

Cover-up of Palm Island Aboriginal death continues

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The Labor government in the Australian state of Queensland is adamantly defending its recently re-appointed police chief, Commissioner Bob Atkinson, despite the release of two damning official reports on the death in police custody of an Aboriginal man on Australia's Palm Island in 2004. Premier Anna Bligh's government is continuing a shocking five-and-a-half-year political cover-up of the crime.

The first report, released last month, was from a re-opened coronial inquest into the death of Mulrinji, also known as Cameron Doomadgee, who was left to die a painful death on the floor of a police cell on the island, a former penal colony for Aboriginal people in northern Queensland in November 2004.

Doomadgee died of internal bleeding after an altercation with a senior police officer, Senior Sergeant Chris Hurley, left his liver torn in half, his spleen ruptured, his face badly bruised and four ribs broken. Doomadgee, a popular 36-year-old worker and father, was found dead less than an hour after being locked up by Hurley for the offence of "causing a public nuisance".

The coroner, Deputy Chief Magistrate Brian Hane, found that Hurley had repeatedly punched Doomadgee, tackled him to the ground and possibly dropped his knee into the prostrate man, before "dragging him limp into the cells". Hane concluded that Hurley had lied about his attack on Doomadgee, fabricated evidence and altered his story after being tipped off by police investigators about incriminating witness statements.

Hane described Hurley's initial denial that he had fallen on top of Doomadgee as a "calculated and tactical stratagem" to avoid being suspected of inflicting the blow to the prisoner's stomach. That lie, Hane said, had affected Hurley's "overall credibility".

Yet Hane ruled—largely because Hurley's collusion with the police investigators had "substantially compromised" the evidence—that there was "simply no evidence before me" that Hurley intentionally applied the force that killed Doomadgee. The coroner formally delivered an open finding, effectively

leaving Hurley free of criminal responsibility. At the same time, Hane said there was "sufficient compromising material" to rule out a finding of accidental death.

In the initial coronial inquest in 2006, Deputy State Coroner Christine Clements found that Hurley had "caused the fatal injuries" by hitting Doomadgee a number of times while he was on the floor, and then dragging him, unconscious, into a cell without attempting to check on his health.

Clements's verdict provoked a political crisis. The state government, led by Bligh's predecessor Peter Beattie, strongly backed a decision by its newly-reappointed Director of Public Prosecutions (DPP) not to charge Hurley despite Clements's detailed and incriminating findings. Police reinforcements were called in to suppress protests by furious Aboriginal people.

After initially claiming that he could not "interfere" with the DPP's decision, Premier Beattie was forced by the political outcry to call in former New South Wales chief justice Sir Laurence Street to review the case. As a result of Street's review, Hurley was placed on trial for manslaughter in 2007, but based on a very different assessment of the events than the one that had been made in Clements's report. The trial centred on the claim that Hurley must have kned Doomadgee while falling on top of him. This scenario opened the door for the police sergeant to switch his story, and concede that his knee must have struck Doomadgee, but only "accidentally". Hurley was acquitted on that basis.

Hurley, assisted by the Queensland Police Union, then went on a legal offensive. He went to the Court of Appeal, the state's highest court, to overturn Clements's verdict. By doing so, he sought to escape civil liability to Doomadgee's family, as well as criminal liability. Last year, the court issued an extraordinary ruling that Clements's careful factual finding "was not reasonably open on the evidence" and ordered a new inquest.

The second recent report was last week's release of a Queensland Crime and Misconduct Commission (CMC) review of the police investigation into the death. The CMC concluded that both the initial investigation and a subsequent internal

review organised by Police Commissioner Bob Atkinson were “seriously flawed,” lacking in “integrity” and focussed on justifying the conduct of the police officers involved.

The CMC report noted that known friends of Hurley, led by a detective inspector, were appointed to investigate the death. Hurley picked them up at the airport and hosted them to drinks and dinner at his house. He and the investigators also held “off the record” discussions and the investigating team circulated false information, including misleading statements about Doomadgee’s alleged alcoholism.

The CMC said Commissioner Atkinson’s review team—an unnamed acting superintendent and inspector appointed in 2007—failed to hold the investigating officers to account, “justified their conduct on doubtful grounds” and created a “perception of bias”. The CMC pointed out that the review team regularly briefed Atkinson, who “fully supported their findings”. It added that Atkinson was responsible for the “culture” of self-protection and “must be held accountable for it”.

Nevertheless, far from holding Atkinson accountable, the CMC recommended that the commissioner consider commencing disciplinary proceedings against the officers directly involved in the investigation and internal review, and gave him 14 days to consider the recommendation. The CMC said there was insufficient evidence to consider any criminal prosecutions.

The CMC report amounts to a plea for the sacrifice of a few officers in the interests of public relations. At a media conference to release it, CMC chairman Martin Moynihan emphasised that its aim was to convince the commissioner to take “decisive leadership action” to restore “public confidence” in the Queensland Police Service.

In February this year, after receiving a draft copy of the CMC report, Premier Bligh’s government underscored its support for Atkinson by prematurely re-appointing him for three more years. Last week, following the report’s publication, Police Minister Neil Roberts reiterated the government’s “absolute” confidence in Atkinson, saying he had “provided good, strong, stable leadership to the Queensland Police Service for many, many years”.

Bligh and Roberts also dismissed a complaint by the CMC’s Moynihan that the government had re-appointed Atkinson without properly consulting him, as required by state legislation. Bligh denied that she had misled parliament on the issue and declared that she had legal advice that no breach of the law had occurred.

The CMC is currently investigating possible charges that could arise from coroner Hane’s finding that police officers colluded to protect Hurley. However, if the CMC’s last report is any guide, and the entire saga of whitewashes and legal manoeuvres, legal action is unlikely. There have now been two coroners’ reports, the CMC inquiry and two court cases, without a single person being held accountable for the death in police custody of an innocent man.

The Queensland government’s backing for Atkinson and the police has been obvious from the outset. When the news of how Doomadgee died sparked a riot by the Aboriginal community on Palm Island in November 2004, the government immediately authorised the police to invoke emergency powers. Heavily-armed members of the Special Emergency Response Team (SERT) took control of the island and launched widespread raids on homes. Unlike Hurley, who has not spent a day in prison, scores of residents were arrested on “riotous assembly” and other serious charges. A community leader, Lex Wotten, is still behind bars after being sentenced to seven years’ jail.

Labor’s record has deep historical roots. Over the past two centuries, the country’s indigenous people have been driven off the land through massacres and poisonings, and suffered ongoing violence, with the sanction of the legal and political establishment. What few official investigations and judicial inquiries have taken place, have invariably whitewashed these crimes. The 1987-1991 deaths-in-custody royal commission established by the federal Hawke Labor government reviewed 99 deaths at the hands of police and prison authorities during the 1980s, without a single officer being charged with homicide.



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