

Gooda and White announced as heads of royal commission into NT youth detention

Written by Michelle Grattan, Professorial Fellow, University of Canberra

The government has appointed a former judge of the Queensland Supreme Court, Margaret White, and the Aboriginal and Torres Strait Islander Social Justice Commissioner, Mick Gooda, to conduct the royal commission into the Northern Territory child detention and protection systems. This follows the resignation of its first choice, Brian Martin, in the face of claims that he was unsuitable to do the inquiry.

Attorney-General George Brandis said White had extensive experience in both the civil and criminal systems and experience in conducting inquiries, including recently into the Queensland racing industry.

He said Gooda was one of Australia's most highly regarded Indigenous leaders, who enjoyed the respect of both sides of politics.

Martin's quitting, after criticism especially from the Indigenous community, has embarrassed the government, reinforcing arguments that it moved too quickly to finalise details of the inquiry and did not consult widely enough.

In replacing Martin, the government has taken up the call made by Labor and Indigenous representatives that the commission should have Indigenous representation on it.

Last week, after Monday's Four Corners program on NT juvenile detention Gooda tweeted:

Asked at a joint press conference with Brandis and White about whether he still felt this way, he said he had made the remark on Tuesday. "People had all sorts of emotional responses," he said, adding that in the clear light of day "I probably wouldn't think that".

Earlier story

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Less than a week after being named royal commissioner to investigate the Northern Territory child detention and protection systems, Brian Martin has quit, citing criticisms of his appointment.

Martin told a news conference in Canberra that while he rejected the criticisms, it was apparent that “I would not have the full confidence of sections of the Indigenous community which has a vital interest in the inquiry”. As a consequence, the effectiveness of the commission would be compromised from the beginning, he said.

Since Martin’s appointment his appropriateness has been questioned on several fronts. He is a former chief justice of the NT Supreme Court, and critics said therefore he would have a conflict of interest.

It also came to light that his daughter Joanna was employed as a justice adviser to the former NT Labor attorney-general between 2009 and 2011. Footage shown in last week’s ABC Four Corners, which documented the abuse of young people in detention, included material from this period.

At least two of Martin’s judgments in cases involving Indigenous people raised controversy.

Martin said he was not prepared to proceed with the commission in face of the risk to its effectiveness. “This royal commission is far too important to undertake that risk and, in the public interest, personal considerations must take second place.”

But he strongly defended himself, saying he had been “extremely disappointed with the disingenuous and ill-informed comment” that had been made.

“My resignation does not imply that I doubt my capacity to be both independent and competent in the role of the commissioner – nor does it imply that I accept that there is or would be a reasonable apprehension of bias,” he said.

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Martin said his decision to quit was his initiative alone and both Prime Minister Malcolm Turnbull and Attorney-General George Brandis had expressed their disappointment at it.

He said some of the people engaged in the debate had got the facts wrong in significant ways which could have been avoided with a little homework.

He also said he was not prepared to allow “the unwarranted intrusion into the life of my daughter to continue”.

Arguing that it was wrong to think he would have ignored or given insufficient attention to Indigenous issues, he said that he had already been formulating plans to consult widely with Indigenous organisations and individuals.

Addressing the point that he’d been chief justice in charge of a justice system that also included corrections, he pointed out that “judges don’t have any responsibility for what happens in correction systems around the country”.

Martin admitted that in one case involving Indigenous people he had “got it wrong”. While a judge of the NT supreme court in 2005, he gave a light sentence to a man who pleaded to aggravated assault and having sex with a child who was his promised bride under traditional law. Martin said it was “perhaps rather ironic [that] I got it wrong because I gave too much weight to the cultural issues surrounding the offender – and now there’s been a suggestion by some that I would not properly take into account cultural matters”.

Asked whether his replacement should be someone of Indigenous background, he said there was obviously advantage to be had by having Indigenous people involved. “Whether that should be as a commissioner or as someone who is consulting or advising the commission is a matter for debate and a matter that can be decided by those who are making the appointments.

“But whichever way it goes, it is incorrect to suggest that someone who is not Indigenous could not conduct this properly and effectively provided that person consults and gets advice on those specialised issues.”

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[New South Wales Premier, Daniel Andrews, has announced the heads of the royal commission into NT youth detention.](#)