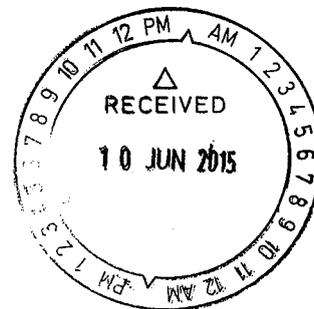




ATTORNEY GENERAL; MINISTER FOR COMMERCE

Our Ref: 44-16451



Hon Simon O'Brien MLC
Chairman
Standing Committee on Environment and Public Affairs
Parliament House
PERTH WA 6000

Dear Chairman

PETITION NO 81 – DEATH IN POLICE CUSTODY OF MS DHU

Thank you for your letter dated 12 May 2015 providing details of Petition No 81 - Death in Police Custody submitted by the Deaths in Custody Watch Committee WA Inc. (DICWC) and corresponding submissions by the DICWC and the Hon Robin Chapple MLC.

Overall, the petition largely calls for actions which are currently underway, under consideration, or are not appropriate or practicable. I am aware that you have sent similar correspondence to the Minister for Police so I will generally restrict my comments to my portfolio area.

Recommendation 1 - Call for an independent inquiry

You would be aware that the State Coroner has announced that an Inquest into the death of Ms Dhu will be held as soon as practicable. The State Coroner's office is undertaking preliminary investigations, and the Inquest hearings will be scheduled once those are completed.

All Inquests constitute an independent public inquiry and, as such, I do not consider that an additional inquiry is necessary. Any attempt to establish an additional or alternative public inquiry before the State Coroner has delivered her findings could potentially interfere with the Inquest process. Any worthwhile inquiry would duplicate the investigative and other preparatory work that the Coroner would need to undertake and which is currently underway, resulting in a unnecessary duplication of effort. In accordance with usual practice, any relevant recommendations by the State Coroner arising from the Inquest will be considered in a similar manner to the response to the findings of the Inquest into the death of Mr Ward. It is not made plain what the proposed "independent public enquiry" is aimed at doing that will not be achieved by a Coronial inquest.

Recommendation 2 - Custody Notification Service

Both submissions refer to the setting up of a Custody Notification Service similar to the system set up in NSW and ACT which has been reported to be largely successful. I am not fully aware of the terms of the offer from the Australian Government regarding the funding of this service in WA, but am sure the Minister for Police would be open to considering the merits of any such proposal.

Recommendation 3 - Medical overage in police lockups

I defer to the Minister of Police to make comment on the viability of this recommendation.

Recommendation 4 – Alternative sanctions for fine default

Imprisonment is, and for a long time has been, a sentence of 'last resort'. Fines are, in appropriate cases, alternatives to imprisonment. There are many enforcement options available to the Registrar of the Fines Enforcement Registry before imprisonment can be considered. In fact, the current fine enforcement system contains at least five actions spanning a time period of at least 12 months before consideration is given to the issuing of a Warrant of Commitment (Imprisonment). The policies and procedures in relation to fine default are continually under review by the Department.

The Department of the Attorney General in conjunction with the Department of Corrective Services and Western Australian Police are examining ways to increase the use of Work and Development Orders, which are the penultimate step to imprisonment.

Recommendation 5 – Accommodation in police lockups

The standard of accommodation in police lockups is not within my portfolio responsibilities. I understand that lockups are designed for temporarily holding persons, many of whom will not go on into the prison system. As such, the standards applicable to prisons cannot be applied to police holding cells.

Recommendation 6 – Justice re-investment

The Western Australian Government has previously stated that it does not support a 'justice reinvestment' approach so-called. Although government investment in communities is an important element in preventing and reducing crime, it is not feasible to take a significant proportion of the custodial infrastructure budget and redirect it towards community-based programs. In addition, the current approach of delivering programs to people in prisons is known to work in reducing re-offending. The Department of the Attorney General supports a range of initiatives that support crime prevention, as well as research to investigate the factors driving crime.

I am keen to ensure that the Department of the Attorney General appropriately considers any relevant recommendations arising from the Inquest as it did with the Inquiry findings following the death of Mr Ward. In addition, as discussed above, work to examine alternatives to imprisonment for fine default is continuing.

Thank you for the opportunity to provide early comment on the submission.

Yours sincerely

A handwritten signature in black ink, appearing to read "Michael Mischin". The signature is written in a cursive, flowing style.

Hon. Michael Mischin MLC
ATTORNEY GENERAL; MINISTER FOR COMMERCE

- 9 JUN 2015