

Ms Dhu's family gets \$1.1m payment and state apology over death in custody

Ex-gratia payment comes as WA government moves to implement a custody notification system, which attorney general says may have saved Dhu's life



Ms Dhu's grandmother Carol Roe (centre) and mother Della Roe (right) outside the coroner's court in Perth in December last year. Carol said on Wednesday she was still waiting for people to be 'held accountable' for her granddaughter's death. Photograph: Richard Wainwright/AAP

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The family of Ms Dhu have been awarded a \$1.1m ex-gratia payment and a formal apology from the Western Australian government, which also plans to implement a New South Wales-style custody notification system.

The attorney general, John Quigley, announced the payment – which will be awarded to five family members – in a budget estimates hearing in state parliament on Wednesday.

The ex gratia payment is separate to a civil claim lodged in the supreme court in July on behalf of a number of Dhu's family members.

That claims alleges that Dhu's death was caused or contributed to by the negligence of police officers and medical professionals responsible for her care. It seeks damages from the state, the WA Country Health Service, and four police officers, including an

Aboriginal police liaison officer, who were responsible for or interacted with Dhu in the 45 hours she spent in custody before her death.

The 22-year-old Yamatji woman died at Port Hedland, WA, on 4 August 2014, of septicemia and pneumonia caused by an abscess in an old broken rib. She had been arrested on 2 August on a warrant of commitment for \$3,622 in unpaid court fines, mostly for convictions she received as a juvenile. She was taken to hospital twice before her death but the sepsis was not detected and she was declared fit to remain in custody.

A coronial inquest into her death found she had been subjected to “unprofessional and inhumane” treatment by three police officers, including one who allegedly called her a “fucking junkie” and two who dragged and then carried her from the cell to the police van to take her to hospital less than an hour before she was declared dead.

Her family said her death may have been prevented if WA had a mandatory custody notification service, which would require police to immediately contact the Aboriginal Legal Service upon taking an Aboriginal or Torres Strait Islander person in custody.

They have campaigned for the introduction of the service and for the abolition of the practice of jailing people for fines, and have called for criminal negligence charges against the police officers involved.

Dhu’s grandmother, Carol Roe, was surprised by the public announcement on Wednesday, which she learned about when her phone lit up with messages from family and friends, and said it did not make up for the death of her granddaughter.

“I’d rather the people get held accountable for it,” she told Guardian Australia. “All this money isn’t not going to bring my granddaughter back and no one would be accountable for it.”

Quigley also told the estimates hearing he was committed to introducing a custody notification service, following correspondence with the federal Indigenous affairs minister, Nigel Scullion, who last year offered to fund the first three years for any state which agreed to introduce a mandatory, legislated service.

The funding offer was rebuffed by the former WA government, which lost power in March.

In a letter to Scullion last month, Quigley and the WA Aboriginal affairs minister, Ben Wyatt, said the McGowan government “would like to consider your offer to fund the custody notification service” and if the offer stood would begin consultation on introducing the service, adding: “Any proposal will need to be considered by cabinet before a decision is made.”

Quigley said Dhu’s family were “pleased with the government’s response”, which does not curtail any future legal action.

“I have met with three of Ms Dhu’s very close family and have personally offered the state’s sincerest apologies for the circumstances leading to the death,” he told the ABC.

He said a custody notification service may have saved her life.

“Had such a service been in operation at the time, the tragedy may well have been avoided and Ms Dhu part of our world today,” he said.

Gene Gibson, a 26-year-old Pintupi man who spent almost five years in jail after being wrongfully convicted of the 2010 manslaughter of 21-year-old Josh Warneke, has also applied for an ex-gratia payment. His lawyers told the ABC last month they were seeking a \$2.5m payment.

The family of Mr Ward, a Warburton elder who died from heat stress in an un-air-conditioned prison transport van in 2008, was awarded a \$3.2m ex-gratia payment in 2010.