was "a time bomb," says its leading inmate, José Edgardo Coca, a former police sergeant and head of its prisoners' association.

On the day of the killings, the prison held about 550 men, 350 more than its capacity. Roughly 80 percent of prisoners throughout Honduras are not convicts, but are awaiting trials in overwhelmed courts.

About 80 members of Mara 18, a group that grew out of the 18th Street Gang in Los Angeles, were transferred to the prison in February. Tensions flared immediately between the gang and the established prisoners' association.

"The Mara were ungovernable," Mr. Coca said. They were "the straw that broke the camel's back" at El Porvenir, said Armando Calidonio, second in command at the Ministry of State Security.

On Saturday, April 5, Mr. Coca said, the head of the Mara 18, Mario Roberto Cerrato, shot him with a smuggled pistol, setting off the killing.

No pistol was recovered after the killing. What became of it? "That is the question of the millennium," Mr. Coca said.

The Mara 18 gang fought prison guards and Mr. Coca's allies from 9:55 until 10:05 a.m., the report said, until soldiers arrived from an army camp nearby. Shortly after 10:15 a.m., national police units, including a special operations squad called the Cobras, began to arrive at the prison.

Mr. Cerrato was "shot with malice," the report said, after a prison trusty knocked him down. With their leader dead, most of the gang members retreated to a cellblock.

Followers of Mr. Coca barricaded the cellblock and set it aflame, the report said, "in the presence of the police." Then, the report said, the police "opened fire on gang members who came out of their cells barefoot, their hands raised above their heads in surrender."

One Cobra shot a prisoner who staggered from the cellblock in flames. Other Mara 18 members, who had surrendered, were beaten or stabbed as they lay face down in the prison yard, the report said.

"Of the 68 bodies received at the morgue in San Pedro Sula, 18 had gunshot wounds, 17 had knife wounds, and 24 were burned," the report said. "It is important to point out that no firearms were found among the victims."

Mr. Calidonio, the vice minister of state security, called the deaths an aberration, a momentary loss of control, saying, "It's admirable that nothing happened the other 364 days of the year."

The executions seem to reflect widespread hatred of the youth gangs in Honduras. "There are people who think they all should be exterminated," said Auxiliary Bishop Romulo Emiliani in San Pedro Sula, the nation's second-largest city, one of the few people in the country working to rehabilitate the gangs.

Bishop Emiliani, who preached at the prison on Easter Sunday, April 20, called the deaths of the Mara 18 youths "an assassination" that laid bare the country's social problems. They also offer "a great opportunity to demonstrate that there is law and order in this country," he said, if those responsible are brought to justice.

"It is one thing to put down a rebellion," he said. "It is quite another to commit murder."

President Maduro promises a "profound transformation" of the nation's prison system.

But the problems of Honduran prisons often seem to be no more than a reflection of deep social ills. Over the past year, the State Department report says, evidence suggests that the police, vigilantes and "death squads" formed by businessmen and former soldiers have taken judicial matters into their own hands - by killing suspected criminals, particularly teenagers E**nds.**

Now to return to this Country and to police deaths of the Category 2 type.

Northern Territory News.
23 June, 2003
Rajiv Maharaj

Cop chase ends in drowning.

Police chased a man along a beach and into the sea where he drowned.

The police officers said they could not follow the man into the water at Darwin's Nightcliff Beach because it was unsafe.

The two officers stood at the waters edge shining a torch at the man and urging him to come ashore,

They then asked for a p[police boat to be dispatched, but the request was turned down by senior officers at Police HQ at Berrimah.

The man's body was later found floating in tribal mudflats.

A post-mortem confirmed he had drowned and revealed he had a blood alcohol level of .381.

The death of RN, **(the Report does identify him but I do not intend to do so.-rj),** 29, was treated as a Death in Custody because he was fleeing police on February 28, 2002, when he decided to enter the water.

The circumstances were released in a coronial inquest report late on Friday.

The report said RN and four women went to the beach near Casuarina Dve, **(Drive, Cove?-rj),** with a cask of wine and a bottle of rum. He became intoxicated and started hitting one of the women, her screams rousing a resident in the area who called the police.

Police officers Senior Constable Michael Hickey and Constable Douglas Nicholson arrived at 9.15pm and saw RN standing over a woman who was half-naked and bleeding.

RN started running away, and Constable Nicholson " gave immediate chase" on foot with Constable Hickey not far behind.

The chase was over after about 100m, at which point RN took to the water.

Asked at the inquest why he didn't get in the water, Const Nicholson said it "would be hazardous to myself to start off with, due to his prior actions he would possibly just swim out further, causing more danger to himself and to me."

Sen-Const Hickey was asked the same question. He said: "I didn't deem it safe to do so."

The request for a boat was passed to the watch commander, Acting Senior Sergeant Bruce Porter, about 9.30pm at Berrimah. The duty superintendent Mark Jeffs, also heard the request in the communications centre. They were told RN did not look to be in distress and appeared to be avoiding police when last seen by them.

Based on this information, the two men decided it unnecessary to send a boat.

RN's body was found about 24 hours later. Coroner Greg Cavanagh said it was "reasonable, appropriate and proper for the officers to pursue the deceased."

He said it was appropriate not to pursue RN into the water. He said: "It was night time. There were mudflats, it was also rocky. It would have probably pushed the deceased further out."

The coroner said, under the circumstances, the decision not to dispatch a boat was reasonable. **Ends**

Reasonable behaviour? Perhaps. Maybe. On the information at hand it is really difficult to say.

Having visited Darwin two or three times I am very aware of the 'King Tides' that occur around the Top End. One can stand in waist high water and within a very short time the water is over your head.

The drinking of alcohol and swimming, from personal experience, can be quite dangerous. The 'heavy belly' comes into play and one literally sinks.

Not a good feeling I can assure you

The next Report does not identify the victim as an Aborigine. I still think however it is worthy of inclusion as a further study of this phenomena. For those who may not know, the Hunter Valley is located in NSW.

Sydney Morning Herald
22 May, 2003.
Tim Dick

Hunter Valley man drowns after police chase.

A man drowned in a park dam after a police chase last night in the Hunter Valley.

The man, who police believed to be 44 years old, has yet to be formally identified.

He drowned in a dam in Heritage Park, Kitchener, after police chased him on foot. The officers were called to the Cessnock Street park after gunshots were heard nearby.

Police said when the two officers arrived, they saw the man run into park bushland. After chasing him into the bush, they found the man in a dam. There, they tried to talk him out of the water but were unable to do so.

Police said that while calling for backup, the man "disappeared" below the water.

The officers dived into the water and dragged the man unconscious and not breathing from the dam.

Police attempted to resuscitate the man but they were unsuccessful and he died in the park.

A police spokesperson was unable to give any further details, other than an investigation has been launched and a report will be given to the coroner. **Ends.**

No 'King Tides' here to be sure. My contact made reference to an enactment of 'Waltzing Matilda' without the sheep. I do not think so.

Again, a puzzling death that the Coroner will, hopefully, be able to sort out.

The final Report has been verbalised only and details are rather sketchy.

A young Aborigine, described as being in his early twenties, was handcuffed by NSW police at Dubbo

and placed in the back of a police wagon. Details of why are not known.

He has been identified to me but I do not intend to use his name. RS shared the police wagon with some other youths when, somehow, several, including RS, jumped from the back of the wagon. With one other, he ran to the Macquarie River and tragically drowned whilst attempting to escape.

This happened during September and I am following up further information.

Due to current timetables I cannot delay this Newsletter any more than it is. I will give a fuller Report in a future Newsletter.

Our thoughts are with the Families.

The Koori Mail
27 August 2003

Woman Dies in jail

A young Aboriginal woman was found hanging in her cell at a jail in north Queensland.

A spokesman for Queensland's Department of Corrective Services said the 20 year-old woman was discovered by other prisoner's at the Townsville Correctional centre. **Ends**

I have the name of this young woman, but do not intend to use it.

The above article is the only media report that I could find in reference to this death. As I have said earlier, there now seems to be a process whereby Deaths in Custody do not need to be reported, as has been common practice since the eighties.

The Queensland death and the Dubbo (NSW) death were not reported in any mainstream press that I have access to. With the Townsville death I actually logged onto the Townsville Bulletin site but could find no reference to the death whatsoever. With the Dubbo death I am still making enquiries and will be talking to some contacts later next week.

howard has been successful in highlighting just how racist this country is. In the public arena, his government has managed to bury the process of the Royal Commission Recommendations to prevent Aboriginal Deaths in Custody and has taken the spotlight off Indigenous deaths. This is not a practice that we can accept.

If anybody is made aware of a Death in Custody that has recently happened, then ISJA strongly urges them to contact me either by phone, fax, mail or email. See bottom of page for details.

Endnote

Well, there it is. Warts and all.

What warts occur are strictly mine and not of Rose or Gordon.

I will now have a break for a couple of weeks and then, in collaboration with others, will decide on the Theme of the next Newsletter

We are pulling our limited resources together and believe that the production of the next Newsletter will prove to be less traumatic than this one was.

Previous Issues of Djadi Dugarang included extracts from my Interview with Ms. Sherrie Cross of Macquarie University. It has been decided not to continue with those extracts. Should anyone actually had been following it, and should you wish to know the rest of the extracts, then please contact me and I will post the full interview to you. Contacts are below..

We will accept your Letters and Comments for inclusion into the next Newsletter as long as they are not Racist or seeking to implement violence against others.

We do seek your Membership and/or Donations. The last page of this Newsletter is a Membership Form. Our Membership year is a financial year so all Memberships have lapsed except for those paid from 1 July 2003.

ISJA is not funded by ATSIC, although we do receive a Management Fee for our work within the NSW Youth Drug Court Pilot Programme.

We do not receive any funding from other sources, except our Members and Friends.

This effectively limits our operations, but at least we are answerable only to our Members and the Department of Fair Trading, of course, as we are an Incorporated Association.

We thank you.

ANNUAL GENERAL MEETING

The Annual General Meeting of the Indigenous Social Justice Association Inc is to be held at 6pm on Tuesday 25th November 2003.

The meeting is to be held at the Quakers Hall, Devonshire Street Surry Hills.

The church hall is close to the Gaelic Club, near Central Station

Light refreshments will be served

All members are asked to attend

CONTACTS

Ray Jackson President/Public Officer

(H) 02 9318 0947

(F) 02 8399 2632

(M) 0418 436 572

PO Box K 555

Haymarket NSW

user 15/10/03 1:29 PM
Deleted:

user 15/10/03 1:29 PM
Deleted: 4

user 15/10/03 1:28 PM
Deleted: 9

To contact the Association: