

Australia: No charges against police for killing Aboriginal prisoner

Mike Head

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In a blatant whitewash, two agencies of the Beattie Labor government in the Australian state of Queensland simultaneously ruled last week that no charges will be laid against a police sergeant who bashed and killed an innocent Aboriginal man on Palm Island, near the northern city of Townsville, two years ago. The decision has caused outrage on Palm Island and throughout indigenous communities across the country.

The Queensland Director of Public Prosecutions (DPP) Leanne Clare announced on December 14 that Senior Sergeant Chris Hurley would not be placed on trial for the death of Mulrunji Doomadgee, 36, at the island's police station. The Crime and Misconduct Commission (CMC), which monitors the state's police, immediately echoed her decision, saying no disciplinary action would be taken against Hurley either.

The announcements came less than three months after Acting State Coroner Christine Clements ruled on September 27 that Hurley "caused the fatal injuries" suffered by Mulrunji (his tribal name) and "callously" left him to die in agony in a police cell after arresting him on unwarranted "public nuisance" charges on November 19, 2004.

In her detailed 35-page report, Clements found that Hurley "hit Mulrunji whilst he was on the floor a number of times". An Aboriginal witness saw Hurley "bending over" the prostrate Mulrunji, with Hurley's "elbow going up and down three times," and Hurley saying, "Have you had enough, Mr Doomadgee? Do you want more, Mr Doomadgee? Do you want more?..."

"After this occurred, I find there was no further resistance, or indeed any speech or response from Mulrunji. I conclude that these actions of Senior Sergeant Hurley caused the fatal injuries."

On the basis of expert medical evidence, Clements specifically rejected the police suggestion that Mulrunji's shocking injuries—his liver was broken in two, his spleen ruptured and four ribs broken—were caused when the two men initially fell to the floor together. "All the expert evidence also concurred that a fall together, side-by-side, of the two men onto a flat surface was unlikely to have caused the injury that occurred."

Doctors concluded that the severe injury must have been inflicted by a "compressive force of very considerable magnitude to the right lower rib cage with the rest of the body otherwise immobilised". This meant blows struck by a fist, knee or elbow.

Clements ruled that Doomadgee was dragged away inert and deposited in a cell, without any attempt to check on his state of health. "Mulrunji cried out for help from the cell after being fatally

injured, and no help came. The images from the cell video tape of Mulrunji, writhing in pain as he lay dying on the cell floor, were shocking and terribly distressing."

The coroner further found that Mulrunji's arrest had been "completely unjustified"; police made no attempt to resuscitate him when he was found in the cell with no pulse; Mulrunji's family were misled and "sent away" when they came to the police station to inquire; and the initial police investigations of the death, by officers who personally knew Hurley, were "reprehensible" and "obviously lacking in transparency, objectivity and independence". Clements also rejected Hurley's denial that he punched Mulrunji as "untruthful".

Yet, the DPP and the CMC claimed that no evidence existed to sustain any charges against Hurley—not for murder, manslaughter or even assault, not for the "callous" failure to check on his well-being, not for the "reprehensible" cover-up attempt, and not for perjury.

DPP Clare claimed the death was simply a "terrible accident". There was no evidence to go to a jury that Hurley was criminally responsible for it. In fact, Clare directly contradicted the coroner's findings, saying that Mulrunji died from internal injuries caused when he and Hurley fell together through the open door of the police station.

Clare also defied the medical evidence, claiming that autopsy results showed neither kicks nor punches caused Mulrunji's death. "On the evidence, the fall is the only satisfactory explanation for the injuries identified by the doctors," Clare said.

The DPP came to her remarkable conclusions without conducting any hearings or listening to any testimony. Instead, she said she had "pursued further lines of inquiry and received additional evidence," but refused to explain or elaborate.

Based on her decision, the CMC announced that it had "reached the inevitable conclusion that no disciplinary action before the Misconduct Tribunal or by the Queensland Police Service (QPS) can be taken against the police officer in relation to the cause of death or in relation to the charges of assault or perjury mentioned in the DPP's media statement today".

It soon became apparent that the state government and police approved and knew of Clare's ruling in advance. Police reinforcements were on hand in Townsville to suppress any protests in the city or on the nearby island by furious Aboriginal people.

Premier Peter Beattie quickly backed the DPP announcement

and urged people to accept the “umpire’s decision”. With typical hypocrisy, Beattie claimed that his government could not interfere with the ruling and that indeed it would be politically impermissible and “dictatorial” to do so.

This is from a government that, just five months ago, overruled the DPP’s decision to accept an offer from former Bundaberg Hospital surgeon Dr Jayant Patel to conditionally return to Australia from the US to face manslaughter and medical malpractice charges. Patel’s trial could have harmed the government’s chances in the September state election, in which the deteriorating hospital system was a major issue.

Clare is a political appointee, whom the Beattie government reappointed to another three-year term just last month, despite the failure of two other highly political prosecutions that she undertook on the government’s behalf. One was the anti-democratic jailing of right-wing One Nation Party founders Pauline Hanson and David Ettridge on fraud charges that were later thrown out by the state Supreme Court. The other was the jailing of former chief magistrate Di Fingleton, whose conviction the Australian High Court declared to be without foundation.

In the lead-up to Clare’s announcement, Beattie and his ministers made it plain that they backed the police to the hilt. Beattie defended Police Commissioner Bob Atkinson’s decision not to suspend Hurley and lauded the police as “one of the best police services in the world”.

This stance reinforced what the Labor government did after Mulrunji’s killing triggered a riot on Palm Island, in which an angry crowd marched to the courthouse and police station and set them alight.

Beattie backed the police in declaring an emergency, and at least 80 officers, including the paramilitary Special Emergency Response Team (SERT), sealed off the island. They shut down roads and launched early morning raids on homes. Police in full battle armour and wielding semi-automatic weapons bashed down doors, used stun guns, pointed shotguns at people and confronted children.

This week, it was belatedly reported that the police also requested the army to send in troops and Black Hawk helicopters. Such a request for military intervention must have come from the Beattie government itself. It is a clear warning of the manner in which the Howard government’s recently boosted military call-out powers can be invoked to put down civil unrest, even though it seems that Beattie’s request was denied on this occasion.

At least seven Palm Island residents face trial next year, in stark contrast to the exoneration of Hurley and his fellow officers, who are now seeking compensation for stress in putting down the Palm Island riot.

The fury among indigenous people was voiced by an unnamed woman outside the media conference where Clare unveiled her decision. Aboriginal people were barred from the room. “Now him and all those other officers will get a bloody compensation package for stress. What happens to our brothers and sisters that resisted against 216 years of oppression? And then they had the cheek to insult our intelligence and kick us out of the decision like we’re mongrel dogs.”

Aboriginal lawyer Noel Pearson said the decision “has probably

kept every indigenous person in this state restless with visceral anger and despair at the state of the justice system here in Queensland”. He accused Clare of “driving indigenous people to depths of despair” and called for her NSW or Victorian counterparts to undertake a review.

Various Labor and Aboriginal figures joined Pearson in seeking to deflect the anger away from the Beattie government by blaming the DPP or police. Parliamentary speaker Mike Reynolds, whose electorate includes Palm Island, said he believed the case should have gone to a jury and police had not learned from the 1990s royal commission into Aboriginal deaths in custody.

In fact, the Hawke federal government’s 1987-1991 royal commission, which reviewed 99 deaths of indigenous prisoners that occurred between 1980 and 1991, effectively gave a green light for further killings. Not one charge of homicide resulted and another 145 indigenous prisoners died over the ensuing decade.

Despite this historical record, Sam Watson, an indigenous spokesman for the so-called Socialist Alliance, a collection of ex-radicals, said: “Leanne Clare has taken the relationship between Aboriginal people and the criminal justice system to an all-time low.”

Three months ago, Watson told ABC radio the coroner’s verdict had “absolutely restored the faith and confidence that Aboriginal people had in justice system,” describing it as “a massive step forward for reconciliation right across the state and right across the nation”. Watson also promoted illusions in Labor, pleading with Beattie and the police to accept the coroner’s report.

From Hawke to Beattie, Labor has been central to the ongoing repression of Aboriginal people, who are up to 30 times more likely to be locked up than non-indigenous people, and the maintenance of the deep-seated poverty and social deprivation that underpin this appalling disparity.

At the same time, the brazen Palm Island whitewash sets a precedent for use against all working class victims of police brutality, not only indigenous people. On December 16, Murdoch’s *Australian* front-page headline depicted the DPP’s decision as a “white justice ruling”. While the ruling is certainly a racist one, it is above all an attack on the working class, sanctioning police violence amid conditions of deepening social inequality and political disaffection.



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