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Black Witness

Amy McQuire
Darumbal and South Sea Islander journalist and author

Ebony Bennett
Deputy Director at the Australia Institute

Ebony Bennett: [00:00:01] G'day everyone, welcome. I can see all our attendees piling up on the side there. I think we've got about a thousand people registered for today's webinar. Thanks so much for coming along. We really appreciate it.

I'm Ebony Bennett. I'm Deputy Director at the Australia Institute. And welcome to our 2021 webinar series.

I'd like to begin by stating that Canberra is Ngunnawal country. That's where I live and work and pay my respects to the traditional owners of this land and to elders past and present. Sovereignty was never ceded and this always was and always will be Aboriginal land. I'd also like to welcome any Aboriginal or Torres Strait Islander people joining us today and preface this discussion with a warning that some of the discussion may touch on some distressing issues and a warning that we might also mention the names of deceased people.

The same as last year: our webinar series, we're aiming to do them at least weekly, but the days and times do vary. So please head to our website at Australia Institute.org.au/events so that you don't miss out. And just a few tips before we begin today's webinar to help it all run smoothly. I'm sure you're all old hands at Zoom by now, but if you hover over the bottom of the screen, you should see a Q&A function where you can type in questions for Amy. And you should also be able to upvote questions from other people and make comments. Please keep things civil in the chat. We don't often have to boot people out, but we will if we have to. Please keep an eye on that. And lastly, just a reminder that this discussion is being recorded and it will be posted up on our website and emailed to everyone after this discussion.

So last week, we talked about the long history of right-wing extremism and right-wing white supremacy in Australia with Dr Anne Aly. And this week, we confront another way that white supremacy manifests itself here in this country through our criminal justice system, which over-polices and over-incarcerates Aboriginal and Torres Strait Islander peoples. So, to talk about these issues in depth, I'm delighted to introduce journalist and author Amy McQuire.

Amy is a Darumbal and South Sea Islander woman from Rockhampton, and she was the National Indigenous Times first female editor and also their first Aboriginal editor. She's previously worked at NITV, New Matilda, BuzzFeed and has written for a variety of other publications, including Meanjin, The Griffith Review, The New York Times and Guardian Australia. In 2020, she was pretty busy. She was undertaking a PhD at the University of Queensland and if that wasn't enough, she was also the recipient of the Australia Institute's Writer in Residence program in 2020 and she came and worked with us for a couple of weeks on her book. Her upcoming book, The Water Behind Us, is a journalistic investigation into the wrongful conviction for murder of Aboriginal man Kevin Henry. And the book deals with some complex intersections about race and class and Aboriginality interact with the law. She's also the co-host of the investigative podcast Curtin about that case of Kevin Henry. And when the Black Lives Matter protest came to global prominence last year, I wrote a particularly searing piece for the Saturday Paper about Aboriginal deaths in custody

titled "There Cannot Be 432 Victims and No Perpetrators". And I'm sure many of you read that at the time. So welcome, Amy. Thank you for joining us. I'm almost just exhausted reciting that list of your accomplishments. You had such a big year last year. We really appreciate your time today.

I did want to kick off with a question about that book that you came to us for a couple of weeks to keep writing. How did you come across the story of Kevin Henry and what has compelled you to pursue his case so doggedly, I guess?

Amy McQuire: [00:03:55] Yeah, well, it was actually I'd heard about his case from a cousin in Rockhampton at the time who was his advocate, and I'd heard about it a year before we started looking into it. And there had always been. And when I heard about it, I just asked around Rockie in the local, like Aboriginal population, just local mob around. And immediately there were questions raised about his innocence. So this was a story that was talked about by mob in Rockhampton but wasn't known outside of Rockie or even had been forgotten in Rockie. And the reason it had been forgotten, not only because Kevin Henry is an Aboriginal man, but also the victim was an Aboriginal woman named Linda. And within basically a week of her death, the story had fallen off the front page. It had been spoken about as if it was a lifestyle crime. It was seen as a black on black crime. So there were ways that the dehumanisation of the victim, but also the alleged perpetrator had an effect that people largely did not care. But the Aboriginal community in Rockhampton care. And one person who I particularly started to think well, we have to look into this case, was my dad, because he'd been an Aboriginal prison guard at Capricornia Correctional Centre for the majority of my life since I was one to about I think I was like 20 something when he left. And about 10 years into... He was on duty the night Kevin had been convicted. And he always thought, well, that's a weird case. The guards at the time had actually spoken about it, who'd sat in on the trial, said, well, we don't know about this one. Yeah. But then 10 years later, Kevin had actually told Dad one time that he was innocent and that a police officer had held a gun to his head and forced him to confess. And so that's how I sort of started to think, well, why isn't, why hasn't anyone really looked into this case before? And then I did an interview with Martin Hodson, who's a UN human rights lawyer based in Bega, whose focus is wrongful convictions. And I told him maybe you should look into this case. And within a month, he'd found evidence that supported Kevin's claims of innocence. So it really just started there. And it had that snowball effect where once we found that early evidence, it just continued to build up. And, you know, we have such a compelling case of innocence for Kevin and nothing we have found that even supports his guilt or the court or the police's version of events.

Ebony Bennett: [00:06:17] Yeah. And so before we kind of get into maybe some of the more systemic issues, for people who aren't familiar with the case, can you just give us a little summary, starting with the murder of Linda and kind of, I guess, with where we find things now for Kevin Henry?

Amy McQuire: [00:06:34] Yeah, and it was quite a distressing case. So I might not go into detail specifically about what happened out of respect for her family. But basically in 1991 in September, she was found in the Fitzroy River. It was a really horrendous crime. So within five days of finding her body, four people had been charged with murder. There was three women who'd been charged in relation to an assault that had been perpetrated against Linda before she died and they ended up getting Grievous Bodily Harm. And there's a lot of, there's a lot of evidence to support that they did perpetrate that assault. But the person who got the largest sentence was Kevin Henry, and he was given a life sentence for murder. But when we started to look into the case, we realised that there was no actual evidence to support that conviction and in fact, that there was a confession which wasn't really a confession. And a lot of Australians or just regular people will think, well, how do you confess to a crime that

you didn't commit? Martin Hodgson had actually done a lot of work on death penalty cases in America, a lot of cases over in the Middle East, in Italy, all over the place where he knew that the reality of false confessions. So he was actually able to look at Kevin's confession and find all of the holes in that confession. And so one of the problems was that it was a joint trial and Kevin didn't have adequate defence. And so when even you just look at the trial transcripts, he should have never been convicted in the first place. There was no evidence at all. So that was, it's a very complicated case. And you have to sort of couch it in the context of what was happening on the riverbank, but also what happened in Rockhampton and the entire history of police interactions with Aboriginal mob and the history of intergenerational trauma. So that's why it becomes quite a complicated and sensitive story to talk about in that sense. And that was one of the hard things in approaching this story was thinking, how do you write about this case in ways that support Kevin's claims but also does not compound the violence against the victim, which had already been perpetrated, had been compounded not only in the police investigation, but also in the courts where she was largely just left out and it was just the wounds of her body reinscribed. So it was very, it's very hard to sort of talk about these issues in ways that do not further compound this already horrendous violence against the victim and also against Kevin, he was traumatised within the justice system, not just in this case, but throughout his whole life from when he was a young kid being locked up in juvenile detention to now being, you know, even now after he's been out, like the effects that 20-something years of wrongful incarceration has had on him. And he's currently trying to heal from that.

Ebony Bennett: [00:09:21] Yeah. So I think that kind of brings us to some of those systemic issues. But you were talking about the, you know, the history of police violence with mob in Rockhampton. But for white people, we're often taught that if you're ever in trouble, go to the police and that's who you trust, and they're in authority and they will help you. But obviously, that's really not the experience of Aboriginal people in this country at all and there's really good reasons for that history of distrust. Can you just kind of talk about some of those systemic issues that come up through that case that became apparent for you while you were looking into Kevin's case.

Amy McQuire: [00:10:02] Yeah, I mean, definitely just the space in which they were, first of all, you know, living at the time. So the crime actually happened in Toonooba House which was a local Aboriginal drug and alcohol rehabilitation centre. And it was a safe place for the most part, because mob would go there largely to get, to be safe from the eyes of police. There were over-surveilled in Rockhampton and they were looked down upon. And I feel like a lot of like non-Indigenous mob in non-Indigenous people in Rockhampton have no idea about, you know, the experiences of policing by Aboriginal people on the riverbank. It was a very different space. You know, the space in which Linda died was seen as sort of this degenerate space, and so her body was seen as not worthy of mourning or worthy of justice. And so there was very early on those problems around over-surveillance in relation to policing, but also police brutality in the sense that a lot of mob I've talked to in relation to this story around that time, we're talking about, you know, I think there's this assumption that blackfellas shouldn't be believed and that police should be believed in these cases. But so many of them just had experiences of police brutality, whether like telephone book being used against them. These really horrendous cases that they just never been believed. And this was the time, it was in 1991, it was just after the Royal Commission. And in this case, Linda, the victim, her brother had died a horrendous death in custody and was one of the 99 cases investigated by the Royal Commission. And so that brings up a whole other host of issues because his was a violent death in custody as well. And there was no justice for his death. And it was one of the most high profile. So there are all these issues in relation to it. The other thing was when Kevin was picked up and largely we just think they went around and tried to find any blackfella to get for this crime because it was just such a shoddy

investigation. When they brought him in, he asked three times for a lawyer and he was each time refused. So that's a key indicator of a false confession. Whether there's a lawyer present. While they were interviewing him, he's sort of just agreeing to a lot of questions. He's very confused about what's happening. So there's these issues around gratuitous concurrence. There's also issues which we know in wrongful confessions, you know, you're just agreeing because you don't really understand what's happening, but you just want to leave because, you know you didn't do this crime. And then that was the central allegation. Yeah. And then there was an allegation, which I believe Kevin, because he said it and he's maintained it, that a gun was put to his head and forced him to confess. I mean, there's so many issues because then I can start talking about the courts and how the defence lawyer just did not stand up for Kevin and the jury, because when you go through the transcripts, there is nothing really about Kevin other than this confession. And so what I'm thinking and I wasn't in the courtroom and like, we can't ask the jury obviously, but what I think is that they just heard these details of violence on the riverbank and they just saw this blackfella and thought, well, he must have done it. That's how I think sometimes the most simple, simple explanations of what happened that night. Yeah. So, I mean, sorry, I'm probably going all over the place, but in Kevin's case, it's such a complicated story. But there's so many elements of that that speak to the wider problems with the justice system and how it treats Aboriginal people. Get to that central theme, I think, of not caring about the lives of Aboriginal women or Aboriginal men, but particularly Aboriginal women. I feel like that is what this case is all about, that Linda was never respected enough for - the media did not care enough to pursue justice for her. And ultimately, she never got true justice because the man who was convicted is innocent. And there's a snowball effect of this further violence being perpetrated against not just only him, but his community who have always believed in his innocence. I think it comes down to that central element of Aboriginal women not being respected and not being valued by this justice system that is overwhelmingly violent towards us. And I just wanted to bring up another issue around the Royal Commission is that it did not - and this is a critique made by a lot of Aboriginal women like Professor Megan Davis - is that it did not look adequately at gender. A lot of Aboriginal women at the time, like Judy Atkinson, a lot of people around that time were talking about the fact that we actually have to look at family violence and also police brutality specifically against Aboriginal women. And that was never brought up. And that was an issue that I felt kept coming out because Linda died in the same year as that, the Royal Commission came out and yet there was silence around her death and so many other Aboriginal women who died around that time and which we're still wanting justice for. And not just Aboriginal Bowraville children died in 1991. So there was and that's a continuing fight for justice. And that's similar issues around police inadequacy. They blamed the community. They said that they were looking into them for child abuse. They just didn't care enough to go and actually find the people who did it.

Ebony Bennett: [00:15:07] Who in that situation gets the benefit of the doubt, and it's never....

Amy McQuire: [00:15:10] No, no, well Aboriginal people are just never believed. Around that time, there's also- I think it was [?] did this report into police brutality all around the country. When you read that report, you hear the voices of Aboriginal mob, particularly like young people as well were talking about their experiences of police brutality. And, you know, like the fact we had this report, I was just reading back the report and thinking of the fact it happened in the same year that Linda died. Blackfellas are just not believed when they talk about experiences of police brutality. And that's something that's continual today.

Ebony Bennett: [00:15:43] Yeah. And I think that maybe brings us back to your Saturday Paper article from last year. So when George Floyd was killed and there was that awful video footage that everyone was kind of able to witness and it really took the Black

Lives Matter protest to another level and they went global. And I was really struck at the time by your Saturday Paper article of how there can't be more than 430 black deaths in custody and no perpetrators. And at the time, you wrote that no police officer had ever been convicted of an Aboriginal death in custody. I know that there's been a couple of police officers charged in relation in the last couple of years, but is that still the case? No one's ever been convicted.

Amy McQuire: [00:16:32] Yes. I mean, we've had a couple of, there have been charges laid and we're currently waiting on the trials of Mr Walker in Yuendumu and Mr Clark in Geraldton. And also there was a correctional officer who's been charged with manslaughter over Dwayne Johnston in Lismore. But yeah, I mean. From what, there has never been conviction, and I think that's the problem when we talk a lot, is that there's an obscuring of the perpetrator or the violence that has been enacted against Aboriginal people in the system. And a lot of Aboriginal mob have been working to make that violence visible. So people see it and a big problem in relation to the way coronial inquests or the language that Deaths in Custody is spoken of is this idea of natural causes. So it's seen as if Aboriginal mob are dying of natural causes. So that automatically obscures and stops any calls for accountability. When you look at these cases that they talk about natural causes, you see that actually there are actual layers of violence that are being perpetrated against Aboriginal mob, from the health system and the justice system, but that intersection of both. And so these aren't just cases of natural causes. And actually, when I was down in the Australia Institute, I was just looking back into the case of Mulrunji Doomadgee and I was reading the early reporting and the early reporting, there was actually a death in custody on the same day, I think, as Mulrunji, which was seen as a natural cause. But also Mulrunji's death was first reported as a natural cause, as if it were some sort of, you know, he just died and they called an ambulance so it spoke to this idea of benevolence on behalf of police and automatically there were attempts to stop questions and also frame the very valid and justifiable questions of Palm Islanders who actually were listening to their own witnesses, who were resisting police versions of events very early on. They were framing these very valid questions from black witnesses as irrational and violent and evidence of the tensions that were building on Palm Island at the time. So you see the way that black witnesses are slandered automatically in ways that obscure the accountability of police, not just police, health professionals, correctional officers, all of these people who are involved in the system that is ultimately, as a whole, violent towards our people. And yet we're blamed for that violence. That's what, Mulrunji was blamed. And also he was tarred as violent. Mob at the scene, said, no, he wasn't being a public nuisance. She just locked him up because he was black and walking down the street.

Ebony Bennett: [00:18:57] Yeah, I remember I was in Parliament House at the time of his death. And that kind of narrative about the violence and riots and all of that did begin really early. And it really does obscure from the actual, what happened in that, in the death and kind of just takes it all off in a different direction and means that, yeah, that accountability was so hard to come by because everyone's distracted over here with something else. But you're right about that. The undermining of the black witnesses and the stories that we were hearing from Palm Island at the time really, really got obscured or minimised or undermined, I guess. Yeah. And so at that time, I also thought in that article where you talked a lot about how there is a huge history of black resistance and trying to tell those stories, but that has been really hard for the Aboriginal community to give those Deaths in Custody the prominence that we gave to George Floyd's death and to the deaths that we see in America. So I wonder if you can just speak a little bit to that difficulty and that history and how important it is for Australia. Obviously, it's good that we support the Black Lives Matter movement and oppose that police violence in America, but we're not really doing enough to address our own situation.

Amy McQuire: [00:20:32] Yeah, and I think some people assume about the fact that when the video footage was shot and was beamed around the world showing George Floyd being, it was a murder on camera, the footage was so shocking, it sort of catapulted it to public attention and international outrage. But we have also had similar cases in which CCTV footage has shown horrendous brutality perpetrated against Aboriginal mob who've died in custody. And it just does never gain the prominence that it deserves. And I think in largely that footage has been released because of the concerted effort and campaigning of families who've taken on that burden. And it's a traumatic thing. Like if you think about what if it was your sister or your loved one had died, would you want that footage to be out there? Because after 10 years, do you still want that footage to be out there? They're actually really troubling questions and almost like this horrendous burden the Aboriginal families have to take in order just to push Australia to care. And that this footage, it's almost like they just they don't care because I think they're seeing Aboriginal bodies in a certain way and they're seeing the violence that's being and they see it as violence first of all, you know, when I look at the footage that come out, Mr Briscoe up in Alice Springs he had done nothing wrong, he'd been arrested for being drunk in public. That's all he'd done. He wasn't arrested first of all, he was put into the watch house. But when I saw that footage, I'm like, how does this case not change everything? Because that to me was brutal. So I'm thinking Australians look at that case and think, well, that violence against a black body, that's where he is supposed to be. That's inevitable. Let's legitimise violence. It's not even violence to them. And I think that's part of the problem. They're not seeing this violence. And I know first of all, they're not seeing Aboriginal mob as human or they're seeing us as... Being locked up is not just inevitable, but legitimate. Like that's where we're supposed to be and that's where we're supposed to die, in a sense. I think that's part of the problem, because that's what I was saying. I'm like, we have CCTV footage. It's not a question of getting the CCTV footage released. We have a lot of footage of police brutality that supports the version of events of black witnesses. And yet black witnesses are still not believed. When you look at the injuries of Mulrunji's body, that's the black witness's accounts over that of Chris Hurley, who is implicated in his death. So who do you believe? It's amazing how it's supposed to be, just the burden on the black witnesses is so heavy compared to that, of white witnesses like police officers. So it's just unbelievable because I just think: no, how can you look at that footage and not care? There is violence in this footage. And I also don't think the families should have to have that violence out there for people to care. I don't think Australians should have to just, it seems to me almost like entertainment in a sense sometimes because it can be an extra burden when you've gone all that time and then Australians are still debating about whether there should be charges or there should be further calls for justice. That, to me, is just another form of violence in itself, I think, to put that burden on families who are already grieving

Ebony Bennett: [00:23:43] Yeah, and that would be incredibly distressing, as we say, to have that footage out there. The internet never forgets, to be always there to re-traumatise you. Another thing I wanted to pick up on from that Saturday, I think it was in the Saturday Paper article, you talked about another death of Ms Maher and the Custody Notification Service that operates in New South Wales. I believe that was one of the goals of the Royal Commission was implemented in New South Wales, but not everywhere else. And you talked about how, in the story of her death, the focus really became on the fact that nobody called that Custody Notification Service instead of, to me, the issue is why do you need that to keep an eye on police? Why can't we just trust police to look after the welfare of Aboriginal people? And obviously, that's a measure to help ensure that accountability and I believe that was perhaps one of the first deaths since that Custody Notification Service came in. But it really doesn't get to that actual original problem that Aboriginal people aren't safe. And that's the reason for the service.

Amy McQuire: [00:24:51] Yeah, I mean, that's what I had, because obviously the Custody Notification Service is really important and it should be funded.

Ebony Bennett: [00:24:57] But it was just before we get into it, it is they did withdraw funding or reduced the funding for it and now they accept donations to try and make up that shortfall to keep the service going. Sorry. Sorry.

Amy McQuire: [00:25:09] Oh, definitely. But I just had a lot of problems with that story. It's something that me and Martin would always talk about, just because I felt like it over, I mean, first of all, in relation to the CNS, it was just a matter of police procedure. You know, the police actually weren't required to call the CNS at all because she had not been arrested. First of all, there were so many questions that should have been raised very early on. So I think it comes back to: what are the questions that we have to actually be asking? I felt like that CNS narrative dominated so much that it's totally obscure. And these were questions being asked of the families. In a protest like about, I think it was a week, over a month after Ms Maher's death, like her mother actually raised these questions - well, why was my daughter in a watchhouse? She hadn't done anything wrong. Why didn't they call me? Because I was just at home and I was a safe place where they could have taken her and she would still be alive today. And those two questions like were fundamental I thought. And there were questions being asked of by the family who knew and what came out of the inquest was that she shouldn't, she was being approached for a bail breach, but she hadn't breached bail and they've just picked her up for being intoxicated. She wasn't intoxicated. They claim that she had HIV, she didn't have HIV, and that affected the way they dealt with it. They mimicked her in really highly racialized images. And then they said that they didn't know she was Aboriginal, even though her family is known as being an Aboriginal family in that area. So there are all these, this successive wave of violent events that was perpetrated against Ms Maher that never came out. And the effect of that was that they changed the requirements. So the CNS, even if you're not being arrested, they still have to call the legal service. So that's, that most likely would not have saved Ms Maher's life. What I mean, like there were all these other things that happened to her and first of all, she should never have been in custody. The police say they could have taken her to to her mother's house. And that was actually what they should have done, which was on their own requirements. And so there are all these things that just I think it's that thing around the obscuring of the violence again and not naming it as violent. And so that sort of stops any further calls or momentum, for accountability. But her family is still grieving. Her family is still mourning. They don't have her here today. And she has four children. And I know the mother has you know, it's just absolutely, I mean, I feel like even black media, all of mainstream media failed, failed Ms Maher, but all other cases in which we're not asking the right questions and not getting to the heart of what's actually happening. Yeah, I don't know. It's just yeah, it's such an outrage. And the fact that even after last year, we're still having Deaths in Custody and yet we still don't have Australians looking at it and going well, actually, this is incredibly wrong. You don't need to know the numbers. You don't need to have four hundred something deaths. All you have to do is look at one death in custody case and see how violent it is. And you see all of the problems with what is actually happening and being perpetrated against Aboriginal people in ways that aren't perpetrated against non-Indigenous people at all. So it's highly racialized.

Ebony Bennett: [00:28:16] So we might go now to questions from the audience. So just a reminder to everyone that you can type out a question for Amy. I think we've got about five hundred people on this webinar with us. Thank you so much for joining us today. And I'll pick up on a question here from Melina Smith, which I think talks about a point that you just made Amy. She asks, "What elements do you think the Australian media have in enabling and normalising ugly stereotypes for Indigenous groups?"

Amy McQuire: [00:28:50] I mean, I think they've had such a huge role because the media have been used to secure the colonial projects against Aboriginal people. So these representations of Aboriginal mob - men as violent savages, women as disposable, without agency, without love, you aren't loved or don't love - those are images that have been perpetrated from colonial times and they're reborn in current representations. So it's the media actually re-perpetrating it. So I think it's the media as a structure that is violent towards Aboriginal mob, because I say violent because they have real time consequences. And we saw that the biggest example of that is the NT Intervention. I mean, that's just a case in point of how lying about Aboriginal men, slandering them as paedophiles. And also there was this lie that wasn't really picked up at the time that Aboriginal women did not care about children, that we were passive, that we needed people to speak for us. That justified this really horrendous political strategy of racism. It was racist. It was a racist policy, and you had to name it as that. So it's not just the media is this innocent arm. It's actually complicit in this violence. And the justification of the violence. I think like I'm starting to think it's the structure and it's just the way of journalism, the way we do journalism. That can be the problem. The methods of journalism, I think, can go against Aboriginal ways of storytelling and knowing which I think you can have like a perfectly fine piece that fits every standard of journalism. There's nothing wrong with it by those standards. But when it's applied to Aboriginal mob, you see it change. I don't know how to explain it properly, but I see it more as like that institution, that system that's the problem
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Ebony Bennett: [00:30:37] Yeah, well, I often reflect that Parliament is very partisan because it's an adversarial system. It's an opposition against the government and Question Time is very much set up that way in the same way that a courtroom is. But journalism in some ways thrives on conflict and having...

Amy McQuire: [00:31:00] The authorities and the "knowers" are the whites. They're the ones who are perpetrating violence, you know what I mean? We're supposed to be objective. And that's there's nothing I mean, that's you know, that's a lie. Everyone knows that's a lie.

Ebony Bennett: [00:31:07] So there's another question here that kind of touches on this. And Cait McMahon has asked, how do you look after yourself and your well-being, considering the amount of trauma that you report on and the ongoing trauma of colonisation? Well, I'm sure that's not just an issue for you, but many journalists who report in these spaces.

Amy McQuire: [00:31:29] And Cait's awesome because she's up from Dart Centre. So I've learnt a lot from Cait and Dart Center in strategies to do that. I also just find strength in Mob. I don't know if that's even, yeah, but I actually find strength in a lot of the stories. So they'll be very traumatic stories. But they're also stories of strength and resistance. So I actually get a lot of strength from black witnesses themselves who were just some of the stories, just so multiple layers of violence, and yet there's these acts of resistance. And I think that's what is that foundation, I think, because it's also the foundation that keeps you going, you know what I mean? Like you don't like, particularly in relation to Kevin, there's no way we could have ever abandoned Kevin's story because Kevin was still sitting in jail while we were doing it. And so it was very important for us to get out. But even now we're trying to get him exonerated. We don't have that luxury of forgetting about this because this is like happening right now. But I get that strength from Kevin. He's the strongest person I've ever met. You know, the ways he has resisted not only twenty nine years of wrongful incarceration, but throughout his whole life is just absolutely phenomenal. So I think that's the key to it for me anyway, is through that.

Ebony Bennett: [00:32:43] And we did have someone ask if Kevin's not exonerated yet, can you just explain why he's now out of jail?

Amy McQuire: [00:32:51] Yeah. So we actually had to work a lot for the parole process. So it was important for us because he was actually, we were really worried about him while he was in prison because it is a violent place. But he was sick, he's middle aged now. He went in when he was twenty two, not just so the trauma of that incarceration, but also just we were worried about his health. And so at first it was actually working with his lawyers to try and get him parole. And that was a really hard process - I probably can't exactly say why, but that will come out in due time. But so it was very important for us to focus on parole in relation to exoneration. It's actually the first time in Queensland that we'll have a case like this. So actually, we have to petition the Governor and so we're working on that now. It's going to be quite intense because it's literally the first time. I just wanted to say also, there's a man down in Adelaide, Yatala Prison, Derek Bromley, who served over thirty three years in prison for a crime he did not do. And so we're waiting to see what's happening next with his case. But if you look into Bromley's case it's an absolute outrage. It's connected to Colin Manock who was the dodgy forensic pathologist down in South Australia. And I think all eyes should be on both Derek Bromley and Kevin Henry's cases, because when you look at their cases, you just see how screwed up the justice system is in relation to Aboriginal mob. And yeah, I just feel like Derek Bromley is not talked about enough. If you look into that case, you just see how absolutely disgusting it is. And he's still in jail. He hasn't gotten parole yet and he's been in for over 30 years. Well, yeah.

Ebony Bennett: [00:34:20] Jefferson Demayo has asked, how has Kevin's case impacted the community and the justice system? And has there been any progress towards reform within the police justice system?

Amy McQuire: [00:34:31] It has in the sense that stuff (that we can't really talk about) is ongoing. But I think just in relation to the community, because, yeah, there was this just, this is a really amazing thing because Kevin's from Woorabinda (Woori). Everyone in Woori and Rocky knew that Kevin was innocent. But it's so hard to know because we haven't had a case like this. You don't know where to go, really. I mean, where would you even know how to start? The only reason we were able to was that Martin just had so much experience overseas and working in overseas cases. So I think just in the sense that the community has also seen their hopes realised and Kevin's mother was literally just waiting for the day he would be released, and that was something that was really important. His father passed away while he was still incarcerated, which was really sad. So I think just having Kevin back in community and being a part of community has been really important. But, yeah, we're hoping to continue that fight this year and just keep building momentum for his case.

Ebony Bennett: [00:35:31] Next question is from Nelly Samondary. She asks, Can you please talk a little bit more about intergenerational trauma and its impact on systemic oppression?

Amy McQuire: [00:35:43] Well, I'd say it's I mean, it's one of the key issues because it's not, you know, people sort of talk about it in simple terms, but it actually has real physiological, psychological, biological effects that has continued from colonisation. But it's not just I think people just think I mean, this is the problem with Australia, they think everything happened in the past. It didn't just happen in the past. It's actually, there's been violence that's being reborn and continued. But a lot of people focus on violence in an interpersonal sense. It's because this state-sanctioned violence, that's violence that's legitimatised by Australia is not seen, but that's the perpetrator in the continual perpetrator of this trauma for a lot of Aboriginal mob. So it's key to a lot of, I mean, it's central to a lot of issues that we're seeing today, which mob are continually

blamed for. And that's why a lot of mob talk about healing and ways we can heal. And I think justice and truth-telling is tied up in that as well.

Ebony Bennett: [00:36:43] The next question is from Dan Feeley, and he asks or he says, "Last night on the news, I saw footage of a police officer repeatedly throw an Aboriginal man's head into a wall." I didn't see that, but that sounds awful Dan. "The judge decided that it was reasonable force. How is justice achieved in such a case?" It's a really big question Dan.

Amy McQuire: [00:37:07] Yeah, I mean, I don't know unless I was able to see the case, but I think that's the horrendous part of it, is it is seen as reasonable force and justified. And often, like I think even one of the things is asked is about police investigating police and when these incidents happen, police are very quick and the media machine is very quick to come out and say, well, no, it was justified or there are all these lines even before an investigation has been had. So I think that I think the public pressure is really important as well to say, well, actually, there's something wrong here. But they often try to justify it by claiming Aboriginal mob as criminal automatically. You know, as soon as you're even in an interaction with police, you're seen almost as criminal and you're seen as violent. So there's different ways that people are seeing it. So I think that's one of the problems is the issues around police investigating police and police being led off and police being seen as the primary authorities, which is a huge problem in Australia, I think.

Ebony Bennett: [00:38:06] Amy, you did mention to me that you're contributing to another book called Black Witness. Do you want to talk a little bit about that and what people might find in that book?

Amy McQuire: [00:38:18] Yes, Black Witness was actually the book that I've got to get out this year. So it's just a collection of essays of sort of journalism but also past issues I've reported on around that theme of the Black Witness and around those themes of why the Black Witnesses are not believed in all these different cases, but why you should believe the black ones. And it sort of comes from this piece I did in Meanjin where I was sort of looking around the issue of when Kerry Anne Kennerley and Joe Hildebrand were on Channel 7 and basically this continual racist diatribe, which wasn't even new about, you know, Invasion Day protesters shouldn't protest, they should care about violence in Aboriginal communities, which is totally ridiculous because a lot of the mob who were protesting also work directly in relation to these issues. So it wasn't actually about them caring, it's about them getting on their high horse. But it was sort of just seeing the differences in the Black and White Witness and how the White Witness positions themselves as war correspondents reporting on a war that they are not a part of. And so they zone us into certain spaces. And that's why there's so much focus on remote Australia as this hub of violence and savagery when that is not the truth at all and they don't need mob speaking for them. Some of the most amazing protest movements we've had in history, like the Wave Hill Walk-off, happened in remote Australia. So there's techniques that the White Witness is using in ways to position themselves as almost like war correspondents, in ways that obscure the complicity of the media, but also Australia has in the current situation. So that's like it, on a broad level, just those themes.

Ebony Bennett: [00:39:52] But it's an interesting point, and I think it happens in other issues as well. But that idea of, well, you can't talk or care about this thing unless you also care about this other thing over there. But how rare would it be for the media to be reporting on violence in remote communities as its own issue?

Amy McQuire: [00:40:14] Well, they do it in a way that silences Aboriginal people. It's a silencing tactic. We saw that in so many ways. But it becomes an unsafe space for a lot of Aboriginal women to speak on violence. We have so many Aboriginal women

working in this area who've been ignored. Aunty Judy Atkinson, Hannah McGlade, Professor Marlene Longbottom, so many people that I'm probably missing out, you know, who've continued and even just in community, working on a grassroots level, who are working in relation to this space. And yet their efforts are totally silenced. And their silence when we talk about solutions in debates that become political ways to further violence against our people. And I mentioned the intervention and that's the key example of it. So it becomes very unsafe for us to even speak about violence because it's going to be seized upon for these political agendas, you know what I mean? So, I mean, I think it's a bigger issue even than that. I think it's a political agenda to further these really horrendous policies that are continually perpetrated against our people.

Ebony Bennett: [00:41:16] The next question is from Hannah McGlade. Says that agree with the media analysis and we need more diversity urgently to raise the cases and issues and asks, "Amy, have you any views about law schools and how we can get them to commit in practice to anti-racism in the law?"

Amy McQuire: [00:41:36] I'm not sure about that. That's something that I don't think I'm an expert in at all. So my focus is largely being just on, it's not even being on mainstream media. It's been on building up black media in order to be able to ask these questions, but to tell these stories, but also like issues, complicated issues about violence and how we report on it in ways that don't further dehumanise Aboriginal mob, but I think that's been the key part, I think there are issues in relation to the law that aren't being talked about. And I think one of those is innocence, wrongful convictions, but also just inadequate defence that happens in every community and you talk to any black fella and they'll talk about the fact they were told to plead guilty, like that's such a common story. So I think we're not even looking at law in a different way.

Ebony Bennett: [00:42:30] So not that you're necessarily a legal expert, but on your podcast Curtain, you talk to Martin about some of those issues. And I think you say they come out throughout the podcast. But, yeah, the inadequate defence, the lack of resources that go to Aboriginal legal services and things like that where it isn't justice if you can't access it properly and if people are being told to plead and those kinds of things. What are some of those other issues that come up, not in necessarily the policing end of things, but once things are already in train and you're within that justice system and within the courts? Can you tell us about some of those issues that came up or that you've discussed in your podcast?

Amy McQuire: [00:43:13] Yeah, I mean, well, one of the things was around, definitely around the defence issue, because we just felt like that was what happened in every part of it, and Kevin didn't even have a proper appeal. You know, he wasn't given a proper appeal at all because he had the same defence lawyer. So he didn't at the very first part, he didn't have access to justice. The other thing I found, but this might be just in relation to Kevin's case, was that the appeal process, there was not, after that appeal process went through, and it was an inadequate appeal, there was very few mechanisms afterwards. But I think also I'm just looking at, I was always comparing sort of what happened to Kevin in the context of Bowraville as well, because I've reported a lot on Bowraville and just seeing how there were similar issues. So the Bowraville children were never allowed a joint trial. That impacted the ability for a successful conviction or it impacted the way that that trial was run. The families always wanted that joint trial. In Kevin's case, there was a joint trial of four Aboriginal alleged defendants and that actually impacted Kevin's case. So I just see differences in the way....and a lot of people say, oh, well, you know, it's an equal law. It's actually not when you look at so many different instances, it's just not. Like Aboriginal victims in particular are treated completely differently. And we see that in so many different cases. So I don't even look at it. It's about the victim, I think. And I think that's not often focussed on enough as well, how it impacts the course for justice.

Ebony Bennett: Yeah. Graeme Turvey has asked, "Could you shed any light on what recommendations of the Royal Commission are not being used to prevent deaths in custody in 2021?"

Amy McQuire: [00:45:01] Well, I think the majority of the recommendations just have not been implemented at all. And so that was still a fight that's still ongoing. And I think sometimes we do have to look back into the Royal Commission and consider what was also the gaps that came out of the Royal Commission, because I think things have moved on, that we're finding out more and more particularly about the violence in the justice system. I say that in the context of the health system and how it intersects with justice, that I don't think when I read those past cases was brought out as much as it should have been in that original Royal Commission. So I think that's been the key thing. I think this year, this April is the 30th anniversary of the Royal Commission into Aboriginal Deaths in Custody. Nothing has changed. In fact, it's gotten worse. But a lot of those cases that you look at, they could have happened today, which is really incredibly sad. So you see that there hasn't been those changes. And then just in relation to, on a personal level, my dad was at the jail in Rockhampton pretty much in that period after the Royal Commission was occurring. And he said there were these cases. There were changes that were happening at the time and that they just gradually went away in the years afterwards and the judges went back to being, you know, the same. And so even if they were those, there's little changes that were being made after the Royal Commission, they went away. That was my dad's experience at the Rockhampton jail, where there was also a case that was investigated by the Royal Commission. So, yeah, there hasn't been any... the large percentage, the majority of recommendations, have never been implemented in states.

[00:46:35] Yeah, the other thing that we've been, there's a lot of questions in here around Aboriginal media, and you talked about your passion in building up those things. So people are asking where they can go to for good sources of news and reporting on these kinds of things. Do you want to just talk about some of the Black publications or where they've got good Aboriginal journalists or writers on staff, where people might go to get information?

[00:47:10] I think one of the best places you can go to is community Aboriginal radio. And like a key one, like an example, say, is 98.9. If you look through the archives of Let's Talk. Boe Spearim hosts it currently but in the past, Uncle Tiga Bayles who's passed away, used to do it. You see an archive, it's phenomenal the amount of voices that are in there talking about a breadth of issues and in ways that you just do not hear in the mainstream. And then we have a lot of really talented Aboriginal journalists coming up. But I'm really just keen on independent black media and building that up, because I think sometimes we've got a lot of really talented journos in mainstream right now, which is really great that we've got those spaces. But you're still, in a sense, being confined by those news values that sometimes work against Aboriginal interests. And so I think listening to looking at Indigenous X, Koori Mail, 98.9 or your local community radio station, you find those voices out there. Yeah, but also like following individual journalists who are doing really good work even in those publications and are working against those... In their own capacity, I think it is really important to draw out those differing voices. There's just so many like Lorena Allam at The Guardian, you've got Ella Archibald-Binge at ABC 730 Report. So finding out those individual voices as well who are working even in mainstream.

Ebony Bennett: [00:48:44] Yeah, the next question is from Claudia Craig and Claudia, I might highjack your question! She says, "In relation to your point about Aboriginal people not being believed by police, that it's interesting that we are seeing more and more Aboriginal storytelling reaching the broader public through Arts and Community projects", which I do think is true. And I was just going to add before I get into the

rest of her question there, was going to ask you about the Writer in Residence Program. And I think last year in particular was a really difficult year for the Arts community as a whole, I'm sure, including authors. But as someone who, doing a PhD, you're a working journalist, all those other things, how important has it been to be connected to that community and to be able to participate in things like a Writers in Residence Program at The Australia Institute to really stay connected and help help you work, I guess?

Amy McQuire: [00:49:40] Oh, I think it was enormously helpful because I'm a mother as well of two young children. So I think during that Covid period, it was just incredibly hard just to find those spaces, not just to write, but also to think so I think just coming down to Canberra for two weeks really helped me do that. I think just having that space, I think sometimes, particularly for everyone last year, it was just a struggle to be able to carve out that time. And also just a way you can think in the midst of all this anxiety in relation to what's happening in the world. So for me, it was really helpful. And just to go away for a little while and just reassess where you're going, even into the New Year. I think I would encourage a lot of other people to apply.

Ebony Bennett: [00:50:26] Yeah. And so Claudia's question was, "So we see more and more Aboriginal storytelling reaching the broader public, particularly through Arts and Community projects. Yeah, in real time context, like the instance that you've talked about in the justice system, that doesn't seem to be that same receptiveness to hearing Aboriginal people and believing their stories. So can you come back to that idea of not being believed and not getting the benefit of the doubt and what we as a community can be doing to really elevate and amplify and believe those stories?"

Amy McQuire: [00:51:03] I'm not sure what, I mean I think Australia has to go through a, I mean, I think it's even bigger than that. I think it's just Australia has to go through this process where you go back to the heart of what actually happened, because everything that the slandering of the Black was, it all has a purpose. It's all about land at the heart of it. It's all about this uncomfortableness around how Australia began. And it's also about what you look at so many things. It's all about keeping black fellas from land, whether it's, you know, massacring, that then containing like moving them into reserves, missions and containing us through the incarceration, the justice system. It's all essentially about land and our rights to land. So it comes down to that, the fact that we've never dealt with that original unfinished business around what happened in this country. And Australia is still very resistant to that. So I think that still bleeds into that. And also, obviously, white supremacy and racism is totally ingrained. It's how our structures are set up. It's ingrained in everything. And so I think that, you know, you don't want to believe people whose testimony goes against your own interests and whose aspirations were directly against your own aspirations about this idea of what this country is supposed to be. It's a settler colony, like I think we have to start calling it for what it is and every element, because it affects everything. We're a settler colony. And there was a purpose for what happened here. That was the elimination of Aboriginal mobs so you're not going to believe us. So I think it comes down to this. So it seems like a wider question than that. But I've become very cynical about, you know, I find it very cynical. I can be very cynical about that until we deal with those original issues.

Ebony Bennett: [00:52:49] I imagine that's why the Makarrata included that truthtelling. We need a process of truth telling about our history as one of its key, I guess, invitations to the rest of Australia to be a part of that process because we're still pretty incapable of telling the truth about...

Amy McQuire: [00:53:07] And we haven't even had a conversation about what that truth telling would look like and what it would involve because I think what happens after that is that there's still those attempts by white Australia to water it down. So you might say,

OK, we'll give you that. But it's divorced from justice, calls from justice or a way to placate white guilt and move on, you know what I mean? So I think it also has to be a very in-depth conversation in which White Australia starts listening to Black Australia about what actually needs to happen in relation to truth telling. And sometimes I don't think we're not even there yet, because if you look at, even just the fact that government was so resistant to even the idea of talking about Uluru and we never had that proper conversation about anything about Uluru, about what came out of it, what mob want, what mob don't want. There was nothing. It was just totally like the oxygen was cut off straight away before we can even talk about it. So how can you listen when they're just saying we can't even talk about what is happening, how this is going to happen, which is really where the cynicism comes from I think.

Ebony Bennett: [00:54:09] Very understandable. And you're right, the government really just dismissed that straight away. And even things like the Voice to Parliament immediately became, well, what about we don't want that.

Amy McQuire: [00:54:19] They had so much to change the narrative that's still ongoing and still currently ongoing.

Ebony Bennett: [00:54:39] Oh, I just want to say, like, if you want to support Kevin Henry, we have a Go Fund Me. So if you just google Go Fund Me Kevin Henry, like the money goes direct to him. So basically what we're using to support him while we get the exoneration process up, just to help him heal. And I have been saying like 29 years, those are your formative years. And what happened with jailing him is, it wasn't just all of that, the violence that came with that, it really robbed him of his potential. And what I found in this case is that people did not think that was an issue. They saw this young Aboriginal kid who grew up in Wurri, well he didn't have potential anyway. Well, you don't know that. He's a really phenomenal person, he's an amazing artist, but he's also just incredibly community-minded. He's a pillar in so many ways for his community. And so that's what I find really upsetting, is that they robbed him of his potential. And so that's what I'm trying to say. I'm just trying to help him in the years that he has. He's got a lot of years ahead of him. So if you want to support him like Google Go Fund Me Kevin Henry and the money goes direct to him. It doesn't go to us or anything. But that's the way you can support him, which I would really encourage everyone to do. If you hear his story and you want to help out in any way.

Amy McQuire: [00:55:51] Excellent. Well, thank you so much for your time today, Amy. We really appreciate all of it. And good luck with your not one but two books, with everything else you've got going! We might tell everyone when Amy's books come out. So make sure that you're subscribed to hear back from us. And don't forget to check out Amy's podcast "Curtain" as well. It started quite some time ago, but it's gripping and well worth listening to. But thank you so much again, Amy, and thanks, everyone, for your great questions today. We do have more exciting webinars coming up in the next few weeks. Next week, we're talking to Professor Ross Garnaut about his new book, "Reset: Restoring Australia After the Pandemic Recession". And then on Wednesday, March the 3rd at 11, we're talking to Senator Jacqui Lambie, the independent senator from Tasmania, about the importance of the crossbench in Parliament. And just a reminder, we're still in pandemic times, so stay one and a half metres away, keep washing your hands and stay safe out there everyone. We hope to see you next week and thanks for joining us today. Thanks Amy.

Amy McQuire: [00:57:01] Thank you.

Ebony Bennett: [00:57:02] Bye, everyone.

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