

## Police discriminated against Palm Island's Indigenous community, federal court finds

*Long-awaited judgment in Lex Wotton's civil case labels officers' behaviour an 'affront to the rule of law'*



*Lex Wotton outside the federal court in Townsville on Monday. A judge has found Queensland police were unlawfully discriminatory after an Indigenous death in custody on Palm Island in 2004. Photograph: Cameron Laird/AAP*

**Christopher Knaus and Australian Associated Press**

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Queensland police unlawfully discriminated against members of Palm Island's Indigenous community during the investigation of a death in custody and their handling of ensuing riots in 2004, a court has found.

The federal court delivered a long-awaited judgment on Monday in a civil case launched by the Palm Island man Lex Wotton on behalf of the island's Indigenous community.

Justice Debbie Mortimer found the discriminatory treatment of the Palm Island community by the police was an “affront to the rule of law”.

The officers in charge of the investigation “did not care what the local Aboriginal community apprehended or thought about their investigation”, she wrote.

“They had a sense of impunity because they were operating in a wholly Aboriginal community and their partiality was because a white police officer was being accused of causing the death in custody of an Aboriginal man.”

The case arose from the 2004 death in custody of Mulrunji, previously known as Cameron Doomadgee, whose treatment sparked riots on the island.

Mulrunji was found dead in his cell hours after being arrested for public nuisance by Senior Sergeant Christopher Hurley, a white officer in charge of a community that was overwhelmingly Indigenous. The detainee had suffered massive internal injuries but Hurley claimed initially that he had tripped.

A similar finding by the island’s pathologist fuelled community anger, prompting allegations of a cover-up and rioting, in which Hurley’s home and the police station were burned to the ground. It later emerged that the pathologist had not been given all the facts by the police before making his preliminary findings.

The riots led Queensland to issue an “emergency declaration” and members of the special emergency response team were dispatched to Palm Island, where they searched 18 homes in two days and arrested 11 people, including Wotton.

Two years later a coronial inquest found that Hurley had beaten Mulrunji to death. He was charged with murder but acquitted. A second inquest found there was not enough evidence to determine whether the death was deliberate or accidental.

Wotton, meanwhile, was convicted of inciting violence and jailed.

His class action alleged that racial discrimination had marred the investigation of Mulrunji’s death, and influenced the failure to suspend Hurley, the use of the special response police team, the decision to issue an emergency declaration and the failure of police to defuse the situation.

One of the claims made by the class action was that the response to the riots and emergency declaration were excessive.

A trial heard balaclava-clad officers marched through the small community’s streets and pointed large guns at children’s heads during early-morning raids after the riot. Wotton was tasered, allegedly without warning, in front of his children.

Some, but not all, of the claims were found to be substantiated.

Mortimer said she was satisfied officers would not have “forced their way into houses occupied by unarmed families ... pointing assault rifles at them and yelling at them to lie down” in a community that was not isolated and predominantly Aboriginal.

Mortimer found that the police's failure to initially treat Hurley as a suspect or suspend him constituted unlawful discrimination. The court found that the sceptical treatment of Aboriginal witnesses during the investigation of Mulrunji's death constituted unlawful discrimination, as did the failure of any Queensland police officer to properly defuse tensions with the Palm Island community during the riots.

"For those in command and control of particular policing activities, and for those in charge of a police investigation into the death of a person in police custody, to perform their functions differently by reference to the race of the people they are dealing with is also, in my respectful opinion, an affront to the rule of law," Mortimer wrote.

She said she would not order an apology but directed that the commissioner of police consider whether one is appropriate.

The court ordered that the Queensland government pay \$95,000 damages to Wotton, \$115,000 to his wife Cecilia and \$10,000 to his mother Agnes.

Damages claims by other claimants will be dealt with at a later date.