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# "Never Settler Enough": The Double Economy of Terror and Deaths in Custody in Australia

**Keywords**
Indigenous deaths in custody, settler state, police violence, racial terror, Deathscapes

**Abstract**
In this article, the authors examine the systemic nature of state violence and racial terror in the context of the Australian settler state and Indigenous deaths in custody. Drawing on Steve Martinot and Jared Sexton's (2003) concept of a "double economy of terror," the authors contend that police violence and Aboriginal deaths in custody must be read in terms of the standard operating procedures of a double economy of terror that ensures the institutional reproduction of the Australian settler colonial state. Death in police custody, Perera and Pugliese argue, is coextensive with the larger governmental and administrative apparatuses of the colonial state. In the face of the settler state's systemic ignorability of the ongoing racialized violence against Indigenous peoples, the authors conclude their paper opposing such a state with an Indigenous voice that refuses tacit acquiescence and that howls with rage at the mounting Aboriginal deaths in custody and rates of Indigenous imprisonment.

## »Nikoli dovolj naseljenski«: dvojna ekonomija terorja in smrti v policijskem pridržanju v Avstraliji



**Ključne besede**
primeri smrti staroselcev v policijskem pridržanju, država naseljencev, policijsko nasilje, rasni teror, Deathscapes projekt

**Povzetek**
Avtorja v članku preučujeta sistemsko naravo državnega nasilja in rasnega terorja v kontekstu avstralske države naseljencev ter smrti staroselcev v policijskem pridrža-

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nju. S pomočjo koncepta »dvojne ekonomije terorja« Steva Martinota in Jareda Sextona (2003) avtorja trdita, da moramo policijsko nasilje in smrti staroselcev v policijskem pridržanju razumeti kot standardne operativne postopke dvojne ekonomije terorja, ki zagotavljajo institucionalno reprodukcijo avstralske kolonialne države naseljencev. Perera in Pugliese trdita, da smrt v policijskem pridržanju sovpada s širšimi vladnimi in upravnimi mehanizmi kolonialne države. Zaradi sistematičnega zanemarjanja in nenehnega rasiziranega nasilja nad staroselci, ki ga izvaja ta država naseljencev, avtorja v zaključku svojega članka takšni državi nasprotujeta z izpostavitvijo staroselskega glasu, ki zavrača tiho privolitev in besni od jeze zaradi naraščajočega števila smrtnih primerov staroselcev v policijskem pridržanju ter visoke stopnje zapiranja staroselcev.

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In his speech made at the launch of the volume *Mapping Deathscapes*,[1] Yannick Giovanni Marshall discussed the settler state as a repository for two forms of seemingly opposing but in fact deeply interconnected political imaginations: those that seek its improvement or gradual evolution into something better, and those for whom "the settler state can never be settler enough."[2] Marshall's observation resonates profoundly with us as we reflect on our experiences as coordinators of the Deathscapes Project[3] and as long-term critics of deaths in state custody in Australia.[4]

The Deathscapes Project connects the deaths of migrants and asylum seekers left to die and made to die at the maritime borders of this "island nation" to the deaths of Indigenous people in custody at the hands of the state. We argue that refugees and Indigenous peoples are structurally linked in the formation of exclusionary settler sovereignty. Moreover, we identify as constitutive of this set-



1 Suvendrini Perera and Joseph Pugliese, eds., *Mapping Deathscapes: Digital Geographies of Racial and Border Violence* (London: Routledge, 2022).

2 Yannick Giovanni Marshall, April 21, 2022.

3 See Deathscapes Project at https://webarchive.nla.gov.au/awa/20201103065140/http://pandora.nla.gov.au/pan/173410/20201103-1648/www.deathscapes.org/case-studies/index.html.

4 See, for example, Suvendrini Perera and Joseph Pugliese, "Death in a Dry River: Black Life, White Property, Parched Justice," *Somatechnics* 1, no. 1 (March 2011): 65–86, https://doi.org/10.3366/soma.2011.0007; Suvendrini Perera and Joseph Pugliese, "White Law of the Biopolitical," *Journal of the European Association for Studies on Australia* 13, no. 1 (2012): 87–100.

tler sovereignty the same formations that underpin the "necrodemocracies" of Europe, where, in the words of the editors of this volume, the body of the Other functions as "a barrier and a threshold, highly racialized, classified and gender discriminated . . . [a body that] floats by the thousands in the seas around mainland Europe."[5]

The Deathscapes Project documents how practices of boat interception, turnback and indefinite detention practices on land and at sea have resulted in an environment of fear, insecurity, and death for thousands of asylum seekers.[6] These practices and technologies for managing internal and external borders against racialized interlopers are shared by settler states like Australia and the colonizing metropolises that were their points of origin. For example, the recent proposal by the UK government to establish an offshore holding camp for boat people in Rwanda mirrors the Australian government's policy of sending all people intercepted on boats to Nauru or Papua New Guinea. The traffic in necrotechnologies between the two states, Australia and the UK, now runs in both ways.

In Italy, Prime Minister Giorgia Meloni has proposed the establishment of a "military mission" in the form of a "naval blockade" across the North African maritime region to physically thwart the departure of asylum seekers and refugees.[7] This

5 Quoted from the call for papers by Marina Gržinić and Jovita Pristovšek for this special issue of *Filozofski vestnik*, posted on January 2022.

6 Michelle Bui et al., "Villawood: A Suburban Deathscape in Plain Site," Deathscapes: Mapping Race and Violence in Settler States, 2017, https://webarchive.nla.gov.au/awa/20201103065140/http://pandora.nla.gov.au/pan/173410/20201103-1648/www.deathscapes.org/case-studies/villawood/index.html; Michelle Bui et al., "Extraterritorial Killings: The Weaponisation of Bodies," Deathscapes: Mapping Race and Violence in Settler States, 2018a, https://webarchive.nla.gov.au/awa/20201103065140/http://pandora.nla.gov.au/pan/173410/20201103-1648/www.deathscapes.org/case-studies/case-study-4-extraterritorial-killings-the-weaponisation-of-bodies/index.html; Michelle Bui et al., "Perpetual Insecurity: The Weaponisation of Mental Suffering," Deathscapes: Mapping Race and Violence in Settler States, 2018b, https://webarchive.nla.gov.au/awa/20201103065140/http://pandora.nla.gov.au/pan/173410/20201103-1648/www.deathscapes.org/case-studies/perpetual-insecurity/index.html; Michelle Bui et al., "Every Boat Is the First Boat," Deathscapes: Mapping Race and Violence in Settler States, 2020, https://webarchive.nla.gov.au/awa/20201103065140/http://pandora.nla.gov.au/pan/173410/20201103-1648/www.deathscapes.org/case-studies/every-boat-is-the-first-boat/index.html.

7 "Italy's Far-Right Election Forerunner Sparks Controversy, Vows to 'Defend Border,'" InfoMigrants, August 23, 2022, https://www.infomigrants.net/en/post/42798/italys-farright-election-forerunner-sparks-controversy-vows-to-defend-borders.

militarization of maritime borders finds precedent in the Australian government's use of naval vessels to patrol, thwart and push back asylum seekers arriving by boat. As with the Australian government's spurious self-justification for these militarized border tactics, Meloni has argued that this will "save lives at sea."

By including the UK and EU countries as historical points of origin for settler colonialism, the Deathscapes Project traces the ongoing processes of racialization in these places and situates them within the shared contexts and as interrelated practices embedded in contemporary global structures in Australia, North America, and Europe. By connecting Indigenous deaths and other racialized deaths, such as those of refugees and migrants, the Deathscapes project aims to make visible the shared strategies, policies, practices and rationales of state violence deployed in the management of separate racialized categories of the population. As Jordy Silverstein writes in her commentary on the Deathscapes site:

> In taking this cross-border approach, the constant project of creating and maintaining settler-colonial sovereignty is highlighted. The perpetuation of deaths in custody is understood, then, as one technique, or technology, of that governmental rule. That is, the Deathscapes project understands the creation of death—the necropolitical drive—as a planned tool of government. Deaths in custody of racialized people, Deathscapes affirms, are not an accident. They are by design. They are a feature, not a bug, of the system.[8]

We write in our conclusion to *Mapping Deathscapes*:

> If anything emerges from the pages of this volume, it is the *serial* killing power of the racial-carceral state—and its ignorability for the white overseers who reside outside its lethal structures and who are largely untouched by its agents of racialized violence, even as they continue to fuel its reproduction under the guise of reformism.[9]



8 Jordy Silverstein, "Mapping Deaths in Custody to Dismantle Carceral Logic," *Overland*, January 30, 2019, https://overland.org.au/2019/01/mapping-deaths-in-custody-to-dismantle-carceral-logic/.

9 Suvendrini Perera and Joseph Pugliese, "Transformative Justice," in *Mapping Deathscapes: Digital Geographies of Racial and Border Violence*, ed. Suvendrini Perera and Joseph Pugliese (London: Routledge, 2022), 260.

Drawing on the conceptually resonant analysis of Steve Martinot and Jared Sexton,[10] we conclude that what is operative here is "a twin structure, a regime of violence that operates in two registers, terror and the seduction into the fraudulent ethics of social order; a double economy of terror."[11]

In our contribution to this special issue, we delve into the notion of the "double economy of terror" by discussing a number of Indigenous deaths in custody in Australia. We argue that police violence and Aboriginal deaths in custody must be understood as standard operating procedures of the double economy of terror that ensures the institutional reproduction of the Australian settler-colonial state.

## The Killing of Kumanjaye Walker

> Is this white building for us as well [Darwin Court House]? Are we Australians? Is it just for you mob? But they've built it on *yapa* land.[12]

In November 2019, a nineteen-year-old man, now to be referred to in accordance with Warlpiri custom as Kumanjayi Walker, was shot three times within seconds at the home of his partner's grandmother in the Central Australian desert community of Yuendumu. Walker was in an alcohol rehabilitation program at the time and had taken off his electronic monitor to attend his grandfather's funeral in Yuendumu. He was killed when an armed police unit attempted to reapprehend him. This was the thirteenth Indigenous person to die in custody that year, in a sequence of at least 490 deaths since a 1991 Royal Commission Report aimed at ending Aboriginal Deaths in Custody. In the three decades since the report, no police officer has been found guilty of any of these deaths. Still, hopes for justice were raised when police constable Zachary Rolfe was charged with murder based on his body camera footage a few days after the shooting. Those hopes were dashed, however, when a non-Aboriginal jury acquitted Rolfe after



10 Steve Martinot and Jared Sexton, "The Avant-Garde of White Supremacy," *Social Identities* 9, no. 2 (2003): 172, https://doi.org/10.1080/1350463032000101542.

11 Perera and Pugliese, "Transformative Justice," 260.

12 Louanna Napangardi Williams, in Ned Jampijinpa Hargraves et al., "Justice for Walker: Warlpiri Responses to the Police Shooting of Kumunjayi Walker," in "Settler-Colonial Violence in Contemporary Australia," ed. Yasmine Musharbash, special issue, *The Australian Journal of Anthropology* 33, no. S1 (August 2022): 29, https://doi.org/10.1111/taja.12446.

a five-week trial not only of the murder charge, but also of two lesser charges: manslaughter and participating in an act of violence resulting in death. It was only after Rolfe was acquitted on all charges that details of previous convictions against him for violently assaulting another Aboriginal person during an arrest and of Rolfe's falsification of evidence in the subsequent trial became known (and are continuing to emerge at the time of writing). Suppression orders prevented this evidence from being presented at the murder trial, and shocking racist tweets between Rolfe and his fellow police were also ruled inadmissible. The scope of the murder trial was narrowed to Rolfe's actions in the hours and minutes before the shooting and in the days immediately preceding Kumanjayi Walker's attempted arrest.

The trial of Rolfe, who was charged with murder, can only be described as botched and compromised from the start. In columnist John Silvester's analysis:

> The decision to prosecute, rather than to reserve the decision until after an inquest, was a disservice to all Northern Territory remote communities, as it delayed the examination of the fundamental issues of police training, cultural sensitivities, the safest way to police in similar circumstances and whether the attempt to arrest Walker on the day of the funeral was premature. If new evidence was uncovered against Rolfe by the Coroner, the case against him would have been stronger. But under the rules of double jeopardy, he cannot be tried again.[13]

Silvester points to two factors that militated against a successful prosecution from the outset and kept Rolfe from the possibility of a considered trial: First, the haste with which he was indicted before an investigation was conducted to uncover all the information, and second, the limited focus of the trial itself. The latter was in striking contrast to the contexts in which the Warlpiri community and family contributed to the understanding of Kumanjayi Walker's death. This included the history of violent colonial policing and police use of weapons in the area, which extended to the Conniston Massacres of 1928, led by a Constable Murray, in which 100 Warlpiri, Anmatyerr, and Kayteye who lived in the area



[13] John Silvester, "A Police Shooting: The Fatal Three Seconds and the Tragic Aftermath," *The Age*, March 25, 2022, https://www.theage.com.au/national/a-police-shooting-the-fatal-three-seconds-and-the-tragic-aftermath-20220323-p5a723.html.

were killed.[14] Members of the Warlpiri community also referred to intervention in the Northern Territory in 2007 when police and army were mobilized in Aboriginal communities, ostensibly in response to reports of child abuse. Warlpiri Elder Ned Hargreaves pointed out that the Intervention, ostensibly for the protection of vulnerable Indigenous children, resulted in a $7 million police station being built on their country, with increasing levels of surveillance and law enforcement in the community.

Despite the restrictions placed on the process, the Warlpiri community has mobilized in support of the court process. Samara Fernandez-Brown, cousin of Kumanyaji Walker, spoke eloquently after the devastating verdict:

> We are all in so much pain—particularly our young men. They have struggled, they have been scared but still they have respected this process and so has our whole community. This process has been so new to all of us and we've had suppression orders in place to stop us saying what we want to, to stop us saying our truth. We have been respectful of that and still we have been let down. [. . .] But this is not the end of his story and this is not the end of our fight.[15]

We take from Fernandez-Brown's words two related points: First, the clear understanding that while Kumanjayi Walker's family and community made the decision to respect the Australian legal system, that system which, with its oppressions and prohibitions, has sorely failed them: "We have been let down." But this realization is followed by an equally clear understanding that the struggle for justice must continue: "This is not the end of the fight."

Fernandez-Brown's determination was echoed by a number of other Warlpiri speakers after the trial. Speaking on behalf of the family, Warren Japanangka Williams stated:



> *Kardiya* justice system is really dishonest and it's about time for a change. It helps *kardiya* avoid instead of making them accountable. Since the Royal Commission in Aboriginal Deaths in Custody in 1991, the number of *yapa* deaths has escalated

[14] Hargraves et al., "Justice for Walker," 20–21.

[15] Samara Fernandez-Brown, in Hargraves et al., "Justice for Walker," 30. Fernandez-Brown is Kumanjayi Walker's cousin.

> to over 500 and there had not been one instance of justice related to these matters over all these years. [. . .] We would like to encourage all Indigenous people right across Australia to fight for justice and no matter what happens, never back down! Keep fighting until justice prevails. If you need to seek support from lawyers and *kardiya* people, make sure they listen to you so you can have the power to make decisions and lead the way in getting justice for your family. We need to seek justice on the right path, with the right people. We need our people to be decision-makers for our community. The politicians that we vote for need to understand our law and culture as part of this justice process.[16]

This statement by the family of Kumanjayi Walker is a recognition of the impossibility of justice within the limits of *kardya* law. Aboriginal people are urged to take control of the direction of future trials: "We need to seek justice on the right path, with the right people."[17] What is being called for here is nothing less than a fundamental transformation of *kardya* law: "The politicians that we vote for need to understand our law and culture as part of this justice process."[18]

The family of Kumanjayi Walker are clear in their understanding that the standard operating procedure of *kardya* law will not deliver justice, just as it has not delivered justice for the hundreds of previous deaths in custody. How could it, when it is enmeshed in the double economy of terror of a settler fantasy that "can never be settler enough"?

## "Standard Operating Procedure"

We now turn to a more detailed analysis of the use of racialized and institutional violence as forms of Standard Operating Procedure in the context of a harrowing historical Aboriginal death in custody. Our analysis establishes a transnational interlinking of African American and Indigenous scholars working on racialized violence precisely because the issues at stake affect both communities and because they share a long history of political and activist solidarity. As Amanda Porter writes:



16 Warren Japanangka Williams, in Hargraves et al., "Justice for Walker," 31.
17 Williams, 31.
18 Williams, 31.

> There has been a long history of transnational solidarity, whether that's with the Black Lives Matter movement or with the Black Panther movement, which came to Sydney and Brisbane back in the early 70s to help set up the Pig Patrols. There's this long history of transnational convergence with the African American cause, the cause of Palestine and Aboriginal people here. And it's great to see that this solidarity is happening again. All of these causes are eventually the same fight. They're fights about racist violence, settler colonial violence and the illegal occupation of Indigenous land. It's exactly the same struggle and solidarity between these movements.[19]

In their analysis of ongoing police violence against people of color in the United States, Martinot and Sexton[20] pose an unsettling question: "What are we doing when we demonstrate against police brutality, and find ourselves tacitly calling on the government to help us do so?" In broaching this question, Martinot and Sexton challenge the received understanding that the governmental apparatus stands in necessary contradistinction to the various repressive apparatuses, such as the police, to which it delegates its authority and through which it ensures its self-preservation. The seeming difference between the government and state repressive bodies becomes untenable as soon as the police are seen as actually invested with the state's monopoly on violence. "These notions of the state as the arbiter of justice," Martinot and Sexton write, "and the police as the unaccountable arbiters of lethal violence are two sides of the same coin. Narrow understandings of mere racism are proving themselves impoverished because they cannot see this fundamental relationship."[21]

Once Martinot and Sexton's problematization of the notion that the state is the "arbiter of justice" is situated in a settler colonial state such as Australia, two key dimensions emerge that go unremarked in their analysis: "Policing and the exercise of criminal jurisdiction are inevitably bound up with issues of Indigenous sovereignty, and the right to self-determination."[22] Chris Cunneen and Juan Tau-



[19] Amanda Porter, "Questionable Jurisdiction: Academic Amanda Porter on Policing First Nations," interview by Paul Gregoire, *Sydney Criminal Lawyers*, May 28, 2021, https://www.sydneycriminallawyers.com.au/blog/questionable-jurisdiction-academic-amanda-porter-on-policing-first-nations/.

[20] Martinot and Sexton, "Avant-Garde of White Supremacy," 170.

[21] Martinot and Sexton, 170.

[22] Chris Cunneen and Juan Tauri, *Indigenous Criminology* (Bristol: Policy Press, 2017), 86.

ri elaborate on this nexus between the challenges to settler law by Indigenous sovereignty and law: "A widespread view among Indigenous people is that Indigenous sovereignty has never been extinguished; sovereignty continues to be exercised by Indigenous communities, despite the formal declaration of settler colonial law."[23] Here, Cunneen and Tauri underscore how the practices of settler policing and the exercise of criminal jurisdiction cannot be isolated from either the foundational colonial nature of settler law or from the ongoing assertion of unceded Indigenous sovereignty that continues to challenge the authority of settler law. This is precisely the view articulated in the statement of the family of Kumanjayi Walker quoted above, in which they argue that it is structurally impossible for Indigenous people to achieve justice within the limits of *kardya* law, and consequently they exhort Aboriginal people to continue to exercise their unceded sovereignty and their own law in criminal justice proceedings.

Martinot and Sexton argue that the agencies vested with the state's monopoly of violence and those vested with the state's power to regulate and manage that violence are "two sides of the same coin."[24] Hence their powerful call for "the development of a radical critique of the structure of the coin." The practices of police violence are in fact enabled and guaranteed by the state; thus those targeted by their practices of racialized violence cannot hope for redress from the very institution that is the source of this same violence. Furthermore, the various forms of racialized state violence—the increased rates of Indigenous imprisonment, their overrepresentation within the prison-industrial complex, and the escalating rates of Black deaths in custody—"are the rule itself of standard operating procedure."[25] Only by bringing this argument into critical focus can we hope to clarify the obvious sense of bewilderment articulated by Adam Tomison, director of AIC, when these figures were released in 2013: "It hasn't been getting better, it's been getting worse despite, I think, a lot of attempts by governments and agencies to try and bring that down."[26] What if we were to rephrase Tomison's observation thus: "It hasn't been getting better, it's been getting worse *because* of the attempts by governments and agencies to try and



23 Cunneen and Tauri, 86.

24 Martinot and Sexton, "Avant-Garde of White Supremacy," 170.

25 Martinot and Sexton, 170.

26 Adam Tomison, quoted in Martin Cuddihy, "Aboriginal Deaths in Custody Numbers Rise Sharply Over Past Five Years," ABC News, May 24, 2013, https://www.abc.net.au/news/2013-05-24/sharp-rise-in-number-of-aboriginal-deaths-in-custody/4711764.

bring that down?" How so? Because these various forms of racialized and institutional violence are the very rule of the colonial state, as *standard operating procedure*.

## The Settler-Colonial State and the Avant-Garde of Police Violence

In their analysis of the complex dynamics of police violence in the context of the white supremacist U.S. state, Martinot and Sexton articulate a number of critical questions relevant to the Australian system of policing and racialized punishment and violence. They ask: "If the spectacle of police violence does, in fact, operate according to a rule of its own [. . .], what does this suggest about the social institutions that generate it and which it represents despite persistent official disavowals?"[27] Inscribed in this question is the urgent need to view police violence not as an anomaly or as disconnected from larger state structures imbued with the values and investments of whiteness and coloniality, but as part of the standard operating procedures of the settler-colonial state in the governance, punishment and killing Indigenous peoples.

When Martinot and Sexton's proposition is placed in the context of the settler history of policing against Indigenous peoples in the Australian context, the frontline role of police as an avant-garde force of the settler state becomes clear: "The police in Australia carried out paramilitary functions which in other countries were carried out by the military. The role of police at the frontier and later in implementing 'protection' and assimilation policies, which involved child removal and forcing people off their lands, have had an enduring impact on many Aboriginal and Torres Strait Islander peoples' perception of police and more broadly the failure of the rule of [settler] law for them."[28] Amanda Porter points to this very violent settler history of policing and then underscores the issue of contested jurisdiction in the face of unceded Indigenous sovereignty and law:

> There is also an unresolved issue of jurisdiction with respect to Aboriginal and Torres Strait Islander polities and the state. This is why policing and the criminal jurisdiction remain one of the most significant sites of the ongoing colonisation of



27 Martinot and Sexton, 171.

28 Larissa Behrendt, Chris Cunneen, and Terri Libesmann, *Indigenous Legal Relations in Australia* (Melbourne: Oxford University Press, 2009), 11.

> Aboriginal and Torres Strait Islander peoples today. And it always has been. The Frontier Wars have never ended. Police are still enforcers of property and alien laws. They still enforce the illegal occupation of sovereign Aboriginal land. This understanding is part of the remit of abolition politics and resistance. [. . .] This further raises serious questions about the legitimacy to govern on this land – not just from a moral or ethical perspective—but from a legal perspective. Aboriginal law and settler law continue side by side, even though they don't recognise one another.[29]

Having inflected Martinot and Sexton's proposition with its otherwise elided settler colonial dimensions, we want to begin to flesh it out in the context of the death in police custody of Mr. Eddie Murray. Mr. Eddie Murray died over three decades ago. His death galvanized Aboriginal communities and their supporters throughout Australia. But the truth about the events leading up to his death has still not officially come to light. As we explain below, the Murray family continues to fight for justice despite a slew of official cover-ups and lies. The trauma of losing Mr. Murray is still fresh for them, despite the decades that have passed since his violent death. At a forum on police violence organized by Uncle Ray Jackson, the late President of the Indigenous Social Justice Association, Mr. Murray's sister stood up and retold her story. She wept as she recounted the family's sense of irrecuperable loss. She was supported both physically and emotionally by a number of Aboriginal women who gathered around her and held her as she unfolded her story. They also told their own stories of police violence and Aboriginal deaths in police custody.

Mr. Eddie Murray was a 21-year-old Aboriginal man who had a promising career ahead of him as a rugby league player. On June 12, 1981, Mr. Murray had returned home to Wee Waa to visit his family. He was due to return to Sydney to continue playing for the Redfern All Blacks. He went out for a drink with friends. When he tried to re-enter the hotel where he had been drinking, he was refused entry because he was considered too drunk. The hotel staff called the police. He was picked up and driven to the Wee Waa police station. Only a few hours after being imprisoned, he was found hanging in his cell. Police ruled his death a suicide. The Murray family absolutely refused to believe this. They began a long campaign to get to the truth of Eddie Murray's death. "I think the police got a shock



[29] Porter, "Questionable Jurisdiction."

when we wanted an investigation into our son's death," says Leila Murray, Mr. Murray's mother, "because we knew that our son wouldn't take his own life."[30] Arthur Murray, Mr. Murray's father, questions the police's motives for locking him up when they could have simply dropped him off at the Murrays' home: "They could have brought him home," he says, 'We only live just up the road. [. . .] There was no need to detain him and lock in the cell."[31] Refusing to believe that Mr. Murray had committed suicide, the Murray family demanded an investigation. The police investigation that followed exemplifies the manner in which the police can "operate according to a rule of its own":

> The police investigation that ensued was compromised from the outset, with the then senior Wee Waa police officer, Alan Moseley, who was on duty at the time of Eddie's death, appointed to oversee the investigation. Mosley failed to talk to the Murrays about Eddie's potential for suicide, and claimed he had not viewed Eddie's body after his death. Having viewed Eddie's body themselves the following day, the Murray's noticed he was not wearing his own clothes, which they requested twice – before and after the autopsy. They were later told they couldn't be found.[32]

The disappearance of Mr. Murray's own clothes from what should have been the most secure of sites, a police station, was just one of several unexplained anomalies that cast suspicion on the police account of what had actually transpired in his cell. The autopsy on Mr. Murray's body was again compromised by the manner in which police oversaw the procedure and by the fact that the autopsy was conducted by an inexperienced local general practitioner, Dr Eric Mulvey: "A police scientific photographer took only a small number of substandard shots from limited angles. Clarification of the medical evidence was later further inhibited by Mulvey's failing memory. [. . .] Records on Eddie's consultations later disappeared."[33] In addition to compromising practices and the disappearance



30 "Family Calls for Eddie Murray Case to be Reopened," 7.30, ABC News, November 26, 1999, https://www.abc.net.au/news/programs/730.

31 "Eddie Murray Case."

32 Emma Purdy, "On Our Watch: Eddie Murray . . . Back Where It All Began," *Tracker*, July 2011. Republished in Sovereign Union, http://nationalunitygovernment.org/content/eddie-murray-back-where-it-all-began.

33 Purdy, "On Our Watch."

of essential evidence, the spectre of police threats against Mr. Murray hung over the police version of events:

> During the November 1981 inquest, conflicting accounts were given by the police as to whether or not one Wee Waa officer, Rodney Fitzgerald, was on duty at the time of Eddie's death. Eddie had previously told his family he had been "threatened" by Fitzgerald, while three witnesses testified that he was one of the officers who arrested him on the afternoon of his death. In evidence, Fitzgerald was adamant he did not start work until later that day and that he was picking his wife up from hospital at the time of Eddie's death, although hospital records later showed she was discharged the day before Eddie died. [. . .] Another officer, Gary Page, "was firm" that Fitzgerald was at the station when Eddie was allegedly found dead.[34]

Inconsistencies and contradictions run through all levels of the police report on Mr. Murray's death. Perhaps the most glaring contradiction is that, "while the officers alleged Eddie tore his thick prison blanket and firmly tied a neat noose around the bars of his prison window, they later admitted under cross-examination that he was 'too drunk to scratch himself.'"[35] In the face of these police lies and contradictions, the Murray family finally succeeded 16 years after Mr. Murray's death, in demanding that his remains be exhumed so that a thorough autopsy could be performed.

The new autopsy revealed, in the words of Robert Cavanagh, Mr. Murray's barrister, that "Eddie had a fractured sternum and that was not identified at the time of either the inquest or the royal commission."[36] Dr. Johan Duflou, NSW Institute of Forensic Medicine, suggested that "the most likely cause of the fracture of the sternum is one or more blows to the chest some time prior to death."[37] Professor Nikolai Bogduk, Professor of Anatomy and Musculoskeletal Medicine, outlined that this sort of chest injury would make it difficult for someone to be able to lift their "arms above the head or pull objects" as it would "strongly aggravate" their chest pain.[38]



34 Purdy.
35 Purdy.
36 "Eddie Murray Case."
37 "Eddie Murray Case."
38 "Eddie Murray Case."

Mr. Murray's broken sternum suggests that he was a victim of police violence. The inexplicable disappearance of Mr. Murray's own clothes suggests that they were destroyed, as they could have provided incriminating evidence of police violence inflicted on his body. Mr. Murray's death was one of the deaths investigated by the Royal Commission into Aboriginal Deaths in Custody, which was established on August 11, 1987. Although Commissioner James Muirhead expressed concern over the reliability of the police account of Mr. Murray's death, he "found that 'in all probability' Eddie had committed suicide."[39]

This finding returns us to the question posed by Martinot and Sexton with which we opened our account of Mr. Murray's police death in police custody: "If the spectacle of police violence does, in fact, operate according to a rule of its own [. . .], what does this suggest about the social institutions that generate it and which it represents despite persistent official disavowals?"[40] Mr. Murray's death in police custody suggests that police violence is at once coextensive with the larger governmental and administrative apparatuses of the colonial state, including its Royal Commissions, its Coroners and the Police Integrity Commission (PIC)—whose mission is to investigate police misconduct. The Police Integrity Commission did indeed investigate Mr. Murray's death.

However, as Simon Luckhurst, who staged his own in-depth investigation of Mr. Murray's death himself, concluded, "It [PIC's] certainly wasn't a complex investigation. [. . .] Rather than in-depth interviews or even investigating the existing material the [Royal] Commission looked at, they appeared to spend a lot of time trying to discredit the pathologist's report."[41] The Royal Commissions, the state's Coroners, and Police Integrity Commissions, once located within the systemic and institutionalized apparatuses of the settler-colonial state's system of racialized punishment—all must be seen nodal points and switching centers that relay and reproduce the state's monopoly of racialized violence.



Because these processes of reproduction are embedded in the institutions of civil administration, the violence cannot be understood as violence as such. On the contrary, violence is institutionally recoded as standard operating procedure:

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39 Purdy, "On Our Watch."

40 Martinot and Sexton, "Avant-Garde of White Supremacy," 171.

41 Simon Luckhurst, quoted in Purdy, "On Our Watch."

"That is, civil governmental structures would act in accordance with the paradigm of policing—wanton violence legitimised by strict conformity to procedural regulations."[42] When Royal Commissioner James Muirhead "found that 'in all probability' Eddie had committed suicide," what transpired "was the banal functionary of a civil structure, a paradigmatic exercise of wanton violence that parades as moral rectitude but whose source is the paradigm of policing."[43] The moral rectitude of the Commissioner—signaled by his upholding of legal procedure and tautologically coded as impartial and objective—occludes the fact that he has just sanctioned and reproduced at a higher level of a civil governmental office the very police violence that he was invested with examining and bringing to account.

In his discussion of another Aboriginal death, the death of Mr. Mark Mason, who was shot by police in Collarenebri on November 11, 2010, Ray Jackson unpacks the police investigation report into that killing, which is full of holes and contradictions, and concludes:

> As usual, however, coroners accept the brief provided by the police whilst other police officers are involved directly in the inquest. Under any other conditions this would be seen as being a clash of interest and therefore suspect but not in coronial inquests. [. . .] But governments, police and coroners all play from the same book that ignores that unmistakable fact [. . .] and that is why the corrupt system must be changed so real justice is allowed to be seen as justice. Nothing else will suffice.[44]

What Jackson critically underscores here is the way in which police violence is reproduced and legitimized at higher-order levels by coroners through their very failure to question what is an obvious conflict of interest. Again and again in the context of these coronial inquests into Aboriginal deaths in custody that are informed uncritically by police "investigative" reports, coroners portray themselves as working rigorously and impartially according to procedural regulations. "Unfortunately," writes Jackson, "for the Indigenous People and Deaths



42 Martinot and Sexton, "Avant-Garde of White Supremacy," 171.

43 Martinot and Sexton, 172.

44 Ray Jackson, "Dic of Mark Mason and Coroners Court Outcome," Indigenous Social Justice Association post to author, November 14, 2013.

in Custody, Coroners are still supporting the lies, the convenient short-term memory losses, the lack of protocol and ignoring visible evidence. They are insensitive as the day captain cook arrived dealing out his killings, shootings and maimings upon the Indigenous Nations."[45]

Jackson here names the unspeakable: that the state's seemingly impartial legal officers, coroners, are genealogically tied to the colonial foundations of the state; and that, furthermore, they must be seen as reproducing and sanctioning—at the level of civil governmental institutions and their administrative practices—the originary/foundational violence of the settler-colonial state. In the context of the hegemonic settler-colonial state, it is the physical and symbolic violence of standard operating procedures that is effectively and seamlessly deployed up and down the line.

Given this banal and serial reproduction of state racialized violence by a range of officials, delegates, and agents, we can well understand the rage of the Aboriginal community at the ongoing exercise of police violence with impunity, and the mounting toll of Aboriginal deaths in custody.

On August 6, 1987, Arthur Murray gathered with other community members for a peaceful protest "following the 16th Aboriginal death in police custody that year, that of 28-year-old Lloyd Boney, found hanging in his cell on August 6, 1987, Brewarrina."[46] Purdy recounts what occurred in the aftermath of this peaceful protest march against the increasing number of Aboriginal deaths in custody:

> On the night of his [Lloyd Boney's] funeral, after a protest march to the jail, more than 150 mourners assembled in a peaceful gathering for his wake in Brewarrina Memorial Park. Although council permission had been obtained for the wake, it later emerged in committal proceedings that there had been non-Aboriginal onlookers on a verandah of a local pub overlooking the protest. They were armed with shotguns. It was alleged they shouted racial abuse and that shots were fired. The crowd began smashing windows of the hotel and throwing empty kegs through the doors. Eight police officers in riot gear moved into the park and a con-



45 Jackson.

46 Purdy, "On Our Watch."

> frontation saw several people beaten by police [. . .]. Arthur [Murray, Eddie's father] was one of 17 people arrested in the "Brewarrina riot." Arthur was convicted on charges of assault and riotous assembly and sentenced to 18 months' imprisonment. Arthur served almost two months before being released on bail pending an appeal on the grounds of wrongful arrest and mistaken identity. [. . .] The case against Arthur was finally dropped through a permanent stay of proceedings in May 1994. None have ever received any compensation or apology for their wrongful incarceration.[47]

This was just one incident in a sorry history of ongoing police harassment that Arthur Murray endured because he refused to give up his family's fight for justice regarding the killing of their son by police.

We cite this peaceful protest march by the Aboriginal community and the subsequent unleashing of police violence against the marchers, because it was driven by a singular and momentous fact: Within a year, there were 16 Aboriginal deaths in custody. Yet this appalling fact was not rendered newsworthy in the mainstream Australian media. What did make national headlines, of course, was the so-called "Brewarrina Riot," confirming the outlaw status of Indigenous peoples—as violent, uncivil and disorderly. However, the sense of outrage that this scandalous necropolitical statistic should have generated throughout the Australian polity failed to materialize. Why? Because it could not be seen or understood as significant within the political and cultural framework of the settler-colonial white nation. On the contrary, within the standard operating procedures of the Australian settler colonial state, it was a logical and banal outcome that could be ignored simply because it was par for the course.



Martinot and Sexton underline the racist structural dimensions of this violence and its ignorability:

> The impunity of racist violence is the first implication of its ignorability to white civil society. The ignorability of police impunity is what renders it inarticulable outside of that hegemonic formation. If ethics is possible for white civil society within its social discourses, it is rendered irrelevant to the systematic violence deployed against the outside precisely because it is ignorable. Indeed, that ignora-

47 Purdy.

> bility becomes the condition of possibility for the ethical coherence of the inside. The dichotomy between the white ethical dimension and its irrelevance to the violence of police profiling is the very structure of racialisation today.[48]

The very ethical coherence of the inside of white civil society is predicated on a system of racist violence that does not register the violence it unleashes precisely *as violence* precisely because this same violence founds and constitutes the very conditions of possibility of white civil society: its system of laws, its legal and administrative apparatuses and its news media organizations are the product of this disavowed colonial and racist violence. The frequency of Aboriginal deaths in custody, the mounting statistics demonstrating that Aboriginal incarceration rates are off the charts in relation to the proportion of the Indigenous population, the everyday police profiling and harassment of Aboriginal communities—all of these are merely a "mundane affair." "Most theories of white supremacy," write Martinot and Sexton, "seek to plumb the depths of its excessiveness, beyond the ordinary; they miss the fact that racism is a mundane affair."[49] Precisely as a mundane affair, racism goes unnoticed by white civil society.

## "A kind of hurricane"

Against the systemic ignorability of the colonial state's ongoing racialized violence against Indigenous peoples, we conclude our contribution with a voice that refuses tacit acquiescence and howls with rage at the increasing number of Aboriginal deaths in custody and the number of Indigenous incarcerations. In their searing account of the Aboriginal deaths in custody on Palm Island, the brutal killing of Mr. Cameron Doomadgee, the ensuing Aboriginal protest, and the wrongful imprisonment of Lex Wotton after the protest, Barbara Glowczewski and Lex Wotton write:



> One day, Townsville Aboriginal radio 4K1G started to howl; a woman's voice, a kind of hurricane, seemed to echo the anger of the elements: "An earthquake is threatening us all!" [. . .] A woman journalist explained that her son, one of the rioters of Palm Island, had just been arrested. My neighbor told me that her husband, a policeman, was sent to the island with other men from the emergency di-

48 Martinot and Sexton, "Avant-Garde of White Supremacy," 172.

49 Martinot and Sexton, 173.

> vision because the police was expecting problems following another Aboriginal death in custody. [. . .] For decades there had been Aboriginal deaths in custody! Yet this voice on the radio tore me apart; the scathing clarity of the injustice, the power of her anger. It was like an appeal. The woman with that voice was later to be arrested for participating in the riot; she was Agnes, the mother of Lex Wotton.[50]

Agnes Wotton's howl of rage fractures the institutionalized racism that renders the mounting Aboriginal deaths in custody, the soaring Indigenous imprisonment rates, the unjust jailing of her own son, Lex, and the outrage of police violence repeatedly exercised with complete impunity—simply *ignorable*. Agnes Wotton's howl of rage "echoes the anger of the elements" precisely because it embodies her outrage at the denial of natural justice. Her howl, as a clarion call for justice, refuses to accept the settler-colonial state's accounts of racialized violence as nothing more than the exercise of standard operating procedure. Agnes Wotton's howl unmasks the scandal of "wanton violence parading as moral rectitude."[51] Her howl rends the mundane modalities of white supremacy in order to articulate the profound ongoing trauma that the settler-colonial state inflicts upon its Indigenous peoples through its institutionalized and naturalized racist violence.

As Wanda McCaslin and Denise Breton make clear, the issue of justice for Indigenous people requires its contextualization within the larger framework of colonial violence and a consequent radical reconceptualization:

> To discuss issues around "justice" as many Indigenous people experience them, we need both a critique of colonialism and a deeper understanding of Aboriginal culture, practices, traditions, and historical experiences. Because the existing criminal justice system is not only alien and damaging to us but also the ultimate enforcer of colonial oppression, rethinking justice from the ground up is what Indigenous peoples—and arguably all peoples—must do.[52]



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50 Barbara Glowczewski and Lex Wotton, *Warriors for Peace: The Political Condition of the Aboriginal People as Viewed from Palm Island*, trans. Barbara Glowczewski (Montpellier: Indigène, 2008), 30.

51 Martinot and Sexton, "Avant-Garde of White Supremacy," 172.

52 Wanda D. McCaslin and Denise C. Breton, "Justice as Healing: Going Outside the Colonisers' Cage," in *Handbook of Critical and Indigenous Methodologies*, eds. Norman K. Denzin, Yvonna S. Lincoln, and Linda Tuhiwai Smith (London: Sage, 2008), 512.

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