



Australian Deaths In Custody & Custody-Related Police Operations, 1997-98

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August 1998

Summary

This report presents information on deaths which occurred in police custody (and custody-related police operations) and prison custody throughout Australia during the twelve-month period 1 July 1997 to 30 June 1998. It also provides a brief, accurate, overview of trends in custodial deaths in the seven years since tabling in 1991 of the Royal Commission into Aboriginal Deaths in Custody Final National Report, with its 339 recommendations. Central findings can be summarised as follows.

- A total of 99 people were reported to have died during the year ended 30 June 1998. Twenty-three of these deaths occurred in police custody or custody-related police operations and 76 in prison custody. No juvenile died in the custody of a juvenile justice agency during the 12-month period.
- Seventeen of the 99 deaths were of Aboriginal and Torres Strait Islander people.
- Six women died in custody during the period.
- More people died in Australian prisons during 1997-98 than in any other 12-month period over the last 18 years.
- Deaths in prison custody have risen steadily over the last 18 years, from 28 deaths in 1980-81 to 76 deaths in 1997-98. During the Royal Commission period prison deaths averaged 31 per year and accounted for 61 per cent of all custodial deaths. Between 1990-91 and 1996-97 the number of deaths of both Aboriginal and non-Aboriginal people have risen significantly; increasing to 76 deaths (or 88 per cent of all institutional custodial deaths) in 1997-98.
- In recent years the number of Aboriginal and Torres Strait Islander people in Australia's prisons has continued to increase, as has their level of over-representation in both police and prison custody. It needs to be emphasised that Aboriginal people are heavily over-represented in the number of custodial deaths compared with their number in the community. Nationally, Aboriginal adults represent only 1.4 per cent of the adult population but this year more than 17 per cent of all custodial deaths were of Aboriginal people.

What is a Death in Custody?

The Royal Commission into Aboriginal Deaths in Custody (Royal Commission) stressed, throughout its work, the central need for action to stem the number of deaths in custody and to substantially reduce the gross over-representation of Aboriginal and Torres Strait Islander people in all forms of custody. It recommended that the Australian Institute of Criminology (AIC) monitor deaths in custody nationally, on an ongoing basis. It went on to recommend that the results of this monitoring be reported upon annually to the Commonwealth Parliament.¹

Regular reports have been prepared and disseminated by the National Deaths in Custody Monitoring and Research Program at the AIC since the program's inception in 1992. These reports have covered deaths across both calendar and financial years, thus responding to the need to provide policy makers, the managers of custodial facilities, and the public, with timely and up-to-date information which will enable them to remain aware of trends in custodial deaths, both nationally and at the State and Territory level.

The 99 deaths that were reported during the last 12-month period occurred in a range of circumstances, reflecting the breadth of the definition of a death in custody as recommended by the Royal Commission and agreed to by all governments. At Recommendation 41, the Royal Commission recommended that the definition of a death in custody:

... should include at least the following categories:

- (i) the death wherever occurring of a person who is in prison custody or police custody or detention as a juvenile;
- (ii) the death wherever occurring of a person whose death is caused or contributed to by traumatic injuries sustained, or by lack of proper care whilst in such custody or detention;
- (iii) the death wherever occurring of a person who dies or is fatally injured in the process of police or prison officers attempting to detain that person; and
- (iv) the death wherever occurring of a person who dies or is fatally injured in the process of that person escaping or attempting to escape from prison custody or police custody or juvenile detention.

The AIC's National Deaths in Custody Monitoring and Research Program has applied this definition in compiling information about all custodial deaths which have occurred since 1 January 1990. Table 1 provides details on the 1997-98 custodial deaths.

¹ See the AIC's contribution to Royal Commission Government Response Monitoring Unit, Aboriginal and Torres Strait Islander Commission, *Implementation of Commonwealth Government Responses to the Recommendations of the Royal Commission into Aboriginal Deaths in Custody 1996-97*, ATSIC, Canberra.

TABLE 1
Australian Deaths in Custody 1997-98
Jurisdiction, Aboriginality and Custodial Authority

Jurisdiction	Police			Prison			Total		Overall Total
	Ab'l	Other	Total	Ab'l	Other	Total	Ab'l	Other	
NSW	2	9	11	3	23	26	5	32	37
Vic.		7	7		13	13		20	20
Qld		1	1	1	10	11	1	11	12
WA	2		2	5*	12	17	7	12	19
SA				1	3	4	1	3	4
Tas.					1	1		1	1
NT	1	1	2	2	1	3	3	2	5
ACT					1	1		1	1
Aust.	5	18	23	12	64	76	17	82	99

* Includes the death of an Aboriginal female who died following release from prison custody as a result of medical complications

Deaths in Institutional Places of Custody and Other Circumstances

The 99 deaths that occurred during 1997-98 are summarised in Table 2 using two categories:

- deaths in **institutions** (prisons, police lockups and juvenile detention centres), or during transfer to or from an institution (for example in a police vehicle), or in hospital following transfer from an institution; and
- deaths which occurred while police or prison officers were in the process of **detaining** or attempting to detain the person.

A third and fourth category recommended by the Royal Commission, deaths which occur during the process of the person **escaping** from police or prison custody, or deaths which occur while police were in the process of **escorting** those detained under State or Territory mental health legislation to a psychiatric institution, are not relevant here as no such deaths were reported during the year.

TABLE 2
Australian Deaths in Custody, 1997-98
Circumstances of Death, Aboriginality and Custodial Authority

Circumstances(*)	Police			Prison			Total		Overall Total
	Ab'l	Other	Total	Ab'l	Other	Total	Ab'l	Other	
Institution	4	6	10	12	64	76	16	70	86
Detaining	1	12	13				1	12	13
Total	5	18	23	12	64	76	17	82	99

* See text for definitions

Deaths Since 1980

Figure 1 and Table 3 show the number of deaths in custody in institutional settings only for the period 1 July 1980 to 30 June 1998. They do not include deaths in police operations, such as attempting to detain a person. Omitting these deaths enables direct and accurate temporal comparisons to be made over the full period 1980-81 to 1997-98.

TABLE 3
Year of Death, Custodial Authority and Aboriginality, 1980-81 to 1997-98
Institutional Settings**

Year	<u>Police</u>			<u>Prison</u>				<u>Juvenile</u>			<u>Total</u>			Overall Total
	Ab'l	Other	Total	Ab'l	TSI	Other	Total	Ab'l	Other	Total	Ab'l	TSI	Other	
1980-81	7	5	12	2		26	28	1	-	1	10		31	41
1981-82	2	13	15	3		26	29	-	-	-	5		39	44
1982-83	5	17	22	4		21	25	-	-	-	9		38	47
1983-84	3	11	14	2		30	32	-	1	1	5		42	47
1984-85	8	15	23	5		22	27	-	-	-	13		37	50
1985-86	5	12	17	4		16	20	-	-	-	9		28	37
1986-87	15	24	39	2		34	36	1	-	1	18		58	76
1987-88	6	15	21	4		40	44	1	1	2	11		56	67
1988-89	10	17	27	5		31	36	-	-	-	15		48	63
1989-90	5	14	19	9		44	53	-	1	1	14		59	73
1990-91	2	14	16	5		30	35		1	1	7		45	52
1991-92	5	10	15	4		27	31				9		37	46
1992-93	1	9	10	5		36	41				6		45	51
1993-94	2	5	7	12		45	57		2	2	14		52	66
1994-95	1	5	6	11		44	55				12		49	61
1995-96	1	6	7	13		35	48		2	2	14		43	57
1996-97		5	5	8	2	53	63		1	1	8	2	59	69
1997-98	4	6	10	12		64	76				16		70	86

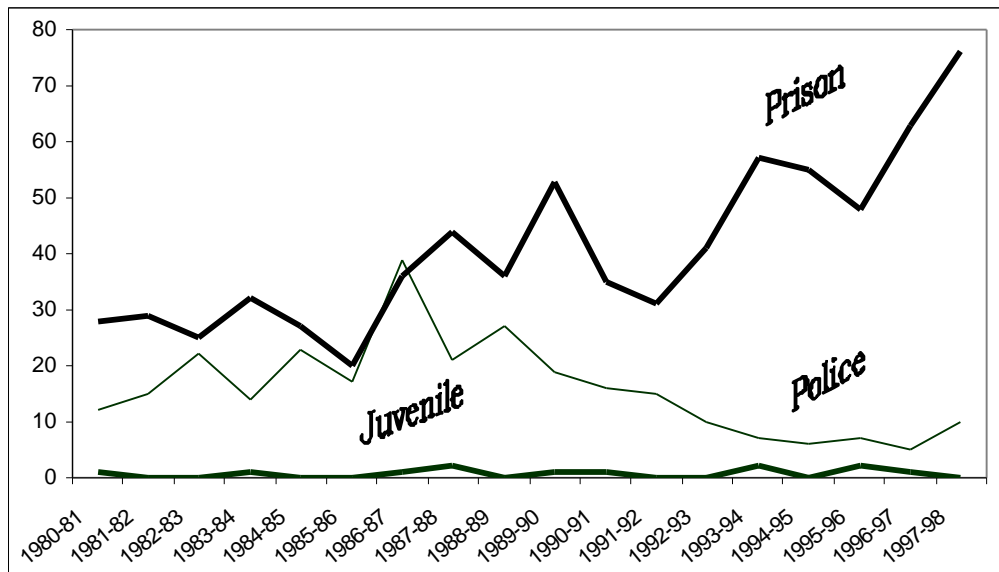
Note: Some of the figures in this table differ from those published in previous reports. This reflects information which subsequently became available on deaths in custody which were not previously identified as such.

* The corresponding tables in reports prior to February 1995 are not directly comparable with this table as they covered deaths in all settings, whereas (for consistency in the time series) this table covers only deaths in institutional settings.

** Deaths in prisons, police lock-ups or juvenile detention facilities, during transfer to or from them, or in medical facilities following transfer from detention facilities.

- Deaths were relatively low in institutional settings in the period 1980-81 to 1985-86, increasing substantially in 1987. This provided the stimulus for the demands of Aboriginal people and others for the appointment of the Royal Commission into Aboriginal Deaths in Custody. Following this extreme year, the number of custodial deaths over the following three years (1987-88 to 1989-90) remained high, with an average of 68 deaths per year.
- The number was lower during the 1990-91, 1991-92 and 1992-93 financial years but rose again to 66 deaths in 1993-94. It can be observed that there has been yet another significant increase since that time and that 86 such deaths were reported during the last 12-month period.

FIGURE 1
Australian Deaths in Custody
Year of Death and Custodial Authority, 1980-81 to 1997-98
Institutional Settings**



- As mentioned above, 86 (or 87 per cent) of the 99 deaths during 1997-98 occurred in institutional settings. Of the 99 deaths during the previous 12-month period 1996-97, 69 (or 69 per cent) of all deaths occurred in institutional settings. The difference here can be explained by two events:
 - firstly, a significant increase in prison deaths (from 63 to 76); and
 - secondly, a significant decrease in the total number of deaths in all forms of police custody (34 to 23), however comprising a far greater number of institutional police deaths than in the previous year (from 5 to 10)(see Table 3 above and 4 below).
- While it is encouraging to note the significant reduction in the number of deaths occurring while police were in the process of attempting to detain individuals (from 28 during 1996-97 to 13 in the current year) (see Table 2), concern must be directed toward the large increase in both the number of deaths in police institutional custody (from 5 in 1996-97 to 10 in 1997-98) as well as the noticeably larger number of deaths in prison custody (63 to 76).
- There were four Aboriginal deaths in police institutional custody recorded during the year; during 1996-97 no such deaths were reported.

Deaths since the Royal Commission

Table 4 shows deaths that occurred in *all custodial circumstances* for the period 1990-91 to 1997-98. All of these cases are covered by the post-Royal Commission definition of a 'death in custody', which includes both deaths in institutional settings and in police operations in community settings, such as sieges, shootings and pursuits.

TABLE 4
Australian Deaths in Custody 1990-91 to 1997-98,
Aboriginality and Custodial Authority
Deaths in all custodial circumstances

Year	<u>Police</u>			<u>Prison</u>			<u>Juvenile detention</u>			<u>Total</u>		Overall Total
	Ab'l	Other	Total	Ab'l & TSI	Other	Total	Ab'l	Other	Total	Ab'l & TSI	Other	
1990-91	3	23	26	5	30	35		1	1	8	54	62
1991-92	7	21	28	4	28	32				11	49	60
1992-93	3	33	36	5	37	42				8	70	78
1993-94	4	26	30	12	45	57		2	2	16	73	89
1994-95	2	19	21	11	44	55				13	63	76
1995-96	6	23	29	13	35	48		2	2	19	60	79
1996-97	8	26	34	10	54	64		1	1	18	81	99
1997-98	5	18	23	12	64	76				17	82	99

Note: Some of the figures in this table differ from those published in previous reports. This reflects information which subsequently became available on deaths in custody which were not previously available.

- It will be observed from this table that the total number of deaths has increased by 60 per cent over the last seven years. 99 deaths were reported for the each of the previous two-year financial year periods, significantly greater than that of earlier years and the highest number recorded to date.

In the period between the tabling of the Royal Commission's final National Report on 9 May 1991 and 30 June 1998, a total of 589 people are reported to have died in all forms of police, prison and juvenile justice custody in Australia, including both deaths in institutional and in community settings. One-hundred-and-three of these deaths were of Aboriginal people, two of Torres Strait Islanders and 484 non-Aboriginal people.

It is also notable that, since 31 May 1989, the cut-off date for the deaths investigated by the Royal Commission, 727 custodial deaths have been reported as having occurred throughout Australia. Of these, 126 were Aboriginal people, 2 were Torres Strait Islanders and 599 non-Aboriginal people. These figures cover deaths in both institutional and community settings, the definition recommended by the Royal Commission.

Deaths in Prison Custody 1997-98

Cause and Manner of Death

Table 5 displays the cause of death for those people who died in prison custody during the year under review. The information provided here on the cause and manner of death was provided, in most cases, by the custodial authorities.

TABLE 5
Australian Deaths in Prison Custody, 1997-98,
Cause of Death and Aboriginality

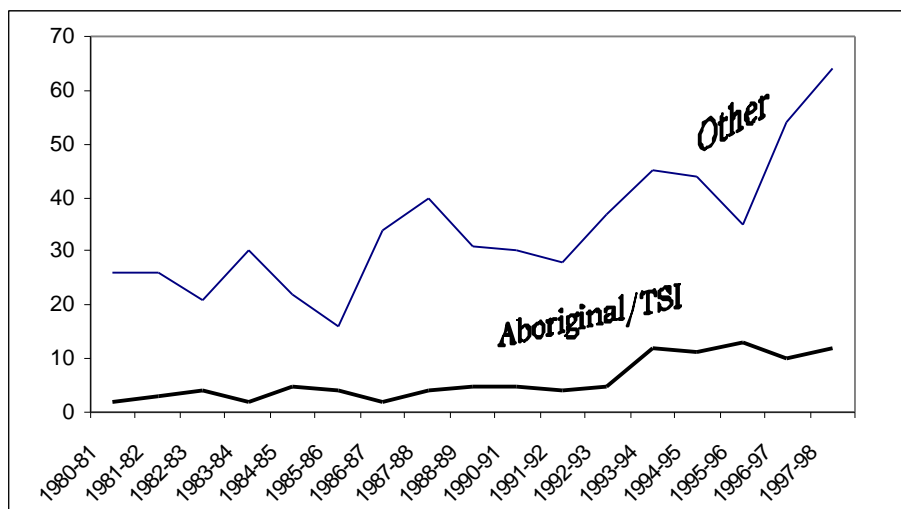
Cause	Aboriginal	Other	Total	%
Hanging	6	33	39	51.3
Natural causes	5	14	19	25.0
Injuries	1	8	9	11.8
Drugs		7	7	9.2
Not known		2	2	2.6
Total	12	64	76	100.0

- The most frequent manner of death was self-inflicted, with all but one of the self-inflicted deaths resulting from hanging. Self-inflicted hanging deaths represented 50 per cent of all deaths in prison custody.
- Death from illness (natural causes) accounted for 19 deaths (or 25 per cent). More than one-quarter of these deaths were as a result of a heart attack or heart disease, with smaller numbers being attributable to cancer, respiratory illness, asthma, pneumonia or other multiple causes.
- Eight deaths were as a result of injuries resulting from unlawful homicide. In these cases, the deceased was stabbed, strangled or assaulted by other inmates.
- The seven accidental/other deaths were all as a result of accidental self-inflicted drug toxicity.

Trends in Prison Deaths

- The number of people to die in Australian prisons during the 1997-98 year was the highest number recorded for the 18-year period since 1980. In recent years the number of both Aboriginal and Torres Strait Islander people and non-Indigenous people dying in our prisons have risen markedly (*see* Figure 2).

FIGURE 2
Australian Deaths in Prison Custody
1980-81 to 1997-98, By Aboriginality



Note: Derived from the prison data in Table 3.

Deaths in Police Custody & Custody-Related Operations 1997-98

As agreed by the Australasian Police Ministers' Council (APMC), the following definitions are used to determine into which of the two categories a death in police custody will be included:

Category 1: (a) deaths in institutional settings (e.g. police stations/lockups, police vehicles, etc.; or during transfer to or from such an institution; or in hospitals, etc. following transfer from an institution); and (b) other deaths in police operations where officers were in close contact with the deceased. This would include most raids and shootings by police. It would not include most sieges where a perimeter was established around a premises but officers did not have such close contact with the person as to be able to significantly influence or control the person's behaviour.

Category 2: Other deaths during custody-related police operations. This would cover situations where officers did not have such close contact with the person as to be able to significantly influence or control the person's behaviour. It would include most sieges, as described above, and most cases where officers were attempting to detain a person, e.g. pursuits.

Table 6 shows that 15 of the 23 people died in either an institutional setting or in close contact custody. The remaining 8 people died during other custody-related police operations. Table 7 provides information covering the period 1990-91 to 1997-98.

TABLE 6
Australian Deaths in Police Custody and in Custody-related Police Operations, 1997-98
Jurisdiction and Aboriginality

Jurisdiction	Category 1 - Institutional or Close Contact Custody			Category 2 - Other Custody-related Police Operations			Total		Overall
	Ab'l	Non-Ab'l	Total	Ab'l	Non-Ab'l	Total	Ab'l	Non-Ab'l	Total
NSW	1	2	3	1	7	8	2	9	11
Vic.		7	7					7	7
Qld		1	1					1	1
WA	2		2				2		2
SA									
Tas.									
NT	1	1	2				1	1	2
ACT									
Aust.	4	11	15	1	7	8	5	18	23

Category 1: Deaths in institutions and other forms of close custody

- Ten of the 15 deaths occurred in an *institutional setting* (7 in the police station and 3 in hospital following transfer). The remaining 5 deaths that occurred in this category were deaths in *non-institutional settings*, where police were able to exert a substantial degree of influence over the behaviour of the person who died. In all 5

cases the death was a result of gunshot wounds inflicted by police while they were in the process of detaining, or attempting to detain, the individuals concerned.

Category 2: Deaths in Other Custody-related Police Operations

- Eight deaths occurred in situations where police were involved but had little capacity to significantly influence or control the person's behaviour. In all cases police were in the process of detaining, or attempting to detain, the individuals who died. Five of these deaths resulted from head or external injuries received in a motor vehicle/cycle crash in the course of, or immediately following, a police pursuit. In two cases the deceased shot himself and another cut his throat.

Trends in police custody & custody-related deaths

Table 7 displays a breakdown of deaths occurring in these two categories for the period 1990-91 to 1997-98.

TABLE 7
Australian Deaths in Police Custody and in Custody-Related Police Operations, 1990-91 to 1997-98, by Aboriginality

Year	<u>Category 1 – Institutional or Close Contact Custody</u>			<u>Category 2 – Other Custody-related Police Operations</u>			<u>Total</u>		Overall Total
	Ab'l	Other	Total	Ab'l	Other	Total	Ab'l	Other	
1990-91	2	22	24	1	1	2	3	23	26
1991-92	6	15	21	1	6	7	7	21	28
1992-93	1	18	19	2	15	17	3	33	36
1993-94	4	15	19	-	11	11	4	26	30
1994-95	2	11	13	-	8	8	2	19	21
1995-96	1	11	12	5	12	17	6	23	29
1996-97	1	12	13	7	14	21	8	26	34
1997-98	4	11	15	1	7	8	5	18	23

- The overall number of deaths in all forms of police custody fell over the 12-month period from 34 to 23 deaths. The significant decrease was in the number of deaths in custody-related police operations (from 21 to 8 deaths). It is encouraging to note the decline over the last 12 month period in the number of deaths resulting from high-speed police pursuits (down from 9 in 1996-97 to 5 in 1997-98) as well as fewer deaths as a result of self-inflicted gunshot wounds during siege situations (down from 7 in 1996-97 to 2 in 1997-98).

References

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ACKNOWLEDGMENTS

The Australian Institute of Criminology acknowledges the cooperation of each of Australia's police services, prisons administrations and juvenile welfare/juvenile justice authorities in supplying information that forms the basis of this report. We also extend thanks to the Coroners and state Justice Departments (or equivalent) for providing information on the outcomes of inquests.