Deaths in custody
Australia, 1980-1989

The research papers of the Criminology Unit of the
Royal Commission into Aboriginal Deaths in Custody

edited by **David Biles** and **David McDonald**

Australian Institute of Criminology

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Foreword

This volume has been compiled to meet the continuing requests that are received for the series of research papers that were prepared by the Criminology Unit of the Royal Commission into Aboriginal Deaths in Custody over the period 1988 to 1991. Apart from a small number of very minor corrections the papers have been reproduced in this volume as they appeared during the life of the Royal Commission. This volume therefore comprises one aspect of the historical record of the Royal Commission. (Note that abbreviated terms of reference of the Royal Commission are shown in the Appendix, p. 597).

The research papers are the primary output from the Criminology Unit's research program. This program was developed jointly by the Head of Research (David Biles), the Commissioners and the senior Counsel Assisting. While its major purpose was to provide information which would assist the Commissioners and the staff of the Royal Commission, all the papers were publicly released, with the agreement of the Commissioners, although their contents were not necessarily endorsed by the Commissioners.

The research papers, 22 in number, can be seen as a progression from extremely simple collections and analyses of the basic information that was available at the beginning of the series to work of greater sophistication towards the end. Most of the papers are reports of separate research projects, but Research Paper No. 17 is a theoretical discussion of the methodological issues underlying research of this type, and Research Paper No. 22 is an attempt to provide an overview and integration of the series. The papers thus illustrate the development over time of ideas and techniques which is to be found in any effective research enterprise.

During the course of the Royal Commission there was also considerable development in the reactions of other people to the research papers. While the reactions of the academic community and of criminal justice practitioners were almost totally encouraging and appreciative, the reactions of those working in the Royal Commission varied between total hostility and rejection to cautious approval. The hostility towards the work of the Criminology Unit reached a climax only a few months after the work started when it became clear that the research showed that Aboriginal persons in either police or prison custody were no more likely to die than were non-Aboriginal people. This general finding was interpreted by some significant elements of the staff as undermining the very foundations of the Royal Commission. To even hint that such a conclusion was possible was seen as disloyal, misguided and obviously wrong.

At one stage the very existence of the Criminology Unit within the Royal Commission was threatened. It was able to continue its work, however, albeit with a smaller staff, and new research papers were published at frequent intervals. Slowly the intensive criticism of the research program and its products started to abate, and some expressions of interest and even appreciation were heard. This changed attitude continued and at the very end of the Royal Commission the then National Commissioner, Elliott Johnston QC, indicated to a small gathering of staff that the work of the Criminology Unit had been of fundamental importance to the whole thrust of the final report and that the earlier vilification had been undeserved.

This change in attitude is in itself a matter of considerable interest, but it is difficult to find any basis for it in the research papers themselves. While some of the papers can be clearly seen as part of a sequence, in that they incorporate an accumulation of data and ideas, with the exception of the final paper all of them were focussed on discrete topics. Only in Research Paper No. 22 was an attempt made to draw general conclusions from the information contained in the papers published. (This process reflected the respective roles of the research staff of the Royal Commission and the Commissioners.) With the wisdom of hindsight it may be observed that the absence of periodic overviews of the research findings may well have contributed to a general lack of understanding of how the research program fitted in to the work of the Royal Commission in general.

The research papers in this volume are of more than historical interest as they constitute a platform from which further work is being launched. After the tabling in Federal Parliament of the final report of the Royal Commission in May 1991, the Cabinet of the Commonwealth Government accepted a submission which proposed the establishment within the Australian Institute of Criminology of a small unit, to be known as the Deaths in Custody Monitoring and Research Unit, which is to continue the work of the relevant unit within the Royal Commission. With the cooperation of all Australian police forces, correctional administrators and juvenile detention authorities the work, which is outlined in this volume, will be extended and, hopefully, will continue to improve.

The editors of this volume were greatly assisted in the preparation of the research papers by a number of highly talented and dedicated people. These include Dr Rosaleen Smyth who for some time held the position of Principal Research Officer with the Criminology Unit, and Ms Jillian

Brewer, Ms Judy Fortuin, Ms Jillian Fleming and Mrs Robyn Draper, who for varying periods of time were Research Officers in the Unit. Dr Joseph Reser from the James Cook University of North Queensland was a Visiting Scholar attached to the Unit for some months in 1988. The work of the Unit was also greatly assisted by the highly skilled stenographic and office management support of Mrs Stella Panteledis and Ms Jo-Ann Dan. We are greatly indebted to all of these friends and former colleagues for their professionalism and their support.

David Biles and David McDonald
Canberra, June 1992

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Notes to Readers

1. **Caution must be exercised in the interpretation of statistics relating to reported suicides, self-inflicted deaths or death by accident. The terms suicide or self-inflicted death are used interchangeably in these papers as it is often impossible to know whether a death reported to be suicide was in fact intentional and therefore legally classifiable as suicide. Furthermore, the reported cause of death as suicide or accident may not necessarily correspond with the findings made by Commissioners in their reports on the inquiries into deaths of Aboriginal people in custody.**

2. The projects reported in these papers were undertaken by the Criminology Research Unit of the Royal Commission with the approval of the Commissioners, but any conclusions or views expressed in this paper are not necessarily those of the Commissioners.

3. These papers follow the common convention, unless otherwise stated, of using the term Aboriginal to mean both Aboriginal people and Torres Strait Islanders.

4. A span of years is separated by a hyphen (e.g. 1984-86) and a fiscal year is separated by oblique stroke (e.g. 1986/87).

Tables & Figures

5. Per cent figures do not always total 100 owing to rounding.

6. Cross tabulations (i.e. variable 1 by variable 2) include only the cases where data are available on each of the variables in the table.

7. The symbol '-' means nil, or a number rounded to nil.

Contents

Foreword **iii**
David Biles & David McDonald

Contributors **v**

Notes to Readers **vi**

Research Paper No. 1
Preliminary analysis of current data base **1**
David Biles

Research Paper No. 2
Draft guidelines for the prevention of Aboriginal deaths in custody **13**
David Biles

Research Paper No. 3
Public drunkenness - Australian law and practice **23**
Jillian Brewer

Research Paper No. 4
Aboriginal and Torres Strait Islander population **48**
Rosaleen Smyth

Research Paper No. 5
Drug testing in prisons **71**
David McDonald

Research Paper No. 6
Aboriginal imprisonment: a statistical analysis **93**
David Biles

Research Paper No. 7
Australian deaths in custody 1980-1988: an analysis of Aboriginal and non-Aboriginal deaths in prison and police custody **117**
David Biles, David McDonald and Jillian Fleming

Research Paper No. 8
National police custody survey August 1988: preliminary descriptive findings **150**
David McDonald

Research Paper No. 9
The design of safe and humane police cells: a discussion of some issues relating to Aboriginal people in police custody **160**
Joseph Reser

Research Paper No. 10
Australian deaths in police custody 1980-1988: an analysis of Aboriginal and non-Aboriginal deaths **207**
David Biles, David McDonald, and Jillian Fleming

Research Paper No. 11
Australian deaths in prisons 1980-1988: an analysis of Aboriginal and non-Aboriginal deaths **231**
David Biles, David McDonald, and Jillian Fleming

Research Paper No. 12
Deaths in non-custodial corrections: Australia and New Zealand, 1987 and 1988 **259**
Jillian Fleming, David McDonald, and David Biles

Research Paper No. 13
National police custody survey August 1988: national report **303**
David McDonald

Research Paper No. 14
Alcohol and human behaviour **351**
Janet Greeley and David McDonald

Research Paper No. 15
International review of deaths in custody **383**
David Biles

Research Paper No. 16
Self-inflicted harm in custody **417**
Jillian Fleming, David McDonald, and David Biles

Research Paper No. 17
Methodological issues in the calculation of over-representation and exposure to risk in custody **457**
David McDonald and David Biles

Research Paper No. 18
Arrests, custody and bail, Kalgoorlie, 1987 and 1990 **495**
David McDonald

Research Paper No. 19
Aboriginal people in prisons and non-custodial corrections **520**
David Biles and David McDonald

Research Paper No. 20
Australian deaths in custody 1980-1989: an epidemiological analysis of the relative risks of death for Aboriginal and non-Aboriginal people **552**
Neil Thomson and David McDonald

Research Paper No. 21
The Royal Commission cases: a statistical description **571**
David Biles, David McDonald, and Robyn Draper

Research Paper No. 22
Overview of the research program and abstracts of research papers **619**
David Biles and David McDonald

RESEARCH PAPER NO. 1

Preliminary Analysis of Current Data Base

David Biles

During the course of the Royal Commission the research staff, among other things, will produce detailed analyses of the known information about all cases of Aboriginal deaths in custody since 1 January 1980. These analyses will become more informative and useful as data are collected in a systematic manner to conform with a schedule that has been prepared. This schedule is appended (Appendix 1.1) but it should be noted that this will almost certainly be expanded as experience shows that other factors may be relevant.

This brief paper is based on the information available at a very early stage of the inquiry. As at 3 February 1988 a total of 100 cases was reported to the Royal Commission. By 9 June 1988 the total had risen to 108 cases. In future this total may increase (as other deaths occur or as it is discovered that earlier deaths fall within the Terms of Reference) or it may decrease if it is found that some of the listed cases are not within the Terms of Reference. For most but not all of the cases that are currently listed, the information available comprises:

Name
Age
State or Territory
Date of Death
Location
Reported Cause of Death

This paper examines these factors with the view to describing the phenomenon of Aboriginal deaths in custody that are of relevance to the Royal Commission. The analyses were undertaken manually as none of the relevant information has at this time been entered into a computer.

The distribution of Aboriginal deaths in custody has not been uniform throughout Australia, with Western Australia and Queensland reporting the highest numbers. The actual numbers are shown in Table 1.1.

This information is useful in that it clearly indicates where the work of the Royal Commission is to focus, but some elaboration is needed to ascertain if there are significant differences between jurisdictions in the incidence of deaths in custody. It is submitted that the most useful elaboration is to relate the numbers of deaths to the number of Aboriginal people (including Torres Strait

Islanders) in the community in each jurisdiction. Even more useful would be to establish the relationship between the numbers of deaths and the numbers of adult (16-61 years) Aboriginal people in each jurisdiction, as only persons in the adult age range are at significant risk of being held in custody in police or prison facilities. The results of the 1986 population census may be used for this purpose (ABS 1986).

TABLE 1.1
Reported Aboriginal Deaths in Custody as at 9 June 1988

State	*No.*
New South Wales	18
Victoria	6
Queensland	28
Western Australia	34
South Australia	10
Tasmania	2
Northern Territory	10
Australia	108

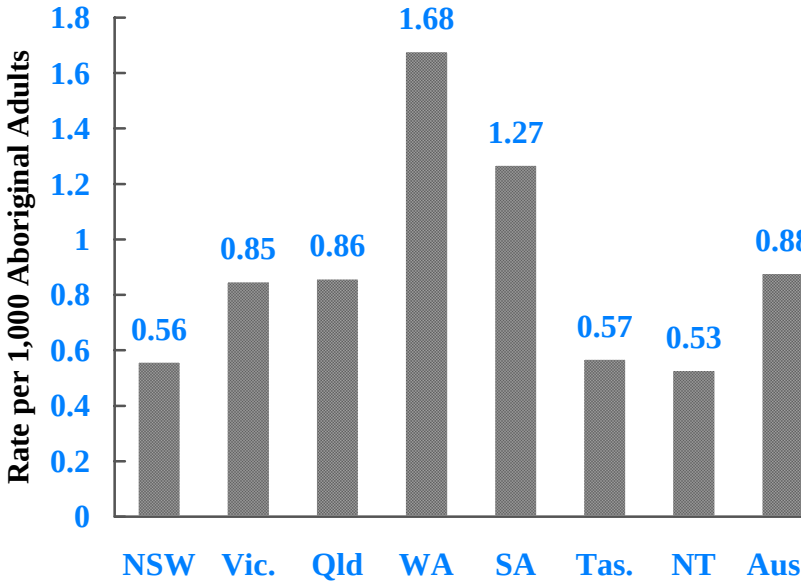
TABLE 1.2
Aboriginal and Torres Strait Islander Populations, 1986, and Deaths in Custody Rate per 1,000 Adults

	Total Ab. and T&I population	*Adults (16-61 years)*	*Deaths*	*Rate per 1,000 Adults*
NSW	59,011	31,953	18	0.56
Vic.	12,611	7,065	6	0.85
Qld	61,268	32,701	28	0.86
WA	37,789	20,225	34	1.68
SA	14,292	7,868	10	1.27
Tas.	6,716	3,529	2	0.57
NT	34,739	18,845	10	0.53
ACT	1,220	827	-	-
Aust.	227,646	123,013	108	0.88

From Table 1.2 it can be seen that the highest rates are clearly to be found in Western Australia and South Australia with the Queensland and Victorian rates being marginally below the national average. It can also be seen that the Northern Territory, New South Wales and Tasmania all have relatively low rates, with that of the Northern Territory being the lowest. These differences between jurisdictions are shown even more vividly when presented graphically (*see* Figure 1.1).

Nine of the reported cases were female; a proportion nearly twice the proportion of females in Australian prisons. Three of these deaths occurred in Queensland, three in Western Australia, two in South Australia and one in the Northern Territory. In most of these cases the reported cause of death was one or other form of 'natural causes', but they include one case of hanging and one of fatal burns.

FIGURE 1.1
Deaths per 1,000 Aboriginal Adults
1 January 1980 to 3 February 1988



The nine female deaths represent a rate of 0.14 per 1,000 adult Aboriginal females in Australia which compares with a male rate of 1.65 deaths per 1,000 adult Aboriginal males. This suggests that male Aboriginal people are over eleven times more likely than female Aboriginal people to die in custody, but this comparison will be more meaningful when data becomes available on the numbers of males and females held in police custody.

It is of some interest to establish whether there has been any change in the incidence of Aboriginal deaths in custody over the period 1980 to mid 1988, and this is shown in Table 1.3.

TABLE 1.3
Deaths in Custody by all Causes, by Jurisdiction, 1980-June 1988

Year	*NSW*	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*Aust.*
1980	2	-	2	5	1	-	3	13
1981	1	-	3	1	-	-	-	5
1982	2	2	2	4	1	-	1	12
1983	3	-	-	5	5	-	-	13
1984	1	-	3	3	-	-	1	8
1985	1	1	3	7	-	-	2	14
1986	3	-	4	1	1	2	2	13
1987	4	2	10	4	2	-	1	23
1988	-	1	-	3	-	-	-	4
Unknown	1	-	1	1	-	-	-	3
Totals	18	6	28	34	10	2	10	108

Of the 105 cases for which the year of death was known, there seems to be a clear trend towards increase until 1987, with the total for that year being particularly high. This raises the question of whether or not there is any evidence to suggest that, perhaps as a result of media coverage, the incidence of death by hanging increased over this period. Just over one quarter of the listed cases referred to hanging. No assumptions are made about whether or not these cases could be classified as suicide. The incidence of hanging cases by year and jurisdiction is shown in Table 1.4.

TABLE 1.4
Deaths in Custody by Hanging, by Jurisdiction, 1980-June 1988

Year	*NSW*	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*Aust.*
1980	-	-	1	1	-	-	1	3
1981	1	-	-	-	-	-	-	1
1982	1	-	-	-	-	-	-	1
1983	-	-	-	1	-	-	-	1
1984	-	-	-	-	-	-	-	-
1985	-	-	-	1	-	-	1	2
1986	1	-	2	-	-	1	-	4
1987	3	1	6	3	1	-	-	14
1988	-	1	-	1	-	-	-	2
Totals	6	2	9	7	1	1	2	28

The data in Table 1.4 strikingly suggest that there has indeed been a dramatic increase in death by hanging of Aboriginal people in custody, especially in 1987. This trend is also shown in Figure 1.2. While this type of analysis cannot prove that media coverage and public concern about Aboriginal

deaths caused an increase in those deaths, that hypothesis cannot be discounted. Certainly, it is remarkable that in 1987 more than half of all the Aboriginal deaths in custody were attributable to hanging. From Figure 1.2 it can be seen that were it not for the hanging cases in 1987 there would have been no discernible trend towards increase over the eight year period.

From Table 1.5 and Figure 1.3 it is clear that many more of the deaths under investigation occurred in police custody than in prisons. This is highly significant as, even though the precise numbers of persons in police custody at any time are not known at this stage, it must be the case that there are many times more people in custody in prisons than there are in police facilities. Further research will be undertaken on this subject in the near future.

The numbers of deaths in police custody are markedly higher than the numbers in prisons in Queensland, New South Wales and the Northern Territory, but in Western Australia and South Australia the numbers are nearly evenly divided between the two major forms of custody.

FIGURE 1.2

Deaths in Custody by all Causes and by Hanging, 1980-June 1988

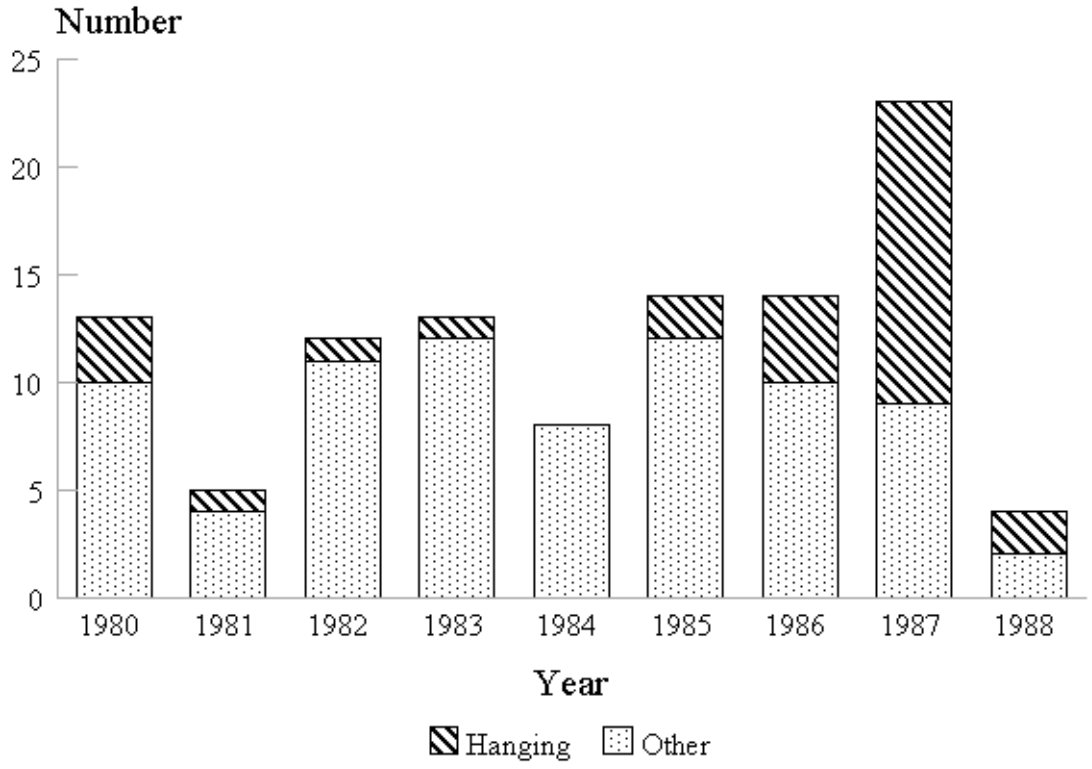


Table 1.5
Deaths in Police, Prison or other Custody by Jurisdiction, 1980-June 1988

	Police	*Prison*	*Other*	*Unknown*	*Total*
NSW	12	4	1	1	18
Vic.	2	1	2	1	6
Qld	16	7	3	2	28
WA	16	12	5	1	34
SA	4	5	1	-	10
Tas.	1	-	-	1	2
NT	5	2	2	1	10
Aust.	56	31	14	7	108

It may be of some interest to examine whether the increase in the numbers of deaths each year over this period has occurred equally in police and prison custody or whether one form of custody is more involved. From Table 1.6, it can be seen that the police numbers were particularly high in the latter years. In contrast, the prison numbers show little or no tendency towards increase.

FIGURE 1.3
Deaths in Police, Prison and Other Custody, 1980-June 1988

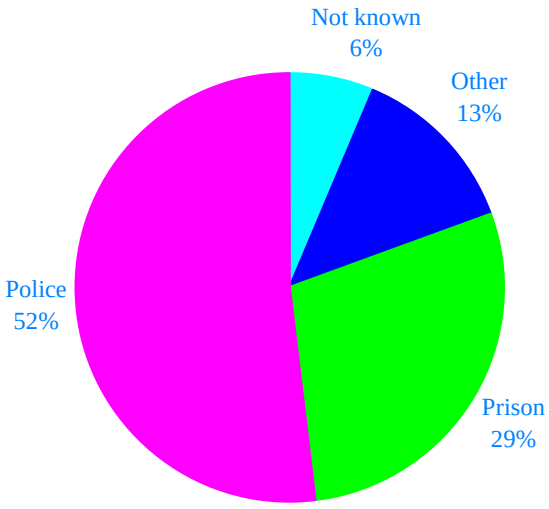


TABLE 1.6
Type of Custody by Year of Death in Custody, 1980-June 1988

	Police	*Prison*	*Other*	*Unknown*	*Total*
1980	5	6	1	1	13
1981	3	1	1	-	5
1982	3	4	4	1	12
1983	7	5	1	-	13
1984	3	3	2	-	8
1985	8	4	1	1	14
1986	9	1	2	1	14
1987	16	6	-	1	23
1988	2	-	2	-	4
Unknown	-	1	-	2	3
Total	56	31	14	7	108

The final matter of interest that can be examined in this primitive analysis is that of the age of the deceased persons. Data relating to age are not available at this time in a large number of cases. Nevertheless, the distribution of cases by age shows an interesting pattern as indicated in Table 1.7.

TABLE 1.7
Age Distribution of Deaths in Custody by all Causes, 1980-June 1988

	Under 20	*20-29*	*30-39*	*40-49*	*50-59*	*60+*	*Unknown*	*Total*
NSW	-	5	2	-	2	-	9	18
Vic.	2	-	-	-	1	-	3	6
Qld	4	2	3	3	1	-	15	28
WA	3	14	5	3	-	3	6	34
SA	1	1	3	1	-	-	4	10
Tas.	-	1	-	-	-	-	1	2
NT	-	2	2	1	-	-	5	10
Total	10	25	15	8	4	3	43	108

From Table 1.7 it can be seen that well over half of the cases where the age was known were under 30 years when they died. Perhaps even more significantly and tragically nearly 10 per cent of these persons were teenagers at the time of death.

This analysis has been repeated focussing only on these cases which are attributable to hanging and these results are shown in Table 1.8.

TABLE 1.8
Age Distribution of Deaths in Custody by Hanging, 1980-June 1988

	Under 20	*20-29*	*30-39*	*40-49*	*50-59*	*60+*	*Unknown*	*Total*
NSW	-	4	-	-	-	-	2	6
Vic.	1	-	-	-	-	-	1	2
Qld	4	2	1	1	-	-	1	9
WA	-	2	1	1	-	-	3	7
SA	1	-	-	-	-	-	-	1
Tas.	-	1	-	-	-	-	-	1
NT	-	1	-	-	-	-	1	2
Total	6	10	2	2	-	-	8	28

The data in Table 1.8 indicate that the age distribution of the hanging cases is even more markedly skewed towards the lower end of the age scale with an even higher proportion—over 21 per cent—being under the age of 20.

As death in custody by hanging is of very great concern it is examined more closely in Table 1.9 to determine the numbers of these cases that occurred in police custody and in prisons. (Note that in Table 1.9 year age bands have been used to show a clearer picture of the youthfulness of these deceased persons.)

TABLE 1.9
Age Distribution of Deaths by Hanging and Type of Custody, 1980-June 1988

	Under 20	*20-24*	*25-29*	*30-35*	*36+*	*Unknown*	*Total*
Police	4	6	3	-	3	6	22
Prison	2	1	-	1	-	2	6
Total	6	7	3	1	3	8	28

Here it can be seen that these cases occurred much more frequently in police custody than in prisons, and it can also be seen that in nearly two-thirds of these cases where age was known the person was under 25 years at the time of death. While the young Aboriginal men who died by hanging in custody are only a relatively small minority of the total number of deaths under investigation, they will probably be seen as the most tragic and as the cause of most concern.

Conclusion

This preliminary analysis of the known facts about the 108 cases of Aboriginal deaths in custody in Australia since 1 January 1980 has shown that Western Australia and South Australia have the highest rates based on the size of the

adult Aboriginal community in each jurisdiction. The lowest rate was found in the Northern Territory. It has also shown that the incidence of Aboriginal deaths in custody has increased over the period 1980 to 1987, with the figures for 1987 being particularly high. More than half of the 1987 cases were attributable to hanging. Deaths in police custody were shown to be more common than deaths in prisons or in other forms of custody. The age distribution of the cases showed a strong bias towards the younger age group, with the hanging cases being even more biased in that direction. Hanging was much more likely to have occurred in police custody than in prisons.

As the work of the Royal Commission proceeds, more detailed information on each case will become available and more penetrating research will be possible. The research staff of the Commission will also produce a series of papers on topics that are identified as being relevant by the Commissioner or by Counsel Assisting.

9 June 1988

Reference

Australian Bureau of Statistics 1986, *Census*, Australian Bureau of Statistics, Canberra.

APPENDIX 1.1

Research Data Needed for Each Case of Aboriginal Death in Custody

Note: It is accepted that it will not be possible for accurate information to be compiled for all data items in every case, and it is possible that some items will be a matter of dispute. The words 'estimated' or 'disputed' may be added where appropriate. This is preferable to leaving an item blank, but in some cases the only accurate response may be 'unknown'.

1 The Person

1.1 Full Name (or identifying numbers) .....
1.2 Date of birth .....
1.3 Place of birth .....
1.4 Last known address .....
1.5 Marital status .....
1.6 Employment status .....
1.7 Highest level of education .....
1.8 Criminal justice history in summary .....
(a) prior arrests .....
(b) prior detentions .....
(c) prior convictions .....

2 Custody

2.1 Legal status (charged, convicted, detained) .....
2.2 Type of custody (single cell, shared cell, etc.) .....
2.3 Custodial authority (police, prison, etc.) .....
2.4 Name and address of institution .....
.....
2.5 Date and time when custody commenced .....
2.6 Date and time of last medical examination .....
2.7 Frequency of supervision .....
2.8 Most serious offence leading to arrest .....
2.9 Anticipated time and date of release .....

3 Details of Death

3.1 Date of death .....
3.2 Estimated time of death .....
3.3 Time elapsed between last seen alive and discovery of body .....
3.4 Location of body when found .....
3.5 Apparent cause of death at discovery .....
3.6 Body discovered by .....
3.7 Date of notification of next of kin .....

3.8 Evidence of intoxication at time of death .....
.....

4 Enquiries

4.1 Name of Coroner .....
4.2 Date coronial hearing commenced .....
4.3 Date finding delivered .....
4.4 Coroner's finding of cause of death .....
.....

5 Family Background

5.1 Number of persons in household .....
5.2 Siblings of deceased .....
5.3 Children of deceased .....
5.4 Parents (together, alive, etc.) .....
5.5 Local community (brief description) .....
.....
5.6 Alcohol use by deceased and family .....
5.7 Drug use by deceased and family .....
5.8 Petrol sniffing by deceased and family .....
.....

6 Other Relevant Factors

6.1 Prior medical history .....
6.2 Other early deaths or suicide in family .....
6.3 Other factors .....

RESEARCH PAPER NO. 2

Draft Guidelines for the Prevention of Aboriginal Deaths in Custody

David Biles

This is the second in the series of research papers prepared for the Royal Commission. It was specifically requested by the Commissioner, the Hon J.H. Muirhead QC, but it is not to be seen as necessarily reflecting his views. The Commissioner's views will be expressed in his formal reports. The paper is described as a 'draft' because it does not present a concluded view and is intended to provoke discussion and comment. Suggestions for changes to the paper will be welcomed and should be forwarded directly to the author, David Biles.

The paper aims to identify the basic principles that are to be addressed in the development of detailed policy directives which should guide police and prison officers in fulfilling their duties without significant risk of death or serious injury occurring to persons in their care, Aboriginal or not. These principles must be elaborated for application in each police lockup, watch-house or prison in such a way as to reflect the local situation, but in every case the detailed guidelines should be submitted for approval to the headquarters of each police and prison department. Before granting such approval, the senior executive of the relevant department is strongly advised to seek the views of independent bodies, such as relevant Aboriginal Legal Services. During the life of the Royal Commission its staff will also be available to advise on this subject.

The preparation of this paper has been assisted by information contained in a wide range of documentary material (some of which is unpublished). In addition to the details of the cases listed by the Royal Commission, this material includes: the Ministerial guidelines issued by Senator Michael Tate and Mr Gerry Hand in September 1987, the *Vincent Report* (1988) from Western Australia, the *Powder-Law Report* (1987) from Queensland, the *Sime and Watson-Monroe* Reports (1985) from Victoria, the Suicide Prevention Policy of the Federal Bureau of Prisons in the United States, various documents prepared by Mr Joseph Rowan of the United States, material supplied by the Australian Institute of Criminology, and numerous submissions made to the Royal Commission by interested individuals and organisations including the national Aboriginal and Islander Legal Service Secretariat.

1. The use of custody in police and prison facilities is to be kept at the lowest possible level that is consistent with the safety and well-being of the general community.

As far as police work is concerned, this principle is to be applied by avoiding arrest in favour of proceeding by summons wherever possible, by taking intoxicated persons to prescribed places, detoxification centres, hospitals or to their own homes in preference to resorting to the use of lockups, provided that the individual persons concerned are not violent and do not appear to be a potential danger to themselves. This type of diversion is facilitated by the decriminalisation of public drunkenness. Also at the police level, bail should always be granted at the earliest possible time unless there are persuasive reasons for not doing so.

A matter of particular relevance to Aboriginal people is the imposition of short prison sentences in cases where fines are not paid. Some jurisdictions have virtually eliminated imprisonment for fine default and these developments are to be commended with the proviso that non-payment of fines does result in some other penalty. It is suggested that a community service order is generally the appropriate penalty for an offender who will not or cannot pay a fine.

In the prisons' sphere, this principle is most directly pursued by encouraging Judges and Magistrates to impose sentences of imprisonment only as a last resort, that is when all other options have been considered and rejected. When imprisonment is unavoidable, the sentence imposed should be as short as practicable consistent with public safety. Also in this sphere, all prison systems should have parole and remission arrangements which encourage acceptable behaviour in prison and after, and which provide hope for the future.

2. All persons held in detention must at all times be treated with respect and dignity consistent with the recognition of human rights in a civilised society.

Australia is a signatory to the International Covenant on Civil and Political Rights which contains a number of articles which are directly relevant to the treatment of persons in any form of custody. The Covenant is given legislative force throughout Australia by the *Human Rights and Equal Opportunity Commission Act 1986* (Cwlth) in which the Covenant is incorporated. This legislation should be studied carefully to ensure compliance with both the spirit and the letter of the law. In particular, Article 9 of the Covenant provides that no one shall be subject to arbitrary arrest or detention, and Article 10 requires that all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

3. All police and prison officers who are responsible for persons in custody must recognise and accept that they have a duty of care towards those persons and that they are likely to be held accountable for any avoidable death or injury.

This principle is self-explanatory in that it aims to draw attention to the fundamental duty of care which is owed by all officers with custodial responsibilities. This is not intended, however, to give the impression that custodians will necessarily face criminal or civil liability if something goes wrong, but they will certainly have to account for their actions as part of the process of determining whether or not the death or injury could have been avoided.

4. Arrangements should be made for all persons in police or prison custody to maintain an appropriate level of communication with families, friends and relevant organisations in the community.

At the police level this principle would be supported by, for example, local arrangements being made for respected Aboriginal citizens to stay with arrested Aboriginal people in police cells as a supplement to the established practice of immediately contacting the Aboriginal Legal Service. It might be necessary for such arrangements to include a roster of Aboriginal citizens who would be available for this service as required on particular nights, and it might also be necessary for some level of financial compensation to be made.

In prisons there are usually satisfactory arrangements for visits to prisoners to be made by families and friends on a regulated basis, but there is sometimes inadequate assistance for visitors to travel to distant locations. Most prison systems also allow telephone contact with prisoners' families, and this privilege should be available to all prisoners unless the families wish otherwise. Many, but by no means all, of the 70 or more gazetted prisons in Australia provide education programs which, among other things, keep prisoners in touch with the community through the use of visiting lecturers, instructors and sporting teams. Much more needs to be done in this area, especially with regard to Aboriginal cultural activities.

5. All places of custody should at all times (when any person is held in custody) have on staff at least one officer who has received appropriate training in the identification of persons who are at risk of suicide or death from other causes, injury or illness.

It is envisaged that relevant government departments would arrange short training courses, of one or two days duration, which specifically alert officers to the warning signs of potential suicide or death by other means. These courses,

which in some jurisdictions could be arranged on a regional basis, would be similar to that recently given by Mr Joseph Rowan from the United States of America at the Australian Institute of Criminology in Canberra and at the New South Wales Police Academy at Goulburn. Specific attention should be given to assessment procedures as outlined under principle 6 below.

6. All persons who are received into custody should be assessed by an officer with appropriate training as a routine part of the reception process. Documented evidence of such assessment is to be retained.

The assessment procedures that are appropriate for a police lockup will not be exactly the same as those which are appropriate for a prison reception centre. In both situations attention must be paid to signs of illness or injury, the influence of alcohol or drugs and the apparent mental state of the detainee. A more thorough examination of potential health and mental health problems would be expected in a prison than would be feasible in a police facility.

It is suggested that for both situations a simple questionnaire be developed which would be capable of completion by the receiving officer (who had received the training referred to above) in no more than two or three minutes. The questionnaire would provide a permanent record of the officer's observations and also the detainee's responses to a short list of questions such as 'are you currently taking medication?', 'is this the first time you have been locked up?', 'have you ever been a patient in a mental hospital or received psychiatric treatment?', 'have you ever tried to kill yourself?', and so on. If any of the observations or responses to questions give cause for concern or doubt, a full medical examination must be conducted at the earliest possible time.

7. Any person in custody identified as being 'at risk' is to be kept under constant surveillance until examined by a fully qualified medical practitioner.

As indicated above, if the assessment procedure leads to the detainee being regarded as 'at risk' it is imperative that a medical examination be arranged, but this may take some time and the purpose of this principle is to ensure that the detainee is not left unattended during this period.

8. For persons in custody who have not been identified as 'at risk', frequent observations must be maintained and, where possible, these should incorporate friendly human interaction. A person apparently under the influence of alcohol or any other drug should be regarded as potentially at risk.

If the assessment procedure does not produce information that indicates a possibility of suicide or other death it is not to be assumed that custody in a cell is necessarily a safe option. It is essential that in all cases an appropriate level of surveillance is maintained, and that this is undertaken in a manner which is friendly and not oppressive. It may be unacceptable, for example, for officers to disturb detainees who are asleep and who are apparently healthy, but the observations should always involve observation of the detainees' face and breathing. If there is any doubt the observations should be accompanied by a brief verbal exchange which is positive in tone. Experience shows that a high proportion of deaths occur in the first few hours of custody. Particular care is therefore needed during this period.

9. Under no circumstances is a detained person who is unconscious when received into custody (whether from the apparent effects of alcohol, drugs or any medical condition) to be left unattended for any period. Medical help should be obtained without delay.

Experience from Australia and overseas has shown that persons who are unconscious as a result of the ingestion of alcohol or drugs represent a very high risk of sudden death. This is also the case for unconsciousness due to medical conditions such as epilepsy, and there is an additional problem that in this situation even a medical practitioner may not be able to determine whether the person is drunk or sick or both. The immediate danger in these cases is the possibility that a person may die from hypothermia, from drowning in vomit, or from many other possible causes. For this reason it is imperative that such persons be kept under surveillance until either they regain consciousness and an assessment can be made or until they are medically examined.

It is not safe to assume that a person with a very high blood alcohol level is incapable of inflicting death or serious injury on himself. Recently available evidence (*see* pp. 321-49 of this volume) suggests that individual differences in tolerance to alcohol may be as important as the actual level and this is very difficult for a lay person to assess.

10. Aboriginal persons are often less able to tolerate isolation in custody than are persons of European descent and therefore single cells are to be avoided for Aboriginal detainees unless there are persuasive reasons to the contrary.

Compliance with this principle is to be achieved by the application of sensitivity and local knowledge. It is not to be assumed, for example, that all Aboriginal detainees are compatible with all others as matters of kinship and local feuds must be considered. Also, in some cases Aboriginal detainees may

state a clear preference for single cell accommodation. Nevertheless, in many cases, particularly where members of the same family or group are incarcerated, it is safer and more humane to provide for some persons to be held in dormitories or multiple person cells.

11. All prisons and police detention facilities must at all times and in every way possible endeavour to create and maintain an atmosphere that is positive and non-destructive of the human spirit.

At first glance this principle might be seen as vague and unrealistic but it is considered to be fundamentally important. No person in custody, whether it is in a police lockup, city watch-house or prison, must be allowed to believe that his or her world is at an end as a result of inactivity, boredom, frustration, shame, guilt or lack of communication. Every reasonable effort must be made to prevent the onset of depression which is a common reaction to incarceration.

It is recognised that it is generally easier to comply with this principle in prisons than it is in police facilities, but it is vital that police custodians make appropriate efforts to provide exercise, sport, work and entertainment for persons in their care. It should not, for example, be seen as over indulgent for detainees in police cells to be able to watch television through the bars of cells even though it is recognised that it would not be wise to have television sets located in the actual cells. Similarly, in many police facilities, it is standard practice for detainees who are being held for more than one or two days to be given work at cleaning, gardening or other activities. This is to be encouraged.

12. The architecture, design and furnishing of all detention facilities must be such as to reduce the possibility of death by suicide or injury.

The subject of suicide resistant architecture is relatively new in Australian experience and requires further study and research. Even at this stage of knowledge, however, some basic principles may be identified, the most important of which is that 'hanging points' in cells must be eliminated. This means that light fittings should be flush with ceilings and that bars, especially bars above one and a half metres from the floor, should be covered with a fine metal mesh on the side to which there is otherwise manual access to bars. Attention also needs to be given to the details of plumbing fittings and to traps in cell doors.

Another aspect of this general principle is the relative location of cells and the work stations of supervising officers. For all detainees in all locations it must be possible for a person in a cell to communicate with an officer, either directly by calling or indirectly by the use of an alarm system which must be maintained in operative condition. It would be regarded as reprehensible if a sick detainee were unable to summon assistance by either of these means.

The appropriate furnishing of cells also needs to be given careful consideration. Moveable furniture is to be avoided and blankets and sheets should be such that they cannot readily be torn into strips and used for hanging. (Belts, ties, football socks and sporting shoe laces should also be taken from arrested persons before they are placed in cells.)

13. All detention facilities must have resuscitation equipment readily available and staff who are trained in its use. Staff should, by reason of training, be familiar with resuscitative measures including mouth to mouth and cardiac chest massage.

Wherever persons are held in custody it is essential that staff have immediate access to resuscitation equipment and are trained in its use. As the differences between life and death in many cases may be only a matter of seconds, the appropriate equipment must be readily available and not stored in a distant location. In large police watch-houses and in prisons this means that a number of separate resuscitation units will be required.

14. Restraint methods which involve constricting air supply, specifically 'choke holds', must never be used by police and prison officers.

A small but nevertheless unacceptable number of deaths have occurred in custodial situations as a result of officers endeavouring to restrain violent detainees by the use of head locks or choke holds. The difficulties and dangers associated with the restraint of individuals who are behaving violently are recognised, but officers who face this task must be trained in methods that do not put the lives of detainees at risk. Methods which constrict the supply of air to the lungs or blood to the brain are simply too dangerous and must therefore never be used. Death due to blockage of the blood supply to the brain by pressure on the carotid arteries running up the sides of the neck may occur in seconds.

15. All detention facilities, and especially prisons in which persons are detained for lengthy periods of time, must establish and maintain appropriate procedures to ensure that non-prescription drugs and alcohol are not readily available to detainees.

It is recognised that as prisons are a part of the community they will be subjected to similar pressures that apply to the general community. It may therefore be unrealistic to expect that no drugs or alcohol will ever be found in prisons. It is also recognised that contact visits between families and prisoners and the presence of other visitors make it difficult to prevent the entry of all

contraband. Nevertheless, comprehensive security programs which make it extremely difficult for any prisoner to have access to drugs or alcohol must be developed and rigorously enforced in all institutions. Any stated or unstated assumption by prison staff to the effect that the availability of drugs should be tolerated as this keeps prisoners docile is to be most vigorously condemned.

In developing security programs, consideration should be given to surveillance and searching procedures (particularly before, during and after visits), the use of sniffer dogs and the use of urine testing, either on a random or directed basis. As a complementary aspect to security programs, it is essential that prisons have anti-drug education and counselling programs, including methadone programs with sufficient places to meet the demand. Care must be taken to ensure that all prison programs that aim to prevent the availability of drugs and alcohol do not contribute unreasonably to the oppressive nature of the prison regime.

16. Standing orders relating to the use of firearms to effect arrests or to prevent escapes must stress that shots may only be fired to prevent the imminent death or serious injury of another person or to prevent serious public anxiety, and wherever possible such shots should be non-lethal.

Debate on the appropriate use of firearms by police and prison officers has been so prolonged and is so complex that it cannot be adequately summarised here. There is wide agreement, however, that potentially lethal force should only be used when there is absolutely no other way to prevent death or serious injury of another person or to prevent serious public anxiety. The prevention of serious public anxiety is admittedly a vague term but it is used to cover situations where, for example, a notorious multiple rapist or murderer is seen climbing a prison wall and there is no other reasonable method of thwarting his escape. In such a case, a prison officer would be expected to use his firearm even though there is no immediate threat of death or serious injury to another person. If possible, the shot or shots fired by the prison officer should aim to stop rather than to kill the prisoner.

In this case there would clearly be serious public anxiety if the prisoner had escaped and if little or nothing had been done to prevent it. At the other extreme it could not be argued that there would be serious public anxiety if a juvenile car thief avoided apprehension by running away from police. On the contrary, there would be considerable public anxiety if police used firearms in such a situation.

It is recognised that there is a vast number of potential situations that fall between these two extremes. No absolute rules can be laid down except that extreme caution must be applied to the use of firearms in any situation. If there is doubt about the justification, shots should not be discharged.

17. On any occasion that a person is found dead in custody the first priority for the officer finding the body must be to attempt resuscitation and to seek medical assistance. The second priority is to make appropriate arrangements for the sensitive notification of the death to relatives. The third priority is to preserve the scene of the death for forensic investigation and for full police and coronial inquiries.

This principle aims to resolve the understandable dilemma that confronts any custodial officer when he or she discovers a detainee who is apparently dead. While it is recognised that subsequent investigations and inquiries into the cause and circumstances of the death would be greatly assisted if the location and the body were untouched until photographs have been taken and a forensic examination has been conducted, it is even more important that resuscitation be attempted immediately, as many persons who are apparently dead can be revived. It is also important that sensitive action be taken to notify relatives of the deceased, but notification, including identification of the body, should not impede the forensic work even though notification is given higher priority.

18. Every investigation into a death in custody must be led by a police officer of commissioned rank, and that officer must liaise with, and ultimately report to, a legal practitioner who will assist the Coroner in his or her inquiry. Furthermore, the Coroner should oversee every stage of the investigation and expert pathologists and forensic scientists should be available.

In order to maintain public confidence in the objectivity and intensity of investigations into deaths in custody, it is important that the police officer in charge of the investigation should be at the rank of Inspector or above. Furthermore, the person assisting the Coroner in these cases should not be a police sergeant as is currently the case in most Australian jurisdictions, but an experienced legal practitioner appointed by either the Crown Solicitor or the Director of Public Prosecutions. Such an arrangement would ensure that a high level of investigative and legal expertise is focussed on each case.

It is also proposed, but not at this stage stated as an inflexible principle, that the Coroner, who should be legally qualified and who should also have extensive court experience, should become involved in the investigation at an early stage. The Coroner should, if practicable, visit the scene of the death and give such directions to investigating police as he or she deems appropriate. Such directions could relate to the type and intensity of the forensic examination to be pursued, the conduct of the post mortem examination, the

collection of other medical or psychiatric evidence, the persons to be interviewed, and the lines of inquiry to be followed.

Post mortem examinations should always be conducted by specialist pathologists who will pay particular attention to any signs of bruising or other injury. Colour photographs of the body and the location should always be taken by an expert photographer. Furthermore, appropriate arrangements should be made to ensure that the clothing and other personal property of the deceased are retained for later examination.

19. Every Coronial inquiry into a death in custody must, in addition to establishing the facts of the particular case, review the practices and procedures of the relevant police and prison facilities with a view to reducing the possibility of similar deaths occurring in the future.

The aim of this principle is to ensure that all Coronial inquiries into deaths in custody adopt a preventative approach as well as focus on the particular case.

20. Small police stations in remote areas may have difficulty in applying these principles comprehensively and rigorously, but every effort must be made to do so.

This is self-explanatory. Police officers in remote areas will need to use their creativity to devise methods and procedures that ensure maximum compliance with these principles. In particular, it will be necessary for considerable use to be made of the goodwill of responsible members of the local community.

April 1988

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RESEARCH PAPER NO. 3

Public Drunkenness - Australian Law and Practice

Jillian Brewer

The law relating to public drunkenness and police practices in enforcing the law are not uniform around Australia (*see* Appendix 3.1). Drunkenness is not an offence in New South Wales, South Australia, Tasmania, the Northern Territory or the Australian Capital Territory. The Western Australian Government regards the decriminalisation of drunkenness as an issue of high priority. In Victoria and Queensland, however, intoxicated persons may be arrested by the police and charged with an offence.

In May 1988 the 15th meeting of the Australian Police Ministers' Council resolved to implement a series of moves aimed at preventing Aboriginal deaths in custody. Among these moves was a recommendation that police not hold in custody Aboriginal people found drunk in public except where the person behaves violently or continues to commit an offence. Whether detention is necessary is to be a matter for the arresting officer to decide. Where it is necessary to detain a person, bail or surety should be arranged as soon as possible. The Ministers also agreed to the implementation of a 'visitors scheme' whereby Aboriginal community members are able to visit Aboriginal people in custody.

The Chairman, Mr Gunn, in announcing the decision on behalf of the Council said that the states would implement the moves individually. It is therefore uncertain when a more uniform approach to drunkenness will be seen around Australia.

A principal mechanism for reducing numbers of people held in police custody is the decriminalisation of drunkenness. However, it should be noted at the outset that decriminalisation does not mean that intoxicated people are no longer picked up by the police. In fact, statistics show that in the jurisdictions where drunkenness has been decriminalised the number of people being detained after decriminalisation has risen rather than fallen.

Facilities for holding intoxicated persons also vary between the states and territories. In the Northern Territory and New South Wales 'sobering-up' centres have been established to house intoxicated persons. South Australian police are able to take some intoxicated persons to the Salvation Army hostel in Adelaide, but most spend their sobering-up time in the cells. Other states have no alternative to police cells and it is to these that people are taken, whether or not they are ultimately to be charged with an offence.

This paper presents the law relating to public drunkenness in each jurisdiction as it now stands together with police practices in enforcing the law.

Unfortunately there is no uniform collection of police statistics around Australia so comparison between the jurisdictions is difficult. This paper draws on information collected from a variety of sources, including court statistics, police statistics and information collected by drug and alcohol agencies. Some jurisdictions provide a breakdown of figures into Aboriginal and non-Aboriginal persons. Where this information is available, it has been included.

While the information contained in this paper may give an indication of the number of people taken to cells or other accommodation by the police, it does not present a totally accurate picture of the prevalence of public drunkenness in Australia. Police in all jurisdictions do take intoxicated persons directly to their homes on occasions and no record of this 'courtesy service' is kept. Likewise in Victoria, where public drunkenness is still an offence, Aboriginal communities and police cooperate to ensure that Aboriginal people found drunk are not detained by police or charged, but instead are taken into care by the Aboriginal Cooperatives. In Queensland many Aboriginal communities have their own by-laws to deal with drunkenness and actions by the community police are not recorded.

New South Wales

Prior to March 1980 it was a criminal offence in New South Wales to be found drunk in a public place. The *Summary Offences Act 1970* prescribed a maximum penalty of $10 or up to 48 hours imprisonment on default. The period of detention after arrest varied from person to person depending on the time taken to sober up. When he or she was considered sober enough to be released, bail was granted, usually on lodgement of $1.00. The detainee was able to avoid a court appearance by forfeiting bail. In 1978 approximately 80 per cent of cases were disposed of in this manner.

On 17 March 1980 the *Intoxicated Persons Act 1979* took effect in NSW thereby decriminalising drunkenness. That Act provides that a police officer or other authorised person may detain and take to a 'proclaimed place' people found intoxicated in public places and either behaving in a disorderly manner, behaving in a way likely to cause injury to themselves, other persons or to property, or who are incapable of taking care of themselves.

'Proclaimed places' consist of all police stations in New South Wales and non-government agencies which have applied to become proclaimed places. Juveniles who are picked up under the Act may also be taken to remand shelters run by the Department of Family and Community Services. The Regulations are drafted in such a way that as new premises become available, they may be added to the list. In 1985 the Act was amended to take advantage of the increasing availability of proclaimed places other than police stations. The amendment provides that an intoxicated person shall not be detained in a police station unless:

- no other proclaimed place with adequate detention facilities is close by;

- it is impracticable by reason of distance or the unavailability of necessary resources to take the intoxicated person to his or her home;

- the intoxicated person has been refused entry into a proclaimed place; or
- it is otherwise impracticable to take the intoxicated person to a proclaimed place other than a police station.

The intoxicated person may be detained for eight hours or until he or she ceases to be intoxicated (whichever occurs first). The Act also provides that he or she may be released before the expiry of the eight-hour period into the care of a responsible person, unless the responsible person is intoxicated or incapacitated in some other way or the apprehended person is behaving violently or does not wish to be released into the care of the responsible person.

Detentions before and after introduction of Intoxicated Persons Act

The number of convictions under the Summary Offences Act for the period 1975 to 1979 and the number of detentions under the Intoxicated Persons Act from 1980 to 1986 are shown in Table 3.1.

Convictions for public drunkenness under the Summary Offences Act varied between 54,928 (or 11.1 per 1,000 population) in 1976 and 41,375 (8.1 per 1,000 population) in 1979.

The number of detentions and receptions rose after the introduction of the Intoxicated Persons Act on 17 March 1980. In its first nine months of operation, 47,477 people were detained. Projecting this for a twelve-month period gives an estimate figure of 59,000—a rise of approximately 40 per cent on the 1979 figure. The number of detentions rose a further 21 per cent in 1981 to 71,396 and peaked in 1985 with a total of 106,309 detentions. In 1986 the figure dropped again to 95,911.

Place of detention (Intoxicated Persons Act)

Initially in many areas there was no alternative to police cells and most intoxicated persons were detained in cells rather than by voluntary agencies (which preferred to avoid detentions and accepted mainly self-referrals). Table 3.2 shows the numbers of detentions under the Intoxicated Persons Act by the type of proclaimed place to which the person is taken (*see also* Figure 3.1).

In 1981, of the 71,396 intoxicated people detained or received, 43,459 (60.9 per cent) were held in police stations. With each successive year this percentage has dropped. In 1986, the latest year for which figures are available, 95,911 people were detained. Of those, 72,295 (or 75.4 per cent) were taken to places other than police stations, while only 23,616 (24.6 per cent) were held in cells.

TABLE 3.1

Drunkenness Convictions under *Summary Offences Act,* 1975-79 and Detentions under *Intoxicated Persons Act,* NSW, 1980-86

Year	*Persons*	*Rate per 1,000 Population*
1975	52,542	10.64
1976	54,928	11.07
1977	46,450	9.28
1978	50,387	9.97
1979	41,375	8.10
1980*	59,000	11.14
1981	71,396	13.63
1982	72,550	13.69
1982	80,050	14.95
1984	76,696	14.20
1985	106,309	19.45
1986	95,911	17.09

*Projected figure for 12-month period taken from 9 month's data. *Intoxicated Persons Act* introduced 17 March 1980.

Source: NSW Bureau of Crime Statistics and Research: *Intoxicated Persons Act 1981*, and *Detentions Under the Intoxicated Persons Act During 1986*; Australian Bureau of Statistics: Mean population NSW.

TABLE 3.2

Detentions and Receptions under *Intoxicated Persons Act,* by Type of Proclaimed Place, NSW, 1980-86

	Police Station		*Other*		*Total*	
Year	*No.*	*%*	*No.*	*%*	*No.*	*%*
1980*	37,500	63.6	21,500	36.4	59,000	100.0
1981	43,459	60.9	27,937	39.1	71,396	100.0
1982	37,901	52.2	34,649	47.8	72,550	100.0
1983	37,711	47.1	42,339	52.9	80,050	100.0
1984	30,780	40.1	45,916	59.9	76,696	100.0
1985	30,989	29.1	75,320	70.9	106,309	100.0
1986	23,616	24.6	72,295	75.4	95,911	100.0

*Figure projected for 12-month period from data collected over 9 months.

Source: NSW Bureau of Crime Statistics and Research: *Intoxicated Persons Act 1981, Detentions Under the Intoxicated Persons Act During 1986.*

When the figures for 1986 are examined according to Aboriginality (Table 3.3), it can be seen that Aboriginal people are held in police cells proportionally more often than non-Aboriginal people. In 1986, 28 per cent of Aboriginal people found drunk were taken to police stations while only 19.3 per cent of non-Aboriginal people were detained in the cells.

FIGURE 3.1
Detentions and Receptions under *Intoxicated Persons Act,* by Type of Proclaimed Place, NSW, 1980-86

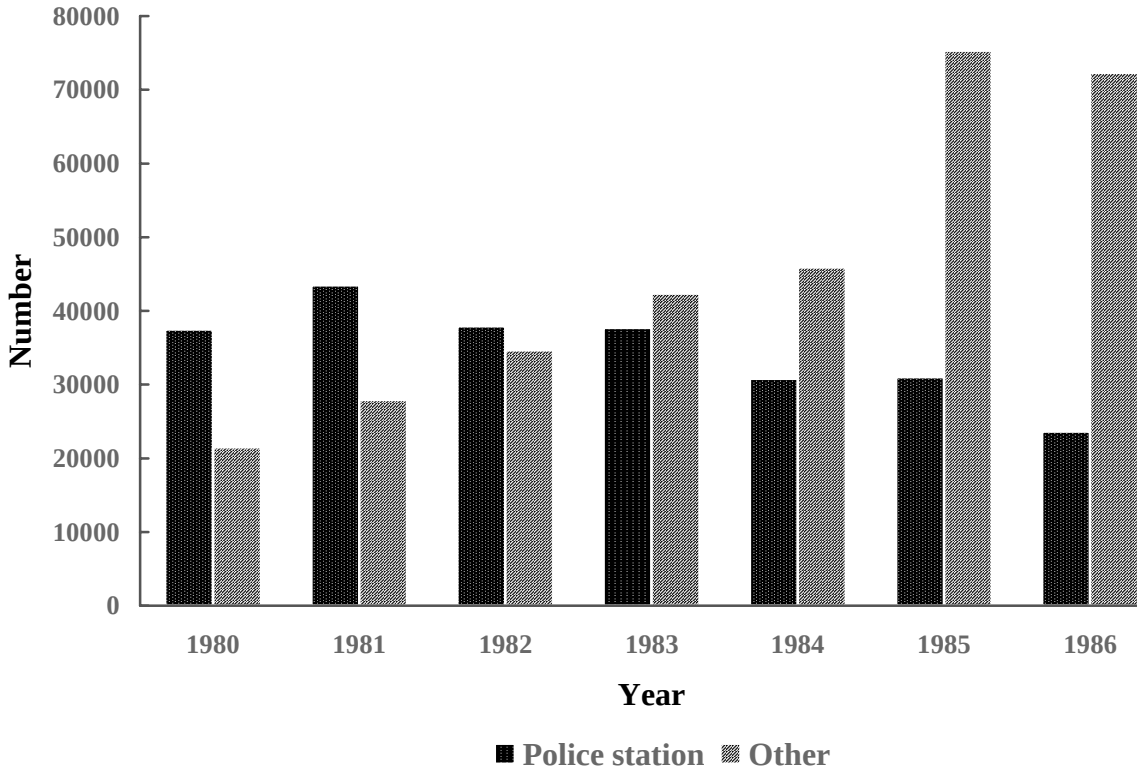


TABLE 3.3
Detentions and Receptions under *Intoxicated Persons Act* by Type of Proclaimed Place and Aboriginality, NSW, 1986

	Aboriginal		*Non-Aboriginal*		*Unknown*	
	No.	*%*	*No.*	*%*	*No.*	*%*
Police Station	4,459	28.3	14,300	19.3	4,857	77.8
Other	11,278	71.7	59,632	80.7	1,385	22.2
Total	15,737	100.0	73,932	100.0	6,242	100.0

A study conducted by Trevor Milne (1981) of the NSW Bureau of Crime Statistics and Research of conviction rates under the Summary Offences Act has shown that arrest rates for drunkenness in 'Aboriginal towns' (ten local Government areas in New South Wales with the highest percentage of Aboriginal people) during the period 1974 to 1979 was fourteen times higher than for the state as a whole (*see* Table 3.4).

Following the introduction of the new Act, the rate of detention of Aboriginal persons continued to be higher than the rate for the state as a whole. In 1980, the rate for New South Wales as a whole was 11.14 per 1,000, while for Aboriginal people the rate was 220.0 per 1,000. The trend continued until 1986 with a total of 268 detentions of Aboriginal people per 1,000 of Aboriginal population compared with 19.5 for the state as a whole.

TABLE 3.4
Rates of Appearances per 1,000 Population for Public Drunkenness in Aboriginal Towns and NSW as a Whole, 1974-79

	1974	*1975*	*1976*	*1977*	*1978*	*1979*
Aboriginal Towns	84.5	116.8	122.8	170.1	150.3	137.9
NSW Total	10.0	10.4	10.8	9.2	9.9	8.2

Source: Milne, T. 1981, Aboriginal Drunkenness and Discrimination, New South Wales Bureau of Crime Statistics and Research, Paper presented at the Australian Psychological Society Conference, Macquarie University, 24 August.

The rate of detentions among Aboriginal persons varies between statistical divisions of the state. Areas recording the highest rates in 1986 were the North-Western, Far-West, Northern and Sydney regions. In the North-West Division in 1986, 8,066 detentions of Aboriginal people were recorded (51 per cent of all detentions in the region), giving a rate of detention of 944.8 per 1,000 Aboriginal people. The Illawarra region recorded the lowest rate with a rate of 43.4 detentions per 1,000 Aboriginal population (0.9 per cent of total detentions for the area). Rates of detention by statistical division for the years 1980, 1981 and 1986 are shown in Table 3.5.

TABLE 3.5
Rates of Detention per 1,000 Aboriginal Population under *Intoxicated Persons Act* by Statistical Division, New South Wales, 1980, 1981, 1986

	1980		*1981*		*1986*	
Statistical Division	*No.*	*Rate*	*No.*	*Rate*	*No.*	*Rate*
Sydney	942	65.11	1,534	152.6	3,938	211.8
Hunter	152	75.70	164	91.3	255	66.4
Illawarra	46	23.51	115	74.1	128	43.4
Richmond Tweed	139	100.14	166	101.0	285	104.7
Mid North Coast	110	48.89	129	45.6	340	76.9
Northern	561	109.96	687	133.7	1,636	225.5
North-Western	5,775	921.93	7,899	1,256.9	8,066	944.8
Central West	298	179.30	311	199.0	336	108.9
South West	76	51.84	122	95.4	105	48.8
Murrumbidgee	83	54.93	208	144.6	156	56.8
Murray	169	153.78	305	312.0	189	124.0
Far West	537	678.89	600	715.1	379	324.7
Total	8,888	219.00	12,240	346.2	15,813	267.9

Victoria

In the state of Victoria it is an offence under the *Summary Offences Act 1966* to be found drunk (section 13) or drunk and disorderly (section 14) in a public place. Section 13 carries a penalty of $100 and section 14, $100 (or three days imprisonment for a second offence). Section 16 of the Act provides that a person who is convicted for drunkenness for the fourth time in a six-month period is liable to imprisonment for 12 months.

A person who is found drunk under Section 13 may be arrested by the police and lodged 'in safe custody'. All persons picked up under these provisions are detained in police cells, as no alternative accommodation is available in the state.

Numbers of persons arrested for the offences of being drunk or drunk and disorderly in Victoria for the period 1982 to 1986/87 are shown in Table 3.6.

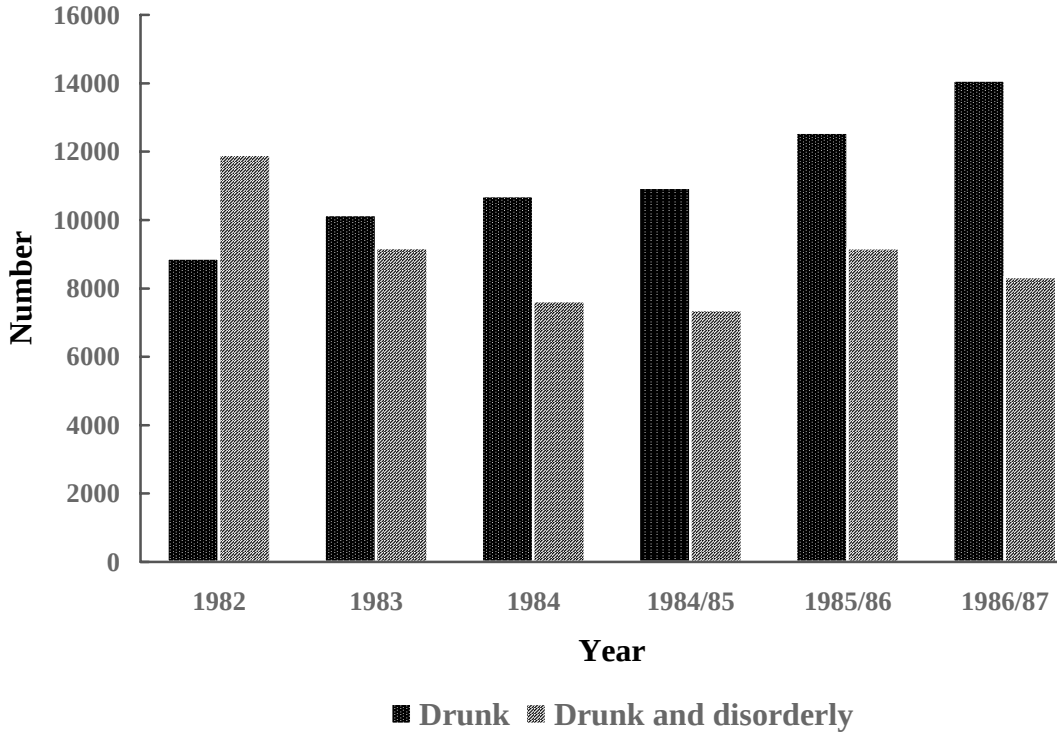
TABLE 3.6
Arrests for Drunkenness Offences, Victoria, 1982-86/87

Year	*Drunk*	*Drunk and Disorderly*	*Total*	*Rate per 1,000 Population*
1982	8,876	11,905	20,781	5.21
1983	10,150	9,182	19,332	4.79
1984	10,697	7,631	18,318	4.49
1984/85	10,946	7,366	18,312	4.47
1985/86	12,556	9,172	21,728	5.25
1986/87	14,084	8,328	22,412	5.35

Source: Victoria Police records

Arrests for drunkenness have increased by 58.7 per cent since 1982 while arrests for being drunk and disorderly have decreased by 30 per cent (*see* Figure 3.2). Overall arrests dropped by 11.9 per cent between 1982 and 1985, but rose again in the following two years.

FIGURE 3.2
Arrests for Drunkenness Offences, Victoria, 1982-86/87



The Victoria Police have recommended a review of the offence of public intoxication with a view to repealing the section. The need to develop alternative methods of dealing with intoxicated persons has also been stressed.

In the meantime one area within the state has implemented a program aimed at diverting Aboriginal people who are found drunk in public places away from the cells and the courts. In Mildura a joint Police-Aboriginal Cooperative effort called the 'Bacchus Program' has operated since October 1987. Police who locate intoxicated Aboriginal people contact the Cooperative and wait for the arrival of a Cooperative vehicle before giving the intoxicated person the option of arrest or being taken away by the Cooperative. People who are violent, persistent offenders or who refuse to be taken by the Cooperative are arrested. At times when the Cooperative is unable to be contacted the person is taken to the police station and detained there. Police at the Mildura station estimate that some 90 per cent of Aboriginal people found drunk since the commencement of the Bacchus Program have been attended to by the Cooperative. There are plans to extend this program to other areas of Victoria.

Queensland

Section 81 of the *Liquor Act 1912-85* provides that a police officer may arrest any person found drunk in a public place and detain that person until brought before a court. The maximum penalty for drunkenness is $20 or one month imprisonment in default.

Queensland has no sobering-up centres and so all people who are detained by police for intoxication are held in police cells.

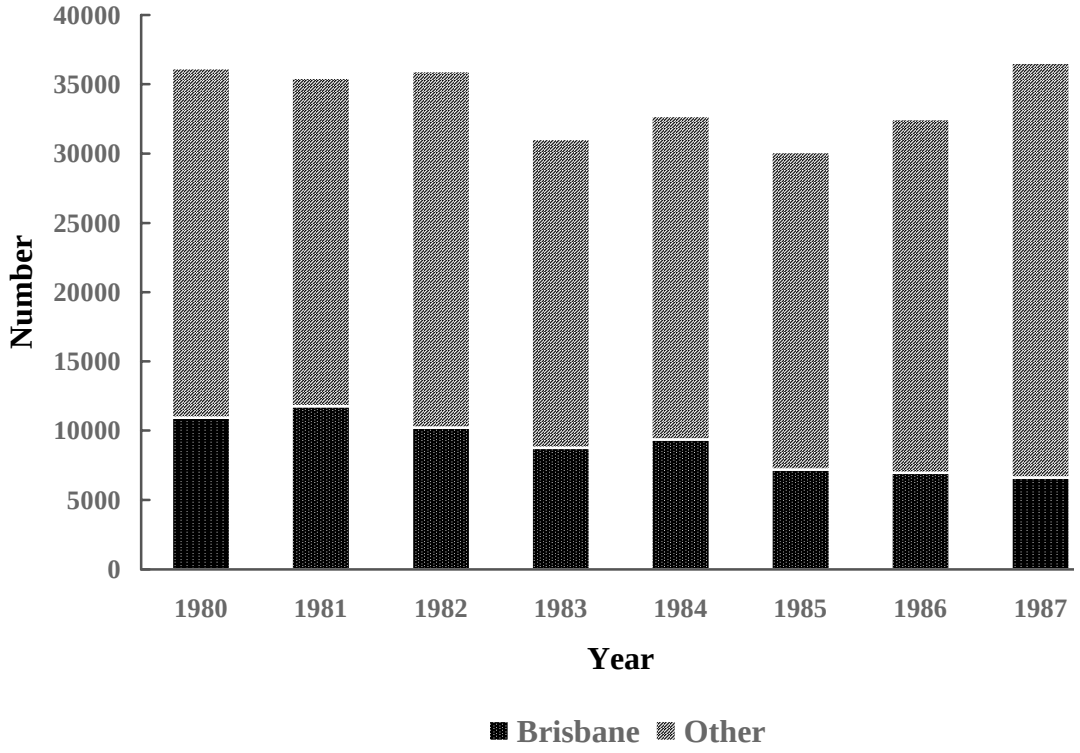
Table 3.7 shows arrests for drunkenness in Brisbane and for Queensland as a whole for the period 1980 to 1987 (*see also* Figure 3.3).

TABLE 3.7
Arrests for Drunkenness under Section 81 of the *Liquor Act*, Queensland, 1980-87

Year	*Brisbane*	*Other Locations*	*Total*	*Rate per 1,000 Population*
1980	10,922	25,239	36,161	15.95
1981	11,767	23,698	35,465	15.13
1982	10,213	25,719	35,932	14.82
1983	8,759	22,304	31,063	12.52
1984	9,363	23,357	32,720	12.96
1985	7,191	22,909	30,100	11.71
1986	6,957	25,517	32,474	12.38
1987	6,608	29,943	36,551	13.65

Source: Queensland Police Department *Annual Reports*

FIGURE 3.3
Arrests for Drunkenness under Section 81 of the *Liquor Act*, Queensland, 1980-87



While arrests for drunkenness in Brisbane have decreased each year since 1981, the state as a whole has not seen a significant change in the long term. Non-Brisbane areas recorded a fall of 11.6 per cent between 1980 and 1983 followed by a rise of 34.2 per cent in drunkenness arrests since 1983.

The Queensland Police Department advises that these figures do not represent the total numbers of people found drunk in Queensland. Most Aboriginal communities have by-laws for the peace and good order of their communities and have appointed Aboriginal police to maintain peace and good order. Such by-laws cover drunkenness and most arrests for drunkenness in these communities would therefore be made by Aboriginal police. Section 81 does, however, apply in Aboriginal communities and members of the Queensland police force who are within the area of a community may arrest anyone found offending against the section. Figures on the number of people detained under such by-laws are not kept.

In Aurukun the position is slightly different, in that the Shire has no by-laws in relation to peace and good order. All arrests for drunkenness are therefore effected by members of the Queensland police force with assistance from Aboriginal police. Table 3.8 shows the number of charges for drunkenness brought to court at Aurukun for the years 1984 to 1987.

TABLE 3.8
Charges brought to Court for Drunkenness in Aurukun, 1984-87

Year	*No.*
1984	290
1985	447
1986	428
1987	508

Source: Aurukun Court Register

General Instruction 1.101 of the Queensland Policeman's Manual suggests action to be taken by police members finding a person drunk in a public place. Police are advised to arrest only those persons who are found in a drunken sleep, helplessly intoxicated, unable to walk without staggering, bumping into shop windows, and so on, creating a nuisance or who are a danger to themselves or road users. People who have been drinking but are able to take care of themselves, in the company of sober friends prepared to take care of them, or who are not likely to disturb others are not to be arrested.

Western Australia

The *Police Act 1892-1982* provides that a person who is found drunk in a public place is liable to a fine of $10 or seven days imprisonment. Second and subsequent offences increase the penalty to $25 or twenty-one days. Intoxicated persons who are not taken home by the police are taken to police cells to sober up as there are no sobering-up centres in the state.

Unfortunately, the Western Australian Police do not collect statistics showing numbers of people arrested for drunkenness. Statistics compiled by the Australian Bureau of Statistics for charges heard in the Magistrate's Courts show little change in the rates of arrest in the six-year period from 1975 to 1980 (*see* Table 3.9).

TABLE 3.9
Charges Laid for Drunkenness and Habitual Drunkenness, Western Australia, 1975-80

Year	*Drunk*	*Habitual Drunk*	*Total*	*Rate per 1,000 Population*
1975	13,128	105	13,233	11.45
1976	10,923	58	10,981	9.31
1977	11,165	50	11,215	9.31
1978	12,264	42	12,306	10.07
1979	11,754	49	11,803	9.46
1980*	13,513	33	13,546	10.67

*In 1980 a total of 9,500 charges for drunkenness and 28 charges for habitual drunkenness were laid against Aboriginal persons.

Source: Australian Bureau of Statistics

Between 1981 and 1983 the Australian Bureau of Statistics recorded drunkenness charges under the general heading 'offensive behaviour offences'. From the figures available it is not possible to determine how many charges related to drunkenness.

In 1983/84 a total of 13,665 drunkenness charges were heard (giving a rate of 9.9 charges per 1,000 people) and 13,275 convictions were recorded, with 11,486 (or 86.5 per cent) of those convictions being recorded against Aboriginal people. Similarly, in 1984/85, 13,447 of the 13,913 charges heard resulted in a conviction being recorded and 12,218 of those convictions (or 90.9 per cent) were against Aboriginal people. The rate of charges per 1,000 persons in that year was 9.91.

The Western Australian Government has stated its intention to introduce into Parliament during 1988 legislation to decriminalise drunkenness and to introduce a scheme similar to the one operating in the Northern Territory. It is envisaged that with the repeal of sections 53 (Public drunkenness) and 65(6) (Habitual drunkenness) of the Police Act will be the establishment of sobering-up centres. An intoxicated person may either before or after receival into a lockup be released into the care of someone capable of taking care of the person. The person may be held in custody for six hours, or for a lesser period if he or she sobers up. This move follows recommendations of the *Report of the Interim Inquiry into Deaths in Custody* (Western Australia 1988, the *Vincent Report*). A visitors' scheme, whereby Aboriginal community members can visit Aboriginal people picked up by the police and held in police cells is already in operation in some areas of the state.

South Australia

Public drunkenness was decriminalised in South Australia in 1984 with the introduction of the *Public Intoxication Act 1984*, which took effect on 3 September in that year. Prior to this time public drunkenness was an offence under the *Police Offences Act 1953*. The offender could be apprehended and kept in custody until trial. South Australian Statutes had since 1976 specified that drunkenness should not be treated as an offence, but a lack of appropriate welfare facilities coupled with changes in government prevented the legislation from being brought into effect.

Under section 7 of the Public Intoxication Act, police officers are empowered to apprehend people found drunk and unable to take proper care of themselves in public places and take them home, to a police station, to a sobering-up centre or to a place approved by the Minister.

A person held at a police station is to be discharged as soon as he or she is sober or after a period of 10 hours (whichever occurs first). If after the expiration of 10 hours the person is still considered drunk, the police must arrange for transfer to a sobering-up centre for admission as a patient. The maximum period for detention at a sobering-up centre is 18 hours from the time of apprehension. The police officer in charge of a police station may release the detained person at any time if the officer feels that that person has recovered sufficiently to take care of himself.

At the request of a solicitor, the person may be discharged at any stage, though still drunk, into the care of a friend or relative. There are no recorded cases of this happening.

Arrests and court appearances prior to decriminalisation

During the first six months of 1984, the rate of drunkenness arrests for the state as a whole was approximately 1.9 per thousand people. Aboriginal people, while accounting for less than 1 per cent of South Australia's adult population, appeared at a rate of over 60 times the state average, with Aboriginal males appearing at a rate of 220.5 per thousand. Non-Aboriginal males appeared at a rate of 2.3 per thousand. Overall, 40 per cent of total charges were laid against Aboriginal people (*see* Table 3.10).

TABLE 3.10

Scheduled Appearances for Drunkenness in South Australian Courts of Summary Jurisdiction, 1 January-30 June 1987 by Aboriginality and Sex

	Aboriginal		*Non-Aboriginal*		*Total*	
Sex	*No.*	*Rate per 1,000 pop.*	*No.*	*Rate per 1,000 pop.*	*No.*	*Rate per 1,000 pop.*
Male	637	220.5	1,050	2.3	1,687	3.6
Female	154	52.0	43	0.0	197	0.4

Source: South Australian Office of Crime Statistics 1986, *Decriminalising Drunkenness in South Australia*, South Australia.

Following apprehension, most people had obtained pre-trial release by the time of their last scheduled court appearance. However, of the 9 per cent who did not, a disproportionate number were of Aboriginal background or from country areas. Of the total Aboriginal detainees, 11.4 per cent were remanded in custody until the court appearance compared to 7.4 per cent of non-Aboriginal people arrested.

Outcomes of court appearances and penalties imposed for the period also showed significant variation as between Aboriginal and non-Aboriginal offenders. Approximately 76 per cent of Aboriginal people appearing were convicted of offences (with just over half of those receiving prison sentences) while 60 per cent of non-Aboriginal people were convicted (approximately 31 per cent of these people were given prison sentences). In the two years to 30 June 1984, a total of 45 drunkenness offenders received prison sentences. Of these, 28 (62 per cent) were Aboriginal. Added to the number of convictions is the number of persons who went to gaol because they were unable to pay fines. It is estimated that prior to decriminalisation, defaulters of fines for drunkenness were received by South Australian prisons at a rate of approximately 560 per year (SA Office of Crime Statistics 1986).

Detentions following decriminalisation

A study conducted by the South Australian Office of Crime Statistics in 1986 using data supplied by the Drug and Alcohol Services Council indicated that in the first six months of the Intoxicated Persons Act's operation, rates of apprehension for public drunkenness rose in the state. Detentions under the Act were 46 per cent higher than total apprehensions when drunkenness was a criminal offence. The increase has continued each year since the Act's introduction. Aboriginal people, who were over-represented in court appearances before decriminalisation, were particularly affected by the increase.

Ninety-four per cent of people picked up under the Public Intoxication Act were detained in police cells with very few taken home or to hospitals or sobering-up centres. Of the 2,831 people detained under the Act between March and August 1985 (*see* Table 3.11), only 62 spent any time in a sobering-up centre or hospital. Detention periods varied significantly with Aboriginal people and people detained in country areas being held for generally longer periods.

TABLE 3.11
Detentions under *Public Intoxication Act,* SA, by Aboriginality and Sex, 1 March-31 August 1985

	Aboriginal		*Non-Aboriginal*		*Total**	
Sex	*No.*	*Rate per 1,000 pop.*	*No.*	*Rate per 1,000 pop.*	*No.*	*Rate per 1,000 pop.*
Male	921	318.9	1,366	3.0	2,287	3.4
Female	218	73.7	82	0.2	300	0.4

*244 people of unknown Aboriginality and sex were also detained, giving a total of 2,831 detentions for the period.

TABLE 3.12
Apprehensions under *Public Intoxication Act* by Area, selected Police Stations and Aboriginality, SA, 1986/87

	Non-Aboriginal		*Aboriginal*		*Not stated*		*Total*	
Area/Police Station	*No.*	*%*	*No.*	*%*	*No.*	*%*	*No.*	*%*
Metropolitan	2,955	73	1,004	26	114	2	4,073	101
Port Adelaide	824	76	249	23	11	1	1,084	100
City Watch-house	1,311	66	625	32	45	2	1,981	100
Country	1,356	35	2,393	62	92	3	3,841	100
Port Augusta	158	16	829	83	11	1	998	100
Ceduna	9	2	519	97	4	1	532	100
Coober Pedy	35	8	392	91	5	1	432	100
Whyalla	186	65	97	34	4	1	287	100
Total	4,311	54	3,397	43	206	3	7,914	100

Source: Drug and Alcohol Services Council.

Recent figures show that Aboriginal people in South Australia are still over-represented in terms of the number of detentions. Table 3.12 shows the

number of apprehensions by area and selected police station for the year 1986/87.

In 1986/87 a total of 7,914 apprehensions were recorded in South Australia giving a rate of 5.63 per 1,000 people. Forty-three per cent of these apprehensions involved Aboriginal people. Since 1984 and the decriminalisation of drunkenness, apprehension rates for Aboriginal people have increased by 115 per cent with a corresponding rise of 97 per cent for non-Aboriginal people.

It is still the case that very few people in South Australia are taken to places other than police cells. Some are taken to and cared for by the Salvation Army in Adelaide, but the number is small.

Tasmania

While public drunkenness is not an offence in Tasmania, section 4 of the *Police Offences Act 1935* provides that a person who is found in a public place drunk and incapable of taking care of himself or drunk and behaving in a disorderly manner or drunk in charge of any vehicle or animal or in possession of firearms and ammunition or of any other dangerous weapon, is guilty of an offence. People who are picked up by the police under section 4 and who are not taken home are detained in police cells. Figures are not available for the number of people picked up by police, but court statistics are available to show how many people are brought before the courts on charges 'involving drunkenness'.

Between 1982 and 1986 there was a 64 per cent increase in the number of drunkenness charges heard in Magistrate's Courts (*see* Table 3.13) and an overall increase of 65.6 per cent in drunkenness charges laid throughout the state.

TABLE 3.13
Charges Involving Drunkenness heard in Magistrate's Court, Tasmania, 1982-86

	Magistrate's Court	*Rate per 1,000 Population*
1982	752	1.7
1983	972	2.2
1984	1,053	2.4
1985	1,035	2.3
1986	1,232	2.7

Source: Australian Bureau of Statistics

Northern Territory

Public drunkenness was decriminalised in the Northern Territory in 1975. Section 128 of the *Police Administration Act 1979* provides that where a member of the police force has reasonable cause to believe that a person in a public place is intoxicated the member may apprehend and hold that person in protective custody. The police may at any time release the person into the care of someone considered capable of caring for him or her. A person apprehended under section 128 may at any time request to be taken before a justice in order to make an application for release.

When the person is sober, or after the expiration of 6 hours, the person is to be released without bail and without having been charged with an offence. If the apprehended person appears to be still drunk after 6 hours, the police must release him or have him appear before a justice who will determine whether the person is to be released or remain in custody.

Table 3.14 shows the total number of protective custodies in the Northern Territory for the period 1981 to 1987. The number of Aboriginal people taken into custody increased by 50.7 per cent between 1981 and 1987 while the corresponding increase for non-Aboriginal people was 93 per cent. The number of non-Aboriginal people held in custody is, however, relatively low.

TABLE 3.14
Protective Custody Detentions under s. 128 *Police Administration Act,* NT, 1981-87

	Aboriginal		*Non-Aboriginal*		*Total*		
							Rate Per 1,000
	No.	*%*	*No.*	*%*	*No.*	*%*	*Population*
1981	12,312	88.2	1,645	11.8	13,957	100	117.5
1982	14,703	89.3	1,758	10.7	16,461	100	118.2
1983	15,428	89.7	1,780	10.3	17,208	100	136.3
1984	16,749	90.7	1,719	9.3	18,468	100	129.8
1985	18,138	89.2	2,200	10.8	20,338	100	136.9
1986	18,134	85.7	3,028	14.3	21,162	100	137.1
1987	18,560	85.3	3,176	14.7	21,736	100	138.6

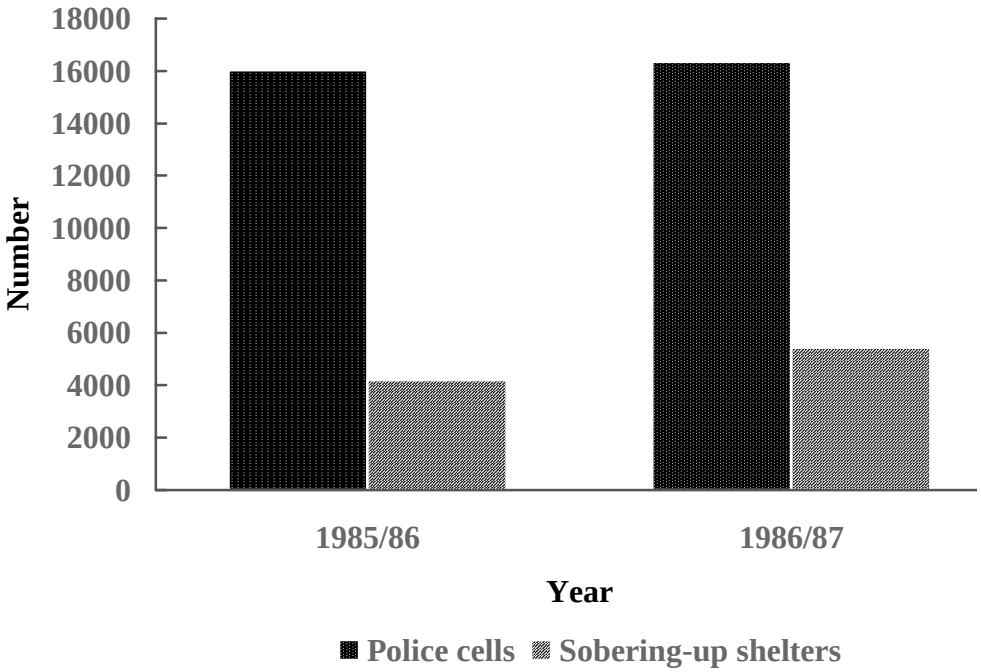
Source: Northern Territory Police

Figure 3.4 shows numbers of people taken to police cells and sobering-up centres in 1985/86 and 1986/87. In both years the majority of people held in protective custody were held in police cells (79 per cent in 1985/86 and 75 per cent in the following year).

A slightly greater proportion of Aboriginal than non-Aboriginal people are taken into sobering-up centres. In 1985/86 some 22 per cent of Aboriginal people held in custody were taken to sobering-up centres while only 14.8 per

cent of non-Aboriginal people were held in centres. In the following year 26.2 per cent or Aboriginal people and 22 per cent of non-Aboriginal people detained were kept in centres until they were sober. As the Northern Territory has only two sobering-up centres (in Alice Springs, and Tennant Creek), the Territory-wide figures may give a somewhat distorted picture of the situation. (A sobering-up shelter which formerly operated in Darwin was closed in August 1987.) Table 3.15 shows the numbers of apprehensions in the three centres with shelters for the years 1985/86 and 1986/87.

FIGURE 3.4
Protective Custody Apprehensions by Place of Detention, Northern Territory, 1985/86-1986/87



In Tennant Creek, where Aboriginal people make up approximately 90 per cent of total apprehensions, some 66 per cent in 1985/86 and 74 per cent in the following year were taken to the sobering-up shelter. Non-Aboriginal people found drunk in public places were taken less often, with 35 per cent admitted in 1985/86 and 20 per cent in 1986/87.

In Alice Springs, 27 per cent of Aboriginal people apprehended under s.128 in 1985/86 were taken to the shelter. This figure rose to 49 per cent in the following year. Non-Aboriginal people were taken at a rate of 10 per cent and 12 per cent respectively in those years.

Finally in Darwin, the rates of detention in shelters in 1985/86 and 1986/87 were 32 per cent and 33 per cent respectively for Aboriginal people while for non-Aboriginal people the figures were 39 per cent and 32 per cent respectively.

Australian Capital Territory

Public drunkenness was decriminalised in the ACT in 1983. Under section 351 of the *Crimes Act 1900 (NSW)* as amended to apply to the ACT, a member of the police force may take into custody any person found drunk in a public place and who is behaving in a disorderly manner, behaving in a manner likely to cause injury to himself, others or property, or who is incapacitated by his intoxication and unable to take care of himself. The section enables the police to detain the person for up to eight hours or until he ceases to be drunk (whichever occurs first), and to take any personal belongings for the period of detention.

TABLE 3.15
Protective Custody Apprehensions—Darwin, Alice Springs and Tennant Creek by Aboriginality and Place of Detention, 1985/86, 1986/87

Darwin

	1985/86			*1986/87*		
	Aboriginal	*Other*	*Total*	*Aboriginal*	*Other*	*Total*
Sobering-up Centre	1,016	659	1,675	1,147	630	1,777
Cells	2,147	1,041	3,188	2,307	1,321	3,628
Total	3,163	1,700	4,863	3,454	1,951	5,405

Alice Springs

	1985/86			*1986/87*		
	Aboriginal	*Other*	*Total*	*Aboriginal*	*Other*	*Total*
Sobering-up Centre	1,620	45	1,665	2,579	78	2,657
Cells	4,370	419	4,789	2,728	550	3,278
Total	5,990	464	6,454	5,307	628	5,935

Tennant Creek

	1985/86			*1986/87*		
	Aboriginal	*Other*	*Total*	*Aboriginal*	*Other*	*Total*
Sobering-up Centre	817	44	861	968	34	1,002
Cells	422	81	503	332	137	469
Total	1,239	125	1364	1,300	171	1,471

Following decriminalisation, a divisional instruction was issued providing that when a person is detained under section 351, watch-house staff should,

where practicable, afford the person the opportunity of contacting a friend or relative.

Table 3.16 shows the number of people detained in the ACT by the Australian Federal Police in its community policing role for the period January to March, 1983 and 1988. While the figures show a 99 per cent increase in the number of detentions in the five years from 1983 to 1988, there has in fact been a decrease in the rate of detention per 1,000 population from 6.5 in 1983 to 5.6 in 1988.

No detentions were recorded in Jervis Bay in either period. The Australian Federal Police advise that no people have been detained for drunkenness in Jervis Bay since 1 January 1986.

TABLE 3.16
Drunkenness Detentions in the ACT, Jan-Mar 1983, 1988

	Jan-Mar 1983	*Jan-Mar 1988*
City Station	122	167
Woden Station	29	87
Belconnen Station	40	116
Tuggeranong Station*	-	10
Jervis Bay	-	-
Total	191	380

*Tuggeranong Station was not fully operational in 1983. People arrested in Tuggeranong would have been taken to Woden Police Station.

Review

While there is no uniform collection of statistics for drunkenness arrests and detentions around Australia, data from various sources show that numbers of people taken into custody have risen in all jurisdictions over the past few years. In Western Australia the arrest rate has remained fairly steady over the past eight years, while in Queensland a recent decrease in the number of arrests in Brisbane has been accompanied by increases in country areas.

Substantial increases in detention rates have occurred in states and territories where drunkenness has been decriminalised and this has led to criticism by various groups. Various explanations are offered for these increases, including improved reporting of admissions by various agencies, and a greater willingness on the part of police to detain persons under drunkenness

provisions which do not require preparation of cases, than for offences under other Acts.

The vast majority of intoxicated people picked up around the country spend the night in police cells. Intoxicated people in New South Wales have in recent years been taken in greater numbers to sobering-up centres, as have people in some areas of the Northern Territory. In all other jurisdictions, however, there is at present virtually no alternative accommodation to police cells.

The most recent figures for arrests or detentions in the various states and territories are shown in Table 3.17. There is a wide variation in the rates of detention per head of population in each jurisdiction.

Northern Territory residents are far more likely than people in other jurisdictions to be detained by police for being drunk in a public place. In 1987 the rate of police intervention was 139 apprehension per 1,000 population. Tasmanians are the least likely to be detained for public drunkenness.

TABLE 3.17
Official Interventions in Drunkenness—All Jurisdictions, Latest Figures Available

Jurisdiction	*Year*	*Action Taken*	*Number*	*Rate per 1,000 Population*
NSW	1986	Detention in proclaimed place	95,911	17.1
Vic.	1986/87	Arrest/charge	22,412	5.3
Qld	1987	Arrest/charge	36,551	13.6
WA	1984-85	Arrest/charge	13,447	9.9
SA	1986/87	Detention under Act	7,914	5.6
Tas.	1986	Arrest/charge	1,232	2.7
NT	1987	Protective custody Detention	21,736	138.6
ACT	1988	Detention	1,520*	5.6

*Projected figure for 12 months.

Aboriginal people are apprehended at a greater rate than non-Aboriginal people in all those jurisdictions where records are kept of Aboriginal and non-Aboriginal detainees. In South Australia, Aboriginal males are 100 times more likely to be detained under the Public Intoxication Act than are non-Aboriginal males. Aboriginal people in New South Wales were apprehended under the Intoxicated Persons Act at a rate of 267.9 per 1,000 population in 1986, compared to a rate of 17.09 per 1,000 population for the state as a whole. In the Northern Territory, Aboriginal people made up between 85 and 90 per cent of protective custody apprehensions during the past eight years, while in Western Australia in the year ended 30 June 1985, 90.9 per cent of drunkenness convictions were recorded against Aboriginal people who make up only 2.7 per

cent of that state's population. Clearly there is a gross imbalance in arrest rates as between the Aboriginal and non-Aboriginal people and this imbalance must be addressed when looking at the question of decriminalisation of drunkenness.

Discussion

This paper has demonstrated the substantial variation that exists between the eight states and territories of Australia in the law and practice relating to public drunkenness. This behaviour is no longer an offence in five jurisdictions and a sixth has announced its intention of decriminalising public drunkenness. Only two jurisdictions (New South Wales and the Northern Territory), however, have a well developed program of providing alternative facilities to the police cells to which police and others can take the intoxicated people, whom they apprehend for care and protection.

The move to decriminalisation is an international one which has been developing for some decades. It is based on a redefinition of public drunkenness from being an offence against society's standards to an understanding of public intoxication as being a social problem which requires a response of care or treatment (Griffen & Lambert 1978, pp. 395-440).

The form of decriminalisation by which the offence of public drunkenness is removed but intoxicated people continue to be detained in the police cells achieves only part of society's goals in decriminalisation. It does not enhance the quality of life of the people affected, as decriminalisation is intended to do. Facilities which provide alternatives to the police cells are, however, very expensive. In the Northern Territory, for example, it costs substantially more to care for a person overnight in a sobering-up shelter than to care for a prisoner in a correctional institution (McDonald 1987). The financial implications of a policy of providing such alternative facilities are, therefore, substantial.

The alternative accommodation facilities outlined in this paper, found in New South Wales, South Australia and the Northern Territory, have limited goals. They are not intended to provide detoxification (a five to ten-day process whereby the toxic effects of alcohol in the body are neutralised) nor treatment (generally a long-term process involving substantial changes in lifestyle). They have the limited aim of providing humane care for intoxicated people during the hours when they are most intoxicated and therefore much exposed to harm. (Although such facilities are said to provide a sobering-up service, it is noted that people are frequently not sober, in the sense of having a zero or very low blood alcohol concentration, when released from the shelters or the police cells after up to eight hours' detention, owing to the relatively slow rate of elimination of alcohol from the body. The human body eliminates alcohol at a consistent rate of about eight to ten grams per hour. This is equivalent to a reduction in blood alcohol concentration of approximately 0.015g/100 mL. This means that a person apprehended at midnight with a blood alcohol concentration of, say 90.25 per cent, would still have a blood alcohol

concentration well over 0.03 per cent when released from the cells or a sobering-up facility at 6.00 a.m. the next day—eight hours later.)

Finally, this paper demonstrates that, in each Australian jurisdiction which has decriminalised public drunkenness, the total number of apprehensions without arrest and detentions for public drunkenness has increased beyond the levels observed prior to decriminalisation. This could be seen by some as a negative impact, in that it represents increased demands for expensive services. On the other hand, many observers would see it as a positive move, as it means that the large number of people in our society who, at any one time, are so intoxicated as to be a danger to themselves or to others, are receiving care and protection. The more that can be done to enhance the quality of this care and protection, by providing better alternatives to police cells for such people, the lower will be the risk of their dying in custody.

February 1990

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APPENDIX 3.1

Laws Relating to Public Drunkenness in each Australian Jurisdiction as at 1 July 1988

New South Wales	*Intoxicated Persons Act 1979*	Detention for up to eight hours in a 'proclaimed place' or release into the care of a 'responsible person'.
Victoria	*Summary Offences Act 1966* s. 13 Drunk s. 14 Drunk and Disorderly s. 15 Habitual drunk	Arrest and detention in 'safe custody' $100. Three drunkenness convictions within a six-month period make the offender liable for 12 months imprisonment.
Queensland	*Liquor Act 1912-85* s. 18	Arrest and detention until brought before court. $20 or one month imprisonment in default.
South Australia	*Public Intoxication Act 1984*	Detention in police cell for up to 10 hours or sobering-up centre for up to 18 hours. May be released into care of friend or relative.
Western Australia	*Police Act 1892-1982* s. 53	$10 or seven days imprisonment for first offence. $25 or 21 days for second and subsequent offences.
Tasmania	*Police Offences Act 1935* s. 4 Drunk and incapable Drunk and disorderly	$20 or one month imprisonment. A double penalty applies if the offender has been convicted of any offence in the past six months.
Northern Territory	*Police Administration Act 1979* s. 128	Detention for up to six hours in police cell or sobering-up centre or release into care of responsible person.

		Detention for longer than six hours must be approved by a justice.
Australian Capital Territory	*Crimes Act 1900 (NSW)* s. 351	Detention for up to eight hours.

RESEARCH PAPER NO. 4

The Aboriginal and Torres Strait Islander Population

Rosaleen Smyth

The one thing that can be said with any certainty about the enumeration of Australia's Aboriginal population is that it is an area in which precision has so far proved impossible. Not only is the size of the Aboriginal population at first contact in dispute but so too are population totals arrived at as a result of the various censuses published since the 1967 Referendum.

Population at First Contact

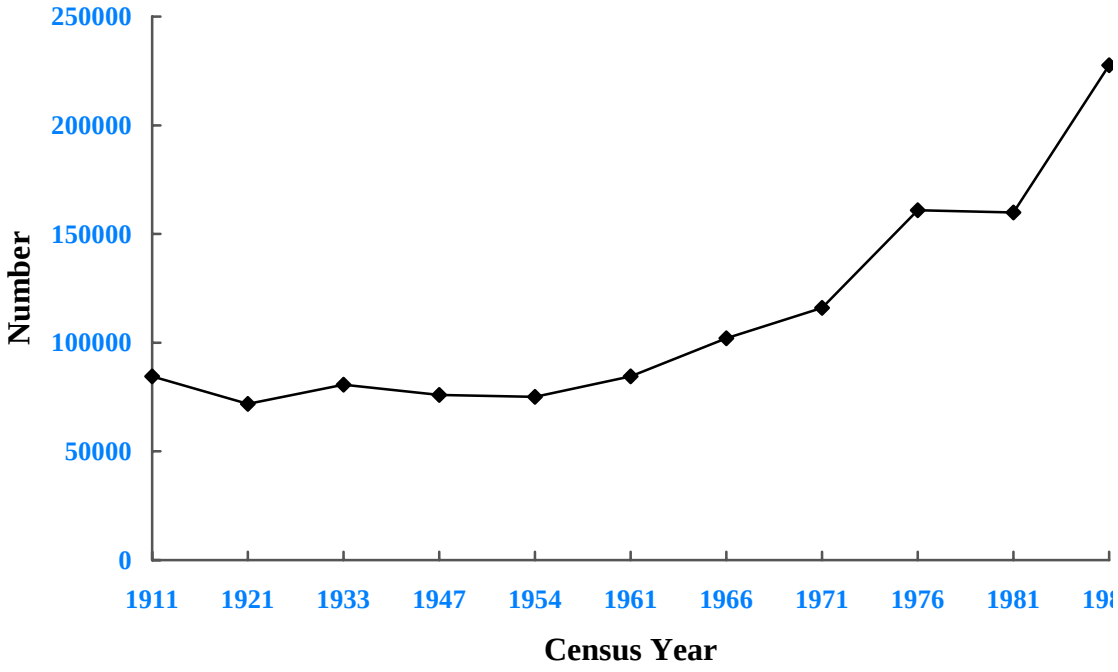
Based on the writing of explorers and others, there was a belief current by the late nineteenth century that the Aboriginal population in 1788 numbered 150,000. In 1930 this estimate was doubled as a result of the work of anthropologist A.R. Radcliffe-Brown. Taking his data from the writing of explorers, Radcliffe-Brown extrapolated backwards from 1845 to estimate a first contact population at from 250,000 to 300,000, stressing that this figure was the absolute minimum population.

Radcliffe-Brown's estimate which gained wide acceptance has recently been under challenge. The strongest tilt has come in an innovative theory developed by economic historian Noel Butlin of the Australian National University. Butlin, employing demographic tools with a new twist in that he projected into the past rather than into the future, estimated that the Aboriginal population in 1788 was somewhere between 700,000 and 1,000,000. Butlin suggested that the early British explorers could not have estimated the number of Aboriginal people living in this country in 1788 because the indigenous population had already been ravaged by smallpox, measles and other diseases which arrived with the early British ships, spread quickly inland and decimated an Aboriginal population bereft of immunity. As a result, the inland would have been virtually depopulated just before the first European explorers and pastoralists arrived (Butlin 1983). Butlin's theory has aroused keen interest. Historian Geoffrey Blainey (1987) has pointed out that 'It can't yet be more than a well argued guess'; D.J.Mulvaney and J. Peter White (1987, p. 117) have concluded that while it is 'premature to give a definite figure for the Aboriginal population in 1788 . . . we consider that an estimate of about 750,000 is a reasonable one'.

Census History and Problems

Aboriginal people have been enumerated at all the population censuses since the establishment of the Commonwealth. However, prior to 1967, Section 127 of the Constitution provided that, 'in reckoning the numbers of people of the Commonwealth or of a state or other part of the Commonwealth, Aboriginal natives shall not be counted'. For this reason Aboriginal people enumerated at the census (interpreted as persons who were more than 50 per cent Aboriginal) were excluded from the published census results. Attempts were made, however, to collect details of the 'full-blood' Aboriginal population for separate analysis and publication. From 1921 the cooperation of the statisticians and protectors of the Aboriginal people in the states was obtained in compiling these estimates, a practice which was continued until 1966. Demographer, L.R. Smith (1980, p. 34) stresses that statisticians have always been aware of the unreliability of these demographic data and the inadequacy of the coverage. Figure 4.1 provides an illustration of the growth of the Aboriginal population as described in official figures since the establishment of the Commonwealth.

FIGURE 4.1
Aboriginal Population, 1911-86



Sources: The population totals for the years prior to 1976 are taken from 'Table 3.1.2. Persons of Aboriginal and Torres Strait Islander Descent Enumerated and Estimated. Censuses 1836-1971' by L.R. Smith, and contained in his *The Aboriginal Population of Australia*, Canberra, 1980, p. 12. Smith notes: 'Numbers enumerated, except 1966, are taken from the census Reports. 1966 numbers are unpublished figures for all persons of Aboriginal descent, plus persons of half or more Islander descent. The estimated totals are official

figures taken from the census Reports or the various Yearbooks, Statistical Registers or Reports of the state Aboriginal authorities. Some are seriously in error.'

The size of the Aboriginal population arrived at in the census counts from 1971 to 1986 has varied in a manner which cannot be explained by reference to natural growth rates. Table 4.1 presents these puzzling fluctuations in percentage terms. Figure 4.2 presents the information in a column graph.

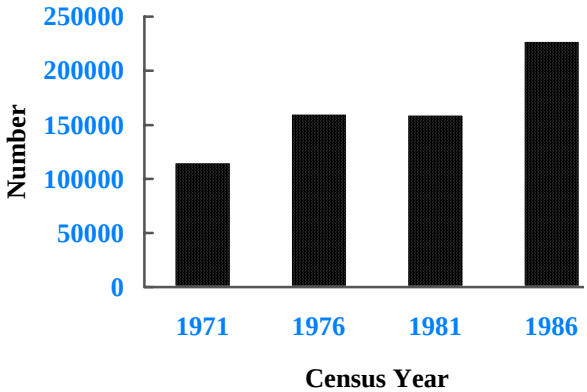
In the period between the 1971 and 1976 Censuses there was a sharp rise in the Aboriginal population from 115,953 to 160,915. The rise was not uniform from state to state. The Northern Territory population had hardly changed with 23,381 in 1971 and 23,751 in 1976; Western Australia had increased at a slightly higher rate from 22,181 to 26,126 while in South Australia the rise was from 7,299 to 10,714. Percentage increases were highest in Tasmania, Victoria and the ACT.

TABLE 4.1
Aboriginal and Torres Strait Islander Population Counts, Censuses 1971, 1976, 1981, 1986

	1971	*1976*	*% Change 1971-76*	*1981*	*% Change 1976-81*	*1986*	*% Change 1981-86*
NSW	23,873	40,450	+69	35,367	-13	59,011	+66.9
Vic.	6,371	14,760	+132	6,057	-59	12,611	+108.2
Qld	31,922	41,345	+30	44,698	+8	61,268	+37.1
WA	22,181	26,126	+18	31,351	+20	37,789	+20.5
SA	7,299	10,714	+47	9,825	-8	14,291	+45.5
Tas.	671	2,942	+338	2,688	-9	6,716	+149.9
NT	23,381	23,751	+2	29,088	+22	34,739	+19.4
ACT	255	827	+224	823	-0.6	1,220	+48.2
Aust.	115,953	160,915	+39	159,897	-0.6	227,645	+42.4

Sources: Choi Gray 1985; Australian Bureau of Statistics 1987a.

FIGURE 4.2
Aboriginal and Torres Strait Islander Population Counts, Censuses 1971, 1976, 1981, 1986



The total recorded in the 1981 Census of 159,897 was approximately one thousand fewer than the 1976 Census and some 20,000 fewer than demographers had projected, based on 1976 figures. The figures showed a fall of 7.9 per cent in the Torres Strait Islander population and an increase of 0.2 per cent for the Aboriginal community. There were again considerable variations between states and between urban and rural areas. Rural areas increased roughly at the rate expected but counts in urban areas were well down on projections.

The states showing falls were those with high urban concentrations. The heavy drops in numbers reported particularly in New South Wales and Victoria more than balanced significant increases in the Northern Territory, Western Australia and Queensland where the numbers increased by almost 14,000 in all. Victoria showed the greatest variation with a fall from a combined Aboriginal/Islander population of 14,760 in 1976 to 6,057 in 1981.

The 1986 Census count again produced a result dramatically different from the previous census. At the 1986 Census, the Aboriginal population of Australia was 227,645. This represents a 42.4 per cent increase over the 1981 Census count of 159,897. The largest proportional increases were in Tasmania where the count increased by 149.9 per cent, Victoria with 108.2 per cent and New South Wales with 66.9 per cent.

Reliability of censuses

These seemingly erratic and inconsistent results demonstrate how imperfect an instrument the census has so far proved to be as a means of providing reliable population figures for Australia's Aboriginal population. This is a problem of some gravity as the national census is the only source of detailed national data on the Aboriginal population, and it is on the basis of these data that important funding decisions are made by government about allocations for Aboriginal advancement programs.

Any analysis of demographic trends and structures of the Aboriginal population as revealed by the 1986 Census must take into account the problems that have been encountered by the ABS (Australian Bureau of Statistics) in its efforts to arrive at a reliable population total for Australia's Aboriginal population.

Factors that have contributed not only to the accuracy and reliability of individual censuses but also to the validity of comparisons between censuses include:

- wording of questions
- efficiency of census collection procedures
- response of Aboriginal people to censuses
- adequacy of census processing procedures.

Wording of questions A census question relating to each person's origin has been included in every Australian census since Federation, but the wording and format have varied substantially since 1911. The questions in 1961 and 1966, themselves different from each other, asked respondents to indicate their degree of descent; people of half or more Aboriginal descent were then classified as Aboriginal. The wording of the Aboriginal origin question was almost the same for 1971 and 1976 but was changed for 1981. The 1971 and 1976 Censuses asked people to indicate their racial origin from the options: European, Aboriginal, Torres Strait Islander and other. The origin questions aroused considerable public controversy directed particularly at the term 'racial origin'. There was also confusion about what constituted European origin. As a result, the 1981 and 1986 Censuses asked only: 'Is the person of Aboriginal or Torres Strait Islander origin?' Persons of mixed origin were asked to indicate whether they considered themselves an Aboriginal or a Torres Strait Islander.

Efficiency of census collection procedures There are special problems in the enumeration of Aboriginal people in the population census which arise variously from: geographical isolation, language difficulties, distrust of government officials, a lack of understanding of the census process and a relative mobility of lifestyle in comparison to the rest of the Australian population.

From the 1971 Census the ABS has been concentrating on improving its field procedures in consultation with members of the Aboriginal community. Practices have varied from census to census as the methodology has been refined. In 1971, special collection districts were created for the first time in remote areas to cover missions, settlements and pastoral properties. In 1976, the enumeration of Aboriginal people was centrally controlled by the central office of the ABS. A committee of officers of the ABS and the Department of Aboriginal Affairs designed special arrangements for the enumeration of Aboriginal people in inner city areas, urban town camps, and many predominantly Aboriginal communities and localities. Consultations were held with Aboriginal organisations including the National Aboriginal Consultative Committee (NACC)[1] in field procedures and some Aboriginal people were involved in enumeration as section leaders and collectors. Aboriginal involvement was not always successful. There were communications and coordination problems and difficulties with the complexity of the census form itself (Choi & Gray 1985).

The ABS has expressed more satisfaction with the collection procedures employed in the 1981 and 1986 Censuses in which the control of Aboriginal

[1]. The National Aboriginal Consultative Committee (NACC), introduced in 1973, was an Aboriginal advisory body elected from 41 electoral districts to advise the Federal Government on Aboriginal issues. In 1977 the NACC was replaced by the National Aboriginal Conference (NAC). The NAC was disbanded in 1985.

enumeration has been decentralised to allow for greater state control. Two separate strategies have been developed: one aimed at the Aboriginal population living in urban areas (including country towns) and the other at the remote Aboriginal population. In 1986 there was a greater emphasis on pre-census publicity than there had been for previous censuses (Paice & Black 1987).

In remote areas where Aboriginal people constitute a large proportion of the population, special census field officers were appointed to take charge of Aboriginal enumeration. Their duties included preparing lists of Aboriginal communities, liaising with community elders, organising teams of Aboriginal collectors/interviewers and census publicity.

A special modification for remote areas is the use of the interview method introduced in the Northern Territory in 1976 and extended to Western Australia and South Australia in 1981 and 1986. The standard field system used to conduct the census is self-enumeration using a census form delivered to and collected from all households by census collectors. Many Aboriginal people in remote areas have not the literacy and language skills or the motivation to complete the census form themselves and logistics make it impractical for a census form to be delivered and picked up at a later date. In 1981 a special one-page interview form was devised and the information was later transcribed back onto the larger standard form. To reduce the paperwork in 1986 a more detailed interview schedule was prepared. The format followed the question content of the standard householder's schedule but was structured to suit a personal interview situation. The interviewers, where possible, were Aboriginal people well known in the local community.

Enumeration in urban areas requires a different tactic. As the Aboriginal population in the cities and major urban centres is more dispersed, it is not practicable to have separate Aboriginal census collection districts in which enumeration procedures can be specifically targeted (Paice & Black 1987).

Aboriginal people in urban areas complete the standard householder's schedule. In 1981 and 1986 special measures were taken to locate Aboriginal communities and Aboriginal collectors were employed in urban areas of high Aboriginal density to assist with enumeration and, where required, interview householders using the standard householder's schedule. Much greater emphasis was placed on pre-census publicity in 1986. In the three months prior to the 1986 Census specially employed census field officers with ability in communicating with Aboriginal people, and a knowledge of their organisational networks, directed the publicity campaign.

Responses of Aboriginal people to censuses Responses may be influenced by factors already mentioned such as the wording of the question and data collection procedures. Errors in the response or non-response to the Aboriginal origin question also impact upon census reliability and comparability. In 1976, 700 persons who were born overseas and a further 1,500 whose parents were

born overseas incorrectly reported that they were Aboriginal people. 'In addition, approximately 2,000 persons who were born overseas incorrectly identified as Torres Strait Islanders' (Choi & Gray 1985, p. 14). This source of error was more prevalent in Victoria and New South Wales than in other states. In the 1981 Census procedures were introduced to assign all persons with both parents born overseas to the non-Aboriginal category. The ABS has suggested that in the 1986 Census 'the relatively high count of Torres Strait Islanders in Tasmania may be due to incorrect responses by people of Bass Strait Islander descent' (ABS 1987b, p. 8).

The number who did not answer the census question on Aboriginal origin has varied between the censuses. In 1981, 3.8 per cent of the total population were recorded as non-respondents in output data, while only 1.1 per cent of the population were recorded as Aboriginal people. In the 1976 Census non-response to the origin question was recorded in output data at the much higher rate of 8.4 per cent. The non-response rate to the Aboriginal origin question in 1986 was only 1.7 per cent. The rates however are not comparable because of different data processing procedures between censuses.

There is a degree of subjectivity in the responses to the Aboriginal origin question as it is left to people of some Aboriginal descent to choose to identify as an Aboriginal. The ABS has noted that 'this factor will affect the comparability of census data over time to an unknown extent' (ABS 1987b, p. 1). Changing identification has been suggested as a major reason for the rise in numbers. People who may in the past have concealed their Aboriginal origin from officialdom are now, in a more favourable political climate, proud to acknowledge their ancestry.

Other factors which may influence the Aboriginal response to censuses are:

> *a distrust of government officials; misconceptions about what census data are used for . . . reluctance to include visitors on the census form; and the fear of including all persons resident in a dwelling on the form because of housing authority regulations* (Paice & Black 1987).

Adequacy of census processing procedures Since the Aboriginal population forms a very small percentage of the total population (1.46 at the 1986 Census and 1.1 at the 1981 Census) any processing error in the Aboriginality question is of considerable significance. Data processing procedures have varied between censuses; prior to 1986 and particularly in 1981, there was no procedure to ensure that the Aboriginal origin item was coded correctly. The 1986 Census contained a check on that item.

The 1976 Census had some processing problems which may have had some effect on the reliability of the Aboriginal count. In part because of financial restrictions, only 50 per cent of the forms counted were processed. Final figures for characteristics such as Aboriginality were therefore arrived at through sampling.

The 1981 Census controversy

As assistance programs for Commonwealth and state and territory governments rely on the census figures for relative allocations of funds, the 1981 census results caused considerable disquiet in the Aboriginal community. The National Aboriginal Conference (NAC), the newly established Aboriginal Development Commission (*see The Canberra Times*, 21 August 1982) and the Federal Labor Opposition called for an inquiry (Ryan 1982). When Labor came to office in 1983, the new Minister for Aboriginal Affairs, Mr Holding, expressed doubts about the reliability of the Census figures and initially said that his Department would, for the purposes of funding, ignore the 1981 count and rely on figures obtained by his Department in the course of building up its community profiles. The Department's community profiles contain statistics on such areas as population, electricity, water supply, sewage disposal, land, health, and education. The community profiles are updated biannually and are the responsibility of the regional offices. There has been a move to introduce progressive updating but this has not, up till now, proved successful.

Victoria and Western Australia, relying on figures obtained from other sources, made submissions to the Commonwealth Grants Commission questioning the accuracy of the 1981 Census figures. Victoria submitted alternative estimates of the state Aboriginal population in 1981, based on data collected in a survey by the Department of Aboriginal Affairs for its community profiles (Commonwealth Grants Commission 1985).

TABLE 4.2
Comparison of 1981 Census and DAA Community Profile Population Figures

	Census		*DAA Community Profiles*	
	No.	*%*	*No.*	*%*
NSW	35,367	(22.1)	43,397	(20.8)
Vic.	6,057	(3.8)	15,399	(7.4)
Qld	44,698	(28.0)	71,559	(34.3)
WA	31,351	(19.6)	33,832	(16.2)
SA	9,825	(6.1)	11,612	(5.6)
Tas.	2,688	(1.7)	2,793	(1.3)
NT	29,088	(18.2)	29,305	(14.1)
ACT	823	(0.5)	648	(0.3)
Aust.	159,897	100.0	208,545	100.0

Sources: Australian Bureau of Statistics 1982, *Census of Population and Housing: Counts of Aboriginals and Torres Strait Islanders, Australia, States and Territories, 30 June 1981*, Catalogue No. 2164.0, August 1982, taken from the Victorian submission to the Commonwealth Grants Commission, May 1984; and Department of Aboriginal Affairs, *1981 Community Profile Statistical Collection*, December 1981, taken from the Victorian submission to the Commonwealth Grants Commission, May 1985.

Despite Mr Holding's initial statement, the Department of Aboriginal Affairs subsequently made it clear that it is the official policy of the Department to rely on the census count rather than its own community profiles for Aboriginal population figures. The Department has stressed that its own figures provide a 'snapshot view' of a particular community at a time when a Departmental official has visited. The basic purpose of the community profiles is not the enumeration of people but to provide data on the infrastructure needs of a community (information from the Department of Aboriginal Affairs).

An ABS evaluation of the 1981 census indicated that errors in data transcription could have contributed to reducing the size of the Aboriginal count,

> *The number of Aboriginal people incorrectly marked non-Aboriginal people was greater than the number of non-Aboriginal people incorrectly marked Aboriginal people. There was, therefore, a net transfer through incorrect marking to the non-Aboriginal category* (Choi & Gray 1985, p. 24).

Comparisons with non-census sources

Apart from the community profiles there are several other non-census sources of data on Aboriginal people with which census counts can be compared—each with its own deficiencies and limitations. Non-census data on Aboriginal people utilised by the ABS in its post 1981 Census evaluation included:

- the number of voters in the 1981 election of the National Aboriginal Conference;
- the number of Aboriginal people who received education grants (secondary and tertiary);
- the number of Aboriginal students in government primary and secondary schools from a survey conducted by the Commonwealth Grants Commission; and
- statistics on Aboriginal births and deaths in Western Australia and the Northern Territory (Choi & Gray 1985, p. 24).

The ABS, after reviewing all the evidence, concluded that census procedures had improved over the previous three censuses and that 'the 1981 enumeration (although not without error) represents the best count to date . . .' . The following evidence was cited:

1. The 1981 Census achieved lower rates of underenumeration for the population as a whole than the 1976 Census (1.9 per cent compared with 2.7 per cent).

2. The 1981 Census experienced lower rates of non-response to the question on Aboriginal origin than the 1976 Census (3.8 per cent compared with 8.4 per cent).

3. The 1981 question on Aboriginal origin is an improvement over the questions used in the 1971 and the 1976 Censuses.

4. A major publicity campaign was run as part of the 1981 Census, whereas in 1976 publicity was minimal. Also the 1981 Census was conducted in a climate of public acceptance which was not the case for either 1971 or 1976.

5. In 1981 special and improved field procedures for the enumeration of the Aboriginal population were adopted.

6. It is known that the 1976 Census data on Aboriginal people contain considerable response errors, of a kind that particular efforts were made to avoid in the 1981 Census.

7. Analysis by age of Aboriginal counts at the three censuses reveals a broad level of consistency between 1971 and 1981 Census counts. However, there is a large excess in almost all age groups in the 1976 Census which is inconsistent with both 1971 and 1981 counts.

8. Comparisons of 1981 Census results with Aboriginal data obtained from independent sources are inconclusive but generally provide support for the 1981 Census counts (Choi & Gray 1985, p. 29).

The 1986 Census

The ABS has yet to publish its evaluation of the 1986 Census count (due to be released towards the end of 1988) but has attributed the high 1986 count to 'a combination of factors of varying influence':

- people of Aboriginal and Torres Strait Islander origin may have been more inclined to identify themselves as such;

- the 1986 Census awareness campaign, which included additional measures to inform Aboriginal and Torres Strait Islander people of the importance of the Census;

- the implementation of special field enumeration procedures in Aboriginal communities;

- improvements made to the 1986 Census processing system to ensure that Aboriginal and Torres Strait Islander responses were correctly coded; and

- natural increase (births less deaths) (ABS 1987b, pp. 1-2).

The evaluation of the South Australian count revealed that non-response rates by Aboriginal people to census questions were relatively high compared with non-response rates for the population as a whole.

Demographer Alan Gray of the Australian National University has suggested that the fact that census night in 1981 fell on a Tuesday in pension week may have contributed to the smaller count in that year. Most social security benefits are paid on the Wednesday in each fortnight. According to Gray when census collectors called at Aboriginal homes on the Wednesday and Thursday in pension week many Aboriginal people would not have been at home. The exception to the low count in 1981 was the remote areas where the count was high. In the remote areas Aboriginal people would be more likely to be around the settlement in order to collect their pension cheques (personal communication, 26 August 1988).

Of these factors, apart from natural increase, changes in identification and improved field procedures are considered by the ABS to have the most weight (information from the ABS). The present Minister for Aboriginal Affairs, Mr Hand, favours the changing identification explanation:

> *This rise can be attributed to the increased willingness of people to identify themselves as Aboriginal people or Torres Strait Islanders as racism and discriminatory attitudes gradually decline.*
>
> *In the past, people may have felt that such identification could have been detrimental to their employment opportunities or community acceptance (*Minister for Aboriginal Affairs 1987).

By contrast demographers Gray and Smith (1983, p. 8) favour 'adequacy of enumeration, rather than changing identification as the main factor behind intercensal anomalies'.

Current position

As a result of the conflicting outcomes of the 1981 and 1986 Censuses, we are left with the paradox that although the ABS claims that the most reliable of the post referendum censuses are the two most recent–1981 and 1986–nevertheless one is a high and the other a relatively low count. Because of the problems, outlined at some length above, in arriving at an accurate enumeration of such a small minority group, the ABS does not think there is much value in trying to provide a quantitative explanation for the fluctuating counts. The ABS is confident, however, that the 1986 count is the most accurate to date: Tasmanian and Victorian Aboriginal people, for example, who have long been confident that their populations were underenumerated, consider the 1986 Census totals for their states more realistic; and a cohort analysis that has been done by the ABS of the 0-4 age group in the Northern Territory for the 1981-86 Censuses

has produced a result which is close to what is known about infant mortality from another source (information from the Australian Bureau of Statistics).

Given the uncertainties surrounding Aboriginal population totals, Smith writes that population forecasting in this area 'is simply out of the question' (Gray & Smith 1983, p. 277). Figures that have been suggested at various times by researchers posit an annual growth rate of between 2 and 3 per cent (information from the ABS). The ABS is currently investigating techniques to calculate Aboriginal population growth rates in the inter censal years.

From this review of the post Referendum censuses it is clear that while under enumeration and changing racial identification make any identification of trends highly problematic, urban Aboriginal people have identified themselves in increasing numbers.

1986 Census: Trends and Characteristics

This section looks at current trends and characteristics in the demographics of the Aboriginal population as revealed in the 1986 Census. Comparisons are made with the demographic structure of the total Australian population and, where pertinent, with previous censuses. As has been shown earlier in this paper the census has proved to be an imprecise instrument for calculating Aboriginal population totals. This unreliability is to be taken into account when attempts are made to identify changes over time.

At the 1986 Census the Aboriginal and Torres Strait Islander population of Australia was 227,645; the total Australian population, 15,602,156. According to these figures Aboriginal people now represent 1.46 per cent of the total Australian population. The total number of Aboriginal people was 206,104 and the Torres Strait Islanders, 21,541.

Geographic distribution

Table 4.3 shows that the states with the highest number of Aboriginal people are Queensland and New South Wales; the next most populous are Western Australia and the Northern Territory.

TABLE 4.3
Distribution of the Aboriginal Population by State and Territory, 1986 Census

State	*No.*	*% of National Aboriginal Population*	*% of State/ Territory Population*
NSW	59,011	25.9	1.1
Vic.	12,611	5.5	0.3
Qld	61,268	26.9	2.4
WA	37,789	16.6	2.7
SA	14,291	6.3	1.1
Tas.	6,716	3.0	1.5
NT	34,739	15.3	22.4
ACT	1,220	0.5	0.5
Aust.	227,645	100.0	1.46

Table 4.4 shows the distribution by region (*see also* Figure 4.3). Approximately 66 per cent of the Aboriginal and Torres Strait Islander population were counted in urban areas. The ABS defines a major urban area as one having a population of 100,000 or more. In the 'other urban area' category are 'urban centres with a population of 1,000 to 99,999 persons' (Gray & Smith 1983, p. 8). The remaining 34 per cent were in rural areas. Only in the Northern Territory are there more Aboriginal people living in rural and remote areas than in urban areas and small country towns of more than 1,000 people. In the Northern Territory approximately 69 per cent of the Aboriginal and Torres Strait Islander population were counted in rural areas. In the 1981 Census 41.6 per cent were counted in rural areas and in 1971 the figure was 55.7 per cent.

Sex and age composition

The Australian Aboriginal population has a markedly different age structure from the rest of the Australian population as Figure 4.4 illustrates (*see also* Tables 4.5 and 4.6). At the 1986 Census 39.8 per cent of the Aboriginal population were under the age of 15 compared with 23.3 per cent for the total population. 52.5 per cent of the Aboriginal population were under the age of 20 compared with 31.7 per cent of the total population. Although it is not possible to establish the exact rate of natural increase because of changes in enumeration and identification, the Aboriginal rate of growth is demonstrably higher than for the total Australian population.

At the other extreme of the age distribution, a much smaller proportion of Aboriginal people were 60 years or over. Only 4.2 per cent were aged over 59 years compared with 15.1 per cent for the total population. The age structure of the Aboriginal population is typical of developing countries: a higher proportion of young persons when compared to the age distribution of the total population.

Of the total Aboriginal population, 49 per cent are male and 51 per cent female; in the 60 years and over age range, 46 per cent are male and 54 per cent female. Although the number of Aboriginal women 60 years and over exceeds the number of Aboriginal men, the margin in this age range is much smaller than it is for the total Australian population.

TABLE 4.4
Aboriginal and Torres Strait Islander Population, Geographic Distribution by Region and State, 1986 Census

	Major Urban[a]		*Other Urban[b]*		*Rural[c]*		*Total*	
	No.	*%*	*No.*	*%*	*No.*	*%*	*No.*	*%*
NSW	21,416	36.3	27,352	46.4	10,243	17.4	59,011	100
Vic.	5,986	47.5	5,224	41.4	1,401	11.1	12,611	100
Qld	11,091	18.1	28,788	47.0	21,389	34.9	61,268	100
WA	8,949	23.7	15,775	41.7	13,065	34.6	37,789	100
SA	5,696	39.9	4,580	32.0	4,015	28.1	14,291	100
Tas.	1,351	20.1	3,460	51.5	1,905	28.4	6,716	100
NT	-	-	10,700	30.8	24,039	69.2	34,739	100
ACT	1,048	85.9	-	-	172	14.1	1,220	100
Aust.	55,537	24.4	95,879	42.1	76,229	33.5	227,645	100

[a] Major Urban: Urban centres of 100,000 persons or more
[b] Other Urban: Urban centres of 1,000 to 99,999 persons
[c] Rural: Balance

Source: Australian Bureau of Statistics 1987a.

FIGURE 4.3
Aboriginal and Torres Strait Islander Population, Distribution by Region, 1986 Census

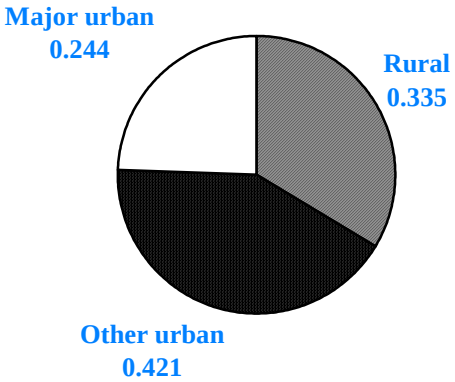
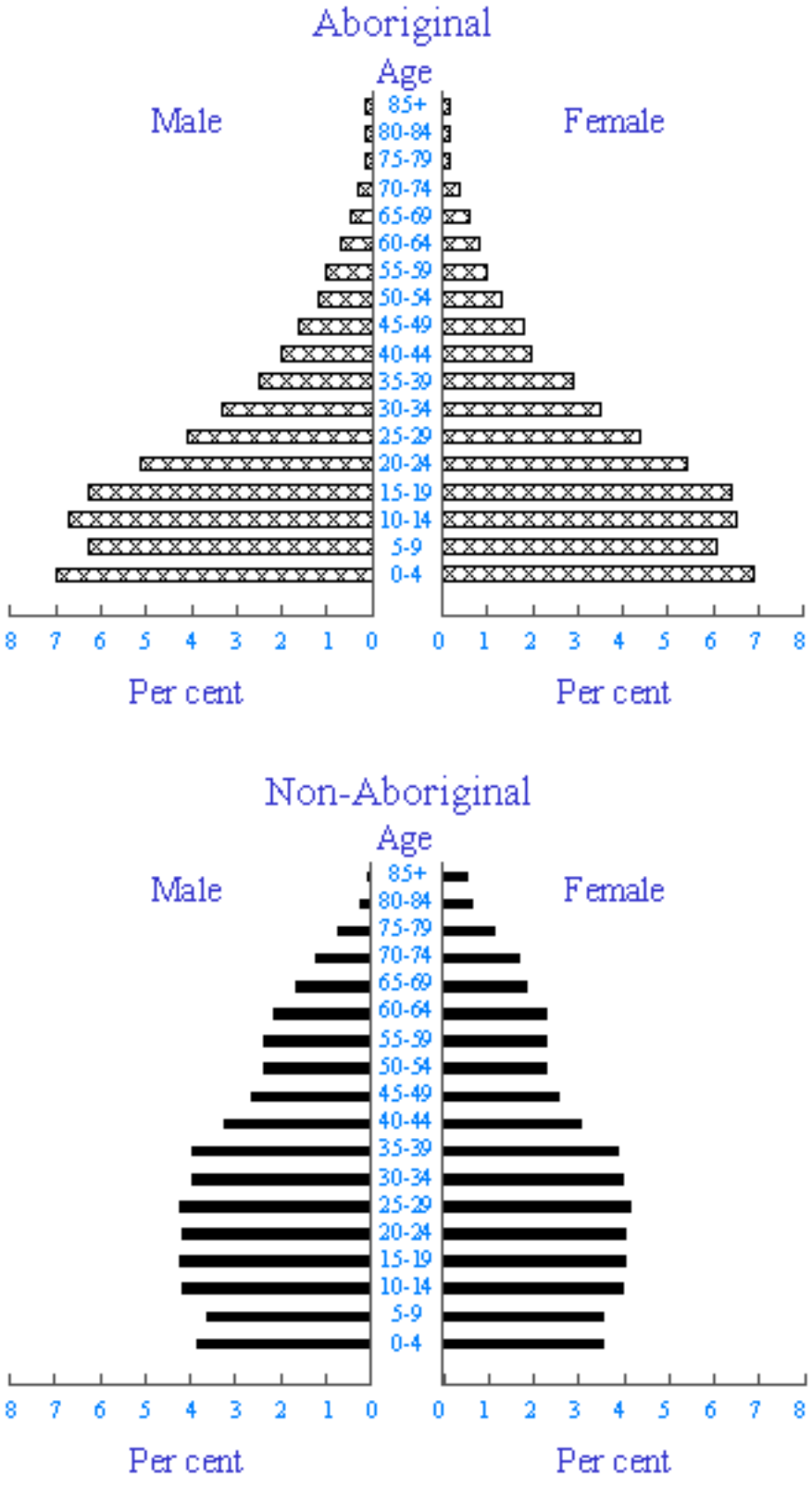


FIGURE 4.4

Pyramid of Australian Aboriginal and Non-Aboriginal Population, 1986



Source: Australian Institute of Health

TABLE 4.5
Age-Sex Distribution of Aboriginal and Total Australian Population, 1986 Census

Aboriginal Population

Years	*Male*	*Female*	*Persons*
0-4	16,193	15,656	31,849
5-9	14,526	13,860	28,386
10-14	15,517	14,760	30,277
15-19	14,475	14,631	29,106
20-24	11,847	12,197	24,044
25-29	9,405	10,075	19,480
30-34	7,410	7,942	15,352
35-39	5,912	6,496	12,408
40-44	4,553	4,845	9,398
45-49	3,500	3,907	7,407
50-54	2,813	3,071	5,884
55-59	2,168	2,362	4,530
60-64	1,578	1,901	3,479
65-69	1,213	1,284	2,497
70+	1,545	2,003	3,548
Total	112,655	114,990	227,645

Total Population

Years	*Male*	*Female*	*Persons*
0-4	608,323	579,723	1,188,046
5-9	594,904	565,131	1,160,035
10-14	660,794	627,970	1,288,764
15-19	673,182	644,082	1,317,264
20-24	648,532	633,133	1,281,665
25-29	649,287	648,677	1,297,964
30-34	615,509	618,060	1,233,569
35-39	622,200	612,070	1,234,270
40-44	504,256	482,617	986,873
45-49	419,830	399,080	818,910
50-54	363,662	349,065	712,727
55-59	373,365	362,606	735,971
60-64	341,142	358,236	699,378
65-69	259,594	298,185	557,779
70+	433,733	655,208	1,088,941
Total	7,768,313	7,833,843	15,602,156

Source: Australian Bureau of Statistics 1987a.

TABLE 4.6
Aboriginal and Torres Strait Islander Population 1971, 1976, 1981 and 1986 Censuses, Sex, States and Territories

	1971			*1976*			*1981*			*1986*		
	M	*F*	*Total*	*M*	*F*	*Total*	*M*	*F*	*Total*	*M*	*F*	*Total*
NSW	12,091	11,782	23,873	20,606	19,844	40,450	17,522	17,845	35,367	29,267	29,744	59,011
Vic.	3,210	3,161	6,371	7,441	7,319	14,760	2,971	3,086	6,057	6,192	6,419	12,611
Qld	15,913	16,009	31,922	20,618	20,727	41,345	22,249	22,449	44,698	30,460	30,808	61,268
WA	11,460	10,721	22,181	13,195	12,931	26,126	15,431	15,920	31,351	18,866	18,923	37,789
SA	3,784	3,515	7,299	5,415	5,299	10,714	4,896	4,929	9,825	6,954	7,337	14,291
Tas.	365	306	671	1,564	1,378	2,942	1,388	1,300	2,688	3,391	3,325	6,716
NT	11,774	11,607	23,381	11,903	11,848	23,751	14,368	14,720	29,088	16,916	17,823	34,739
ACT	137	118	255	414	414	827	408	415	823	608	612	1,220
Aust.	58,734	57,219	115,953	81,156	79,760	160,915	79,733	80,664	159,897	112,654	114,991	227,645

Source: Australian Bureau of Statistics

The female numerical dominance is a reversal of the position at the 1971 Census when 51 per cent of the Aboriginal population were recorded as male and 49 per cent as female. In 1976 males still slightly outnumbered females: 50.4 per cent to 49.6 per cent. In 1981 the position had begun to reverse as 453 fewer males than females were counted.

Marital status

As shown in Table 4.7 and Figure 4.5, amongst the Aboriginal population aged 15 years and over, 52 per cent had never married compared with 28.4 per cent for the total Australian population. In 1981, 45.3 per cent of the Aboriginal population aged 15 years and over had never married compared to 25 per cent for the total Australian population in the same age range. In 1971, 36 per cent of the Aboriginal population had never married compared to 25 per cent for the total population. According to the ABS in remote areas of the Northern Territory, Western Australia and South Australia where the special interview schedule was used at the 1986 Census, interviewers were instructed to record those who were tribally married as 'married'.

As a proportion of the adult population relatively more Aboriginal people were divorced or separated: 9 per cent for the Aboriginal population compared to 7 per cent for the total Australian population.

Language

An indication of the extent to which Aboriginal people in different parts of Australia maintain traditional customs can be obtained from census data on languages spoken at home as illustrated in Table 4.8. In the Northern Territory 68 per cent of the Aboriginal population aged 5 years and over speak an Aboriginal language. In Western Australia an Aboriginal language is spoken by 24 per cent, in South Australia by 21 per cent and Queensland 9 per cent of the

Aboriginal people aged 5 and over. In New South Wales, Victoria, Tasmania and the Australian Capital Territory there are very few Aboriginal language speakers.

TABLE 4.7
Marital Status, Persons aged 15 years and over, Aboriginal and Total Australian Population, 1986 Census

	Aboriginal						*Total Australian Population*					
	Male		*Female*		*Total*		*Male*		*Female*		*Total*	
	No.	*%*	*No.*	*%*	*No.*	*%*	*No.*	*%*	*No.*	*%*	*No.*	*%*
Never Married	38,085	57.3	33,226	47.0	71,311	52.0	1,918,030	32.5	1,480,705	24.4	3,398,735	28.4
Married	21,824	32.9	24,826	35.1	46,650	34.0	3,454,756	58.5	3,460,803	57.1	6,915,559	57.8
Separated, Not Divorced	2,693	4.1	4,232	6.0	6,925	5.1	141,924	2.4	167,859	2.8	309,783	2.6
Widowed	1,667	2.5	5,464	7.7	7,131	5.2	141,155	2.4	640,311	10.6	781,466	6.5
Divorced	2,150	3.2	2,966	4.2	5,116	3.7	248,427	4.2	311,341	5.1	559,768	4.7
Total	66,419	100	70,714	100	137,133	100	5,904,292	100	6,061,019	100	11,965,311	100

Source: Australian Bureau of Statistics

FIGURE 4.5
Marital Status, Persons aged 15 years and over, Aboriginal and Total Australian Population, 1986 Census

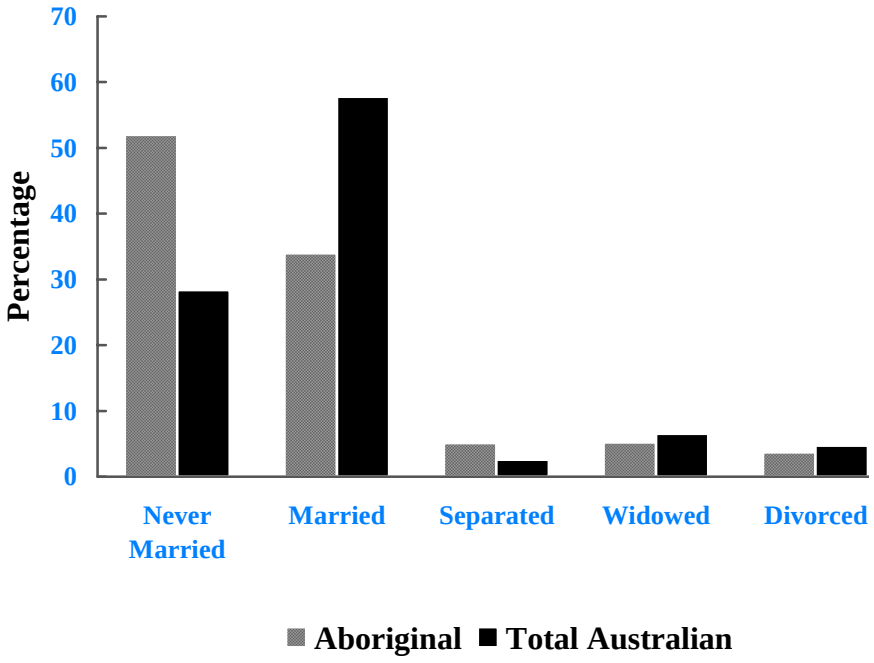


TABLE 4.8
Languages spoken at Home by Aboriginal People aged 5 years and over, 1986 Census

	English Only		*Aboriginal Language*		*Other*[a]		*Total*	
	No.	*%*	*No.*	*%*	*No.*	*%*	*No.*	*%*
NSW	48,813	96.5	568	1.1	1,201	2.4	50,582	100
Vic.	10,205	94.0	243	2.2	413	3.8	10,861	100
Qld	44,239	83.6	4,565	8.6	4,083	7.7	52,887	99.9[b]
WA	23,595	72.7	7,660	23.6	1,186	3.7	32,441	100
SA	9,018	73.6	2,598	21.2	641	5.2	12,257	100
Tas.	5,700	98.3	9	0.2	89	1.5	5,798	100
NT	7,780	26.0	20,402	68.2	1,731	5.8	29,913	100
ACT	1,000	94.6	33	3.1	24	2.3	1,057	100
Aust.	150,350	76.8	36,078	18.4	9,368	4.8	195,796	100

(a) Including 'not stated' and 'inadequately described'.
(b) Components do not total to 100 per cent owing to rounding.

Source: Australian Bureau of Statistics 1987a.

Family Type

There is a higher proportion of single parent Aboriginal families than there is in the total Australian population. Six per cent of total Australian families are single parent households whereas 16 per cent of the Aboriginal families are of the single parent type as Table 4.9 illustrates. Table 4.10 shows that there are many more single parent Aboriginal families in urban than in rural areas.

In comparison to the non-Aboriginal families it would appear that Australia's Aboriginal families have a higher level of dependency (as reflected in the population pyramid), a lower rate of childless families, and a higher proportion of larger families—with members from other than the nuclear family.

TABLE 4.9
Family Type, 1986 Census

	Aboriginal		*Total Australian Pop.*	
	No.	*%*	*No.*	*%*
Parent and dependent child	3,832	7.1	124,166	3.0
Parent and 2 or more dependent children	4,798	8.9	123,016	3.0
Couple	7,188	13.3	1,271,872	30.6
Couple and 1 dependent child	5,132	9.5	403,298	9.7
Couple and 2 or more dependent children	13,375	24.7	1072,968	25.8
Related adults	3,324	6.1	258,768	6.2
Parent and dependent children and adult family member	4,769	8.8	76,989	1.9
Couple and adult family member	2,980	5.5	449,208	10.8
Couple and dependent children and adult family member	8,736	16.1	377,726	9.1
Total	54,134	100.0	4,158,011	100.0

TABLE 4.10
Geographical Distribution of Aboriginal Single Parent Families (without other Adult Family Members), 1986 Census

	No.	*%*
Major Urban	2,504	29.0
Other Urban	3,832	44.4
Rural	2,294	26.6
Total	8,630	100

The Torres Strait Islanders

The Torres Strait Islanders are included for administrative convenience with Aboriginal people but their cultures are dissimilar as was their colonial experience.

Situated between Cape York Peninsular and Papua New Guinea, the Torres Strait Islands are legally part of Queensland, the group being formed by more than 100 islands, cays and named reefs. There are fifteen island communities on fourteen islands in addition to Thursday Island, the main administrative centre, regarded as a mixed European/Islander settlement. Most of the islanders are Melanesian in appearance and while their ethnic origins are difficult to identify, many claim to have ancestors from Polynesia, Melanesia or Asia.

Continuous European contact began with the arrival of the London Missionary Society (LMS) missionaries in 1871 and in 1879 the islands were annexed by Queensland. European conquest was not as catastrophic an experience for the Torres Strait Islanders as it was for Australian Aboriginal

people. The Islanders were neither deprived of their land nor their traditional means of livelihood and were permitted to continue to practise those of their customs not considered offensive by colonial administrators. In addition the Queensland administration permitted a measure of self-management as colonial rule was exercised indirectly through the Islanders' own councils. Anthropologist Jeremy Beckett (1987, p. 17) has noted that this was 'In striking contrast to its autocratic treatment of Aborigines'.

Beckett estimates that the total population at first contact was probably between 4,000 and 5,000. After the coming of Europeans the population began to decline with exotic diseases being the main cause. At the time of the first official Commonwealth census in 1913, the population had fallen to 2,368 (Beckett 1987, p. 38). By the 1930s the decline had been arrested and the numbers had begun to rise. Beckett considers that both Queensland and Commonwealth government figures documenting this rise are unreliable (Beckett 1987, p. 69).

Table 4.11 shows the distribution of Torres Strait Islanders by states and territories for the years 1971, 1976, 1981 and 1986)According to Beckett the 1961 figure of 5,217 is an underestimate and the 1976 figure of 16,533 an 'improbable advance on the 1971 figure of 9,663'. He is also sceptical about the large population of Torres Strait Islanders 'discovered' in major urban centres of New South Wales and Victoria. Beckett suggests:

> *A possibility that does not seem to have been considered is that immigrants from the Pacific Islands may either have seized upon the term 'Islander', disregarding 'Torres Strait', or may have taken this identification as a means of concealing their illegal status* (Beckett 1987, fn. 3).

The ABS (1986, p. 8) too has noted the possible confusion surrounding the term 'Islander' with regard to Bass Strait Islanders identifying as Torres Strait Islanders.

Before the 1960s there were no more than 500 Islanders working on the mainland. Today more than half live on the mainland. In the 1960s a slump in the pearling and fishing industries, a rising population and a shortage of land led to the start of a significant migration to the mainland. Most went to Queensland where big Islander populations are to be found in Cairns and Townsville, the original points of entry, but also in Mackay and Brisbane. The majority of Islanders, including those in the Strait, still live in Queensland but whereas they amounted to 97 per cent of the total Torres Strait islander population in 1966 they fell to 78 per cent in 1971, 70 per cent in 1981 and 61 per cent in 1986. The Islander population of the Strait, including the island reserves, Thursday Island and the Bamaga government settlement on the mainland, remained around 4,500 from 1961 to 1981 and was recorded as 4,837 in 1986. Census population increases have been offset by migration.

TABLE 4.11
Distribution of Torres Strait Islanders by States and Territories, 1971[a], 1976[b], 1981 and 1986

	1971		*1976*		*1981*		*1986*	
	No.	%	No.	%	No.	%	No.	%
NSW	772	8.0	2763	16.7	1953	12.8	3339	15.5
Vic.	715	7.4	2345	14.2	774	5.1	1871	8.7
Qld	7508	77.7	9396	56.8	10,732	70.5	13,170	61.1
WA	278	2.9	560	3.4	602	4.0	679	3.2
SA	159	1.6	774	4.7	349	2.3	993	4.6
Tas.	96	1.0	421	2.5	354	2.3	887[c]	4.1
NT	128	1.3	215	1.3	408	2.7	542	2.5
ACT	7	0.1	59	0.4	60	0.4	60	0.3
Aust.	9,663	100	16,533	100	15,232	100[d]	21,541	100

(a) 1971 figures include a pro-rating non-response.
(b) Any discrepancies between totals and sums of components are due to sampling error.
(c) The relatively high count of Torres Strait Islanders in Tasmania may be due to incorrect reporting by people of Bass Strait Islander descent.
(d) Components do not total to 100 per cent, owing to rounding.

Sources: Department of Aboriginal Affairs, Background Notes; and Australian Bureau of Statistics 1987a, p. 8.

Conclusion

The most outstanding feature of Australia's Aboriginal population as revealed at the 1986 Census is obviously the radical difference in the age distribution when compared with the Australian population as a whole. A much higher proportion of Aboriginal people are to be found in the younger age group with relatively fewer Aboriginal people in the sixty and over age bracket. The increasing urbanisation of the Aboriginal population is another noticeable trend but this development has to be treated with caution because of the self-identification factor. In recent years a greater number of urban Aboriginal people have been willing to identify themselves as Aboriginal people for census purposes.

February 1989

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RESEARCH PAPER NO. 5

Drug Testing in Prisons

David McDonald

The matter of drug use in prisons is of wide community concern. Promises of action in this area have formed part of the election platform for various political parties, prisoners sharing contaminated drug injecting equipment has been identified as a high risk activity insofar as the transmission of HIV/AIDS is concerned, and evidence has been presented to hearings of the Royal Commission pointing to the involvement of drugs in at least some of the deaths of Aboriginal people in custody being investigated by the Commission. For example, one of the first such cases was that of Kingsley Richard Dixon, who died in the Adelaide Gaol on 9 July 1987, aged 19 years. Evidence has been presented to the Royal Commission's hearings on that death that Mr Dixon had been consuming cannabis and the hypno/sedative 'Rohypnol' (funitrazepam) in the gaol prior to his death. Since approximately one-third of these Aboriginal deaths in custody have occurred in prison (Research Paper No. 1, pp. 1-10 of this volume) the role of drugs in prisons is of interest to the Commission.

This paper focuses on one element of the debate concerning drugs in prison, namely, testing for drug use in prison. The paper provides an overview of social policies on drugs, reviews some of the key issues in testing for drugs in the prison environment and current research findings on prisoners' drug use prior to incarceration and in prison, and describes current legislation and policy in Australia and overseas. It is hoped that the paper will be useful to the Royal Commission, prison authorities and other interested groups by providing a brief overview of the issues involved, the options available and current practice. The paper highlights the diversity of approaches available and practised in the various Australian states and territories, and invites the states and territories to review their current law and practice in the light of this diversity.

In this paper the word 'drugs' is used as a shorthand term for 'psychoactive drugs', defined by the World Health Organization as being those chemical entities or mixtures of entities which alter mood, cognition or behaviour (WHO 1981, p. 239). Such a definition covers drugs, the use of which is legal in society at large (such as alcohol, tobacco and many pharmaceutical products), and the illegal drugs (such as heroin and cocaine). It also covers products such as petrol and glue which can be inhaled for their mood-altering effects. It is noted, however, that in the prison environment the definition of legal and illegal drugs is different from that found in the broader community, since prisoners are generally not permitted to possess or consume alcohol.

Testing for drugs in prison usually seeks to detect the use of the illicit drugs and the non-therapeutic use of pharmaceutical products. For this reason, unless

noted otherwise, we will use the term 'drug testing' and 'urine testing' to refer to testing for the presence of these drugs, rather than for alcohol.

Drugs and Prisons

Social policy on drugs

In formulating social policy on drugs, it has been commonplace to identify two key elements, namely, the supply of drugs, on the one hand, and the demand for drugs, on the other (United Nations 1987). This approach reflects the fact that for the use and misuse of drugs to occur, mechanisms have to be available to supply drugs and, at the same time, there must be a demand, on the part of consumers, for those drugs. An unfortunate consequence of this model has been the current somewhat simplistic understanding that the appropriate responses to drug misuse are confined to supply control (particularly legislation and law enforcement) and demand reduction (particularly education and treatment).

In recent times a more realistic approach to drug abuse policy has received a degree of acceptance. This approach, known as the harm minimisation approach (*see*, for example, Drew 1988, pp. 139-40), recognises that drug use is endemic in our society. It recognises that action needs to be taken to limit the availability of drugs and the demand for drugs but, since some drug use will always occur, it adds a third arm of policy, namely, taking action to minimise the harm consequent on drug use, although such action may not lead to a reduction in drug use itself. (This approach is reflected in the strategy of Australia's National Campaign Against Drug Abuse (1985), the overarching goal of which is 'to minimise the harmful effects of drugs on Australian society'.) The application of the harm minimisation approach can be seen in the provision of methadone for opiate dependent people on long-term maintenance regimes, or the provision of free injecting equipment to drug users in the community, along with the provision of drug education and offers of counselling support when needed.

The supply control/demand reduction/harm minimisation approach to social policies on drugs does not apply within the prison system in exactly the same way as in the broader society. The difference lies in the different market forces which operate within the prison environment, particularly the high level of demand for psychoactive drugs and the special routes of supply of such drugs to and within the custodial environment. To be more specific, a substantially higher proportion of prisoners engages in illicit drug use prior to coming into prison than does the population at large; special measures need to be used to smuggle drugs into prison, measures which do not need to be used to transmit drugs in the broader society; and, within the prison, it is far more difficult to possess and use drugs than it is in the broader society where surveillance of individuals by persons in authority is not nearly so intense. These special characteristics of the drug markets within prisons need to be considered in the development of responses to drugs in prison.

It has been suggested that prison life itself can be a stimulus to drug use. As one American observer put it:

> *What cannot be overlooked . . . is the allure of a high—virtually any high—as relief from the tedium, the deprivation, of prison. It is easy to condemn drug use in prison from the safe distance of a comfortable home. Indeed, we might ask ourselves how much we might covert relief if we unexpectedly found ourselves behind bars. The point of this momentary effort to empathise with inmates is not to create excuses or to urge legalisation of drugs in prison. The point is to stress how compelling the desire is—or how inelastic the demand, in economic terms—and thus how serious the control problem is.*
>
> *'Just say no' has an especially hollow ring in prison (Cohen & King 1987, p. 153).*

Drugs become available to prisoners through at least three routes: manufactured within the prison, diverted from legal sources within the prison, and illegally brought into the prison from outside sources. Alcohol is the drug most frequently manufactured within the prison; therapeutic drugs, particularly sedatives, tranquillisers and the powerful analgesics including methadone, are liable to be diverted from their therapeutic use; and drugs can be brought into the prison by visitors, prisoners returning from activities outside of the prison and by prison staff. Drug supply control policies need to address all these routes of entry of drugs into the prison. It is on this basis that the Royal Commission's Research Paper No. 2 'Draft Guidelines for the Prevention of Aboriginal Deaths in Custody' recommends that

> *all detention facilities, and especially prisons in which persons are detained for lengthy periods of time, must establish and maintain appropriate procedures to ensure that non-prescription drugs and alcohol are not readily available to detainees* (Research Paper No. 2, pp. 11-19 of this volume).

A comprehensive approach to reducing the prevalence of drug use in prisons is necessary: governments and prison administrations should not expect that any one intervention, alone, is likely to be of outstanding success.

In particular, it is important not to over emphasise the law enforcement approach. Research into the effectiveness of drug policies in the general community has shown, for example, that law enforcement activities are quite limited in their impact on drug production, trafficking and use. Overseas evidence indicates that, in some circumstances at least, little benefit comes from even large increases in the level of resources allocated to drug law enforcement efforts (*see*, for example, Reuter & Kleiman 1986, pp. 289-340; Trebach 1982; Wardlaw 1985, pp. 42-58). While these research findings are no

argument for reducing law enforcement efforts, they do add a note of caution and alert us to the limitations of this, and any other, single approach.

In addition, urine testing for drugs operates within a framework of drug legislation which is being increasingly criticised. Any substantial change in the legal status of drugs (such as the decriminalisation of cannabis possession and use, or the provision of heroin on prescription) could substantially affect the operation of urine testing programs. It is likely, however, that testing programs would still be used in some prison systems.

Finally, although this paper focuses on policy and programs for testing for drugs in prisons, from a social policy perspective it is important to recognise that such testing is not universally accepted. It is not used in some nations comparable to Australia, including Canada and the United Kingdom, and some Australian states have not legislated to permit the testing of prisoners' urine for the presence of drugs. Indeed, strong arguments have been advanced against programs of mandatory testing, as well as in favour of them (*see Journal of Policy Analysis and Management,* 1988, vol. 7, no. 3, pp. 542-64).

Responses

Responses within the prison system to reduce the demand for drugs and to minimise the harm caused by drug use include both education and treatment initiatives. A number of Australian prison administrations have been active in identifying those prisoners who, at the time of admission to prison, have problems related to drug use. Educational programs have been provided, in some jurisdictions, to help prisoners to understand better the nature of drugs and their adverse impacts, and to develop methods of coping in a drug using society. Treatment programs have been developed, particularly for drug dependent prisoners, to assist them to function effectively within the prison environment and in the broader community upon release. Some emphasis has been given to pre-release treatment programs and to the immediate post-release period. In this regard, prisoners have been identified as a group to receive special attention in the development of treatment and rehabilitation services under the National Campaign Against Drug Abuse and an expansion of such services has occurred, under the Campaign, during the 1986-88 period (Department of Community Services and Health 1988a).

The HIV/AIDS epidemic has provided a stimulus for the reconsideration of many aspects of social policies on drugs. This has come about because intravenous drug use or, more accurately, the sharing of contaminated injecting equipment, is a major route for the spread of HIV/AIDS among intravenous drug users and from them, through the sexual transmission route, to the general population. The prisons are increasingly being recognised as potential incubators for HIV/AIDS because of the prevalence there of homosexual activity, intravenous drug use and the sharing of contaminated injecting equipment.

In this regard the Prisons Sub-committee of the National Advisory Council on AIDS (NACAIDS) submitted a report dated 7 August 1987 to the

Commonwealth Minister for Community Services and Health providing recommendations on minimising the spread of HIV/AIDS within the Australian prison system. That report recommended, among other things, that

> *Drug users (in prison) should be discouraged by the immediate introduction in both male and female prisons of routine, mandatory, but random urine screening for narcotics, barbiturates and amphetamines. 'Dirty' urine will be punished by loss of contact visits* (NACAIDS 1987, p. 3).

This recommendation was presented along with other suggestions in areas of education, counselling, safer sexual practices and antibody testing. The sub-committee did not recommend that injecting equipment exchange programs be established in prisons (although this approach is being implemented in the community in most jurisdictions in Australia). The 1988 Discussion Paper on a national strategy on AIDS, however, includes as a policy option the introduction into prisons of needle and syringe exchange programs and/or the distribution of information and supplies needed to decontaminate injecting drug equipment (Department of Community Services & Health 1988b).

Prisoners' Drug Use

In the absence of systematic and effective programs of research and monitoring, it is impossible to know the actual prevalence of drug use within prisons. It is clear, however, that drug use of various kinds is widespread in the Australian prison system; indeed, one Australian author has stated that 'the majority of prisoners are intravenous drug users' (Ellard 1987, p. 192).

Some indication of the prevalence of drug use in prisons can be obtained from studies of drug use by prisoners immediately prior to their incarceration. Indermaur and Upton (1988, pp. 144-67) have summarised the United States research in this area, indicating that approximately one-third of American prisoners had a history of regular heroin use or were under the influence of heroin, immediately prior to admission to prison. They report that two Western Australian surveys showed similar results.

Dobinson and Ward (1986, pp. 249-67), while studying the link between heroin and property crime, interviewed 225 prison property offenders in New South Wales gaols. In Tables 5.1 and 5.2, the prisoners' drug use patterns in the period immediately prior to arrest (approximately six months) are set out. It will be noted that 89 of the prisoners (40 per cent) were classified as drug users on the basis that they 'had consumed either barbiturates, cocaine, heroin and/or other opiates on a regular or heavy basis during the specified period prior to arrest'.

TABLE 5.1
Frequency of Drug and Alcohol use by Users in the Period prior to Arrest

	Heavy		*Regular*		*Occasional*		*Infrequent*		*Never*	
Drug Intake of Users	*No.*	*%*	*No.*	*%*	*No.*	*%*	*No.*	*%*	*No.*	*%*
Alcohol	10	11.2	13	14.6	30	33.7	12	13.5	24	27.0
Cannabis	25	28.1	16	18.0	23	25.8	10	11.2	15	16.9
LSD/ Psychedelics	-	-	1	1.1	3	3.4	10	11.2	75	84.3
Amphetamines	2	2.2	5	5.6	9	10.1	11	12.4	62	69.7
Barbs/Hypnotics	3	3.4	6	6.7	12	13.5	7	7.9	61	68.5
Cocaine	3	3.4	3	3.4	9	10.1	17	19.1	57	64.0
Heroin	51	57.3	29	32.6	4	4.5	1	1.1	4	4.5
Other opiates	4	4.5	5	5.6	20	22.5	18	20.2	42	47.2

Source: Dobinson & Ward 1986, p. 253.

TABLE 5.2
Frequency of Drug and Alcohol Use by Non-Users in the Period Prior to Arrest

	Heavy		*Regular*		*Occasional*		*Infrequent*		*Never*	
Drug Intake of Users	*No.*	*%*	*No.*	*%*	*No.*	*%*	*No.*	*%*	*No.*	*%*
Alcohol	29	21.3	31	22.8	46	33.8	15	11.0	15	11.0
Cannabis	20	14.7	20	14.7	20	14.7	15	11.0	61	44.9
LSD/ Psychedelics	2	1.5	5	3.7	1	0.7	12	8.8	116	85.3
Amphetamines	2	1.5	-	-	1	0.7	6	4.4	127	93.4
Barbs/Hypnotics	-	-	-	-	2	1.5	5	3.7	129	94.9
Cocaine	-	-	-	-	2	1.5	5	3.7	129	94.9
Heroin	-	-	-	-	4	2.9	6	4.4	126	92.6
Other opiates	-	-	-	-	2	1.5	3	2.2	131	96.3

Source: Dobinson & Ward 1986, p. 254.

More recently, Indermaur and Upton (1988) studied 926 people received as prisoners at the seven Western Australian Metropolitan Prisons during the months of June to September 1987. Table 5.3 describes the self-reported drug use histories of those prisoners.

TABLE 5.3
Drug Use Histories of Prisoners, Western Australia (N = 926)

	Per cent who have ever tried	*Median Age of first use*	*Per cent using in last year*
Cannabis	74.4	15.5	61.5
LSD	27.4	16.5	9.6
Barbiturates	35.5	17.5	19.8
Heroin	19.7	17.5	11.0
Cocaine	13.5	17.5	5.0
Amphetamines	26.2	17.5	15.0
Anti-Depressants	6.2	17.5	3.3
Volatile Substances	8.8	13.5	2.3

Source: Indermaur & Upton 1988, p. 154.

For purposes of comparison, Table 5.4 shows the proportions of the Australian population who reported, through a survey, having tried drugs at some stage in their lives.

It can be concluded that Australian prisoners have a very high degree of drug use prior to imprisonment compared with the general population; in prison their demand for drugs will continue; and some degree of availability of drugs exists in prison, with the result that drug use can occur in any Australian prison.

TABLE 5.4
Proportion of Population who have tried Drugs, Australia, 1988

	Males				*Females*				
Age Group	*14-19*	*20-39*	*40+*	*All Ages*	*14-19*	*20-39*	*40+*	*All Ages*	*Total Persons*
Marijuana	33	56	11	33	25	43	7	24	28
Heroin	-	5	-	2	-	1	1	1	1
Barbiturates	2	5	7	6	3	6	8	7	6
Tranquillisers	6	21	25	21	5	24	37	28	25
Glue/Petrol/Solvent	6	5	-	3	6	2	-	1	2
Amphetamines	4	10	2	6	4	6	1	3	5
Cocaine	2	5	1	3	1	4	-	2	2
Hallucinogens	5	16	1	8	5	7	1	4	6
Ecstasy/Designer Drugs	4	2	-	1	2	1	1	1	1

Note: Use of some drug types, e.g., barbiturates, tranquillisers and amphetamines may not be illicit.

Source: National Drug Abuse Information Centre 1988, p. 33.

Drug Testing

Purpose of drug testing

Policy and programs regarding testing for drug use should be developed as part of a broader strategy aimed at controlling drug trafficking and illicit use. It should be seen in the context of clearly defined goals and strategies, and the policy development process should, ideally, include a systematic evaluation of the relative effectiveness of the various control measures available.

One of these control measures–the testing for drug use within the prison environment–fills a number of different functions. Some of them relate to the needs of individual prisoners, some to prison management, while others are of a more general nature. Our review of Australian policy and practice on drug testing in prisons, set out in the next section of this paper, indicates that all these purposes are met, to some degree, in the Australian situation. The uses of drug testing can be summarised as follows:

Screening for release Drug screening can be useful in making decisions regarding the release of a prisoner, particularly in the context of parole. Test results showing that a prisoner is regularly using drugs could lead to a decision not to release the person on parole or to do so with special conditions of supervision.

Offender classification Effective classification of prisoners is facilitated by having available drug screening information. This is particularly the case in determining the type of custodial environment to be used and job classifications.

Gaining evidence for prosecution Legislation can empower authorities to require prisoners to provide a sample of body fluid to be tested for the presence of drugs and for the results of such tests to be used as evidence in a prosecution of that prisoner for drug use offences.

Selection for and monitoring of treatment People who are being treated for drug dependence or other aspects of drug misuse are frequently required to undergo regular urine testing as a condition of participation in the treatment program. The National Methadone Guidelines point to the central role of urine testing in methadone programs. Having available regular screening, particularly when conducted on a random basis, assists both treatment personnel and the clients of treatment programs, when it is well integrated into the treatment program itself. Frequently, such screening programs are conceptualised and administered quite separately from screening undertaken for other purposes.

Intervention following use It has been suggested that, on some occasions, drug use in prisons runs in epidemics: there will be little drug use for a period

and then a high level of use. Intervening by conducting intensive drug testing, following the detection of an increase in drug use prevalence, can be useful in inhibiting the run of drug use and the criminal behaviour which accompanies it.

Establishing a data base on drug misuse for program and financial planning Having data available from regular drug testing programs within prison can be of assistance to prison management in estimating how many drug users there are in prison and monitoring the effectiveness of intervention strategies. Such information can be useful, in turn, in the development of budgets and bids for additional staff when new resources are required to address drug use within prison.

Illicit drug control Unannounced, random irregular testing within the prison system can detect illicit drug trafficking. When conducted frequently, such a regime can have a deterrent effect.

Testing when the public believes that drug use is rampant in an institution An effective program of testing can help to provide information to demonstrate the accuracy or otherwise of public and political allegations that 'drug use is rampant within the prisons'.

Post-contact visits drug use monitoring Since contact visits are considered to be a major route by which illicit drugs enter prisons, having in place a regular system of drug testing following contact visits, either on a random or 100 per cent basis, can discourage such trafficking.

Temporary release programs Where programs of day or weekend leave or work release are in operation, or where prisoners are regularly moving in and out of the prison for other purposes, drug testing can discourage both drug use and trafficking by those prisoners.

Identifying drug use trends As shown in the Australian studies referred to earlier, drug testing within prisons can be a useful way of monitoring drug use within this section of society. Caution needs to be applied in interpreting the data derived from the prison population, however, because of its unrepresentativeness compared with the general population. This approach is based on one provided by the American Correctional Association (1981, p. 3).

In practice, it is usual that a drug testing program within the prison system will fill a number of functions. Our review of Australian policy and practice in this paper points to the marked differences in legislation and approach used between the various Australian jurisdictions.

Targets and methods

The questions arise, who should be tested? and how should testing be conducted? The answer to the first question will depend upon the purposes for which drug testing is used and the legal and ethical considerations involved. In this context, three categories of people are liable for testing: prisoners, prison staff and visitors to the prison.

Most of the goals of drug testing, discussed earlier are achieved through the testing of prisoners themselves. Frequent random testing or 100 per cent testing of certain groups of prisoners is desirable on some occasions, while less expensive random screening of samples of prisoners is appropriate on other occasions. Experience in methadone programs in the community setting suggests that little value is to be gained, in terms of reduced drug use, by 100 per cent screening compared with well implemented random screening programs.

On some occasions individuals entering the prisons on official business, including prison officers, are a source of illicit drugs. From time-to-time this matter is brought to public attention through media reports of prison officers and others being prosecuted for drug trafficking into and within the prison. The inevitability of the existence of this route of movement of drugs has led to calls for the regular or irregular, random screening of prison officers and others. In the United States, where workplace drug screening programs are widespread and are mandated by Federal and other laws, such screening now operates. (It should be noted, however, that mandatory workplace screening in the USA is still highly controversial.) The Australian environment is different, however, and it is unlikely that prison staff unions would accept mandatory screening (though voluntary testing may be acceptable), if management were to suggest it. Other approaches to deterring and detecting prison staff involved in drug trafficking into and within the prisons are required.

Prisoners' visitors are a major source of the movement of drugs into prisons. Special concern has been voiced about contact visits, in this context, and a number of actions have been taken with the aim of reducing the transmission of drugs during contact visits. These include special arrangements regarding clothing, such as the requirement that prisoners wear special one-piece overalls to prevent concealing drugs in pockets or on their bodies. The suggestion sometimes arises that internal body searches be conducted, following contact visits, as a deterrent and detection method, although major concerns about privacy exist.

A detailed discussion of the methods available for conducting drug testing in prisons is beyond the scope of this paper. With the rapid increase in large scale drug testing programs, which has occurred in recent years, a mass of evidence has become available on the relative effectiveness of different methods of screening. In the United States, in particular, extensive workplace screening programs, especially of people in sensitive occupations, have been a catalyst of this development. In that country, the matter has gained such a high

profile that a fortnightly publication on the topic, *Drugs in the Workplace*, is published. Valuable information on screening methods, relevant to the Australian situation, is available in the proceedings of the February 1988 national conference on 'Screening for Drug Abuse–A Community Challenge' jointly hosted by the Australian Medical and Professional Society on Alcohol and Drugs and the Australian Association of Chemical Biochemists (*see also* Hawks & Chiang 1986). Among the technical issues which impact on policy in this area are:

- decisions on testing only for the presence of particular drug groups, compared with testing for the quantity consumed or the specific type of drug;
- dealing with the problem, inevitable in any large-scale testing program, of false positive findings; and
- the complications caused by the fact that some drugs can be detected long after the time of actual use, whereas others are eliminated from the body very rapidly.

Privacy aspects

The topic of drug testing in prisons raises serious questions concerning the rights of those tested, be they prisoners, prison staff or others. Clearly, testing for drugs is an invasion of privacy. Although prisoner's rights to privacy are different from those of the broader community, by virtue of their status as people committed by a court to a period of imprisonment, they retain certain rights to privacy and due consideration needs to be given to those rights in the development of policies and programs on drug testing in prisons.

Privacy is not an absolute right–it is a balanced right (NSW Privacy Committee 1988). The gains to be derived from any screening program have to be balanced against the invasion of privacy involved. This task is not an easy one but is integral to the policy development process in this area. The matter is made clearer when we consider that testing for drugs, particularly the most common technique, namely urine testing, is but one point on a hierarchy of intrusive activities aimed at identifying the presence of drugs. This hierarchy (Based on one provided by Cohen & King 1987, pp. 157-8) can be expressed as follows:

- surgical procedures to remove drugs concealed within the body;
- strip searches including the visual inspection and probe of body cavities;
- strip searches involving manipulation of the body to permit close visual observation of body cavities;

- strip searches with visual observation;
- full body searches while clothed, including patting down the garments and inspection of pockets, etc.;
- a superficial frisk or patting down the outer garments.

Urine testing involves a degree of invasion of privacy which could be seen as similar to that of the strip search with visual observation, particularly since effective urine testing procedures include the requirement that an officer observe the actual passing of urine to avoid the risk of urine substitution.

It is argued that the concept of privacy has two elements, namely, personal privacy and information privacy (Morgan 1991). Requiring that prisoners provide a urine sample and that this be provided in the presence of and be observed by prison officers, for example, is a clear invasion of personal privacy. On the other hand, using the information derived from testing programs for purposes of research, prison management, and so on, could be considered to be an example of invasion of information privacy. Valuable work has been undertaken by the New South Wales Privacy Committee and the National Health and Medical Research Council, among others, to clarify the issues involved (*see*, for example, NHMRC 1985; NSW Privacy Committee 1986). It will be noted, however, that the legal status of prisoners–the limits on their human rights–make the application of these guidelines to prisoners somewhat problematic. This issue is highlighted when we recognise that the legislation which provides for testing for drugs in prisoners varies greatly between the jurisdictions, with the extreme example (discussed in more detail in the next section) being that in one jurisdiction, Western Australia, urine testing can only be undertaken to obtain evidence of an offence whereas in another, New Zealand, the legislation specifically excludes the use of urine test results in evidence for disciplinary charges against inmates suspected of using drugs. Given this diversity, careful attention needs to be given to the purposes of testing for drugs and to the differing privacy aspects involved.

Some of these issues have been reviewed by Dr Jacqueline Morgan, Executive Member of the New South Wales Privacy Committee. In a paper presented to the recent conference on 'Screening for Drug Abuse–A Community Challenge', referred to above, Dr Morgan concluded as follows:

1. *There are serious issues for both personal and information privacy in programs of screening for drug abuse.*
2. *It would require a very powerful argument indeed to justify mandatory screening under any circumstances.*
3. *Detailed policy and privacy guidelines are necessary for any screening programs for drug abuse.*

4. *The question of justification of the proposed screening, even where participation is voluntary, depends on how effective a measure it is, and that question has not, I believe, yet been satisfactorily answered.*

5. *The scientific imperative in screening programs is very strong but that, like privacy, must be balanced against other factors for the greatest benefit to society and its members* (Morgan 1991).

This conclusion provides a useful framework for reviewing the Australian policy, legislation and practice in the area of drug testing in prisons, as set out in the following section.

Australian Policy and Practice

Methodology

To obtain an overview of Australian policy and practice relating to drug testing in prisons, a letter was sent to the head of each of the eight Australian state and territory prison administrations seeking information. A similar letter was sent to the New Zealand Department of Justice. Each jurisdiction was invited to provide a response to the following five questions:

- As a matter of law, can urine testing be ordered in your jurisdiction?
- How many tests, if any, were ordered in the past year?
- If applicable, what criteria are applied for the use of such tests?
- Is the cost of urine testing a relevant consideration?
- Do you believe that more extensive use of urine testing would be helpful or be counterproductive in terms of prison management?

Each jurisdiction responded, providing brief information in all five areas of interest. Although the questions were phrased to refer to 'urine testing', it appears that no jurisdiction differentiates between testing for the presence of drugs in the urine and any other testing methodology. The responses can therefore be used to give a broad indication of current policy and practices relating to drug testing in general in the eight Australian jurisdictions and in New Zealand. The responses are summarised below.

Legal position

Each jurisdiction was asked 'as a matter of law can urine testing be ordered in your jurisdiction?'. The responses indicate that Queensland and South Australia

have no legislative provisions for urine testing for drugs. In New South Wales and Western Australia, such testing can be ordered. Urine testing can be required for medical purposes (but not for identifying the presences of drugs as such) in Victoria, Tasmania and the Northern Territory. The Australian Capital Territory, which does not have a prison but does have a remand centre, has legislative power for the superintendent of the remand centre to direct that a detainee submit to a medical examination on admission.

Number of tests conducted

The question was asked 'how many tests, if any, were ordered in the past year?'. The responses, reported here, cover the period approximately February 1987 to February 1988. The number of tests ordered are as follows:

> NSW—712 (includes the testing of prisoners who are receiving methadone as part of a treatment program).
>
> Vic.—3,700 (most of these tests were conducted on samples supplied voluntarily by prisoners involved in drug treatment programs; very few tests are ordered for other reasons).
>
> WA—343.
>
> Tas.—4.
>
> NT—Nil.
>
> ACT—20 (this testing is voluntary and not mandated by the legislation—the criteria are set out in the following section of this report).
>
> QLD and SA—not applicable as drug testing is not used in these jurisdictions.

Criteria for testing

Each jurisdiction was asked 'if applicable, what criteria are applied for the use of such tests?'. The responses can be summarised as follows:

- Testing is ordered where it is suspected by prison staff that an inmate has used drugs. The suspicion could come from observing unusual behaviour on the part of the prisoner or could arise when a prisoner returns from leave or a work release activity in which he or she has access to drugs. This criterion is applied in New South Wales and Tasmania. In the ACT, detainees who wish to receive contact visits must agree to testing on suspicion. Such testing is ordered when a detainee shows signs of being under the influence of drugs following a contact visit.

- Testing is conducted for the purposes of research and monitoring in New South Wales.

- Drug testing can be ordered for the purposes of assessing the medical condition of a detainee or for treating a medical condition in Victoria, Queensland and the Northern Territory.

- In Western Australia, testing can be ordered for the purpose of obtaining evidence of the commission of an offence where there is reasonable cause to suspect that the prisoner has been using drugs.

- In New South Wales and Victoria, drug testing is used as an integral part of the treatment programs for drug dependence, particularly those which incorporate the use of methadone. It is a technique available to ensure that these prisoners are, firstly, taking methadone and secondly to assess whether or not they are using other drugs concurrently with the prescribed methadone.

This brief review indicates the diversity of criteria used in the various jurisdictions. It is understood that only one jurisdiction, New South Wales, has amended its legislation in the light of the HIV/AIDS epidemic.

Cost considerations

Jurisdictions were asked 'is the cost of urine testing a relevant consideration?'. Most jurisdictions indicated that cost is not a relevant consideration, at present, in determining policy and practice regarding drug testing in prisons. This was the case in Queensland, Western Australia, Tasmania, Northern Territory and the ACT. Not surprisingly, the two jurisdictions which have the largest programs of drug testing, New South Wales and Victoria, expressed the view that the costs could become a relevant consideration if more widespread testing were to be implemented. South Australia, which does not undertake drug testing at present, shared this view.

Attitudes to further testing

The final question asked of each jurisdiction was 'do you believe that more extensive use of urine testing would be helpful or be counterproductive in terms of prison management?'. Five jurisdictions, New South Wales, Queensland, Western Australia, South Australia and the ACT expressed the view that more extensive testing would indeed be helpful in terms of prison management. Victoria, which already has an extensive testing program in the context of treatment programs, indicated that further testing would not be useful in that jurisdiction. Tasmania adopted the view that urine testing should be on an 'as required' basis, rather than be used more extensively and the Northern Territory felt that more extensive testing programs could be counterproductive. Table 5.5 summarises some of these data.

TABLE 5.5
Drug Testing in Prisons and Prison Populations

State	Number of Tests[a]	Number of Prisoners[b]
NSW	712	4107
Vic.	3,700	1,991
Qld	0	2,288
WA	343	1658
SA	0	850
Tas.	4	286
NT	0	432
ACT	20	18[c]

[a]Period February 1987 to February 1988, approximately.
[b]Mean daily number of persons Feb. 1987 to Jan. 1988; source: Biles Feb. 1987-Jan. 1988
[c]Belconnen Remand Centre— no prison in the ACT.

International Aspects

New Zealand

Provision is included in the New Zealand Penal Institutions Act 1954 for compulsory testing for the presence of drugs. For this purpose, a prisoner can be required to 'submit to a sputum test or finger swab, or to supply a urine specimen'. While national figures are not available on the extent of testing used in New Zealand, it is not used extensively.

The Act provides that testing can be ordered where an authorised officer believes, on reasonable grounds, that a prisoner is under the influence of drugs. The Act specifically provides that neither the fact that a person has been required to submit a sample nor the information derived from the tests of such samples shall be admissible as evidence of the commission of any offence. In practice, testing is used when it is believed that doing so would serve a useful purpose for a prison's drug prevention efforts including assisting management to prevent further supplies of drugs within the prison itself.

To date, the cost of urine testing has not been seen as important in establishing policy on testing. A current feeling in New Zealand, however, is that more extensive testing would be counterproductive in terms of prison management. They do not feel that it would be usefully conducted on a routine or mandatory basis.

United Kingdom

Prison authorities in the United Kingdom do not have the power to require a prisoner to provide a urine or blood sample to be tested for the presence of drugs. H.M. Prison Service officers do not at present see any need to seek such

power. They have considered the use of urine testing as a control procedure but have rejected it for what they describe as ethical and practical reasons. Officers have advised, however, that they have not ruled out the possibility of using, at some stage, small-scale screening to learn more about the nature and type of drug use within their prisons.

United States of America

The testing of urine for drugs has a high profile in the United States. In 1986, the President of the United States issued an Executive Order by which heads of Federal Government agencies are to develop specific programs of urine testing for employees in 'sensitive' positions. This is part of a broader movement in the USA aiming for drug free workplaces. A substantial number of court challenges have been brought against the application of this policy and many of these have yet to be resolved. More recently, the Federal Government has indicated that it is likely to require compulsory testing of employees in designated position in the private sector, as well as in the public sector. Initially these programs are being developed in the industries regulated by the United States Department of Transportation. It is expected that these moves will also be the subject of court challenges.

The United States Department of Justice's Federal Bureau of Prisons has a well developed policy and program of urine testing for drugs. The program aims both to monitor drug use and to deter unauthorised drug use. Prisoners who are involved in community activities are subject to compulsory urine testing, as are prisoners suspected of drug use. In addition, compulsory random testing of 5 per cent of each federal prison's total prisoner population is conducted each month.

An indication of the results of this comprehensive testing program is given in the following data, which cover the October 1987 to June 1988 period. During those nine months, approximately 1.2 per cent of the prisoners engaged in community activities had urines which were positive for unauthorised drugs. Some 5.7 per cent of the suspected users showed positive tests and 2.4 per cent of the random tests were positive. The drug most frequently found was cannabis (60 per cent of all drugs detected), with smaller numbers of prisoners having been found to have used opiates (16 per cent of drugs detected), cocaine (13 per cent), amphetamines (5 per cent), barbiturates (2 per cent) and other drugs.

In addition, the State prison administrations have their own regulations concerning testing for drugs. The State of Nevada, for example, has a formal policy and program of testing the urines of employees of its Department of Prisons. Under that program, a prison officer may be ordered to submit to a urine test where reasonable suspicion exists that he or she may be using illegal drugs or may be under the influence of alcohol. An officer who refuses to submit to such a test will be recommended for termination on the grounds of 'wilful disobedience of a direct order'.

Sweden

The Swedish prison system makes extensive use of urine testing for drugs (Bishop 1988, pp. 194-201). Testing is used in the contexts of both treatment and control measures. Since approximately 45 per cent of Swedish prisoners have been identified as being drug users, treatment programs are particularly well developed within the Swedish prison system. The provision of urine specimens on a daily basis is one of the components of their in-prison treatment program.

In Sweden, urine testing is the main control measure used to reduce the prevalence of drug use in the prison system. Currently (1988) some 50,000 urine samples are tested each year. While a substantial financial cost is involved, the Swedish authorities consider, on the basis of evaluation research evidence, that this testing is justified. They are aware of the limits of urine testing (including the demands placed on staff, particularly to observe the provision of a urine sample; the measurement errors involved in high volume testing procedures; and the short life of some drugs in the human body) and point to the fact that urine testing, on its own, is not a solution to the problem of drugs in prisons.

Canada

In Canada, in common with most other countries, it is an offence for a prisoner to possess or use drugs. Regulations were developed in 1985 to provide for the compulsory testing of the urine of a prisoner where a member of the Correctional Service of Canada felt that such testing was necessary to detect the presence of drugs. The regulations provide that the results of such testing can be used in evidence in a prosecution of a prisoner for drug use.

These procedures were challenged in court, however, in the light of the Canadian Charter of Rights and Freedoms. For this reason, the Correctional Service of Canada has deferred any expansion of the urine testing program pending the decision of the courts. This Canadian experience highlights the issues of privacy and the rights of prisoners, discussed above.

Conclusion

Drugs in prisons is a pervasive problem, one that will probably never be completely eradicated. The prevalence of drug use in prison varies from institution to institution, and varies over time. It is almost inevitable that prisoners will seek to make alcohol and, where possible, traffic in and use other psychoactive substances. This reflects behaviour patterns established outside of prison and the special pressures of prison life.

A range of problems are associated with drug use in prison, as in the broader community. Crime inevitably accompanies drugs in this environment and drugs act as a form of currency and therefore source of power. Since it is an offence to manufacture, supply, possess and use drugs, in the prison, such behaviour is inevitably disruptive to prison life. The temptation always exists for prison officers and other personnel, as well as visitors to the prison, to be party to these offences. The adverse health consequences associated with drug use are particularly serious in prison. As in the broader community, drugs are likely to be 'cut' with particularly damaging substances, such as soap powder. Irregular supply and variable degrees of tolerance to the effects of drugs increase the potential for overdoses to occur. Withdrawal from heavy use of some drugs is life threatening in itself and the associated psychological factors include depression—an antecedent of suicide. The very limited quantity of injecting equipment available to the intravenous drug users in prison results in a high degree of sharing of such equipment, with the attendant risks of spreading HIV/AIDS and Hepatitis B.

Drugs in prisons present prison management with major challenges. Appropriate responses lie in action to prevent drugs entering prison and being manufactured in prison, preventing the distribution of drugs within the prison itself, and reducing the demand for drugs through programs of education and treatment. Testing for the presence of drugs, particularly through the testing of prisoners' urine, is an appropriate response but not when undertaken in isolation: testing should be part of a comprehensive package of interventions.

We have seen the substantial level of diversity that exists, between the Australian jurisdictions and overseas, in legislation and practice relating to testing for drug use in prisons. This reflects the range of different uses of testing, as well as historical circumstances within particular jurisdictions. The publicity given to this aspect of the custodial environment through the hearings of the Royal Commission, and the increasing degree of public and professional concern about the spread of HIV/AIDS, provide special impetus for reviews of policy and practice regarding minimising the supply of drugs in prison, reducing the demand for drugs and minimising the harm caused by drug use.

We have touched on the issue of privacy. While it is clear that governments have power to legislate to provide for testing for drugs in prisons, the purposes of such testing need to be made clear and testing should be conducted so as to fulfil a useful purpose, balancing utility and privacy considerations.

The Royal Commission will continue to give attention to drugs in prison. Inevitably, evidence will be presented to hearings of the Commission that will demonstrate, firstly, that drugs are available in prison and, secondly, the adverse impact of drugs in that environment. It is on this basis that the Commission's Research Paper No. 2 'Draft Guidelines for the Prevention of Aboriginal Deaths in Custody' (*see* pp. 11-19 of this volume) already includes the following recommendations in this area:

- *For persons in custody who have not been identified as 'at risk', frequent observations must be maintained and, where possible, these should incorporate friendly human interactions. A person apparently under the influence of alcohol or any other drug should be regarded as potentially at risk.*

- *Under no circumstances is a detained person who is unconscious when received into custody, (whether from the apparent effects of alcohol, drugs or any medical condition), to be left unattended for any period. Medical help should be obtained without delay.*

- *All detention facilities, and especially prisons in which persons are detained for lengthy periods of time, must establish and maintain appropriate procedures to ensure that non-prescription drugs and alcohol are not readily available to detainees* (Research Paper No. 2, pp. 11-19 of this volume).

These recommendations, along with the others set out in the Draft Guidelines, support the policy goals of minimising drug use in prison and thereby making the prisons as safe as possible. Coherent policies and programs relating to testing for the presence of drug use are an integral part of this process.

February 1989

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RESEARCH PAPER NO. 6

Aboriginal Imprisonment—A Statistical Analysis

David Biles

It is widely recognised that Australian Aboriginal people are over-represented in all Australian prison systems, but the precise details of that over-representation are not as widely known. This paper aims to present those details for all Australian jurisdictions and also to examine trends in Aboriginal imprisonment in recent years. As far as possible comparisons will be drawn between Aboriginal and non-Aboriginal prisoners in relation to the most serious offences resulting in imprisonment, the sentences imposed, age structure, employment status and educational level. Differences between male and female, Aboriginal and non-Aboriginal prisoners will also be examined, together with the relative numbers undergoing non-custodial correctional orders such as probation, parole and community service orders.

Establishing the level of Aboriginal over-representation in prisons is of very significant interest to the Royal Commission as this datum may partially, or even perhaps totally, explain the relative number of Aboriginal and non-Aboriginal deaths in Australian prisons. If, for example, other research that is currently being pursued shows that the proportions of Aboriginal and non-Aboriginal deaths in prisons are exactly as the proportions of Aboriginal and non-Aboriginal prisoners, then the central focus must be on why these people were in custody as well as why they died.

Nearly all of the statistical material used in this paper is derived from the Annual Census of Prisoners conducted on 30 June each year since 1982. The collection of the data for these censuses is managed by the corrections departments while the analysis and publication of the results is the responsibility of the Australian Institute of Criminology. The detailed planning and administration of the prison censuses have been conducted by a body known as the National Correctional Statistics Committee, the membership of which comprises representatives of all state and territory correctional administrations, the Australian Bureau of Statistics and the Australian Institute of Criminology. This committee is also responsible for the less regular censuses of persons undergoing community based, or non-custodial, correctional orders and it also provides advice on a number of other statistical collections conducted by the Institute.

Australia's Prison Systems

By way of background, some of the basic facts of Australian prison systems are presented. Each of the six states of Australia and the Northern Territory has its own prison system, but the Australian Capital Territory has only a remand centre for unconvicted persons and sends its convicted prisoners to New South Wales. All jurisdictions, however, have their own probation, parole and community service order systems. There are thus eight correctional systems in Australia, one of which does not provide residential accommodation for adult convicted prisoners. There is, in addition, a ninth correctional system, that dealing with offenders against the laws of the Commonwealth, but that system has no facilities and virtually no staff. Federal prisoners serve their sentences in prisons run by the states or the Northern Territory, and, where the law provides, federal offenders sentenced to non-custodial orders are supervised by state or territory officials. Several years ago, a practice was established whereby long-term prisoners in the Northern Territory would serve their sentences in South Australia, and this is still the case with a small number of federal prisoners sentenced in the Northern Territory. Also, for either legal or welfare reasons, prisoners may be transferred from one jurisdiction to another, and this applies to a small but nevertheless significant number.

The inherent complexity of Australian correctional systems is further increased by the fact that there are very large differences between the six states and two territories in their use of imprisonment. This is most readily illustrated by reference to the imprisonment rates (prisoners per 100,000 of the general population) which have been published each month by the Australian Institute of Criminology for the past 12 years. Imprisonment rates vary between approximately 250 and 25 for the Northern Territory and the Australian Capital Territory respectively, and between approximately 100 and 50 for the highest and lowest states, Western Australia and Victoria. While these differences are slightly less extreme now than in the past, they have changed only a little over the last decade. A major change of the past three years, however, has been an increase in the national imprisonment rate from around 60 to around 70, and this is seen as the major cause of prison overcrowding and consequent disturbances.

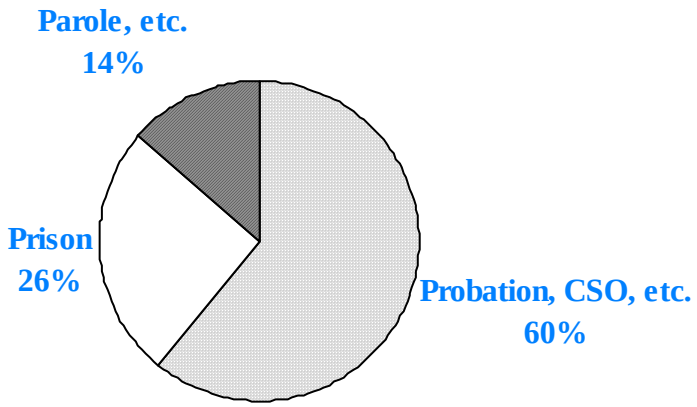
Studies of the significance of the differences in Australian imprisonment rates have tended to show that there is no relationship between crime rates and imprisonment rates (with the exception of the Northern Territory where both are high) and there is certainly no evidence to suggest that communities which lock up large numbers of their people are any safer than other communities that do not. The differences may be related to social isolation, punitive demands of the community, judicial attitudes, or to the operation of parole and remission systems, but the most significant explanatory factor is the number of Aboriginal people in the general community and in the prison system of each jurisdiction.

This is not a total explanation of the differences, but it is of central relevance and will be explained in more detail later in this paper.

An issue that arises is the extent to which the use of alternatives to imprisonment (particularly probation and community service orders (CSOs) at the sentencing stage and parole as a mechanism for early release) will result in lower imprisonment. The Australian data indicate that those jurisidictions with high imprisonment rates also tend to have higher-than-average rates for the use of non-custodial correctional orders, and the converse is true for the low imprisoning jurisdictions. A picture therefore emerges of some jurisdictions being generally more or less punitive, with the imprisonment data being but one illustration of that fact. Some experts suggest that alternatives to imprisonment are likely to cause 'net-widening' (by the imposition of penalties upon minor offenders who would not otherwise have been sentenced to imprisonment) and possibly to increase indirectly prisoner numbers (as a result of the inevitable failure of some offenders to satisfactorily complete the conditions of probation or community service orders and consequently being sentenced to imprisonment). If always wisely used, however, alternatives to imprisonment will of course have the effect of reducing prisoner numbers.

The relative significance of the major non-custodial correctional orders compared with the numbers of people in prison for Australia as a whole is shown in Figure 6.1.

FIGURE 6.1
Correctional Orders, Australia, 1985



The final introductory point that needs to be made is that, notwithstanding inter-jurisdictional differences and also the general increase in recent years, Australia is not a particularly high imprisoning nation when seen in an international context. There are a number of countries with lower national imprisonment rates, most notably The Netherlands which has a rate close to that of the Australian Capital Territory, but most of the nations with which Australia is compared (United Kingdom, Canada, France, Italy, West Germany and New

Zealand) all have much higher imprisonment rates. The national imprisonment rate of the United States is around 300 and that of South Africa is estimated to be even higher.

The National Trends from 1982 to 1987

As already indicated, each year for the past six-year period from 1982 to 1987, the Australian Institute of Criminology has coordinated the National Census of Prisoners held in gazetted prisons at 30 June each year. The Institute has also published the most significant results under the title *Australian Prisoners*. One of the items of information sought each year for each prisoner has been whether or not the prisoner considers him or herself to be an Aboriginal or Torres Strait Islander. The responses to this item had provided the preliminary source of information concerning the extent of Aboriginal over-representation in Australian prison systems, but the information has been incomplete as in some jurisdictions there has been a number of prisoners for whom Aboriginality was noted as 'unknown' and, until 1987, Queensland declined to release any information relating to Aboriginality of prisoners. For this reason it is difficult to make an accurate assessment of the trend in Aboriginal imprisonment over this period. (The 1987 Queensland data on Aboriginality may under-represent the true number of Aboriginal prisoners as the identification was made in some cases from photographs in prisoners' files. On future occasions Queensland prisoners will be asked to nominate whether they consider themselves to be Aboriginal or not.) The basic facts emerging from these six national censuses are summarised in Tables 6.1 and 6.2.

From Table 6.1 it can be seen that over this relatively short period of time the total number of prisoners on census day, 30 June, each year has increased from 9,826 in 1982 to 12,116 in 1987. (The increase is even more marked in the latter years, moving from 9,694 in 1984 to over 12,000 three years later. That is a 25 per cent increase.) Over the six-year period, the number of prisoners known to be Aboriginal can be seen to have increased from 1,049 to 1,766, a 68 per cent increase, but this is not a valid comparison because the number of 'unknowns' has decreased over this period from around 2,000 to fewer than 150. The change in the structure of prison populations is shown more clearly in Table 6.2 where the same figures are shown as percentages.

In order to take into account the variable proportions of 'unknowns', particularly in the Queensland data, calculations have been made of the percentage of prisoners known to be either Aboriginal or non-Aboriginal, excluding the Queensland data. That is, for the purpose of this exercise, those prisoners for whom Aboriginality was not known were not counted. The results of these calculations are shown in Figure 6.2.

The trend in Figure 6.2 is obviously of central relevance to the work of the Royal Commission and therefore warrants closer scrutiny. An examination of the contents of Table 6.2 reveals which Australian jurisdictions were associated

with the increase in the proportion of prisoners who are known to be Aboriginal. (Note that the percentages in Table 6.2 are based on totals including 'unknowns' and are therefore not directly comparable with those shown in Figure 6.2.) It can be seen, for example, that the proportion of prisoners known to be Aboriginal has increased steadily over the period in New South Wales from 5.8 to 8.1 per cent, while in the Northern Territory the proportion has increased, with some fluctuations, from 63.5 to 71.5 per cent. The South Australian figures have also fluctuated, but the trend has been towards increase, while the opposite has occurred in Western Australia. The clear trend in Victoria has been towards decreasing Aboriginal imprisonment, but the actual numbers there are relatively small. The numbers are much too small to indicate a trend in either Tasmania or the Australian Capital Territory and they are not available for Queensland. It would seem that New South Wales and the Northern Territory are the jurisdictions primarily responsible for the trend shown in Figure 6.2.

TABLE 6.1
Australian Prisoners, 1982 to 1987 by Jurisdiction and Aboriginality

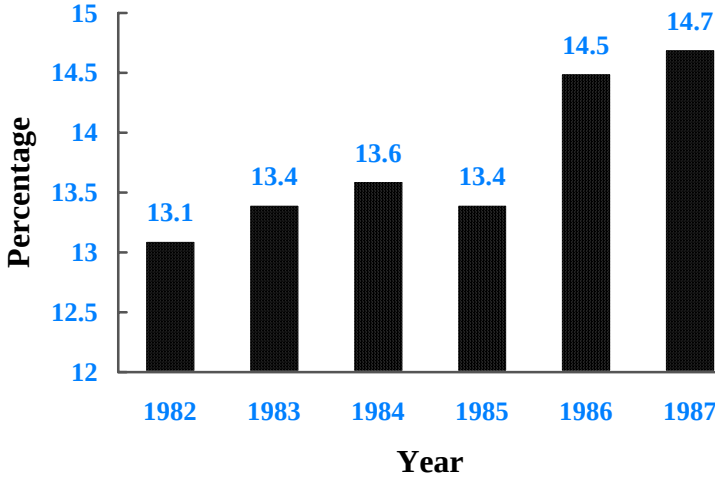
	NSW	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*ACT*	*Aust.*
1982									
Aboriginal	216	71	-	441	118	5	198	-	1,049
Non-Aboriginal	3,476	1,547	-	909	668	232	114	5	6,951
Unknown	27	135	1,638	-	26	-	-	-	1,826
Total	3,719	1,753	1,638	1,350	812	237	312	5	9,826
1983									
Aboriginal	236	72	-	523	116	9	162	-	1,118
Non-Aboriginal	3,394	1,916	-	980	630	198	105	2	7,225
Unknown	103	8	1,709	-	18	2	-	13	1,853
Total	3,733	1,996	1,709	1,503	764	209	267	15	10,196
1984									
Aboriginal	242	47	-	492	88	22	127	-	1,018
Non-Aboriginal	3,047	1,615	-	1,051	416	216	122	17	6,484
Unknown	65	183	1,881	-	60	3	-	-	2,192
Total	3,354	1,845	1,881	1,543	564	241	249	17	9,694
1985									
Aboriginal	304	44	-	489	93	8	214	1	1,153
Non-Aboriginal	3,726	1,789	-	1,006	644	187	120	-	7,472
Unknown	85	46	1,999	-	46	33	-	10	2,219
Total	4,115	1,879	1,999	1,495	783	228	334	11	10,844
1986									
Aboriginal	338	42	-	517	112	15	289	-	1,313
Non-Aboriginal	3,763	1,879	-	1,095	635	217	140	17	7,746
Unknown	129	34	2,186	-	63	26	-	-	2,438
Total	4,230	1,955	2,186	1,612	810	258	429	17	11,497
1987									
Aboriginal	369	52	354	503	147	7	334	-	1,766
Non-Aboriginal	4,105	1,877	1,985	1,124	727	241	133	14	10,206
Unknown	77	27	6	-	2	32	-	-	144
Total	4,551	1,956	2,345	1,627	876	280	467	14	12,116

TABLE 6.2

Percentage of Aboriginal and Non-Aboriginal Prisoners in each Jurisdiction, 1982 to 1987

	NSW %	*Vic.* %	*Qld* %	*WA* %	*SA* %	*Tas.* %	*NT* %	*ACT* %	*Aust.* %
1982									
Aboriginal	5.8	4.1	-	32.7	14.5	2.2	63.5	-	10.7
Non-Aboriginal	93.5	88.2	-	67.3	82.3	97.9	36.5	100.0	70.7
Unknown	0.7	7.7	100.0	-	3.2	-	-	-	18.6
1983									
Aboriginal	6.3	3.6	-	34.8	15.2	4.3	60.7	-	11.0
Non-Aboriginal	90.9	96.0	-	65.2	82.5	94.7	39.3	13.3	70.9
Unknown	2.8	0.4	100.0	-	2.4	1.0	-	86.7	18.2
1984									
Aboriginal	7.2	2.5	-	31.9	15.6	9.1	51.0	-	10.5
Non-Aboriginal	90.8	87.6	-	68.1	73.8	89.6	49.0	100.0	66.9
Unknown	1.9	9.9	100.0	-	10.6	1.2	-	-	22.6
1985									
Aboriginal	7.4	2.3	-	32.7	11.9	3.5	64.1	9.1	10.6
Non-Aboriginal	90.6	95.2	-	67.3	82.3	82.0	35.9	-	68.9
Unknown	2.1	2.4	100.0	-	5.9	14.5	-	90.9	20.5
1986									
Aboriginal	8.0	2.1	-	32.1	13.8	5.8	67.4	-	11.4
Non-Aboriginal	89.0	96.1	-	67.9	78.4	84.1	32.6	100.0	67.4
Unknown	3.0	1.7	100.0	-	7.8	10.1	-	-	21.2
1987									
Aboriginal	8.1	2.7	15.1	30.9	16.8	2.5	71.5	-	14.6
Non-Aboriginal	90.2	96.0	84.7	69.1	83.0	86.1	28.5	100.0	84.2
Unknown	1.7	1.4	0.3	-	0.2	11.4	-	-	1.2

FIGURE 6.2
Percentage of Australian Prisoners (excluding Queensland) known to be Aboriginal, 1982-87



It may be relevant to note that over the period 1982 to 1987 there was a marked increase in the number of Aboriginal people and Torres Strait Islanders as shown by a difference between the 1981 and 1986 population censuses conducted by the Australian Bureau of Statistics (*see* Research Paper No. 4, pp. 43-63 of this volume), but it is considered unlikely that this would wholly explain the trend in the prison statistics. Nevertheless, it is noted that between 1981 and 1986 the number of Aboriginal males in the age group 15 to 24 years increased even more rapidly than did the Aboriginal population as a whole.

Aboriginal Over-Representation

The exact size of the Aboriginal and Torres Strait Islander population in Australia is a matter of some speculation and debate, but the 1986 population census conducted by the Australian Bureau of Statistics indicated that Aboriginal people, including Torres Strait Islanders, comprised 1.46 per cent of the national total. As was shown in Table 6.2, the most recent national prison census showed that 14.6 per cent of all prisoners on 30 June 1987 were Aboriginal. This suggests that Aboriginal people are exactly 10 times more likely than non-Aboriginal people to be in prison. This striking difference is presented graphically in Figure 6.3.

If the 'unknowns' are excluded from the calculations, the level of over=representation becomes 10.11, but this figure does not apply uniformly to all states and territories. The actual level of Aboriginal over-representation in each Australian jurisdiction is shown in Table 6.3, from which it can be seen that over-representation is highest in South Australia and Western Australia and lowest in Tasmania and the Northern Territory.

FIGURE 6.3
Aboriginal Over-Representation in Prison, 1987

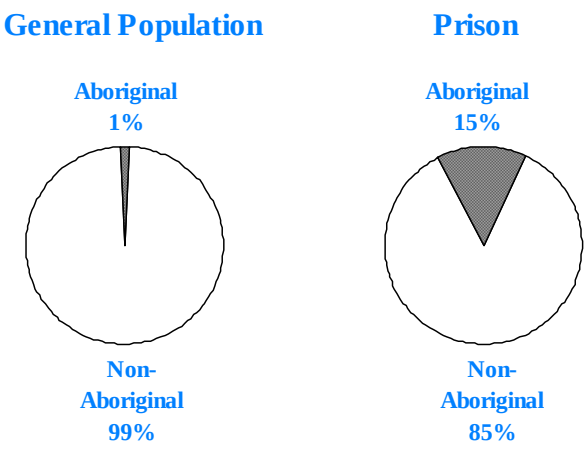


TABLE 6.3
Aboriginal Over-Represenation in Prison

	Percent Aboriginal People in		*Level of*
	Community	*Prison**	*Over-Representation*
NSW	1.04	8.24	7.92
Vic.	0.31	2.69	8.68
Qld	2.37	15.13	6.38
WA	2.69	30.91	11.49
SA	1.06	16.81	15.86
Tas.	1.54	2.82	1.83
NT	22.44	71.52	3.19
Aust.	1.46	14.76	10.11

*These proportions are based upon the number of prisoners identified in the national prison census as either Aboriginal or non-Aboriginal. Prisoners whose Aboriginality is unknown are therefore excluded from these calculations.

It must be pointed out that the figures presented in Table 6.3 are conservative as even higher levels of over-representation would be indicated if only the adult community were considered. There is evidence to suggest that the structure of the Aboriginal population is markedly different from the non-Aboriginal population such that the proportion of the Aboriginal community who are adults, or of potentially imprisonable age, is considerably smaller than the proportion of Aboriginal people in the total community. Thus the calculation of over-representation levels based on adult populations only will produce higher figures than shown in Table 6.3. This approach is not pursued here, however, as the inherent unreliability of the Aboriginal population

statistics is increased when that population is considered in small segments. Nevertheless, the general principles of the approach that leads to even more dramatic figures should be understood. For example, a publication prepared by S.K. Mukherjee (1988) for the Australian Institute of Criminology found that the national level of Aboriginal over-representation in prisons for 1986 was 23. This strikingly high figure was calculated using estimates of adult populations prepared by the Department of Aboriginal Affairs, excluding Queensland data for both population and prisoners.

A further source of the relevant information is the Australian Bureau of Statistics and the results of its most recent, 1986, census of the general population. One element of the housing data collected in the census relates to non-private dwellings, and a sub-category refers to persons in 'prisons, corrective and detention institutions, mainly for adults'. This is clearly not identical to the definition of gazetted prisons used in the prison census, but it is relevant to note that 17.2 per cent of the persons for whom Aboriginality was known were Aboriginal people or Torres Strait Islanders.

Impact on Imprisonment Rates

It was suggested earlier in this paper that the number of Aboriginal people in the community and in the prison system in each jurisdiction is the most important factor that can be cited in explanation of Australia's widely divergent imprisonment rates. The statistical data needed to demonstrate the validity of this suggestion are shown in Table 6.4. (This table used the 1987 prison census data and the 1986 population census data. ACT prisoners and population have been incorporated, for the purpose of these calculations, into New South Wales. The imprisonment rates are therefore not absolutely identical to those published in *Australian Prison Trends* (Biles 1987).) In all cases, imprisonment rates are calculated on the basis of prisoners per 100,000 of the relevant total population.

TABLE 6.4
Australian Imprisonment Rates, 30 June 1987

	Total	*Aboriginal*	*Non-Aboriginal*
NSW	77.5	612.6	70.7
Vic.	46.5	412.3	44.8
Qld	88.9	577.8	77.0
WA	110.3	1,331.1	78.2
SA	63.4	1,029.0	53.2
Tas.	62.1	104.2	54.2
NT	311.3	961.5	115.4
Aust.	74.8	775.8	63.9

From Table 6.4 it can be seen that for all jurisdictions the non-Aboriginal imprisonment rates (that is non-Aboriginal prisoners per 100,000 non-Aboriginal persons in the relevant jurisdiction) are lower than the total imprisonment rates shown in the first column. It is also to be noted that the Aboriginal imprisonment rates are on average just over 10 times higher than the total imprisonment rates. This confirms the point made in the previous section on Aboriginal over-representation.

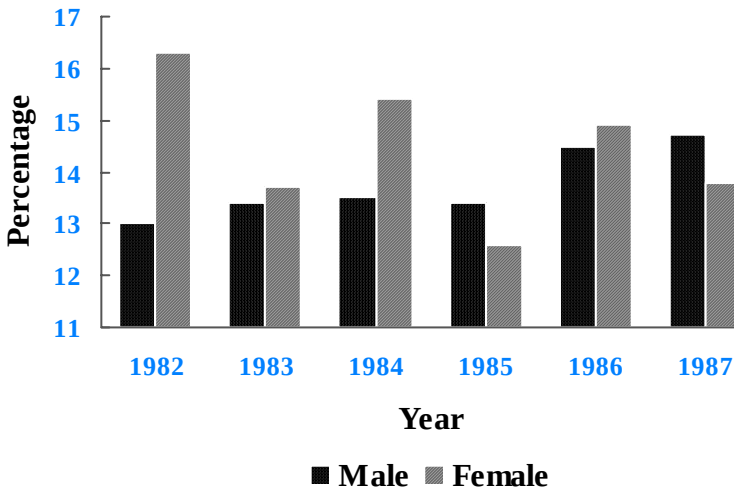
The differences between the highest and the lowest non-Aboriginal imprisonment rates are considerably less than the differences found in the total rates, but they still vary between 44.8 and 115.4 and this clearly indicates that other explanations are needed for the differences shown in the first column. Nevertheless, it is of interest to note that there is a near perfect correlation between the total imprisonment rates and the percentage of Aboriginal people in each jurisdiction.

Gender Differences

As with the non-Aboriginal population, there are many times more Aboriginal males in prison than Aboriginal females. On 30 June 1987 there were 1,687 Aboriginal males and 79 Aboriginal females in Australian prisons. They comprised 14.63 per cent of all male prisoners and 13.81 per cent of all female prisoners.

Since 1982 there has been a clear tendency for male Aboriginal imprisonment to increase (in line with the trend shown in Figure 6.2) while female Aboriginal imprisonment has, with some fluctuations, been decreasing. These opposing trends are shown in Figure 6.4, but the female trend is to be interpreted with caution as the underlying numbers are very small. The addition or subtraction of as few as ten female Aboriginal prisoners on a census day could make the overall picture look significantly different.

FIGURE 6.4
Per Cent Aboriginal Prisoners by Gender, 1982-87*



*Male and female Aboriginal prisoners as percentage of the total male and female prison population.

The actual numbers of male and female Aboriginal prisoners in each jurisdiction as at 30 June 1987 are shown in Table 6.5.

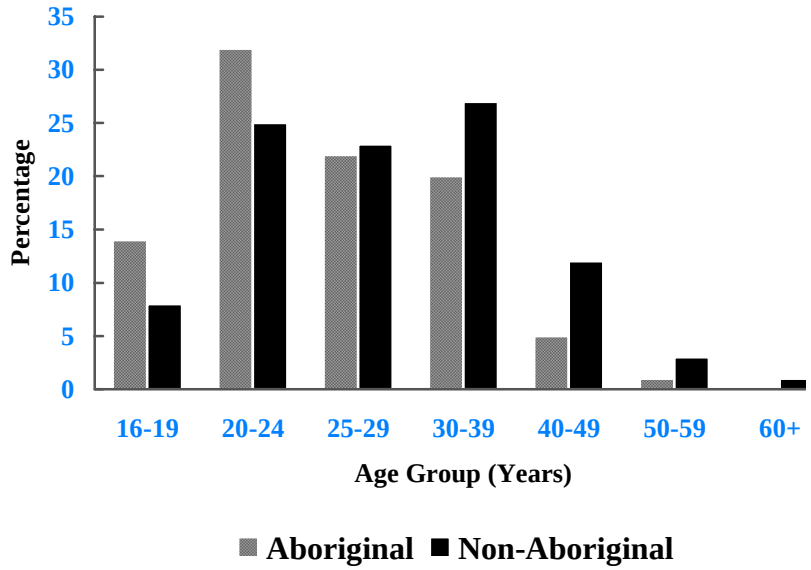
TABLE 6.5
Aboriginal Prisoners by Gender and Jurisdiction, 1987

	Male	*Female*	*Total*
NSW	350	19	369
Vic.	50	2	52
Qld	339	15	354
WA	477	26	503
SA	140	7	147
Tas.	6	1	7
NT	325	9	334
Aust.	1,687	79	1,766

Age Distribution

A detailed analysis of the results of the 1987 national prison census (Debaecker 1988) shows that there is a marked difference between the age distribution of Aboriginal prisoners and that of non-Aboriginal prisoners. This is demonstrated most clearly in Figure 6.5 from which it can be seen that there are proportionately more Aboriginal prisoners in the age groups 16 to 19 years and 20 to 24 years but, for all other age groups, there are proportionately more non-Aboriginal prisoners. From this graph it can be seen that there are relatively few Aboriginal prisoners over the age of 40.

FIGURE 6.5
Age Distribution of Aboriginal and Non-Aboriginal Prisoners, 1987



The difference in the ages of Aboriginal and non-Aboriginal prisoners can also be demonstrated by reference to the mean, or average age for each of those jurisdictions which has a sufficiently large number of Aboriginal prisoners to make this calculation meaningful. These results are shown in Table 6.6 from which it can be seen that, generally, the mean age of Aboriginal prisoners seems to be between two and four years lower than the mean for non-Aboriginal prisoners.

TABLE 6.6
Mean Age in Years of Aboriginal and Non-Aboriginal Prisoners, 1985

	Aboriginal	*Non-Aboriginal*
NSW	27.7	30.4
Vic.	26.7	30.8
Qld	27.4	30.4
WA	27.1	29.4
SA	26.7	29.5
NT	24.1	26.3

Offences leading to Imprisonment

It is sometimes assumed that the majority of Aboriginal persons who are sentenced to imprisonment have been convicted of relatively trivial offences such as public drunkenness or offensive behaviour. There is very little evidence to support this assumption as is shown by the data in Table 6.7 which is derived from the 1987 national prison census.

TABLE 6.7

Most Serious Offence of Conviction or Charge, Aboriginal and Non-Aboriginal Prisoners by Gender, Australia (excluding Queensland), 1987

	Male		*Female*	
	Aboriginal	*Non-Aboriginal*	*Aboriginal*	*Non-Aboriginal*
	%	*%*	*%*	*%*
Homicide	9.6	10.8	17.5	11.1
Assault	14.6	6.4	7.9	1.9
Sex Offences	11.1	7.6	-	0.2
Other Against Person	1.2	1.0	1.6	0.5
Robbery	6.9	14.8	7.9	10.8
Break and Enter	20.1	15.9	14.3	11.8
Fraud	0.8	4.6	9.5	14.2
Theft	9.3	12.1	15.9	15.9
Property Damage	1.3	1.5	1.6	2.4
Justice Procedures	8.0	3.9	9.5	6.3
Good Order Offences	2.5	1.2	8.0	0.6
Drug Offences	1.5	12.9	1.6	21.8
Traffic Offences	12.8	6.5	4.8	1.7
Other	0.3	0.8	-	0.8
Total	100.0	100.0	100.1	100.0

The offence categories listed in Table 6.7 are a simplification of those used in the Draft Australian National Classification of Offences developed by the Australian Bureau of Statistics. Full details of the criminal behaviours included within each classification are found in relevant Bureau publications, but for the purposes of this paper it may suffice to give the following brief explanations:

Homicide includes murder, attempted murder, conspiracy to murder, manslaughter and driving causing death.

Assault includes occasioning grievous bodily harm, actual bodily harm, etc.

Sex Offences include rape, carnal knowledge, incest, indecent assault, etc.

Robbery (for the purposes of this table) includes the relatively small number of cases of extortion.

Break and Enter includes burglary in relation to dwellings, shops and other buildings.

Fraud includes misappropriation, forgery and false pretences.

Theft (for the purposes of this table) includes receiving and unlawful possession of stolen goods as well as motor vehicle theft, stealing from the person, etc.

Justice Procedures includes breach of probation, parole, etc, contempt of court, breach of family law court orders, escape from custody, fine default, etc.
Good Order Offences include offensive behaviour, drunkenness, etc.
Drug Offences include possession or use, dealing and trafficking, manufacture and growing any unlawful drugs, and
Traffic Offences includes all driving offences (including driving under the influence of alcohol) and licence or registration offences.

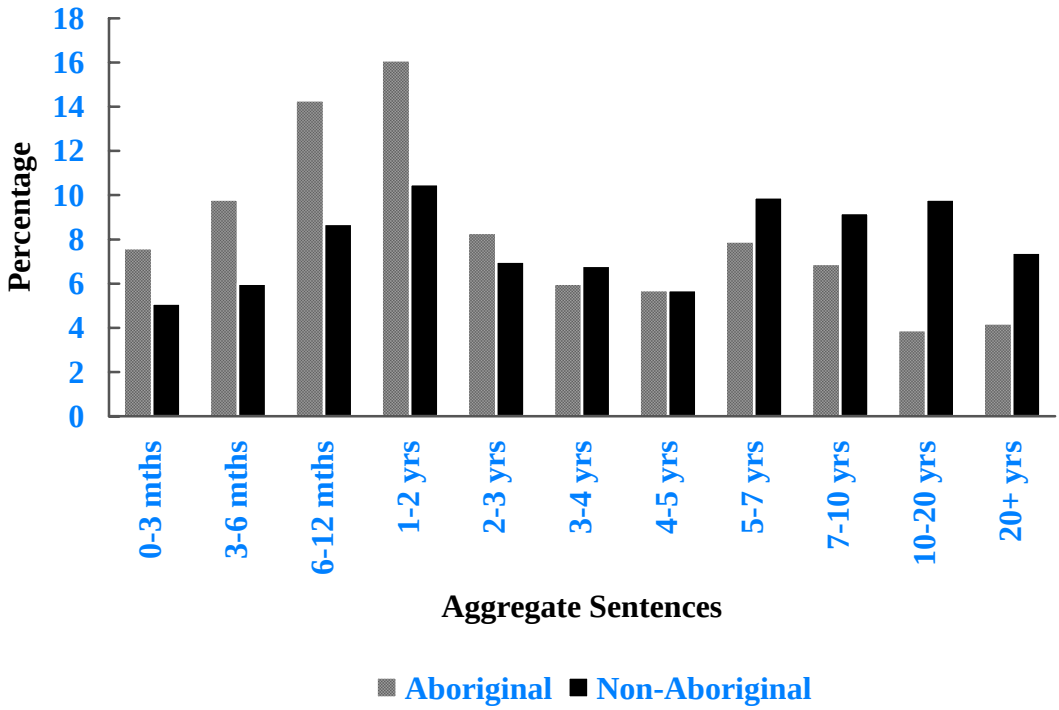
Bearing in mind this brief explanation of the terms used for the offences listed, it can be seen from Table 6.7 that Aboriginal offenders tend to be over-represented in the broad category of offences against the person and also for break and enter, justice procedures offences and traffic offences. Conversely, Aboriginal prisoners are much less likely to be in prison than non-Aboriginal offenders for drug offences or for robbery. The offence patterns for Aboriginal and non-Aboriginal female prisoners seem to be relatively similar to those applying to males with the exception that female rates are higher for fraud and drug offences (especially for non-Aboriginal females) and are lower for sex offences. For both males and females, offences against good order are more prevalent for Aboriginal people than non-Aboriginal people, but the total numbers in this category are relatively small. It is likely, however, that the small census figures for good order offences would not be reflected in reception statistics if they were available. Further research is to be pursued on this issue.

Sentences Imposed

Figure 6.6, which is derived from the 1987 national prison census, clearly suggests that the aggregate sentences imposed on Aboriginal prisoners create a different pattern from that found for non-Aboriginal prisoners. Proportionately, there are more Aboriginal prisoners in all sentenced categories up to three years but above that figure non-Aboriginal prisoners become much more prevalent.

This is perhaps a surprising result bearing in mind the offence patterns revealed earlier. However, a global analysis of this type cannot take into account the relative seriousness of the offences committed by different groups and this may well be an important consideration in this case.

FIGURE 6.6
Aggregate Sentences Imposed,
Per Cent Aboriginal and Non-Aboriginal, 1987



Walker (1987) expressed a similar degree of surprise when he analysed the sentences imposed on Aboriginal and non-Aboriginal offenders as shown in the 1984 prison census results. His analysis also took into account the prior imprisonment records of the two groups of prisoners. On this issue he wrote:

> *Even though 81.1 per cent of Aboriginal prisoners have previously been in prison under sentence, compared with only 57.5 per cent of non-Aboriginal prisoners, the average sentence for Aboriginal prisoners is only 42.6 months compared with 74.9 months for non-Aboriginal people. This cannot be entirely attributed to the different types of offences committed by Aboriginal people since the sentencing disparity is roughly consistent across the whole range of offences. Neither is it due to any magisterial compassion on the grounds of relative youthfulness of Aboriginal offenders, or to any differences in sentencing practices between states with high Aboriginal populations and those without major Aboriginal numbers* (Walker 1987, p. 111)

He concluded his analysis with these words:

> *. . . very much to my own surprise, I conclude that the courts cannot be held to blame for the high rates of Aboriginal imprisonment. On the contrary, they appear to be particularly lenient to Aboriginal*

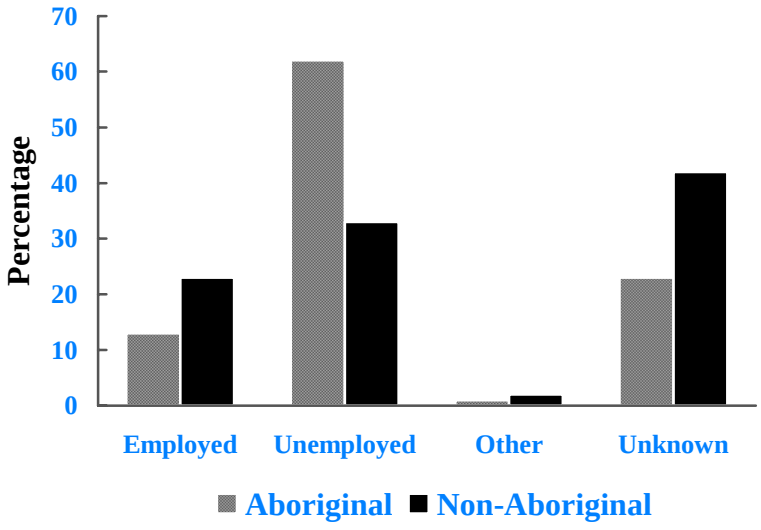
> *offenders, especially when one considers that prior imprisonment record is regarded as a key factor in sentencing, tending towards longer sentences. In short, the criminal justice system is not likely to be responsible for high Aboriginal rates of imprisonment—it may be merely responding logically and even sympathetically to the offending pattern of Aboriginal people* (Walker 1987, p. 114)

More research is needed on the subject before Walker's conclusion can be accepted or rejected with confidence as a number of possibly relevant factors need to be taken into account. One such factor is the age distribution of Aboriginal prisoners, and another is the fact that a smaller proportion of Aboriginal offenders is undergoing non-custodial correctional orders than is in prison. Aboriginal people are still over-represented in non-custodial corrections, but it is possible that some judges and magistrates are more inclined to impose short prison sentences on Aboriginal offenders because of their belief that they may not be suited to probation or community service orders.

Employment Status

In each census of prisoners, information is sought on whether the individual prisoners at the time of reception to prison could be described as employed, unemployed or in some other employment category (such as student or home duties). Not all jurisdictions are able to supply data on this item, but the overall findings from the 1987 Census with regard to Aboriginal and non-Aboriginal prisoners are summarised in Figure 6.7.

FIGURE 6.7
Employment Status of Aboriginal and Non-Aboriginal Prisoners at time of Reception into Prison



From Figure 6.7 it can be seen that the proportion of all prisoners who were employed at the time of reception is relatively low, but that the scenario is significantly worse for Aboriginal prisoners than it is for non-Aboriginal people. This finding should not be a matter of surprise as it probably does no more than reflect the situation in the wider community, but it clearly suggests the need for training programs for Aboriginal prisoners.

Education Level

A further item of information that is routinely collected in the annual censuses of prisoners is the level of education achieved by all prisoners at the time of reception into prison. The overall finding from this information collection exercise supports the general proposition that persons who go to prison in Australia are generally grossly inadequately educated (with much lower levels of achievement than the broader community) and the situation with regard to Aboriginal prisoners is even more disturbing. The 1987 Census shows, for example, that only 3.1 per cent of non-Aboriginal prisoners had attempted any tertiary, technical, trade or other post secondary education and only 6.2 per cent had completed high school. The equivalent figures for Aboriginal prisoners were even lower at 1.4 per cent and 2.7 per cent respectively. Of even greater concern is the fact that 31.6 per cent of Aboriginal prisoners were described as having had no formal schooling, while the equivalent figure for non-Aboriginal prisoners was 8.3 per cent. To the extent that these data may be accepted as accurate, they reflect adversely on Australian education systems and they also clearly indicate that educational programs must be an essential element of all prison regimes, especially those applied to Aboriginal people.

Non-Custodial Corrections

Non-custodial correctional orders fall into two separate categories: those imposed directly by the courts and those which follow a period of imprisonment. The largest numbers in the first category apply to probation orders, but of increasing importance are community service orders. Other non-custodial orders in this category include attendance centre orders, pre-sentence supervision orders, fine option orders, and supervised suspended prison sentences. The second category which can be described as post-prison orders, includes parole, licence, pre-release orders and after-care probation. Not all of these options are available in all jurisdictions and in some cases the terminology varies. Probation is easily the most popular non-custodial order accounting for more than half of the total. The actual numbers of offenders under non-custodial correctional orders in each jurisdiction in 1985 are shown

in Table 6.8 which is taken from the first census published of community based corrections in Australia (Walker & Biles 1986).

Table 6.8 overstates the number of distinct persons as an individual could be undergoing more than one correctional order at the same time. The number of distinct persons for Australia as a whole at that time was 31,403. Of particular interest to this paper is the proportion of these people who were Aboriginal people or Torres Strait Islanders. This is shown in Table 6.9.

TABLE 6.8
Persons Under Non-Custodial Correctional Orders by Jurisdiction, 1985

	NSW	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*ACT*	*Aust.*
Orders Not Including Imprisonment									
Pre Sentence Supervision	60	-	1	-	1	-	-	2	64
Fine Option Order	-	-	699	-	-	-	-	-	699
Probation/ Supervised Recognisance	8,944	3,393	4,224	2,023	756	1,123	223	146	20,832
Community Service/Work Order	1,647	388	977	790	228	337	52	-	4,419
Attendance Centre Order	-	469	-	-	-	-	-	-	469
Supervised Suspended Prison Sentence	-	-	-	-	1,187	380	125	20	1,712
Post-Prison Orders									
After-care Probation	550	-	577	-	84	-	83	6	1,300
Pre-Release Order	-	203	-	-	-	-	-	-	203
Parole/Licence	1,750	832	398	705	420	56	65	52	4,278
Total	12,951	5,285	6,876	3,518	2,676	1,896	548	226	33,976

TABLE 6.9
Number of Distinct Persons Serving Non-Custodial Correctional Orders by Jurisdiction and Aboriginality, 1985

	Aboriginal	*Other*	*Unknown*	*Total*
NSW	-	-	12,009	12,009
Vic.	127	4,828	222	5,177
Qld	-	-	6,355	6,355
WA	400	2,656	-	3,056
SA	185	2,275	78	2,538
Tas.	79	1,147	390	1,616
NT	220	205	1	426
ACT	7	177	42	226
Aust.	1,018	11,288	19,097	31,403

It is unfortunate that both New South Wales and Queensland were unable to supply data on Aboriginality for the community based census but the information that is available is nevertheless of considerable interest. It can be seen from Table 6.9, for example, that of the persons for whom Aboriginality was known, 8.3 per cent (1,018 out of 12,306) were Aboriginal. This is clearly an over-representation of Aboriginal people in the non-custodial correctional system, but it is significantly lower than the level of over-representation found in prisons that was shown earlier. This suggests that there may be some degree of disinclination on the part of judges, magistrates or parolling authorities to apply non-custodial penalties to Aboriginal offenders as readily as they are applied to others. It is not possible, however, to explore this hypothesis with the limited data available. It is interesting to note, however, that in Western Australia there has been a marked increase in Aboriginal probation orders since 1983. This may partially explain the slight trend towards decrease in Aboriginal prisoner numbers in that state.

Aboriginal Recidivism

Studies of recidivism, or return to prison, have been relatively rare in Australia (*see* Biles 1985) and most such studies have used small samples or have focused on the impact of a specific program or policy change. The only major and broadly focused recidivism study in Australia was conducted in Western Australia by Broadhurst et al. (1988, pp. 83-108). This study used a statistical technique known as failure rate analysis to examine all prisoners released for the first time from Western Australian prisons between July 1973 and June 1984. The number of prisoners was 11,262.

For the purposes of this study, recidivism was defined as reincarceration (during a follow-up period of nine years) and excluded convictions resulting in other penal sanctions. Prisoners who served sentences in police lockups or prisoners who were only remanded in custody were excluded from the study. The project found that the probability of recidivism for Aboriginal male prisoners was 80 per cent and for non-Aboriginal male prisoners 48 per cent. It also showed that the median time between release from prison and return was 11 months for Aboriginal people and 18 months for non-Aboriginal people. Female Aboriginal recidivism was shown to be 75 per cent and female non-Aboriginal recidivism 29 per cent, with the median times to return 16 months and 19 months respectively.

Other variables considered in the study included the most serious offence (at first receival), actual time served, sentence type, prison (from which the prisoner was released), and marital, educational, and employment status. Lower recidivism was found for non-Aboriginal prisoners incarcerated for longer periods and for more serious offences. Participation in work release and the provision of financial assistance on release were also found to be associated with lower recidivism. The time between release and failure was found to be much shorter for Aboriginal prisoners across all factors than it was for non-Aboriginal prisoners. The authors of this study concluded that the very high rates of Aboriginal recidivism were a significant contribution to the high rate of imprisonment in Western Australia.

Discussion and Conclusions

The data presented in the preceeding pages provide a general description of the use of imprisonment in relation to the Australian Aboriginal population. Many of the cold statistical facts can be seen as a cause of concern, but the most striking and disturbing fact is the level of Aboriginal over-representation in prisons. The trend over recent years in relation to over-representation is not encouraging, and there is reason to assume that the figures will become even worse before they improve. This is likely to occur as a result of more sensitive methods being used within the prisons to identify Aboriginal prisoners according to the modern criterion of self-identification.

The 1986 study by the Australian Institute of Criminology (Hatty & Walker 1986) found that over the period 1980 to 1985, 155 deaths had occurred in Australian prisons, of which 19 (or 12.3 per cent) were Aboriginal deaths. This study was flawed by the very large number of cases, about 25 per cent, where the race of the deceased prisoners was not known, but if the 12.3 per cent figure is reasonably accurate, the study tends to show that Aboriginal deaths in prisons could be seen as less common than might be expected. If a similar finding is obtained by Royal Commission research, there remains the burning question of deaths in police custody which have been shown to be more numerous than

Aboriginal prison deaths. The unravelling of that issue will require research of a quite different type, such as a survey of persons in police custody.

It is regrettable that much of the basic data cited in this paper are not as comprehensive or as timely as would be desirable. Some information is nearly always better than none at all, but in this case there is clearly a need for more. It would have been extremely helpful, for example, if the results of the 1988 national prison census had been available, but the results of the census one year earlier were only becoming available at the time of writing. Also, the results of the 1987 community based corrections census may have been helpful if they had been available. Hopefully, with the accumulation of greater experience, corrections departments in the future will be able to collect the basic information required more expeditiously than has been the case in the past.

No attempt has been made in this paper to suggest changes in sentencing policy or prison management that might be needed. The aim of this paper was simply to present the basic statistical facts about Aboriginal imprisonment in Australia in a readily understandable form. To the extent that this aim has been achieved it will stimulate others to suggest what changes are needed.

Further research on issues raised in this paper will be attempted in the future. In particular, an effort will be made to collect information on the most serious offence resulting in imprisonment for both Aboriginal people and non-Aboriginal people. This will provide a different, and perhaps more accurate, picture than that which is obtained from the 'snapshot' obtained from a census. Also, it has been suggested that it would be useful to examine the sentencing practices of Justices of the Peace in relation to Aboriginal and non-Aboriginal offenders in those jurisdictions where this is relevant. It may be possible for these and other suggestions to be incorporated in a revised version of this paper which will be prepared when more recent imprisonment data become available.

Summary

The annual census of prisoners conducted by the Australian Institute of Criminology has shown that over the period 1982 to 1987 the total number of prisoners in Australia has increased from under 10,000 to over 12,000, but the proportion who are identified as Aboriginal increased even more rapidly. Aboriginal people are at least ten times more likely than non-Aboriginal people to be in prison, and the level of over-representation is highest in South Australia and Western Australia. It is lowest in Tasmania and the Northern Territory. In all jurisdictions Aboriginal imprisonment rates are many times higher than non-Aboriginal rates. Aboriginal females seem to be marginally less over-represented in prisons than Aboriginal males, and Aboriginal prisoners in general are markedly younger than non-Aboriginal prisoners.

The most serious offences leading to imprisonment are relatively similar for both Aboriginal and non-Aboriginal prisoners, but the aggregate sentences

imposed seem to be less severe for Aboriginal prisoners. There is some speculation as to why this might be so. The employment status at reception into prison and the education level achieved both reflect the disadvantaged backgrounds of Aboriginal prisoners. Aboriginal over-representation in non-custodial corrections is not as marked as it is in prisons, but Aboriginal recidivism rates appear (from the little research that has been undertaken on this subject) to be much higher than the rates for non-Aboriginal prisoners.

July 1989

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Advice on this paper has also been received from Royal Commissioners, staff of the Royal Commission, as well as staff of the Australian Institute of Criminology. This is also gratefully acknowledged.

Readers who may wish to undertake further calculations of the data collected each year in the national prison census—the basic information source for this paper—are referred to the statement 'Access to Additional Tabulations' which is published in each census report. Informal consultation with the writer is also invited.

RESEARCH PAPER NO. 7

Australian Deaths in Custody 1980-88: An Analysis of Aboriginal and Non-Aboriginal Deaths in Prison and Police Custody

David Biles
David McDonald
& Jillian Fleming

This research paper aims to place the phenomenon of Aboriginal deaths in custody in the broader context of all deaths in prison and police custody over the nine-year period, 1 January 1980 to 31 December 1988. The project, informally known as 'Black and White Deaths in Custody', was undertaken with the full cooperation and assistance of all Australian police forces and prison services who supplied the basic information.

The data to be analysed in this paper can be presented very simply and are shown in Table 7.1, but several explanatory points must be made before any analysis is attempted. In the first place some explanation is needed as to why the Aboriginal total is lower than the total on the official Royal Commission list, currently 103. This difference is partially due to the removal of juvenile cases from the project, as no attempt was made to obtain details of non-Aboriginal juvenile cases. Also, deaths in sobering-up centres were excluded as it is doubtful whether the term 'custody' applies to these cases. Possibly the most important reason for the difference, however, is the fact that police and prison authorities exercised their own judgment in supplying details of cases for the purposes of this project. Therefore some cases awaiting determination by the Commissioners for inclusion or exclusion from the official list are not a part of this project. It should be pointed out that no attempt was made to apply the precise terms of reference of the Royal Commission to the non-Aboriginal cases in this study.

TABLE 7.1
Aboriginal and Non-Aboriginal Deaths in Custody, 1980-88

	Aboriginal	*Non-Aboriginal*	
Prison	35	245	280
Police	59	123	182
	94	**368**	**462**

It was intended that the lists of Aboriginal and non-Aboriginal deaths compiled for this study should be based on the same criteria for inclusion, but it is apparent that there has been some degree of undercounting with non-Aboriginal deaths. This seems to be due to the fact that, at least until the establishment of the Royal Commission, some agencies did not maintain central registries of all deaths. It is therefore possible, even likely, that a number of cases where the individual was transferred to hospital before death may have been missed by this project. Hypothetically, a person could have died in hospital while technically still under police custody and, if there were no suspicious circumstances, no central record would have been kept.

The fact that some non-Aboriginal deaths may have been overlooked is illustrated by drawing a distinction between the actual location of death and the custodial authority at the time of death. As is shown later in this paper, proportionately more Aboriginal than non-Aboriginal deaths occurred in hospitals rather than in police or prison facilities. This difference, it is suspected, is due to the fact that the very existence of the Royal Commission has brought to notice more cases of Aboriginal deaths in custody than otherwise would have been the case.

Even though it cannot be claimed that absolutely identical criteria for inclusion in this project were applied to both racial groups, considerable effort was made to ensure that the data were as accurate and comprehensive as possible. In late 1988 complete lists of all deaths in all police and prisons administrations over the nine-year period were prepared and these were forwarded to the relevant authorities for confirmation or amendment. Each authority subsequently certified as to the accuracy of the data supplied by each jurisdiction. The lists of names that form the basis of this study were as known on 3 March 1989.

As a further partial check on the accuracy of the data that had been supplied, the statistics of deaths in prisons over the period 1980 to 1985 inclusive were compared with those which formed the basis of a study by the Australian Institute of Criminology (Hatty & Walker 1986). That comparison revealed almost identical numbers of prison deaths over that period for all

jurisdictions except Queensland which reported slightly higher numbers for this study than for the Institute study. For all other jurisdictions, any differences between the numbers in the two studies are either extremely small or nonexistent, thus increasing confidence in the accuracy of the data.

The data obtained from police and prison sources were not exactly identical as some items were more or less relevant in different custodial situations. Police forces supplied lists which included for each case: name, gender, Aboriginality, age, time and date of death, place of death, cause/manner of death, reason for detention, alcohol level if known, time in custody, time since inspection, and whether or not the deceased person was alone at the time of death. In the case of prison deaths, the correctional agencies completed forms which covered similar items to the police lists but excluded reference to alcohol level and included more detail of the place of death (single cell or dormitory, for example), legal status, time served, time to serve, and made provision for other relevant factors (such as drugs, psychiatric history, or temporary leave) to be noted. Thus, marginally more information was available in relation to prison deaths than was available for police deaths.

(It has become apparent during the course of this and other Royal Commission projects that the concept of death in custody is an amalgamation of two quite different phenomena: deaths in prisons and deaths in police custody. Different considerations apply to each and, to that end, it is proposed to produce supplementary papers to this which will focus in more detail on police custody and prison deaths. These papers may provide a basis for the development of different policies for the prevention of deaths in different settings. The primary focus of this paper, however, is on differences between Aboriginal and non-Aboriginal deaths rather than on differences between police custody and prison deaths.)

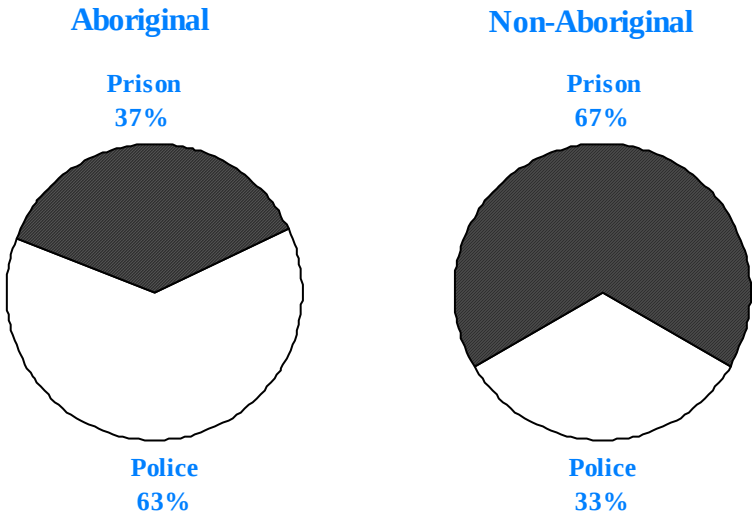
A final introductory point should perhaps be made. This project aims to describe and analyse the facts relating to the phenomenon of Aboriginal and non-Aboriginal deaths in custody. The project was not planned as a basis for comparisons to be made between the relative incidence of Aboriginal and non-Aboriginal deaths and the relative numbers of Aboriginal and non-Aboriginal people in prison and police custody. These comparisons can be made, however, by relating the facts in this paper with those in Research Paper No. 6 (*see* pp. 85-105 of this volume) and the results of the national police custody survey which were recently released in preliminary form (Research Paper No. 8, *see* pp. 137-46 of this volume).

It seems that Aboriginal people in custody constitute a more representative cross-section of the Aboriginal population than non-Aboriginal people in custody. The fact that Aboriginal people are so grossly over-represented in custody indicates that different selective factors may be operating with respect to arrest and/or sentencing. Together this suggests that some caution is needed in the interpretation of Aboriginal and non-Aboriginal comparisons in the paper.

National Overview

As shown in Table 7.1, the basic data set comprises 462 cases of deaths in prison or police custody. It can also be seen that there is a marked difference between the two population groups and the relevant custodial authority. Those Aboriginal people who die in custody are much more likely to die in police custody than in prisons; conversely, non-Aboriginal people are much more likely to die in prison. This striking difference is illustrated in Figure 7.1 and discussed in more detail further on. This matter will be further explored in the proposed supplementary papers dealing separately with deaths in police custody and in prisons.

FIGURE 7.1
Deaths in Prison and Police Custody as Percentage of Deaths in Custody, 1980-88



The basic data set will be examined in many different ways in this paper and the first such examination shows any differences that might exist between Australian states and territories. This is shown in Table 7.2. It can be seen from this table that there are noticeable differences between jurisdictions, with, for example, the Northern Territory having more Aboriginal than non-Aboriginal deaths and Western Australia having nearly equal numbers. In all other jurisdictions non-Aboriginal deaths out-number Aboriginal deaths to a significant degree. There are also some interesting differences between jurisdictions in the distribution of police custody and prison deaths. Most noticeable is the fact that, when Aboriginal and non-Aboriginal deaths are added, Western Australia and the Northern Territory have more police custody deaths than prison deaths. The opposite is the case in most other jurisdictions.

TABLE 7.2
Aboriginal and Non-Aboriginal Deaths in Prison and Police Custody, Jurisdiction, 1980-88*

	Aboriginal			*Non-Aboriginal*			
	Police cells	*Prison*	*Total*	*Police cells*	*Prison*	*Total*	*All cases*
NSW	7	6	13	44	77	121	134
Vic.	3	-	3	22	75	97	100
Qld	16	8	24	22	49	71	95
WA	20	13	33	17	18	35	68
SA	6	4	10	9	18	27	37
Tas.	1	-	1	4	5	9	10
NT	6	4	10	5	2	7	17
ACT	-	-	-	-	1	1	1
Aust.	59	35	94	123	245	368	462

The overall distribution of Aboriginal and non-Aboriginal deaths by jurisdictions is illustrated in Figures 7.2 and 7.3.

FIGURE 7.2
Aboriginal and Non-Aboriginal Deaths in Custody, Jurisdiction, 1980-88

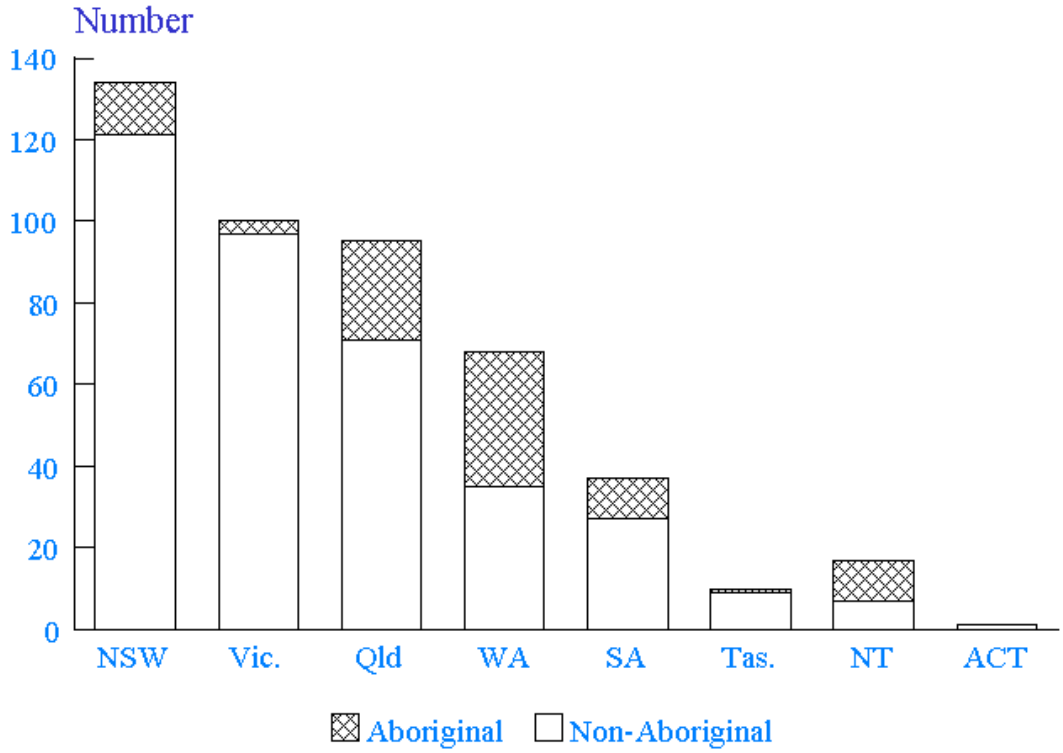
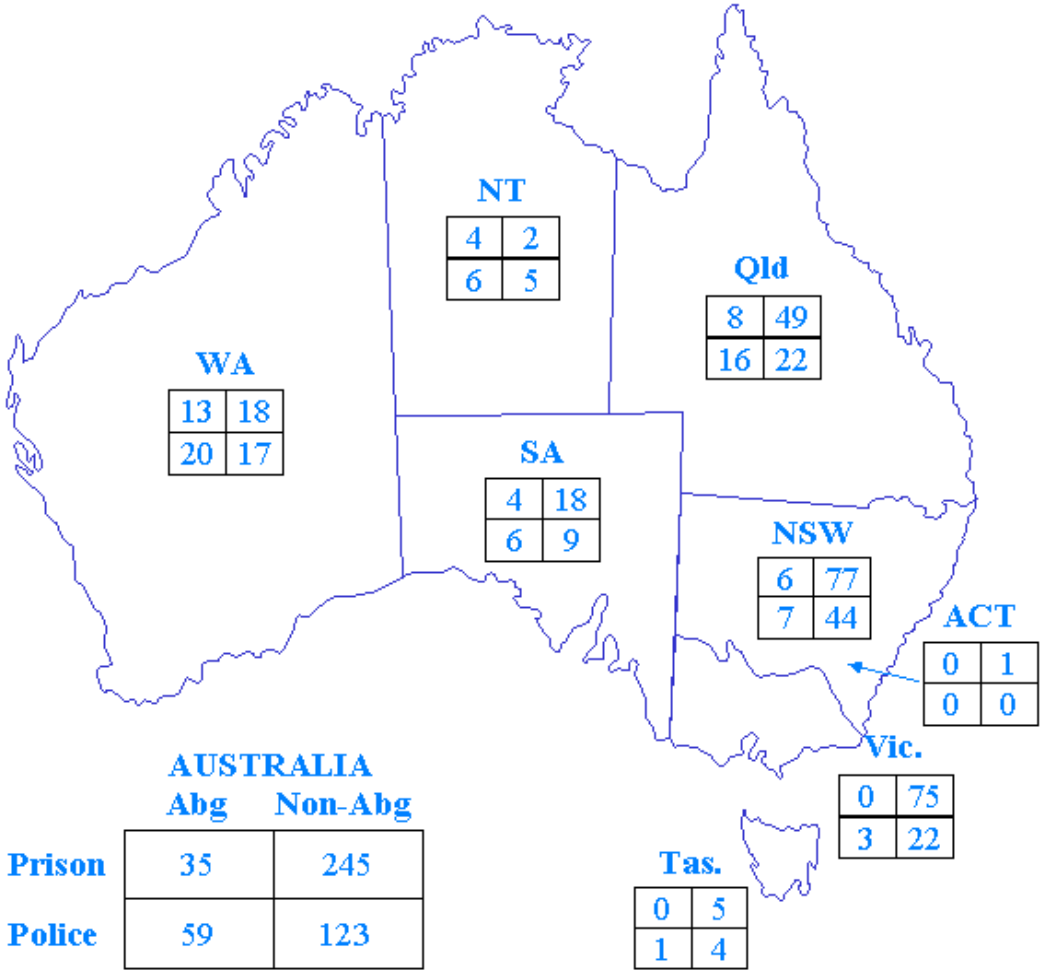


FIGURE 7.3

Aboriginal and Non-Aboriginal Deaths in Custody, Jurisdiction, 1980-88



Ratios of deaths in custody to population

As noted above and detailed in Table 7.4, over the nine-year period under review, 94 of the 462 deaths, or 20 per cent, occurred among Aboriginal people in police or prison custody. This is a ratio of 41 deaths per 100,000 of the Aboriginal population of Australia at the 1986 Census. The comparable non-Aboriginal ratio is 2 per 100,000 population and for all deaths in custody the ratio is 3 per 100,000. When we consider only the population aged fifteen years and above, we find that the corresponding ratio of total deaths in custody to population is 4 per 100,000, the non-Aboriginal ratio 3 and the Aboriginal ratio 69 (*see* Table 7.3). Taking the analysis a little further, by including only males aged fifteen years and older (since this group makes up 95 per cent of the 1980-88 deaths in custody), we find that the corresponding ratios are 7 per 100,000 for all deaths in custody, 6 per 100,000 for non-Aboriginal deaths and 131 per 100,000 for Aboriginal deaths. This alarmingly high Aboriginal death rate is

explained, almost entirely, by the over-representation of Aboriginal people in custody.

It is hoped that the proposed research papers covering deaths in police and prison custody separately, mentioned previously, will include analyses of age-adjusted death rates in these environments. This will be possible in the case of prison deaths were the denominators (number of prisoners) are known from annual prison census data. Unfortunately, similar data are not available on the police custody population.

TABLE 7.3
Deaths to Population Ratios, Aboriginality, Deaths in Custody, 1980-88

	Population 1986 Census	*Persons 15 years+*	*Deaths in custody 1980-88*	*Deaths per 100,000 population over 15 years*
Aboriginal	227,645	137,133	94	69
Non-Aboriginal	15,374,511	11,965,311	368	3
Total	15,602,156	12,102,444	462	4

Substantial differences exist between the eight states and territories regarding numbers of deaths in custody. As shown in Table 7.4, by far the highest proportion, compared with the population, is found in the Northern Territory (11 deaths per 100,000 population), followed by Western Australia (5) and Queensland (4). The Aboriginal deaths, however, show a different pattern, with Western Australia having the highest ratio at 87 Aboriginal deaths per 100,000 Aboriginal population, followed by South Australia (70) and Queensland (39).

TABLE 7.4
Deaths to Population Ratios, State and Aboriginality, Deaths in Custody, 1980-88

State	*Aboriginal deaths in custody*	*Aboriginal death ratios[(a)]*	*Non-Aboriginal deaths in custody*	*Non-Aboriginal death ratios[(b)]*	*Total deaths in custody*	*State death ratios[(c)]*
NSW	13	22	121	2.3	134	2.5
Vic.	3	24	97	2.4	100	2.5
Qld	24	39	71	2.8	95	3.7
WA	33	87	35	2.6	68	4.8
SA	10	70	27	2.0	37	2.7
Tas.	1	15	9	2.1	10	2.3
NT	10	29	7	5.8	17	11.0
ACT	-	-	1	0.4	1	0.4
Aust.	94	41	368	2.4	462	3.0

(a)Aboriginal deaths in custody 1980-88 per 100,000 of the Aboriginal population at the 1986 Census.
(b)Non-Aboriginal deaths in custody 1980-88 per 100,000 of the non-Aboriginal population at the 1986 Census.
(c)Total state/territory deaths in custody per 1980-88 100,000 population at the 1986 Census.

In this paper, which covers the deaths in custody occurring over the period 1980-88, many calculations use 1986 Census data. This is because, according to the Australian Bureau of Statistics, the 1986 Census data provide the best available indication of the size and composition of the Aboriginal population. As discussed in detail in the Royal Commission's Research Paper No. 4, 'The Aboriginal and Torres Strait Islander Population', the apparent increase in the Aboriginal population from 159,897 in the 1981 Census to 227,645 in the 1986 Census is probably explained, to a substantial degree, by both improved enumeration techniques and by an increasing proportion of Aboriginal people being prepared to identify themselves as such (Research Paper No. 4, *see* pp. 43-63 of this volume).

Demographic Characteristics

Aboriginality and gender

Table 7.5 sets out the Aboriginality and gender of the deceased. It will be noted that males accounted for most (95 per cent) of the deaths, reflecting the gender compositions of the prison and police custody populations. Aboriginal people composed 20 per cent of the deaths, although they are less than 1.2 per cent of the Australian population aged 15 years and above. Six of the seven Aboriginal women who died in custody died while in the custody of police.

TABLE 7.5
Aboriginality and Gender, Deaths in Custody, 1980-88

	Aboriginal		*Non-Aboriginal*		*Total*	
	No.	*%*	*No.*	*%*	*No.*	*%*
Male	87	93	354	96	441	95
Female	7	7	14	4	21	5
Total	94	100	368	100	462	100

Age

Again reflecting the population within which the deaths occurred, the age groups are skewed towards the younger end (*see* Table 7.6) compared with the overall Australian population. As described in the Commission's Research Paper No. 4, major differences in age structure exist between the Aboriginal

and total Australian populations. The Aboriginal population is much younger than the total population (53 per cent aged under 20 years compared with 31 per cent) and has a much lower proportion over 59 years of age (4 per cent compared with 15 per cent).

TABLE 7.6
Age Group, Deaths in Custody, 1980-88

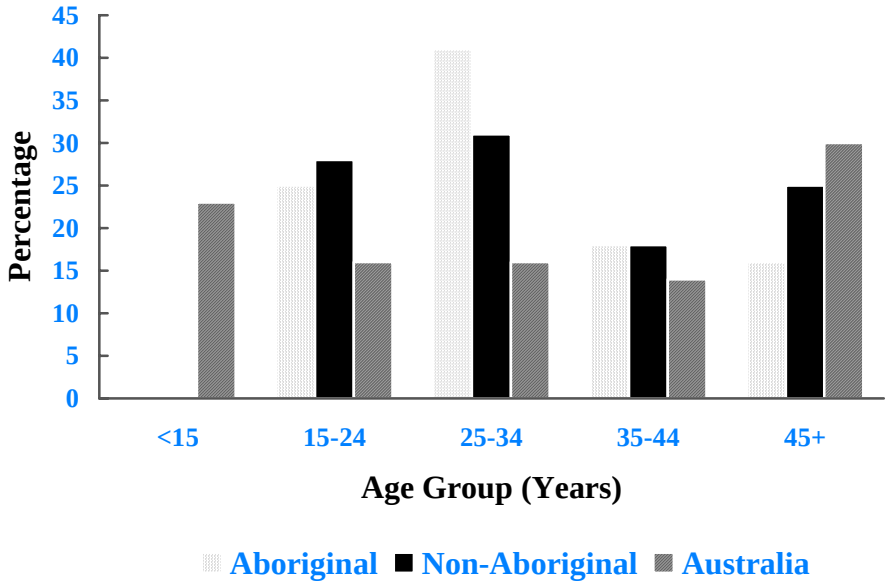
	Aboriginal		*Non-Aboriginal*		*Total*		*General pop.*[(a)]
Age group	*No.*	*%*	*No.*	*%*	*No.*	*%*	*%*
<15	-	-	-	-	-	-	23
15-19	10	11	28	8	38	8	8
20-24	13	14	73	20	86	19	8
25-29	24	26	72	20	96	21	8
30-34	14	15	40	11	54	12	8
35-39	5	5	30	8	35	8	8
40-44	12	13	35	10	47	10	6
45-49	3	3	20	5	23	5	5
50-54	6	6	21	6	27	6	5
55-59	6	6	17	5	23	5	5
60-64	1	1	13	4	14	3	4
65+	-	-	19	5	19	4	11
Total	94	100	368	102	462	101	99

(a)Proportions based on 1986 Census data.

Interestingly, little difference exists, overall, between the ages of the Aboriginal and non-Aboriginal groups, when we consider only those who died in custody. The mean age, overall, was 34.9 years, with half the cases being aged 30.0 years or younger. The corresponding figures for the Aboriginal deaths were 33.1 and 29.5 years, respectively; for non-Aboriginal deaths, 35.4 and 30.0 years respectively. The ages ranged from 17 to 62 among Aboriginal people and 17 to 88 among non-Aboriginal people.

A close examination of Table 7.6 and Figure 7.4 reveals, however, that these summary data conceal differences in the age groups of the Aboriginal and non-Aboriginal people who died in custody. In particular, it will be noted that a substantially higher proportion of Aboriginal people, compared with non-Aboriginal people, were in the 25-34 years age group. The reverse is seen in the 45 years and above age group.

FIGURE 7.4
Age Group, Deaths in Custody, 1980-88, and Total Australian Population



Note: The columns labelled 'Aboriginal' and 'Non-Aboriginal' represent the percentages of the Aboriginal and non-Aboriginal people, who died in custody, who were in the age groups specified. The columns labelled 'Australia' are the percentages of the total Australian population in the respective age groups as enumerated in the 1986 Census.

In interpreting age data, it is also important to note the disparity that exists between the Aboriginal and non-Aboriginal populations, in the general community, regarding age specific mortality rates and life expectancies. As summarised in a recent review, '. . . for almost all disease categories, rates for Aboriginal and Torres Strait Islanders are worse than for other Australians; death rates are up to four times higher, and life expectancy is up to 22 years less' (Australian Institute of Health 1988, p. 105).

Furthermore, as detailed below, suicide (reported as being a common cause of deaths in custody) is predominantly seen in young males who are, of course, substantially over-represented in the custody population compared with the general population.

Finally, it is noted that the age distributions of people who died in police and prison custody are similar, with means of 36.0 and 34.2 years respectively.

Legal status

The legal status (that is, sentenced or on remand) of 268 of the 280 prison deaths and of one case of a person serving a short sentence in a police lockup is known. As shown in Table 7.7, some 28 per cent of these deaths occurred among remanded or unconvicted prisoners. Since remandees make up only 16 per cent of the Australian prison population (*see further Australian Prison*

Trends 1976-), it is clear that they are particularly at risk of dying in custody. Non-Aboriginal remandees had a substantially higher death rate than did Aboriginal remandees.

Suicide was the most frequent reported cause of death among remandees, accounting for 72 per cent of their deaths, compared with only 35 per cent of the deaths of sentenced prisoners.

TABLE 7.7
Legal Status, where known, Deaths in Custody, 1980-88

	Aboriginal		*Non-Aboriginal*		*Total*	
	No.	*%*	*No.*	*%*	*No.*	*%*
Remanded	6	17	70	30	76	28
Sentenced	29	83	164	70	193	72
Total	35	100	234	100	269	100

Reported Cause of Death

Data are available on the reported cause of death in 445 (96 per cent) of the cases. The categories used in this study are suicide (or self-inflicted deaths), homicide, accident (including accidental drug overdoses), natural causes and a residual category 'other'. (These data are as reported by state authorities, frequently based on coroners' findings, and may not necessarily correspond with the determinations that are to be made by the Commission.) It should be noted that the term 'suicide' is used in this paper with the meaning used by social scientists (*see*, for example, Gregory 1987, pp. 758-63) and that of everyday speech (the approach applied by the providers of the data), namely, covering all self-inflicted deaths, regardless of whether or not the person had formed a definite intention of dying by his or her own hand. This approach is different from the legal definition of 'suicide' in which the finding of intention to die by one's own hand, and the capacity to form such an intention, are crucial elements. (This issue has been discussed in some detail in Commissioner Muirhead's Report of the Inquiry into the Death of Kingsley Richard Dixon (1989).)

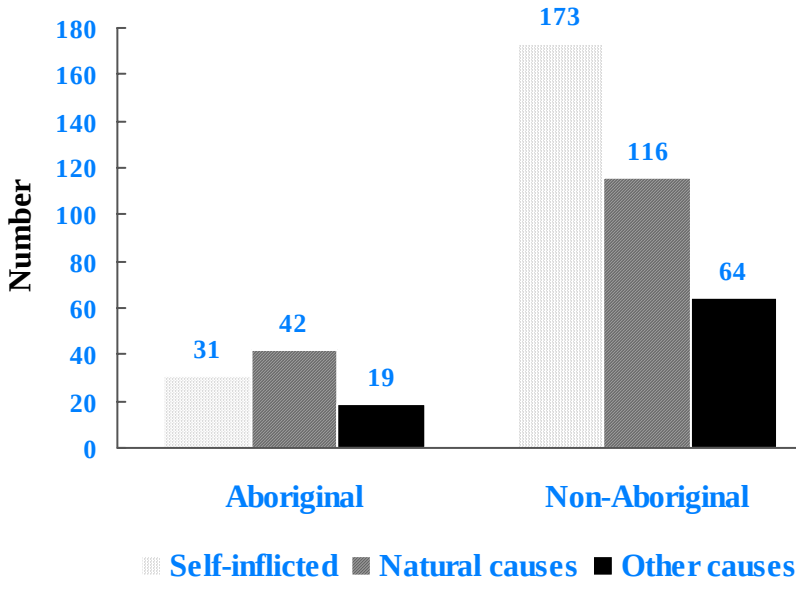
As shown in Table 7.8, self-inflicted death or suicide was by far the most common category, accounting for 204 or 46 per cent of the deaths for which the cause is known. Natural causes was the next most frequent category, accounting for 158 or 36 per cent of these deaths.

TABLE 7.8
Reported Cause of Death, Deaths in Custody, 1980-88

	Aboriginal		*Non-Aboriginal*		*Total*	
	No.	*%*	*No.*	*%*	*No.*	*%*
Self-inflicted	31	34	173	49	204	46
Natural causes	42	46	116	33	158	36
Accident	10	11	41	12	51	11
Homicide	4	4	17	5	21	5
Other	5	5	6	2	11	2
Total	92	100	353	101	445	100

A significant difference exists between Aboriginal and non-Aboriginal people, as shown in Figure 7.5: a higher proportion of Aboriginal people, compared with non-Aboriginal people, died of natural causes (46 per cent compared with 33 per cent) whereas the reverse holds for suicides with 49 per cent of non-Aboriginal people being reported to have died this way, compared with 34 per cent of Aboriginal people. This pattern is found in both the police and prison custody groups.

FIGURE 7.5
Reported Cause of Death, Deaths in Custody, 1980-88



As one might expect, age is correlated with reported causes of death. Suicide was the most frequent reported cause of death among the younger age groups, accounting for 70 per cent of the cases under 30 years of age. (It will be

recalled that half (48 per cent) of the deaths are found in this age group.) Natural causes were dominant in the older age groups, accounting for 61 per cent of the cases aged over 40 years.

Self-inflicted

Information is available on the methods used in 200 of the 204 self-inflicted deaths. Hanging was by far the most frequent, representing 183 or 91 per cent of these deaths. (The other methods used were drugs (6 cases) and other forms of trauma (11 cases).) This pattern is quite different from that of suicides in the general community, where hangings make up only 13 per cent of such deaths (14 per cent among males and 9 per cent among females (ABS 1983)). In the broader community suicide by poisoning and by the use of firearms are much more common than suicide by hanging. The differences between methods of self-inflicted death in custody as compared with non-custody circumstances are explained, in part, by the constrained options of the custodial environment, where there is virtually no access to poisons or firearms, where there is more continual surveillance, and where there is little choice of location. Therefore hanging is one of the few options available, and is a particularly lethal method which typically precludes intervention, change of mind, or resuscitation.

Similar proportions of males and females were reported to have died by suicide in custody. This is in contrast to the general community where the male suicide death rate is almost four times that of females.

As mentioned at the beginning of this paper, the patterns of deaths in custody for Aboriginal and non-Aboriginal people are very different, with 67 per cent of non-Aboriginal deaths having occurred in prison custody and 63 per cent of Aboriginal deaths having occurred in police custody. When these figures are broken down into the proportion of reported suicide deaths covered by these figures, it becomes clear that 114 of 173 non-Aboriginal suicides took place in prisons (66 per cent), whereas 20 of 31 Aboriginal suicides took place in police custody (65 per cent) (*see* Table 7.9). In other words, the differing pattern of self-inflicted deaths in custody closely parallels the more general pattern. This would suggest that police custody is more of an at-risk environment for Aboriginal people than it is for non-Aboriginal people. It is also noteworthy that suicides constitute 49 per cent of non-Aboriginal deaths in custody, as compared with a little less than 34 per cent of Aboriginal deaths in custody.

TABLE 7.9
Reported Cause of Death, by Custodial Authority, 1980-88

	Aboriginal		*Non-Aboriginal*		*Total*		
	Police	*Prison*	*Police*	*Prison*	*Police*	*Prison*	***All cases***
Self-inflicted	20	11	59	114	79	125	204
Natural causes	23	19	39	77	62	96	158
Accident	8	2	14	27	22	29	51
Homicide	3	1	2	15	5	16	21
Other	3	2	1	5	4	7	11
Total	57	35	115	238	172	273	445

Natural causes

It may be useful, for preventive purposes, to explore further the deaths attributed to 'natural causes'. Some information on the diseases involved is available for 137 (87 per cent) of the 158 deaths by natural causes. These have been classified according to the broad categories used in the WHO International Classification of Diseases (1977), as shown in Table 7.10.

TABLE 7.10
Deaths by Natural Causes, Deaths in Custody, 1980-88

	Police Cells		*Prison*		*Total*		
Disease group	*Abg*	*Non-Abg*	*Abg*	*Non-Abg*	*Abg*	*Non-Abg*	***All cases***
Heart diseases	5	13	12	35	17	48	65
Respiratory tract diseases	4	4	1	6	5	10	15
Stroke	2	2	-	5	2	7	9
Infectious diseases	1	-	1	5	2	5	7
Cancers	-	-	-	4	-	4	4
Digestive system diseases	-	2	2	1	2	3	5
Other disease	6	6	1	5	7	11	18
Multiple diseases	2	4	1	7	3	11	14
Total	20	31	18	68	38	99	137

It can be seen that heart afflictions are the most common diseases causing deaths in custody, accounting for almost half (47 per cent) of these deaths. By comparison, 36 per cent of deaths in the community (that is, deaths from disease, rather than external causes such as suicide or motor vehicle crashes) are from heart disease (ABS 1987). (This high rate of deaths from heart disease is especially marked considering the younger ages of people who died in custody compared with the general community, as shown in Table 7.6.)

Cancer and stroke are the second and third most frequent causes of death by disease in the general community (cancer 26 per cent, cerebrovascular disease including stroke 11 per cent); the deaths in custody rates are much lower, at 3 per cent and 6 per cent respectively, as one might expect with the younger custody population.

Finally, it is noted that little difference exists between the Aboriginal and non-Aboriginal patterns of deaths in custody by natural causes, but significant differences do exist between the custodial authorities, that is, police and prison authorities respectively. Although this will not be explored here in detail, of interest is the fact that deaths from heart diseases, infectious illnesses and cancers occur at higher rates in prison compared with police custody, whereas the opposite is the case for deaths caused by respiratory system disease. The fact that people stay much longer in prison than in police custody is, perhaps, relevant here.

Accidents

Fifty-one deaths in custody were reported to be caused by accidents. Drug overdoses were by far the most common, at 22 cases, followed by alcohol toxicity (8 cases), fire (8), head injury (6) and other accident types (7). As shown in Table 7.11, non-Aboriginal people in prison accounted for 16 of the 22 drug overdose deaths.

TABLE 7.11
Accidental Deaths, Deaths in Custody, 1980-88

Accident	*Police Cells*		*Prison*		*Total*		
type	*Abg*	*Non-Abg*	*Abg*	*Non-Abg*	*Abg*	*Non-Abg*	***All cases***
Drugs*	1	4	1	16	2	20	22
Alcohol*	1	7	-	-	1	7	8
Fire	-	-	-	8	-	8	8
Head injury	5	1	-	-	5	1	6
Other	1	2	1	3	2	5	7
Total	8	14	2	27	10	41	51

*Deaths from overdose and/or sensitivity to alcohol or other drugs.

Homicide

Homicide was reported to be the cause of death in 21 cases. As shown in Table 7.12, 16 of these occurred in prison, slightly more than one would expect from the size of the prison deaths category compared with the police deaths category. Aboriginal and non-Aboriginal homicide deaths were proportional to the sizes of their respective groups in the deaths in custody population.

A high proportion (10 of the 21 reported homicides) occurred in New South Wales, which had only 29 per cent of the deaths in custody, and nine of those ten occurred in prison custody.

TABLE 7.12
Deaths by Homicide, Deaths in Custody, 1980-88

	Aboriginal	*Non-Aboriginal*	*Total*
Prison	1	15	16
Police	3	2	5
Total	4	17	21

Custody

Offence

Data were sought on the most serious offence, committed by the deceased person, that lead to him or her being placed in custody. Offence data are available on 365 (79 per cent) of the cases (95 per cent of the prison cases and 54 per cent of the police cases). This discrepancy between the police and prison cases means that the data, especially the police data, must be used with caution.

The offence categories listed in Table 7.13, and used in other Research Papers of the Royal Commission, are based on the Australian National Classification of Offences developed by the Australian Bureau of Statistics. Full details of the criminal behaviours included within each category are found in ABS publications (*see* ABS 1986); for the purposes of this paper, however, the following brief descriptions apply:

> **Homicide** includes murder, attempted murder, conspiracy to murder, manslaughter and driving causing death.
> **Assault** includes occasioning grievous bodily harm, actual bodily harm, etc.
> **Sexual Offences** includes rape, carnal knowledge, incest, indecent assault, etc.
> **Robbery** includes armed robbery, unarmed robbery, stealing with violence, etc.
> **Break and Enter** includes burglary and unlawful entry.
> **Fraud** includes misappropriation, forgery and false pretences.
> **Theft** includes receiving and unlawful possession of stolen goods as well as motor vehicle theft and illegal use, stealing from the person, etc.
> **Property Damage** includes arson and vandalism.
> **Justice Procedures** includes breach of probation, parole, etc, contempt of court, breach of family law court orders, escape from custody, fine default, etc.

Drunkenness includes both public drunkenness where it is an offence and protective custody or detention where this form of behaviour has been decriminalised.
Other Good Order Offences includes offensive behaviour, weapons offences, etc.
Drug Offences includes possession or use, importing, dealing, or trafficking, manufacture and growing any unlawful drugs.
Traffic Offences includes all driving offences (including driving under the influence of alcohol) and licence or registration offences.
Other Offences is a residual category for offences not elsewhere classified.

Table 7.13 shows the most serious offences that led to police custody or imprisonment for each deceased person. It will be noted that homicide is by far the most common offence, accounting for 20 per cent of the cases for which data are available. The four most serious categories (homicide, assault, sexual offences and robbery) together account for some 46 per cent of the cases. Custody owing to drunkenness (either as an offence or protective detentions where it has been decriminalised) comprised 56 cases (15 per cent).

TABLE 7.13
Most Serious Offence of Conviction or Charge, Deaths in Custody, 1980-88

Offence	*Police Cells*		*Prison*		*Total*		
type	*Abg*	*Non-Abg*	*Abg*	*Non-Abg*	*Abg*	*Non-Abg*	***All cases***
Homicide	-	2	3	68	3	70	73
Assault	-	4	4	15	4	19	23
Sexual offences	-	1	11	21	11	22	33
Robbery	-	4	1	33	1	37	38
Break and enter	1	4	4	24	5	28	33
Fraud	-	-	-	3	-	3	3
Theft	-	5	2	21	2	26	28
Property damage	-	2	1	3	1	5	6
Justice procedures	4	5	2	12	6	17	23
Drunkenness	10	42	1	3	11	45	56
Other good order	4	3	1	8	5	11	16
Drug offences	-	1	-	15	-	16	16
Traffic offences	-	5	4	6	4	11	15
Other offences	-	1	-	1	-	2	2
Total	19	79	34	233	53	312	365

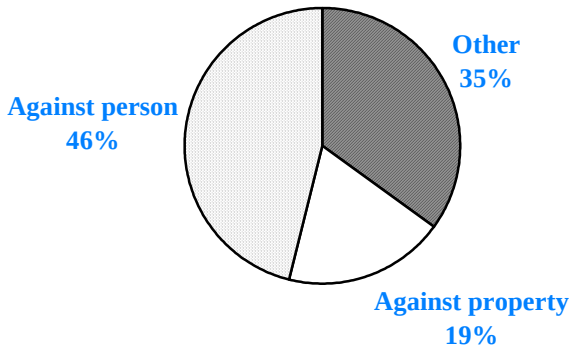
Table 7.13 also reveals substantial differences, regarding most serious offence, between the prison and police deaths. As one would expect, a higher

proportion of the prison deaths were among people incarcerated because of serious offences, especially homicide, robbery, sexual offences and break and enter. By contrast, higher proportions of minor offences (especially drunkenness and protective custody detentions owing to intoxication where it is not an offence) were seen among the police custody deaths.

Turning to patterns between the Aboriginal and non-Aboriginal people, we find that little difference existed in offence patterns of those who died in police custody but that, in prison custody, non-Aboriginal prisoners were over-represented (compared with Aboriginal prisoners) in the offence of homicide (29 per cent compared with 9 per cent). The reverse holds for sexual offences, which was the most serious offence category for 32 per cent of the Aboriginal people who died in custody but for only 9 per cent of non-Aboriginal people.

Figure 7.6 shows the offence data grouped in another way, differentiating between offences against the person, offences against property, and other offences. Offences against the person, generally the more serious offences, dominate.

FIGURE 7.6
Most Serious Offence of Conviction or Charge, Deaths in Custody, 1980-88



Length of time in custody

Data were sought on the length of time that people were in custody prior to their dying. Unfortunately, one state, Queensland, was not able to provide data on this variable, even though 20 per cent of all deaths in custody, during the period under review, occurred there. Overall, data on length of incarceration prior to death are available for 123 of the police custody deaths (68 per cent) and 212 of the prison deaths (76 per cent).

As one would expect, the reported lengths of incarceration prior to death are quite different between the two custodial authorities, with averages in police custody of approximately 15 hours and in prison custody, approximately 1 year 10 months. For this reason, the following comments will cover the two

environments separately and additional details will be included in the proposed papers concerned with police and prison deaths in custody, respectively.

Police Custody As noted above, the mean length of time in police custody from the time the person entered custody to the time of death was 15 hours. In half the cases people died within five hours, and 90 per cent died within 36 hours. Expressed differently, it is noted that, of 123 police custody deaths, 106 died on the first day, 12 on the second day and the remaining five in the period to the tenth day.

No significant difference exists between Aboriginal people and non-Aboriginal people on this variable, but a temporal pattern is observed with regard to the cause of death. The first few hours of police custody appear to be especially problematical regarding suicide: 33 of the 57 reported suicides in police custody for which temporal data are available occurred in the first three hours of custody.

Prison Custody When reviewing the available data on the lengths of time that people spent in prison custody prior to death, it is noted that, unlike the corresponding police data, the first few hours do not stand out as being particularly dangerous.

The distribution is quite skewed, with a mean of 682 days (one year, 10 months) and a median—the point above and below which half the cases fall—of 152 days (5 months). Put another way, 135 of the prison deaths (64 per cent of the 212 prison cases for which temporal data are available) occurred in the first year and the balance are spread up to a maximum of 26 years. Only 14 deaths (7 per cent) occurred in the first 48 hours and 23 deaths (11 per cent) occurred after five years or longer in prison.

Differences are observed between Aboriginal and non-Aboriginal people. (Data for this variable are available for 27 of the 35 Aboriginal deaths in prison custody and for 185 of the 245 non-Aboriginal prison deaths.) The prisoners who died in custody after serving more than three years were all non-Aboriginal people. One result of this difference is that the mean period to death of Aboriginal prisoners is 257 days (8 months) with half dying within the first 3-1/2 months. Among the non-Aboriginal prisoners, however, the mean period was 744 days (24 months) with half dying within the first five months.

Proportion of sentence served

Data have been provided on the total lengths of sentence being served by 116 people who died in prison custody and who had been sentenced, rather than being held on remand. This is approximately 60 per cent of the relevant cases.

The mean 'proportion of sentence served' was 41.8 per cent, with half the cases having served 37 per cent or less of their sentence. Aboriginal and non-Aboriginal people were similar, with means of 39.0 and 42.4 respectively.

Nine of the 35 deaths reported to be by suicide occurred in the group which had served between 10 and 20 per cent of their sentences. No other cause of death showed any firm relationship to proportion of sentence served.

Time from inspection

The police and prison authorities were asked to advise how long a period had elapsed between the time the person in custody was last inspected by police or prison personnel, and the time of death. This information was provided, in a useable form, for only 135 or 29 per cent of the cases (75 in prison custody and 60 in police custody).

Although the high proportion of missing cases means that we must view the data with caution, the data reveal substantial differences between the police and prison environments. As one might expect, the times between last inspection and death were much shorter in police custody compared with prison custody: means of 1.5 hours compared with 3.2 hours. No differences appear between Aboriginal and non-Aboriginal people on this variable.

Alone at time of death

The authorities were requested to advise whether the person was alone, or with others, at the time of death. When we exclude deaths in hospital, and so on, and concentrate on deaths in prison and police cells only, we find that data are available on 227 (61 per cent) of the 371 people who died in these locations (75 of 156 deaths in police cells and 152 of the 215 deaths in prison).

As shown in Table 7.14, similar proportions, overall, of Aboriginal and non-Aboriginal people were alone at the time of death (75 per cent and 81 per cent respectively). In addition, no significant difference exists on this variable between the police and prison custody environments.

TABLE 7.14
Alone or with Others at Time of Death, Deaths in Custody, 1980-88

	Police cells		*Prison*		*Total*		
	Abg	*Non-Abg*	*Abg*	*Non-Abg*	*Abg*	*Non-Abg*	***All cases***
Alone	8	56	13	105	21	161	182
With others	4	7	3	31	7	38	45
Total	12	63	16	136	28	199	227

Not surprisingly, the cause of death is related to whether the person was alone or not at the time of death. Most of the deaths reported to be by suicide (92 per cent, that is., all of the Aboriginal suicides and 108 of the 119 non-Aboriginal suicides for which data are available) occurred while the person was alone. Similarly, most accidental deaths (76 per cent) and deaths from natural causes (70 per cent) occurred while the person was alone.

Place of Death

As noted in the introduction to this paper, we have been using the shorthand terms 'police custody' and 'prison custody' to identify the agencies (police or prisons) which had the legal authority for the custody of the people whose deaths are analysed. We pointed out, however, that not all the 'police' cases died in police cells (in the actual physical custody of police officers), nor did all the 'prison' deaths occur behind prison walls. Naturally, the actual place of death was, in many cases, a hospital or other location. For this reason, we differentiate here between the custodial authority (police or prison administration) on the one hand, and actual place of death, on the other.

Significant differences exist between the Aboriginal and non-Aboriginal groups in deaths in police cells and in prisons, as shown in Table 7.15. This reflects, in the main, the distribution of the Aboriginal and non-Aboriginal people between police and prison custody (two-thirds of the Aboriginal people died in police custody, two-thirds of the non-Aboriginal people died in prison custody), as outlined earlier in this paper.

A higher proportion of Aboriginal people, compared with non-Aboriginal people, died in general hospitals; this pattern was seen in the deaths in each of the custodial environments. Some 24 per cent of Aboriginal deaths in police custody actually occurred in a general hospital, compared with only 6.5 per cent of the non-Aboriginal deaths in police custody. Similarly, 31 per cent of the Aboriginal prison deaths occurred in a general or psychiatric hospital compared with 21 per cent of the non-Aboriginal prison deaths. These differences, it is suspected, are due to the fact that the very existence of the Royal Commission has brought to notice more cases of Aboriginal deaths in custody than otherwise would have been the case.

As one might expect, most (97 per cent) of the deaths from hanging occurred in police and prison cells while the deaths from natural causes (the other main cause of death) occurred roughly equally in police cells (27 per cent of natural causes deaths), prison (33 per cent) and general hospitals (36 per cent).

TABLE 7.15
Place of Death, Deaths in Custody, 1980-88

	Aboriginal		*Non-Aboriginal*		*Total*	
Place of Death	*No.*	*%*	*No.*	*%*	*No.*	*%*
Police cells	42	45	114	31	156	34
Prison	23	24	192	52	215	47
General hospital	24	26	51	14	75	16
Psychiatric hospital	1	1	8	2	9	2
Other	4	4	3	1	7	2
Total	94	100	368	100	462	101

Trends 1980-88

The total number of deaths in custody for each year from 1980 to 1986 remained fairly consistent, but in 1987 there was a dramatic and unexpected increase in the number of deaths in both prison and police custody and among both Aboriginal people and non-Aboriginal people. The 1987 figure of 93 deaths is more than twice the annual mean for 1980-86 of 44 (*see* Figure 7.7). In 1988, the number of deaths remained higher than the 1980-86 average but was not as marked as the 1987 figure. Such a striking and unexpected increase as occurred in 1987 must be explored as carefully and comprehensively as possible.

Custodial authority and Aboriginality

As indicated in Table 7.16, for both police and prison custody in 1987 the number of deaths increased at approximately the same rate (by factors of 2.4 and 2.0 respectively) over the annual average for 1980-86. It is interesting to note that both Aboriginal and non-Aboriginal deaths increased at approximately the same rate (by factors of 2.4 and 2.0 respectively) in 1987 and that these increases were observed independently in the two types of custody. In police custody Aboriginal deaths increased at a higher rate than non-Aboriginal deaths (3.1 and 2.1 respectively); conversely in prison custody, non-Aboriginal deaths increased at a higher rate than Aboriginal deaths (2.0 and 1.5).

FIGURE 7.7
Aboriginality, Deaths in Custody, 1980-88

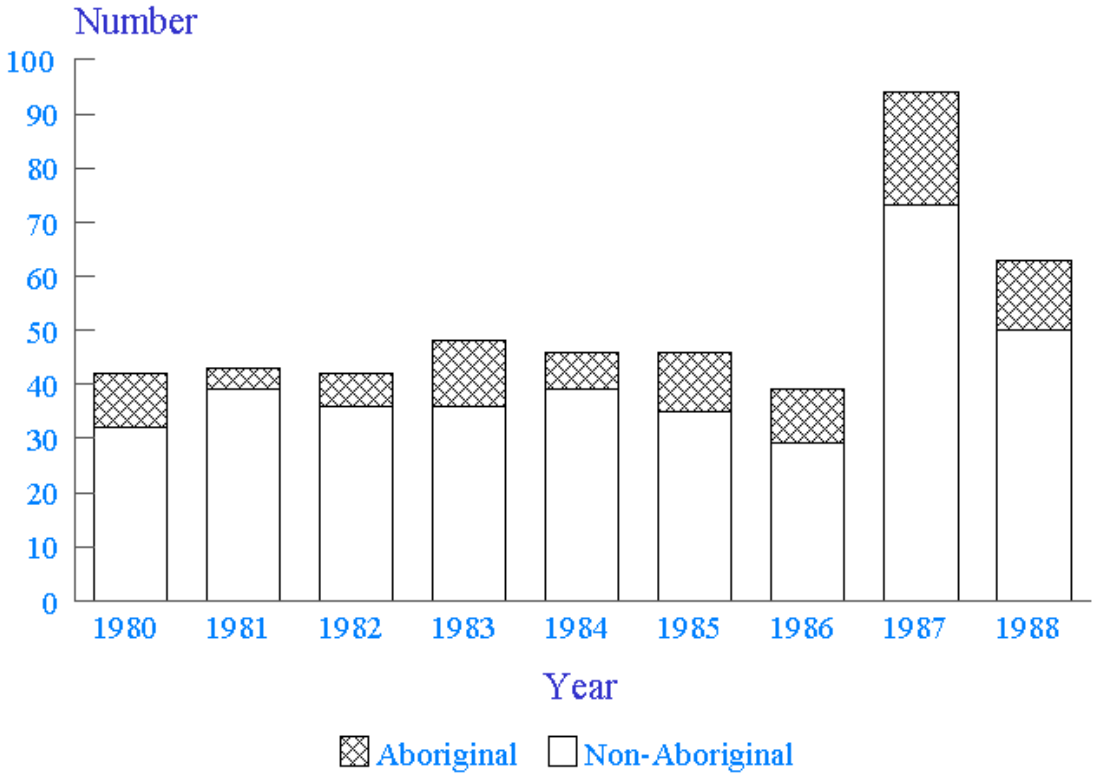


TABLE 7.16
Custodial Authority, Aboriginality, Deaths in Custody, 1980-88

	Police cells		*Prison*		*Total*		
	Abg	*Non-Abg*	*Abg*	*Non-Abg*	*Abg*	*Non-Abg*	***All cases***
1980	5	7	12	5	25	30	42
1981	3	12	15	1	27	28	43
1982	4	15	19	3	21	24	43
1983	6	10	16	6	26	32	48
1984	3	12	15	4	27	31	46
1985	7	15	22	4	20	24	46
1986	8	13	21	1	16	17	38
1987	16	25	41	5	47	52	93
1988	7	14	21	6	36	42	63
Total	59	123	182	35	245	280	462

Gender

From Table 7.17 it can clearly be seen that the overwhelming majority of deaths over the period 1980-88 were male. The number of male deaths was fairly

consistent between 1980 and 1986, with an annual mean of 41.6. In 1987 this rose to 90, representing an increase by a factor of 2.2. This increase was reflected in both Aboriginal and non-Aboriginal males, with the increase being slightly higher among Aboriginal males (increased by factors of 2.7 and 2.0 respectively over the annual average for 1980-86).

TABLE 7.17
Aboriginality and Gender, Deaths in Custody, 1980-88

	Aboriginal		*Non-Aboriginal*		*Total*	
	Males	*Females*	*Males*	*Females*	*Males*	*Females*
1980	9	1	32	-	41	1
1981	4	-	38	1	42	1
1982	5	2	32	4	37	6
1983	11	1	34	2	45	3
1984	7	-	39	-	46	-
1985	11	-	33	2	44	2
1986	8	1	28	1	36	2
1987	21	-	69	3	90	3
1988	11	2	49	1	60	3
Total	87	7	354	14	441	21

The number of non-Aboriginal males who died in prison custody increased from an annual mean of 22 for 1980-86 to 45 in 1987. This increase did not occur among Aboriginal males in prison custody. In police custody, however, the rate of death for Aboriginal males increased substantially from an annual average for 1980-86 of 4.6 to 16. It is important to note that the number of deaths among non-Aboriginal males in police custody also increased but at a lower rate (2.1 compared with 3.5).

It is noteworthy that only 21 deaths in custody were female, seven Aboriginal and 14 non-Aboriginal. The highest number of female deaths occurred in 1982, when there was an annual total of six, and no female deaths were recorded in 1984. It is also worth noting that there was no significant increase in female deaths in 1987 compared with the annual average for 1980-86. The focus of attention must therefore be on the increase in deaths of males in 1987, both Aboriginal and non-Aboriginal, and in both police and prison custody.

Reported cause of death

The most dramatic aspect of the 1987 data is the increase in the number of deaths due to hanging among Aboriginal people in police custody. Aboriginal deaths by hanging increased from an annual average of 1.6 to 13, representing an eightfold increase. Before 1987, very few Aboriginal deaths in custody were

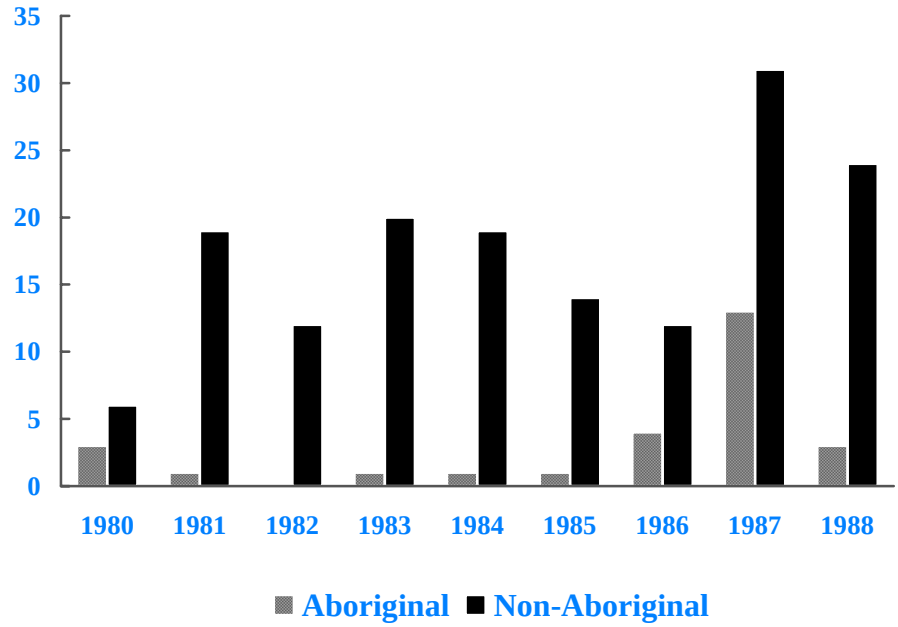
by hanging. In 1987, however 13 of the 21 (62 per cent) Aboriginal deaths were attributable to hanging. This is illustrated in Table 7.18. (Data were not available on this variable for 20 cases.)

The number of deaths by hanging among non-Aboriginal males also increased, albeit at a lower rate in 1987, from an annual average for 1980-86 of 15 to 31 (that is, by a factor of 2.1). However, unlike the Aboriginal deaths there was no difference in the proportion of deaths by hanging in 1987 when compared with the average proportion for 1980-86. In other words, the increase in Aboriginal deaths in 1987 can be solely attributed to an increase in the number of hangings among Aboriginal males. This is not the case, however, for non-Aboriginal males where deaths from natural causes also increased at the same rate as hanging in 1987.

TABLE 7.18
Deaths by Hanging and all other Causes, Deaths in Custody, 1980-88

	Aboriginal			*Non-Aboriginal*			
	Hanging	*All other*	*Total*	*Hanging*	*All other*	*Total*	***All cases***
1980	3	7	10	6	24	30	40
1981	1	3	4	19	18	37	41
1982	-	7	7	12	21	33	40
1983	1	11	12	20	15	35	47
1984	1	6	7	19	20	39	46
1985	1	10	11	14	21	35	46
1986	4	5	9	12	15	27	36
1987	13	8	21	31	37	68	89
1988	3	8	11	24	22	46	57
Total	27	65	92	157	193	350	442

FIGURE 7.8
Deaths by Hanging, Aboriginality, Deaths in Custody, 1980-88



Age group

The number of deaths in custody increased among the younger age groups up to 45 years. Beyond this age group there was no change in the number of deaths over the years. Of particular concern is the large increase in deaths among the 15 to 19 year age group in 1987 and 1988. The number of deaths among this age group increased in 1987 from a 1980-86 mean of 2.9 to 12, a four-fold increase. This increase was highest among Aboriginal people aged 15 to 19 who died at a rate of 8.3 times the annual average for 1980-86. Almost all of these deaths occurred in police custody (4 out of 5 deaths) and all were reported suicides by hanging. Conversely, all of the seven non-Aboriginal deaths in this age group occurred in prison custody in 1987. This is a four-fold increase over the annual average for 1980 to 1986. Six of these deaths were also by hanging. It is important to point out that suicide accounts for almost all of the increase in deaths among 15 to 19 year old Aboriginal and non-Aboriginal males; of the 12 deaths in this age group in 1987, 11 (92 per cent) were by hanging. This is also the case among the 20-24 year old age group, where hangings accounted for 81 per cent of the deaths in 1987.

A substantial increase occurred in the 35 to 39 year age group. Deaths in this group increased from a 1980-86 annual average of 2.6 to 13 in 1987, representing an increase by a factor of five. This increase was similar for both Aboriginal and non-Aboriginal deaths in 1987 (by factors of 5.0 and 5.2 respectively).

It is also worth noting that deaths in the 45 year and above age group showed little change over the nine-year period. With the exception of a decline in 1986, the number of deaths in this age group has remained consistent even in 1987 and 1988. Figure 7.9 highlights this trend and that of the 15 to 19 year age group.

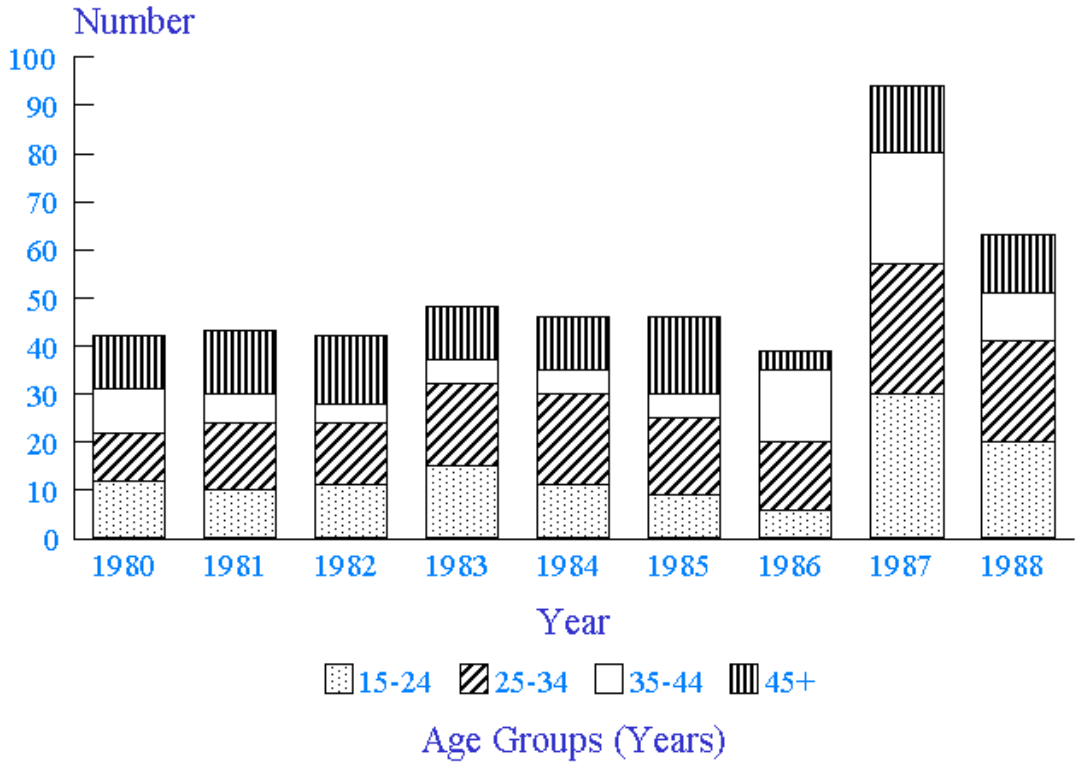
TABLE 7.19
Age Group, Aboriginality, Deaths in Custody, 1980-88

	Age group (years)											
	15-19	*20-24*	*25-29*	*30-34*	*35-39*	*40-44*	*45-49*	*50-54*	*55-59*	*60-64*	*65+*	*Total*
1980	2	10	5	5	4	5	1	5	1	3	1	42
1981	2	8	9	5	1	5	2	6	2	2	1	43
1982	3	8	10	4	1	3	3	6	3	1	1	43
1983	3	12	11	6	2	3	2	3	3	2	1	48
1984	4	7	11	8	2	3	2	2	2	2	3	46
1985	3	6	13	3	4	1	4	1	2	2	7	46
1986	3	3	9	4	4	11	1	-	2	1	-	38
1987	12	18	16	10	13	10	4	3	3	1	3	93
1988	6	14	12	9	4	6	4	1	5	-	2	63
Total	38	86	96	54	35	47	23	27	23	14	19	462

States and territories

As can be seen from Table 7.20 and Figure 7.10, the most noticeable change over the 1980 to 1988 period within Australian jurisdictions occurred in 1987 in New South Wales, Victoria and Queensland. The number of deaths in all other states and territories varied from year to year but remained within a small range. In contrast, in Western Australia the total number of deaths each year was reported as being either seven or eight, except in 1986 and 1988. In 1986 only one death was reported in that state for the year, while in 1988 the number increased to 12 from an annual average for 1980-87 of seven. It is noteworthy that, in Western Australia, the number of deaths in 1987 was similar to that of the earlier years of the decade, even though it has more Aboriginal deaths to be investigated by the Royal Commission than any other state.

FIGURE 7.9
Age Groups, Deaths in Custody, 1980-88



In New South Wales, the number of deaths per year between 1980 and 1986 fluctuated between nine and 15. In 1987, however, the number of deaths increased from an annual average for 1980-86 of 12.6, to 29 (that is, by a factor of 2.3). A similar pattern was seen in Victoria, where the number of deaths for 1987 increased from an annual average for 1980-86 of 8.1, to 27 (that is., by a factor of 3.3). These increases can be attributed almost entirely to non-Aboriginal deaths, which accounted for 26 out of the 29 deaths in New South

Wales in 1987, and 26 out of the 27 in Victoria that year. Non-Aboriginal deaths increased in both police and prison custody in New South Wales (by factors of 2.6 and 2.2 respectively) and in Victoria (by factors of 3.5 and 3.2).

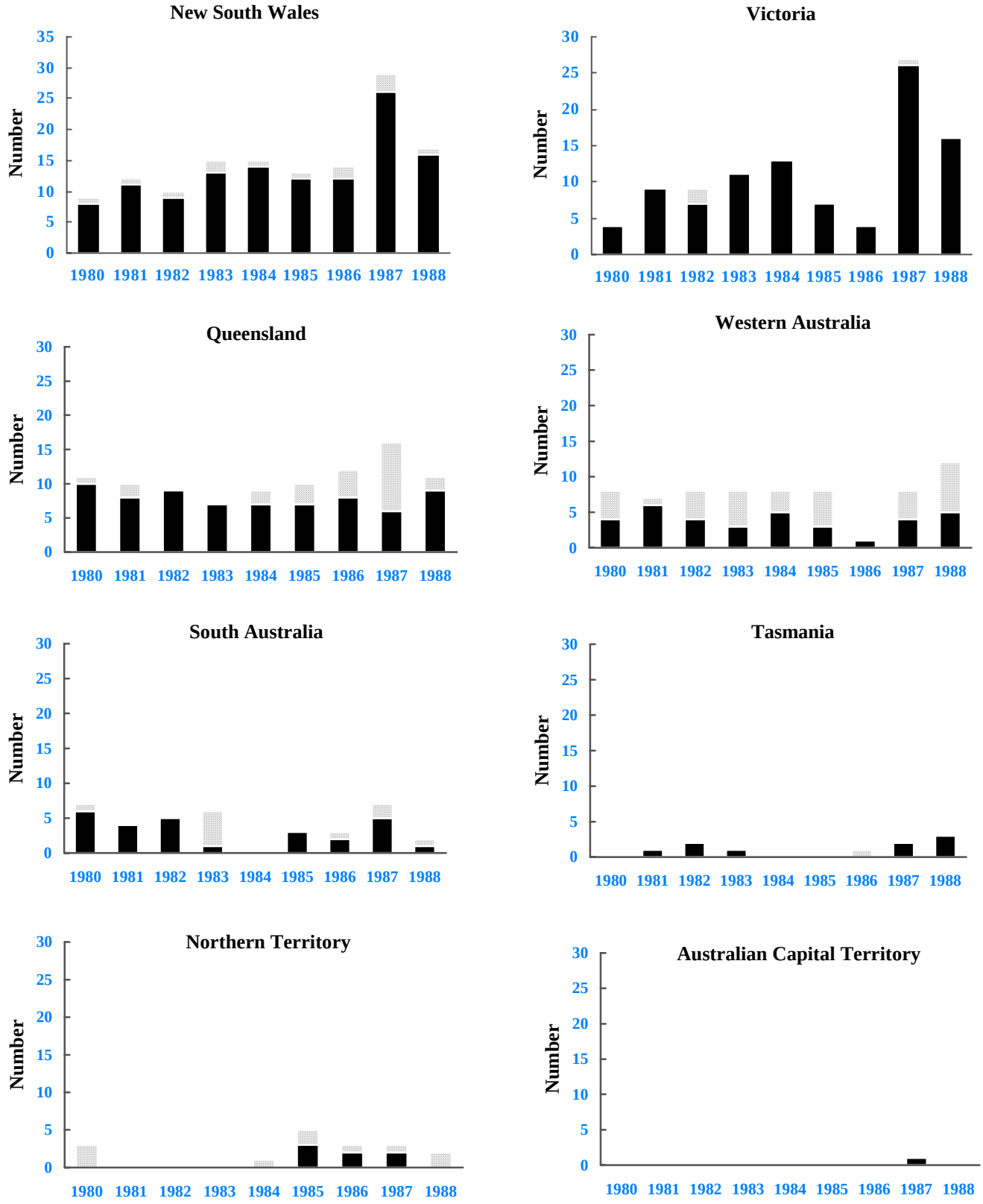
There was a different pattern in Western Australia and Queensland with regard to Aboriginal deaths. They increased in Queensland from the 1980-86 annual average of 1.7, to 10 in 1987 (that is, by a factor of 5.9). In Western Australia no increase in Aboriginal deaths occurred in 1987 compared with the 1980-86 average, however the 1988 figure of seven deaths was twice the annual average for 1980-87. The ten Aboriginal deaths in Queensland in 1987 comprised seven deaths by hanging and three by natural causes. Of these, eight occurred in police custody. The deaths by hanging of young Aboriginal males in Queensland contributed substantially to the national increase in Aboriginal deaths in 1987.

TABLE 7.20
Aboriginality and Jurisdiction, Deaths in Custody, 1980-88

	NSW	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*ACT*	*Aust.*
				ABORIGINAL					
1980	1	-	1	4	1	-	3	-	10
1981	1	-	2	1	-	-	-	-	4
1982	1	2	-	4	-	-	-	-	7
1983	2	-	-	5	5	-	-	-	12
1984	1	-	2	3	-	-	1	-	7
1985	1	-	3	5	-	-	2	-	11
1986	2	-	4	-	1	1	1	-	9
1987	3	1	10	4	2	-	1	-	21
1988	1	-	2	7	1	-	2	-	13
Total	13	3	24	33	10	1	10	-	94
				NON-ABORIGINAL					
1980	8	4	10	4	6	-	-	-	32
1981	11	9	8	6	4	1	-	-	39
1982	9	7	9	4	5	2	-	-	36
1983	13	11	7	3	1	1	-	-	36
1984	14	13	7	5	-	-	-	-	39
1985	12	7	7	3	3	-	3	-	35
1986	12	4	8	1	2	-	2	-	29
1987	26	26	6	4	5	2	2	1	72
1988	16	16	9	5	1	3	-	-	50
Total	121	97	71	35	27	9	7	1	368
				PERSONS					
1980	9	4	11	8	7	-	3	-	42
1981	12	9	10	7	4	1	-	-	43
1982	10	9	9	8	5	2	-	-	43
1983	15	11	7	8	6	1	-	-	48
1984	15	13	9	8	-	-	1	-	46
1985	13	7	10	8	3	-	5	-	46
1986	14	4	12	1	3	1	3	-	38
1987	29	27	16	8	7	2	3	1	93
1988	17	16	11	12	2	3	2	-	63
Total	134	100	95	68	37	10	17	1	462

FIGURE 7.10

Aboriginality and Jurisdiction, Deaths in Custody, 1980-88



Summary

1. Police and prison authorities throughout Australia provided information about each reported death in custody which occurred during the period 1980-88. During that period, 462 deaths in custody occurred, including 94 deaths of Aboriginal people and 368 deaths of non-Aboriginal people. Thirty-nine per cent of these deaths occurred in police custody and 61 per cent in the custody of prison authorities.

2. When allowance is made for age and their relative representation in the Australian population, it is found that Aboriginal people died in custody at a rate more than 20 times the rate of non-Aboriginal people. This alarmingly high Aboriginal death rate closely parallels the over-representation of Aboriginal people in custody. Substantial differences exist between the eight states and territories regarding rates of deaths in custody.

3. Aboriginal people composed 20 per cent of the deaths in custody, although they are less than 1.2 per cent of the Australian population aged 15 years and above. Approximately 95 per cent of the deaths were among men.

4. The average age at death was 35 years with little difference being seen between the Aboriginal and non-Aboriginal groups. This pattern is observed despite the fact that major differences exist between the age structures of the Aboriginal and non-Aboriginal populations in the broader society.

5. Of the people who died in prison custody, 28 per cent were being held on remand. This is a high rate when it is considered that remandees make up only 16 per cent of the Australian prison population.

6. Suicide and other self-inflicted injuries (as defined by the police and prison authorities who provided the data) was the most common cause of death reported, accounting for 46 per cent of the deaths, with natural causes accounting for a further 36 per cent. A higher proportion of Aboriginal people, compared with non-Aboriginal people, died of natural causes (46 per cent compared with 33 per cent) whereas the reverse holds for suicides, with 49 per cent of non-Aboriginal deaths being reported as suicide, compared with 34 per cent of Aboriginal people. Some 91 per cent of the deaths reported to be by suicide were caused by hanging, whereas hanging is the cause of death in only 13 per cent of suicides in the general community. This reflects, it is believed, the nature of the custodial environment.

7. Heart diseases were the most common natural cause of death, accounting for 47 per cent of the deaths by natural causes, followed by respiratory tract diseases. This pattern of deaths is quite different from that of the broader

community. Most of the reported accidental deaths were drug overdoses among non-Aboriginal people in prison.

8. Homicide was noted as being by far the most common offence which had led to people who died being held in custody, accounting for 20 per cent of the cases for which offence data are available. Four serious offence categories, namely homicide, assault, sexual offences and robbery, together account for some 46 per cent of the cases. Custody owing to drunkenness (either as an offence or protective detentions where public drunkenness has been decriminalised) comprised 56 cases (15 per cent of all deaths).

9. The average length of time that people had been held in police custody, up to the time of death, was 15 hours. Some 86 per cent of the police custody deaths occurred on the first day of custody and 58 per cent of the suicides in police custody occurred during the first three hours of custody. The average period that people had been in prison up to the time of death was one year ten months with 64 per cent of the deaths occurring in the first year. Only 14 prison deaths, (7 per cent) occurred in the first 48 hours of imprisonment. Similar proportions of Aboriginal and non-Aboriginal people were noted as having been alone at the time of death (approximately 80 per cent).

10. The total number of deaths in custody for each year from 1980-86 remained fairly consistent, but in 1987 a dramatic increase occurred in the number of deaths in both prison and police custody and among both Aboriginal and non-Aboriginal people in custody. The 1987 figure of 93 deaths is more than twice the annual average for 1980-86 of 44 deaths. In 1988, the number of deaths remained higher than the 1980-86 average, but at 63 was lower than the 1987 figure.

11. In police custody, Aboriginal deaths increased in 1987 at a higher rate than non-Aboriginal deaths while conversely, in prison custody, non-Aboriginal deaths increased at a higher rate than did Aboriginal deaths.

12. Major differences exist between the Australian states and territories in the patterns of change with respect to deaths in custody. By far the largest increases in 1987 occurred in Victoria and New South Wales, almost entirely among non-Aboriginal people. The greatest increase in Aboriginal deaths in custody during the same period, in terms of both the number of deaths and percentage increase, occurred in Queensland, primarily among young males who were reported to have died by hanging in police custody. A similar pattern was seen in Western Australia in 1988.

13. The Research Unit of the Royal Commission plans to produce two supplementary papers which will enlarge upon the information provided in

this paper, concentrating on Aboriginal and non-Aboriginal deaths in police custody and prison custody respectively.

July 1989

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ACKNOWLEDGMENTS

The research project that is reported in this paper was made possible by the full cooperation of Australian police forces and correctional administrations. These sixteen agencies supplied the basic information on all Aboriginal and non-Aboriginal deaths that had occurred in police or prison custody over the nine-year period, 1 January 1980 to 31 December 1988. Police and prison service representatives were also called upon many times during the course of the project to supplement or to clarify the information that had been supplied. This cooperation and assistance is gratefully acknowledged by the Research Unit of the Royal Commission.

The preparation of this report was also assisted by the advice of Dr Joseph Reser of the School of Behavioural Sciences at the James Cook University of North Queensland who was a visiting scholar attached to the Research Unit for a three-month period in early 1989. Dr Reser made numerous valuable comments on the early drafts of this paper.

RESEARCH PAPER NO. 8

National Police Custody Survey, August 1988: Preliminary Descriptive Findings

David McDonald

Purpose, Scope and Method

The August 1988 National Police Custody Survey was conducted under the auspices of the Royal Commission to assist the Commission in its task of placing Aboriginal deaths in custody into a broader context. Since some 60 per cent of the Aboriginal deaths in custody being investigated by the Royal Commission occurred in police custody, it was considered important that data be available on the numbers of people being taken into police custody and lodged in police cells, their characteristics, reasons for being taken into custody, reasons for release, how long they are held and other matters.

The survey was conducted with the full cooperation of the Commissioners of each of the eight Australian police forces. A survey form was developed by the Royal Commission Research Unit, in consultation with police forces, and was tested in three jurisdictions. A form was filled in, by police station staff, covering each occasion when a person was taken into police custody during the month of August 1988 and lodged in police cells for any period of time. People held only in court cells were excluded, as were people placed in police custody, for example, for interrogation, but not physically lodged in the cells. In other words, not all people arrested by police are included in this survey. People who were in custody at midnight on 1 August 1988 were also included in the survey.

Completed forms were checked by state police authorities and were forwarded to the Research Unit of the Royal Commission for computer data entry, analysis and reporting. This report provides preliminary descriptive findings. It is subject to change as the data set is further checked and a more detailed analysis is undertaken over the next few months.

Numbers of Custodies

The data set covers 28,568 instances of people being taken into police custody and lodged in the cells. This includes all custodies that occurred in August 1988 and some 559 cases where people were already in the cells at the

commencement of the survey period. Some 923 people were recorded as being in the cells at the time when the survey ended.

The survey covered only people placed in cells by state, NT and Federal police under state, NT and federal legislation. It therefore excluded the people placed in custody in Queensland by Aboriginal community police employed by Aboriginal Community Councils, acting under the provisions of council by-laws. However, since only three Queensland communities have Community police but no state police, and data on custodies in all the other Queensland Aboriginal communities which have community police are included in this report, it is probable that the number of cases, not reported upon here, is small. It is hoped that the full report on this project will include an indication of the size of this additional Queensland group.

State and Aboriginality

As shown in Table 8.1, the largest number of custodies occurred in Queensland (21 per cent of the total), closely followed by New South Wales, Western Australia and Victoria in that order.

TABLE 8.1
Aboriginality and State, Police Custodies, August 1988*

	NSW	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*ACT*	*Total*
Aboriginal	774	198	1,736	2,921	697	43	1,659	24	8,052
Non-Aboriginal	4,646	4,680	4,295	2,464	2,494	530	515	461	20,085
Total	5,420	4,878	6,031	5,385	3,191	573	2,174	485	28,137
Per cent	19.3	17.3	21.4	19.1	11.3	2.0	7.7	1.7	99.8

*Notes to tables:
Some percentages do not total to 100, owing to rounding.

Cross tabulations (i.e., variable 1 by variable 2) include only the cases where data are available on each of the variables in the table. For example, Table 8.1 sums to a total of 28,137 custodies but in the text it is indicated that 28,568 custodies occurred. The apparent discrepancy reflects the fact that in a small proportion of cases (1 per cent) the Aboriginality of the person was not stated and so those cases are excluded from this particular table.

The symbol '-' means nil, or a number rounded to nil.

Table 8.2 indicates that approximately 29 per cent of the police custodies were Aboriginal people. At the time of the 1986 national census, 227,645 people stated that they were Aboriginal; this represents less than 1.5 per cent of

the Australian population. It can be seen, then, that nationally Aboriginal people were apprehended and placed in police cells at a rate twenty times that of non-Aboriginal people. Furthermore, because of the differences between the national Aboriginal and non-Aboriginal age distributions, if only the adult population (i.e., the age group subject to police custody) is considered, the rate of police custody for Aboriginal people is even higher than this figure.

The highest proportions of Aboriginal custodies were found in the Northern Territory (76 per cent) and Western Australia (54 per cent). In every jurisdiction the rate of Aboriginal custodies substantially exceeded their representation in the state population, with their over-representation being highest in South Australia and Western Australia, as shown in Table 8.2.

TABLE 8.2
Ratios of Aboriginal Custodies to Population[a]

State	*Aboriginal population*	*% Aboriginal in state*	*Aboriginal custodies*	*% Aboriginal custodies*	*Level of over-representation[b]*
NSW	59,011	1.09	774	14.3	13.1
Vic.	12,611	0.31	198	4.1	13.2
Qld	61,268	2.37	1,736	28.8	12.2
WA	37,789	2.69	2,921	54.2	20.1
SA	14,291	1.06	697	21.8	20.6
Tas.	6,716	1.54	43	7.5	4.9
NT	34,739	22.43	1,659	76.3	3.4
ACT	1,220	0.49	24	4.9	10.0
Aust.	227,645	1.46	8,052	28.6	19.6

[a]Population data derived from the Census of Population and Housing, 30 June 1986
[b]Ratios of per cent Aboriginal custodies to per cent Aboriginal people in state

Gender

As shown in Table 8.3, some 88 per cent of the custodies were males. Aboriginal women made up nearly 50 per cent of the female custodies, although they comprise less than 1.5 per cent of the national female population.

TABLE 8.3
Aboriginality and Gender, Police Custodies, August 1988

	Aboriginal		*Non-Aboriginal*		*Total*	
	No.	*%*	*No.*	*%*	*No.*	*%*
Male	6,380	79	18,378	92	24,758	88
Female	1,671	21	1,696	8	3,367	12
Total	8,051	100	20,074	100	28,125	100

Age

The mean age was 28 years with 90 per cent of the cases being less than 43 years of age. Little difference exists between the Aboriginal and non-Aboriginal age distributions. While young adults made up the bulk of the custodies, 2,360 were shown to be under the age of 18 years.

As shown in the Royal Commission's Research Paper No. 4, 'The Aboriginal and Torres Strait Islander Population' (*see* pp. 43-63 of this volume), substantial differences exist between the age distributions of the Aboriginal and non-Aboriginal populations of Australia. The Aboriginal population is younger than the total Australian population: some 40 per cent of Aboriginal people are aged less than 15 years compared with 23 per cent of the total population. An additional factor to be taken into account when comparing age ranges is the life expectancy of Aboriginal people, reported as being up to twenty years shorter than that of the total Australian population. The implications of these related factors will be explored in the full report on this project.

When Taken into Custody

As one would expect, custodies were spread fairly evenly through the week with peaks occurring during the Fridays and Saturdays each week. In addition, a high proportion of custodies occurred on the two pension days (Thursday, 4 and 18 August). The days which deviated furthest from the daily average were Sunday, having a significantly lower number of custodies, and Friday, a significantly higher number.

Time Taken into Custody

Table 8.5 shows the time of day on which people were taken into custody. Peaks occurred during the 0900-1100 hours and the 2000-0100 periods.

TABLE 8.4
Day of Week Admitted to Police Custody, August 1988

Weekday	*Number*	*Per cent*
Monday	3,857	13.9
Tuesday	3,975	14.3
Wednesday	4,428	16.0
Thursday	4,038	14.6
Friday	4,729	17.0
Saturday	4,252	15.3
Sunday	2,462	8.9
Total	27,741	100.0

TABLE 8.5
Time of Day Admitted to Police Custody, August 1988*

Time period	*Number*	*Per cent*	*Time period*	*Number*	*Per cent*
Midnight-0059	1586	5.6	1200-1259	1134	4.0
0100-0159	1350	4.8	1300-1359	1020	3.6
0200-0259	1056	3.7	1400-1459	1094	3.9
0300-0359	746	2.6	1500-1559	1088	3.8
0400-0459	476	1.7	1600-1659	1273	4.5
0500-0559	360	1.3	1700-1759	1404	5.0
0600-0659	295	1.0	1800-1859	1288	4.6
0700-0759	328	1.2	1900-1959	1218	4.3
0800-0859	977	3.5	2000-2059	1549	5.5
0900-0959	2049	7.2	2100-2159	1721	6.1
1000-1059	1540	5.4	2200-2259	1794	6.3
1100-1159	1202	4.3	2300-midnight	1726	6.1

*Number of people admitted in each one-hour period.

Reasons for Custody

Table 8.6 sets out the data on the reasons given for people being taken into police custody and placed in the cells. It will be noted that approximately half (15,212) were placed in custody in police cells as a result of being arrested without warrant for the commission of an offence and some 12 per cent (3,250) were placed in protective custody because of intoxication in the jurisdictions where intoxication is not an offence. Some 5,196 custodies occurred because of the offence of drunkenness, totalling 8,446 occasions of custody because of public intoxication, or 30 per cent of all custodies. (Although data are not available from this survey, it is clear that an additional substantial number of offences, which result in both arrests on warrant and without warrant, such as offensive behaviour, obscene language, and so on, are alcohol related. This highlights the destructive impact on Australian society of alcohol misuse and its involvement in the workload of the police forces.)

The only substantial racial difference in the reasons for being placed in custody is that nearly three times the proportion of Aboriginal people, compared with non-Aboriginal people, were placed in custody because of intoxication where it is not an offence. Aboriginal people were similarly over-represented in police custody for the offence of drunkenness.

Substantial differences existed between the states in the proportion of people being placed in custody on warrant (rather than directly under arrest or

because of intoxication where it is not an offence): Tasmania 45 per cent, Victoria 42 per cent, South Australia 34 per cent, Western Australia 23 per cent, New South Wales 16 per cent, Northern Territory 15 per cent, Australian Capital Territory 14 per cent, Queensland 14 per cent.

The most frequent warrant type was commitment warrant (52 per cent), followed by warrants authorising the movement of a person from place to place (21 per cent) and first instance warrants (16 per cent).

TABLE 8.6
Reasons for Custody, Police Custodies, August 1988

	Aboriginal		*Non-Aboriginal*		*Total*	
	No.	*%*	*No.*	*%*	*No.*	*%*
Arrest without warrant	4,147	51.8	11,065	55.7	15,212	54.6
Arrest on warrant	1,713	21.4	4,968	25.0	6,681	24.0
Intoxication detentions	1,709	21.4	1,541	7.8	3,250	11.7
Other	429	5.4	2,294	11.6	2,723	9.8
Total	7,998	100	19,868	100.1	27,866	100.1

Offences Involved

Table 8.7 sets out what were indicated to be the most serious offences involved where people were placed in custody as a result of being arrested, either on warrant or without warrant. It will be noted that drunkenness and 'break & enter, fraud and theft' were the most frequent, making up 29 per cent and 20 per cent of the cases respectively, following in frequency by 'other good order offences' (11 per cent), drink driving (10 per cent) and assault (7 per cent). Motor vehicle thefts made up some 17 per cent of the 'break & enter, fraud and theft' category.

Aboriginal people in custody were under-represented, compared with non-Aboriginal people in custody, in the following offences: homicide, sexual offences, robbery, fraud, drug offences, drink driving and other traffic offences. They were over-represented in the offence of drunkenness and other good order offences only.

TABLE 8.7
Offences–Summary Table, Police Custody, August 1988

	Aboriginal		*Non-Aboriginal*		*Total*	
	No.	*%*	*No.*	*%*	*No.*	*%*
Homicide	17	0.4	139	1.1	156	0.9
Assault	391	8.4	919	7.0	1,310	7.4
Sexual offences	38	0.8	201	1.5	239	1.3
Other against person	1	-	34	0.3	35	0.2
Robbery	18	0.4	201	1.5	219	1.2
Break and enter, fraud and theft	668	14.4	2,896	22.1	3,564	20.
Property damage	91	2.0	296	2.3	387	2.2
Justice procedures	198	4.3	705	5.4	903	5.1
Drunkenness, etc	2,148	46.4	3,048	23.2	5,196	29.3
Other good order	804	17.4	1,180	9.0	1,984	11.2
Drugs	25	0.5	1,024	7.8	1,049	5.9
Drink driving	170	3.7	1,650	12.6	1,820	10.3
Other traffic	56	1.2	733	5.6	789	4.4
Other offences	7	0.1	84	0.6	91	0.5
Total	4,632	100.0	13,110	100.0	17,742	100.0

Reason for Release

Table 8.8 sets out the reasons given for people being released from the cells. Similar proportions left the cells to go to 'court, prison, other police custody, etc' (35 per cent) or to be released on bail (37 per cent). It is noted, however, that some of the people shown as being released to attend court would have proceeded from court either back to the police cells or to prison.

TABLE 8.8
Reason for Release, Police Custodies, August 1988

	Aboriginal		*Non-Aboriginal*		*Total*	
	No.	*%*	*No*	*%*	*No.*	*%*
To court, etc[a]	2,392	31.0	7,059	36.9	9,451	35.2
Bail	2,416	31.3	7,566	39.6	9,982	37.2
Intoxication detention end	1890	24.5	2457	12.9	4347	16.2
Sentence served	680	8.8	687	3.6	1,367	5.1
Other[b]	328	4.3	1356	7.1	1,684	6.3
Total	7,706	99.9	19,125	100.1	26,831	100

[a]To court, prison, other police custody, etc.
[b]While the actual nature of these 'other' reasons for release were not stated in most of these cases, a small number were released following the payment of a fine (419 cases), on transfer to hospital (50) or deportation, etc (23).

Considerable differences existed between the states in the proportion of people released on bail, as shown in Table 8.9. The proportion released on bail varied from 53 per cent (in Western Australia) to 11 per cent (in the Northern Territory). This could reflect, at least in part, the fact that intoxication remains an offence in the jurisdictions which show the highest use of bail (Western Australia and Queensland); it is understood that when people are apprehended on a drunkenness charge they are often held until sober and then released on bail.

TABLE 8.9
Release on Bail by State, Police Custodies, August 1988

	NSW	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*ACT*	*Aust.*
Number	1,105	1,620	2,824	2,791	1,142	215	247	154	10,098
Per cent	20.6	35.1	48.9	53.3	37.2	39.5	11.5	31.7	37.1

Similar proportions of Aboriginal and non-Aboriginal people were released to 'court, prison other police custody, etc.,' or to bail; twice the proportion of Aboriginal people, compared with non-Aboriginal people, were noted as being released because their period of protective custody or detention for intoxication has come to an end.

Type of Custody

Police officers completing the forms were asked to advise whether the individuals were held alone or with others during most of their period of custody in police cells. As seen in Table 8.10, some 39 per cent were reported as having been held alone, with some variation between the jurisdictions, ranging from the ACT (94 per cent) and South Australia (67 per cent) down to Western Australia where only 23 per cent were held alone.

Twice the proportion of non-Aboriginal people, compared with Aboriginal people, were held alone (45 per cent compared with 26 per cent) reflecting, perhaps, the higher proportion of Aboriginal people who are held because of intoxication—frequently in special multiple person cells designed for this purpose.

TABLE 8.10
Type of Custody, Police Custodies, August 1988

	Aboriginal		*Non-Aboriginal*		*Total*	
	No.	*%*	*No*	*%*	*No.*	*%*
Alone	2,046	26	8,672	45	10,718	39
With others	5,887	74	10,721	55	16,608	61
Total	7,933	100	19,393	100	27,326	100

Length of Time in Custody

As one would expect, 98 per cent of the custodies were for a period of one week or less; 91 per cent were for 48 hours or less. Of this latter group, the mean length of stay was 8.6 hours, and half of these custodies were for a period of 5.3 hours or less. Aboriginal people were in custody somewhat longer than non-Aboriginal people, with averages (among those in custody for 48 hours or less) of 10.2 and 7.9 hours respectively. These periods may be affected by the intoxication/drunkenness apprehensions which often involve overnight custody only.

June 1989

Summary

1. These findings are based upon a preliminary analysis of the contents of data collection forms provided by each state and territory police force, covering every occasion on which a person was held in custody in police cells in Australia during the month of August 1988.

2. Some 28,568 custodies occurred during the month, including 559 people who were in police cells at the start of the month. Some Queensland Aboriginal community police custodies are not included in these figures.

3. Aboriginal people made up 29 per cent of the custodies, although they make up less than 1.5 per cent of the Australian population. Substantial differences exist between the jurisdictions in the Aboriginal custody rates.

4. Some 88 per cent of the custodies were males. Aboriginal women were heavily over-represented, comprising about 50 per cent of the female custodies but less than 1.5 per cent of the national female population.

5. The mean age of people held in custody was 28 years with little age difference being observed between Aboriginal people and non-Aboriginal

people. Major differences exist, however, in the age distributions of the two populations in the wider community.

6. More custodies occurred on Wednesdays to Saturdays than on the other days of the week, with peaks during the weekends following the two pension days. More people were admitted between 0900 and 1100 hours, and between 2000 and 0100 hours, than during other similar periods of the day.

7. Some 30 per cent of all custodies were arrests for the offence of drunkenness or protective custody detentions for public intoxication where that behaviour is not an offence.

8. Drunkenness and 'break enter steal, fraud and theft' were the most common offences leading to arrests, together making up 49 per cent of all arrests. Aboriginal people were over-represented in good order (including drunkenness) offences only.

9. Substantial differences between the jurisdictions existed in the use of bail. This could reflect the variation that exists in legislation on public drunkenness.

10. In some 39 per cent of the custodies, people were alone in the cells for most of the time. Twice the proportion of non-Aboriginal people, compared with Aboriginal people, were held alone.

11. The periods of time held in custody were generally brief, with half being released after less than six hours of custody and 91 per cent staying 48 hours or less. Aboriginal people were in custody somewhat longer than non-Aboriginal people.

12. A full report, enlarging upon and, if necessary, amending this preliminary report, will be released in the second half of 1989.

June 1989

ACKNOWLEDGMENTS

This short report represents the preliminary findings of a survey conducted during August 1988 of all persons taken into custody by police and lodged in cells anywhere in Australia. It was only possible for this to be done with the cooperation and support of the police forces of the states and the Northern Territory and the Australian Federal Police. This cooperation and support is gratefully acknowledged by the Research Unit of the Royal Commission.

RESEARCH PAPER NO. 9

The Design of Safe and Humane Police Cells: A Discussion of some Issues relating to Aboriginal People in Police Custody

Joseph P. Reser

This paper was prepared following the Royal Commission Research Unit and police representatives meeting held in Canberra in February 1989. The paper addresses behavioural design considerations for custodial environments in Australia, with particular focus on the situation of Aboriginal people in police custody and the prevention of deaths in custody. Specific design considerations and issues raised at this meeting are covered, along with supplementary material drawn from the behavioural design and custodial settings literatures, and from anthropological and psychological considerations of the cultural context of Australian Aboriginal People. The paper has referred to and, where possible and appropriate included, information from a number of submissions to the Royal Commission.

The objective of the paper has been to identify and discuss relevant issues, and to encourage input and discussion from individuals and organisations with respect to both issues and solutions. Hopefully the paper will encourage substantive Aboriginal input and response, although equally important consultation with Aboriginal individuals and groups must take place on the ground, in face-to-face discussions with people who have first hand experience with being in a lockup. This input will hopefully be incorporated in the drafting of any subsequent discussion and recommendations papers which may be used for the determination of policy and codes.

There are a number of important and practical questions that this paper addresses. Is it possible to reduce the risk of deaths in custody by a careful consideration of existing physical environmental factors, design elements, and procedures in police custody situations? What information exists on the optimal design of custodial environments? Can suicide risk in particular be reduced by design modifications and management policy changes? Are there particular needs of Aboriginal detainees which should and can be taken into account in the modification of existing facilities, or the design of new facilities catering for largely Aboriginal communities? These are some of the questions requiring realistic and practical answers. As well it is of some urgency that an acceptable and uniform set of standards and policy guidelines be formulated.

The paper does not address policies and procedures unless they specifically relate to design considerations. While these are fundamentally important considerations, they cannot be adequately addressed in the present context. The focus of the paper is also limited to police custody environments. While many design considerations apply to both police and prison settings, and much research has been carried out in prison environments, the circumstances of police custody are sufficiently different, and proportionately more important in the case of reported Aboriginal deaths in custody, to justify this more specific focus. The pattern of Aboriginal deaths in custody clearly indicates that police custody poses more risks than prison incarceration. Police facilities are also much more generally distributed in Australia, particularly in non-urban regions. Suicide rates also differ appreciably between prison and police custody, with reported suicide rates in police custody being as much as five times greater than corresponding prison rates. This pattern has been observed both in Australia and overseas (*see,* for example, Hayes 1983).

There is also, throughout the paper, the tension of police staff needs versus the needs of detainees, and the practical problem of differing but important needs for Aboriginal and non-Aboriginal detainees. These differing requirements and realities are kept in mind throughout the following discussion paper. Good design solutions, however, usually result in an environment which works better for everyone involved.

Discussion Issues

A number of discussion issues appeared to be of particular importance at the meeting with police representatives. These included the spatial relationship of the cell complex to the larger police facility, the issue of provision for occupant control over cell and social environment, the problem of line of sight and/or electronic surveillance versus privacy and interaction considerations, the issue of human stress and how this relates both to the circumstances of arrest as well to physical and social setting factors in a police custody environment, the importance of social interaction between detainees and staff, the symbolic character and importance of the custodial environment, the desirability of special cells for high risk, violent, or intoxicated individuals, and the possible culture-specific needs of some Aboriginal detainees. Each of these issues are briefly addressed in what follows, sometimes under several relevant headings, and with reference to behavioural science and correctional institution research findings.

A principal focus of discussion was the reduction of suicide risk. This is important for several reasons. Sixty-five per cent of reported Aboriginal self-inflicted deaths in Australia since 1980 have occurred in police lockup facilities. An important and overlooked fact is that the great majority of deaths in custody are from suicide or natural causes (*see,* for example, Copeland 1984; Kennedy & Homant 1988; White et al. 1977). The design research on risk reduction in custodial settings has focused specifically on suicide *prevention*, as

this is an area where preventive design can make a difference. Clearly, however, some other types of deaths in custody do have important design implications which must also be considered. There is also a fundamental difference between *prevention* and *intervention*. There are few preventive strategies or design solutions that relate to deaths from natural causes (46 per cent of Aboriginal deaths in custody were reported to be from natural causes). It is also the case that intervention is typically ineffective with respect to hanging, by far the most common method of custody suicide, because the method itself is particularly efficient and lethal, and tends to preclude change of mind, help-seeking, or resuscitation.

It is important to make a number of brief observations before addressing the design issues raised. The built or designed environment is something that we are largely unconscious of and take for granted (*see*, for example, Hall 1966, 1973; Ittelson et al. 1974). We tend to be unaware of how dramatically and subtly it can influence our behaviour, particularly when we are stressed, frightened, in an unfamiliar environment, or disoriented (*see*, for example, Rapoport 1976). Because the built environment is such an out-of-awareness component of our cultural and social environment, we do not really think of it as influencing our everyday experience and behaviour. We also tend to forget that it is a built or designed environment, to meet specific cultural needs, and is largely insensitive to lack of fit with other culture preferences or requirements, or the particular needs of special populations within our mainstream culture. It is also difficult to talk about built environment needs or clearly explain satisfactions and frustrations—we often simply have a feeling for whether a particular setting 'works' or is comfortable.

Behavioural design is an area where research findings have often been very different from common sense and intuitive understandings. Hence it is worth considering the collective professional wisdom which now exists in the behavioural design area, much of it collected in custodial settings. There are not, of course, design or architectural 'solutions' to many behavioural problems, and design solutions which do not fit people's needs and support behaviours exact their own substantial and cumulative behavioural costs (*see*, for example, Reser 1979; Saegert 1976). The 'problem' of Aboriginal deaths in custody is a very complex issue, which must be simultaneously addressed on a number of fronts, with a design analysis being but one important contribution to any satisfactory 'solution'. This has been well recognised in a number of submissions.

> *When dealing with the subject of deaths in custody, the design of lockups is only one of the considerations. The other components are the police procedures and practices, the individuals' physical and mental health, and attitudes of the community. It is essential that these other components also be addressed if the physical modifications are to be effective* (Roberts et al. 1986).

In the case of suicide risk, a well designed police cell can substantially reduce stress and physical opportunity; it cannot wholly prevent particular behaviours. What is particularly important is how people perceive and experience their immediate physical environment; it is this experience of settings which determines behaviour. If alone the cell can become an almost exclusive focus of attention, a symbolic statement of one's circumstances, and a concentrator of feelings, whether anger or anguish. This psychological character and emotional impact of physical settings is rarely noted.

> *The environment of concern to the environmental psychologist is more often the background. It consists of countless elements and is unbounded in space and time. The subject is unaware of much of it. Its influence is often subtle, or, rather, the influence of any one element may be subtle. Cumulatively, these elements make up an environment, which may be powerful but complex and difficult to understand. A person's relationship to such an environment is equally complex . . . we remain convinced that a key aspect of this relationship is emotional* (Russell & Snodgrass 1987, p. 245).

The experience of this physical and social setting, and of arrest and confinement, is also, and importantly, influenced by a person's cultural background.

The larger setting

The cell in which an individual is detained is one component of a more encompassing custodial environment (Barker 1968; Fisher et al. 1984; Wicker 1979). This custodial environment includes the larger architectural setting and grounds, the people who are in the setting, and the sets of rules and behaviours which regulate and orchestrate what happens in the setting. It includes, in brief, the participants, the physical environment itself, and the 'institution' of police custody. This larger setting is a central design consideration in that the spatial, symbolic, and functional relation of the police cell to this larger physical and social entity will substantially influence how well the cell works in achieving specified objectives and will significantly influence the nature of interactions between custodial staff and detainees.

> *There is no physical environment that is not embedded in and inextricably related to a social system. We cannot respond to an environment independently of our role as social beings. Even a solitary person reacts to his setting on the basis of his isolation* (Ittelson et al. 1974, p. 13).

In Australia, police stations and watch-houses can differ substantially with respect to a number of factors: location in the community, the physical design and character of the buildings, the spatial relationship of the cells to the police office itself, the orientation of the cells to each other and the external

environment, and the size, design, amenity provision and condition of the cells. All of these factors can substantially influence how people experience such a custodial environment, in addition to the location, orientation and design of the cell itself (*see*, for example, Wener et al. 1987). Throughout Australia there has been a very basic design plan which characterises most police cell complexes. This is essentially a rectangular concrete structure, subdivided into two large cells, each with a toilet and two or more concrete bunks, and an exercise yard from which the cells are entered and which generally has a cold water shower in one corner. There is considerable scope for improving this situation, and, of course, much new construction is now under way. The current watch-house situation in small towns and remote communities is, in many cases, appalling, with structures being no more than corrugated iron and arc mesh cages, with no basic amenities. The author's own first hand experience derives from the Northern Territory and North Queensland. In North Queensland watch-houses there is typically nothing in the cells, no provision for amenities other than a possible water tap in an outdoor enclosure, a high 'window' that one cannot see out of when locked in the cell, a peephole in the security door, no control of personal comfort, lighting or temperature, and the cells are at some distance from the police station.

> *Many watch-houses on Aboriginal communities are far from congenial—cold, bare concrete floors and walls; a small, high window; a thick mattress and blanket (often directly on the floor); with basic, if none too clean toilet facilities. Entry into such a place would make the flesh of the average European crawl. Mere accommodation within these walls would seem punishment enough for such minor offenses* (Hazlehurst 1988, p. 11).

Critical thinking is sorely needed with respect to a range of design options for communities with differing needs, along with a design thinking which integrates the cell complex with the police station and the larger community, and takes into genuine account the needs and requirements of detainees as well as police officers and community.

Evaluation research evidence from successive 'generations' of custodial facilities has strongly supported the model of management and design known as 'direct supervision' (*see*, for example, Wener et al. 1985). This design approach was thought through and implemented with the explicit objective of providing more humane settings for pretrial detainees who must be treated under a presumption of innocence, but who were being housed in oppressive and traumatic environments. The approach is characterised by smaller scale units staffed by officers placed directly in functional living units, which are less 'institutional' in appearance and design. Such units are characterised by radial or modular floor plans which allow for closer but less intrusive observation and allow for a range of individual needs and personal control options. Such an approach has been consistently recommended for the past twenty-five years by design professionals (*see*, for example, Glaser 1964). These new generation

custodial settings have been designed to serve better the needs of both police and detainees, and to incorporate a 'soft architecture' design philosophy (*see,* for example, Sommer 1972, 1974). This approach argues that at least part of the adjustment demands of a custodial setting can be met by a well designed and 'responsive' physical environment. The findings of evaluation studies conducted over a number of years consistently demonstrate dramatic improvement in detainee-staff and detainee-detainee relationships, and psychological and physical environmental well-being. In brief, the evidence from evaluation research suggests that police facilities can be substantially improved in terms of safety and the well-being of detainees and staff without compromising objectives of security or detention. Two simply presented discussions of these new generation correctional facilities are found in Wener et al. (1987) and Hess (1987), and a clear and informative discussion of more specific physical design recommendations is found in Rowan and Hayes (1988).

Provision for individual control

The issue of control is central in a custodial setting, and control was a recurrent issue in discussion with police representatives. There are, however, many kinds of control. Institutional control over the behaviour and daily regimen of detainees in a police lockup is very different from notions of 'individual setting control' or 'personal control' discussed by designers and behavioural scientists. These latter types of control relate to the extent to which an individual can exercise some control over his or her daily activities and circumstances. What is particularly important about such personal control is the extent to which an individual experiences some minimal control over their immediate environment.

> *Control, or perceived mastery over one's circumstances, can be thought of as a basic human motivation* (Rodin et al. 1986). *The presence or absence of a sense of control has profound influence on an individual's emotional, cognitive, and physical well-being* (Rodin & Salovey 1989, p. 543).

> *Psychologists and other behavioral scientists have recently changed their views of the causes of human despair, apathy, and the other acute affective disturbances . . . Environmental changes are now seen as playing a much more important role, sometimes the dominant role, in evoking and maintaining a variety of emotional disturbances . . . One of the major reasons for this change is the growing body of research in social psychology, clinical psychology, and the newly developing field of health psychology, all of which provides impressive evidence of the powerful impact of situational factors on self appraisals and expectations about environmental outcomes that exert a profound influence on a person's decisions and actions . . . 'Perceived control' is*

> *one of the core concepts that has evolved from research bearing on the sense of mastery. Loss of perceived ability to control aversive events, which is strongly influenced by environmental circumstances, is now generally recognised as a major determinant of reactions to stressful life events. When a person notices that protective actions are having little observable effect in bringing to an end an extremely disagreeable experience, his or her initial reaction is usually an upsurge of anger and protest. If the person's efforts to regain a sense of control continue to be thwarted, he or she is likely to become demoralised. After that happens, the person copes less effectively and ultimately develops profound feelings of helplessness and depression . . . the malignant emotional sequence associated with loss of perceived control . . . sometimes leads to untimely death* (Janis 1983, p. 10).

The literature which documents the critical role of provision for control with respect to the built and social environment is one of the most extensive in the psychology and community health fields. Psychological research has shown that the experience of little or no control over one's environment can result in substantial stress and, as Janis mentions, death (*see,* for example, Averill 1973; Seligman 1975). Much design wisdom focuses on how to 'design-in' features in institutional and other settings which foster feelings of control and alleviate the often overwhelming experience of loss of personal control and privacy which often accompany incarceration or institutionalisation *(see,* for example Holahan 1983; Saegert 1976). Werner and Olsen (1980) suggest that the question of control is especially crucial in situations that demand restriction of an individual's behaviour. The importance of being able to feel 'in control' and secure is, of course, as important for staff in an institution as it is for detainees, and the physical setting can strongly determine the control feelings an individual has (*see,* for example, Canter & Canter 1979).

One of the most salient and debilitating aspects of being arrested and locked up is the dramatic loss of control one experiences. 'One's sense of control, predictability, is shattered and this is fundamentally necessary for psychological health and effective coping' (Toch 1977). In addition to the physical loss of one's freedom, there is a substantial symbolic 'civil death' (that is, the loss of citizenship status) and loss of freedom (*see,* for example, Gibbs 1982; Sykes 1958; Ittelson et al. 1974). This is accentuated by the behaviour of the arresting officers, the finger printing, the questioning, the body search, and ultimately the closing of the cell door. This symbolic loss of control is pointedly brought home by the loss of control over simple aspects of life which we take for granted. In a police cell this typically includes loss of control over visual access (privacy), lighting, temperature, company, food, drink, and so on, and to a great extent over comfort and activity. This experienced loss of control over the physical environment is occurring at the same time as the uncertainties and anxieties of being arrested begin to sink in. The individual who has just been arrested is uncertain about whether charges will be laid, when a court hearing or sentence may take place, how long he or she is likely to be

imprisoned, what the effect of imprisonment will have on the outside, what is likely to happen next. The detainee is not in a position to have contact with friends or relatives, who might provide information, advice, or support. This uncertainty and information deprivation are directly experienced as loss of control, at a time when the circumstances leading up to the arrest were probably associated with a more general sense of loss of control over one's life situation.

> *The confined man must contend with loss of liberty, deprivation of goods and services, deprivation of heterosexual relations, loss of autonomy, and loss of security. The real pressures of prison, however, go beyond the surface discomforts created by a harsh environment. Immobility, poverty, abstinence, compliance, uncertainty—each are aspects of the prison experience that seem designed to irritate and annoy. But the brunt of these pains of imprisonment lies in the fact that the prisoner has lost control of his world and is rendered powerless to alter his fate* (Johnson 1976, p. 2).

Research which has directly assessed the importance of perceived control in custodial settings has shown that perceived control is significantly related to perceived crowding, experienced stress, reported physical symptoms, and violence (*see,* for example, Cox et al. 1984, Ruback et al. 1986; Ruback & Innes 1988). The overt behavioural response to environments which provide for no control opportunities is often aggression, which can be directed against setting, others, or self (*see,* for example, Moser & Levy-Leboyer 1985).

> *Those studies which have been undertaken with regard to suicide in a prison setting have emphasised that these acts of self-destruction generally take place very shortly after arrest and confinement: sometimes within hours, but generally within the first week. There are definite, observable crisis periods in which the anxiety and stress to which a certain type of inmate is subjected tend to produce self-destructive behavior. In the last eleven years, eighty-five suicides have taken place in the New York City prison system. Virtually all of these have involved detention inmates recently incarcerated whose eventual disposition was uncertain and who for one reason or another passed through periods of acute crisis. In every instance, one can sense the peculiar powerlessness of the individual in the inexorable grip of a complex system against which a struggle, in the more conventional sense, seemed futile and unproductive of release from the seemingly hopeless. This feeling of powerlessness before the crushing weight of incarceration, as it is seen by these individuals, is worthy of further study. Suicide is truly seen, in many cases, as the only way out, a last meaningful gesture in a world in which there is no other realistic choice* (Cooper 1978, p. 60).

Finally, control is directly related to coping ability. The unavailability of any tangible control following arrest can completely overwhelm any individual attempt to come to terms with being locked up.

> *Issues of personal control are also involved at many points in the process of coping with environmental stressors, since control determines whether and how one prepares for a stressor, how one responds when actually confronted with a stressor, and the delayed or cumulative costs of coping. Indeed these applied studies suggest an intimate relationship between control, self-efficacy and coping. Control attempts are made in response to environmental challenges, and exercising control is a way of coping with them. Successful coping, in turn, enhances feelings of control* (Rodin 1985, pp. 848-9).

Perceptions of control and coping strategies are also very culturally relative (*see*, for example, Rothbaum et al. 1982; Weisz et al. 1984) and little is known about Aboriginal coping strategems. It appears likely, however, that the area of emotion and feeling is central, and substance abuse and self-injury may both reflect coping attempts, albeit short-term and dysfunctional (*see,* for example, Dinges & Joos 1985; Reser 1989a).

Observation, privacy and crowding

Observation Issues relating to the presence or absence of others and/or surveillance are fundamental, and directly relate to issues of control. It is helpful to sort out some of the different control requirements which exist. One important reason for observation is order and institutional control. This is basic, but is achieved in large part by the nature of the larger setting itself and the cell complex. A second requirement is the monitoring of the well-being of the detainee, and the prevention of self-injury and suicide, and includes issues of communication access, intercoms, and so on. These institutional needs can conflict with detainees' alternating needs for privacy and for communication and interaction with other detainees and staff. Debate seems to revolve around how best to achieve a reasonable level of surveillance and monitoring, with privacy largely seen as a 'right' which has been suspended while in custody. There is considerable research evidence which addresses both the monitoring debate and the privacy issue.

With respect to observation and monitoring, the findings from a range of institutional settings are in considerable agreement. It is far better to design the larger facility to enhance 'functional proximity', the likelihood of people coming together and interacting in the conducting of their everyday activities (*see,* for example, Ebbesen et al. 1976). From both a staff and detainee point of view, a design concept which does not isolate people down corridors is preferable, both in terms of efficiency and proximity, and also with respect to feeling that one is in a more normal, functioning environment, where one can engage in interaction, or observe what is going on without difficulty. Such

designs and floorplans tend to be radial, and to favour smaller scale enclaves, and smaller group, human scale, areas. In addition such designs foster a more unobtrusive monitoring, whereby both caretakers and detainees know what is going on, but detainees do not feel under scrutiny. In many such settings the monitoring for well-being can be carried out by one or more of the detainees in such a group situation, making high technology electronic monitoring unnecessary. The added benefit of such a design is that it maximises the control an individual feels over being able to interact or not interact with his or her social environment.

Privacy Privacy is an equally important part of this 'information/ communication' equation and also directly relates to a sense of well-being and control. Privacy is a far more consequential matter in a police or prison setting (*see,* for example, Baum & Paulus 1987; Toch 1977) where most other control options are severely limited. Privacy is also a cultural 'institution', which means that needs for and ways of achieving privacy vary substantially across cultures, and within the context of different institutions. In prisons and police custody, privacy has additional and strong symbolic connotations, with the non-respecting of privacy routinely used as a negative sanction and harassment strategy. In situations of multiple cell occupancy and 'holding tanks', privacy vis-a-vis other detainees can also be a very important concern.

With privacy, as with monitoring and interaction, the design solutions which have been found to be most sensible and flexible are those which maximise individual physical and social setting control, allowing individuals to regulate their own involvement in or withdrawal from what is happening around them. Werner and Olsen (1980) suggest that custodial environments should incorporate a range of public, semiprivate, and private spaces, and that access to private spaces is instrumental in reducing tension and violence.

Crowding Issues of privacy and crowding are particularly important concerns in the custodial setting literature. Probably more research has been done on crowding than any other social aspect of correctional institutions. Some research findings are difficult to interpret because of substantive differences between 'spatial density', that is, area per person, and 'social density', that is, number of inmates per cell, and how these impact on the subjective experience of 'crowding'. It is clear, however, that experienced crowding is aversive and stressful, and over time can lead to high levels of aggression, particularly in institutional settings such as prisons.

> *Cox, Paulus, and McCain (1984) report astonishingly high correlations between density and violence in southern United States prisons. One prison in Mississippi experienced a 30 per cent reduction in population over a period of a few months. The rate of inmate assaults on other inmates dropped during that period by about 60 per cent. Later the prison experienced a 19 per cent increase in population; a 36 per cent increase in assaults followed. Of course,*

> *these are correlational data and other nondensity factors may have been at work. However, Cox, Paulus, and McCain report similar patterns of aggression in many prisons, despite having made substantial efforts to take other possible factors into account* (Gifford 1987, p. 181).

It would appear that actual spatial density matters much less than the numbers of inmates per cell. When the number per cell increases, so does experienced crowding and illness complaints, and aggression (Cox et al. 1984, Ruback et al. 1986; Ruback & Innes 1988). Double inmate cells are generally associated with more rule violations than single cells, and larger, open units seem to lead to more psychological disturbances than do single cells. These authors conclude that the best alternative in a high density situation is to provide single-inmate cells rather than house prisoners together in groups. Their rationale is that this at least maximises personal control.

This research, however, has been largely conducted in prisons, where the stress of crowding appears to be cumulative, as one tries to exercise some minimal control over an immediate environment in which one will spend considerable time. The circumstances under which individuals enter into police custody vary substantially, as do their physical and emotional states. In addition the experience of crowding is accentuated by expectations, past experience, gender, culture, and architectural design (*see*, for example, Baum & Paulus 1987). Architectural arrangement of space, for example, rather than density per se, appears to determine experienced crowding and perceived control (Schaeffer et al. 1988). It is probable that the best design option is for the detainee to have an option of single or shared accommodation. Aboriginal preferences here might vary substantially from those of non-Aboriginal people. It is clear that there are cultural differences with respect to the negative consequences of high density (*see*, for example, Draper 1973; Gillis et al. 1987; Loo & Ong 1984) but it would be unwarranted to assume that Aboriginal people have a higher tolerance for crowding. Being placed in a lockup with strangers, for example, can make crowding more stressful than a high density situation in one's own community watch-house. Powder and Law (1987) cite crowding as a critical and suicide-related stressor in Aboriginal communities, and crowding can also substantially erode experienced control (Reser 1979).

> *The comments made by the authors of this report deserve particular mention. It is difficult for non-Aboriginal people unfamiliar with settlement existence to appreciate the continual frustrations and conflict caused by the severe overcrowding in houses with minimal services, and virtually no provision for privacy or individual control over the nature and quality of relationships with others. Cultural context, kinship, reciprocal obligations and social sanctions all come into this picture in a complex and determining way, but it is perhaps sufficient to simply point out that this situation is particularly trying for adolescents and young adults, for whom 'no space' epitomises the*

> *no status, no job, no future, no meaningful relationship character of their lives. The importance of this relationship between the quality of the home environment from which one copes with the rest of the world, and one's own sense of control and well-being, cannot be over-emphasised* (Reser 1988b, p. 2).

Submissions to the Royal Commission suggest that some custody settings are severely overcrowded.

> *I visited Berrima Gaol in Darwin [7-11 May 1987]—70 per cent of the gaol's population are Aboriginal. It was so overcrowded, that a common room set aside for snooker was utilised as a cell with 17 prisoners (Aboriginal) sleeping head to foot on the floor. Alice Springs Gaol, which I did not visit has 90 per cent Aboriginal prisoners. The conditions there are much worse, with prisoners living in cages . . . I suggest that the Committee, as a matter of urgency, look at the Territory gaols in the hope that something can be done to improve the appalling conditions* (Armstrong 1987).

> *As observed by the coroner these 3.5 by 1.5 cells are nothing more than fairly primitive dungeons. They are isolated from the community and located near a dump. The cells have no running water nor sanitary facilities, apart from a bucket. They have no lighting. As many as 27 males have been locked up at the one time in a single cell. At the same time up to six females were also held in a cage on the back of a van under a house* (Testimony at Royal Commission hearings at Wujal Wujal 19 September 1988, p. 10).

> *During a visit to Halls Creek, Senator Noel Crichton-Browne said conditions were so appalling he could not imagine any circumstances which would justify imprisoning a person there. At times it was crammed with 70 prisoners in an area which allowed sleeping room for no more than 20 he said. On hot days the jail's iron roof and walls meant temperatures could soar to above 50 degrees* (*West Australian*, 7 May 1988).

Stress and coping

Research with environments characterised by isolation, confinement and risk has demonstrated certain common emotional and behavioural reactions. These include problems with thinking clearly, motivation (for example, increased fatigue, inertia, apathy, increased feelings of helplessness and worthlessness), somatic complaints, and changes in mood (*see*, for example, Harrison & Connors 1984). Virtually all of these responses have been found in custodial settings and are more pronounced, given the additional stress of being arrested, punished, rejected, and so on. Indeed, 'any significant deviation from the

accustomed normal environment will provide some measure of stress for the typical individual, a stress that follows a continuum from discomfort, to pain, to injury, to death' (Bachrach 1982, p. 211). The stress experienced by traditionally-oriented Aboriginal people is exacerbated by a severing of connections with place and people which is difficult for non-Aboriginal people to fully appreciate. Its consequence can be not only the experience of social isolation and sensory deprivation, but an acute sensory and emotional disorientation.

While it is not possible to cover all of these human reactions to stressful settings, it is worth briefly examining changes in mood and emotional response. Essentially three sequential stages have been identified (*see*, for example, Rohrer 1961). These are: heightened anxiety, brought about by a cognition of the dangers of the situation, depression, as an individual settles into a daily routine, and anticipation, accompanied by feelings of relief, anxiety, and aggression. Preconfinement and postconfinement stages have also been proposed. The anxiety stage, which immediately follows arrest and confinement in the case of police custody, can be extreme, and may not be 'visible'—that is, it often manifests itself as a quiet desperation characterised by passivity and by heightened vigilance and tension.

> *. . . entry into custody is marked by high levels of anxiety and depression. According to the Social Readjustment Rating Scale, detention in jail [police custody] ranks fourth (after death of spouse, divorce, marital separation) out of 43 stress-causing 'life events' (Holmes & Rahe 1967). The stress of the arrest itself is very quickly compounded by the anxiety of facing the unknown vicissitudes of the American 'system' of justice, only one consideration of which is the possibility of violent sexual assault by other inmates. To this cauldron of stress caused by the arrest and subsequent anxieties must be added depression. Depression is an emotion often associated with suicide and may best be described as a sense of loss, in this case loss of freedom, autonomy, and, perhaps, self respect. Thus the new arrestee must, within a relatively short time, cope with the stress of a precipitous arrest while being hampered in this attempt by the added elements of anxiety and depression, both of which are exacerbated by the nature of the intake proceedings and the characteristics of the surroundings. In such cases suicide may seem like the only escape from what is, according to the individual afflicted, an acutely intolerable situation* (Kennedy 1984, p. 196).

One way of conceptualising the problem of cell design is to think in terms of stress-inducing as opposed to stress-reducing qualities of the setting (see, for example, Saegert 1976). Qualities of physical environments which have been the focus of considerable stress research include physically threatening aspects (*see*, for example, dirt, extremes of temperature, unpredictability), information overload and underload, psychologically and sociologically meaningful

messages (*see*, for example, stigma, self-worth, identity), strangeness and familiarity, and the unresponsiveness of settings to individual control attempts. Design strategies for dealing with stress-inducing properties of settings, according to Saegert, should attempt to limit selectively the amount and types of stress the user of an environment must experience. 'The extent to which an environment possesses the [stress factors] described should not exceed human ability to cope and adapt' (Saegert 1976, p. 222). Strategies proposed by Saegert for reducing the stressful qualities of an environment centre on creating options and providing a modicum of control. Control options might include some degree of privacy, comfort, information access, light and temperature control, control over extent of social interaction, daily activity control, and access to areas other than the cell environment. The stressful impact of the strangeness and unfamiliarity of a setting can be minimised by social contact with known or familiar others, culturally meaningful cues or information (*see*, for example, Aboriginal radio program). Finally, stress is in many ways a biological and psychological wear and tear on individuals attempting to come to terms with settings that either do not work or are unduly demanding in terms of effort, vigilance and adjustment. Design solutions which ease the 'fit' between people and settings substantially reduce wear and tear to people as well as to settings.

There are many additional and important considerations which relate to stress. These include the psychological impact of arrest and confinement, the stress created by the physical and social setting—independently and interactively, the different stresses of police versus prison custody, the impact of intoxication and withdrawal on experienced stress, and how individuals and cultures cope with stress. Each of these considerations really requires extended discussion.

> *They [young men placed in police custody] characteristically are in a state of acute anxiety about being confined in a locked cell. The idea of confinement is intolerable. They say I'll go out of my mind. I'll kill myself* (Heilig 1973).

What is of particular importance, however, is that stressors in the environment have a cumulative impact which can overtax an individual's ability to cope, and successive and successful adjustments to the demands of a situation can exhaust an individual's ability to cope with further stressors (*see*, for example, Cohen 1978; Cox 1978). A detainee who has quietly dealt with the arrest experience itself, the strip search, the objective or perceived physical and/or verbal harassment, may violently react to a further stressor, such as no access to a light switch or a toilet. A physical setting which reduces stress and facilitates coping can make a critical difference with respect to suicidal behaviours. Most existing police facilities for Aboriginal detainees in Australia are neither neutral or stress-reducing; they, for a number of reasons, substantially increase distress.

How an individual deals with a situation is in many ways more significant than the nature of the stressor itself. This is because how one copes with a

situation determines to a great extent how an individual is affected by a situation, that is, coping substantially mediates the impact of stressors (*see,* for example, Lazarus & Folkman 1984). How individuals attempt to cope with the experience of incarceration, for example, greatly influences how stressful the experience is (Johnson 1976; Parisi 1982). There have been few studies, however, which have seriously addressed the reality of individual experience and the nature and demands of coping in custody, with the work of Johnson (1976) and Zamble and Porporino (1988) being exceptional in this respect. The more sociological focus of typical studies in this area concerns the 'prisonisation' experience, that is, the process of being assimilated into a prison environment. Such analyses are less relevant to short term confinement in police custody, and do not address individual environmental experience, emotional response or coping processes.

Finally, there are substantial differences across cultures in how individuals cope with traumatic situations (*see,* for example, Dinges & Joos 1985; Lee & Newton 1981). The coping strategies of Aboriginal people typically involve social support, a familiar and secure physical environment, collective problem-solving, and first-hand and often dramatic communication of feelings and concern to family and kin. The importance of access to similar others in a frightening or uncertain situation appears to be a cross-cultural universal (Schacter 1959).

> *In those circumstances where individuals feel fear and uncertainties, and when their sense of self may be threatened as a result, many people experience greater need both to clarify what is happening to them and to be supported and reassured by others. One way to learn more about the meaning and appropriateness of various behaviours is through exposure to others who are in a similar situation. . . One function of other people in such circumstances is that they provide a way to clarify and interpret feelings for the individual and may also serve a direct anxiety reduction function* (Rodin 1985, p. 821).

The emotional response which an individual makes is itself a kind of coping, and can help to impose some meaning and order on events (*see,* for example, Folkman & Lazarus 1988). This appears to be particularly true for Aboriginal people. Incarceration effectively cuts off avenues for coping, particularly social avenues, at the same time that an individual is in a strange, disorienting and threatening other-culture environment. The research literature strongly suggests that the social environment in many non-Western cultures not only provides a 'buffer' from stress and a collective coping mechanism, but the lack of social support itself directly exacerbates stress (*see,* for example, Innes 1981; Cohen & Wills 1985; Dinges & Joos 1985).

Social isolation and confinement

Isolation The issue of isolation or solitary confinement is a fundamentally important design consideration. Experimental findings with sensory deprivation and social isolation have documented extreme anxiety and heightened suggestibility after even very short periods of isolation (*see,* for example, Suedfeld 1974, 1980). While limited research has been done in custodial environments on the effects of solitary confinement, some findings are dramatic, and suggest that the typical consequence for even hardened criminals is massive free-floating anxiety (Grassian 1983). Stengel (1958) suggests that the social isolation of the prisoner from almost all real communication with his family and community is the principal cause of suicide in custody. Rowan and Hayes (1988) stress that 'two-thirds of all jail suicides occur in isolation' and suggest that 'the potentially suicidal inmate should probably not be removed from the general inmate population in the first place' (p. 19-11). All of the reported Aboriginal suicides in custody for which data are available were alone at time of death (Research Paper No. 7, *see* pp. 107-36 of this volume). A final observation could be made with respect to a phenomenon which has been called the 'sensed presence' of another entity in unusual environments, under conditions of stress (Suedfeld & Mocellin 1987). It is not difficult to imagine that solitary confinement in a watch-house, in the case of an inebriated, upset and impressionable youth, could easily give form and substance to cultural beliefs concerning malevolent or vengeful spirits, or magical human powers. This issue will be further discussed under the subject of cultural differences of particular relevance.

Commissioner Muirhead has recommended, and indeed the draft guidelines of virtually all state police department submissions are to the effect that intoxicated Aboriginal detainees should not be placed in cells by themselves. The finding of the Research Unit with respect to the lethality of leaving at risk individuals alone is very clear.

> *When we exclude deaths in hospital, and the like, and concentrate on deaths in prison and police cells only, we find that data are available on 227 (61 per cent) of the 371 people who died in these locations (75 of 156 deaths in police cells and 152 of the 215 deaths in prison). . . similar proportions, overall, of Aboriginal and non-Aboriginal people were alone at the time of death (75 per cent and 81 per cent respectively) . . . Most of the deaths reported to be by suicide (92 per cent . . .) occurred while the person was alone. Similarly most accidental deaths (76 per cent) and deaths from natural causes (70 per cent) occurred while the person was alone* (Research Paper No. 7, *see* pp. 124-5 of this volume).

As mentioned, many submissions made reference to solitary confinement.

> *Within this 'high risk' group [of Aboriginal detainees] are those suffering from a particular psychiatric complication of alcoholism manifesting with psychotic symptoms (hallucinations and delusions)*

> *and acute anxiety. This has been a common finding in the suicides outside of custody and seems to be more common among males. Such people become acutely disorganised, and thus are at greater risk of being arrested. Sensory deprivation, such as isolation and darkness, will accentuate their disorientation and distress, and it is notable that both suicides in the cells here were alone, and both had histories of Delirium Tremens* (Hunter 1988a, p. 3)

Cultural similarities and differences

The issue with respect to whether or not there are important cultural differences between Aboriginal and non-Aboriginal detainees, and whether or not it is possible to identify or accommodate these differences in the design of a police facility, is clearly difficult. Equally problematic is how to design a general facility which will serve to some extent the different needs of society, staff and detainees. An obvious discussion issue raised was to what extent the needs of an urban Aboriginal person in police custody differ from those of a more traditionally-oriented individual, or to what extent the state of an individual, for example, acute anxiety or intoxication, requires specific design provision and/or custodial staff response.

The position of Commissioner Muirhead with respect to the existence of special needs, and the need to implement culturally sensitive recommendations with Aboriginal consultation, is clear.

> *Inquiries to date support the submission that they do experience particular and in some cases extremely difficult custodial problems—especially those who come from the outback with traditional Aboriginal cultural ties. Incarceration, oppressive to all, is alien to those people, especially if the incarceration is in a high security situation away from their kinsfolk . . . But apart from recommending that these special needs be recognised and, as far as practicable, fulfilled, implementation must be left to Governments who, I would hope, will recognise the need to involve Aboriginal People in the processes . . . I take the view that special needs have been established and that there should be liaison with Aboriginal groups in an effort to ensure isolation is minimised* (Muirhead 1989, pp. 94, 95, 99).

There is a compelling argument for cultural considerations based on relative as well as absolute numbers of Aboriginal deaths in custody. In Western Australia, for example, in remote area lockups such as Fitzroy Crossing, Roeburne, or Laverton, the lockup population is at least 70 per cent Aboriginal. In country town lockups in Western Australia, in the wheat-belt or in the southwest of the state, the lockup population varies from 50 per cent to 70 per cent Aboriginal, depending on the population of the area (Billing 1988). In a recent ministerial report on Aboriginal deaths in custody in Western Australia (Vincent 1988), it was pointed out that Aboriginal People constituted

91.7 per cent of sentenced prisoners in police lockups. In many northern trust area communities in Queensland, Aboriginal people constitute 100 per cent of those held in police custody. In the Northern Territory Aboriginal people constitute a very high proportion of both the prison and police custody population and approximately 75 per cent of Aboriginal prisoners are traditional Aboriginal people (North Australian Aboriginal Legal Aid Service 1987). The most recent figures for Australia show that at any point in time roughly 30 per cent of the population in police custody across the country is Aboriginal (Research Paper No. 8, *see* pp. 137-46 of this volume). If there are identifiable and different design requirements for Aboriginal people in custody, then these must be taken into account, where possible.

There are a number of separate questions which must be considered with respect to such cultural differences. Are there in fact cultural differences between Aboriginal and non-Aboriginal people which have any bearing on custodial procedures or design considerations? Given that some specifiable differences do exist for some Aboriginal individuals or communities, is it possible or practicable to accommodate these differences in terms of design 'solutions'? For what proportion of Aboriginal detainees would such culturally sensitive design modifications be suitable, that is, to what extent are many urban and country town Aboriginal people culturally different in terms of such special design considerations? Would design modifications reduce the risk of attempted suicide for Aboriginal detainees? How would the proposed design modifications impact on non-Aboriginal detainees?

Identifiable cultural differences The evidence would suggest that there are important cultural differences, which would affect many if not most Aboriginal detainees, and that some accommodation can be made for such differences. The more important of these differences include the perception of the police and the lockup situation, the state of the individual when arrested, the effect of being arrested and placed in custody, the impact of being alone, the effect of confinement, the nature of Aboriginal kinship systems and avoidance relations, the nature of support relationships between Aboriginal individuals and extended family, the nature of traditionally-oriented Aboriginal emotional expression and coping responses, the ways in which drugs and alcohol are used and experienced, the community and cultural context of suicide, the cultural institution of self-injury, the nature of traditionally-oriented anxieties and fears, and the general physical health of Aboriginal detainees. The impact of 'being alone' for many Aboriginal people, for example, is little-understood and might well explain a number of the apparent Aboriginal self-inflicted deaths which have occurred. It has also been argued that Aboriginal people do have particular health care problems, for example, diabetes, and may require traditional treatment for a variety of illnesses (Davis 1987).

A number of general submissions to the Royal Commission have noted the need to recognise and accommodate cultural difference.

In conjunction with the Aboriginal community in each area, Police practices need to be examined for procedures that are culturally inappropriate or insulting . . . The Aboriginal culture even in the Southwest of the state is significantly different to the dominant Australian culture to make interaction between European and Aboriginal difficult (Roberts et al. 1986, pp. 17, 21).

Historical references to cultural differences in coping with custodial settings in Australia are compelling:

> *In the case of Aboriginal offenders . . . the problem of their treatment is complicated by their physical nature. Placed in close confinement for any length of time they dwindle and die, and hence, practically, a sentence which would be light imprisonment to a European would be certain death to a native black* (Perry-Okeden 1887).

Special gaol environments for Aboriginal people were provided at various points in time (*see,* for example, Kerr 1988; Midford 1988), a point made by Memmott in his report to Commissioner Wyvill.

> *In the book, 'Out of Sight, Out of Mind' on the history of Australian prison architecture (Kerr 1988), there are examples of special gaol environments provided for Aboriginal people during the last century. There is mention of a Western Australian gaol, Greenough, built in the late 1960's, where it was officially recognised that cultural differences demanded a different approach. Aboriginal prisoners were thus kept together, housed in larger cells than other prisoners to allow greater social interaction, and a larger area of wall openings were installed to reduce the sense of enclosure* (Memmott 1989, p. 16).

The research evidence from other countries with respect to the importance of cultural background to coping ability in custody is of particular relevance. Johnson (1976) both summarises the literature and presents the results of his own North American research. His findings demonstrate that a cultural background which stresses interpersonal relationships and support networks substantially increases the risk of self-destructive behaviour in custody. Cultural background, unlike other indices, appeared to be associated with risk factors across all confinement settings, with Latin inmates, who experience their well-being as directly tied to family relationships, being disproportionately susceptible to self-destructive crisis in confinement.

Aboriginal perceptions of police and custody An obvious but often overlooked cultural difference relates to Aboriginal perceptions of police and police custody. These perceptions substantially colour how one experiences a custodial setting. The recent report of the Special Cabinet Committee on Aboriginal/Police and Community Relations in Western Australia (Roberts et al. 1986) is particularly useful in documenting just what Aboriginal perceptions are in a country situation such as that at Roebourne, a community where two of the Aboriginal deaths in custody took place. These perceptions include many

instances of physical, verbal and social violence, with physical violence, such as the use of force, being the most commonly referred to incidents. This report also documents very different police perceptions across a range of issues. While there is considerable controversy with respect to Aboriginal attitudes to being placed in custody (*see,* for example, Eggleston 1976; Hazlehurst 1988; Midford 1988) the evidence suggests that many Aboriginal people regard being locked up as frightening, stressful, shameful, and a cause for considerable 'worry' about family and tribal matters (Midford 1988). The important social science insight here is that our behaviour is determined not by actual situations, but by our definition and interpretation of situations, by the meaning we impose on the circumstances in which we find ourselves.

The Aboriginal cultural context of being drunk and expressing feelings

There would appear to be some important cultural differences relating to perceptions of how one should behave when intoxicated, or when angry or distressed, which have not been seriously considered with respect to design implications. Alcohol or other substance abuse influences behaviour at a number of levels. It directly influences physiological state, and influences behaviour through increased disinhibition and impulsivity, through a socialised 'drunken behaviour' expectation of the drinker and others, and through its interaction with emotional state, which itself is culturally elaborated. In many Aboriginal contexts the social expectation for 'being drunk' is that you will become angry and possibly violent. If you are not feeling particularly angry yourself, others' angry behaviour will be likely to impact on you and make you angry. Aboriginal people often use terms like going 'wild', going 'mad', 'exploding', getting 'paralytic', getting 'on the grog'; all of these terms convey the belief that one loses control when drunk and that violent behaviour is expected. The Aboriginal cultural context of 'being drunk' and the expression of emotions such as anger have been well-described (*see,* for example, Sansom 1980; Burbank 1980; Gibson 1987; Myers 1986). These cultural differences are more than a difference in degree. Acts themselves and overt behavioural expressions of emotion are particularly significant in an Aboriginal context, such that the meaning of a display of anger or a suicide threat or gesture is carried by the behaviour itself. Feelings are directly translated into behaviours which, in an Aboriginal context, elicit a meaningful social response; in many circumstances emotional 'control' would not be expected, appropriate, nor particularly functional. The issue of how alcohol consumption influences behaviour and particularly emotional expression and self and other-directed violence is complex, and cannot be adequately treated in this paper.(*see* Greeley & Gladstone (1989) and Department of Aboriginal Affairs (1989) for recent discussions.) What must be emphasised, however, is that culture can very substantially influence and mediate the behavioural effects of alcohol and its interrelation with self-injury and suicide (*see*, for example, Douglas 1987; Marshall 1982; Waddell & Everett 1980; Hamer & Steinbring 1980).

Finally, emotional experience and expression are a core aspect of 'Aboriginality' and Aboriginal interpersonal behaviour and communication, which can become severely distorted by the experience of incarceration (*see*, for example, Myers 1986; Sommerlad 1977).

> *The Aboriginal group at the Symposium shared their views on the nature of 'Aboriginality'. Its essence is an emotional quality, which defies description, but which constitutes an enduring bond between Aboriginals throughout Australia* (Sommerlad 1977, p. 12).

There is evidence that suicide rates are indeed higher in traditionally-based societies where strong and overt expression of particular emotions is the norm and where self-related feelings such as pride and shame are an integral part of social interaction and control.

> *Societies manifest a wide range of expected affective behaviour for a given situation. Some societies expect individuals to show a great deal of emotion when reacting to a particular circumstance, while others expect one to refrain from making any expression of emotion. Some societies are very aggressive in their general expectations, while others expect individuals to shy away from any type of conflict. When the expression of overt emotions is strongly normatively restrained by a society, aggressive behavior, we hypothesise, tends to be turned toward oneself. As a result, we expect there to be a higher suicide rate there than in a society where the individual does not feel it necessary to restrain his feelings to such a high degree. On the other hand, a high level of suicide may also be expected in societies at the opposite end of the spectrum, where it is quite legitimate for emotions to be expressed even to the point of aggression against others. In this latter case, we would expect individuals to be more likely to lose control over their emotions in general. Hence we expect there will be a higher rate of suicide (as well as homicide) . . . In sum we hypothesise a curvilinear relationship between the affectivity of a society and its suicide rate: suicide prevalence should be least in the middle range of affective expressivity and greater at either extreme . . . [our] results lead us to the following conclusion for our data: suicide prevalence in [traditionally-based] societies is primarily a function of three variables—economic level, rules concerning the expression of emotions, and the importance of pride and shame* (Smith & Hackathorn 1982, pp. 199, 208).

Being alone In more traditional Aboriginal communities an individual is rarely by himself or herself in an unknown place. 'Who one is' is part of a larger network of people, interpersonal events, and relationships to place which is difficult for non-Aboriginal people to understand or appreciate. 'Being alone', particularly in a strange or frightening place, is extremely anxiety-inducing, and even in more normal circumstances over any length of time would be seen as

evidence of severe disturbance. In times of stress or conflict it becomes even more critical to be with others, especially people from one's own community or family. Confinement in a police cell typically occurs when an individual has been involved in some kind of altercation or violence, and is upset and possibly fearing community sanctions and/or some more formalised type of retribution, for example, sorcery or payback. Equally, shame in the wake of a confrontation or incident can lead to severe depression. To this can be added the relative paranoia and depression that typically accompany being very drunk and withdrawing from intoxication, along with a temporary or possibly chronic departure from physical well-being.

Confinement The experience of confinement is arguably distinct from social isolation or solitary confinement. Confinement is also an often-remarked area of alleged cultural difference for traditionally-oriented Aboriginal people, and is loosely related to the stereotyped majority culture understanding that Aboriginal people have a need for free and unrestricted movement, occasionally manifesting itself in a need to 'go walkabout'. While the stereotype is quite erroneous, being based on a misunderstanding of deeply felt social and ritual responsibilities related to land and community, it is probable that physical confinement in a police environment is particularly stressful for many Aboriginal people. There would be few other occasions in such individuals' lives where they would be perceptually cut off from their extended social and physical environments, and often entirely removed from their clan country for a period of time. Traditionally-oriented individuals are particularly attuned to sensory information (sounds, smells, movement, weather patterns and other subtle and kinaesthetic cues) and social information which are, in turn, directly tied to one's experience of security and well-being. Information in Aboriginal communities is first-hand, with little reliance on radio, television, or print media (for example, *see,* Reser 1979), and in such contexts concern about the well-being of others, security, or being in a strange environment is alleviated through a close and continuous monitoring of one's immediate environment. This need for such information is particularly heightened when one is feeling disoriented and frightened, which is a common experience associated with heavy drinking and/or conflict with others, or simply being in an unfamiliar place with strangers. Finally, traditional beliefs can compound all of the above factors, with beliefs about the spirits of those who have died in a police cell, or malevolent spirits that may reside in a strange place, or sorcery beliefs in the context of 'payback' often being the cause of considerable consternation and distress. A number of the Aboriginal deaths in custody in North Australia have been attributed (by many Aboriginal people) to travelling sorcerers or malevolent spirit beings.

Aboriginal kinship, support systems and avoidance relations The question of Aboriginal kinship is complex and differs substantially across Australia. Cross-culturally, communication and contact with relations, and not just

immediate family, can be critically important to one's ability to cope with incarceration (*see,* for example, Holahan & Moos 1986). Such disruption to family and kin relations, for example, puts Latin American detainees in the United States at particular risk of self-injury and suicide (Johnson 1976). In an Aboriginal context the experience of relatedness to people and place is an essential part of who one is, and can be an important determinant of psychological equilibrium and emotional and physical well-being.

Equally important in more traditionally-oriented Aboriginal populations, avoidance relationships can make it virtually impossible for two individuals standing in the wrong relationship to share the same cell or facilities. There is an extensive literature on such avoidance relations (*see,* for example, Berndt 1971; Meggitt 1987; Warner 1965) and they are far more important than most non-Aboriginal people realise. Violation of such proscriptions can lead to shame, anxiety, and emotional distress.

> *Kinship is the most important single factor in determining the way Aboriginal society functions, and very obviously has great impact on the Aboriginal experience of imprisonment. Kinship rules affect prisoners in various ways. Avoidance relationships apply between certain kin, usually in-laws. Prisoners having this sort of relationship may be forced to work together, or live in the same cell or dormitory. Duckworth and Hartz-Karp report an example of several prisoners claiming avoidance relationships with other prisoners in the same institution. They did not explain their plight to the prison authority for fear of ridicule. As one expressed it, 'If I asked to be moved away from another prisoner in the dormitory the prison officer would probably laugh at me'* (Midford 1988, p. 176).

It should not be presumed that all Aboriginal detainees would prefer to be with other Aboriginal detainees, because, as some people erroneously believe, 'they are all related'. It might well be the case that an individual would feel more secure with non-Aboriginal detainees if he or she is in fear of payback or the perceived magical powers of Aboriginal people from a distant community.

The Aboriginal cultural context of self-injury and suicide The question of the cultural context of Aboriginal self injury and suicide is complex, a matter of some controversy, and an area where actual research and hard data are desperately needed (*see,* for example, Reser 1988a, 1989a). What is clear is that while there does not appear to have been a traditional precedent for suicide in Australia, self-injury was institutionalised in various forms. Contrary to a widespread view that the contemporary incidence of Aboriginal suicide is very low, there is much evidence to suggest that suicide is and has been endemic in many Aboriginal communities for at least the past ten years, and is increasing markedly, especially among the young (Reser 1989b). Indeed, suicide threats have become a commonplace response, in many North Queensland communities, to a variety of conflict situations, including arrest. Suicide

attempts are often not the product of careful deliberation but appear to be reactive responses to conflict situations, typically when an individual is intoxicated, and are accompanied by intense emotional feelings, particularly anger, depression, shame, and fear. This has important implications for custody arrangements. Temporal, situational factors are particularly noteworthy, with the Royal Commission research data base indicating that Aboriginal people appear to be at greater risk of self-injury and suicide in the first few hours immediately following arrest. This would argue strongly for alternatives to incarceration where possible, particularly with respect to individuals who are intoxicated and/or at risk for other reasons. In addition, there would appear to be a marked 'cluster' character to many of the reported suicide deaths in police custody, with 30 per cent of the reported Aboriginal suicide deaths in police custody since 1980 taking place in small Aboriginal communities in North Queensland between December 1986 and April 1987 (Reser 1989a). The evidence would suggest that, in addition to suggestion, imitation and modelling effects, the community watch-house situation in North Queensland has taken on a particularly powerful symbolic meaning, enhanced by the ongoing nature and highly public profile of the Royal Commission inquiry itself. This symbolic character of Aboriginal suicide in police custody, particularly by hanging, is a common finding in other culture contexts (*see,* for example, Cooper 1978).

Contemporary anxieties/traditional fears For many Aboriginal people a physical place can take on the character and/or 'spirit' of the individual who has lived, or possibly suffered or died there. A watch-house is, for many, a repository of human anger and anguish, in a very 'psychologically real' way that few white Australians would appreciate. This human 'marr' or force can be frightening and dangerous. In addition, the Aboriginal cultural landscape is populated by a host of malevolent beings and forces against which one must be continually on guard, to say nothing of more human malevolent magic and sorcery. The fear of sorcery, malevolent spirits and customary law sanctions is still widespread in many Aboriginal communities (*see,* for example, Australian Law Reform Commission 1987; McKnight 1981; Ross 1983), including many urban and non-traditional communities, and personal security is often a preoccupation. To be unable to seal off a window or opening, at night, particularly when one is stressed and not on one's own land or in one's own dwelling, can be life threatening. In a watch-house situation, particularly in solitary confinement, an individual can feel trapped and absolutely vulnerable. Such conditions can precipitate suicide.

It should be added that it is often young men who are particularly concerned about traditional fears and beliefs, a case of contemporary anxieties being given traditional labels (*see,* for example Reser & Eastwell 1981). Recommendations with respect to the avoidance of solitary confinement for Aboriginal detainees have been unanimous (Research Paper No. 2, pp. 11-19 of this volume; Hunter 1988b; Muirhead 1988; Reser 1988a). Powder and Law

(1987), in their report to the Minister on the rising incidence of Aboriginal suicide in Queensland strongly underscore the importance of traditional beliefs.

> *In one of the suicides it was evident that a cultural belief in spirits could have been the motivation. It is extremely difficult to combat this belief which has probably been practised for many years . . . In relation to the suicide committed at Aurukun, we came across the impact of the Aboriginal 'spirit'. Apparently this 'spirit' came from the Northern Territory and informed people that someone will die in the cells. So when the suicide happened no one was surprised* (Powder & Law 1987, pp. 4, 14).

The matter of traditional fears can be a very important issue in terms of felt security. Hunter (1988b) and others have argued that a number of the reported suicides may have occurred because individuals were extremely frightened. Various submissions and the anthropological literature suggest that an individual in custody for interpersonal violence might well be frightened of payback and sorcery (*see*, for example, Australian Law Reform Commission 1987; Midford 1988; North Australian Aboriginal Legal Aid Service 1987) or spirits (*see*, for example, Powder & Law 1987). Hunter, in his submission to the Royal Commission, and in published work (Hunter 1988b), has emphasised the importance of the fears associated with delirium tremens, 'the horrors', for Aboriginals.

> *After heavy drinking you know, you get paralytic drunk and get the shakes, you can hear voices, voices saying 'I'll kill you.' I've been through that, hearing voices and things. It makes you feel you want to commit suicide. Makes you think people coming to get you, makes you think that before they get you you'll kill yourself, commit suicide . . . When you're locked up and going through that thing you need people around, you should have the lights on. In the light you're safe, but in the darkness you think that person going to come to kill you* (Hunter 1988b, p. 279).

There is a widespread tendency not to come to terms with cultural differences because they are, in many ways, too hard to deal with, and they are either not credited or thought silly.

> *One reason for the emergence of Aboriginal Medical Services is the failure of conventional services to take account of cultural differences and to accept the importance of Aboriginal beliefs and practices* (House of Representatives Standing Committee on Aboriginal Affairs 1979, p. 63).

Meanings and messages

The built environment is in many ways a hidden dimension in that we tend to take it for granted and do not realise how it orchestrates and determines our behaviour (Hall 1966; Ittelson et al. 1974) . While we are reasonably familiar with such notions as 'functional design' and have some idea of whether a setting 'works' or not in terms of appropriate layout and 'ergonomic' or man/machine fit considerations, we are less able to assess other more subtle factors relating to stress and meaning. Hall (1966, 1976) and others (*see,* for example, Oliver 1975; Rapoport 1982) have suggested that our man-made settings are also important and symbolic communication channels which we 'read' to make sense out of situations and to know how to behave. The messages conveyed by the physical institution of a prison or police facility are very powerful, and substantially influence both how police and detainees behave in such a setting. In a very real sense the 'setting' provides us with our lines and scripts and sets the stage for our interactions. For individuals from other cultures, the messages of our own built environment may be illegible and the settings both unfamiliar and frightening.

All of this is particularly relevant to the design of police custody settings because the messages here tend to be very dehumanising and alienating, for police staff as well as detainees. The design challenge is to alleviate some of the negative messages that create stress and hostility, and create an environment which at least allows for a minimal sense of security and dignity. It is important to note that one of the most powerful messages of a police setting is one of control. The setting is essentially telling the detainees that there is nothing about their life circumstances or immediate needs that they have any real control over. This, as we have seen, can lead to an overwhelming sense of loss of personal control and even sense of self.

> *This disjointed experience of being suddenly extracted from a relatively orderly and familiar routine and cast into a completely unfamiliar and seemingly chaotic one where the ordering of events is completely out of his control has a shattering impact upon his personality structure. One's identity, one's personality system, one's coherent thinking about himself depend upon a relatively familiar, continuous, and predictable stream of events. In the Kafkaesque world of the booking room, the jail cell, the interrogation room, and the visiting room, the boundaries of the self collapse* (Irwin 1970, p. 39).

Reactance and self-fulfilling prophecy An important property of the designed environment is the manner in which it either facilitates or frustrates particular behaviour. Environments which are designed to be totally controlling, that is, environments which coerce rather than encourage or support behaviour, are experienced very negatively. This is because they elicit feelings of threatened individual freedom and control. Institutional and correctional settings are prime examples of this 'hard architecture'. The message they

communicate is directive and demeaning rather than informational. The human response to threatened freedom of action is known as 'reactance', whereby an individual attempts to restore this freedom by engaging in a behaviour which is contrary to the directive he or she has been given (Brehm & Brehm 1981). This behavioural response can be violent and destructive, depending on context and message (*see,* for example, Allen & Greenberger 1980), and can include self-destructive acts. In general, the greater are the forces acting against exercising a freedom, the greater will be the perceived threat to that freedom (Brehm 1966). People react to threats from the physical environment as well as the social environment. In the case of 'vandal-proof' fittings and furniture in a park, for example, two messages which are communicated are that 'you are a vandal' and 'you cannot damage this fitting'. Two decades of research on vandalism have demonstrated that people react very strongly and negatively to such messages, and that 'vandal-proofing' is counterproductive and substantially erodes the quality of human settings by making them unresponsive and impervious to human need. These findings have been replicated many times in custodial settings, where 'hard architecture' had its origins (*see,* for example, Sommer 1974; Wener et al. 1985).

Custodial environments probably constitute the strongest statements of no freedom that we experience. Whether they elicit reactance or 'learned helplessness' (a type of learned apathy belying acute distress) depends on how long people have been in an unresponsive setting and their coping ability and psychological strength. One might expect, however, that many individuals experience very strong and emotionally-laden reactance upon arrest.

> *Subjectively, reactance may be an intense experience. It presumably includes a strong urge to do something (toward restoring a freedom) and it may be accompanied by feelings of hostility . . . it would seem plausible to expect that there is concomitant physiological arousal . . . By and large, strong threats produce stronger reactance effects . . . In summary we have little understanding as yet of how people respond to eliminations of freedom . . . there is evidence from research on human helplessness that people whose freedoms are eliminated may feel anxious, angry, and possibly depressed* (Brehm & Brehm 1981, pp. 392-5).

In the case of Aboriginal people in police custody there are cultural unknowns, and many other simultaneous threats to one's freedom from the nature of the social environment and institution. There is, in addition, an often acute perception of injustice, a feeling of being targeted, perceived racial discrimination, heightened arousal and anger due to intoxication or a non-custody confrontation, for example. This situation sets the stage for a very dramatic acting out against the setting, institution and community.

Reactance can also enter into this equation in the form of obvious 'suicide proofing' of the cell environment, the removal of clothing, bedding, or belt, or even taunts and challenges with respect to committing suicide. These 'messages'

can elicit profound reactance and anger, and lead to a particular form of self-fulfilling prophecy, whereby the expectation and denial of freedom conveyed by the physical environment and situation can lead to attempted suicide (*see*, for example, Rosenthal 1974). Even very straightforward preventive measures can very powerfully communicate an expectation of suicidal behaviour.

> *Neckties, belts, shoelaces and other similar articles must be removed from the detainee* (Northern Territory Police Circular No. 41 of 1987).

While such procedures may prove necessary in a particular custodial context, their psychological impact can be either minimised or substantially intensified by the physical character of the cell itself.

It must be remembered that this is all taking place in the larger context of other cell deaths, the Royal Commission, intoxication, solitary confinement, and so on. All of these can compound the influence and message character of the physical setting itself. Also many reactance effects are implicitly or explicitly hostile (*see*, for example, Carver 1977), and this aggression can easily be focused on oneself, particularly in the face of obvious suicide proofing or taunts, when one's physical self is one of the few domains left over which one can exercise any control. Ironically, obvious suicide-proofing poignantly denies this last freedom.

> *Not only is one's life not one's own in prison, or indeed in any sort of institution, but neither, so it seems, is one's death. This in a very real sense, is the ultimate mortification!* (Cooper 1978, p. 59).

The cultural context of emotional expression, self-injury, 'being drunk' and 'getting wild' must also be taken into account. While staff procedures are not directly addressed in this paper, it must be remembered that such phenomena as reactance and self-fulfilling prophecy can be elicited by the behaviour of police as well as, and in addition to, the physical environment. The detainee's experience of a situation will reflect both sets of 'messages', and their combined impact can be very strong and compelling.

This brief discussion has focused on the physical setting itself. It is important to keep in mind that the built environment influences behaviour in two basic ways: it directly influences the *experience* of individuals in the setting, and it also directly modifies individual and social *behaviours* within the custodial environment as a whole. This is a fundamentally important point. Reactance and self-fulfilling prophecy operate at the police/detainee interaction level as well as with respect to the individual/physical setting interface, and each set of communications reinforces the other. Cell design must address both how the physical layout of the police facility influences custodial staff/inmate interaction as well as how the physical nature and design of the cell impacts on the individual within the cell.

High risk, violent, or intoxicated detainees

Perhaps the most important question with respect to high risk or intoxicated individuals is whether they should be placed in a police cell. Clearly this is a vexed issue and alternatives to arrest and/or protective custody are being implemented. It is important, however, to appreciate from the outset that a special police cell is a less than ideal 'solution' to the larger problem of individuals at risk. The discussion at the meeting of police representatives in February 1989 and Commission submissions identify a clear need for a cell or cell complex where continual observation and immediate intervention can take place. Such an area must provide for maximum restraint from self-harm or violence to others, but should not, if at all possible, exacerbate the distress or emotional state of the detainee. The design challenge here is to take into account a number of different requirements and needs. The most important of these would be the need for continuous observation and indeed the close presence of staff. A second important requirement is restraint, where necessary, and the prevention of self harm. A third general requirement is that the unit, to the extent possible, reduces stress and agitation. While a number of police stations have either an 'observation' cell or a 'padded' cell for violent or suicidal detainees, many such cells substantially increase stress through sensory deprivation and the symbolic meaning and character of the cell itself.

Suicide prevention

The question of suicide prevention is a principal concern and focus of this paper. Suicide was reported as the cause of death for almost one half (46 per cent) of the deaths in police custody throughout Australia from 1980 to 1988. Some 35 per cent of the Aboriginal deaths were reported to be self-inflicted, as were 51 per cent of the non-Aboriginal deaths in police custody. There are a number of initial observations which should be made. It is first of all necessary to disabuse ourselves of those myths which attend any discussion of suicide. These have been well-summarised by Rowan and Hayes (1988) and others, and include such erroneous notions as 'people who talk about suicide won't do it' and 'if a person is determined to kill him or herself, there is nothing that can really be done to prevent them'. An additional important consideration is the difference between a 'genuine suicide attempt' and a 'gesture'. There is really no meaningful psychological difference between these behaviours, and most suicidal behaviours are carried out at some level to impress or manipulate others.

> *Most suicidal acts, especially those which do not seriously endanger life, are carried out with the sole purpose of impressing and manipulating other people. In fact, every suicidal act, even if fatal, has some effect on the environment and most people who commit such an act are aware of this. Inevitably, this effect is often used, in prison and outside, to manipulate the environment, but if the act may endanger life it is none-the-less suicidal. The misconception of the faked suicidal act*

> *carried out with the 'ulterior motive' of attracting attention is the most common and the most dangerous in the Prison Service* (Stengel 1971, p. 13).

What is important to keep in mind is that the method of attempt typically used in police custody, hanging, is particularly lethal, often precluding intervention, change of mind, or resuscitation.

A further issue relates to 'suicide-proofing' a police cell. This is not something which is possible to achieve, and it suggests that prevention can be achieved solely with respect to the physical design of a cell or facility. This, of course, is nonsense. What can be accomplished through design is a substantial reduction of risk at a point in time when the physical setting itself is influencing behaviour in a major way. While there is a clear recognition of this in many submissions, there is also a tendency to equate reduction of risk with the elimination of opportunities—*this is a fatal design error*. Preventive design must alleviate distress as well as reduce opportunity. It must take into account the detainee's *experience* of the situation and the immediate cell environment, and the cumulative and stressful loss of control which has already taken place. An obvious elimination of 'hanging points' and/or the removal of everything that could conceivably be used for self-destructive behaviour, especially in the absence of other measures which provide for a modicum of experienced control, will simply elicit reactance, anger and distress.

> *No matter how good the intentions and no matter how vigilant police may be, the claim can never be made that deaths in custody will be totally prevented. . . . It would seem impossible to design a totally 'suicide-proof' cell or exercise yard. It is possible, however, to significantly reduce the opportunities for persons who decide to take their own life while confined in police custody, particularly those who act impulsively as a result of their incarceration* (Ure 1988).

What is clear from the Royal Commission data and other research is that almost all police custody hangings take place within twenty-four hours of arrest (*see,* for example, Research Paper No. 7, pp. 107-36 of this volume; Rowan & Hayes 1988; Guarner & Hanzlick 1987) and typically reflect a number of causal factors which can be quite independent of the custodial environment itself, for example, being intoxicated, being emotionally upset following community or family conflict, and/or having a history of mild to severe psychiatric disturbance. Such factors can nonetheless interact with arrest and the cell environment in such a way as to substantially increase the risk of self-injury in custody (*see,* for example, Reser 1989a). The prevention logic here would clearly be to identify individuals at reasonable risk at the point of police intervention, and adopt an alternative to watch-house confinement, if at all possible. A watch-house cell, however well designed, can do no more than moderate the acute emotional distress experienced by many detainees. This suggestion recognises the fact that many reported suicide deaths in police

custody have taken place in small communities where individuals at particular risk are known. The severe limitations of screening protocols currently being employed by a number of police departments must also be noted (*see*, for example, Kennedy & Homant 1988). These may be exacerbated by the fact that the protocol is being used with little modification or qualification with individuals from another culture. Rowan and Hayes (1988, pp. 1-2) note that 'experience has demonstrated that almost all jail suicides can be prevented'. Many of their recommendations address procedures and policies as well as physical design considerations.

Specific Design Considerations

It is difficult to make specific design recommendations without reference to particular sites, situations, needs or communities. Equally any discussion of 'solutions' must be based on a clear assessment of problems and requirements. This can only happen with meaningful input from Aboriginal individuals and communities. What follows therefore is not more than a brief summary of some specific design considerations which follow logically from the preceding discussion and/or which have been raised by police representatives or in submissions to the Royal Commission.

Spatial relation of cells to other functional areas

It is both impossible and short-sighted to develop a police cell concept without reference to the larger built environmental complex in which the cell will exist. Indeed a repeatedly mentioned problem in submissions was the distance and relative isolation of cells from the police station itself. It will be necessary to think through what is a minimally adequate facility for small towns and communities, and develop an increasingly elaborated design concept for larger areas with a larger intake and diverse needs. It is probably not wise to design a stand alone overnight holding facility such as that described for Wujal Wujal in the Memmott (1989) report. This ignores many of the critical concomitants of reported Aboriginal suicide deaths in police cells relating to isolation and death within several hours of being placed in custody. The larger issue here is really the nature of general design principles for police custodial settings, with the cell complex being an organic part of this more encompassing design focus. It then becomes possible to prepare the type of user or programming brief discussed by Memmott. Matters relating to an outdoor area or access, or an exercise or recreational facility, or observational access, for example, require such a larger design concept and general resolution before certain cell design issues can be resolved.

Cell layout and design

A number of considerations relating to cell layout and design are specifically addressed in submissions, but require further input from users and the advice of

design professionals with respect to availability, suitability and cost. Matters raised in discussion and in submissions included the desirability of open or closed front walls and doors, visual access to the outside environment, the suitability of various construction and fabrication materials, the elimination of hanging points, lighting and plumbing fittings, furnishings, colour schemes and wall finishes and so forth. There would appear to be some considerable consensus, for example, with respect to the desirability of partially open front cell walls, direct visual and sensory access (but controllable) to the outside environment, natural colours and textures where possible, and non-obvious suicide preventive measures in terms of elimination of hanging points, tear-resistant bedding, and so on.

Provision for individual control

The facility should maximise individual control to the extent that this is possible and practicable. At a time when an individual is under severe emotional stress—exacerbated by alcohol misuse—and feels his sense of control slipping badly, it is important to provide a responsive and supportive cell environment. In concrete terms this translates to some control over personal comfort, communication, access to information, lighting, sense of security, privacy, and so on. Recommended measures to increase experienced sense of control and setting responsivity include, at a minimum, provision for individual comfort, provision for a sense of visual privacy, internal light switches, closable shutters on openings to the outside (security), controllable visual access to the external environment and access to drinking, ablution and toilet facilities. Choice of single or shared cell would substantially reduce stress relating to individual need. The general improvement to police environments which have incorporated such design changes has been dramatic (*see*, for example, Jordan et al. 1987; Wener et al. 1985).

Privacy and crowding

Privacy and crowding are ultimately subjective experiences which have much to do with the extent to which individuals can exercise some control over their interaction with, and exposure to, their immediate social environments. Notwithstanding the constraints of any police cell facility, it is important to make some design provision for individual control over physical, visual and auditory access by others. An excellent and current discussion of the crowding issue as it relates to custodial environments is provided by Ruback and Innes (1988). An important proviso, however, is that the determinants—experience of, and behavioural response to crowding and absence of privacy—are culturally variable, and research findings from a Western European cultural context must be qualified with respect to Aboriginal requirements.

Visual access to external environment

The provision of visual access to the external environment is arguably one of the simplest and most cost-effective ways of reducing the stress of police cell confinement. This allows for a monitoring of the physical and social environment, a focus of attention away from cell and self, a mitigation of experienced confinement, sensory deprivation, and social isolation, and a 'softening' of the 'hard' architecture (*see,* for example, Sommer 1974) of a watch-house cell. It would appear that the cutting off of environmental cues along with the experience of confinement has a more devastating impact on traditionally-oriented Aboriginal detainees. Because of cultural differences with respect to perceived dangers, such access should be under some degree of control by the cell occupant. It is noteworthy that many exercise areas in police facilities also provide no visual access to the outside environment. This substantially heightens the tediousness and oppressiveness of watch-house facilities generally, and minimises what might otherwise be a positive contrast between cell environment and communal exercise area.

Visiting areas

It is clear that many police facilities have no genuine provision for visitors, notwithstanding current guidelines to the effect that such visits are to be encouraged and facilitated. Where a nominal visiting room may be available, few concessions are made to the different cultural reality which exists for Aboriginal detainees and families, such that distance, access, the architectural space itself and police security measures preclude any meaningful visits or interactions taking place. The importance of physical proximity and touching in a situation of stress cannot be overstated. Any communication with family members or community is often difficult or impossible. The modification of police facilities to allow for such visits would appear to be an urgent priority. Such modifications might be made in concert with changes which would allow for the use by detainees of an outdoor recreation area. If police departments were to adopt procedures similar to those in use in North America for indigenous detainees, provision will need to be made in non-Aboriginal communities for the occasional presence of an individual or individuals from the nearest Aboriginal community as a 'concerned person'. Many Aboriginal suicide attempts appear to be in response to a perceived unfeelingness and rejection by the community.

> *The prisoner's network of social relationships is being torn apart. The insulation between social worlds, an insulation necessary for the orderly maintenance of his social life, is punctured . . . Furthermore, a multitude of minor exigencies that must be met to maintain social relationships go unattended . . . Obligations and duties cannot be fulfilled—in other words, roles cannot be performed. Unattended, the structure of the prisoner's social relations collapses* (Irwin 1970, p. 39).

Alarm and intercom systems

The design objective of an alarm system is to ensure that an individual in distress can communicate his or her circumstances to staff or other detainees and obtain help. While a number of such systems are operational in Australia, they do not appear to be working particularly well (*see*, for example, Muirhead 1989). It is also possible that they are perceived by staff to not work well because they can be abused, and suggest 'being on call'. Clearly any adequate custodial facility must have an efficient communication system; what is at issue is the nature of such a system.

Closed circuit TV surveillance

While many submissions and reports mentioned or endorsed the immediate use of electronic surveillance systems, to maintain continual observation, a number of individuals and organisations did not feel that these systems would be particularly effective and noted a number of limitations (*see*, for example, Hunter 1988a; Broome Regional Aboriginal Medical Service Meeting 22 February 1987). It is still necessary for someone to scan video monitors, and such a system further reduces staff/detainee contact and interaction, exacerbating the problem of sensed isolation thought to be an important factor in the suicides. Conventional behavioural design wisdom is that a design plan which minimises the need for electronic surveillance is more effective and less alienating for both detainees and staff.

Special and observation cells

It would seem desirable for police facilities to have at least one cell which allows for continual but unobtrusive monitoring of detainees, with special, but non-obvious provision for restraint and self-injury protection if required. These objectives might in many cases be achieved by an adjacent cell or general use area such that monitoring and necessary assistance could be provided by other detainees as well as police officers. The design features of such a special cell, however, require careful consideration. The use of 'padded cells' for emotionally distressed individuals is very problematic, particularly without professional psychiatric assessment and monitoring. Such a cell can act as a sensory deprivation chamber, and can markedly increase distress, reactance and experienced isolation.

While 'seclusion' rooms are utilised in some psychiatric intensive care units, they are only used on the authorisation of and with the continued supervision of a mental health professional, in the context of formal guidelines for the use of such facilities, and typically with the use of tranquillising drugs. These formal guidelines prescribe constant observation. These rooms are

substantially larger than the typical watch-house padded cell, often with visual access to the outside environment, and typically have no padding on walls or floors. Such seclusion is very infrequently used, it is often voluntary, and the door to such a room, while having provision for being secured from the outside, is often left open while the patient is inside. In contrast, padded cells in police lockups are typically very small, with no visual access, with massive, vault-like doors, poor ventilation and no concessions whatsoever to the emotional distress which an individual might well be experiencing. The average time a detainee might spend in such a cell was said, in discussion with police, to be from one to two hours or until the detainee 'settled down'.

The Mental Health Services Regulations of Queensland (1985) include the following recommendations concerning the use of seclusion, that is, placing a person in relative isolation in a low stimulus room designed to minimise risk of self-injury and injury to others:

> *(2) A patient shall not be secluded except on the order in writing of the medical superintendent or medical practitioner in charge of the treatment of the patient set forth in the clinical notes with respect to the patient and, upon that order, subject to compliance with sub-regulation (4) of this regulation.*
>
> *(3) In a case involving extreme violence a patient may be secluded without prior authority but in that event seclusion shall be reported immediately to the medical practitioner in charge of the treatment of the patient who shall thereupon forthwith review the patient's condition and make an order for seclusion in the clinical file or order that the patient no longer be secluded.*
>
> *(4) On ordering the seclusion of a patient, the medical superintendent or medical practitioner -*
>
> *(a) shall give in writing such instructions as to the time intervals and extent of the observation required to be undertaken with respect to the patient and such other instructions as are necessary to ensure that the patient while secluded—receives proper medical and nursing treatment is under adequate supervision and observation*
>
> *(b) shall specify in writing the period during which the patient is to be secluded* (Queensland Department of Health 1985).

It is important to recognise that these regulations address the procedures to be followed when an individual is to be placed in seclusion in a psychiatric facility, but they do not speak to the criteria used for making such a decision in the first place. It would appear that no formal policy guidelines exist for the use of padded cells in police facilities. It is clear that such cells are routinely used in many police watch-houses in Australia. In addition to the absence of a formal policy regarding the use of such facilities, there would appear to be no explicit

policy with respect to the criteria police staff should follow in making the decision to place a detainee in the padded cell. The writer was recently told by a police sergeant that there were 'a hundred different reasons' why a person might be placed in a padded cell, and that it was simply a matter of judgment and circumstance. There were four padded cells in this facility.

There are many reasons why padded cells are no longer used in either psychiatric or other institutional settings in North America and Europe, and why a Supreme Court decision in the United States in 1975 restricted the use of seclusion to the short-term management of violent patients under medical supervision. Such an environment effectively constitutes a sensory deprivation chamber, which combines the stress of solitary confinement with minimal sensory input. In addition, such an environment is perceived by detainees as being a place where the violently and/or suicidally insane are put, and this self-fulfilling prophecy character of such facilities can directly encourage such 'crazy' behaviour, as well as substantially increase stress. To the extent that such a facility is used punitively, this can greatly increase perceptions of injustice, targeting, and discrimination. Again, what is most important is the experience of the detainee in such an environment. In addition to being held incommunicado, often in darkness, the altered feedback from such a room can substantially increase feelings of disorientation. The use of such a facility in a police custody situation, without the presence and close involvement of a psychiatrist or clinical psychologist, is ill-advised, however well-intended the rationale.

Single/shared cells

The question of single versus shared cells is obviously a major cost and design issue, particularly where the facility is small and the intake high. The best situation would be for both types of cells to be present, and for detainees to have an option with respect to which they would feel most comfortable in. A twin-cell design with a securable connecting door might provide for a dual-purpose cell. The general recommendation that Aboriginal detainees should be placed in shared cells should await feedback from Aboriginal organisations. The 'tank' concept found in many police stations is probably not a satisfactory design solution for anyone, though a communal use/recreation area is critically necessary.

The Police Ministers meeting recommended 'where possible, Aboriginal people should be placed in multi prisoner cells preferably with other Aboriginal people unless there is an identified threat from the move.' The Committee endorses this recommendation and suggests that Aboriginal prisoners be kept together in the largest possible area such as the exercise ground. Any attempt to lock Aboriginal prisoners away in pairs in cells overnight should be resisted

(Special Government Committee on Aboriginal/Police and Community Relations 1987, p. 16).

In western cultural contexts, the desirability of a single cell option has been cogently argued for some time (*see*, for example, Glaser 1964).

Additional provisions/amenities to cell environment

There have been a number of suggestions in the submissions to the Commission with respect to the desirability and value of particular amenities in police cells. These include music, radios, telephone access, visitor facilities, fixtures and furnishings which would help to deinstitutionalise and 'soften' the environment, and so on. Some of these suggestions relate to the actual design of the cell, others to permanent fixtures and fittings, others to the provision of less permanent amenities. Many of these suggestion are valuable and worth serious consideration. There are, of course, practical problems with some suggestions. What is of importance is to address those matters which relate to the design and permanent fittings of the cells and police facility, along with agreement with respect to principles and practices. Hopefully decisions with respect to less design-relevant matters will then logically follow. Additional planning considerations and options raised in the meeting with police representatives included a library, visitor facilities and culture-specific amenity provision.

Suicide risk reduction

The matter of suicide risk reduction has been addressed at some length in the preceding discussion. This issue needs to be considered on a number of fronts. What is perhaps most important is to appreciate the dangers and costs inherent in any too-obvious design strategies that increase stress and reactance and decrease the habitability and humanness of the police setting. An additional and important issue concerns the provision of quite separate and possibly non-police facilities for those deemed to be at risk of suicide. This is probably a preferred option with respect to non-serious offenses, and was mentioned in a number of submissions. Such separate facilities are increasingly being used in North America in Native American communities.

Concluding Comments and Observations

The Royal Commission has received many submissions since its establishment which bear on the question of police cell design. In addition, most state police authorities in Australia compiled their own task force reports which addressed, among other issues, cell design. Those specific recommendations available in

the Canberra office of the Royal Commission have been considered in the context of this discussion paper. Many of the considerations discussed in this paper, however, were not addressed in these submissions and reports. They are considered by the present author to be of particular importance, and were briefly raised at the meeting of police representatives which took place prior to the writing of this paper. Hopefully, these additional behavioural design, psychological, and cross-cultural considerations, and input from Aboriginal organisations and individuals, will allow for a balanced and comprehensive consideration of important issues.

A central issue is that of consultation. Indeed the purpose of this discussion paper is to encourage input and feedback from both client communities involved, the Aboriginal community and Australian police authorities. A discussion paper such as this, however, clearly needs to be supplemented by other forms of consultation. Only one submission to the Royal Commission dealt extensively with the issue of consultation.

> *The significant theme of this submission is that the Aboriginal community throughout Western Australia need to be directly and completely involved in any measure implemented to reduce the likelihood of further deaths* (Special Government Committee on Aboriginal/Police and Community Relations 1987).

Consultation is an integral part of the design process. There are a number of essential stages in any adequate consideration of design. These must include

- an awareness of the needs which must be met, along with design alternatives,
- the identification of or development of practical criteria for selecting the best alternatives,
- a research component which assesses the feasibility and success of new or existing designs or facilities, that is, what is typically called a POE, or post-occupancy evaluation, and
- the implementation of the selected design options, with some provision for assessing how well they work (*see,* for example, Fisher et al. 1984; Zeisel 1981).

The submissions which have been considered, and the discussions held, have helped to identify many of the needs and requirements of police staff, and some of the needs and requirements of those in custody. There is not, however, a clear picture of just what the needs and requirements of Aboriginal detainees are, or how these might differ geographically. The priority, as correctly identified by Memmott (1989), is to assess Aboriginal 'user requirements'. Such an assessment, however, must involve Aboriginal detainees themselves, and should not rely on conventional wisdom with respect to what Aboriginal needs

are. Design solutions which work require genuine consultation. It is difficult for anyone who has not experienced incarceration in a police cell or watch-house, from an Aboriginal perspective, to identify or prioritise needs.

Certainly there now exists much collective wisdom with respect to designing safer and more humane custodial environments in a Western cultural context; the relationships between people and built environments are, however, very culturally determined, as is the subjective experience of being in custody. Many principles will generalise well to an Aboriginal population: others may be quite inappropriate. With respect to architectural submissions (*see,* for example, Memmott 1989), it is important to encourage those involved with establishing guidelines and standards, and making design recommendations, to balance architectural expertise with substantive psychological and anthropological input. What is at issue with respect to self-injury and suicide is the amelioration of acute distress, experienced and perceived within a particular cultural context, and typically exacerbated by an other-culture and aversive custodial environment.

An important objective of this paper has been to contribute to a formal statement of design principles, which can inform and encourage the development of a set of codes for police detention facilities throughout Australia. Ideally this discussion paper, in a final form and following feedback from relevant parties, and the incorporation of additional submission and hearing material, might serve as a focus for discussion at a national meeting to develop a set of design principles for police facilities. Such a meeting might well take place under the auspices of an organisation such as the National Police Research Unit. The matters are sufficiently complex to require the preparation of one or more additional papers, which detail the nature and success of some of the newer existing police facilities which have attempted to incorporate some of the design recommendations discussed here and in a number of submissions, and overseas experience with the drawing up of such principles, particularly where similar design challenges exist with respect to indigenous minority culture peoples.

This paper has not addressed the many issues relating to deaths in custody which have more peripheral relevance to design considerations. Clearly procedures and management policies are as important as setting considerations and are not independent issues. These procedures and attitudes have come in for much criticism, often with little reference to the nature of the physical setting itself.

> *Police attitudes and practices in Queensland and in some country towns are certainly not sensitively designed to identify and assist at-risk persons. On the contrary: a lockup is simply a warehouse for human, particularly Aboriginal fodder* (Harding 1987).

It is also the case that more encompassing policy and legal changes will alter, to some extent, the relative numbers of particular types of cases being dealt with by police facilities. The more liberal use of bail and summonses, and

the establishment of sobering-up and diversionary programs in many states, could well change the numbers of Aboriginal detainees being held in police custody.

Aboriginal deaths in custody are the product of multiple causes, many of these lying outside of the custodial environment. This is especially true of self-inflicted deaths in police custody, and is particularly important in the context of those deaths which have occurred within several hours of arrest.

> *. . . jail suicide is portrayed too often as a jail suicide rather than as a suicide that happens to take place in jail. We suspect that many jail suicides have little relation to the quality of the jail itself. Rather they are a reaction to a total life situation, which may have been exacerbated by incarceration. In many cases jail may even force individuals to evaluate their total life situation and to decide that it is intolerable. Jail, then, may provide more of an opportunity than a cause for many suicides. Thus even the most humane, most progressive, best-staffed jail may still encounter inmates who commit suicide without warning* (Kennedy & Homant 1988, pp. 453-4).

The physical and social environment of the police facility can, nonetheless, dramatically and critically influence self-injurious behaviour, as social and physical police setting factors interact with non-custody individual, situational and community factors. Design thinking must take into account where a person is coming from, situationally, psychologically, medically, and culturally, as well as the immediate context of confinement.

A design paper such as this, by its very nature, pre-empts a discussion of non-architectural and non-custody alternatives for at-risk individuals. It is highly probable that there exist better alternatives for intoxicated and at-risk individuals than a well designed police cell. It is important to stress this point as it is very easy to become locked into an 'architectural solution' way of thinking with respect to such a complex social problem as the deaths in custody issue. What enlightened design can provide is a human setting which does not itself dramatically increase the stress which an individual is experiencing, and which markedly decreases suicide risk in what is a precipitating set of circumstances, police custody.

Finally, our thinking about another culture's needs and requirements must be informed by meaningful input from Aboriginal people. This will require alternatives to the present discussion paper. Discussion must also not homogenise Aboriginal circumstances, experience and communities, which can differ profoundly from one region of Australia to another. Social science understanding of the complex and fundamentally important interrelationships between people and human settings is far from adequate, as is our understanding of self-injury and suicide, hence generalisations to other cultures requires caution, a sharing of collective wisdom and a recognition of differing and possibly conflicting needs and requirements.

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RESEARCH PAPER NO. 10

Australian Deaths in Police Custody 1980-88: An Analysis of Aboriginal and Non-Aboriginal Deaths

David Biles
David McDonald
& Jillian Fleming

This is the first of two papers which focus on deaths in the different custodial environments controlled by police and prison authorities. These papers are supplementary to Research Paper No. 7 (*see* pp. 107-36 of this volume) and provide an opportunity for exploring in some detail the two sub-groups of people who died in custody over the nine-year period 1980 to 1988. This paper is therefore a further product of the Royal Commission research project that is informally known as Black and White Deaths in Custody.

The basic data to be analysed and discussed in this paper comprise 182 case histories, 59 (32 per cent) of Aboriginal people and 123 (68 per cent) of non-Aboriginal people who died while in the custody of the police anywhere in Australia between 1 January 1980 and 30 December 1988. Not all of the deaths actually occurred in police stations as in some cases the person was transferred to hospital following illness or injury. As will be shown later, more Aboriginal than non-Aboriginal cases were of this type, which suggests that it is possible that some non-Aboriginal cases may have been overlooked for the purposes of this project, even though every effort was made to ensure that the same criteria for inclusion were used for both groups.

In May 1988 each of the Australian police forces agreed to supply to the Research Unit of the Royal Commission basic information about all cases of deaths in police custody that had occurred during the relevant period. This information was in the form of lists which included for each case: name, gender, Aboriginality, age, time and date of death, place of death, cause/manner of death, reason for detention, alcohol level if known, time in custody, time since inspection, and whether or not the deceased person was alone at the time of death. In late 1988 consolidated lists were prepared and returned to police forces for confirmation or amendment. Each force subsequently certified as to the accuracy of the data supplied. The lists, or case histories, that formed the basis of this study were as known to the Research Unit on 3 March 1989.

This paper contains many comparisons between Aboriginal and non-Aboriginal people who died in police custody. Aboriginal people are approximately 20 times more likely than non-Aboriginal people to be held in police custody, as shown by the results of the National Police Custody Survey

coordinated by the Royal Commission (*see* pp. 137-46 of this volume), and therefore the two groups in custody represent quite different proportions of Aboriginal people and non-Aboriginal people in the community. For this reason, these comparisons must be interpreted with caution.

National Overview

The distribution of the 182 cases between the Australian states and territories is shown in Table 10.1.

TABLE 10.1
Aboriginal and Non-Aboriginal Deaths in Police Custody by Jurisdiction, 1980-88

	Aboriginal		*Non-Aboriginal*		*Total*	
	No.	*%*	*No.*	*%*	*No.*	*%*
NSW	7	12	44	36	51	28
Vic.	3	5	22	18	25	14
Qld	16	27	22	18	38	21
WA	20	34	17	14	37	20
SA	6	10	9	7	15	8
Tas.	1	2	4	3	5	3
NT	6	10	5	4	11	6
ACT	-	-	-	-	-	-
Aust.	59	100	123	100	182	100

From Table 10.1 it can be seen that the highest numbers of Aboriginal deaths in police custody occurred in Western Australia and Queensland, these two jurisdictions accounting for over 60 per cent of the national total, whereas the highest number of non-Aboriginal deaths occurred in New South Wales. It can also be seen that in Western Australia and the Northern Territory the numbers of Aboriginal deaths were greater than the numbers of non-Aboriginal deaths, with the opposite being the case in all other jurisdictions. It is also to be noted that there were no deaths in police custody during the relevant period in the Australian Capital Territory. These data are also presented graphically in Figure 10.1.

Ratios of deaths in police custody to population

As shown in Table 10.1, 59 (32 per cent) of the 182 deaths in police custody over the relevant time period were of Aboriginal detainees. While this proportion is very close to the proportion of Aboriginal persons in police custody, when compared with the number of Aboriginal people in the community a different picture emerges. The 59 Aboriginal deaths are equivalent to nearly 26 per 100,000 Aboriginal people in the community, whereas the 123 non-Aboriginal

deaths are equivalent to less than one per 100,000 of the non-Aboriginal people in the community. The difference between the two groups is even more striking if the ratios are calculated on the basis of persons aged 15 years or more, rather than on the basis of the total numbers of Aboriginal people and non-Aboriginal people in the community. The results of these calculations are shown in Table 10.2. This shows the equivalent rates as 43 per 100,000 for Aboriginal people and one per 100,000 for non-Aboriginal people. The alarmingly high Aboriginal death rate is explained, to a large extent, by the extreme over-representation of Aboriginal people in police custody.

FIGURE 10.1
Aboriginal and Non-Aboriginal Deaths in Police Custody by Jurisdiction, 1980-88

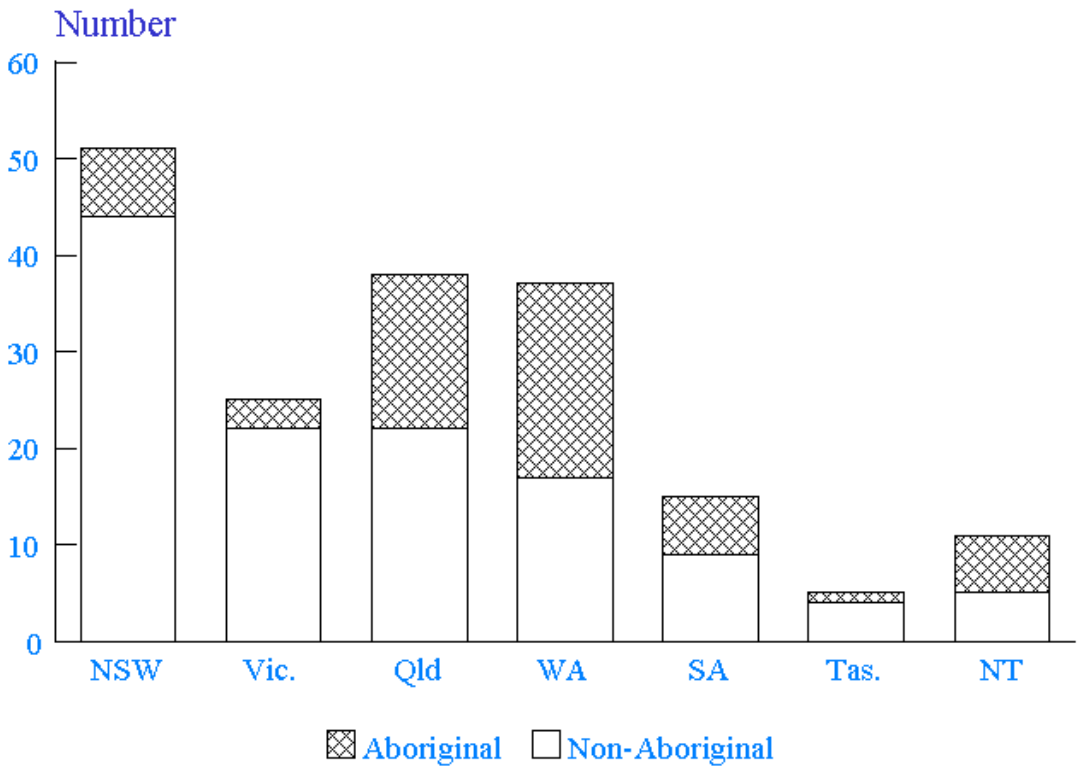


Table 10.2
Ratios of Police Custody Deaths, 1980-88, to Adult Populations

	Population 1986 Census	*Persons 15 years+*	*Deaths in custody 1980-88*	*Deaths per 100,000 population 15 years+*
Aboriginal	227,645	137,133	59	43
Non-Aboriginal	15,374,511	11,965,311	123	1
Total	15,602,156	12,102,444	182	1.5

There are notable differences between Australian jurisdictions in both Aboriginal and non-Aboriginal death ratios and these are shown in Table 10.3. When the total deaths in police custody are considered it can be seen from this table that the Northern Territory has by far the highest ratio at 7.1 with Western Australia being the next highest at 2.6. Not surprisingly the order of jurisdictions is the same for non-Aboriginal people, but it is quite different when Aboriginal deaths alone are considered. Western Australia has the highest Aboriginal death ratio at 53 per 100,000, followed by South Australia at 42. It should be noted that even the lowest Aboriginal death ratio, that of New South Wales at 12, is considerably higher than the highest of the non-Aboriginal death ratios. This comparison again underlies the seriousness of the issue of Aboriginal deaths in police custody.

TABLE 10.3
Ratios of Deaths in Police Custody, 1980-88, to Population and Aboriginality by State

State	*Aboriginal deaths in custody*	*Aboriginal death ratios[a]*	*Non-Aboriginal deaths in custody*	*Non-Aboriginal death ratios[b]*	*Total deaths in custody*	*State death ratios[c]*
NSW	7	12	44	0.8	51	0.9
Vic.	3	24	22	0.5	25	0.6
Qld	16	26	22	0.9	38	1.5
WA	20	53	17	1.2	37	2.6
SA	6	42	9	0.7	15	1.1
Tas.	1	15	4	0.9	5	1.1
NT	6	17	5	4.2	11	7.1
Aust.	59	26	123	0.8	182	1.2

[a]Aboriginal deaths in police custody 1980-88 per 100,000 of the Aboriginal population at the 1986 Census.
[b]Non-Aboriginal deaths in police custody 1980-88 per 100,000 of the non-Aboriginal population at the 1986 Census.

(c)Total State/Territory deaths in police custody 1980-88 per 100,000 population at the 1986 Census.

Demographic Characteristics

Aboriginality and gender

The Aboriginality and gender of those who died in police custody are set out in Table 10.4. From this table it can be seen that 10 per cent of the Aboriginal deaths were of females compared with only 2 per cent of the non-Aboriginal deaths. Overall, 5 per cent were female. The percentages of female deaths are in all cases lower than the percentages of females in police custody as revealed by the national survey that was conducted in August 1988
(*see* pp. 137-46 of this volume). To the extent that the survey data may be assumed to be representative of the nine-year period, this comparison suggests that females are quite markedly less likely to die in police custody than are males. This generalisation applies to both Aboriginal people and non-Aboriginal people. Even though only 5 per cent of the deaths in police custody were females, it is noted that six out of the nine female deaths were Aboriginal.

TABLE 10.4
Aboriginality and Gender, Deaths in Police Custody, 1980-88

	Aboriginal		*Non-Aboriginal*		*Total*	
	No.	*%*	*No.*	*%*	*No.*	*%*
Male	53	90	120	98	173	95
Female	6	10	3	2	9	5
Total	59	100	123	100	182	100

Age

The distribution of the age groups of the Aboriginal people and non-Aboriginal people who died in police custody, as well as the age group distribution of the general community, is shown in Table 10.5 and Figure 10.2. Table 10.5 contains more detail and from this it seems that both Aboriginal people and non-Aboriginal people are most at risk when they are in their twenties; 39 per cent of Aboriginal people and 37 per cent of non-Aboriginal people were in this age group when they died. It can also be seen from this table that the early forties might be a dangerous time as 13 per cent of all deaths were in this narrow age group. The mean age, overall, was 36 years, with half of the cases being aged 33 years or younger. The corresponding figures for Aboriginal deaths were 34 and 30 years, respectively; for non-Aboriginal deaths, 37 and 35 years respectively. The ages ranged from 17 to 62 among Aboriginal people and 18 to 88 among non-Aboriginal people.

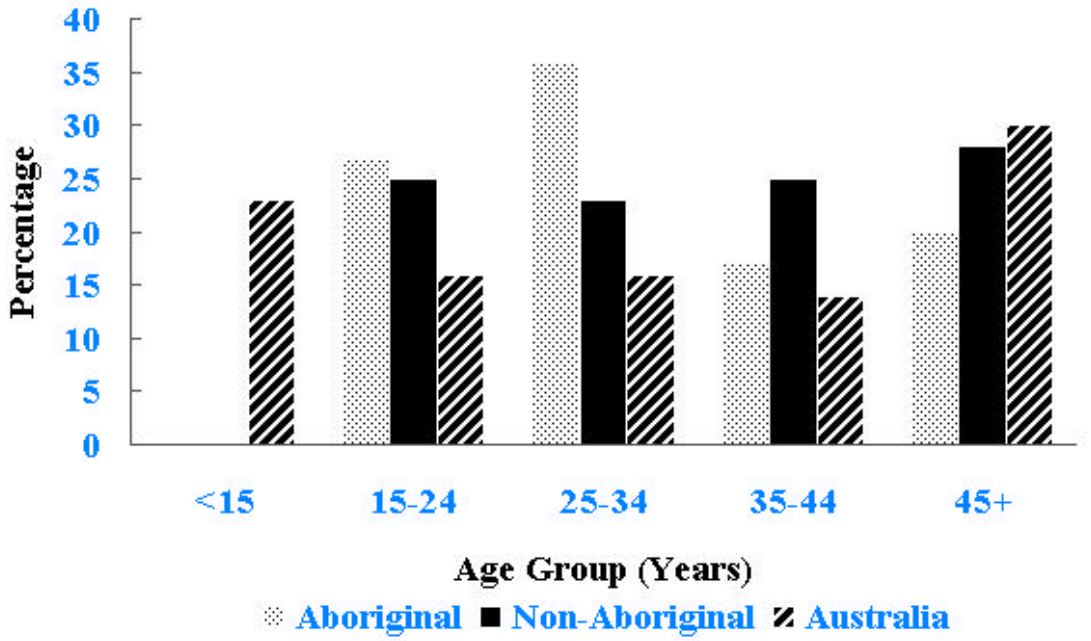
TABLE 10.5
Age Group, Deaths in Police Custody, 1980-88

	Deaths in custody						
	Aboriginal		*Non-Aboriginal*		*Total*		*General population*[*]
Age group	*No.*	*%*	*No.*	*%*	*No.*	*%*	*%*
<15	-	-	-	-	-	-	23
15-19	6	10	8	6	14	8	8
20-24	10	17	23	19	33	18	8
25-29	13	22	22	18	35	19	8
30-34	8	14	6	5	14	8	8
35-39	3	5	13	11	16	9	8
40-44	7	12	17	14	24	13	6
45-49	2	3	7	6	9	5	5
50-54	4	7	8	6	12	7	5
55-59	5	8	7	6	12	7	5
60-64	1	2	6	5	7	4	4
65+	-	-	6	5	6	3	11
Total	59	100	123	101	182	101	99

[*]Proportions based on 1986 Census data.

Notwithstanding the lower life expectancy of Aboriginal people in the community, the age group distributions of both groups of deceased persons in this study are reasonably similar, with only a slight tendency for the Aboriginal people to be younger. A major difference may be observed in the upper age groups, however, with 10 per cent of the non-Aboriginal people, to only 2 per cent of the Aboriginal people, being 60 years or over at the time of death. In fact, an examination of the broad age groups used in Figure 10.2, shows that Aboriginal people are proportionately more common up to 35 years, but non-Aboriginal people are more common in the older age groups. While this presents the general picture, it conceals some of the smaller differences which can be seen in Table 10.5.

FIGURE 10.2
Age Group, Deaths in Police Custody, 1980-88, and Total Australian Population



Note: The columns labelled 'Aboriginal' and 'Non-Aboriginal' represent the percentages of the Aboriginal and non-Aboriginal people, who died in custody, who were in the age groups specified. The columns labelled 'Australia' are the percentages of the total Australian population in the respective age groups as enumerated in the 1986 Census.

Reported Cause of Death

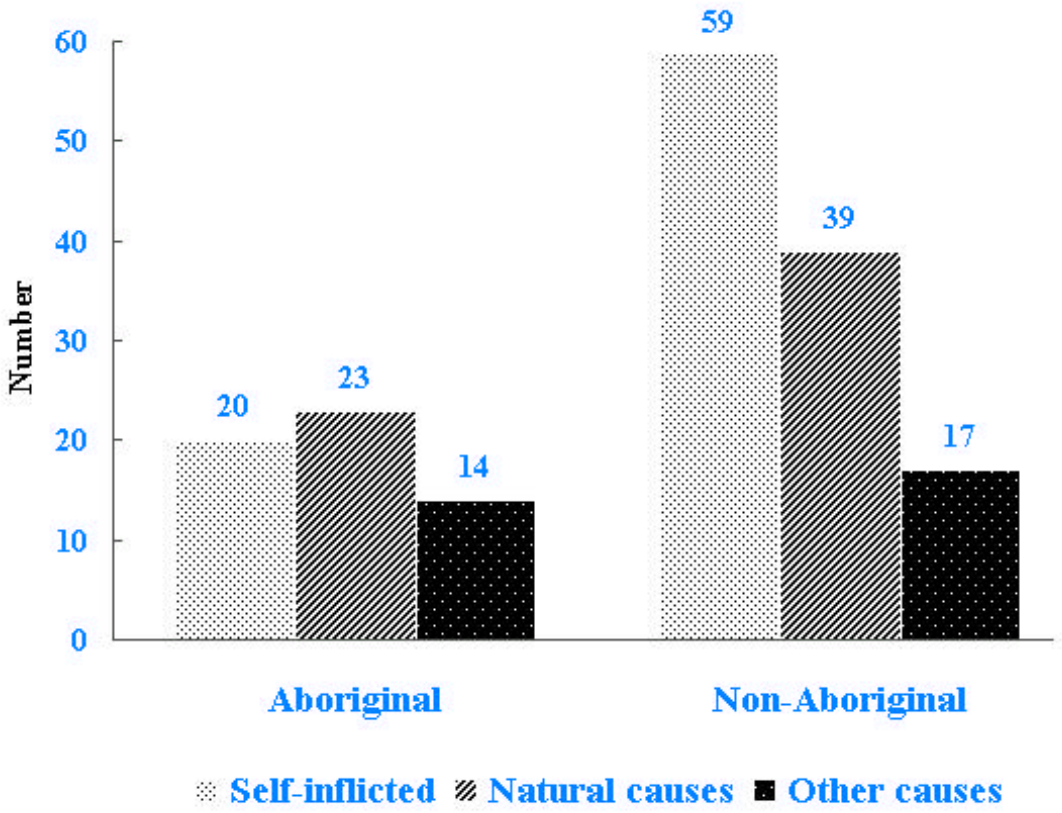
Information is available on the reported cause of death in 172 (95 per cent) of the 182 cases. The broad categories used for the analysis of this information are: self-inflicted deaths or suicide, natural causes, accident, homicide, and other, but it must be stressed that this classification is as reported by police forces, frequently based on coroners' findings, and may not correspond with the determinations that have been, or are to be, made by the Commissioners. This distinction is particularly important with regard to 'suicide' (*see* Royal Commission into Aboriginal Deaths in Custody 1989, pp. 53-7).

As can be seen from Table 10.6, self-inflicted deaths or suicide was reported as the cause of death in 51 per cent of the non-Aboriginal deaths and 35 per cent of the Aboriginal deaths. It can also be seen that there were proportionately more Aboriginal deaths attributed to natural causes (40 per cent) than non-Aboriginal deaths (34 per cent), and there were almost equal proportions of deaths by accident for both groups. The overall pattern is presented more vividly in Figure 10.3 in which the actual numbers are shown.

TABLE 10.6
Reported Cause of Death, Deaths in Police Custody, 1980-88

	Aboriginal		*Non-Aboriginal*		*Total*	
	No.	*%*	*No.*	*%*	*No.*	*%*
Self-inflicted	20	35	59	51	79	46
Natural causes	23	40	39	34	62	36
Accident	8	14	14	12	22	13
Homicide	3	5	2	2	5	3
Other	3	5	1	1	4	2
Total	57	99	115	100	172	100

FIGURE 10.3
Reported Cause of Death, Deaths in Police Custody, 1980-88



As might be expected, there is a clear relationship between age and reported cause of death. Suicide was the most frequently reported cause of death among the younger age groups, accounting for 71 per cent of the cases under 30 years of age. Conversely, natural causes were dominant in the older age groups accounting for 63 per cent of the cases aged over 40 years.

Self-inflicted

Information is available on the method used in all of the 79 cases of reported suicide in police custody. Hanging was by far the most frequently mentioned method, accounting for 75 (95 per cent) of these cases. A further two cases of reported suicide were attributed to drugs (most such cases are reported as accidental) and the final two cases were attributed to other external trauma. This pattern is quite different from that of suicides in the general community, where hangings make up only 13 per cent of such deaths (14 per cent among males and 9 per cent among females (ABS 1983)). In the broader community, suicide by poisoning and by the use of firearms are much more common than suicide by hanging. This significant difference is largely explained by the very limited options that are available to persons in police custody. Such persons have virtually no access to poisons or firearms, and there is generally a high level of surveillance. Older style police cells also provide opportunities for hanging to be attempted. It should also be noted that hanging is a particularly lethal method of suicide as it provides little opportunity for intervention, change of mind or resuscitation.

Similar proportions of males and females were reported to have died by suicide in police custody: 46 per cent of the male deaths and 44 per cent of the female deaths. This is in contrast to the general community where the male suicide rate is almost four times the equivalent female rate.

Possibly the most important fact to emerge from this analysis of reported suicides in police custody is, however, shown in Table 10.6 and Figure 10.3. Both in absolute and relative terms the evidence suggests that considerably more non-Aboriginal people than Aboriginal people are likely to die from self-inflicted injuries in police custody, but as will be shown later, there can be exceptions for particular periods. For example, in 1987, there was an abnormally high number of Aboriginal hangings in police custody, but still not higher than the number of non-Aboriginal hangings.

Natural causes

Details of the deaths by natural causes are given in Table 10.7. From this it can be seen that heart diseases are the most frequent natural cause, especially for non-Aboriginal people, while 'other diseases' constitute the second highest category. It is notable that there were no cancer deaths and only one death by infectious diseases during this nine-year period.

Accidents

A total of 22 of the deaths in police custody were reported as accidental and these are shown in Table 10.8. The significance of alcohol and drug related accidental deaths can be seen from this table, especially for non-Aboriginal people, while deaths resulting from head injuries can be seen to be the most frequent cause of accidental death in police custody among Aboriginal people.

TABLE 10.7
Deaths by Natural Causes, Deaths in Police Custody, 1980-88

	Aboriginal		*Non-Aboriginal*		*Total*	
Disease Group	*No.*	*%*	*No.*	*%*	*No.*	*%*
Heart diseases	5	25	13	42	18	35
Respiratory tract diseases	4	20	4	13	8	16
Stroke	2	10	2	6	4	8
Infectious diseases	1	5	-	-	1	2
Cancers	-	-	-	-	-	-
Digestive system diseases	-	-	2	6	2	4
Other diseases	6	30	6	19	12	24
Multiple diseases	2	10	4	13	6	12
Total	20	100	31	99	51	101

TABLE 10.8
Accidental Deaths, Deaths in Police Custody, 1980-88

	Aboriginal		*Non-Aboriginal*		*Total*	
Accident type	*No.*	*%*	*No.*	*%*	*No.*	*%*
Drugs*	1	12	4	29	5	24
Alcohol*	1	12	7	50	8	36
Head injury	5	62	1	7	6	27
Other	1	12	2	14	3	14
Total	8	98	14	100	22	101

*Deaths from overdose and/or sensitivity to alcohol or other drugs, other than cases identified as suicides.

Homicide

The number of cases for which homicide was the reported cause of death, a total of five, is far too small for any generalisations to be made. Three of these cases were Aboriginal and two were non-Aboriginal.

Custody

Offence

Information on the most serious offence or charge that led to the deceased person being placed in police custody was available for only 98 (54 per cent) of the 182 cases, (32 per cent of the Aboriginal cases and 64 per cent of the non-Aboriginal cases) and therefore these data must be interpreted with considerable

caution. This information was classified according to the modified Australian National Classification of Offences that has been used in previous research papers of the Royal Commission (*see*, for example Research Paper No. 7 at pp. 107-36 of this volume), and the result is shown in Table 10.9. This shows that just over half of the deceased persons, both Aboriginal and non-Aboriginal, had been detained for public drunkenness. (For the purposes of this table this includes the offence of public drunkenness as well as protective custody detention in those jurisdictions where this behaviour has been decriminalised.)

TABLE 10.9
Most Serious Offence, Deaths in Police Custody, 1980-88

	Aboriginal		*Non-Aboriginal*		*Total*	
Offence	*No.*	*%*	*No.*	*%*	*No.*	*%*
Homicide	-	-	2	3	2	2
Assault	-	-	4	5	4	4
Sexual offences	-	-	1	1	1	1
Robbery	-	-	4	5	4	4
Break and enter	1	5	4	5	5	5
Fraud	-	-	-	-	-	-
Theft	-	-	5	6	5	5
Property damage	-	-	2	3	2	2
Justice procedures	4	21	5	6	9	9
Drunkenness	10	53	42	53	52	53
Other good order	4	21	3	4	7	7
Drug offences	-	-	1	1	1	1
Traffic offences	-	-	5	6	5	5
Other offences	-	-	1	1	1	1
Total	19	100	79	99	98	99

The data in Table 10.9 also indicate that the non-Aboriginal detainees were in custody for a much wider range of offences than were the Aboriginal detainees. Nevertheless, the clear majority of the detainees were being held for relatively minor offences relating to good order, with only 11 per cent being held for offences against the person, and 12 per cent for offences against property. This is illustrated in Figure 10.4.

Length of Time in Custody

Information on the length of time in custody before death was available in 123 (68 per cent) of the cases. This information suggests that the mean length of time in police custody to the time of death was 15 hours. In half of the cases the person died within five hours, and 89 per cent died under 48 hours. Expressed differently, of these 123 cases, 98 died on the first day, 14 on the second day and

the remaining 11 at a later time. There is no noticeable difference between Aboriginal people and non-Aboriginal people on this variable. This general pattern is shown in Table 10.10.

FIGURE 10.4
Most Serious Offence, Deaths in Police Custody, 1980-88

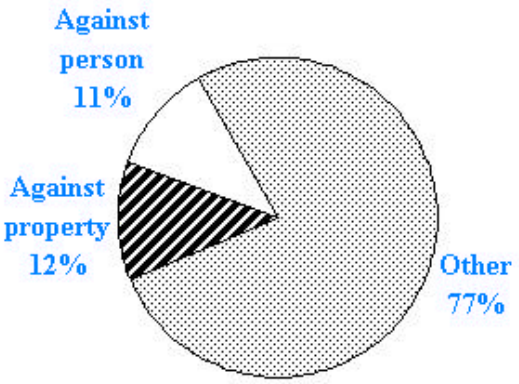
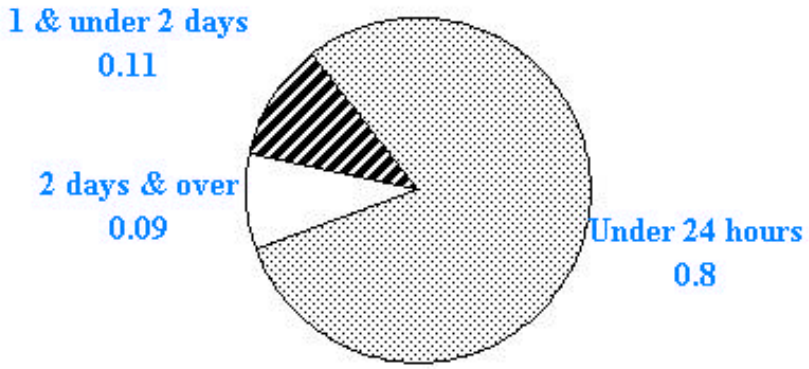


TABLE 10.10
Time in Police Custody prior to Death, Deaths in Police Custody, 1980-88

	Aboriginal		*Non-Aboriginal*		*Total*	
Time in custody	*No.*	*%*	*No.*	*%*	*No.*	*%*
Under 1 hour	1	3	10	11	11	9
1 and under 2 hours	4	13	13	14	17	14
2 and under 3 hours	5	17	9	10	14	11
3 and under 4 hours	3	10	7	8	10	8
4 and under 5 hours	-	-	9	10	9	7
5 and under 6 hours	2	7	3	3	5	4
6 and under 7 hours	2	7	2	2	4	3
7 and under 8 hours	1	3	4	4	5	4
8 and under 9 hours	-	-	3	3	3	2
9 and under 10 hours	-	-	3	3	3	2
10 and under 11 hours	-	-	1	1	1	1
11 and under 12 hours	-	-	4	4	4	3
12 and under 24 hours	3	10	9	10	12	10
1 and under 2 days	3	10	11	12	14	11
2 and under 7 days	6	20	4	4	10	8
7 and under 14 days	-	-	1	1	1	1
Total	30	100	93	100	123	98

These data clearly suggest that the first few hours in police custody are particularly dangerous. This is shown graphically in Figure 10.5.

FIGURE 10.5
Time in Police Custody prior to Death, Deaths in Police Custody, 1980-88



No significant difference exists between Aboriginal people and non-Aboriginal people as far as length of time in custody is concerned. However there is a relationship between some of the causes of death and the length of time in custody which is illustrated in Table 10.11 and Figure 10.6. From Table 10.11 it can be seen that the first few hours of police custody also appear to be especially dangerous with regard to self-inflicted deaths or suicide: 35 (62 per cent) of the 57 reported suicides occurred in the first four hours of custody. It is also noteworthy that deaths by natural causes appear to be more likely than deaths by other causes after the first 12 hours of detention.

Time from inspection

The police authorities who supplied the basic data for this study were asked to indicate how long a period had elapsed between the time when the person in custody was last inspected to the time of death. This information was provided in a useable form for only 60 (33 per cent) of the cases and therefore must be interpreted with caution. It is of some interest to know, however, that the average time between last inspection and death was 1.5 hours and there were no differences between Aboriginal people and non-Aboriginal people on this variable.

Alone at time of death

The authorities were also asked to advise whether the person was alone or with others at the time of death. When deaths that occurred in hospitals, and so on, are excluded, and one focuses only on deaths in police cells, data are available on 75 (48 per cent) of the 156 deaths in these circumstances. As shown in Table 10.12, the clear majority of these deaths occurred when the person was alone, and proportionately more non-Aboriginal persons died alone than did Aboriginal detainees.

TABLE 10.11

Time in Police Custody by Cause of Death, Deaths in Police Custody, 1980-88

	Self-inflicted		*Accident*		*Natural causes*		*Other*		*Total*	
Time in custody	*No.*	*%*	*No.*	*%*	*No.*	*%*	*No.*	*%*	*No.*	*%*
Under 1 hour	6	11	1	5	3	8	-	-	10	9
1 and under 2 hours	12	21	3	16	2	5	-	-	17	15
2 and under 3 hours	10	18	1	5	2	5	1	33	14	12
3 and under 4 hours	7	12	2	11	1	3	-	-	10	9
4 and under 5 hours	3	5	3	16	2	5	-	-	8	7
5 and under 6 hours	2	4	-	-	2	5	1	33	5	4
6 and under 7 hours	-	-	-	-	2	5	1	33	3	3
7 and under 8 hours	2	4	2	11	1	3	-	-	5	4
8 and under 9 hours	2	4	-	-	1	3	-	-	3	3
9 and under 10 hours	-	-	2	11	1	3	-	-	3	3
10 and under 11 hours	1	2	-	-	-	-	-	-	1	1
11 and under 12 hours	-	-	-	-	4	11	-	-	4	3
12 and under 24 hours	5	9	1	5	4	11	-	-	10	9
1 and under 2 days	4	7	2	11	7	18	-	-	13	11
2 and under 7 days	2	4	2	11	6	16	-	-	10	9
7 and under 14 days	1	2	-	-	-	-	-	-	1	1
Total	57	103	19	102	38	101	3	99	117	103

FIGURE 10.6

Self-Inflicted Deaths and Deaths by Natural Causes in the first twelve Hours of Police Custody, 1980-88

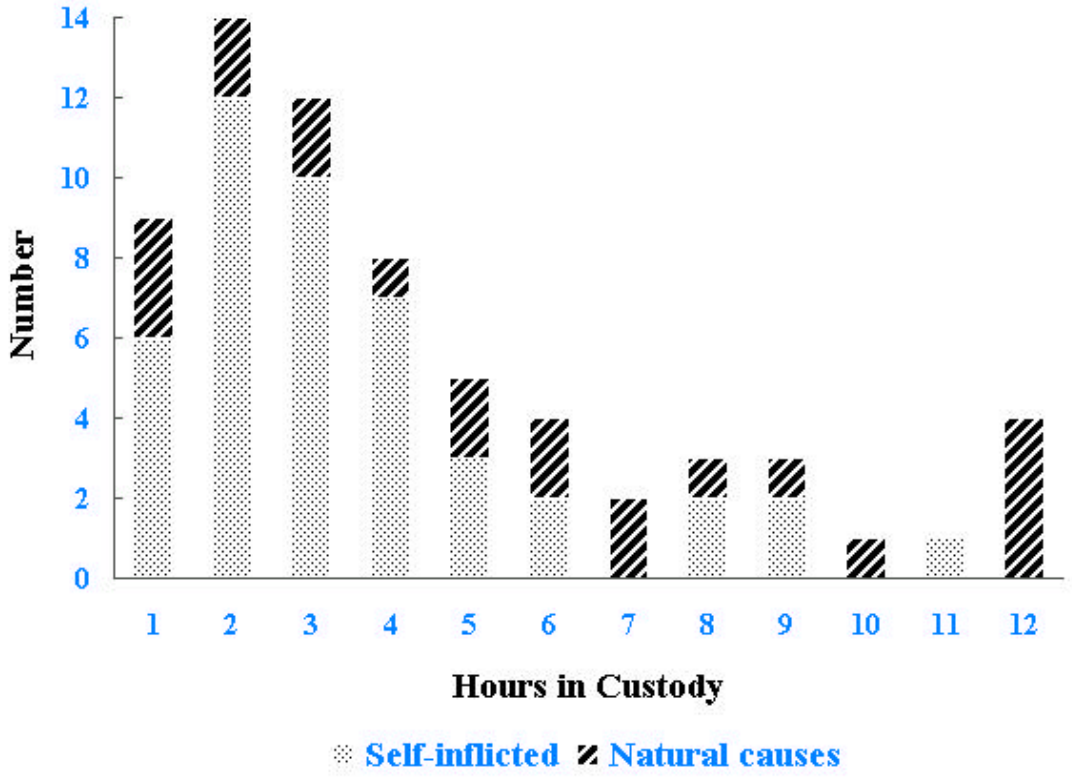


TABLE 10.12

Alone or with Others at Time of Death, Deaths in Police Custody, 1980-88

	Aboriginal		*Non-Aboriginal*		*Total*	
	No.	*%*	*No.*	*%*	*No.*	*%*
Alone	8	67	56	89	64	85
With others	4	33	7	11	11	15
Total	12	100	63	100	75	100

A closer examination of these data, focussing only on hanging cases, reveals that there were no Aboriginal hanging cases where the person was with others, and only a small number, four out of 35, of non-Aboriginal cases. This suggests that, for both Aboriginal and non-Aboriginal detainees, being in custody with other detainees is a strong deterrent to hanging.

Alcohol

Information on blood alcohol concentration was recorded in only 35 (19 per cent) of the 182 deaths in police custody. It is understood that the majority of these readings were obtained at post-mortem. Of those cases for which a recording was obtained, all were male, with 31 being non-Aboriginal. The blood alcohol concentration at the time of death ranged from less than .01 to 0.4 grams per cent.

Place of Death

As mentioned in the introduction to this paper, the data base being examined includes some cases of deaths in police custody where the actual death occurred in a hospital or place other than a police station. In all cases, however, the person was technically in police custody at the time of death. The basic facts indicating the place of death of all 182 cases are shown in Table 10.13.

TABLE 10.13
Place of Death, Deaths in Police Custody, 1980-88

	Aboriginal		*Non-Aboriginal*		*Total*	
Place of death	*No.*	*%*	*No.*	*%*	*No.*	*%*
Police cells	42	71	114	93	156	86
General hospital	14	24	8	6	22	12
Other	3	5	1	1	4	2
Total	59	100	123	100	182	100

The most important observation to be made about the data in Table 10.13 is the fact that, both in absolute and relative terms, considerably more Aboriginal deaths compared with non-Aboriginal deaths occurred in locations other than police cells. The comparison is between 29 per cent and 7 per cent which suggests that it is possible that some non-Aboriginal cases that might have been included in this study were overlooked. This possibility arises from the suggestion that the presence of the Royal Commission has brought more Aboriginal cases to notice than would have otherwise been the case.

The possibility alluded to above is given further support by the data in Table 10.14 which compare the place of death by hanging and natural causes for Aboriginal people and non-Aboriginal people. As might be expected, more deaths by natural causes occurred in general hospitals than did hanging cases, but it is noteworthy that proportionately more Aboriginal natural causes cases were located in general hospitals. Exactly 30 per cent of the Aboriginal deaths by natural causes occurred in hospitals compared with only 11 per cent of non-Aboriginal deaths of this type. The high level of deaths by natural causes among

Aboriginal people, in both police cells and hospitals, reflects at least in part, the high level of Aboriginal mortality seen in the general community.

TABLE 10.14
Place of Death by Hanging and Natural Causes, Deaths in Police Custody, 1980-88

	Aboriginal		*Non-Aboriginal*		*Total*	
Place of death	*Hanging*	*Nat.causes*	*Hanging*	*Nat.causes*	*Hanging*	*Nat.causes*
General hospital	1	6	1	3	2	9
Other	-	1	-	-	-	1
Total	19	20	57	27	76	47

Trends 1980-88

The 182 cases of deaths in police custody that are under examination did not occur uniformally throughout the nine-year period. As shown in Figure 10.7 and also in Table 10.15 there was an abnormally high number of deaths in 1987, the year that the Royal Commission was established. During that year the numbers of both Aboriginal and non-Aboriginal deaths were higher than for any other year in the period under review. In the seven years before 1987 there was a slight but uneven trend towards increasing numbers of deaths, but the 1987 total of 41 was well over twice as high as the mean for 1980 to 1986 which was 17.1.

In 1988 the total reduced to 21, still higher than the 1980 to 1986 mean but virtually identical with the level of the two years preceding 1987. It is noteworthy that this drop from 1987 to 1988 in the numbers of police custody deaths is much greater than occurred in prison custody (*see* Research Paper No. 7, pp. 107-36 of this volume). This should not be seen as a cause for complacency, however, as 21 deaths in police custody in one year is unacceptably high.

FIGURE 10.7
Deaths in Police Custody, 1980-88

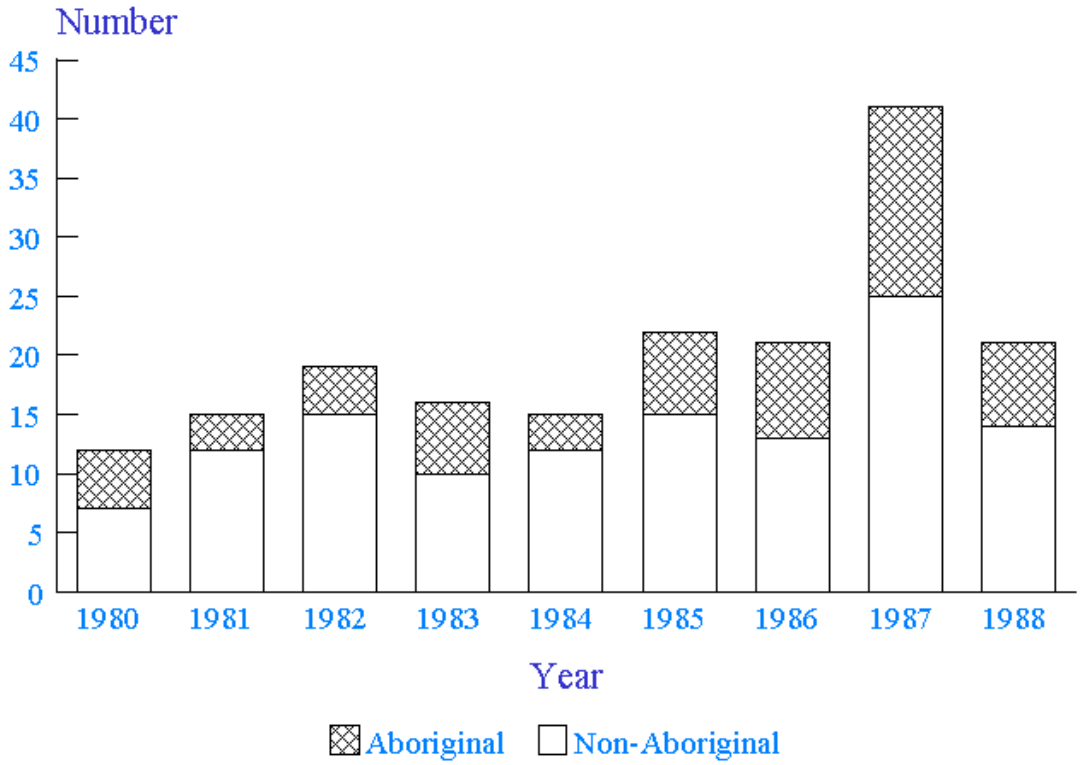


TABLE 10.15
Deaths in Police Custody, 1980-88

	Aboriginal		*Non-Aboriginal*		*Total*	
	No.	*%*	*No.*	*%*	*No.*	*%*
1980	5	42	7	58	12	100
1981	3	20	12	80	15	100
1982	4	21	15	79	19	100
1983	6	37	10	63	16	100
1984	3	20	12	80	15	100
1985	7	32	15	68	22	100
1986	8	38	13	62	21	100
1987	16	39	25	61	41	100
1988	7	33	14	67	21	100
Total	59	32	123	68	182	100

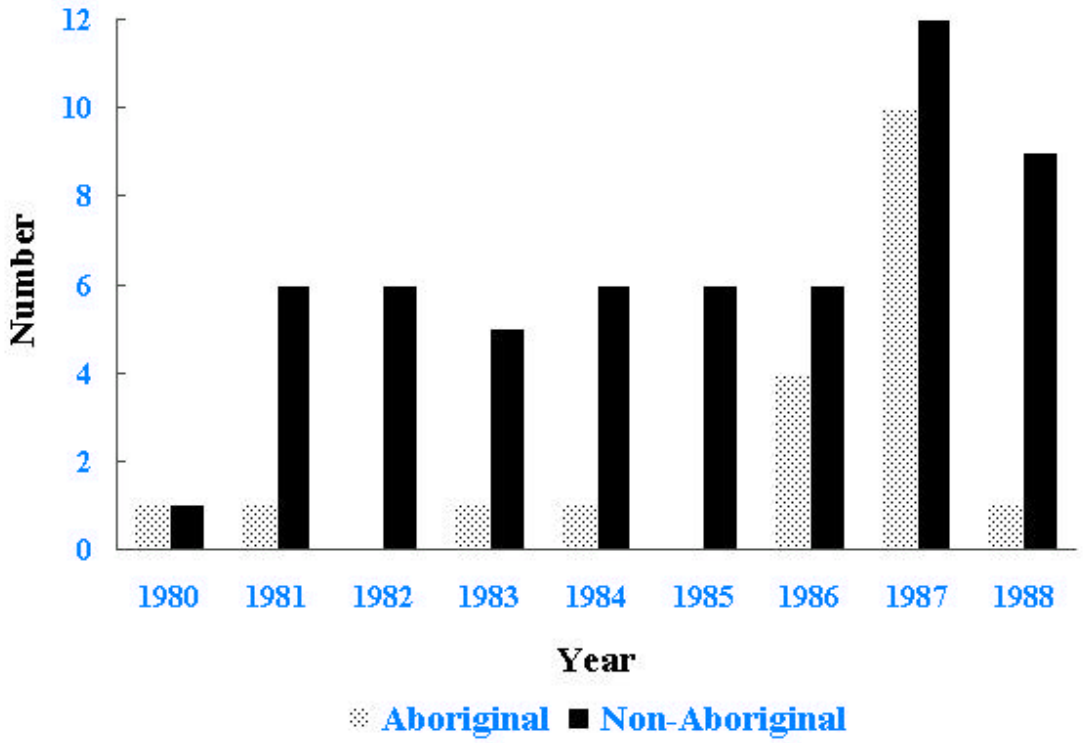
These data are further examined in Table 10.16 with a distinction being drawn between deaths resulting from hanging and all other causes. Data were available for this analysis on 173 (95 per cent) of the 182 cases. It can be seen from this table that hanging deaths were particularly prevalent in 1987, for both Aboriginal

people and non-Aboriginal people, compared to earlier years. This pattern is also shown graphically in Figure 10.8.

TABLE 10.16
Deaths by Hanging and all other Causes, Deaths in Police Custody, 1980-88

	Aboriginal			*Non-Aboriginal*			*Total*
	Hanging	*All other*	*Total*	*Hanging*	*All other*	*Total*	*All cases*
1980	1	4	5	1	5	6	11
1981	1	2	3	6	5	11	14
1982	-	4	4	6	9	15	19
1983	1	5	6	5	5	10	16
1984	1	2	3	6	6	12	15
1985	-	7	7	6	9	15	22
1986	4	4	8	6	5	11	19
1987	10	6	16	12	11	23	39
1988	1	4	5	9	4	13	18
Total	19	38	57	57	59	116	173

FIGURE 10.8
Deaths by Hanging, Deaths in Police Custody, 1980-88



The question of whether different age groups were more likely to die in police custody at different times during the nine-year period under review is

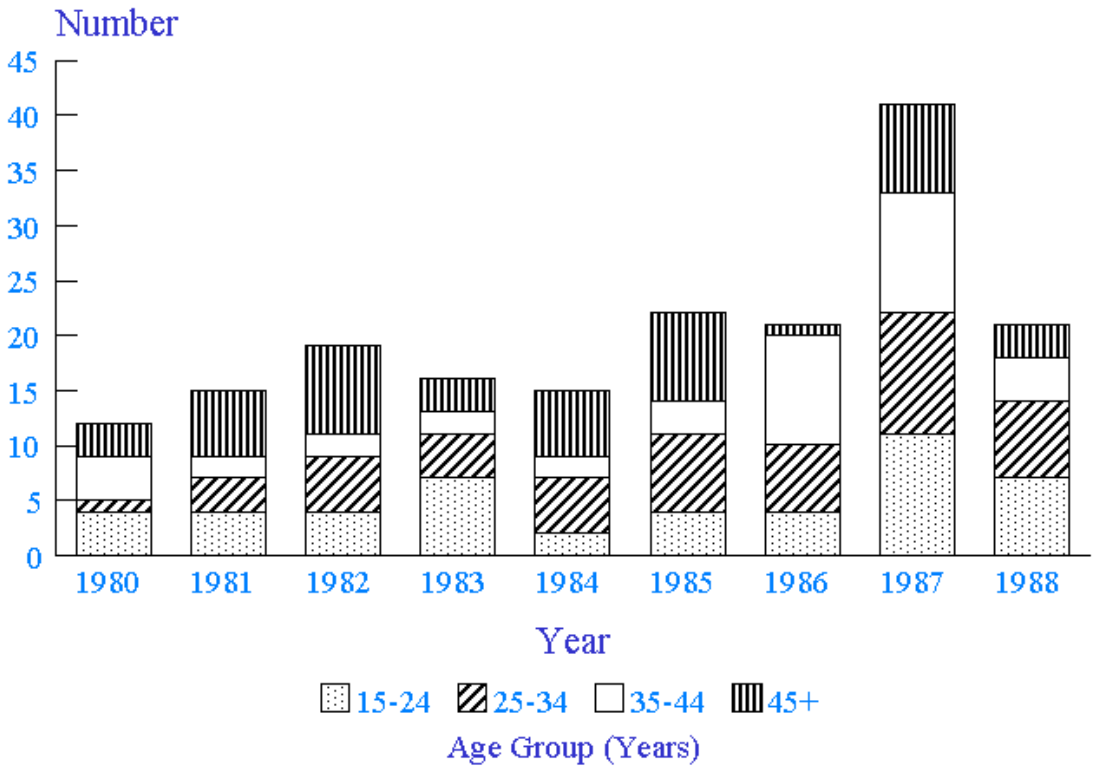
examined in Table 10.17 and Figure 10.9. The most notable observation to be made from these data is the fact that it is only the age groups up to 39 years that increased in 1987. For all of the older age groups there was no marked increase in that year. The 1987 phenomenon was one of young people dying in custody, predominantly by hanging and (even though the data are not reproduced here) predominantly male.

TABLE 10.17

Age Group, Deaths in Police Custody, 1980-88

	Age group (years)											
	15-19	*20-24*	*25-29*	*30-34*	*35-39*	*40-44*	*45-49*	*50-54*	*55-59*	*60-64*	*65+*	*Total*
1980	1	3	-	1	2	2	-	1	1	1	-	12
1981	1	3	2	1	1	1	1	2	1	2	-	15
1982	1	3	3	2	-	2	1	4	2	1	-	19
1983	1	6	3	1	-	2	-	2	1	-	-	16
1984	1	1	4	1	-	2	1	-	2	2	1	15
1985	1	3	5	2	2	1	3	1	1	-	3	22
1986	1	3	5	1	3	7	1	-	-	-	-	21
1987	4	7	7	4	6	5	2	2	1	1	2	41
1988	3	4	6	1	2	2	-	-	3	-	-	21
Total	14	33	35	14	16	24	9	12	12	7	6	182

FIGURE 10.9
Age Group, Deaths in Police Custody, 1980-88



Finally, in order to further explore the remarkably high figures for 1987, details of all Aboriginal and non-Aboriginal deaths for each jurisdiction are shown in Table 10.18. From this it can be seen that as far as Aboriginal people are concerned, Queensland accounted for exactly half of the high number in 1987. Without the eight Queensland cases in 1987, there would have been no increase in the national total in that year. Conversely, in relation to non-Aboriginal people, New South Wales and Victoria were the jurisdictions with the highest numbers of deaths in police custody in that year.

It can also be seen from Table 10.18 that Western Australia presents a somewhat different pattern from all other jurisdictions in that, particularly with regard to Aboriginal deaths, the figure was higher for 1988 than it was for 1987 and that state had a higher number of deaths in police custody than other jurisdictions had in the first two years of the period under review.

TABLE 10.18
Jurisdiction, Deaths in Police Custody, 1980-88

Year	*NSW*	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*Aust.*
				ABORIGINAL				
1980	-	-	-	3	-	-	2	5
1981	1	-	1	1	-	-	-	3
1982	1	2	-	1	-	-	-	4
1983	-	-	-	3	3	-	-	6
1984	-	-	2	-	-	-	1	3
1985	1	-	1	4	-	-	1	7
1986	2	-	3	-	1	1	1	8
1987	2	1	8	3	1	-	1	16
1988	-	-	1	5	1	-	-	7
Total	7	3	16	20	6	1	6	59
				NON-ABORIGINAL				
1980	2	-	3	2	-	-	-	7
1981	3	1	1	4	2	1	-	12
1982	5	2	4	1	2	1	-	15
1983	3	4	2	-	-	1	-	10
1984	5	2	2	3	-	-	-	12
1985	4	3	2	3	1	-	2	15
1986	5	2	2	1	2	-	1	13
1987	10	7	3	1	2	-	2	25
1988	7	1	3	2	-	1	-	14
Total	44	22	22	17	9	4	5	123
				PERSONS				
1980	2	0	3	5	-	-	2	12
1981	4	1	2	5	2	1	-	15
1982	6	4	4	2	2	1	-	19
1983	3	4	2	3	3	1	-	16
1984	5	2	4	3	-	-	1	15
1985	5	3	3	7	1	-	3	22
1986	7	2	5	1	3	1	2	21
1987	12	8	11	4	3	-	3	41
1988	7	1	4	7	1	1	-	21
Total	51	25	38	37	15	5	11	182

Summary

1. This is the first of two papers which focus on deaths in the different custodial environments controlled by police and prison authorities. This paper examines reported deaths in police custody which occurred during the period 1980-88. During that period, 182 deaths in police custody occurred, comprising 59 deaths of Aboriginal people and 123 deaths of non-Aboriginal people.

2. When allowance is made for age and their relative representation in the Australian population, it is found that Aboriginal people died in police custody at a rate more than 40 times the rate of non-Aboriginal people. The alarmingly high Aboriginal death rate is explained, almost entirely, by the over-representation of Aboriginal people in custody.

3. Substantial differences exist between the States and Territories regarding rates of deaths in custody, with the Northern Territory having the highest ratio of deaths to population at 7.1 deaths per 100,000 and Western Australia being the next highest at 2.6. With regard to Aboriginal deaths, Western Australia has the highest ratio at 53 per 100,000 followed by South Australia at 42. The lowest Aboriginal death ratio, that of New South Wales at 12, is still considerably higher than the highest non-Aboriginal deaths to population ratio.

4. Aboriginal people made up 32 per cent of the deaths in police custody, although they are less than 1.2 per cent of the Australian population aged 15 years and above. Some 95 per cent of the deaths were among men.

5. The average age at death was 36 years with little difference being seen between the Aboriginal and non-Aboriginal groups.

6. Suicide and other self-inflicted injuries (as defined by the police authorities who provided the data) was the most common cause of death reported, accounting for 46 per cent of the deaths, with natural causes accounting for a further 36 per cent. A higher proportion of non-Aboriginal people compared with Aboriginal people died from suicides (51 per cent compared with 35 per cent); conversely, a higher proportion of Aboriginal than non-Aboriginal deaths were attributed to natural causes (40 per cent compared with 34 per cent). Deaths by hanging accounted for 95 per cent of all reported suicides, whereas hanging is the cause of death in only 13 per cent of suicides in the general community.

7. Heart diseases were the most common natural cause of death, accounting for 35 per cent of deaths by natural causes, followed by respiratory tract diseases. The majority of accidental deaths among non-Aboriginal people

resulted from drug or alcohol overdose while deaths from head injuries were the most frequent cause of accidental deaths in police custody among Aboriginal people.

8. Public drunkenness (both the offence of public drunkenness as well as protective custody detention) was by far the most common behaviour which had led a person who died being held in custody, accounting for 53 per cent of the cases for which such data are available. The proportions were the same for Aboriginal and non-Aboriginal people. The majority of detainees were held for relatively minor offences relating to good order, accounting for 77 per cent of all cases.

9. The average length of time that people had been held in police custody, up to the time of death, was 15 hours. Some 80 per cent of the police custody deaths occurred on the first day of custody and 62 per cent of the self-inflicted deaths occurred during the first four hours of custody. More non-Aboriginal people were noted as having been alone at the time of their death (89 per cent) compared with Aboriginal people (67 per cent).

10. Some of the cases of deaths in police custody actually occurred in a hospital or place other than a police station. In all cases, however, the person was technically in police custody. More Aboriginal deaths (29 per cent) occurred in locations other than police cells compared with non-Aboriginal deaths (seven per cent). Some 30 per cent of Aboriginal deaths by natural causes occurred in hospitals compared with only 11 per cent of non-Aboriginal deaths of this type.

11. The total number of deaths in police custody for each year from 1980 to 1988 showed a slight but uneven trend towards increasing numbers of deaths but, in 1987, a dramatic increase occurred in the number of deaths among both Aboriginal and non-Aboriginal people. The 1987 figure of 41 is more than twice the annual average for 1980 to 1986 of 17 deaths. In 1988, the number of deaths dropped to a level virtually identical with the two years preceding 1987.

12. In 1987 the number of deaths by hanging increased among both Aboriginal people and non-Aboriginal people with the rate of increase being greater among the Aboriginal people. The 1987 phenomenon was one of young people dying in custody, predominantly by hanging and predominantly male.

13. Major differences exist between the Australian States and Territories in the patterns of change with respect to deaths in police custody. The greatest increase in Aboriginal deaths, in terms of numbers and percentage increase, occurred in Queensland which almost alone accounted for the high number of Aboriginal deaths in 1987. Conversely, in relation to non-Aboriginal

deaths, New South Wales and Victoria were the jurisdictions with the highest numbers of deaths in police custody in that year.

14. Western Australia displayed a different pattern from that of other jurisdictions in that, particularly with regard to Aboriginal deaths, the number of deaths was higher in 1988 than it was in 1987 and that Western Australia had a higher number of deaths in police custody than any other jurisdiction in the first two years of the period under review.

November 1989

References

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ACKNOWLEDGMENTS

The research project that is reported in this paper was made possible by the full cooperation of all Australian police forces. The forces of the six states and of the Northern Territory, together with the Australian Federal Police which is responsible for the policing of the Australian Capital Territory, all agreed to participate fully in this project by supplying the researchers with details of all Aboriginal and non-Aboriginal deaths that had occurred in police custody over the nine-year period, 1 January 1980 to 31 December 1988. (In the event, the Australian Federal Police were able to report no deaths during that period.) During the course of the project, police representatives were called upon many times to supplement, clarify or confirm information that they had supplied. This high level of cooperation and assistance is gratefully acknowledged by the Research Unit of the Royal Commission.

RESEARCH PAPER NO. 11

Australian Deaths in Prisons 1980-88: An Analysis of Aboriginal and Non-Aboriginal Deaths

David Biles
David McDonald
& Jillian Fleming

This is the second of two papers which focus on deaths in the different custodial environments controlled by police and prison authorities. These papers are supplementary to Research Paper No. 7 (*see* pp. 107-36 of this volume) and provide an opportunity for exploring in detail the two sub-groups of people who died in custody over the nine-year period 1980 to 1988. This paper is therefore a further product of the Royal Commission research project that is informally known as Black and White Deaths in Custody.

The basic data to be analysed and discussed in this paper comprise 280 case histories, 35 (12.5 per cent) of Aboriginal people and 245 (87.5 per cent) of non-Aboriginal people, who died while in the custody of prison authorities anywhere in Australia between 1 January 1980 and 31 December 1988. Not all of the deaths actually occurred in prisons as in some cases the person was transferred to hospital following illness or injury. As will be shown later, a slightly higher proportion of Aboriginal than non-Aboriginal cases were of this type. In all cases, however, the deceased person was technically under the custody of prison authorities regardless of the location where death occurred.

In early 1988 each of the Australian correctional services agreed to supply to the Research Unit of the Royal Commission basic information about all cases of deaths in prison custody that had occurred during the relevant period. This information was supplied on data collection forms which for each case provided: name, age, gender, Aboriginality, date and time of death, time since last seen alive by staff, cause/manner of death, most serious offence/charge, legal status, time served, approximate time to be served, place of death and whether or not the deceased person was alone at the time of death. The forms also made provision for other relevant factors, such as drug involvement, and psychiatric history, to be noted. In late 1988 consolidated lists were prepared and returned to corrections departments for confirmation or amendment and each department subsequently certified as to the accuracy of the data supplied. The lists, or case histories, that form the basis of this study were as known to the Research Unit on 3 March 1989.

This paper contains many comparisons between Aboriginal and non-Aboriginal people who died in prison custody. Aboriginal people are at least ten

times more likely than non-Aboriginal people to be in prisons, as shown by the results of the annual censuses of prisoners conducted each year since 1982 and coordinated by the Australian Institute of Criminology. As the two groups in prison represent quite different proportions of the Aboriginal and non-Aboriginal populations in the community, comparisons between the two groups must be interpreted with caution.

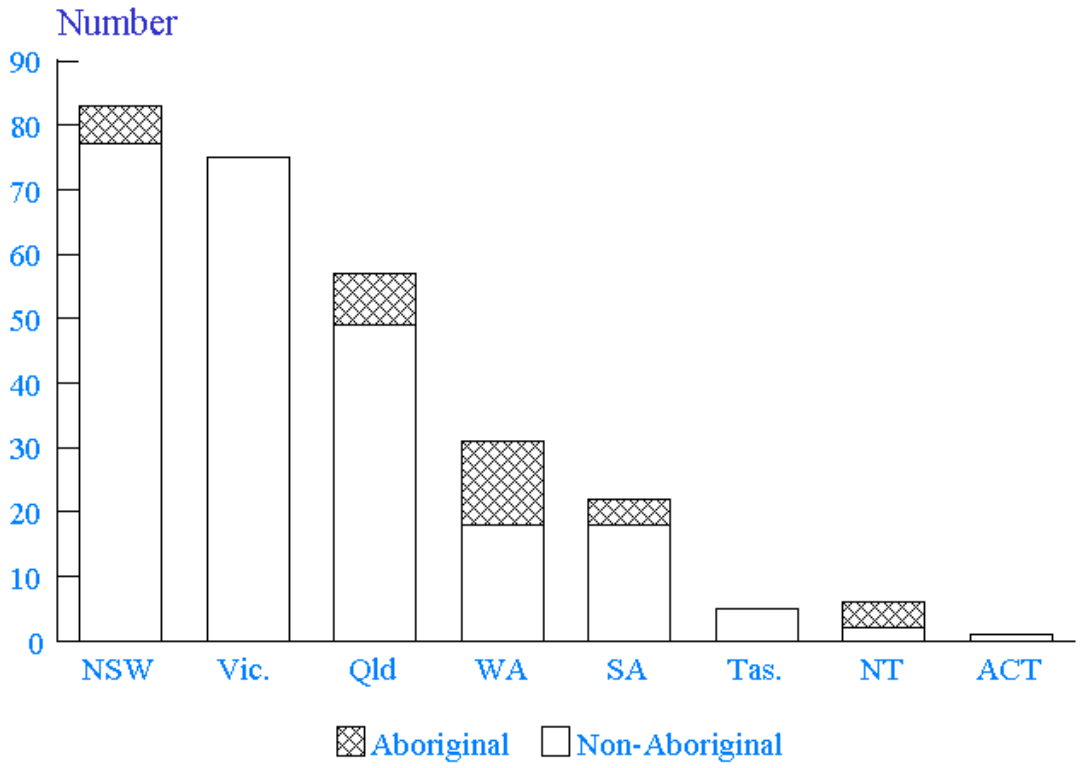
National Overview

The distribution of the 280 cases between the Australian states and territories is shown in Table 11.1

TABLE 11.1
Aboriginal and Non-Aboriginal Deaths in Prison Custody by Jurisdiction, 1980-88

	Aboriginal		*Non-Aboriginal*		*Total*	
	No.	*%*	*No.*	*%*	*No.*	*%*
NSW	6	17	77	31	83	30
Vic.	-	-	75	31	75	27
Qld	8	23	49	20	57	20
WA	13	37	18	7	31	11
SA	4	11	18	7	22	8
Tas.	-	-	5	2	5	2
NT	4	11	2	1	6	2
ACT	-	-	1	-	1	-
Aust.	35	99	245	99	280	100

FIGURE 11.1
Aboriginal and Non-Aboriginal Deaths in Prison Custody by Jurisdiction, 1980-88



From Table 11.1 it can be seen that the highest number of Aboriginal deaths in prison custody occurred in Western Australia, this jurisdiction accounted for 37 per cent of the national total, whereas the highest numbers of non-Aboriginal deaths occurred in New South Wales and Victoria, each of which accounted for 31 per cent of the national total. It can also be seen that the Northern Territory was the only jurisdiction to record a higher number of Aboriginal than non-Aboriginal deaths, and it is noted that there were no Aboriginal deaths in prisons during this period in Victoria, Tasmania or the Australian Capital Territory. These data are also presented graphically in Figure 11.1.

Ratios of Deaths in Prison Custody to Population

As indicated in Table 11.1, 35 (12.5 per cent) of the 280 deaths in prison custody over the relevant time were Aboriginal people. This proportion is slightly lower than the proportion of Aboriginal people in prisons, but when compared with the proportion of Aboriginal people in the general community, a different picture emerges. Aboriginal people comprise less than 1.2 per cent of the total Australian population aged 15 years or more. The 35 Aboriginal deaths are equivalent to 26 per 100,000 Aboriginal people aged 15 years and above in the community, whereas the 245 non-Aboriginal deaths are equivalent to two per

100,000 of the non-Aboriginal people in the same age group in the community. This means that Aboriginal people died in prison at a rate nearly 13 times that of non-Aboriginal people. The results of these calculations are shown in Table 11.2. The extremely high Aboriginal death rate in prisons is explained by the gross over-representation of Aboriginal people in prison custody.

There are notable differences between Australian jurisdictions in both Aboriginal and non-Aboriginal death ratios and these are shown in Table 11.3. When the total deaths in prison custody are considered it can be seen from this table that the Northern Territory has the highest ratio at 3.9 while Queensland and Western Australia are the next highest, both at 2.2. When non-Aboriginal people alone are considered, the highest death ratios are found in Victoria and Queensland, but for Aboriginal deaths alone, the highest ratio is found in Western Australia. In all jurisdictions where any Aboriginal people died in prisons over the relevant period, the Aboriginal death ratios were very much higher than the non-Aboriginal death ratios. This again confirms the seriousness of the issue of Aboriginal deaths in prison custody.

TABLE 11.2
Ratios of Prison Custody Deaths, 1980-88, to Adult Populations

	Population 1986 Census	*Persons 15 years+*	*Deaths in prison 1980-1988*	*Deaths per 100,000 population 15 years+*
Aboriginal	227,645	137,133	35	25.5
Non-Aboriginal	15,374,511	11,965,311	245	2.0
Total	15,602,156	12,102,444	280	2.3

TABLE 11.3
Deaths to Population Ratios, State and Aboriginality, Deaths in Prison Custody, 1980-88

State	*Aboriginal deaths in prisons*	*Aboriginal death ratios[(a)]*	*Non-Aboriginal deaths in prisons*	*Non-Aboriginal death ratios[(b)]*	*Total deaths in prisons*	*State death ratios(c)*
NSW	6	10	77	1.4	83	1.5
Vic.	-	-	75	1.9	75	1.9
Qld	8	13	49	1.9	57	2.2
WA	13	34	18	1.3	31	2.2
SA	4	28	18	1.4	22	1.6
Tas.	-	-	5	1.2	5	1.1
NT	4	11	2	1.7	6	3.9
ACT	-	-	1	0.4	1	0.4
Aust.	35	15	245	1.6	280	1.8

[(a)]Aboriginal deaths in prison custody 1980-1988 per 100,000 of the Aboriginal population at the 1986 Census.

(b)Non-Aboriginal deaths in prison custody 1980-1988 per 100,000 of the non-Aboriginal population at the 1986 Census.
(c)Total state/territory deaths in prison custody per 100,000 population at the 1986 Census.

Crude mortality rates

Technical problems exist in calculating mortality rates in which the numbers of deaths in prison are shown in relation to the size of the prison population. It is desirable that allowance be made, in such calculations, for the differing age distributions of the populations under consideration and for the concept of exposure to risk, which is a function, in part, of the varying periods spent in custody by different populations. These issues will be covered in a later paper in this series which reviews the methodological issues in the calculation of the over-representation of Aboriginals in custody and relative mortality rates.

Pending the release of such a methodological paper, it is noted that the crude mortality rate for prisoners (number of deaths per annum in prison custody per 1,000 prisoners of all ages) is 2.6. For Aboriginal prisoners the rate is 2.2 and for non-Aboriginal prisoners 2.7. Since the Aboriginal and non-Aboriginal prisoners have similar age distributions, these crude rates are, to a substantial extent, comparable. (They cannot be directly compared, however, with the crude mortality rate of Australia as a whole (7.2 deaths per 1,000 population) as the age distribution of the Australian population is markedly different from that of prison detainees.)

Table 11.4 shows the mortality rates on a state-by-state basis. (Because it compares the number of deaths with the number of prisoners, the pattern revealed is quite different from that shown in Table 11.3, which compares the number of deaths with the size of the total state populations.) It will be noted that Victoria has the highest prison mortality rate at 4.3 deaths per 1,000 prisoner years (after the Australian Capital Territory which had only one prison death over the nine-year period). The Northern Territory rate is relatively low, while the other states have mortality rates similar to the overall national rate. The pattern is quite different for Aboriginal deaths alone: South Australia and Western Australia have Aboriginal prison mortality rates well above the overall national Aboriginal rate, while Victoria, Tasmania and the Australian Capital Territory had no Aboriginal prison deaths during the relevant period.

It is clear, then, that Aboriginal and non-Aboriginal prisoners had roughly similar mortality rates over the 1980-88 period with the Aboriginal rates being, in fact, a little lower than those of non-Aboriginal people. However, when we allow for the gross over-representation of Aboriginal people in prison (their national imprisonment rate is over ten times that of non-Aboriginal people), we see that they died in prison at a rate far higher than non-Aboriginal people, as shown in Table 11.3. Furthermore, Aboriginal people in the community have disturbingly high mortality rates: as a recent review concluded, '. . . for almost all disease categories, rates for Aboriginal and Torres Strait Islanders are more than for other Australians; deaths rates are up to four times higher, and life expectancy is up to 22 years less' (Australian Institute of Health, 1988, p. 105).

TABLE 11.4
Deaths to Prison Population Ratios, State and Aboriginality, Deaths in Prison Custody, 1980-88

State	*Aboriginal deaths in prisons*	*Aboriginal death rates[a]*	*Non-Aboriginal deaths in prisons*	*Non-Aboriginal death rates[b]*	*Total deaths in prisons*	*State death rates[c]*
NSW	6	1.8	77	2.1	83	2.0
Vic.	-	-	75	4.4	75	4.3
Qld	8	2.5	49	2.7	57	2.7
WA	13	2.9	18	1.8	31	2.1
SA	4	3.0	18	2.8	22	2.8
Tas.	-	-	5	2.3	5	2.0
NT	4	1.3	2	1.7	6	1.4
ACT	-	-	1	9.3	1	7.9
Aust.	35	2.2	245	2.7	280	2.6

[a]Mean annual Aboriginal deaths in prison custody 1980-88 per 1,000 Aboriginal prisoners at 30 June 1987.
[b]Mean annual non-Aboriginal deaths in prison custody 1980-88 per 1,000 non-Aboriginal prisoners at 30 June 1987.
[c]Mean annual total state/territory deaths in prison custody per 1,000 prisoners at 30 June 1987.

Demographic Characteristics

Aboriginality and gender

The Aboriginality and gender of those who died in prison custody are set out in Table 11.5. From this table it can be seen that 4 per cent of all the deaths were of females with the proportion of Aboriginal female deaths being slightly lower. However, these numbers are very small and should be interpreted with caution. The monthly publication of the Australian Institute of Criminology, *Australian Prison Trends*, shows that slightly more than 5 per cent of all persons in prisons throughout Australia are female, which suggests that females may be slightly less likely to die in prisons than are males. This generalisation applies to both Aboriginal people and non-Aboriginal people.

TABLE 11.5
Aboriginality and Gender, Deaths in Prison Custody, 1980-88

	Aboriginal		*Non-Aboriginal*		*Total*	
	No.	*%*	*No.*	*%*	*No.*	*%*
Male	34	97	234	96	268	96
Female	1	3	11	4	12	4
Total	35	100	245	100	280	100

Age

The average age of people who died in prison custody during the period under review was 34.2 years, with half the cases being aged 30 years or younger. The Aboriginal and non-Aboriginal groups had similar age distributions with the corresponding figures for the Aboriginal prison deaths being 31.9 and 29 years respectively; for non-Aboriginal deaths 34.6 and 30 years respectively. The ages ranged from 17 to 57 years among the Aboriginal people and 17 to 75 years among the non-Aboriginal people. (By comparison, it is noted that the annual National Prison Censuses, conducted by the Australian Institute of Criminology, show that the mean age of Australian prisoners is approximately 30 years. The prisoners who died in custody were, therefore, a little older on average than the general prison population, reflecting the impact of natural causes deaths among the older detainees.)

The distribution of age groups of Aboriginal people and non-Aboriginal people who died in prison custody, as well as the age group distribution of the general community, is shown in Table 11.6 and Figure 11.2. Table 11.6 contains more detail and from this it can be seen that Aboriginal people are particularly at risk in their late twenties whereas non-Aboriginal people seem to be at risk throughout their twenties. For both groups exactly 40 per cent of all the deaths occurred among persons in their twenties. It can also be seen from this table that a very low proportion of Aboriginal persons aged 45 years or more died in this period (12 per cent) whereas in the non-Aboriginal groups a higher proportion were in this age group (22 per cent).

TABLE 11.6

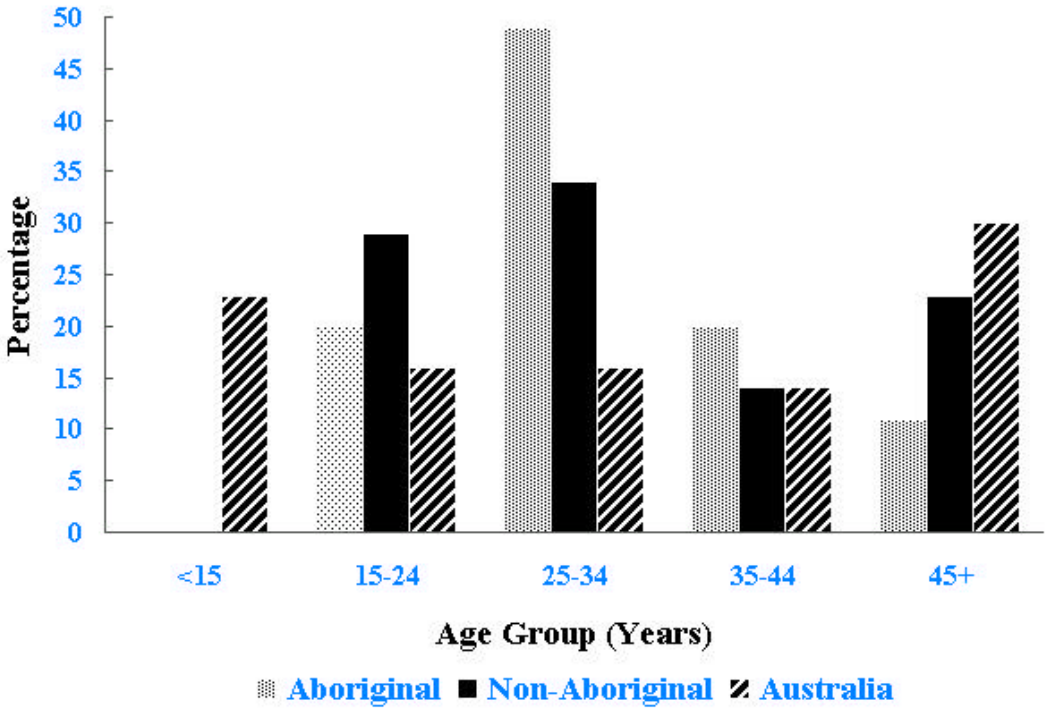
Age Group, Deaths in Prison Custody, 1980-88

	Deaths in custody						
	Aboriginal		*Non-Aboriginal*		*Total*		*General population**
Age group	*No.*	*%*	*No.*	*%*	*No.*	*%*	*%*
<15	-	-	-	-	-	-	23
15-19	4	11	20	8	24	9	8
20-24	3	9	50	20	53	19	8
25-29	11	31	50	20	61	22	8
30-34	6	17	34	14	40	14	8
35-39	2	6	17	7	19	7	8
40-44	5	14	18	7	23	8	6
45-49	1	3	13	5	14	5	5
50-54	2	6	13	5	15	5	5
55-59	1	3	10	4	11	4	5
60-64	-	-	7	3	7	3	4
65+	-	-	13	5	13	5	11
Total	35	100	245	98	280	101	99

*Proportions based on 1986 Census data.

FIGURE 11.2

Age Group, Deaths in Prison Custody, 1980-88, and Total Australian Population



Note: The columns labelled 'Aboriginal' and 'Non-Aboriginal' represent the percentages of the Aboriginal and non-Aboriginal people, who died in custody, who were in the age groups specified. The columns labelled 'Australia' are the percentages of the total Australian population in the respective age groups as enumerated in the 1986 Census.

Legal status

The legal status (that is, sentenced or on remand) of 268 of the 280 prison deaths is known. As shown in Table 11.7, some 28 per cent of these deaths occurred among remanded or unconvicted prisoners. Since remandees make up only 16 per cent of the Australian prison population (*see Australian Prison Trends* 1976- for remand rates), it is clear that they are particularly at risk of dying in custody. A higher proportion of non-Aboriginal remandees, compared with Aboriginal remandees, died in prison custody. It is also relevant to note that the remanded prisoners who died were significantly younger than the sentenced prisoners, with mean ages of 30 and 36 years respectively.

TABLE 11.7
Legal Status, Deaths in Prison Custody, 1980-88

	Remand		*Sentenced*		*Total*	
	No.	*%*	*No.*	*%*	*No.*	*%*
Aboriginal	6	8	28	15	34	13
Non-Aboriginal	70	92	164	85	234	87
Total	76	100	192	100	268	100

Reported Cause of Death

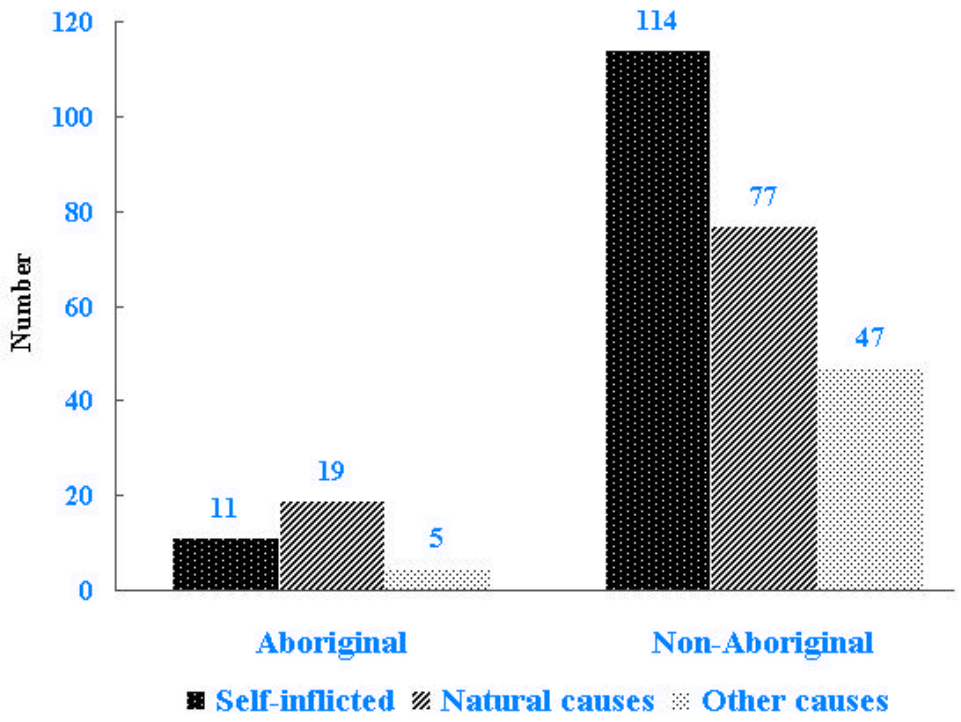
Information is available on the reported cause of death in 273 (97 per cent) of the 280 cases. The broad categories used for the analysis of this information are self-inflicted deaths (including suicide), natural causes, accident, homicide and 'other', but it is stressed that this classification is as reported by correctional authorities, frequently based on coroners' findings, and may not correspond with the determinations that have been, or are to be, made by the Commissioners. This distinction is particularly important with regard to 'suicide' (*see* Royal Commission into Aboriginal Deaths in Custody 1989).

TABLE 11.8
Reported Cause of Death, Deaths in Prison Custody, 1980-88

	Aboriginal		*Non-Aboriginal*		*Total*	
	No.	*%*	*No.*	*%*	*No.*	*%*
Self-inflicted	11	31	114	48	125	46
Natural causes	19	54	77	32	96	35
Accident	2	6	27	11	29	11
Homicide	1	3	15	6	16	6
Other	2	6	5	2	7	3
Total	35	100	238	99	273	101

As can be seen from Table 11.8, self-inflicted deaths or suicide was reported as the cause of death in 48 per cent of the non-Aboriginal deaths and 31 per cent of the Aboriginal deaths. Conversely, there were proportionately more Aboriginal deaths attributed to natural causes (54 per cent) than non-Aboriginal deaths (32 per cent). There were also proportionately more reported accidental deaths in the non-Aboriginal group. The overall pattern in relation to reported suicide, natural causes and other causes is presented more vividly in Figure 11.3.

FIGURE 11.3
Reported Cause of Death, Deaths in Prison Custody, 1980-88



As was found in relation to deaths in police custody, there is a clear and statistically significant relationship between age and reported cause of death in prison. Suicide was the most frequently reported cause of death among the younger age groups, accounting for 65 per cent of all cases under 30 years of age, while natural causes was the major reported explanation in the older age groups, accounting for 69 per cent of all cases over 40 years. There is, however, a noticeable difference between Aboriginal people and non-Aboriginal people on this factor with Aboriginal people being less likely than non-Aboriginal people to be reported as suicides in the younger age groups. Furthermore, even though natural causes was the dominant reported explanation for deaths in the older age groups for both Aboriginal people and non-Aboriginal people, there was a significant minority (25 per cent) of non-Aboriginal people over 40 years of age who were reported to have died as a result of suicide.

Remand prisoners differed significantly from sentenced prisoners regarding cause of death. Suicide was reported to be the cause in 72 per cent of the remandees' deaths, but in only 35 per cent of the sentenced prisoners' deaths. Natural causes, on the other hand, were implicated in only 12 per cent of the remandees' deaths, compared with 44 per cent of the sentenced group's deaths.

Self-inflicted

Information is available on the methods used in 121 of the 125 cases of self-inflicted deaths or reported suicides in prison. Hanging was by far the most frequently mentioned method, accounting for 108 (89 per cent) of these cases. Nine cases of reported suicide were classified as resulting from other external trauma and a further four cases resulting from drug overdoses. This pattern is quite different from that of suicides in the general community, where hangings made up only 13 per cent of such deaths (14 per cent among males and nine per cent among females (ABS 1983)). In the broader community, suicide by poisoning and by the use of firearms are much more common than suicide by hanging. This significant difference is largely explained by the very limited options that are available to persons in prison. Prisoners have virtually no access to poisons or firearms, and there is generally a higher level of surveillance than would be found in the community.

Similar proportions of males and females were reported to have died by suicide in prison custody, 46 per cent of the male deaths and 42 per cent of the female deaths. This is in contrast to the general community where the male suicide rate is almost four times the equivalent female rate.

Possibly the most important fact to emerge from this analysis of reported suicides in prisons, however, is shown in Table 11.8 and Figure 11.3 above. Both in absolute and relative terms the evidence suggests that considerably more non-Aboriginal people than Aboriginal people are likely to be reported as committing suicide in prisons.

Natural causes

Details of the deaths reported to be by natural causes are known in 86 (90 per cent) of the 96 cases so classified, and these details are reproduced in Table 11.9. The most striking fact to emerge from this table is the very high proportion of deaths from heart diseases. The clear majority of both Aboriginal and non-Aboriginal deaths from natural causes were reported to be the result of heart diseases, with no other sub-category seeming to be particularly significant.

TABLE 11.9
Deaths by Natural Causes, Deaths in Prison Custody, 1980-88

	Aboriginal		*Non-Aboriginal*		*Total*	
Disease group	*No.*	*%*	*No.*	*%*	*No.*	*%*
Heart diseases	12	67	35	51	47	55
Respiratory tract diseases	1	6	6	9	7	8
Stroke	-	-	5	7	5	6
Infectious diseases	1	6	5	7	6	7
Cancers	-	-	4	6	4	5
Digestive system diseases	2	11	1	1	3	3
Other disease	1	6	5	7	6	7
Multiple diseases	1	6	7	10	8	9
Total	18	102	68	98	86	100

Accidents

Data are available on all of the 29 prison deaths reported as accidental and these are summarised in Table 11.10. The Aboriginal numbers in this table are too small to form the basis for generalisation, but the very high proportion of non-Aboriginal cases resulting from drug overdoses (59 per cent) is a matter of concern as is the high number of deaths from fires (30 per cent). The overwhelming majority of drug deaths and deaths from fires occurred in New South Wales and Victoria.

TABLE 11.10
Accidental Deaths, Deaths in Prison Custody, 1980-88

	Aboriginal		*Non-Aboriginal*		*Total*	
Accident type	*No.*	*%*	*No.*	*%*	*No.*	*%*
Drugs*	1	50	16	59	17	59
Fire	-	-	8	30	8	28
Other	1	50	3	11	4	14
Total	2	100	27	100	29	101

*Deaths from overdose and/or sensitivity to alcohol or other drugs.

Homicide

The 16 cases of deaths reported as resulting from homicide, as shown in Table 11.8, comprise one Aboriginal and 15 non-Aboriginal cases. All were males. The one Aboriginal case was found by the coroner to be justifiable homicide as the prisoner was shot by a prison officer while attempting to escape. The 15 other homicide cases seem to have been all between prisoners and included four cases of stabbing, three of strangulation, two of throat slashing, two of head injuries, one of incineration and three for which the details were not given. Nine of these cases occurred in New South Wales and four in Victoria. Most of the New South Wales cases occurred in the first six months of imprisonment, while all of the Victorian cases occurred among prisoners who had served at least four years.

Imprisonment

Offence

Information on the most serious offence or charge that led to the deceased person being in prison was available for 267 (95 per cent) of the 280 cases. This information was classified according to the modified Australian National Classification of Offences that has been used in previous research papers of the Royal Commission (for example, Research Paper No. 7, *see* pp. 107-36 of this volume), and the result is shown in Table 11.11.

TABLE 11.11
Most Serious Offence of Conviction or Charge, Deaths in Prison Custody, 1980-88

	Aboriginal		*Non-Aboriginal*		*Total*	
Offence	*No.*	*%*	*No.*	*%*	*No.*	*%*
Homicide	3	9	68	29	71	27
Assault	4	12	15	6	19	7
Sexual offences	11	32	21	9	32	12
Robbery	1	3	33	14	34	13
Break and enter	4	12	24	10	28	10
Fraud	-	-	3	1	3	1
Theft	2	6	21	9	23	9
Property damage	1	3	3	1	4	1
Justice procedures	2	6	12	5	14	5
Drunkenness	1	3	3	1	4	1
Other good order	1	3	8	3	9	3
Drug offences	-	-	15	6	15	6
Traffic offences	4	12	6	3	10	4
Other offences	-	-	1	-	1	-
Total	34	101	233	97	267	99

In Table 11.11 it can be seen that the 'most serious offence' named most frequently was homicide, followed by robbery and sexual offences. If robbery is counted as an offence against the person, 58 per cent of all of the deceased prisoners were in custody for offences against the person (56 per cent of Aboriginal prisoners and 59 per cent of non-Aboriginal prisoners). This is in sharp contrast to the pattern of offences leading to police custody as shown in Research Paper No. 10 (*see* pp. 191-212 of this volume). It is also a much higher proportion of people imprisoned for offences against the person than is found in the total prison population. The annual censuses of prisoners generally show that about 40 per cent are in custody for offences against the person. This suggests that this group of prisoners may be at greater risk of death in prison than are the other groups. The relative proportions of deceased prisoners in custody for offences against the person, against property, and so on, are shown in Figure 11.4.

Length of time in prison

As indicated in the introduction to this paper, data were sought on the length of time that people were in custody prior to death. This information was provided in 212 (76 per cent) of the cases of deaths in prisons. Table 11.12 sets out the available data on this factor, and it can be seen that the first few days do not stand out as being particularly dangerous. This is again in sharp contrast to the findings in relation to police custody.

FIGURE 11.4
Most Serious Offence of Conviction or Charge, Deaths in Prison Custody, 1980-88

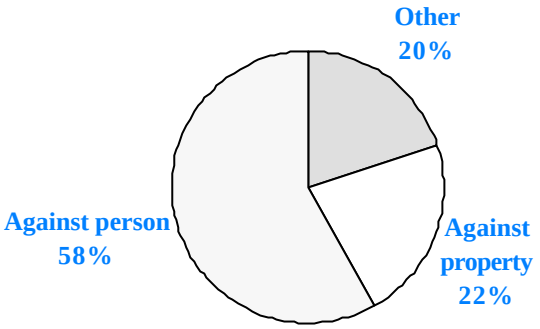


TABLE 11.12
Time in Prison Prior to Death, Deaths in Prison Custody, 1980-88

	Aboriginal		*Non-Aboriginal*		*Total*	
Time in prison	*No.*	*%*	*No.*	*%*	*No.*	*%*
Under 1 day	-	-	2	1	2	1
1 and under 2 days	-	-	7	4	7	3
2 and under 7 days	3	11	10	5	13	6
1 and under 2 weeks	1	4	10	5	11	5
2 weeks and under 1 month	1	4	9	5	10	5
1 and under 3 months	8	30	32	17	40	19
3 and under 6 months	4	15	25	14	29	14
6 and under 9 months	3	11	14	8	17	8
9 and under 12 months	-	-	4	2	4	2
1 and under 2 years	3	11	14	8	17	8
2 and under 3 years	3	11	16	9	19	9
3 and under 4 years	1	4	13	7	14	7
4 and under 5 years	-	-	5	3	5	2
5 years and above	-	-	24	13	24	11
Total	27	101	185	101	212	100

The distribution revealed in Table 11.12 is quite skewed, with a mean of 682 days (one year, 10 months) and a median, the point above and below which half of the cases fall, of 152 days (five months). A total of 133 prison deaths (63 per cent of the cases for which data are available) occurred in the first year of

imprisonment, the balance being spread up to a maximum of 26 years. Only nine deaths (4 per cent) occurred in less than 48 hours.

Table 11.12 also shows noticeable differences between Aboriginal people and non-Aboriginal people, with virtually all of the long-term prisoners who died in custody being non-Aboriginal. The mean period served prior to death for Aboriginal people was 247 days (eight months) with the equivalent mean for non-Aboriginal prisoners being 744 days (24 months).

In addition to the difference between Aboriginal people and non-Aboriginal people in the time served in prison before death, there also seems to be marked differences between the categories of reported cause of death and the time served in custody. The facts are shown in Table 11.13.

TABLE 11.13
Time in Prison by Cause of Death, Deaths in Prison Custody, 1980-88

	Self-inflicted		*Accident*		*Natural causes*		*Other*		*Total*	
Time in prison	*No.*	*%*	*No.*	*%*	*No.*	*%*	*No.*	*%*	*No.*	*%*
Under 1 day	2	2	-	-	-	-	-	-	2	1
1 and under 2 days	5	5	1	4	-	-	-	-	6	3
2 and under 7 days	7	7	-	-	4	6	2	10	13	6
1 and under 2 weeks	6	6	1	4	3	4	1	5	11	5
2 weeks & under 1 month	7	7	-	-	-	-	3	15	10	5
1 and under 3 months	21	22	6	24	13	19	-	-	40	19
3 and under 6 months	12	13	4	16	8	12	3	15	27	13
6 and under 9 months	11	12	-	-	4	6	2	10	17	8
9 and under 12 months	2	2	-	-	2	3	-	-	4	2
1 and under 2 years	3	3	3	12	9	13	2	10	17	8
2 and under 3 years	7	7	4	16	7	10	-	-	18	9
3 and under 4 years	3	3	1	4	7	10	1	5	12	6
4 and under 5 years	2	2	1	4	1	1	1	5	5	2
5 years and above	6	6	4	16	9	13	5	25	24	12
Total	94	97	25	100	67	97	20	100	206	99

It is clear from Table 11.13 that self-inflicted deaths are more likely than other causes of death to occur in the early hours or days of prison custody, but it is also noticeable that the period from one to six months of imprisonment is associated with relatively high numbers of self-inflicted and natural causes deaths. After one year or more of imprisonment, natural causes deaths are the most common.

Not surprisingly, a significant difference existed in the period in custody prior to death between remand and sentenced prisoners (means of 73 and 928 days respectively). Deaths reported to be by suicide occurred earlier in the remand group (a mean of 58 days) and much later in the sentenced group (a mean of 613 days). This highlights the fact that remand prisoners are particularly at risk of self-inflicted death.

Proportion of sentence served

Data have been provided on the total lengths of sentence being served by 116 people who died in prison custody and who had been sentenced, rather than being held on remand. This is approximately 60 per cent of the relevant cases.

The mean 'proportion of sentence served' up to the time of death was 42 per cent, with half the cases having served 37 per cent or less of their sentence. Aboriginal and non-Aboriginal people were similar, with means of 39 and 42 per cent respectively.

Nine of the 35 deaths reported to be by suicide in this group occurred among prisoners who had served between 10 and 20 per cent of their sentences. No other cause of death showed any firm relationship to proportion of sentence served.

Time from inspection

The prison authorities who supplied the basic data for this study were asked to indicate how long a period had elapsed between the time when the person in custody was last inspected to the time of death. This information was provided in a useable form for only 75 (27 per cent) of the cases and therefore does not justify detailed analysis. It may be of some interest to know, however, that overall the average time between last inspection and death was 3.2 hours, 3.8 hours for Aboriginal people and 3.1 hours for non-Aboriginal people.

Alone at time of death

The authorities were also asked to advise whether the person was alone or with others at the time of death. When deaths that occurred in hospitals, etc., are excluded, and one focuses only on deaths in prison cells, data are available on 152 (71 per cent) of the 215 deaths in these circumstances. As shown in Table 11.14, the clear majority of all deaths occurred when the person was alone; this applied to both Aboriginal and non-Aboriginal prisoners.

TABLE 11.14
Alone or with Others at Time of Death, Deaths in Prison Custody, 1980-88

	Aboriginal		*Non-Aboriginal*		*Total*	
	No.	*%*	*No.*	*%*	*No.*	*%*
Alone	13	81	105	77	118	78
With others	3	19	31	23	34	22
Total	16	100	136	100	152	100

A closer examination of these data, focussing only on hanging cases, reveals that there were no Aboriginal hanging cases where the person was with others, and only a small number, four out of 35, of non-Aboriginal cases. This is not surprising as it is understood that the majority of Australian prisoners are held in single cells.

Place of Death

As mentioned in the introduction of this paper, the data base being examined includes cases of deaths in prison custody where the actual death occurred in a hospital or place other than a prison. In all cases, however, the person was technically in prison custody at the time of death. The basic facts indicating the place of death of all 280 cases are shown in Table 11.15.

TABLE 11.15
Place of Death, Deaths in Prison Custody, 1980-88

	Aboriginal		*Non-Aboriginal*		*Total*	
Place of Death	*No.*	*%*	*No.*	*%*	*No.*	*%*
Prison	23	66	192	78	215	77
General hospital	10	29	43	18	53	19
Psychiatric hospital	1	3	8	3	9	3
Other	1	3	2	1	3	1
Total	35	101	245	100	280	100

From Table 11.15 it can be seen that proportionately more of the Aboriginal deaths compared with the non-Aboriginal deaths occurred in general hospitals. This suggests that the health status of the Aboriginal prisoners was less favourable than that of the non-Aboriginal people. As was shown earlier, a higher proportion of Aboriginal deaths resulted from natural causes which confirms the well-established fact of poor Aboriginal health. The percentages in Table 11.15 are also influenced by the very high number of non-Aboriginal hanging cases that

occurred in the prisons rather than in other locations. The basic facts of location of death and type of reported death by Aboriginality are shown in Table 11.16. This table also shows that prisoners are highly unlikely to die from hanging in locations other than the actual prisons.

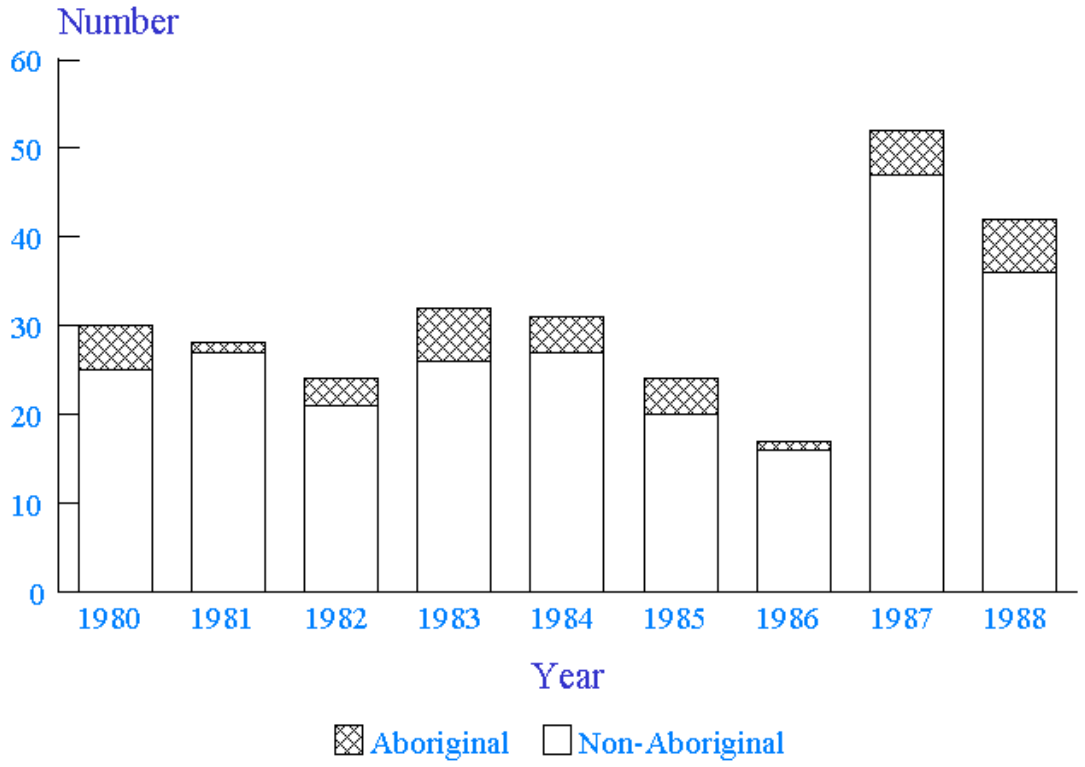
Trends 1980-88

The 280 cases of deaths in prison custody that are under examination did not occur uniformly throughout the nine-year period. As shown in Figure 11.5 and also in Table 11.17, there was an abnormally high number of deaths in 1987, the year that the Royal Commission was established. During that year the number of non-Aboriginal deaths was higher than for any other year in the period under review, but Aboriginal deaths were slightly higher in 1983 and 1988. In the seven years before 1987 there was a slight but uneven trend towards decreasing numbers of deaths in prisons, but the 1987 total of 52 was nearly twice as high as the mean for 1980 to 1986 which was just under 27.

TABLE 11.16
Place of Death by Hanging and Natural Causes, Deaths in Prison Custody, 1980-88

Place of	*Aboriginal*		*Non-Aboriginal*		*Total*	
Death	*Hanging*	*Nat.causes*	*Hanging*	*Nat.causes*	*Hanging*	*Nat.causes*
Prison	8	8	97	37	105	45
General hospital	-	8	1	32	1	40
Psychiatric hospital	-	1	1	4	1	5
Other	-	1	1	-	1	1
Total	8	18	100	73	108	91

FIGURE 11.5
Deaths in Prison Custody, 1980-88



From 1987 to 1988 the total number of deaths fell from 52 to 42, a level very much higher than the mean for 1980 to 1986. For whatever reason, prison deaths in 1988 did not fall to the same extent as did the number of deaths in police custody.

TABLE 11.17
Deaths in Prison Custody, 1980-88

	Aboriginal		*Non-Aboriginal*		*Total*	
	No.	*%*	*No.*	*%*	*No.*	*%*
1980	5	14	25	10	30	11
1981	1	3	27	11	28	10
1982	3	9	21	9	24	9
1983	6	17	26	11	32	11
1984	4	11	27	11	31	11
1985	4	11	20	8	24	9
1986	1	3	16	7	17	6
1987	5	14	47	19	52	19
1988	6	17	36	15	42	15
Total	35	99	245	101	280	101

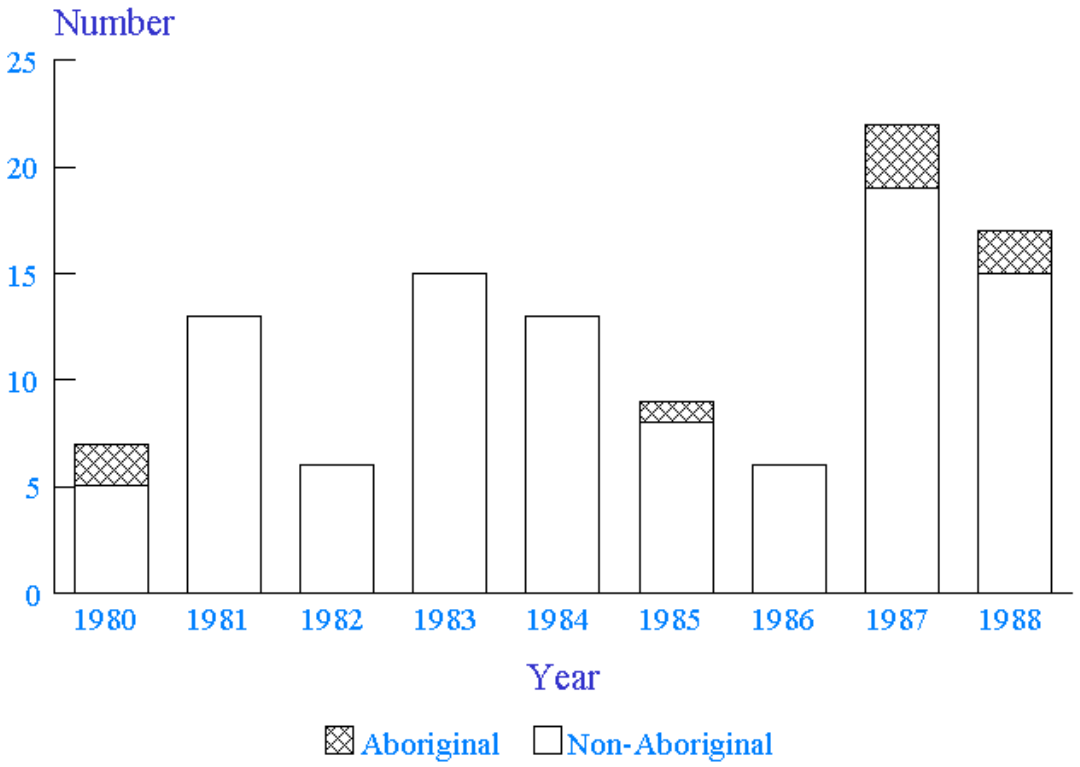
These data are further examined in Table 11.18 with a distinction being drawn between deaths resulting from hanging and all other causes. It can be seen from this table that hanging deaths were more frequent for both Aboriginal people and non-Aboriginal people in 1987, but there were far more non-Aboriginal hanging deaths. Over the nine-year period there were 100 non-Aboriginal deaths by hanging compared with a total of eight such Aboriginal deaths. This pattern is also shown graphically in Figure 11.6.

TABLE 11.18

Deaths by Hanging and all other Causes, Deaths in Prison Custody, 1980-88

	Aboriginal			*Non-Aboriginal*			
	Hanging	*Other causes*	*Total*	*Hanging*	*Other causes*	*Total*	***All cases***
1980	2	3	5	5	19	24	29
1981	-	1	1	13	13	26	27
1982	-	3	3	6	12	18	21
1983	-	6	6	15	10	25	31
1984	-	4	4	13	14	27	31
1985	1	3	4	8	12	20	24
1986	-	1	1	6	10	16	17
1987	3	2	5	19	26	45	50
1988	2	4	6	15	18	33	39
Total	8	27	35	100	134	234	269

FIGURE 11.6
Deaths by Hanging, Deaths in Prison Custody, 1980-88

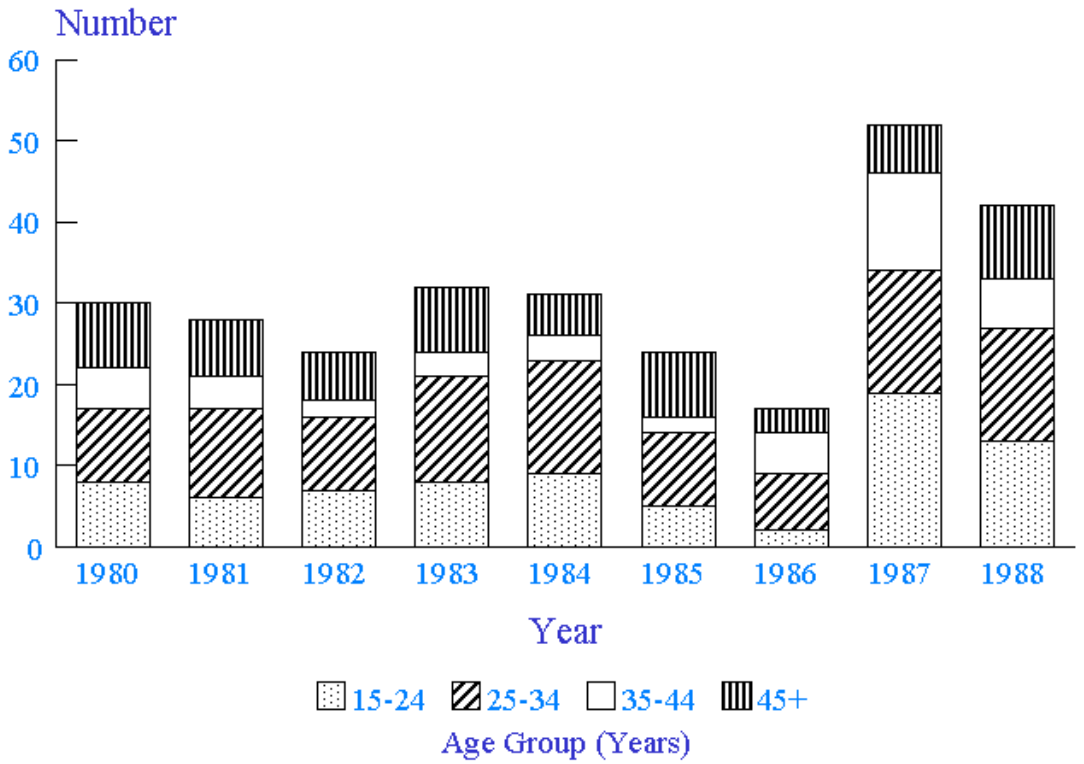


The question of whether different age groups were more likely to die at different times during the nine-year period under review is examined in Table 11.19 and Figure 11.7 below. During the 1980-86 period, the mean age at death was 35.1 years. This fell to 31.5 years in 1987 (with more than half [28 out of 52] of the deaths being among prisoners under 30 years of age), reflecting the higher proportion of self-inflicted deaths among the younger prisoners in that year. It is also notable that, for the nine-year period, the highest numbers occurred in the 25 to 29 year age group, closely followed by the 20 to 24 year age group.

TABLE 11.19
Age Group, Deaths in Prison Custody, 1980-88

	Age group (years)											
	15-19	*20-24*	*25-29*	*30-34*	*35-39*	*40-44*	*45-49*	*50-54*	*55-59*	*60-64*	*65+*	*Total*
1980	1	7	5	4	2	3	1	4	-	2	1	30
1981	1	5	7	4	-	4	1	4	1	-	1	28
1982	2	5	7	2	1	1	2	2	1	-	1	24
1983	2	6	8	5	2	1	2	1	2	2	1	32
1984	3	6	7	7	2	1	1	2	-	-	2	31
1985	2	3	8	1	2	-	1	-	1	2	4	24
1986	2	-	4	3	1	4	-	-	2	1	-	17
1987	8	11	9	6	7	5	2	1	2	-	1	52
1988	3	10	6	8	2	4	4	1	2	-	2	42
Total	24	53	61	40	19	23	14	15	11	7	13	280

FIGURE 11.7
Age Group, Deaths in Prison Custody, 1980-88



Finally, in order to explore the remarkably high figures for 1987, details of all Aboriginal and non-Aboriginal deaths for each jurisdiction are shown in Table 11.20. From this it can be seen that the high numbers in 1987 are virtually totally

explained by the non-Aboriginal deaths in that year in Victoria and New South Wales. In those two jurisdictions alone, well over half (36 out of 52) of all of the deaths occurred, and only one was of an Aboriginal person. It is also notable that non-Aboriginal deaths remained much higher than the average in Victoria during 1988.

The geographic distribution of Aboriginal deaths in prison over this period reveals no clear pattern except for the fact that Western Australia had the highest number of deaths. It is also noteworthy that three jurisdictions had no Aboriginal deaths in prison over this period. The remarkably high numbers of prison deaths in 1987 and 1988 were largely caused by the very high numbers of non-Aboriginal deaths in the two largest jurisdictions, New South Wales and Victoria.

TABLE 11.20
Jurisdiction, Deaths in Prison Custody, 1980-88

Year	*NSW*	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*ACT*	*Aust.*
				ABORIGINAL					
1980	1	-	1	1	1	-	1	-	5
1981	-	-	1	-	-	-	-	-	1
1982	-	-	-	3	-	-	-	-	3
1983	2	-	-	2	2	-	-	-	6
1984	1	-	-	3	-	-	-	-	4
1985	-	-	2	1	-	-	1	-	4
1986	-	-	1	-	-	-	-	-	1
1987	1	-	2	1	1	-	-	-	5
1988	1	-	1	2	0	-	2	-	6
Total	6	-	8	13	4	-	4	-	35
				NON-ABORIGINAL					
1980	6	4	7	2	6	-	-	-	25
1981	8	8	7	2	2	-	-	-	27
1982	4	5	5	3	3	1	-	-	21
1983	10	7	5	3	1	-	-	-	26
1984	9	11	5	2	-	-	-	-	27
1985	8	4	5	-	2	-	1	-	20
1986	7	2	6	-	-	-	1	-	16
1987	16	19	3	3	3	2	-	1	47
1988	9	15	6	3	1	2	-	-	36
Total	77	75	49	18	18	5	2	1	245
				PERSONS					
1980	7	4	8	3	7	-	1	-	30
1981	8	8	8	2	2	-	-	-	28
1982	4	5	5	6	3	1	-	-	24
1983	12	7	5	5	3	-	-	-	32
1984	10	11	5	5	-	-	-	-	31
1985	8	4	7	1	2	-	2	-	24
1986	7	2	7	-	-	-	1	-	17
1987	17	19	5	4	4	2	-	1	52
1988	10	15	7	5	1	2	2	-	42
Total	83	75	57	31	22	5	6	1	280

Summary

1. This is the second of two papers which focus on deaths in the different custodial environments controlled by police and prison authorities. This paper examines reported deaths in prison custody which occurred during the period 1980-88. During that period, 280 deaths in prison custody occurred, comprising 35 deaths of Aboriginal people and 245 deaths of non-Aboriginal people.

2. When allowance is made for age and their relative representation in the Australian population, it is found that Aboriginal people died in prison custody at a rate nearly 13 times the rate of non-Aboriginal people. The alarmingly high Aboriginal death rate is explained, almost entirely, by the over-representation of Aboriginal people in custody.

3. The highest numbers of Aboriginal deaths in prison custody occurred in Western Australia. This jurisdiction accounted for 37 per cent of the national total, whereas the highest numbers of non-Aboriginal deaths occurred in New South Wales and Victoria, each of which accounted for 31 per cent of the national total. There were no Aboriginal deaths in Victoria, Tasmania or the Australian Capital Territory during this period.

4. Substantial differences exist between the states and territories regarding rates of deaths in custody, with the Northern Territory having the highest ratio of deaths to population at 3.9 deaths per 100,000 and Western Australia and Queensland being the next highest at 2.2. With regard to Aboriginal deaths, Western Australia has the highest ratio at 34 per 100,000 followed by South Australia at 28. The lowest Aboriginal death ratio, that of New South Wales at 10 per 100,000, is still five times higher than the highest non-Aboriginal deaths to population ratio.

5. Aboriginal and non-Aboriginal people had roughly similar ratios of numbers of prison deaths to the size of their respective prison populations, with Aboriginal rates being a little less than those of non-Aboriginal people. South Australia and Western Australia had rates well above the overall national rate.

6. Aboriginal people made up 12.5 per cent of the deaths in prison custody, although they are less than 1.2 per cent of the Australian population aged 15 years and above. Some 96 per cent of the deaths were among men.

7. The average age at death was 34 years with the average age of death for Aboriginal people being lower, at 32. This is considered to be a reflection of the lower life expectancy of Aboriginal people in the community. Aboriginal people are particularly at risk in their late twenties whereas non-Aboriginal

people are at risk throughout their twenties. For both groups exactly 40 per cent of all the deaths occurred among persons in their twenties.

8. People in prison on remand made up 28 per cent of the deaths. This is a high rate when it is considered that remandees make up only 16 per cent of the Australian prison population.

9. Suicide and other self-inflicted injuries (as defined by the prison authorities who provided the data) were the most common cause of death reported, accounting for 46 per cent of the deaths, with natural causes accounting for a further 35 per cent. A higher proportion of non-Aboriginal people compared with Aboriginal people died from suicides (48 per cent compared with 31 per cent); conversely, a higher proportion of Aboriginal than non-Aboriginal deaths were attributed to natural causes (54 per cent compared with 32 per cent). Deaths by hanging accounted for 89 per cent of all reported suicides, whereas hanging is the cause of death in only 13 per cent of suicides in the general community.

10. Heart diseases were the most common natural cause of death, accounting for 55 per cent of deaths by natural causes. The majority of accidental deaths resulted from drug or alcohol overdose. Deaths from fire were the second most frequent cause of accidental deaths in prison custody among non-Aboriginal people. There were 16 deaths from homicide reported during this period, the majority being non-Aboriginal cases resulting from incidents arising between prisoners.

11. Homicide was by far the most frequent offence which had led to the deceased person being held in prison, accounting for 27 per cent of the cases for which such data are available. In contrast to the pattern of offences leading to police custody as shown in Research Paper No. 10, 58 per cent of all of the deceased prisoners were in custody for offences against the person (56 per cent of Aboriginal prisoners and 59 per cent of non-Aboriginal prisoners) compared with only 22 per cent for offences against property.

12. The average length of time that people had been imprisoned, up to the time of death, was one year and 10 months. Some 63 per cent of the prison deaths occurred during the first year of imprisonment with only 4 per cent occurring in the first 48 hours and the balance being spread up to a maximum of 26 years. Noticeable differences occurred between Aboriginal people and non-Aboriginal people with virtually all of the long term prisoners who died in custody being non-Aboriginal. The mean period served prior to death for Aboriginal people was eight months compared with 24 months for non-Aboriginal people. A higher proportion of Aboriginal people were noted as having been alone at the time of their death (81 per cent) compared with non-Aboriginal people (77 per cent).

13. Some of the cases of deaths in prison custody actually occurred in a hospital or place other than a prison. In all cases, however, the person was technically in prison custody. Proportionately more Aboriginal deaths (35 per cent) occurred in locations other than prisons compared with non-Aboriginal deaths (22 per cent).

14. The total number of deaths in prison custody for each year from 1980 to 1988 showed a slight but uneven trend towards decreasing numbers of deaths but, in 1987, a dramatic increase occurred in the number of deaths among both Aboriginal and non-Aboriginal prisoners. The 1987 figure of 52 deaths is almost twice the annual average for 1980 to 1986 of 27 deaths. From 1987 to 1988, the number of deaths fell from 52 to 42, a level still much higher than the mean for 1980 to 1986.

15. In 1987 the number of deaths by hanging increased from the level of the preceding years among both Aboriginal people and non-Aboriginal people. Overall, however, there were many more deaths by hanging among non-Aboriginal people. Over the nine-year period there were 100 non-Aboriginal deaths by hanging compared with a total of eight such Aboriginal deaths.

16. Major differences exist between the Australian states and territories in the patterns of change with respect to deaths in prison custody. The distribution of Aboriginal deaths in prison over this period reveals no clear pattern except for the fact that Western Australia had the highest number of deaths. Conversely, in relation to non-Aboriginal deaths, it can be seen that the high number in 1987 is almost totally explained by deaths in New South Wales and Victoria. In those two jurisdictions alone, well over half (36 out of 52) of all the deaths occurred, and only one was of an Aboriginal person.

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ACKNOWLEDGMENTS

The research project that is reported in this paper was made possible by the full cooperation of all Australian prison administrators. The heads of corrective service departments of the six states and two territories, all agreed to participate in this project by supplying the research staff of the Royal Commission with details of all Aboriginal and non-Aboriginal deaths that had occurred in prison custody over the nine-year period, 1 January 1980 to 31 December 1988. During the course of the project, prison administrators were called upon many times to supplement, clarify or confirm information they had supplied. This high level of cooperation and assistance is gratefully acknowledged by the Research Unit of the Royal Commission.

RESEARCH PAPER NO. 12

Deaths in Non-Custodial Corrections, Australia and New Zealand, 1987 and 1988

Jillian Fleming
David McDonald
& David Biles

This project was undertaken at the request of the states, territories and New Zealand Correctional Administrators and was approved by the Commissioners to become a part of the research program of the Royal Commission. It aims to provide information on all adult deaths which were reported to have occurred while the person was serving a non-custodial correctional order during the years 1987 and 1988. Non-custodial correctional orders include all orders which involve some form of supervision upon a person by a correctional authority outside of an institution. They include both post-prison orders such as parole and licence, as well as those orders that do not require any term of imprisonment, such as community service orders, work orders and probation. Although slight differences exist between jurisdictions, there are three main types of orders available in Australia. These are defined in the report of the first national census of community-based corrections in the following terms:

> *Probation/Supervised Recognizance*
>
> *When a person is convicted in any court for an offence for which imprisonment may be imposed, the court may make a Probation Order. Adult offenders can be released on probation by courts for a fixed period, during which time they receive supervision and a range of guidance, support and referral services from stipendiary and honorary staff.*
>
> *Community Service*
>
> *Community Service Orders provide a sentencing alternative to imprisonment whereby the courts can direct offenders to make generalised restitution by performing a set number of hours of community service work.*

Parole/Licence

> *Parole allows a prisoner to be released from prison at the discretion of a Parole Board to serve a parole period in the community. The 'parole period' is the difference between the minimum and maximum sentence as determined by the sentencing court. Persons serving indeterminate prison sentences (e.g. Life, Governor's Pleasure) are released 'On Licence' in some jurisdictions* (Walker & Biles 1986)

The results of this project will be used to assist in placing into a broader perspective the data on Aboriginal and non-Aboriginal deaths which have already been presented in other research papers of the Royal Commission (*see* in particular, Research Paper No. 7, pp. 107-36 of this volume). It may also provide data which will have implications for the management of non-custodial corrections programs. It may be of particular importance to policy makers and courts in the sentencing of young offenders and in making decisions about diverting people away from institutions. A smaller study on this subject was conducted in NSW in 1984 by the NSW Probation and Parole service (Haege unpub.). The results of this study indicated a high death rate for people serving non-custodial orders, and this was one of the factors that prompted the request for a national study to be undertaken.

The data to be analysed and discussed in this paper comprise 465 case histories (394 Australian and 71 New Zealand) which were reported to the Research Unit, of people who died while subject to a non-custodial correctional order anywhere in Australia and New Zealand during 1987 or 1988. The basic information was supplied by each of the correctional authorities in Australia and New Zealand for all deaths which had occurred in 1987 or 1988 of a person subject to a non-custodial corrections order during that period. This information was supplied on data collection forms, designed by the Research Unit, which for each case provided for name, age, Aboriginality or Maori/non-Maori, date of death, marital status, employment, type of order, length of order, time served, most serious offence/charge, and whether or not the person was facing impending court appearances. The forms also made provision for other relevant factors, such as correctional history, mental and physical health, drug or alcohol involvement, and so on, to be noted.

While all corrections departments gave their full support to the project, it is apparent from our examination of the data received that the coverage was less than complete in those jurisdictions which did not have central record keeping systems. In particular, it seems that Queensland and Western Australia were unable to supply full information and therefore may only be compared with other Australian jurisdictions with caution.

The following explanations are necessary in order to interpret the data correctly. In some cases the jurisdiction completing the form was different from the jurisdiction in which the non-custodial order was made. Because of this a distinction has been made between the state in which the order was originally taken out and the state in which the person died. In most cases, however, the

two are the same and unless shown otherwise, all analyses are based upon the jurisdiction in which the order was taken out.

Another distinction needs to be made concerning the different custodial orders in each of the states/territories of Australia and New Zealand. Only those orders that involved some form of supervision were included. While it is recognised that the different jurisdictions, because of their legislative provisions, use different terminology, it is still possible, using the 1985/86 Australian community-based corrections census as a guide, to aggregate the orders into the following general types:

- Probation: includes all cases of probation, recognizance, supervision, Victorian cases of community-based orders (CBO), unless stated in hours, and bond with supervision;

- Parole: includes orders such as after-care probation, pre-release order, release on licence, parole/licence and supervision licence;

- Community Service Order (CSO): includes periodic detention, Victorian cases of CBO stated in hours, fine option order, community service/work orders and attendance centre orders; and

- Other: includes pre-sentence supervision and bail supervision.

Note that for the purposes of this study it has been assumed that Victorian orders that include a community work component will generally be stated in hours even though this is not necessarily the case.

In addition to the above categories, there were 52 cases (11 per cent) where an individual was serving multiple orders at the time of death. These cases have only been counted once into one of the following combinations of orders; probation/CSO, probation/parole, probation/other and probation/CSO/other.

A final explanatory note is necessary concerning a very small number of cases of deaths where the person under supervision actually died in a police cell or prison following an arrest. These cases have not been included in the overall analysis of the data in this research paper as they have been included in other research projects of the Royal Commission (*see* Research Paper Nos. 10 and 11, pp. 191-212 and pp. 213-37 of this volume). However, a table has been included in the paper showing the actual numbers of people involved and details of their orders and cause of death.

Direct comparisons between the Australian states and territories and New Zealand cannot be made validly due to significant differences between the history and culture of Aboriginal and Maori people and differences in the non-custodial orders available in both countries. Accordingly, the findings of this study relating to Australia and New Zealand are presented separately.

AUSTRALIA

National Overview

The distribution of the 394 cases between the Australian states and territories is shown in Table 12.1.

TABLE 12.1
Aboriginal and Non-Aboriginal Deaths under Non-Custodial Orders by Jurisdiction, 1987 and 1988, Australia

	Aboriginal		*Non-Aboriginal*		*Total*	
	No.	*%*	*No.*	*%*	*No.*	*%*
NSW	12	39	194	53	206	52
Vic.	1	3	88	24	89	23
Qld	6	19	11	3	17	4
WA	4	13	14	4	18	5
SA	1	3	40	11	41	10
Tas.	2	6	10	3	12	3
NT	5	16	3	1	8	2
ACT	-	-	3	1	3	1
Total	31	99	363	100	394	100

From Table 12.1 it can be seen that the highest number of deaths occurred in New South Wales, which accounted for over half of all the deaths in non-custodial corrections. The highest number of Aboriginal deaths also occurred in New South Wales followed by Queensland, the Northern Territory and Western Australia. It can also be seen that the Northern Territory was the only jurisdiction to record a higher number of Aboriginal than non-Aboriginal deaths, and it is noted that there were no Aboriginal deaths in the Australian Capital Territory.

In a small number of cases, 15 (4 per cent), the person actually died in a state other than the one in which the order was being served. Table 12.2 shows the distribution of deaths by state of order and place of death.

As can be seen from Table 12.2, the majority of deaths occurred in the jurisdiction in which the order was originally taken out. In New South Wales, the jurisdiction with the largest number of reported deaths, only five deaths occurred of persons whose orders originated in another state/territory.

Ratio of deaths in non-custodial corrections to population

As indicated above, 31 (7.9 per cent) of the 394 non-custodial corrections deaths in 1987 and 1988 were of Aboriginal people. This proportion is similar

to the proportion of Aboriginal people in non-custodial corrections programs (8.4 per cent) (Debaecker 1990), but when compared with the proportion of Aboriginal people in the community, a different picture emerges. The 31 Aboriginal deaths are equivalent to 22.6 per 100,000 Aboriginal people aged 15 years and above in the general community, whereas the 363 non-Aboriginal deaths are equivalent to 3.0 per 100,000 of the non-Aboriginal people in the same age group in the community. This means that Aboriginal people died while under non-custodial corrections orders at a rate 7.5 times that of non-Aboriginal people. Details are presented in Table 12.3. This high Aboriginal death rate compared with that of non-Aboriginal people is largely explained by the over-representation of Aboriginal people in non-custodial correctional programs.

TABLE 12.2
Jurisdiction of Order by Jurisdiction of Death, Deaths in Non-Custodial Corrections, 1987 and 1988, Australia

	Order state								
	Death								
state	*NSW*	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*ACT*	*Aust.*
NSW	202	2	-	-	1	-	1	1	207
Vic	2	86	1	-	-	1	-	-	90
Qld	2	-	16	-	1	-	-	-	19
WA	-	1	-	18	-	-	-	-	19
SA	-	-	-	-	38	-	1	-	39
Tas	-	-	-	-	-	11	-	-	11
NT	-	-	-	-	1	-	6	-	7
ACT	-	-	-	-	-	-	-	2	2
Total	206	89	17	18	41	12	8	3	394

TABLE 12.3
Ratios of Non-Custodial Corrections Deaths to Adult Populations, 1987 and 1988, Australia

	Population 1986 Census	*Persons 15 years+*	*Deaths in non-custodial corrections 1987 and 1988*	*Deaths per 100,000 population 15 Years+*
Aboriginal	227,645	137,133	31	22.6
Non-Aboriginal	15,374,511	11,965,311	363	3.0
Total	15,602,156	12,102,444	394	3.3

In interpreting mortality data, it is also important to note the disparity that exists between the Aboriginal and non-Aboriginal populations, in the general community, regarding age specific mortality rates and life expectancies. As summarised in a recent review, '. . . for almost all disease categories, rates for Aboriginal and Torres Strait Islanders are worse than for other Australians; death rates are up to four times higher, and life expectancy is up to 22 years less' (Australian Institute of Health 1988, p. 105).

Notable differences exist between the Australian jurisdictions in their ratios of deaths in non-custodial corrections to state/territory populations, as shown in Table 12.4. When all such deaths in 1987 and 1988 are considered, it can be seen that the Northern Territory has the highest ratio at 5.2 deaths per 100,000 population, followed by New South Wales at 3.8 deaths per 100,000. When Aboriginal people alone are considered, the highest rate was found in Tasmania (30:100,000) although caution is needed when interpreting this as the number of Aboriginal deaths is small. After Tasmania, New South Wales had the highest ratio (20:100,000), followed by the Northern Territory with 14 per 100,000.

In each of the seven jurisdictions where Aboriginal people under non-custodial orders died in 1987 or 1988, the Aboriginal death ratios were much higher than those of the non-Aboriginal people. This again confirms the seriousness of Aboriginal deaths in correctional environments.

TABLE 12.4

Deaths to Population Ratios, State and Aboriginality, Deaths in Non-Custodial Corrections, 1987 and 1988, Australia

State	*Aboriginal deaths*	*Aboriginal death ratios[a]*	*Non-Aboriginal deaths*	*Non-Aboriginal death ratios[b]*	*Total deaths*	*State death ratios[c]*
NSW	12	20.3	194	3.6	206	3.8
Vic.	1	8.0	88	2.2	89	2.2
Qld	6	9.8	11	0.4	17	0.7
WA	4	10.6	14	1.0	18	1.3
SA	1	7.0	40	3.0	41	3.0
Tas.	2	29.8	10	2.3	12	2.7
NT	5	14.4	3	2.5	8	5.2
ACT	-	-	3	1.2	3	1.2
Aust.	31	13.6	363	2.4	394	2.5

[a]Aboriginal deaths in non-custodial corrections 1987 and 1988 per 100,000 of the Aboriginal population at the 1986 Census.
[b]Non-Aboriginal deaths in non-custodial corrections 1987 and 1988 per 100,000 of the non-Aboriginal population at the 1986 Census.
[c]Total state/territory deaths in non-custodial corrections 1987 and 1988 per 100,000 population at the 1986 Census.

Crude mortality rates

Technical problems exist in calculating mortality rates in which the number of deaths in non-custodial corrections is shown in relation to the size of the non-custodial corrections population. It is desirable that allowance be made, in such calculations, for the differing age distributions of the populations under consideration and for the concept of exposure to risk, which is a function, in part, of the varying periods spent in non-custodial corrections by different populations. These issues are covered in Research Paper No. 17 (*see* pp. 417-52 of this volume) which reviews methodological issues in the calculation of the over-representation of Aboriginals in criminal justice systems.

It is noted that the crude mortality rate (expressed as the number of deaths in non-custodial corrections per annum per 1,000 people of all ages on non-custodial correction orders at 30 June 1987) is 5.6. After allowing for missing data, the corresponding rates for Aboriginal people on such orders is 5.3 and for non-Aboriginal people on such orders 5.7. Since the Aboriginal and non-Aboriginal people on non-custodial correctional orders have similar age distributions, as described below, these crude mortality rates are, to a substantial degree, comparable. (They cannot be safely compared, however, with the crude mortality rate of Australia as a whole (7.2 deaths per 1,000 population) as, among other differences, the age distribution of the Australian population is quite different from that of the people on non-custodial orders.)

Some readers may wish to compare the observed crude mortality rates in non-custodial corrections, namely 5.6 deaths per annum per 1,000 people of all ages on non-custodial correctional orders, with the corresponding rate among prisoners. As indicated in Research Paper No. 11 (*see* pp. 213-37 of this volume), the crude mortality rate in Australian prisons over the 1980-88 period was approximately 2.6 per 1,000 prisoners.

Impediments exist to comparing these two mortality rates. Although the prisoners and people on non-custodial correctional orders have similar age distributions, the fact that almost two-thirds of people in the latter category are on orders of less than twelve months duration and that no evidence exists to show that the number of people on non-custodial orders does not change over time, suggest that the two rates cannot be directly compared. Although exact quantification is not possible, it is probable, however, that the mortality rate for people on non-custodial correctional orders is somewhat higher than that of prisoners. This accords, in fact, with commonsense. Life in the general community for both Aboriginal and non-Aboriginal young adult males with a criminal history is bound to be more dangerous, owing to the risk of death from drink driving, drug use, assaults, and so on, than is life in prison.

Demographic Characteristics

Aboriginality and gender

The Aboriginality and gender of those people who were reported to have died while serving some form of non-custodial order are set out in Table 12.5. From this table it can be seen that 12 per cent of all the deaths were female with the proportion of Aboriginal females being higher. The Australian Institute of Criminology's publication, *Australian Community-Based Corrections 1985-86: Results of the First National Census of Community-Based Corrections* (Walker & Biles 1986), shows that 16 per cent of all persons serving orders throughout Australia were female, which suggests that females are slightly less likely to die while serving non-custodial orders than are males.

TABLE 12.5
Aboriginality and Gender, Deaths in Non-Custodial Corrections, 1987 and 1988, Australia

	Aboriginal		*Non-Aboriginal*		*Total*	
	No.	*%*	*No.*	*%*	*No.*	*%*
Male	26	84	321	88	347	88
Female	5	16	42	12	47	12
Total	31	100	363	100	394	100

Age

The mean age of people reported to have died while serving a non-custodial order during 1987 and 1988 was 30 years, with half the cases being aged 27 years or younger. The Aboriginal and non-Aboriginal groups had similar age distributions with the corresponding figures for the Aboriginal deaths being 27 and 22 years respectively; for non-Aboriginal deaths 30 and 27 years respectively.

The distribution of age groups of Aboriginal people and non-Aboriginal people who were reported to have died while serving a non-custodial order, as well as the age group distribution of the general community, are shown in Table 12.6 and Figure 12.1. Table 12.6 shows that nearly two-thirds (62 per cent) of all deaths were of people under 30 years of age. This is similar to the proportion of people in this age group, 71 per cent, who were serving non-custodial correctional orders as shown in the 1985/86 national census of community-based corrections. Nearly three-quarters (73 per cent) of the Aboriginal deaths in this study were of persons under 30 years of age.

It can also be seen that a very low proportion (11 per cent) of people who died while on non-custodial orders were aged 45 years or more. This again reflects the age distribution of people serving non-custodial orders at the time of the 1985/86 census which showed only 10 per cent of people were aged over 40 years.

Marital status

The marital status of 384 (97 per cent) of the 394 reported deaths is known. As shown in Table 12.7, over half (58 per cent) of the people were single at the time of death with almost one-quarter being married or living in a defacto relationship. It is noted that 10 per cent of the Aboriginal population was widowed at the time of their death compared with only 2 per cent for non-Aboriginal people.

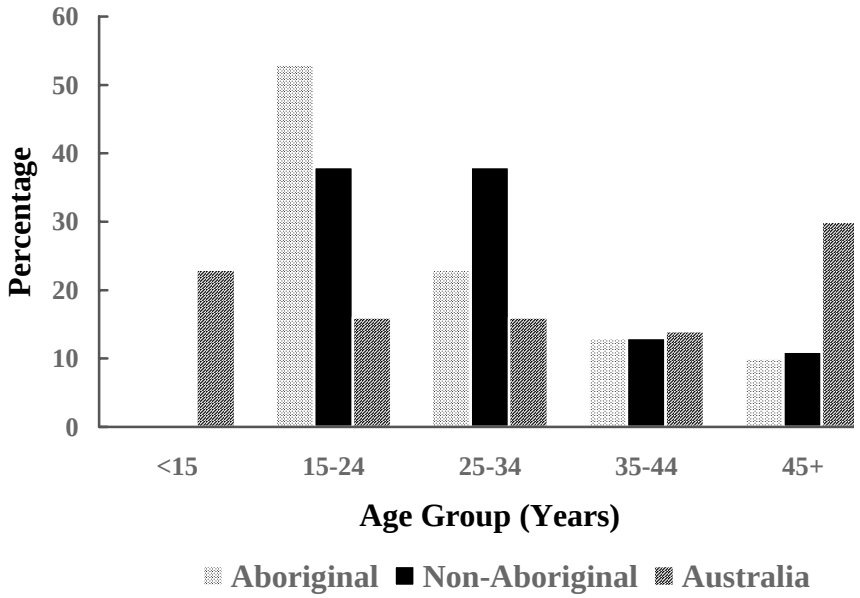
By comparison, it is noted that the Australian National Census of Community-Based Corrections shows that at the time of the census, 35 per cent of people serving orders were single while only 18 per cent were married or living in a defacto relationship. The people who died were, therefore, more likely to be single than the general non-custodial corrections population.

TABLE 12.6
Age Group, Deaths in Non-Custodial Corrections, 1987 and 1988, Australia

	Aboriginal		*Non-Aboriginal*		*Total*		*General population*
Age group	*No.*	*%*	*No.*	*%*	*No.*	*%*	*%**
<15	-	-	-	-	-	-	23
15-19	8	27	29	8	37	9	8
20-24	8	27	107	30	115	29	8
25-29	6	20	87	24	93	24	8
30-34	1	3	50	14	51	13	8
35-39	2	7	28	8	30	8	8
40-44	2	7	20	6	22	6	6
45-49	2	7	13	4	15	4	5
50-54	-	-	8	2	8	2	5
55-59	1	3	5	1	6	2	5
60-64	-	-	6	2	6	2	4
65+	-	-	9	2	9	2	11
Total	30	101	362	101	392	101	99

*Proportions based on 1986 Census data.

FIGURE 12.1
Age Group, Deaths in Non-Custodial Corrections, 1987 and 1988, Australia, and Total Australian Population



Note: The columns labelled 'Aboriginal' and 'non-Aboriginal' represent the percentages of the Aboriginal and non-Aboriginal people, who died while serving non-custodial correctional orders in 1987 and 1988, who were in the age groups specified. The columns labelled 'Australia' are the percentages of the total Australian population in the respective age groups as enumerated in the 1986 census.

TABLE 12.7
Marital Status, Deaths in Non-Custodial Corrections, 1987 and 1988, Australia

	Aboriginal		*Non-Aboriginal*		*Total*	
	No.	*%*	*No.*	*%*	*No.*	*%*
Never married	17	55	204	58	221	58
Married/defacto	7	23	82	23	89	23
Separated	3	10	37	10	40	10
Divorced	1	3	23	7	24	6
Widowed	3	10	7	2	10	3
Total	31	101	353	100	384	100

Employment status

The employment status is known for 374 of the 394 reported deaths. As shown in Table 12.8, the majority of people (71 per cent) were unemployed with only 23 per cent being engaged in either full-time or part-time employment at the time of death. Proportionately more Aboriginal people (87 per cent) were unemployed compared with non-Aboriginal people (70 per cent). The proportion of people serving orders who were unemployed at the time of death was high compared with the proportion of all people serving non-custodial orders who were unemployed (25 per cent at the 1985-86 census) suggesting that those people who are unemployed are at considerably higher risk of death than those who have some form of employment.

TABLE 12.8
Employment Status, Deaths in Non-Custodial Corrections, 1987 and 1988, Australia

	Aboriginal		*Non-Aboriginal*		*Total*	
	No.	*%*	*No.*	*%*	*No.*	*%*
Full-time employed	2	7	67	19	69	18
Part-time employed	1	3	16	5	17	5
Unemployed	26	87	240	70	266	71
Other	1	3	21	6	22	6
Total	30	100	344	100	374	100

Place of death

As mentioned earlier, there were a small number of reported cases where the person serving a non-custodial order actually died in police or prison custody. To avoid double counting, these cases have been excluded from the main analysis in this report but are presented here for the sake of completeness. As can be seen from Table 12.9, a total of 17 deaths took place in custody, six Aboriginal people and 11 non-Aboriginal people. Most of the Aboriginal cases (five out of six) reported to have died in custody occurred in police custody whereas the majority of reported non-Aboriginal cases (seven out of eleven) died in prison.

TABLE 12.9
Place of Death, Deaths in Non-Custodial Corrections, 1987 and 1988, Australia

	Aboriginal		*Non-Aboriginal*		*Total*	
	No.	*%*	*No.*	*%*	*No.*	*%*
Police	5	14	4	1	9	2
Prison	1	3	7	2	8	2
Community	31	84	363	97	394	96
Total	37	101	374	100	411	100

Correctional Background

Offence

Information on the most serious offence or charge that led to the deceased person serving a non-custodial order was available for 393 of the 394 cases. This information was classified according to the modified Australian National Classification of Offences that has been used in previous research papers of the Royal Commission (for example, *see* Research Paper No. 7, pp. 107-36 of this volume), and the result is shown in Table 12.10.

TABLE 12.10
Most Serious Offence of Conviction or Charge, Deaths in Non-Custodial Corrections, 1987 and 1988, Australia

	Aboriginal		*Non-Aboriginal*		*Total*	
	No.	*%*	*No.*	*%*	*No.*	*%*
Homicide	2	6	9	2	11	3
Assault	5	16	51	14	56	14
Sexual offences	2	6	16	4	18	5
Robbery	3	10	24	7	27	7
Theft	5	16	65	18	70	18
Break and enter	9	29	72	20	81	21
Fraud	-	-	29	8	29	7
Property damage	-	-	4	1	4	1
Other good order	-	-	8	2	8	2
Justice procedures	-	-	15	4	15	4
Drug offences	2	6	42	12	44	11
Traffic offences	3	10	26	7	29	7
Other offences	-	-	1	-	1	-
Total	31	99	362	99	393	100

In Table 12.10 it can be seen that 'the most serious offence' named most frequently was break, enter and steal, followed by theft. Almost half (47 per

cent) of all offences were property related (that is, theft, break and enter, fraud and property damage) with only 28 per cent being offences against the person (that is, homicide, assault, sexual offences and robbery). In general, the pattern found here approximates the relative proportions of people serving non-custodial orders for these types of offences as shown in the national census 1985/86. However, the proportion of people who died while serving a non-custodial order for property offences is slightly lower (47 per cent) than the proportion of people placed on non-custodial orders for offences against property (53 per cent), while the proportion who were serving orders for offences against the person (28 per cent) is higher than the proportion of people on non-custodial orders for this type of offence (20 per cent).

The only notable differences between Aboriginal people and non-Aboriginal people on this variable is that proportionately more Aboriginal people were serving non-custodial orders for the offences of homicide and break, enter and steal (6 per cent and 29 per cent) compared with non-Aboriginal people (2 per cent and 20 per cent respectively). In contrast, non-Aboriginal people were proportionately more likely to be serving orders for drug offences than Aboriginal people (12 per cent compared with 6 per cent).

A significant difference exists between age and the most serious offence which led a person to be serving a non-custodial order. The majority of offences were committed by people under 40 years of age with the exception of sex offences where half of the offences were committed by people over the age of 40. The two most common offences, theft and break, enter and steal, were almost entirely committed by people under 30 years of age (79 per cent). Over half (53 per cent) of the assaults and 64 per cent of drug offences were also committed by people aged under 30 years.

Correctional history

Information was obtained on a person's correctional history prior to death for 382 cases. The majority of these (80 per cent) had some form of correctional history. Of the people who had a correctional history, over half (65 per cent) had previously served more than one form of custodial and/or non-custodial order. Proportionately very few had served only one particular type of order. Table 12.11 shows details of the correctional histories of the people included in this study.

A relationship exists between correctional history and cause of death. It is of some interest to note that of the people who had no correctional history, nearly one-third died as a result of suicide compared with 20 per cent of those people who had a prior correctional history.

As might be expected a significant difference is observed between age and correctional history. The younger age groups, 15 to 19 years, were significantly more likely to have had no prior correctional history. In contrast, over two-thirds (68 per cent) of the people aged 30 to 39 years had significant custodial and/or non-custodial histories by the time of their death.

TABLE 12.11
Correctional History, Deaths in Non-Custodial Corrections, 1987 and 1988, Australia

Correctional	*Aboriginal*		*Non-Aboriginal*		*Total*	
History	*No.*	*%*	*No.*	*%*	*No.*	*%*
None	6	21	71	20	77	20
Juvenile justice	3	10	13	4	16	4
Prison	3	10	21	6	24	6
Supervision	1	3	27	8	28	7
Other	2	7	38	11	40	10
Multiple types	14	48	183	52	197	52
Total	29	99	353	101	382	99

Reported Cause of Death

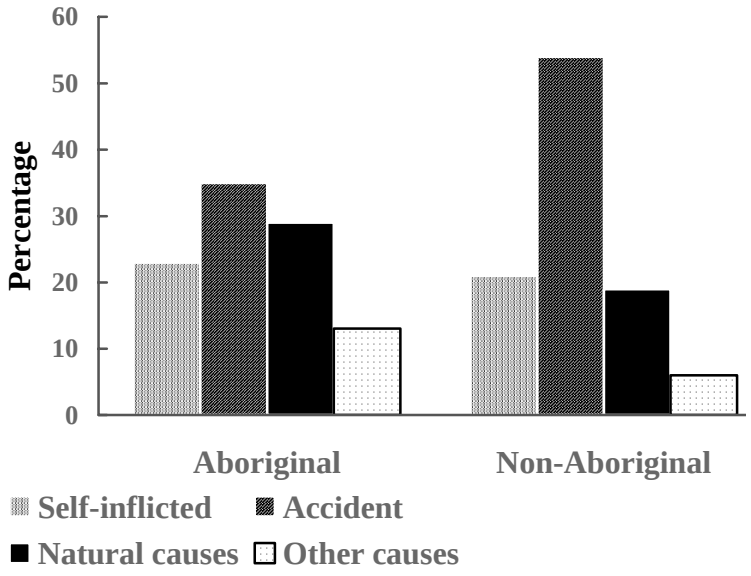
Information is available on the reported cause of death in 388 (98 per cent) of the 394 reported cases. The broad categories used for the analysis of this information are suicide or self-inflicted injury, natural causes, accident, homicide and 'other'. The classification of cause of death is based on either the official records of the correctional agencies or, where it is known, the findings from coroners' inquiries.

As can be seen in Table 12.12, accidental deaths were recorded in over half (53 per cent) of all cases. Suicide or self-inflicted injury was the reported cause of death in approximately one-fifth of cases in Australia. Noticeable differences exist between Aboriginal and non-Aboriginal people on reported cause of death with deaths by natural causes being proportionately higher among Aboriginal people (29 per cent) than non-Aboriginal people (18 per cent). Conversely, there were proportionately more non-Aboriginal deaths attributed to accidents (54 per cent) than Aboriginal deaths (35 per cent). The overall pattern in relation to reported suicides, accidents, natural causes and other causes is presented graphically in Figure 12.2.

TABLE 12.12
Reported Cause of Death, Deaths in Non-Custodial Corrections, 1987 and 1988, Australia

	Aboriginal		*Non-Aboriginal*		*Total*	
	No.	*%*	*No.*	*%*	*No.*	*%*
Self-inflicted	7	23	77	22	84	22
Accident	11	35	193	54	204	53
Natural causes	9	29	66	18	75	19
Homicide	4	13	14	4	18	5
Other	-	-	7	2	7	2
Total	31	100	357	100	388	101

FIGURE 12.2
Reported Cause of Death, Deaths in Non-Custodial Corrections, 1987 and 1988, Australia



As might be expected, there is a significant relationship between age and reported cause of death. Accidental death was the most frequently reported cause of death among the younger age groups, accounting for 61 per cent of all cases under 35 years of age followed by suicide at 22 per cent, while natural causes was the most common reported explanation in the older age groups, accounting for 62 per cent of all cases over 40 years.

Suicide

Information is available on the methods used in 79 of the 84 cases of reported self-inflicted deaths or suicides. Hanging was the most frequently mentioned method accounting for 23 (29 per cent) of these cases. Gunshot accounted for

19 cases (24 per cent) of reported suicide, 16 (20 per cent) cases resulted from drug overdoses, 12 (15 per cent) through poisoning and a further nine (11 per cent) through other means. (This pattern is similar to the methods used in suicides in the general community, as revealed by recent data. In New South Wales in 1988, for example, hanging was also the most frequent manner of suicide, at 22 per cent of all suicides, followed by gassing, drug and alcohol overdoses and gunshot (NSW Bureau of Crime Statistics and Research 1989, p. 20)). By contrast, national ABS data covering the period 1961-81 showed that only 13 per cent of suicides were reported to be by hanging, with suicide by poisoning and gunshot being more frequent. Death by hanging was the most common method of suicide used by non-Aboriginal people whereas among Aboriginal people death by gunshot was more common. The general pattern is shown in Table 12.13.

As shown in Table 12.12, approximately the same proportion of Aboriginal people was reported to have died by suicide as non-Aboriginal people. In keeping more with the pattern exhibited in the general community, proportionately more males (22 per cent) died from suicide than did females (16 per cent). However, the proportion of females dying by suicide was considerably higher than in the general community where the male suicide rate is almost four times the equivalent female rate.

TABLE 12.13
Deaths by Suicide, Deaths in Non-Custodial Corrections, 1987 and 1988, Australia

	Aboriginal		*Non-Aboriginal*		*Total*	
	No.	*%*	*No.*	*%*	*No.*	*%*
Hanging	2	29	21	29	23	29
Gunshot	3	43	16	22	19	24
Drugs	-	-	16	22	16	20
CO poisoning*	-	-	10	14	10	13
Other poisoning	1	14	1	1	2	3
Other	1	14	8	11	9	11
Total	7	100	72	99	79	100

*'CO poisoning' refers to carbon monoxide poisoning, typically from motor vehicle exhaust emissions.

Accidents

Data are available on 201 of the 204 non-custodial deaths reported as accidental and these are summarised in Table 12.14. The majority of cases (64 per cent) resulted from drug overdose, followed by motor vehicle crashes (29 per cent).

The major reported cause of accidental death among non-Aboriginal people was by drug overdose (65 per cent) compared with Aboriginal people who were

more likely to have died from motor vehicle crashes. Among the accidental deaths, proportionately more females died through drug overdoses (83 per cent) than did males (60 per cent), whereas proportionately more males died in motor vehicle crashes (33 per cent) than did females (10 per cent).

TABLE 12.14
Accident Type, Deaths in Non-Custodial Corrections, 1987 and 1988, Australia

	Aboriginal		*Non-Aboriginal*		*Total*	
	No.	*%*	*No.*	*%*	*No.*	*%*
Drug/alcohol	4	40	124	65	128	64
Motor vehicle	5	50	54	28	59	29
Other	1	10	13	7	14	7
Total	10	100	191	100	201	100

Across all age groups, proportionately more people died through drug overdose than by any other means except in the 15 to 19 year age group where proportionately more deaths occurred through motor vehicle crashes than by drug overdose (65 per cent and 30 per cent respectively).

It should be noted that it is sometimes impossible to determine whether drug overdoses should be classified as suicide or accidental. Therefore it is possible that some suicides may have been wrongly coded as accidental, and vice versa. It is of interest to note, however, that 37 per cent of all the deaths in this study (53 per cent of females and 34 per cent of males) were drug related.

Natural causes

Details of the deaths reported to be by natural causes are known in 73 of the 75 cases so classified, and these details are reproduced in Table 12.15.

TABLE 12.15
Deaths in Non-Custodial Corrections, 1987 and 1988, Australia

	Aboriginal		*Non-Aboriginal*		*Total*	
	No.	*%*	*No.*	*%*	*No.*	*%*
Heart diseases	3	33	21	33	24	33
Respiratory tract diseases	2	22	6	9	8	11
Stroke	1	11	6	9	7	10
Cancers	-	-	13	20	13	18
Digestive system diseases	-	-	4	6	4	5
Other diseases	1	11	13	20	14	19
Multiple diseases	2	22	1	2	3	4
Total	9	99	64	99	73	100

The most striking fact to emerge from Table 12.15 is that one-third of the deaths were reported as being caused by heart disease and this applies to both Aboriginal and non-Aboriginal people. Death from cancer was another significant category among non-Aboriginal people accounting for 20 per cent of all their natural causes deaths. The majority (89 per cent) of natural causes deaths were among males with half of the cases being aged under 42 years and only 18 per cent aged over 60 years. The female deaths by natural causes were spread evenly throughout the age groups.

Homicide

The 18 cases (5 per cent) of deaths reported as resulting from homicide, as shown in Table 12.12, comprised 14 non-Aboriginal cases and four Aboriginal cases. All were male. The 18 cases involved nine cases of gunshot, five of stabbing, with the remaining four comprising death from head injury, beating, and two cases for which details were not provided.

Other causes of death

The seven cases classified in Table 12.12 as 'other', all of whom are non-Aboriginal, comprise five cases where the deceased person died as a result of gunshot fired by police. In some of these cases the full details were not provided but in others the information available suggests that the police shooting occurred while the deceased person was committing a crime. One additional case was a death by drowning, but the available evidence was insufficient to enable this to be classified as accident, suicide or homicide. The remaining case was a death that occurred while the person was asleep with no other information being supplied.

Non-Custodial Orders

Order Type

Information was provided on the types of order served for all cases. As mentioned in the introduction only those orders that involved some form of supervision have been included and fitted into one of the following categories: probation, parole, community service order (CSO) and a residual category 'other'. In addition to these four main categories there exists the following combinations of orders: probation/CSO, probation/parole, probation/other and probation/CSO/other. Table 12.16 shows the number of people serving each of the non-custodial orders at the time of death.

TABLE 12.16
Non-Custodial Order Type, Deaths in Non-Custodial Corrections, 1987 and 1988, Australia

	Aboriginal		*Non-Aboriginal*		*Total*	
	No.	*%*	*No.*	*%*	*No.*	*%*
Probation	11	35	202	56	213	54
Parole/licence	11	35	95	26	106	27
CSO	4	13	15	4	19	5
Other	-	-	14	4	14	4
Probation/CSO	3	10	13	4	16	4
Probation/other	-	-	14	4	14	4
Probation/parole	-	-	7	2	7	2
Probation/CSO/ other	2	6	3	1	5	1
Total	31	99	363	101	394	101

From Table 12.16 it can be seen that over half of all the cases under review were serving a probation order at the time of death. The next most common category of supervision was parole (27 per cent of cases). Although this pattern was reflected in both males and females, proportionately more males (29 per cent) were serving parole orders than were females (15 per cent).

The proportions of Aboriginal people serving only probation or parole orders were equal at 35 per cent, whereas proportionately more non-Aboriginal people were serving probation orders than were on parole (56 per cent and 26 per cent respectively). Proportionately more of the Aboriginal people (13 per cent) than non-Aboriginal people (4 per cent) were serving community service orders at the time of death.

As Table 12.17 shows, 37,177 community-based orders were being served at the time of the 1987 National Census of Community-Based Corrections. The most common type of order was probation (57 per cent), with only 19 per cent being parole orders. The most striking feature of this table is that the 106 deaths of people on parole orders over the two years represent a death rate of 15.1 per 1,000 orders in force at the time of the 1987 census. This suggests that people on parole orders may be at greater risk of death than people serving other forms of non-custodial orders. This may be explained by the fact that people on parole orders represent a unique group who, due to the seriousness of their crimes, have spent considerable time in prison, unlike people serving other types of non-custodial orders. People in this category were also older than were persons serving other types of orders. Whatever the explanation, the evidence would suggest that persons undergoing parole orders are at a greater risk of death due to the volatile nature of their lives.

TABLE 12.17

Ratio of Deaths to Number of Principal Orders Served[(a)], Deaths in Non-Custodial Corrections, 1987 and 1988, Australia

Type of non-custodial order	*Number of deaths*	*Number of orders[(b)]*	*Deaths per 1,000 orders*
Probation	213	21,205	10.0
Parole	106	7,011	15.1
Community service order	19	8,728	2.2
All orders including combination orders	394	37,177	10.6

(a)Does not include multiple orders or combination orders.
(b)Total number of orders being served according to National Census of Community-Based Corrections 1987 (Debaecker 1990).

As would be expected there is a significant relationship between the type of order served and the most serious offence committed. As shown in Table 12.18, in all cases of homicide and in the majority of robbery cases, the person was serving a parole order, while in over half of the assaults and the majority of sex offence cases the person was serving a probation order at the time of death.

Length of order

Information was obtained on the duration of total orders imposed on people prior to and current at the time of their death. The duration of orders is expressed either in terms of hours, or in terms of months or years. This information was provided in 387 (98 per cent) of the cases of deaths in the non-custodial environment. In those situations, where a person had more than one such order, operating consecutively, the orders have been aggregated. In the case where a person was serving a community-based order stated in hours as well as some other form of order stated in months, the order that had the longest time still to be served at the time of death has been used in this analysis.

TABLE 12.18

Type of Order Served by Most Serious Offence, Deaths in Non-Custodial Corrections, Deaths in Non-Custodial Corrections, 1987 and 1988, Australia

	Probation		*Parole*		*CSO*		*Other*		*Total*	
	No.	*%*	*No.*	*%*	*No.*	*%*	*No.*	*%*	*No.*	*%*
Homicide	-	-	11	100	-	-	-	-	11	100
Assault	38	68	9	16	4	7	5	9	56	100
Sex offences	8	44	6	33	-	-	4	22	18	99
Robbery	3	11	20	74	-	-	4	15	27	100
Theft	48	69	10	14	1	1	11	16	70	100
Break and enter	37	46	29	36	4	5	11	14	81	101
Fraud	18	62	3	10	-	-	8	28	29	100
Property damage	3	75	-	-	-	-	1	25	4	100
Other good order	5	62	2	25	1	12	-	-	8	99
Justice procedures	12	80	2	13	1	7	-	-	15	100
Drug offences	26	59	12	27	2	5	4	9	44	100
Traffic offences	14	48	1	3	6	21	8	28	29	100
Other offences	1	100	-	-	-	-	-	-	1	100

Table 12.19 sets out the data available on this variable, showing that the majority of people (81 per cent) who were serving community service orders expressed in hours, were serving orders with a total duration of 100 to 300 hours, while most (94 per cent) of those serving orders expressed in months or years were serving orders with a total duration of one year or longer.

By way of comparison, the National Census of Community-Based Corrections 1985/86 (Walker & Biles 1986) showed that the most common duration for any order was two years with 25 per cent of people serving orders of this length at the time of the census. The second most common duration for an order was three years, with 20 per cent of people serving orders of this length. Therefore, the proportion of people who died in these two categories of order duration are similar to the census data.

Proportion of order served

Data have been provided on the proportion of time that had been served on the order up to the time of death. This information was provided for 385 (98 per cent) of the 394 cases. The mean proportion of order served up to the time of death was 44 per cent, with half the cases having served 42 per cent or less of their non-custodial order. A significant difference exists between Aboriginal people and non-Aboriginal people on this variable, with Aboriginal people having served considerably less of their order up to the time of death: 36 per cent compared with non-Aboriginal people at 45 per cent.

TABLE 12.19

Duration of Total Order Imposed—Percentage of Persons Serving Orders by Jurisdiction, Deaths in Non-Custodial Corrections, 1987 and 1988, Australia

Duration of order	*NSW*	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*ACT*	*Aust.*
Orders expressed in hours									
0 and under 100 hours	-	-	50	-	14	-	-	-	9
100 and under 200 hours	38	50	50	-	71	-	-	-	45
200 and under 300 hours	38	50	-	100	14	-	-	100	36
300 hours and over	25	-	-	-	-	-	-	-	9
Total	101	100	100	100	99	-	-	100	99
Orders expressed in months/years									
0 and under 6 months	3	-	-	-	3	-	-	-	2
6 and under 12 months	2	9	-	6	9	8	-	-	4
12 and under 18 months	9	41	20	18	15	8	37	100	19
18 and under 24 months	7	10	13	29	21	50	-	-	12
2 and under 3 years	26	25	47	29	12	8	12	-	25
3 and under 5 years	35	13	13	12	21	25	37	-	26
5 years and over	19	1	7	6	21	-	12	-	13
Total	101	99	100	100	102	99	98	100	101

Expressed differently it is noted that nearly two-thirds (63 per cent) of the deaths occurred in the first half of the time to be served. This suggests that the early part of a non-custodial sentence is more likely to be associated with death. Table 12.20 sets out the information available on this variable.

TABLE 12.20
Proportion of Order Served prior to Death, Deaths in Non-Custodial Corrections, 1987 and 1988, Australia

Percentage served	*Aboriginal*		*Non-Aboriginal*		*Total*	
	No.	*%*	*No.*	*%*	*No.*	*%*
0-10	6	19	48	14	54	14
11-20	5	16	35	10	40	10
21-30	2	6	48	14	50	13
31-40	6	19	38	11	44	11
41-50	3	10	55	16	58	15
51-60	5	16	23	6	28	7
61-70	2	6	26	7	28	7
71-80	-	-	24	7	24	6
81-90	1	3	31	9	32	8
91-100	1	3	26	7	27	7
Total	31	98	354	101	385	98

Impending court appearance

Information was obtained on whether each person was facing a further court appearance at time of death. These data were provided on 379 (96 per cent) of the 394 cases. Approximately one-third (31 per cent) of people were reported to be facing some form of court appearance at the time of their death. There was no difference between Aboriginal and non-Aboriginal people on this variable.

Level of compliance with order

The correctional authorities were asked to indicate what level of compliance individuals had displayed in relation to the non-custodial orders they were serving. Of the 373 cases for which this information was provided, almost one-quarter (24 per cent) were rated as having an 'excellent' or 'good' compliance level, 41 per cent 'satisfactory', and over one-third (35 per cent) rated as 'poor' or 'very poor' in terms of their level of compliance. There was no significant difference between Aboriginal and non-Aboriginal people on this variable.

A significant relationship exists between level of compliance and cause of death. Those people who were rated as having a 'poor' level of compliance with their order were more likely to have died from accidental deaths (67 per cent), most commonly drug overdoses. In contrast, those people rated as having a 'good' level of compliance were more likely to have died from natural causes.

NEW ZEALAND

National Overview

During 1987 and 1988 a total of 71 deaths were reported to have occurred in non-custodial corrections throughout New Zealand. There are four main types of non-custodial orders in New Zealand: supervision, community service, periodic detention and community care; and two forms of post-prison orders: post-release care and parole. These are defined according to the New Zealand Official Yearbook 1987-88 in the following terms:

> *Supervision*
>
> *The court may sentence to supervision any offender guilty of an offence punishable by imprisonment, either on indictment or summarily. Supervision provides the opportunity for an offender to rehabilitate himself or herself in the community. An offender may be sentenced for a period of not less than six months or more than two years, and during this time he or she must accept the supervision of a probation officer and observe any conditions imposed regarding employment and residence, and associates. These conditions are automatic, but the courts have power to impose further conditions at their discretion on granting supervision.*
>
> *Community Service*
>
> *The Criminal Justice Amendment Act 1980 gives the court the power to impose a sentence of community service on convicted offenders, instead of sending them to prison. The offender continues to live and work in the community, but during leisure hours gives unpaid service to some community group. The sentence can be from 20 to 200 hours service. Before imposing this sentence the court takes into account the character and history of the offender, and the public interest.*
>
> *Periodic Detention*
>
> *Where a person aged over 15 years is convicted of an offence punishable by imprisonment, he or she may be sentenced to periodic detention for up to 12 months. Under the sentence the offender is required to attend a work centre on a certain number of occasions each week and while in custody must attend classes or groups, undergo physical training, or perform work either in the centre or outside it. Work outside a centre may be at a hospital or school, at the home of an elderly or infirm person, or on Crown or local authority property.*
>
> *Community Care*
>
> *Like community service it can only be imposed with the consent of the offender. The person is required to undergo a programme for up to one*

year, or six months if on a residential basis. The definition of programme is wide and can involve attending medical, social, therapeutic, educational, or rehabilitation facilities, or being placed in the care of a suitable person or group.

Post-release Care

Offenders serving a sentence of corrective training or imprisonment for one year or more are under the supervision of a probation officer for six months on release. During any part of that period, also falling within the maximum period they could have been detained in an institution, they are subject to recall if their behaviour on release is not satisfactory. Inmates serving sentences of imprisonment for life, or preventive detention are released to the supervision of a probation officer for the life of the offender, subject to similar conditions as above.

Parole System

The introduction of long sentences designed to protect society against the hardened criminal has created the need for a procedure to enable persons serving one of these sentences to be released as soon as they show that they are fit to be returned to society.

Over the two-year period, 1987 and 1988, a total of 71 deaths were reported to have occurred in New Zealand among people serving one of the above mentioned non-custodial orders. In 1987, there were 23 deaths (nine Maori and 14 non-Maori) whereas in 1988, there were 48 deaths (26 Maori and 22 non-Maori). It is important to note that the large difference between the number of people who died in 1987 and 1988 may be a reflection, not so much of an increase in deaths in 1988, but the ability of the probation officers to more readily recall the more recent deaths.

Ratios of deaths in non-custodial corrections to population

As indicated above, 35 (49 per cent) of the 71 non-custodial corrections deaths in 1987 and 1988 were of Maori people. This proportion is similar to the proportion of Maori people in non-custodial corrections programs (Department of Statistics unpub.), but when compared with the proportion of Maoris in the community, a different picture emerges. The 35 Maori deaths are equivalent to 14.1 per 100,000 Maoris aged 15 years and over in the general community, whereas the 36 non-Maori deaths are equivalent to 1.6 per 100,000 of the non-Maori people in the same age group in the community. This means that Maori people died while under non-custodial orders at a rate nearly nine times that of non-Maori people. Details are presented in Table 12.21. This high Maori death rate compared with that of non-Maoris is explained by the over-representation of Maori people in non-custodial correctional programs.

TABLE 12.21
Ratios of Non-Custodial Corrections Deaths to Adult Populations, New Zealand, 1987 and 1988

	Population 1986 census	*Persons 15 years+*	*Deaths in non-custodial corrections 1987 and 1988*	*Deaths per 100,000 population 15 Years+*
Maori	403,185	248,085	35	14.1
Other	2,858,598	2,227,953	36	1.6
Total	3,261,783	2,476,038	71	2.9

Crude mortality rates

As mentioned on crude mortality rates for Australia, technical problems exist in calculating mortality rates in which the number of deaths in non-custodial corrections is shown in relation to the size of the non-custodial corrections population. However, it is noted that the crude mortality rate (expressed as the number of deaths in non-custodial corrections per annum per 1,000 people of all ages on non-custodial orders existing as at 31 December 1987), is 2.5. For Maori people on such orders the rate is 2.7 and for non-Maori people on such orders 2.3.

The following explanations are necessary in order to correctly interpret the above rates as they illustrate the problems associated with the above analysis. The number of non-custodial orders refers to all orders existing as at 31 December 1987. These figures, however, do not include community-care orders, which were only recorded for the first time in 1988 (the 1988 figures showed 440 such orders as at 31 December). A breakdown by ethnicity showing the proportions of Maoris and non-Maoris serving each of the non-custodial orders was not provided for the above figures. However, statistics released by the District Court for 1987 do show the proportions of Maoris and non-Maoris sentenced to supervision, periodic detention or community service orders in 1987. These figures do not include, however, those people serving parole orders or community-care orders. Using the District Court figures as a guide to the proportions of Maoris and non-Maoris serving non-custodial orders, it has been calculated that 46 per cent of all orders as at 31 December 1987 were being served by Maori people and this proportion has been used to estimate the relative crude mortality rates for these two groups.

It should also be noted that the number of orders existing as at 31 December 1987 does not provide an accurate estimate of the number of person/years on non-custodial correctional orders. An accurate estimate of person/years would be needed to allow comparisons to be made between this crude mortality rate and that published by the New Zealand health authorities for the New Zealand population as a whole.

Demographic Characteristics

Maori/non-Maori and gender

The Maori/non-Maori background and gender of those people who were reported to have died while serving some form of non-custodial order are set out in Table 12.22. From this table it can be seen that the number of reported deaths is almost equally divided between Maori and non-Maori people (49 per cent and 51 per cent respectively).

Table 12.22 shows that 13 per cent of all deaths were female, with the proportion of Maori females being considerably higher at 17 per cent compared with eight per cent for non-Maori females. The 1987 District Court figures show that 17 per cent of all persons sentenced to non-custodial correctional orders in New Zealand were female, with the proportion of Maori females being slightly higher at 19 per cent compared with non-Maori females at 15 per cent. This suggests that non-Maori females are less likely to die while serving non-custodial orders than Maori females.

TABLE 12.22
Maori/Non-Maori and Gender, Deaths in Non-Custodial Corrections, 1987 and 1988, New Zealand

	Maori		*Other*		*Total*	
	No.	*%*	*No.*	*%*	*No.*	*%*
Male	29	83	33	92	62	87
Female	6	17	3	8	9	13
Total	35	100	36	100	71	100

Age

The mean age of people reported to have died while serving a non-custodial order during 1987 and 1988 was 28 years, with half the cases being aged 22 years or younger. There is a significant difference between Maori and non-Maori age distributions with Maoris being considerable younger with a mean of 25 and half the cases being aged 21 years or younger. The corresponding figures for non-Maori deaths are 32 and 23 years respectively. This may be explained by the fact that the age distribution of Maoris in the general community is significantly younger than the total New Zealand population with 34 per cent of Maoris under 15 years, compared with 24 per cent in this age group in the total population. At the 1986 Census, 46 per cent of Maoris were under the age of 20 years with only 4 per cent over 60 years of age.

The distribution of age groups of Maoris and non-Maoris who were reported to have died while serving a non-custodial order, as well as the age group distribution of the general community, are shown in Table 12.23 and Figure 12.3. Table 12.23 shows that younger people aged less than 25 years

were particularly at risk of dying, accounting for 64 per cent of all deaths. The number of deaths in the 15 to 24 year age group among Maoris is of particular concern as they account for 69 per cent of all Maori deaths. It can also be seen that a very low proportion (14 per cent) of the people who died in this period were aged 45 years or more.

TABLE 12.23
Age Group, Deaths in Non-Custodial Corrections, 1987 and 1988, New Zealand

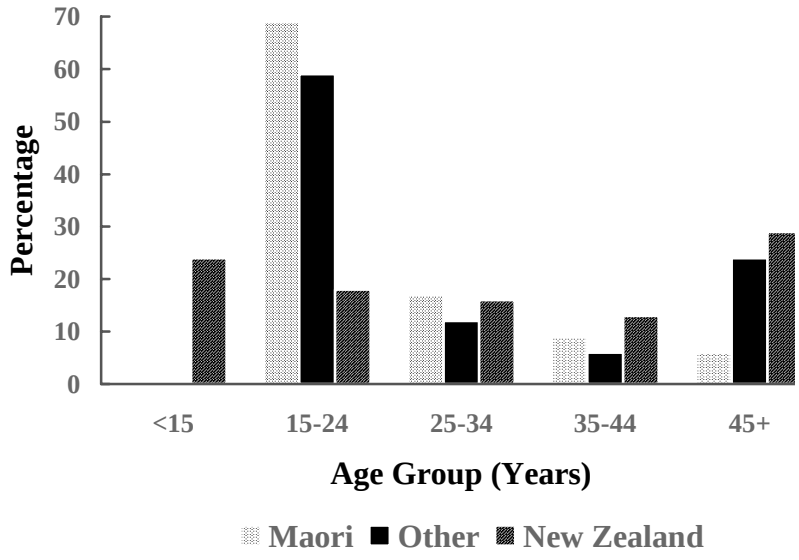
	Maori		*Other*		*Total*		*General*
Age							*population*[*]
group	*No.*	*%*	*No.*	*%*	*No.*	*%*	*%*
<15	-	-	-	-	-	-	24
15-19	13	37	6	18	19	28	9
20-24	11	31	14	41	25	36	9
25-29	2	6	-	-	2	3	8
30-34	4	11	4	12	8	12	8
35-39	1	3	1	3	2	3	7
40-44	2	6	1	3	3	4	6
45-49	1	3	2	6	3	4	5
50-54	1	3	2	6	3	4	4
55-59	-	-	-	-	-	-	5
60-64	-	-	1	3	1	1	4
65+	-	-	3	9	3	4	10
Total	35	100	34	101	69	99	99

[*]Source: Department of Health 1988, p. 3

Marital status

The marital status of 64 (90 per cent) of the 71 reported deaths is known. As shown in Table 12.24, over half (62 per cent) of the people were single at the time of death with one-quarter being married or living in a defacto relationship. It is noted that proportionately more Maori people were reported to be legally or defacto married than non-Maori people (28 per cent and 22 per cent respectively).

FIGURE 12.3
Age Group, Maori and Non-Maori Deaths in Non-Custodial Corrections, 1987 and 1988, and Total New Zealand Population



Note: The columns labelled 'Maori' and 'Other' represent the percentages of the Maori and non-Maori people, who died while serving non-custodial correctional orders in 1987 and 1988, who were in the age groups specified. The columns labelled 'New Zealand' are the percentages of the total New Zealand population in the respective age groups as enumerated in the 1986 census.

TABLE 12.24
Marital Status, Deaths in Non-Custodial Corrections, 1987 and 1988, New Zealand

	Maori		*Other*		*Total*	
	No.	*%*	*No.*	*%*	*No.*	*%*
Never married	20	62	20	62	40	62
Married/defacto	9	28	7	22	16	25
Separated	2	6	5	16	7	11
Divorced	1	3	-	-	1	2
Total	32	99	32	100	64	100

Employment status

The employment status is known for 67 of the 71 reported deaths. As shown in Table 12.25, the majority of people (76 per cent) were unemployed with only 19 per cent being engaged in either full-time or part-time employment at the time of death. Proportionately more non-Maori people (85 per cent) were unemployed compared to Maoris (67 per cent).

TABLE 12.25
Employment Status, Deaths in Non-Custodial Corrections, 1987 and 1988, New Zealand

	Maori		*Other*		*Total*	
	No.	*%*	*No.*	*%*	*No.*	*%*
Full-time employed	7	21	5	15	12	18
Part-time employed	1	3	-	-	1	1
Unemployed	22	67	29	85	51	76
Home duties	3	9	-	-	3	4
Total	33	100	34	100	67	99

Correctional Background

Offence

Information on the most serious offence or charge that led to the deceased person serving a non-custodial order was available for 70 of the 71 cases. This information was classified according to the modified Australian National Classification of Offences that has been used in previous research papers of the Royal Commission, and the results are shown in Table 12.26.

TABLE 12.26
Most Serious Offence of Conviction or Charge, Deaths in Non-Custodial Corrections, 1987 and 1988, New Zealand

	Maori		*Other*		*Total*	
	No.	*%*	*No.*	*%*	*No.*	*%*
Homicide	-	-	-	-	-	-
Assault	4	11	3	9	7	10
Sexual offences	1	3	3	9	4	6
Other against person	1	3	2	6	3	4
Robbery	1	3	-	-	1	1
Theft	8	23	6	17	14	20
Break and enter	5	14	7	20	12	17
Fraud	2	6	2	6	4	6
Other good order	1	3	-	-	1	1
Justice procedures	2	6	-	-	2	3
Drug offences	1	3	1	3	2	3
Traffic offences	8	23	11	31	19	27
Other offences	1	3	-	-	1	1
Total	35	101	35	101	70	99

In Table 12.26, it can be seen that 'the most serious offence' named most frequently was traffic offences followed by theft. Almost half (43 per cent) of the offences were property related with only 21 per cent being offences against the person. It is noted that there were no significant differences between Maoris and non-Maoris on this variable. Differences do exist, however, between males and females, with no females having an offence against the person recorded as the most serious offence.

A significant difference exists between age and the most serious offence which led a person to be serving a non-custodial order. The majority of offences were committed by people under 40 years of age with the exception of sex offences where three of the four offences were committed by people over the age of 65. The two most common offences, traffic offences and theft, were largely committed by people under 30 years of age (67 per cent and 92 per cent respectively). Over half of the assaults (57 per cent) and 92 per cent of break, enter and steal offences were committed by people aged under 25.

Correctional history

Information was obtained on a person's correctional history prior to death for 70 cases. The majority of these (80 per cent) had some form of correctional history. Of the people who had a correctional history, over half (54 per cent) had served more than one form of custodial and/or non-custodial order. Proportionately very few had served only one particular type of order. Table 12.27 shows details of the correctional histories of the people included in this study.

TABLE 12.27
Correctional History, Deaths in Non-Custodial Corrections, 1987 and 1988, New Zealand

	Maori		*Other*		*Total*	
Correctional history	*No.*	*%*	*No.*	*%*	*No.*	*%*
None	8	24	6	17	14	20
Juvenile justice	2	6	-	-	2	3
Prison	2	6	2	6	4	6
Supervision	3	9	4	11	7	10
Other	6	18	7	19	13	19
Multiple types	13	38	17	47	30	43
Total	34	101	36	100	70	101

It is interesting to note that there were no significant differences between correctional history and the variables cause of death, age or Maori/non-Maori.

Reported Cause of Death

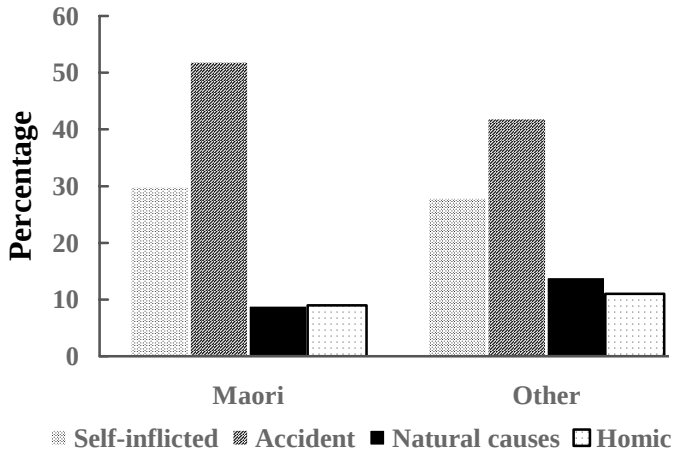
Information is available on the reported cause of death in 67 (94 per cent) of the 71 reported cases. The broad categories used for the analysis of this information are suicide, natural causes, accident, homicide and 'other'.

TABLE 12.28
Reported Cause of Death, Deaths in Non-Custodial Corrections, 1987 and 1988, New Zealand

	Maori		*Other*		*Total*	
	No.	*%*	*No.*	*%*	*No.*	*%*
Self-inflicted	10	30	10	28	20	29
Accident	17	52	15	42	32	46
Natural causes	3	9	5	14	8	12
Homicide	3	9	4	11	7	10
Other	-	-	2	6	2	3
Total	33	100	36	101	69	100

As can be seen in Table 12.28, accidental deaths were recorded in almost half (46 per cent) of all cases. Suicide or self-inflicted injury was the cause of death in under one-third of reported cases in New Zealand. Noticeable differences exist between the different Maoris and non-Maoris on reported cause of death with deaths by natural causes being proportionately higher among non-Maoris (14 per cent) than Maoris (9 per cent) whereas there were proportionately more accidental deaths among Maoris (52 per cent) than non-Maoris (42 per cent). Deaths from suicide accounted for almost exactly the same proportion of deaths among Maori and non-Maori people, a pattern similar to that observed in the general community (Department of Health 1988). The overall pattern in relation to reported suicide, accidents, natural causes and other causes is presented graphically in Figure 12.4.

FIGURE 12.4
Reported Cause of Death, Deaths in Non-Custodial Corrections, 1987 and 1988, New Zealand



As might be expected, there is a clear relationship between age and reported cause of death. Accidental deaths and suicide were the most frequently reported causes of death among the younger age groups, accounting for 45 per cent and 38 per cent respectively of all cases under 25 years of age, while natural causes was the most commonly reported explanation in the older age groups, accounting for 46 per cent of all cases over 40 years.

Suicide

Information is available on the methods used in each of the 20 cases of self-inflicted deaths or reported suicides. Hanging was the most frequently mentioned method accounting for all but one of these cases. The only other method used was by drug overdose. All Maori suicide deaths were by hanging. It may seem somewhat surprising that in this population hanging is almost exclusively used as a means of suicide when a much wider range of options exist in the general community, but hanging is also the most common method of suicide in the general community, accounting for 27 per cent of all suicide deaths in New Zealand. It is also interesting that similar proportions of Maoris and non-Maoris committed suicide by hanging, again reflecting the pattern found in the general population (Department of Health 1988). However, in contrast to the pattern exhibited in the general community where the age standardised male rate is nearly three times the female rate, proportionately more females serving non-custodial orders (33 per cent) died as a result of suicide than did males (28 per cent).

Accidents

Data are available on each of the 32 non-custodial deaths reported as accidental and these are summarised in Table 12.29. The majority of cases (72 per cent) resulted from motor vehicle crashes. This was observed in both Maoris and non-Maoris. This pattern reflects that found in the general community with motor vehicle crashes accounting for over half (52 per cent) of all unintentional injuries (Department of Health 1988). There were no non-custodial corrections Maori deaths reported to be from drug overdoses. Similar proportions of males and females died from accidental deaths (47 per cent and 44 per cent respectively).

TABLE 12.29
Accident Type, Deaths in Non-Custodial Corrections, 1987 and 1988, New Zealand

	Maori		*Other*		*Total*	
	No.	*%*	*No.*	*%*	*No.*	*%*
Motor vehicle	13	76	10	67	23	72
Drug/alcohol	-	-	4	27	4	12
Other	4	24	1	7	5	16
Total	17	100	15	101	32	100

Across all age groups, proportionately more people died through motor vehicle crashes than by any other means. The majority of motor vehicle crash deaths occurred in the under 30 years age group. This is in keeping with the pattern found in the general community where motor vehicle crashes are the leading cause of death among both males and females aged 15 to 24 years and among men aged 25 to 44 years of age (Department of Health 1988). All female non-custodial corrections deaths from accidents occurred in the 20 to 34 years age group whereas the men who died from accidents ranged in age from 15 to over 65 years.

Natural causes

Details of the deaths reported to be by natural causes are known in all eight cases so classified. The majority of deaths, six out of eight, were caused by heart disease, with one case of cancer and one case of death from other causes. This was reflected in both Maori and non-Maori deaths. All were males. Their ages ranged from 30 years to over 65 years. This is similar to the pattern exhibited in the general community where ischaemic heart disease is the leading cause of death in New Zealand, followed by cancer and cerebrovascular diseases.

Homicide

The seven cases of deaths reported as resulting from homicide, as shown in Table 12.28, comprise four non-Maori cases and three Maori cases. Six of the seven cases were male. The seven cases comprised three cases of head injury, two of stabbing, one of torture and one case for which details were not provided. It is of note that firearms were not involved in any of these cases of homicide.

Non-custodial Orders

Order type

Information was provided on the type of order served for all reported cases of deaths in 1987 and 1988. Table 12.30 shows the number of people serving each of these non-custodial orders at the time of death.

From Table 12.30 it can be seen that over one-third (35 per cent) of the cases under review were serving a periodic detention order at the time of death. The next most common category was supervision (24 per cent of cases). Proportionately more females who died were serving supervision orders (44 per cent) than males (21 per cent), whereas over one-third (37 per cent) of all men who died were serving periodic detention orders, compared to only 22 per cent of women. Almost equal proportions of Maoris and non-Maoris were serving supervision, periodic detention, parole, community service orders and the combination order, periodic detention/supervision, at the time of their death.

TABLE 12.30
Order Type, Deaths in Non-Custodial Corrections, 1987 and 1988, New Zealand

	Maori		*Other*		*Total*	
Non-custodial order type	*No.*	*%*	*No.*	*%*	*No.*	*%*
Periodic detention	13	37	12	33	25	35
Supervision	9	26	8	22	17	24
Parole	5	14	5	14	10	14
Community service	3	9	3	8	6	8
Community care	1	3	1	3	2	3
Periodic detention/ supervision	4	11	7	19	11	15
Post-release care	-	-	-	-	-	-
Total	35	100	36	99	71	99

As Table 12.31 shows, 16,888 community-based orders were being served as at 31 December 1988 (Department of Statistics unpub.). The most common type of order was periodic detention (38 per cent), with only 10 per cent being parole orders. The most striking feature of this table is that the 10 deaths of people on parole orders over the two years represent a death rate of 6.0 per 1,000 orders in force as at 31 December 1988. This suggests that people on parole orders may be at greater risk of death than people serving other forms of non-custodial orders.

TABLE 12.31

Ratio of Deaths to Number of Principal Orders Served[a], Deaths in Non-Custodial Corrections, 1987 and 1988, New Zealand

Non-custodial order type	*Number of deaths*	*Number of orders[b]*	*Deaths per 1,000 orders*
Periodic detention	25	6,452	3.9
Supervision	17	5,883	2.9
Parole	10	1,671	6.0
Community service	6	2,442	2.5
Community care	2	440	4.5
All orders including combination orders	71	16,888	4.2

[a]Does not include periodic detention/supervision combination orders.
[b]Total number of orders being served as at 31 December 1988.

As would be expected there is a relationship between type of order served and the most serious offence committed. As shown in Table 12.32, in half of the sexual offence cases and under one-third (29 per cent) of assault cases, the person was serving a parole order, while in over half of the traffic offences the person was serving a periodic detention order at the time of death.

Length of order

Information was obtained on the duration of total orders imposed on people prior to and current at the time of their death. In those situations where a person had more than one such order, operating consecutively, the orders have been aggregated. In cases where people were serving a community-based order stated in hours as well as some other form of order stated in months, the order that had the longest time still to be served at the time of death has been used. The duration of orders is expressed in terms of hours, weeks, months or years. This information was provided for all cases of reported deaths in the non-custodial environment.

TABLE 12.32
Non-Custodial Corrections, 1987 and 1988, New Zealand

	Periodic detention		*Supervision*		*Parole*		*Community service/care*		*Periodic det./ supervision .*		*Total*	
	No.	*%*	*No.*	*%*	*No*	*%*	*No.*	*%*	*No.*	*%*	*No.*	*%*
Assault	3	43	1	14	2	29	-	-	1	14	7	100
Sex offences	-	-	2	50	2	50	-	-	-	-	4	100
Other against person	2	67	-	-	-	-	1	33	-	-	3	100
Robbery	-	-	-	-	1	100	-	-	-	-	1	100
Theft	5	36	5	36	2	14	1	7	1	7	14	100
Break and enter	3	25	3	25	2	17	1	8	3	25	12	100
Fraud	-	-	2	50	-	-	-	-	2	50	4	100
Other good order	1	100	-	-	-	-	-	-	-	-	1	100
Justice procedures	-	-	-	-	1	50	1	50	-	-	2	100
Drug offences	-	-	2	100	-	-	-	-	-	-	2	100
Traffic offences	10	53	1	5	-	-	4	21	4	21	19	100
Other offences	1	100	-	-	-	-	-	-	-	-	1	100

From Table 12.33 it can be seen that in most cases the order was expressed in months or years, rather than in hours. Of the former group, nearly two-thirds (64 per cent) were serving orders of less than one year's duration. Orders of two years' duration or longer were not common.

Proportion of order served

Data have been provided on the proportion of time that had been served on an order up to the time of death. This information was provided for 69 of the 71 cases. The mean proportion of order served up to the time of death was 40 per cent, with half the cases having served 33 per cent or less of their non-custodial order. No differences exist between Maoris and non-Maoris on this variable. Two-thirds (67 per cent) of the deaths occurred in the first half of the time to be served. This suggests that the early part of a non-custodial sentence is more likely to be associated with death. Table 12.34 sets out the information available on this variable.

TABLE 12.33

Duration of Total Order Imposed—Percentage of Persons serving Orders, Deaths in Non-Custodial Corrections, 1987 and 1988, New Zealand

Duration of Order	*Maori*		*Other*		*Total*	
	No.	*%*	*No.*	*%*	*No.*	*%*
Orders expressed in hours						
0 and under 100 hours	1	50	1	33	2	40
100 and under 200 hours	1	50	1	33	2	40
200 and under 300 hours	-	-	1	33	1	20
300 hours and over	-	-	-	-	-	-
Total	2	100	3	99	5	100
Orders expressed in months/years						
0 and under 6 months	7	21	7	21	14	21
6 and under 12 months	14	42	12	36	26	39
12 and under 18 months	6	18	11	33	17	26
18 and under 24 months	5	15	-	-	5	8
2 and under 3 years	1	3	2	6	3	5
3 years and over	-	-	1	3	1	2
Total	33	99	33	99	66	101

TABLE 12.34

Proportion of Order served prior to Death, Deaths in Non-Custodial Corrections, 1987 and 1988, New Zealand

Proportion served	*Maori*		*Other*		*Total*	
	No.	*%*	*No.*	*%*	*No.*	*%*
0-10	3	9	7	19	10	14
11-20	6	18	5	14	11	16
21-30	7	21	5	14	12	17
31-40	3	9	3	8	6	9
41-50	4	12	3	8	7	10
51-60	2	6	2	6	4	6
61-70	4	12	3	8	7	10
71-80	2	6	4	11	6	9
81-90	2	6	1	3	3	4
91-100	-	-	3	8	3	4
Total	33	99	36	99	69	99

Impending court appearance

Information was obtained on whether each person was facing a further court appearance at time of death. This information was provided on 44 (62 per cent) of the 71 cases. Exactly one-fifth were reported to be facing some form of court appearance at the time of death. Proportionately more Maori people (26 per cent) than non-Maori people (14 per cent) were reported to be facing court appearances.

Level of compliance with order

Correctional staff were asked to indicate what level of compliance individuals had displayed in relation to the non-custodial orders they were serving. Of the 60 cases for which this information was provided, over one-third (40 per cent) were rated as having an 'excellent' or 'good' compliance level, 43 per cent 'satisfactory', and only 17 per cent rated as 'poor' or 'very poor' in terms of their level of compliance. There were no significant differences between Maori and non-Maori people on this variable.

A significant relationship exists between level of compliance and cause of death. Those people who were rated as having an 'excellent' or 'good' level of compliance with their order were more likely to have died from suicide than other causes. In contrast, those people rated as having a 'satisfactory' level of compliance were more likely to have died from accidental deaths and all of those rated as 'poor' or 'very poor' died from accidents or suicide.

SUMMARY

This paper provides information on all adult deaths which were reported to have occurred while the person was serving a non-custodial correctional order during the years 1987 and 1988. It examines all such deaths as reported by correctional authorities which occurred in Australia or New Zealand during this period, with the aim of assisting to place into a broader perspective the data on Aboriginal and non-Aboriginal deaths in custody which have already been presented in other research papers.

Australia

1. A total of 394 deaths of people on non-custodial correctional orders were reported to have occurred throughout Australia in 1987 and 1988. Of these, 31 were of Aboriginal people. This is equivalent to 22.6 per 100,000 Aboriginal people over 15 years of age in the general community, compared with 3.0 per 100,000 of the non-Aboriginal people in the same age group in the community. This high Aboriginal death rate is explained, almost entirely, by the over-representation of Aboriginal people in non-

custodial correctional programs and the relatively poor health status of Aboriginal people in the general community.

2. Some 12 per cent of all deaths were female with the proportion of Aboriginal females being higher at 16 per cent. The average age at death was 30 years with Aboriginal people and non-Aboriginal people reported to have similar age distributions. Both groups were particularly at risk in their twenties.

3. Proportionately more Aboriginal people (87 per cent) were unemployed at the time of death compared with non-Aboriginal people (70 per cent). This proportion was high compared with the proportion of all people serving non-custodial orders who were unemployed (25 per cent).

4. Property offences were by far the most frequent offences which led to the deceased person being on a non-custodial order, accounting for almost half of the cases, as is the case with all people serving non-custodial orders.

5. The majority of people who died had a past record of some form of offence; only 20 per cent were serving a non-custodial order for their first offence at the time of death. A lower proportion of those people with prior correctional records died from suicide than those who had no prior record.

6. Accidental deaths were reported in over half the cases, with similar proportions of deaths recorded for suicide and natural causes. Noticeable differences exist for Aboriginal people and non-Aboriginal people, with deaths by natural causes being proportionately higher among Aboriginal people (29 per cent) than non-Aboriginal people (18 per cent). Conversely, there were proportionately more non-Aboriginal deaths attributed to accidents (54 per cent) than Aboriginal deaths (35 per cent).

7. Of the three major supervision types, namely, probation, parole and community service, probation orders were the most common type of order with over half of all people serving this type of order at the time of death. This pattern is consistent with that found among all people serving non-custodial orders.

   The proportions of Aboriginal people serving probation or parole orders were equal at 35 per cent, whereas proportionately more non-Aboriginal people were serving probation than parole orders (56 per cent and 26 per cent respectively).

8. Nearly two-thirds of all deaths occurred in the first half of a person's non-custodial order, with Aboriginal people having served considerable less of their order up to the time of death, 36 per cent, compared with non-Aboriginal people, 45 per cent.

9. A significant relationship exists between level of compliance with the conditions of the order and cause of death. Those people rated as having a 'poor' level of compliance were more likely to have died from accidental drug overdoses, while those rated as 'good' were more likely to have died from natural causes.

New Zealand

10. A total of 71 deaths were reported to have occurred in New Zealand in 1987 and 1988. Of the 71 non-custodial corrections deaths during this period, 35 were of Maori people. This is equivalent to 14.1 per 100,000 Maoris over 15 years of age in the general community, compared with 1.6 per 100,000 of the non-Maori people in the same age group in the community. This high Maori death rate is explained, almost entirely, by the over-representation of Maori people in non-custodial correctional programs.

11. Some 13 per cent of all deaths were female with the proportion of Maori females being higher at 17 per cent compared with eight per cent for non-Maori people. The average age at death was 28 years with Maori people being significantly younger than non-Maoris (average ages of 25 years and 32 years respectively). People aged less than 25 years were particularly at risk, accounting for 64 per cent of all deaths.

12. The majority of people (76 per cent) were unemployed at the time of death, with proportionately more non-Maori people (85 per cent) being unemployed than Maori people (67 per cent).

13. Traffic offences were the most frequent offence which led to the deceased person being on a non-custodial order, accounting for some 27 per cent of all cases. There was no significant difference between Maori and non-Maori people on this variable.

14. The majority of people who died had a past record of some form of offence; only 20 per cent were serving a non-custodial correctional order for their first offence at the time of death. No significant difference exists between correctional history and variables such as cause of death, age or Maori/non-Maori.

15. Accidental deaths were reported in almost half of the cases, with an additional one-third of all deaths reported as suicide. Noticeable differences exist between Maori and non-Maori people in relation to deaths from natural causes and accidents, with proportionately more non-Maoris dying

from deaths attributed to natural causes (14 per cent) than Maoris (9 per cent). Conversely, there were proportionately more Maori deaths attributed to accidents (52 per cent) than non-Maori deaths (42 per cent). Deaths from suicide accounted for almost exactly the same proportion of deaths among Maori and non-Maori people, a pattern similar to that observed in the general community.

16. Of the six major types of supervision, periodic detention orders were the most common type, with over one-third of people serving these orders at the time of death. This pattern is consistent with that found among all people serving non-custodial correctional orders.
    Almost equal proportions of Maoris and non-Maoris were serving supervision, periodic detention, parole, community service orders and the combination order, periodic detention/supervision, at the time of death.

17. Nearly two-thirds of all deaths occurred in the first half of a person's non-custodial correctional order, with no differences being observed between Maori and non-Maori people on this variable.

18. Of the 60 cases for which information was supplied concerning a person's level of compliance with his or her order, 40 per cent were rated as having an 'excellent' or 'good' compliance level, while only 17 per cent were rated as 'poor' or 'very poor'. There was no significant difference between Maori and non-Maori people on this variable.

February 1990

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This study has depended entirely on the close cooperation of staff of all corrections departments in Australia and New Zealand. This willing cooperation is warmly acknowledged. Assistance was also provided by the Australian Institute of Criminology in the form of early access to data which is not yet published from the 1987 Census of Community Based Corrections. As the full results of this census were not available at the time of writing, it will be noticed that some of the analyses in this report are based on the earlier census conducted in 1985-86. Institute staff have also provided advice which is gratefully acknowledged.

RESEARCH PAPER NO. 13

National Police Custody Survey August 1988 National Report

David McDonald

Purpose, Scope and Method

The August 1988 National Police Custody Survey was conducted under the auspices of the Royal Commission to assist the Commission in its task of placing Aboriginal deaths in custody into a broader context. Since some 60 per cent of the Aboriginal deaths in custody being investigated by the Royal Commission occurred in police custody, it was considered important that data be available on the numbers of people being taken into police custody and lodged in police cells, their characteristics, reasons for being taken into custody, reasons for release, how long they are held and other matters. Such data have not previously been available.

The survey was conducted with the full cooperation of the Commissioners and members of each of the eight Australian police forces. A survey form (*see* Appendix 13.1) was developed by the Royal Commission Research Unit, in consultation with police forces, and was tested in three jurisdictions. A form was filled in, by police station staff, covering each occasion when a person was taken into police custody during the month of August 1988 *and lodged in police cells* for any period of time. People held only in court cells were excluded, as were people placed in police custody for purposes such as interrogation, but who were not physically lodged in the cells. In other words, not all people *arrested* by police were included in this survey.

People who were in custody at midnight on 1 August 1988, when the survey commenced, were also included in the survey.

Completed forms were checked by central state and territory police authorities and were forwarded to the Research Unit of the Royal Commission for computer data entry, analysis and reporting. Because the data derived from this study were considered a crucial element in facilitating understanding of the police custody environment, the Research Unit prepared a preliminary report on the survey. It was released in June 1989 as Number 8 in this series of Research Papers, under the title 'National Police Custody Survey August 1988: Preliminary Descriptive Findings' (*see* pp. 137-46). In the introduction to that paper it was stated that 'This report provides preliminary descriptive findings. It is subject to change as the data set is further checked and a more detailed analysis is

undertaken over the next few months'. Accordingly, some matters of detail set out in the present Research Paper differ from those of the preliminary paper. As predicted, these small variations have resulted from more intense checking and editing of the data set. Although some slight differences exist between the two papers, the broad picture, presented in the preliminary paper, is also seen here.

The current paper, in providing new information of a more detailed kind than was possible in the preliminary paper, expands upon and clarifies some of the earlier broad findings. It includes new material suggested by readers of the preliminary report. In particular, this paper includes a number of state-by-state breakdowns of data items of interest. These reveal substantial differences between the eight states and territories.

As in the case of the preliminary report, attention is drawn, wherever appropriate, to differences between the Aboriginal and non-Aboriginal components of the police cell population. Such a breakdown aids understanding of the appalling over-representation of Aboriginal people in Australia's police cells.

Limitations

The project reported upon here is described as the 'National Police Custody Survey August 1988'. Since the term 'survey' is generally used to mean a method of collecting data from a sample of respondents drawn systematically from a specified population, the reader might well ask for definitions of the population and the sample involved. This can be approached conceptually in two ways. Firstly, the project can be seen as a *census* providing data on a total population, namely, all the people placed in police cells anywhere in Australia for any period of time during the month of August 1988. Alternatively, the August 1988 data can be viewed as being a *sample* of all police custodies in 1988, or in the 1980-88 period addressed by the Royal Commission's terms of reference.

If the latter approach is taken, an assessment must be made of the degree to which the 'sample', that is, the August 1988 police custodies, is representative of a larger time period. The information available, set out in Appendix 13.2, leads to the conclusion that the August 1988 period was reasonably representative of all of 1988 and of the 1980-1 May 1989 period. It is important to note, however, that a number of jurisdictions have introduced new bail legislation in recent years resulting in a higher proportion of arrested people being released on bail than was previously the case. Furthermore, it has been suggested that some police may have taken fewer Aboriginal people into custody in 1988 than in earlier years because of the existence of the Royal Commission.

It is possible that a small degree of double-counting may have occurred. People in custody, particularly those who are on remand or serving sentences in police cells, sometimes move between the cells, courts, prisons and various police stations. Although, in most jurisdictions, officers completing the survey forms avoided double-counting where such movements were only temporary (for example, the person left the cells for a brief court appearance or for an interview

with a solicitor or welfare officer) it is possible that a small number of individuals will have been counted more than once for a single occasion of custody.

The third limitation of the study is that of the survey methodology itself. Although the survey instrument was developed in consultation with all police forces and was systematically pre-tested in three jurisdictions with markedly different legislation and procedures, it proved deficient in some respects. As discussed in the body of this paper, the data received on a small number of variables contained so many errors as to be unusable. Overall, however, it worked effectively as a minimal data collection instrument.

The data collection forms were coded and computer entered by Keydata Pty Ltd, Canberra, ACT, and were analysed using the StatView®II data analysis software running on a Macintosh™II microcomputer.

Police Custody August 1988

Numbers of custodies

The data set covers 28,566 instances of people being taken into police custody and lodged in the cells. This includes all custodies that occurred in August 1988 and 559 cases where people were already in the cells at the commencement of the survey period. Some 922 people were recorded as being in the cells at the time the survey ended, with the number in custody at any point fluctuating between approximately 500 and 1,000 people, depending on the day of the week and the time of day.

The survey covered only people placed in cells by state, Northern Territory and Federal police under state, Northern Territory and Federal legislation. It therefore excluded the people placed in custody in Queensland by Aboriginal community police employed by Aboriginal Community Councils, acting under the provisions of council by-laws. However, since only three Queensland communities have community police but no state police, and data on custodies in all the other Queensland Aboriginal communities which have community police are included in this report, it is probable that the number of cases, not reported upon here, is small.

As shown later in this paper, the mean length of time in custody was 24 hours. On this basis, it is observed that people spent the equivalent of 78.2 person/years in custody in August 1988.

State and Aboriginality

As shown in Table 13.1, the largest number of custodies occurred in Queensland (21 per cent of the total), closely followed by New South Wales, Western Australia and Victoria in that order.

It can be seen that 28.6 per cent of the police custodies were Aboriginal people and, as discussed later in this paper, at least 26.6 per cent of the separate

individuals were Aboriginal. (These figures are probably under-estimations of the proportion of Aboriginal people as they are not always correctly identified.) At the time of the 1986 national census, 137,133 people aged 15 years or above stated that they were Aboriginal; this represented 1.1 per cent of the Australian population in this age group (*see* Figure 13.1). It can be seen, then, that in August 1988, *Aboriginal people were apprehended and placed in police cells at a rate over twenty times that of non-Aboriginal people*.

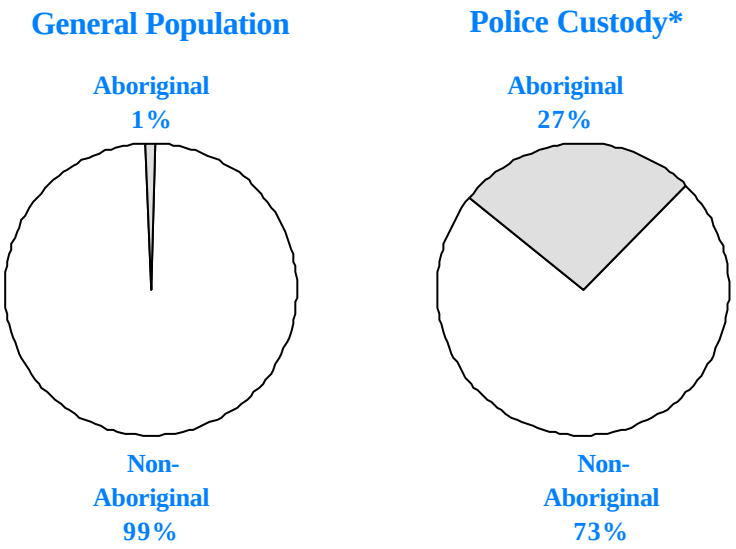
TABLE 13.1
State and Aboriginality, National Police Custody Survey, August 1988

	NSW	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*ACT*	*Aust.*
Aboriginal	774	198	1,740	2,921	697	43	1,659	24	8,056
Non-Aboriginal	4,647	4,679	4,295	2,464	2,494	530	515	460	20,084
Unknown	161	59	108	31	26	17	17	7	426
Total	5,582	4,936	6,143	5,416	3,217	590	2,191	491	28,566

TABLE 13.1 (CONT'D)
State and Aboriginality: Percentages

	NSW	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*ACT*	*Aust.*
Aboriginal	14.3	4.1	28.8	54.2	21.8	7.5	76.3	5.0	28.6
Non-Aboriginal	85.7	95.9	71.2	45.8	78.2	92.5	23.7	95.0	71.4
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

FIGURE 13.1
Aboriginal Over-representation in Police Custody, National Police Custody Survey, August 1988



*26.6 per cent is the proportion of separate individuals, rather than occasions of custody, shown as Aboriginal in the survey.

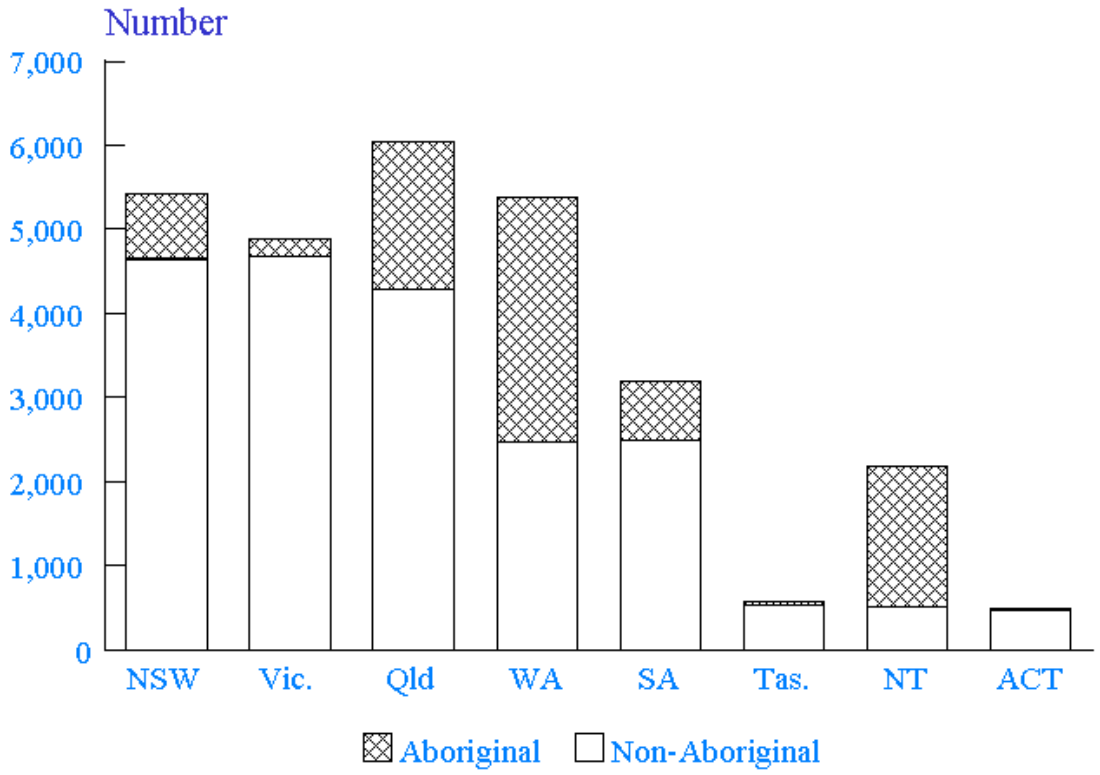
As shown in Table 13.2 and Figure 13.2 the highest proportions of Aboriginal custodies were found in the Northern Territory (76 per cent) and Western Australia (54 per cent). These are the jurisdictions with the highest proportions of Aboriginal people in their populations.

TABLE 13.2
Aboriginal People in Police Custody, State*
National Police Custody Survey, August 1988

State	*Aboriginal population*	*% Aboriginal in state*	*Aboriginal custodies*	*% Aboriginal custodies*
NSW	59,011	1.09	774	14.3
Vic.	12,611	0.31	198	4.1
Qld	61,268	2.37	1,740	28.8
WA	37,789	2.69	2,921	54.2
SA	14,291	1.06	697	21.8
Tas.	6,716	1.54	43	7.5
NT	34,739	22.43	1,659	76.3
ACT	1,220	0.49	24	4.9
Aust.	227,645	1.46	8,056	28.6

*Population data derived from the Australian Bureau of Statistics Census of Population and Housing, 30 June 1986.

FIGURE 13.2
Aboriginality by Jurisdiction, National Police Custody Survey, August 1988



A useful way of viewing the over-representation of Aboriginal people in police custody during the month of August 1988 is to calculate the custody rates in terms of numbers of custodies per 100,000 population, as shown in Table 13.3.

It is clear that, although the national rate of police custody during the month was 183 per 100,000 population, substantial differences exist between the states and territories. The Northern Territory had by far the highest custody rate, at 1,415 custodies per 100,000 population. This parallels the Territory's extremely high level of imprisonment: 311 per 100,000 compared with the national imprisonment rate of 75 per 100,000 (Research Paper No. 6, *see* pp. 85-105). Tasmania, Victoria and New South Wales had custody rates below the national rate, while Western Australia, South Australia and Queensland were the highest after the Northern Territory.

TABLE 13.3
Custody Rates,[a] National Police Custody Survey, August 1988

State	*Aboriginal*	*Non-Aboriginal*	*Total*	*Level of over-representation[b]*
NSW	1,312	87	103	15
Vic.	1,570	117	123	13
Qld	2,840	170	237	17
WA	7,730	180	385	43
SA	4,877	187	239	26
Tas.	640	123	135	5
NT	4,776	429	1,415	11
ACT	1,967	185	197	11
Aust.	3,539	131	183	27

[a]Police custodies August 1988 per 100,000 population at the 1986 census.
[b]Rate ratios, that is, ratios of Aboriginal custody rates to non-Aboriginal rates.

Of particular importance to the Royal Commission, however, is the pattern of over-representation of Aboriginal people in these figures. The fifth column of Table 13.3 shows the levels of over-representation of Aboriginal people in the survey results. Known as a 'rate ratio', it shows the ratio of the Aboriginal custody rates to those of non-Aboriginal people. For example, the Western Australia Aboriginal custody rate was 7,730 custodies per 100,000 Aboriginal people and the non-Aboriginal rate 180 custodies per 100,000 non-Aboriginal people. This gives an over-representation rate of 43 (7,730/180). In other words, Aboriginal people in Western Australia were held in police custody at a rate 43 times that of non-Aboriginal people.

The differences between the states are great, with the jurisdiction with the highest Aboriginal custody rate, Western Australia, having a level of over-representation 8.6 times that of the jurisdiction with the lowest level, Tasmania. The states with the highest numbers of Aboriginal people, Queensland and New South Wales, have low levels of over-representation compared with Western Australia and South Australia.

Repeat detentions The descriptions and analyses presented in this paper focus on the occasions of custody that occurred during the relevant month. Information on this basis is useful in assessing the usage of police custody and the related potential risk of deaths occurring in police custody. It is also of interest, however, to have some idea of the number of separate individuals involved in making up the total number of occasions of custody mentioned above.

The data have been analysed to identify the number of unique names recorded on the data collection forms. In total, the 28,566 occasions of custody cover 23,877 individual names. In other words, 84 per cent of the occasions of custody

were separate individuals and 16 per cent were occasions where individuals were in custody more than once in the one month.

The figure of 23,877 separate names over-estimates the actual number of individuals. In some cases, a person's name will be spelled differently on different occasions of custody; nick-names or familiar forms of the name of an individual will be used in various ways; occasionally aliases will be used. The estimates of the numbers of discrete individuals given here are, therefore, greater than the numbers actually involved.

Differences exist between the eight jurisdictions in repeat detention rates and, within jurisdictions, between Aboriginal and non-Aboriginal levels, as shown in Table 13.4.

TABLE 13.4
Individuals placed in Custody as Percentages of all Occasions of Custody, National Police Custody Survey, August 1988

	NSW	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*ACT*	*Aust.*
Aboriginal	79.2	74.7	79.4	74.0	75.8	81.4	81.8	91.7	77.5
Non-Aboriginal	79.9	86.0	90.6	90.7	82.5	85.5	90.1	93.0	86.0
Total	79.9	85.5	87.4	81.7	81.0	85.3	83.8	93.1	83.6

It will be seen that the proportion of separate individuals was well below the national rate (that is, the repeat detention rate was relatively high) in New South Wales, South Australia and Western Australia. Conversely, the proportion of separate individuals was relatively high in the Australian Capital Territory, Queensland, Victoria and Tasmania. A substantially higher proportion of Aboriginal detentions were repeat cases than were non-Aboriginal detentions: 22.5 per cent compared with 14 per cent with the discrepancy being particularly high in Western Australia, Queensland and Victoria. It will be noted that repeat detentions were proportionately more common for Aboriginal than for non-Aboriginal people in every jurisdiction.

Gender

As shown in Table 13.5, 88 per cent of the custodies were males: 79 per cent of the Aboriginal and 92 per cent of non-Aboriginal people. Significant differences exist between the states, with Western Australia and the Northern Territory having particularly high proportions of female custodies: 19 per cent and 15 per cent respectively, compared with the national rate of 12 per cent.

A disturbingly high level of custody occurred among Aboriginal females. Aboriginal women made up nearly 50 per cent of all female custodies, although they comprise less than 1.5 per cent of the national female population. This excessive proportion of Aboriginal females was not distributed evenly among the

states. In Queensland, Western Australia, South Australia and the Northern Territory, many more Aboriginal women than non-Aboriginal women were placed in custody. In both Queensland and Western Australia, 25 per cent of the Aboriginal custodies were female, compared with, for example, 9 per cent in New South Wales.

TABLE 13.5
Gender, National Police Custody Survey, August 1988

	NSW	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*ACT*	*Aust.*
					ABORIGINAL				
Males	701	166	1,303	2,181	595	41	1,379	17	6,383
Per cent	91	84	75	75	85	95	83	71	79
Females	73	32	437	739	102	2	280	7	1,672
Per cent	9	16	25	25	15	5	17	29	21
					NON-ABORIGINAL				
Males	4,300	4,238	3,982	2,179	2,278	497	482	421	18,377
Per cent	93	91	93	88	91	94	94	92	92
Females	343	439	312	285	214	33	32	38	1,696
Per cent	7	9	7	12	9	6	6	8	8
					PERSONS				
Males	5,147	4,452	5,378	4,384	2,897	554	1,873	445	25,130
Per cent	92	90	88	81	90	94	85	91	88
Females	430	481	764	1,031	318	36	317	45	3,422
Per cent	8	10	12	19	10	6	15	9	12

Age

The mean age of people taken into police custody and placed in the cells during August 1988 was 27.8 years. Ninety per cent of the cases were aged 43 years or less and the ages were reported as ranging from 10 to 97 years.

The Aboriginal and non-Aboriginal groups had similar (though statistically different) age distributions, with the Aboriginal people being, on average, 1.4 years older than the non-Aboriginal people. Among Aboriginal custodies, the mean age was 28.8 years (with a standard deviation of 10.9), the median (the point above and below which half the cases fell) was 26.0 and the range 10 to 93

years. Among the non-Aboriginal people, the mean was 27.4 years, the standard deviation 10.0, the median 25.0 and the range 10 to 97 years.

Males and females had virtually identical age distributions, and a substantial number of young people, 2,360 under 18 years of age, or 8.5 per cent of the total, were also placed in police cells during the survey period. The age distributions for Aboriginal and non-Aboriginal custodies are shown in Table 13.6. Figure 13.3 shows them in comparison with the total Australian population's age distribution.

TABLE 13.6
Age Groups, National Police Custody Survey, August 1988

	Aboriginal		*Non-Aboriginal*		*Total*	
Age group	*No.*	*%*	*No.*	*%*	*No.*	*%*
0-14	103	1	199	1	302	1
15-19	1,487	19	3,805	19	5,292	19
20-24	1,840	23	5,701	29	7,541	27
25-29	1,427	18	3,902	20	5,329	19
30-34	974	12	2,289	12	3,263	12
35-39	714	9	1,415	7	2,129	8
40-44	483	6	920	5	1,403	5
45-49	379	5	585	3	964	4
50-54	235	3	325	2	560	2
55-59	126	2	254	1	380	1
60-64	64	1	148	1	212	1
65+	48	1	102	1	150	1
Total	7,880	100	19,645	100	27,525*	100

*Table 13.6 sums to a total of 27,525 but it is indicated above that 28,566 custodies occurred. The apparent discrepancy reflects the fact that in a small proportion of cases the Aboriginality and/or age of the person was not stated and so those cases are excluded from the table.

Day taken into custody

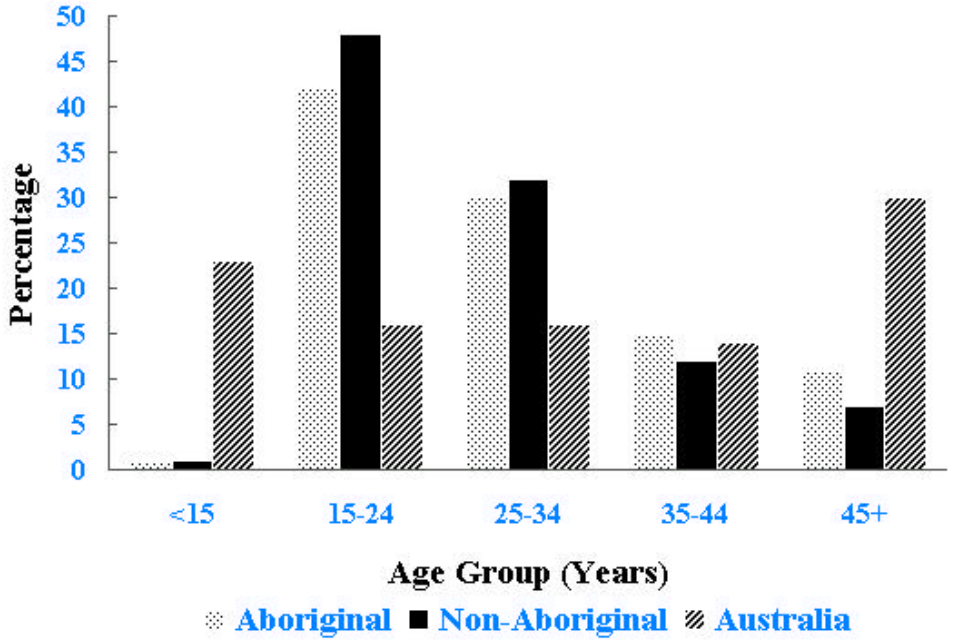
As one would expect, custodies were spread throughout the week, with Friday's numbers being significantly higher than other days and Sunday's significantly lower.

State differences occurred, with New South Wales having particularly high numbers in the early part of the week (Monday to Wednesday), and Queensland and the Australian Capital Territory having high levels on the Saturdays and Sundays.

The custody rate for Aboriginal people was high, compared with non-Aboriginal custodies, on the Wednesdays, Thursdays and Fridays, with the reverse pertaining on the Saturdays, Sundays and Mondays. This pattern is explained, to a substantial degree, by the reasons for custody. Nationally, Aboriginal people had

relatively higher rates of custody owing to public intoxication in the period Tuesday to Friday, whereas non-Aboriginal people had relatively higher rates on Saturday and Sunday.

FIGURE 13.3
Age Groups, Police Custodies and Total Australian Population



Note: The columns labelled 'Aboriginal' and 'non-Aboriginal' represent the percentages of the Aboriginal and non-Aboriginal people, held in custody in police cells in August 1988, who were in the age groups specified. The columns labelled 'Australia' are the percentages of the total Australian population in the respective age groups as enumerated in the 1986 census.

In addition, apprehensions on warrant were particularly frequent between Monday and Wednesday, with arrests being particularly high on Saturday and Sunday. This reflects the pattern of police work: on the one hand, responding immediately to a high level of offences committed at the weekends, resulting in arrests, and on the other hand, apprehending people for whom a warrant for apprehension has been issued, frequently to bring them before the courts, during the quieter early days of the week. Table 13.7 shows the distribution of police custodies by day of the week for the admissions to police cells that occurred in August 1988 only.

The weekly pattern of custodies described above was seen throughout the month, as shown in Figure 13.4. 'Pension days', that is, the days on which the Department of Social Security and other agencies pay pensions and benefits, were Thursday, 4 August and Thursday, 18 August. It will be noted that peaks occurred on the following days, but they were similar in magnitude to the peaks which occurred on each of the four weekends in the month.

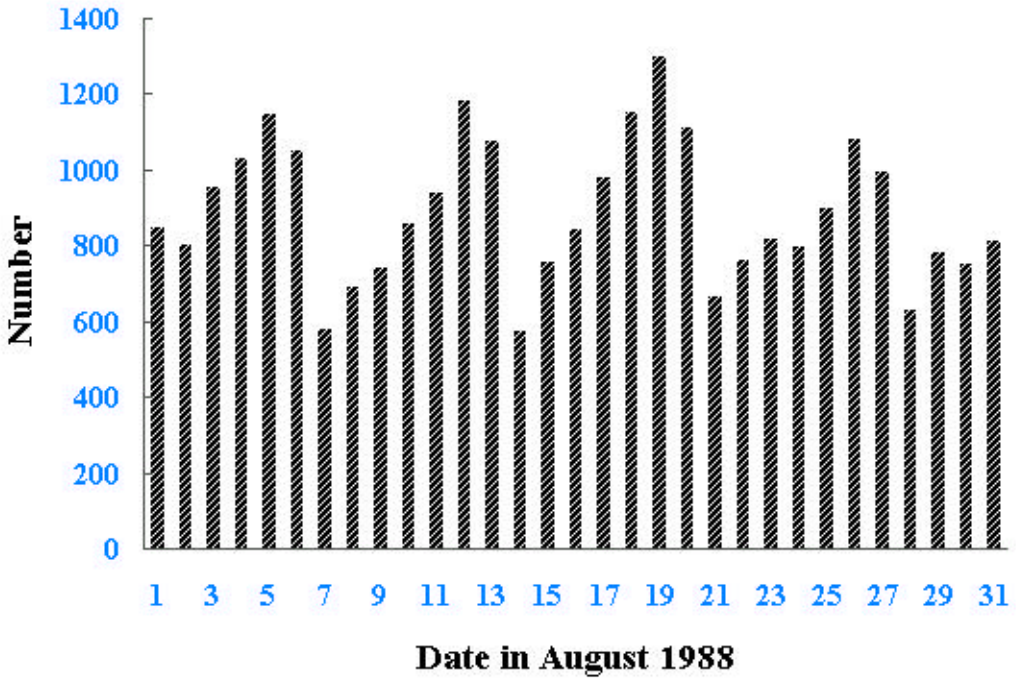
Time taken into custody

Table 13.8 shows the time of day on which people were taken into custody. It is immediately apparent that peaks occurred in the 0900-1100 hours and the 2000-0100 hours periods, with very small numbers entering custody between 0300 and 0800 hours.

TABLE 13.7
Day of Week Admitted, National Police Custody Survey, August 1988

	Aboriginal		*Non-Aboriginal*		*Total*	
Weekday	*No.*	*%*	*No.*	*%*	*No.*	*%*
Monday	969	12	2,835	15	3,804	14
Tuesday	1,143	15	2,773	14	3,916	14
Wednesday	1,450	18	2,925	15	4,375	16
Thursday	1,392	18	2,601	13	3,993	15
Friday	1,528	19	3,125	16	4,653	17
Saturday	1,038	13	3,148	16	4,186	15
Sunday	365	5	2,054	11	2,419	9
Total	7,885	100	19,461	100	27,346	100

FIGURE 13.4
Date Admitted to Cells, National Police Custody Survey, August 1988



This overall national pattern conceals major differences between the states and territories. Of special significance is the high proportion of cases in New South Wales in the morning period. The number of custodies between 0800 and 1000 was especially high in that state, amounting to 43 per cent of the nation's apprehensions during that two-hour time period. Similarly, in Victoria the numbers were high in the 0900-1100 hours period. In Queensland and Western Australia, on the other hand, the evening period 2000 hours to midnight was prominent. The Northern Territory had a slightly different pattern, with small numbers from 0100 hours to 1600 hours, then a sudden increase with high numbers continuing through to 0100 hours. The Australian Capital Territory had a unique pattern with a clustering of cases in the early hours of the morning.

TABLE 13.8

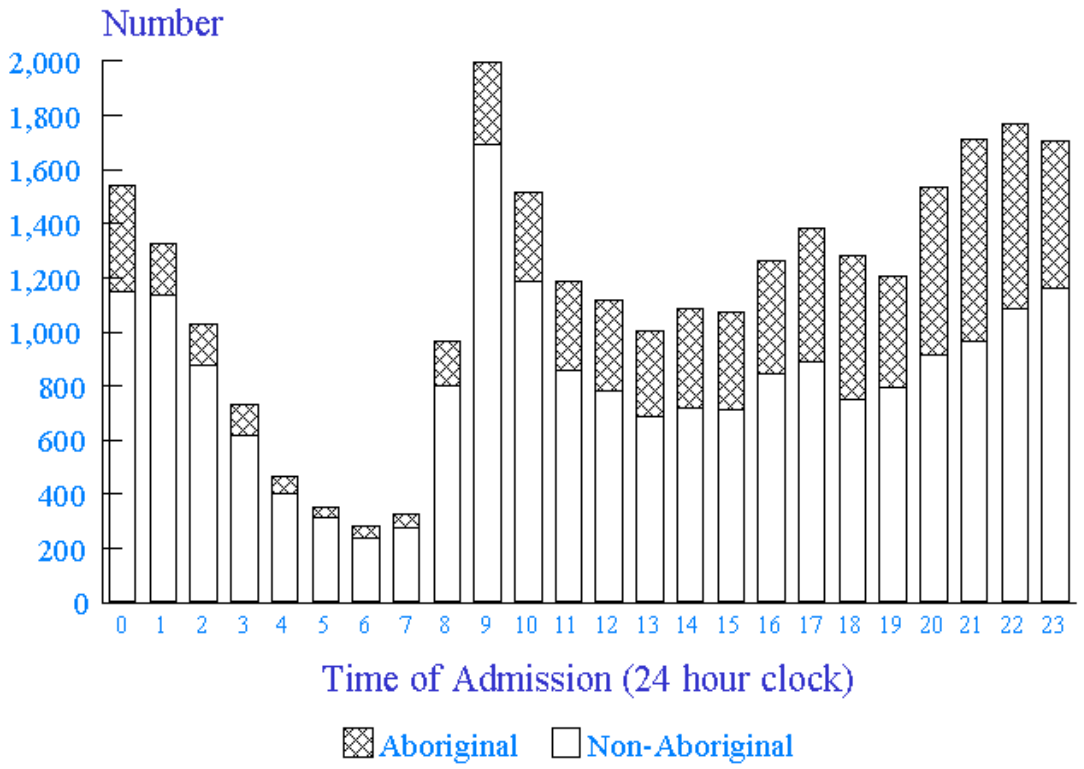
Time of Day Admitted to Cells,* National Police Custody Survey, August 1988

Time period	*No.*	*%*	*Time period*	*No.*	*%*
Midnight-0059	1,571	5.7	1200-1259	1,109	4.0
0100-0159	1,338	4.9	1300-1359	1,002	3.6
0200-0259	1,027	3.7	1400-1459	1,069	3.9
0300-0359	731	2.7	1500-1559	1,055	3.8
0400-0459	463	1.7	1600-1659	1,233	4.5
0500-0559	343	1.2	1700-1759	1,359	4.9
0600-0659	285	1.0	1800-1859	1,249	4.5
0700-0759	319	1.2	1900-1959	1,184	4.3
0800-0859	955	3.5	2000-2059	1,502	5.5
0900-0959	1,997	7.2	2100-2159	1,684	6.1
1000-1059	1,481	5.4	2200-2259	1,754	6.4
1100-1159	1,159	4.2	2300-midnight	1,688	6.1

*Number of people admitted in each one hour period.

It appears that two distinct groupings of the states existed. New South Wales, Victoria, South Australia and Tasmania followed the pattern of high levels of morning admissions to the cells whereas Queensland, Western Australia and the Northern Territory had high levels in the evenings. These two patterns, along with the unique Australian Capital Territory pattern, are illustrated in Appendix 13.3. The overall national distribution is illustrated in Figure 13.5.

FIGURE 13.5
Time of Day Admitted to Cells, National Police Custody Survey, August 1988



This pattern is explained, to a substantial degree, by the differing patterns of reasons for custody. While this is discussed in more detail later in this paper, it is noted that a high proportion of the apprehensions on warrant occurred in the morning business hours, primarily 0900 to 1400 hours. The arrests without warrant were concentrated in the evening hours (1800-0300 hours) and the custody for public drunkenness in the 1600-0300 hours periods.

Differences in times entering custody between Aboriginal and non-Aboriginal people parallel the reasons for custody data outlined above. The custody of Aboriginal people was concentrated in the 1400-0100 hours period; for non-Aboriginal people in the 0900-1100 hours and 2200-0300 hours periods.

Reason for custody

In completing a survey form on each occasion on which a person was placed in the cells during the survey period, police were asked to indicate whether the person came into custody by means of arrest or warrant, in protective custody owing to intoxication where it is not an offence, or for some other reason. The differences between the 'arrest' and the 'warrant' categories perhaps need some explanation. The general rule is that police officers may arrest, without warrant, people whom they suspect have committed offences (the provisions vary between the different states and territories). Most people who are arrested to be charged with an offence are arrested without warrant. People are arrested with warrants in

various circumstances occurring in connection with offences, often because of non-attendance in answer to a summons, or in terms of bail, non-payment of a fine, or non-compliance with an order, such as to be of good behaviour, at community service, and so on.

Table 13.9 sets out the data on the reasons given for people being taken into custody and placed in the cells. It will be noted that a little over half the cases (55 per cent) were placed in custody as a result of being arrested without warrant, one-quarter (24 per cent) were arrested with warrants and 11 per cent were placed in protective custody owing to intoxication where intoxication is not an offence.

Public intoxication is not an offence in New South Wales, South Australia, the Northern Territory and the Australian Capital Territory. In those jurisdictions, some intoxicated people would have been apprehended, without arrest, by police and conveyed direct to sobering-up facilities. Since they would not have been placed in the police cells, they are not included in this survey. Public drunkenness remains an offence in the other four jurisdictions, though it is understood that the Victorian, Western Australian and Tasmanian Governments, but not the Queensland Government, have announced plans to abolish the offence.

Significant differences appear to have existed between the states and territories in the use of warrants as a basis for arrest, compared with arrests without warrant. When only custodies for which either of these two categories was shown as the reason for custody are considered, the proportions attributable to arrest without warrant were, in descending order, Queensland 86 per cent, Australian Capital Territory 76 per cent, Western Australia 75 per cent, New South Wales 70 per cent, Victoria 55 per cent, Tasmania 52 per cent, South Australia 51 per cent and the Northern Territory 49 per cent. When arrests for the offence of public drunkenness are disregarded (to increase comparability between the jurisdictions in the light of the differing legal status of public drunkenness), the pattern is as set out in Table 13.10.

TABLE 13.9
Reason for Custody, Jurisdiction, National Police Custody Survey, August 1988

	Arrest without warrant		*Arrest with warrant*		*Intoxication (not an offence)*		*Other*		*Total*	
State	*No.*	*%*	*No.*	*%*	*No.*	*%*	*No.*	*%*	*No.*	*%*
NSW	2,128	39	898	16	1,090	20	1,390	25	5,506	100
Vic.	2,528	52	2,053	42	-	-	327	7	4,908	101
Qld	4,943	82	826	14	-	-	276	5	6,045	101
WA	3,897	72	1,262	23	-	-	245	5	5,404	100
SA	1,168	37	1,085	34	459	14	465	15	3,177	100
Tas.	283	49	259	45	-	-	32	6	574	100
NT	301	14	319	15	1,521	70	39	2	2,180	101
ACT	224	46	70	14	175	36	15	3	484	99
Aust.	15,472	55	6,772	24	3,245	11	2,789	10	28,278	100

The use of warrants appears to be far higher in Victoria than in any other jurisdiction, being 50 per cent of the cases for that state, as shown in Table 13.10. (It is probable that the proportion was high in that state as a large number of sentenced and remanded prisoners were held there in police cells, owing to prison overcrowding, and each of their movements to and from prison and between police stations would show as a separate occasion of custody on warrant.) Queensland, Western Australia and the Australian Capital Territory used warrants the least, with approximately 10 per cent of the relevant cases being placed in the cells following an arrest on warrant.

A caution is in order. The relatively high residual category 'other reasons for custody'—10 per cent of all cases—suggests that police found some difficulty in using this section of the data collection form, and/or coding errors have arisen. Almost 80 per cent of this category relate to the movement of people, circumstances that are classified as 'on warrant' in other cases. (A frequent example is prisoners temporarily in police cells while moving between prison and court.) For this reason, the sub-sets of the 'warrant' category need to be used with caution. Nevertheless, the pattern shown in Table 13.10 is so marked that it almost certainly reflects differing patterns of police and judicial practice between the various jurisdictions.

Significant differences in reasons for custody also exist relating to gender and Aboriginality. As shown in Table 13.11, overall a higher proportion of the females were placed in custody by means of arrest without warrant (60 per cent) than were males (54 per cent). This difference applied to both Aboriginal and non-Aboriginal people, but was particularly marked among Aboriginal people.

With regard to Aboriginality, the data show that a far higher proportion of the Aboriginal cases were placed in protective custody because of public intoxication

(where it is not an offence) (21 per cent) compared with non-Aboriginal cases (8 per cent). This pattern applied to both males and females, but was particularly marked among females: 19 per cent of the Aboriginal female custodies were for public intoxication where it is not an offence compared with only 6 per cent of the non-Aboriginal female cases. The corollary of this is the lower proportion of Aboriginal people, compared with non-Aboriginal people, taken into custody by means of arrest, both with and without warrant.

TABLE 13.10
Custody Following Arrest Without Warrant and With Warrant for Offences Other Than Public Drunkenness, National Police Custody Survey, August 1988

	Arrest without warrant		*Arrest with warrant*		*Total*	
State	*No.*	*%*	*No.*	*%*	*No.*	*%*
NSW	1,967	81	476	19	2,443	100
Vic.	847	50	847	50	1,694	100
Qld	2,552	89	307	11	2,859	100
WA	2,674	90	307	10	2,981	100
SA	1,129	86	179	14	1,308	100
Tas.	164	80	41	20	205	100
NT	287	84	55	16	342	100
ACT	201	89	26	11	227	100
Aust.	9,821	81	2,238	19	12,059	100

Warrant type As noted above, approximately one-quarter of the occasions of custody resulted from people being apprehended on a warrant. Data were collected on the type of warrant involved. Unfortunately, the relevant legislation varies considerably between the eight states and territories; different names are used for similar warrant types and types of warrants available vary. For the purpose of developing national aggregates, however, eight categories have been used. These seem to encompass all types. The categories require some explanation:

- *Commitment warrant*: where a court has issued a warrant for a person to be arrested and either brought before a court or placed into custody to serve a sentence. The most frequent occurrence of this is where a person has failed to pay a fine or comply with some other order imposed by a court.

TABLE 13.11
Reason for Custody, Aboriginality and Gender, National Police Custody Survey, August 1988 (Percentages)

	Arrest without warrant %	*Arrest with warrant %*	*Intoxication (not an offence) %*	*Other %*	*Total %*
Aboriginal					
Male	49	22	22	6	99
Female	61	18	19	2	100
Total	52	21	21	5	99
Non-Aboriginal					
Male	56	25	8	12	101
Female	59	25	6	10	100
Total	56	25	8	12	101
Total					
Male	54	24	11	10	99
Female	60	22	12	6	100
Total	55	24	11	10	100

- *Remand warrant*: where a court has ordered that a person be held on remand in custody pending future appearances in court.
- *First instance warrants*: where a court has issued a warrant authorising a police officer to apprehend a nominated individual and to bring that person before a court. This is frequently used when a person fails to appear at court in response to a summons. Victorian 'apprehension warrants' are similar, in practice, to other jurisdictions' 'first instance warrants'.
- *Apprehension warrant*: similar to a commitment warrant, but refers to apprehending a person for non-compliance with an order issued by a court interstate.
- *Provisional warrant*: similar to a first instance warrant, but issued by court interstate.
- *Movement warrant*: a category developed for warrants authorising a person to be held in custody and moved from place to place, but not a remand warrant.
- *Other warrants*: warrants other than those which fall into the above categories.

- *Multiple warrants*: where more than one warrant, of different types, are in effect concurrently.

It is emphasised that these categories are, to a degree, artificially created for the purpose of facilitating interstate comparisons and, especially, the development of national aggregates. In addition, as discussed below, it is believed that many of the cases shown as entering custody not on warrant but for 'other' reasons were, in fact, cases similar to those classified as being on warrant, especially what are called here 'movement warrants'.

The proportions of warrants in each of the eight categories specified, on a national basis, are as follows:

commitment	52 per cent	movement	3 per cent
remand	17 per cent	provisional	0.4 per cent
first instance	16 per cent	other	4 per cent
apprehension	4 per cent	multiple	2 per cent

Since the first three categories, namely, commitment, remand and first instance warrants, comprise most (85 per cent) of the warrants, for ease of interpretation the distribution of only these types, between the states and territories, is shown in Table 13.12.

Table 13.12 shows marked differences between the states and territories. Commitment warrants dominate nationally and are the dominant warrant type in Victoria, Queensland, Western Australia, South Australia, Tasmania and the Northern Territory. New South Wales differs, however, having first instance warrants predominant. Not having a prison (it has a small remand centre) the Australian Capital Territory has only a small proportion of remand cases compared with the other jurisdictions. Finally, it will be noted that Western Australia is shown to have very few first instance warrants. This could reflect a legislative and/or nomenclature difference in that jurisdiction and reinforces the caution, expressed above, which should be applied in interpreting these data.

TABLE 13.12
Types of Warrants, National Police Custody Survey, August 1988

	Commitment		*Remand*		*First instance*		*Total*	
	No.	*%*	*No.*	*%*	*No.*	*%*	*No.*	*%*
NSW	111	14	199	25	498	62	808	101
Vic.	1,256	70	485	27	52	3	1,793	100
Qld	523	67	137	18	122	16	782	101
WA	925	85	144	13	21	2	1,090	100
SA	537	56	145	15	269	28	951	99
Tas.	120	75	17	11	22	14	159	100
NT	131	45	79	27	80	28	290	100
ACT	32	44	1	1	39	54	72	99
Aust.	3,635	61	1,207	20	1,103	19	5,945	100

Offences involved

Data were sought on the most serious offence that lead to the person being in custody in the police cells. Offence data are available on 18,043 cases, which is 81 per cent of the cases in which an offence is relevant (that is, not counting the cases of people apprehended without arrest owing to public intoxication where such behaviour is not an offence). Since offence data are missing in 19 per cent of the cases, the data set out here should be used with a degree of caution.

The offence categories listed in Table 13.13, and used in other Research Papers of the Royal Commission, are based on the Australian National Classification of Offences developed by the Australian Bureau of Statistics. Full details of the criminal behaviours included within each category are found in Australian Bureau of Statistics publications (*see* in particluar Australian Bureau of Statistics 1986); for the purposes of this paper, however, the following brief descriptions apply:

Homicide includes murder, attempted murder, conspiracy to murder, manslaughter and driving causing death.
Assault includes occasioning grievous bodily harm, actual bodily harm, etc.
Sexual Offences includes rape, carnal knowledge, incest, indecent assault, etc.
Other Against Person includes abduction, child abuse, etc.
Robbery includes armed robbery, unarmed robbery, stealing with violence, etc.
Break and Enter, Fraud and Theft includes burglary and unlawful entry; misappropriation, forgery and false pretences; receiving and unlawful possession of stolen goods as well as motor vehicle theft and illegal use, stealing from the person, etc.
Property Damage includes arson and vandalism.

Justice Procedures includes breach of probation, parole, etc, contempt of court, breach of family law court orders, escape from custody, fine default, etc.
Drunkenness includes only public drunkenness where it is an offence, not protective custody or detention where this form of behaviour has been decriminalised.
Other Good Order Offences includes offensive behaviour, weapons offences, etc.
Drug Offences includes possession or use; importing, dealing, or trafficking; manufacture or growing any unlawful drugs.
Drink Driving includes driving under the influence of alcohol or drugs, exceeding the prescribed alcohol limit, refusing breath test, etc.
Other Traffic Offences includes all other driving offences and licence or registration offences.
Other Offences is a residual category for offences not elsewhere classified.

TABLE 13.13
Offences Involved, National Police Custody Survey, August 1988

	Aboriginal		*Non-Aboriginal*		*Total*	
Offence	*No.*	*%*	*No.*	*%*	*No.*	*%*
Homicide	17	0.4	139	1.1	156	0.9
Assault	393	8.5	919	7.0	1,312	7.4
Sexual offences	38	0.8	201	1.5	239	1.3
Other against person	1	-	34	0.3	35	0.2
Robbery	18	0.4	201	1.5	219	1.2
Break and enter, fraud and theft	668	14.4	2,896	22.0	3,564	20.0
Property damage	91	2.0	296	2.2	387	2.2
Justice procedures	198	4.3	705	5.4	903	5.1
Drunkenness	2,153	46.4	3,081	23.4	5,234	29.4
Other good order offences	804	17.3	1,180	9.0	1,984	11.2
Drug offences	25	0.5	1,024	7.8	1,049	5.9
Drink driving	170	3.7	1,650	12.6	1,820	10.2
Other traffic offences	56	1.2	733	5.6	789	4.4
Other offences	7	0.1	84	0.6	91	0.5
Total	4,639	100	13,143	100	17,782	99

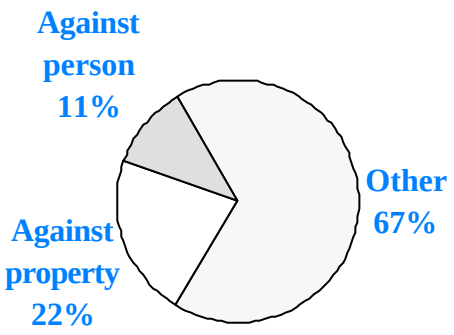
Table 13.13 sets out details of what were reported to be the most serious offences that lead to a person being in police custody. It will be noted that public drunkenness is the most frequently reported offence, accounting for 29 per cent

of the cases for which offence data are available. (Later in this paper, data on drunkenness offences and protective custody owing to drunkenness will be discussed as a single entity.) It is followed by 'break and enter, fraud and theft' at 20 per cent. Break and enter, burglary and unlawful entry made up 25 per cent of this category, while motor vehicle theft comprised an additional 17 per cent.

These two major offence categories were followed, in frequency, by 'other good order offences' (that is, good order offences other than public drunkenness) (11 per cent), drink driving (10 per cent), assault (7 per cent) and drug offences (6 per cent). It may be of interest to note that 50 per cent of the drug offences were for possession and/or use of illicit drugs, rather than for manufacturing/growing, dealing, importing or trafficking in them.

Figure 13.6 illustrates the fact that a relatively small proportion of the custodies (11 per cent) was for offences against the person, generally the more serious offences. Twice that proportion were for offences against property and the balance, two-thirds of all cases, were for other offences, including drunkenness and other relatively minor offences.

FIGURE 13.6
Most Serious Offence, National Police Custody Survey, August 1988



Differences between the states and territories exist in the most serious offence reported. Break and enter, fraud and theft were particularly common, compared with other offences, in New South Wales and South Australia. Good order offences other than public drunkenness were common in Western Australia, South Australia, the Northern Territory and the Australian Capital Territory. Drink driving stood out in Queensland, the Northern Territory and the Australian Capital Territory, assault in New South Wales and drug offences in New South Wales and Queensland.

Aboriginality is also related to the pattern of offences, as shown in Table 13.13. Aboriginal people in custody were under-represented, compared with non-Aboriginal people in custody, in the following offences: homicide, sexual offences, robbery, break and enter/fraud/theft, drug offences, drink driving

and other traffic offences. They were over-represented only in the offences of assault, drunkenness and other good order offences.

When offence data are viewed from the perspective of Aboriginality, it is apparent from Table 13.13 that almost half (46 per cent) of the Aboriginal people who were placed in the cells for an offence and for whom offence data are available were in custody for public drunkenness. Other good order offences, many of which would have been alcohol related, comprised a further 17 per cent of the Aboriginal cases, these two offence categories totalling 64 per cent of all the Aboriginal offences. The corresponding non-Aboriginal data are drunkenness at 23 per cent and other good order offences at nine per cent, totalling 32 per cent, only half the Aboriginal proportion.

Non-Aboriginal people had similar proportions of custodies for the offences of drunkenness (23 per cent) and break and enter/fraud/theft (22 per cent). Significant differences also exist between males and females. Males have higher than expected (statistically) proportions of most offences; females have higher than expected proportions of the offences of drunkenness and other good order offences only. It will be recalled that these are the two offences in which Aboriginal people in custody are especially over-represented compared with non-Aboriginal people in custody, and reflects the gross over-representation of Aboriginal females in police custody, discussed early in this paper.

Public drunkenness Data have been presented under the headings 'reason for custody' and 'offence involved' that demonstrate the substantial contribution of public drunkenness cases to the Australian police cell population during the survey period. This section presents an aggregation of data concerning the public drunkenness cases, that is, people placed in the cells owing to intoxication in those jurisdictions where such behaviour is not an offence, and people placed in the cells owing to the offence of drunkenness in the remaining jurisdictions.

A total of 8,536 cases of public drunkenness leading to custody were reported, comprising 30 per cent of all custodies during August 1988 or, more significantly, 35 per cent of the cases for which the reason for custody is stated. Some 46 per cent were Aboriginal people; 86 per cent were males. More than three-quarters of the female drunkenness cases (78 per cent) were Aboriginal. Overall, the Aboriginal drunkenness cases comprised 57 per cent of the month's Aboriginal custodies for which the reason for custody is known. The corresponding proportion for non-Aboriginal people was 27 per cent.

The distribution between the states and territories was uneven and not closely related to state total population nor state Aboriginal population. By far the largest number of drunkenness cases was in Queensland (2,285 or 27 per cent of all Australia's drunkenness custodies during the month), followed by Victoria (19 per cent), the Northern Territory (18 per cent), Western Australia (14 per cent), New South Wales (13 per cent), South Australia (5.4 per cent), the Australian Capital Territory (2.1 per cent) and Tasmania (1.3 per cent).

Although data are not available from this survey, it is clear that an additional substantial number of offences, such as offensive behaviour, obscene language,

and so on, are alcohol related. The figures presented here, in providing a conservative estimate of the proportion of alcohol related custodies, highlight the destructive impact on Australian society of alcohol misuse and its involvement in the workload of the police forces. Its impact on Aboriginal people is especially apparent.

Reason for release

Members of the police forces were asked to indicate, for each occasion of custody in police cells, the reason for the individual being released from the cells. The options provided on the survey form (*see* Appendix 13.1) were 'to court, prison, juvenile shelter or other police custody', 'to bail', 'intoxication custody completed', 'sentence served' and a residual category 'other'.

The first two categories are self-explanatory. 'Intoxication custody completed', or 'protective custody concluded' as it is shown in Table 13.14, was intended to refer to the release of people placed in custody in police cells owing to public drunkenness in New South Wales, South Australia, the Northern Territory and the Australian Capital Territory, the jurisdictions where public drunkenness is not an offence. The aim was to differentiate these cases from people arrested in the other states for having committed the offence of drunkenness, and released on bail or to attend court to face the charge of public drunkenness. Unfortunately, as discussed below, in some cases this was misunderstood.

The fourth reason for release, 'sentence served' or 'sentence completed' as shown in Table 13.14, refers to people sentenced by a court to a period of imprisonment (or to imprisonment in default of paying a fine) where that sentence was served in police cells. This happens frequently in the case of short sentences of, say, just a few days, when it would be impractical for the person to be conveyed to a prison, perhaps some distance away. (Some police stations are gazetted as 'police prisons' in some jurisdictions.) In addition, in some jurisdictions, prison overcrowding (rather than isolation from a prison or shortness of sentence) has resulted in some prisoners, including those sentenced to long periods of imprisonment, serving part or all of their sentences in police cells rather than in prisons.

It will be observed from Table 13.14 that data collection errors have occurred that cannot be corrected by the researchers. It appears that, in Victoria and Queensland, states in which public drunkenness is an offence, many police assumed that 'intoxication custody completed' (or 'protective custody concluded' as shown in Table 13.14) was equivalent to releasing a person on bail, perhaps on his or her own recognizance, upon sobering-up. Both Victoria and Queensland reported some hundreds of cases where the reason for release was shown as 'protective custody concluded'. This cannot be correct: since the people involved were arrested for having committed the offence of public drunkenness, they must have left custody on bail, that is, a cash bail or on their own recognizance without a cash bail, to appear at court, or were released from the cells to attend court. No practicable method is available to identify which of these (or other) options was

correct in individual cases. The result of this departure from the instructions on the use of the survey data collection instrument is that the 'protective custody concluded' data for jurisdictions other than New South Wales, South Australia, the Northern Territory and the Australian Capital Territory must be ignored.

To retain as much usable information as possible from the data available on the 'reasons for release' variable, the topic will be considered in two discrete parts. First, the cases where the person was placed in custody in the cells for reasons *other* than having committed the offence of drunkenness or for having been taken into protective custody where drunkenness is not an offence, will be reviewed. The second section will review the drunkenness/protective custody cases in the six jurisdictions for which usable data on this variable are available. (This approach is logical in terms of public policy as well as avoiding the present problem of erroneous data in that, with the exception of Queensland and Tasmania, each jurisdiction has already decriminalised public drunkenness or has announced the intention of doing so.)

TABLE 13.14
Reason for Resease, Jurisdiction, National Police Custody Survey, August 1988

State	*To court, etc.**	*Bail*	*Protective custody concluded*	*Sentence completed*	*Other*	*Total*
NSW	2,945	1,105	977	58	274	5,359
Vic.	1,417	1,620	751	462	360	4,610
Qld	1,797	2,824	590	140	427	5,778
WA	1,520	2,791	15	602	312	5,240
SA	1,231	1,142	425	63	206	3,067
Tas.	251	215	10	18	50	544
NT	325	247	1,482	30	68	2,152
ACT	140	154	166	4	21	485
Aust.	9,626	10,098	4,416	1,377	1,718	27,235

TABLE 13.14 (CONT'D)
Reason for Release, Jurisdiction: Percentages

State	To court, etc.*	Bail	Protective custody concluded	Sentence completed	Other	Total
NSW	55	21	18	1	5	100
Vic.	31	35	16	10	8	100
Qld	31	49	10	2	7	99
WA	29	53	-	11	6	99
SA	40	37	14	2	7	100
Tas.	46	40	2	3	9	100
NT	15	11	69	1	3	99
ACT	29	32	34	1	4	100
Aust.	35	37	16	5	6	99

*To court, prison, juvenile shelter or other police custody.

People in custody for reasons other than drunkenness Some 54 per cent of the people placed in the cells for reasons other than drunkenness were released from the cells on bail, with a further 38 per cent leaving the cells to go 'to court, prison, juvenile shelter or other police custody'. The remaining 8 per cent left having served a sentence, paid a fine or for other unspecified reasons. Understandably, the proportions in the two main categories, release on bail and to court, and so on, vary with the type of offence involved, with a higher proportion of the people who had been placed in the cells for having committed the more serious offences leaving the cells to go to court or to another form of custody, the less serious offences cases being released on bail.

Similar proportions of Aboriginal and non-Aboriginal people were released to bail or to court; a higher proportion of Aboriginal people were released having served a sentence, paid a fine, and so on. Details are in Table 13.15.

TABLE 13.15
Reason for Release, National Police Custody Survey, August 1988
(People in custody for reasons other than drunkenness)

	Aboriginal		Non-Aboriginal		Total	
Reason for release	No.	%	No.	%	No.	%
Bail	1,213	52	5,164	54	6,377	54
To court, etc.*	886	38	3,568	38	4,454	38
Sentence served	123	5	211	2	334	3
Other	117	5	551	6	668	6
Total	2,339	100	9,494	100	11,833	101

*To court, prison, juvenile shelter or other police custody.

Significant differences exist between the states and territories in the use of bail for these cases, as shown in Table 13.16. Particularly high proportions of people placed in the cells for reasons other than drunkenness were released on bail in South Australia and Western Australia: 73 per cent and 70 per cent respectively, compared with the overall national level of 54 per cent. New South Wales had by far the lowest use of bail. It is possible that the South Australian and Western Australian figures reflect, in part, the relatively high level of police custody in these states (as shown in Table 13.3) and the use of the cells there for relatively minor offences.

TABLE 13.16
Percentage Released on Bail by State, National Police Custody Survey, August 1988 (People in custody for reasons other than drunkenness)

State	*NSW*	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*ACT*	*Aust.*
Per cent	32	40	53	70	73	57	65	61	54

People in custody owing to drunkenness This section examines the reasons given for people leaving the police cells, in the case of people who were placed in the cells owing to drunkenness: either protective custody owing to public drunkenness where that behaviour is not an offence or for the offence of public drunkenness where it had not been decriminalised by the time of the survey. As discussed above, Victoria and Queensland cases are excluded owing to data collection errors in those states.

Since public drunkenness is not an offence in New South Wales, South Australia, the Northern Territory and the Australian Capital Territory, all people who were placed in the cells owing to drunkenness would have been released, without any court appearance or bail being awarded, in accordance with the applicable legislation. Having already excluded Victoria and Queensland from the present discussion, one is left with Western Australia and Tasmania alone.

In Western Australia, 54 per cent of the drunkenness cases were shown to have been released on bail, 30 per cent left the cells to go to court, other custody, and so on, and a further 13 per cent were released having served a period of incarceration ordered by a court, paid a fine, and so on. Approximately 49 per cent of the Aboriginal people in custody for drunkenness in Western Australia were released on bail, compared with 88 per cent of the non-Aboriginal people.

Although the Tasmanian numbers were relatively small (data are available on 108 drunkenness cases), it is noted that most of these, 69 per cent, were released on bail with a further 21 per cent proceeding to court, and so on.

Unfortunately, the poor quality of the data on this variable precludes any more detailed or extensive analysis.

Type of custody

Police officers completing the data collection forms were asked to note whether the individuals were held alone or with others for most of their period of custody in police cells. This data item is relevant to the view, referred to by Commissioner Muirhead in his *Interim Report*, that 'cell sharing is likely to reduce the incidence of deaths in custody' (Royal Commission into Aboriginal Deaths in Custody 1988, p.36). (He went on to observe, however, that the accuracy of this view remains to be determined.) The relevant recommendation from the *Interim Report* reads as follows:

> *18. In all cases, unless there are substantial grounds for believing that the well-being of the detainee or other persons detained would be prejudiced, an Aboriginal detainee should not be confined alone in a cell. Where solitary incarceration is the only alternative the detainee must thereafter be treated as a person who requires careful surveillance (Royal Commission into Aboriginal Deaths in Custody 1988, p. 40).*

The complexities of this issue are canvassed in a paper recently published in this series (Reser 1989, *see* Research Paper No. 9, pp. 147-90).

Returning to the findings of the August 1988 National Police Custody Survey, as shown in Table 13.17 some 39 per cent of the people in police cells during the month were held alone for most or all of their period in the cells. (Of course, there would have been many occasions where only one person was being held in a given cell block, especially at small police stations. The fact that a person was held alone does not indicate, therefore, the operation of a policy of minimising the multiple occupancy of cells.) A significant difference exists between the eight states and territories, with the Australian Capital Territory, South Australia, Tasmania and New South Wales having proportions of people reported to have been held alone substantially above the overall national rate. In contrast, it will be noted that relatively high proportions were held in shared cells in Western Australia, the Northern Territory, Queensland and Victoria.

TABLE 13.17

Type of Custody, Jurisdiction, National Police Custody Survey, August 1988

	NSW	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*ACT*	*Total*
Alone	2,851	1,635	1,837	1,214	2,052	309	571	417	10,886
Others	2,580	3,182	3,994	4,156	1,021	276	1,612	27	16,848
Total	5,431	4,817	5,831	5,370	3,073	585	2,183	444	27,734

TABLE 13.17 (CONT'D)
Type of Custody, Jurisdiction: Percentages

	NSW	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*ACT*	*Total*
Alone	52	34	31	23	67	53	26	94	39
Others	48	66	68	77	33	47	74	6	61
Total	100	100	99	100	100	100	100	100	100

A significant difference also exists between the proportions of Aboriginal and non-Aboriginal detainees held alone. The Aboriginal proportion of 26 per cent is roughly half that of the non-Aboriginal proportion, 45 per cent held alone. This disparity is even greater in the case of people held in the cells owing to public drunkenness: in these circumstances only 18 per cent of Aboriginal detainees, compared with 46 per cent of non-Aboriginal detainees, were reported to have been held alone. This tends to confirm the observation that intoxicated people are more likely to be held in special multiple-occupancy cells designated for their custody, and explains in part the state-by-state and Aboriginal/non-Aboriginal variations outlined above: the jurisdictions with the highest levels of Aboriginal people held for public drunkenness tended to have the highest levels of cell sharing.

Length of time in custody

The police officers who completed the data collection forms indicated the date and time that individuals entered the police cells and the date and time of release. From these data the lengths of time in custody in the cells have been calculated. After one excludes cases in which one of the date/time elements was not provided, and the 922 cases of people still in the cells at the conclusion of the survey period, data on 23,703 cases remain.

As one might expect, since the police cells should only be used for short-term custody, almost all the cases (99.5 per cent) were for periods of less than two weeks. Indeed, 98 per cent were for less than one week, 90 per cent for less than two days and 84 per cent for less than one day. Details are provided in Table 13.18 and Figure 13.7 shows the hourly distribution of the cases where the duration was less than 48 hours.

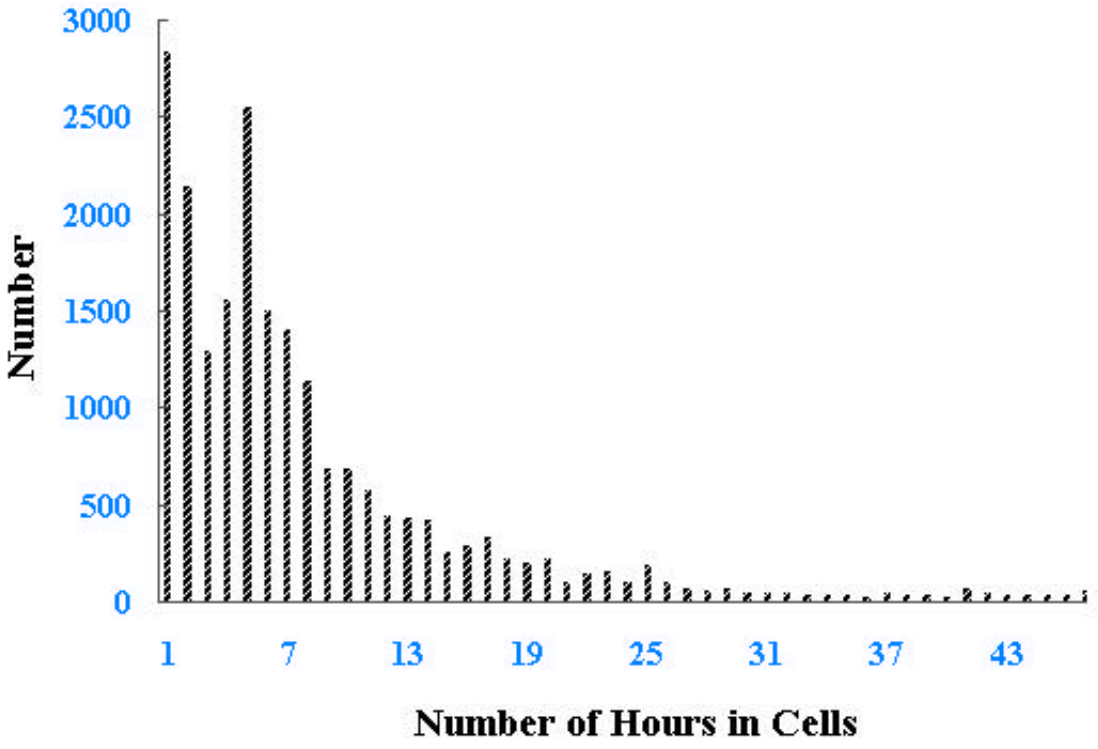
TABLE 13.18

Length of Time in Cells, National Police Custody Survey, August 1988

Time in cells	*No.*	*%*	*Time in cells*	*No.*	*%*
Under 6 hours	11,931	50.3	2 and under 3 days	830	3.5
6 and under 12 hours	4,996	21.1	3 and under 4 days	409	1.7
12 and under 18 hours	2,013	8.5	4 and under 5 days	220	0.9
18 and under 24 hours	991	4.2	5 and under 6 days	195	0.8
24 and under 30 hours	588	2.5	6 and under 7 days	146	0.6
30 and under 36 hours	283	1.2	1 and under 2 weeks	344	1.5
36 and under 42 hours	313	1.3	2 weeks and under		
42 and under 48 hours	321	1.4	1 month	75	0.3
2 months and above	-	0.2	1 and under 2 months	9	39

FIGURE 13.7

Number of Hours in Cells, National Policy Custody Survey, August 1988



In a very small number of cases, 48, the individual was shown to have been held for one month or longer. The longest periods were four cases at 213 days and two at 215 days: approximately seven months. It is not possible to determine if these extreme cases in the data set are accurate or reflect errors which may have occurred at some stage of the research process. Readers are reminded, however, that a large number of people, sentenced by courts to a period of imprisonment, are serving their sentences in police cells owing to prison overcrowding.

The mean length of time in custody, with regard to all cases, was 24.0 hours. Half the cases were in custody for 5.9 hours or less. A significant difference exists between Aboriginal and non-Aboriginal people on this variable, with Aboriginal people consistently having longer periods in custody than non-Aboriginal people. Half of the Aboriginal custodies were for periods of 8.7 hours or less, whereas half the non-Aboriginal custodies were for 5.0 hours or less. The mean lengths of time in custody are shown in Table 13.19.

TABLE 13.19
Mean Lengths of Time in Cells, Aboriginality, National Police Custody Survey, August 1988

Length of time in cells	*Mean time in cells (hours)*		
	Aboriginal	*Non-Aboriginal*	*Total*
All time periods	26.4	22.3	24.0
Under seven days	16.1	13.4	14.2
Under two days	9.7	8.0	7.6
Under one day	5.5	8.2	6.2

Since 90 per cent of the cases involved periods in the cells of less than 48 hours, the difference between the Aboriginal and non-Aboriginal groups at this point is perhaps most illustrative of police and court practices. Within this group, as shown in Table 13.19, Aboriginal people stayed in the cells, overall, 28 per cent longer than non-Aboriginal people: averages of 9.7 hours and 7.6 hours respectively. Aboriginal people were held in the cells for having committed the offence of drunkenness for almost twice the period of non-Aboriginal people: means of 10.6 hours and 5.5 hours respectively. Where drunkenness is not an offence, Aboriginal people were in the cells 22 per cent longer than non-Aboriginal people: means of 7.7 hours and 6.3 hours respectively. This implies that current policies to decriminalise public drunkenness and to provide alternatives to the police cells for people found intoxicated in public should, if implemented effectively, substantially reduce the exposure of Aboriginal people to the risk of deaths in police custody.

Significant differences exist between the states in the periods of time people spent in the cells, as shown in Table 13.20. Still referring only to the 90 per cent of cases where custody lasted less than 48 hours, it is observed that the longest mean period in the cells was found in New South Wales with 10.2 hours, followed by the Northern Territory at 8.3 hours. The other jurisdictions had means shorter than the national figure of 8.2 hours, with the Australian Capital Territory having the shortest mean period, 5.8 hours. It is possible that the New South Wales figure reflects that state's relatively high level of custody for serious offences.

TABLE 13.20
Mean Length of Time in Cells, Jurisdiction
(Cases held in cells for less than 48 hours)
National Police Custody Survey, August 1988
(Hours)

	NSW	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*ACT*	*Aust.*
Aboriginal	11.7	6.9	10.7	9.9	9.1	7.6	8.5	7.2	9.7
Non-Aboriginal	10.0	7.9	6.9	5.1	6.9	7.3	7.7	5.7	7.6
Total	10.2	7.9	8.0	7.5	7.3	7.4	8.3	5.8	8.2

The mean lengths of time that Aboriginal people spent in the cells were greater than those of non-Aboriginal people in all jurisdictions except Victoria. The difference was most pronounced in Western Australia, where Aboriginal people were in the cells for periods, on average, 1.9 times those of non-Aboriginal people, followed by Queensland at 1.6 times. The other states and territories, however, had ratios less than that of Australia as a whole, namely, Aboriginal people being held 1.3 times the period for which non-Aboriginal people were held.

Conclusion

Australia's sixteen police and correctional services departments have reported that, in the nine-year period 1980-88, 462 people died in their custody. One hundred and eighty-two of these died in police custody and 59 of these police custody deaths were Aboriginal people (Research Paper No. 7, *see* pp. 107-136). In the absence of information about the size and composition of the population in custody in police cells, observers have found it difficult to interpret the significance of these mortality figures. If the August 1988 numbers are representative of the whole of 1988, one could conclude that over 336,000 occasions of police custody occurred in that year. This figure would include over 96,000 Aboriginal custodies out of a national Aboriginal population aged 15 years or above of 137,133 at the 1986 census. (It is not possible to extrapolate, from one month's data, to obtain a useable estimate of the number of separate individuals in a year as the twelve-months repeat detention rate would certainly be higher than the one-month rate.)

Because almost two-thirds of the Aboriginal deaths in custody in the 1980-88 period occurred while the person was in police cells (or in another location but still in the custody of police), the Royal Commission's *Interim Report* (1988) contains a number of recommendations on police cell procedures. The reports by the Royal Commissioners which are being released following their enquiries into the individual deaths of Aboriginal people in custody also contain recommendations in these areas. It is hoped that the data provided by the August

1988 National Police Custody Survey will assist in the further development of procedures that will minimise the number of deaths in police custody.

This paper has highlighted the gross over-representation of Aboriginal people in police custody and the marked differences between the various states and territories in this regard. The particularly high over-representation of Aboriginal women is also highlighted. The over-representation in police custody of Aboriginal people, as well as the fact that they were generally held in the cells for longer periods of time than were non-Aboriginal people, underscore the need for action to reduce the number of Aboriginal people in Australia's police cells.

The heavy impact of the misuse of alcohol is also apparent in the analysis presented above. With 35 per cent of the custodies being for public drunkenness, it is clear that the police are filling a social welfare role by providing shelter and care for intoxicated people. Even in the jurisdictions which have decriminalised public drunkenness, far too many people were being held in the cells owing to their intoxication, reflecting the need for more sobering-up facilities to be established as preferred alternatives, for intoxicated people, to the police cells. The survey demonstrates that Aboriginal people have a special need in this regard.

The data presented on the use of bail and on the proportions of people who were held in the cells on their own will be useful, it is hoped, to policy makers and managers establishing programs to minimise the number of people held in the cells, and to minimise the risk faced by those who must be detained in police custody.

Finally, the reader is reminded that the data derived from the National Police Custody Survey and presented in this and the earlier Preliminary Descriptive Report are unique. It is the first survey of its type. Its usefulness is limited, however, in that it covers only one discrete time period, namely, August 1988. The resources expended by Australia's police forces on the design and implementation of the survey, and by the Royal Commission on its analysis and reporting, will be of most benefit if this survey acts as baseline data for a series of surveys of police custody in Australia. Repeated at regular intervals of, say, two to five years, the survey will enable politicians, planners and the public to monitor changes in the size and composition of the population held in custody in Australia's police cells. The data flowing from such a survey program will enable them to assess the degree to which recommended improvements in legislation, attitudes, policies and procedures are implemented.

Summary

1. These findings are based upon an analysis of the contents of data collection forms provided by each state and territory police force, covering every occasion on which a person was held in custody in police cells in Australia during the month of August 1988.

2. A total of 28,566 custodies occurred during the month, including 559 people who were in police cells at the start of the month. This included some 23,877

separate individuals. Some Queensland Aboriginal community police custodies are not included in these figures.

3. Aboriginal people made up almost 29 per cent of the custodies, although they are only 1.1 per cent of the Australian population aged 15 years and above. Substantial differences exist between the jurisdictions in Aboriginal custody rates, with Aboriginal people in Western Australia being held in custody at a rate 43 times that of non-Aboriginal people in that state.

4. Some 88 per cent of the custodies were males. Aboriginal women were heavily over-represented, comprising nearly 50 per cent of the female custodies but only 1.1 per cent of the national female population aged 15 years and above.

5. The mean age of people held in custody was 28 years with little age difference being observed between Aboriginal people and non-Aboriginal people. Major differences exist, however, in the age distributions of the two populations in the wider community.

6. More custodies occurred on Wednesdays to Saturdays than on the other days of the week, with peaks during the weekends following the two pension days. More people were admitted between 0900 and 1100 hours, and between 2000 and 0100 hours, than during other similar periods of the day. Major differences exist between the states on the times of day people entered the cells.

7. Some 35 per cent of all custodies were for drunkenness: either arrests for the offence of drunkenness, or protective custody detentions for public intoxication where that behaviour is not an offence. Approximately 57 per cent of the Aboriginal cases were for drunkenness.

8. Drunkenness and 'break enter steal, fraud and theft' were the most common offences leading to arrests, together making up 49 per cent of all arrests. Aboriginal people were over-represented in assault and good order (including drunkenness) offences only.

9. People were released from the cells on bail in approximately 54 per cent of cases, excluding drunkenness cases. Substantial differences in the use of bail existed between jurisdictions.

10. In some 39 per cent of the custodies, people were alone in the cells for most of the time. Approximately twice the proportion of non-Aboriginal people, compared with Aboriginal people, were held alone.

11. The periods of time held in custody were generally brief, with half the people being released after less than six hours of custody and 90 per cent staying less than 48 hours. Significant differences existed between the states, with

New South Wales custodies being markedly longer and Australian Capital Territory custodies markedly shorter than the national average.

For Australia as a whole, Aboriginal people were in custody significantly longer than non-Aboriginal people: half of the Aboriginal custodies were for periods of 8.7 hours or less, whereas half the non-Aboriginal custodies were for 5.0 hours or less.

12. It will be useful if this survey is repeated at regular intervals to assist in monitoring the implementation of improved policies and practices regarding the custody of people held in police cells throughout Australia.

References

Australian Bureau of Statistics 1986, *Australian National Classification of Offences, 1985*, Catalogue No. 12340, Canberra.

NSW Bureau of Crime Statistics and Research 1989, *Court Delay and Prison Overcrowding, Crime and Justice Bulletin No. 6*, Sydney.

Royal Commission into Aboriginal Deaths in Custody 1988, *Interim Report*, AGPS, Canberra, p. 36.

ACKNOWLEDGMENTS

The research project that is reported in this paper was probably the largest and most ambitious investigation into a specific aspect of police activities ever conducted in Australia. It would not have been possible without the full support and cooperation of all police forces. That support and cooperation was fully, even enthusiastically, given by all ranks of officers; from constables and sergeants who filled in the forms to inspectors and superintendents who ensured that the coverage was as complete as possible.

APPENDIX 13.1

The Survey Instrument

Police Custody Survey, August 1988

This form is to be completed for all persons lodged in police cells for any period of time during the month of August 1988.

Name of Police Station or Watchhouse:

_____ Postcode: [ ][ ][ ][ ]

Office Use Only

1. Name of detainee: _____
Surname Given Names

2. Age: [ ][ ] **3. Sex**: Male [ ] Female [ ]

4. Race: Aboriginal [ ] Non-Aboriginal [ ]

5. When lodged in cells: Date [ ][ ][ ][ ][ ][ ]
Time [ ][ ][ ][ ]

6. Reason for being lodged in cells:

Arrest* [ ] Warrant* [ ] Intoxication [ ] Other [ ]

*Most serious offence _____	[ ][ ][ ]
If 'warrant', indicate type _____	[ ][ ]
If 'other', please specify _____	[ ][ ]

7. Still in police cells at end of survey period: Yes [ ] No [ ]

8. When released from cells (if applicable):

Date [ ][ ][ ][ ][ ][ ] Time [ ][ ][ ][ ]

9. Reason for release from cells (if applicable):

To court, prison, juvenile shelter
or other police custody [ ]
To bail [ ]

Intoxication custody completed [ ]
Sentence served [ ]
Other [ ] (please specify) _____ [ ][ ]

10. Type of custody: (for most of this period in cells):

Alone [ ] With others [ ]

Completed forms are to be returned to:

APPENDIX 13.2

How Representative was August 1988 of 1980-1 May 1989?

As indicated in the introduction to this report, some effort has been made to answer the related questions: (1) how representative was August 1988 of each month of 1988? and (2) how representative was 1988 (and August 1988) of the 1 January 1980 to 31 May 1989 period addressed by the Royal Commission's terms of reference?

Each police force was invited to provide data that might assist in answering these questions, and all but two (Queensland and South Australia) were able to do so. The data received are presented on a state-by-state basis and the conclusion is drawn that the survey data provide a reasonable guide to the numbers and patterns of incidents of police custody in Australia over the past decade.

New South Wales

The NSW Police have undertaken a retrospective count, from cell books, of people detained in the cells for nine stations (a mix of urban and rural) covering the months August 1982 and August 1985. These have been compared with the August 1988 survey data. Because the Aboriginality of the detainees was not recorded in most of the earlier years' cases, only the aggregate figures are presented here.

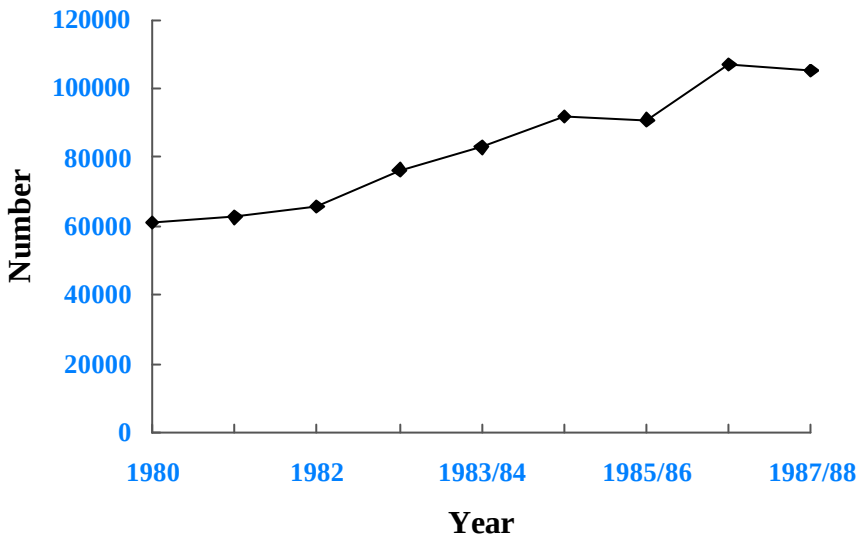
The total number of custodies reported for August 1982 from the nine stations was 315; for August 1985, 554; for August 1988, 462. This suggests, perhaps, an increasing number of custodies as the decade advanced then a falling off in numbers in 1988.

The NSW Bureau of Crime Statistics and Research has provided information on the number of offences cleared by the police over the relevant period (NSW Bureau of Crime Statistics & Research 1989). The Bureau points out that 'an offence is cleared when police have preferred charges against at least one offender or an information has been laid against at least one person. The number of offences cleared will overestimate the number of arrests to the extent that each person arrested is alleged to have committed more than one offence'(NSW Bureau of Crime Statistics & Research 1989, p. 6).

Just as trends in the number of offences cleared provides an indication of trends in the number of arrests (arrest data are not available), they also provide an indication of trends in the number of people held in police cells. The data presented in Figure 13.8 show a steady increase in the number of clearances over the period covered by the Royal Commission: an increase of 73 per cent between 1980 and 1987/88. (The population growth during this period was approximately 14 per cent.) This would imply a steady increase in the number of people held in

police cells, but the increasing use of bail over this time period could suggest that such a conclusion is not warranted.

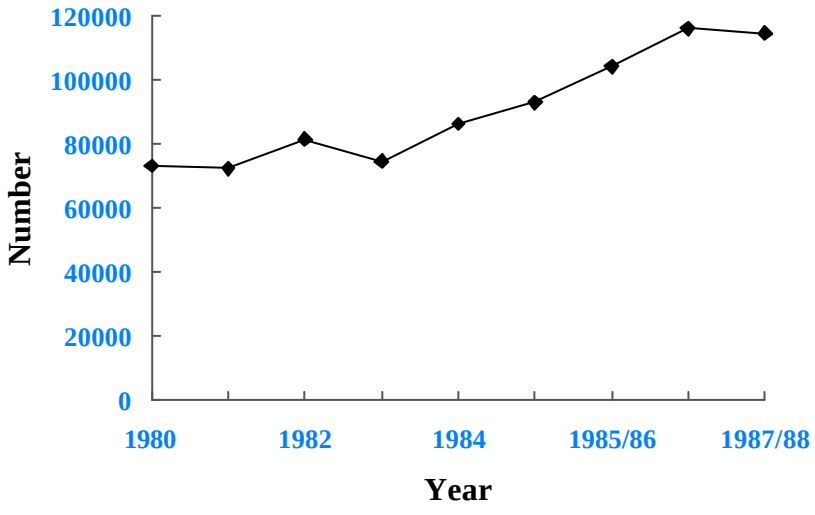
FIGURE 13.8
Offences Cleared, New South Wales, 1980-87/88



Victoria

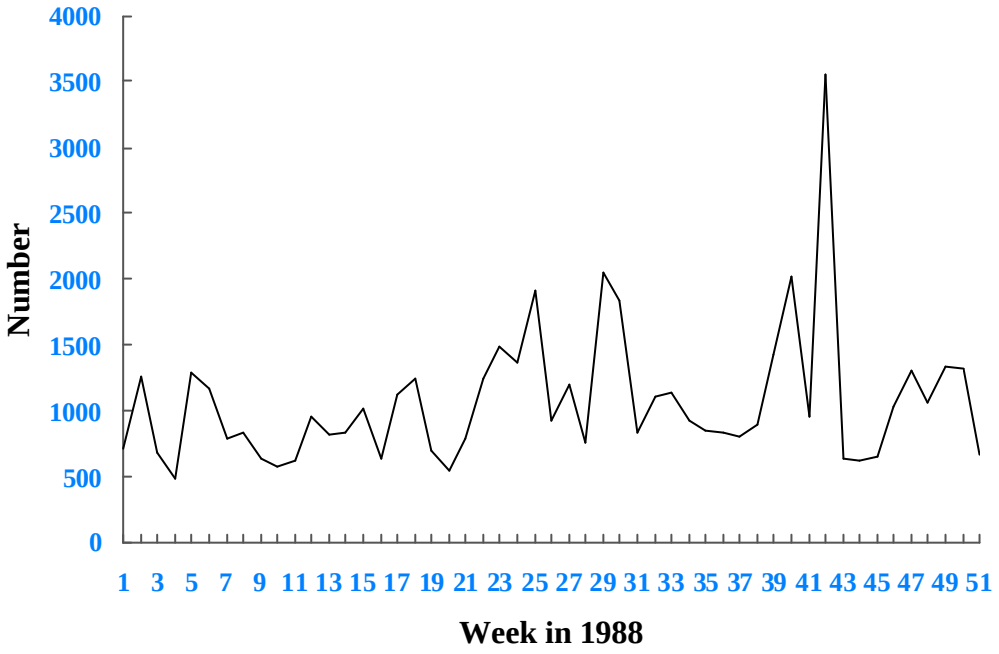
The Victorian Police have supplied data on major offences cleared; no arrest or custody figures are available. Figure 13.9 shows a pattern similar to that of New South Wales: a reasonably steady increase in offences cleared over the relevant period and a 57 per cent increase between 1980 and 1987/88. In so far as the major offences cleared data serve as an index of police custody data, it could be concluded that the August 1988 figures overestimate the number of custodies earlier in the decade.

FIGURE 13.9
Major Offences Cleared, Victoria, 1980-87/88



Additional data are available showing the month-by-month pattern of major offences cleared by Victorian police in 1988, to help answer the question: how representative was August 1988 of all of 1988, or, was August an aberrant month? Figure 13.10 shows 1988 Victorian clearances on a weekly basis. August (weeks 30 to 33) shows a pattern consistent with the rest of 1988.

FIGURE 13.10
Major Offences[a] Cleared, Victoria, 1988



[a]Offences other than fraud since reports for this offence fluctuate markedly owing to certain administrative procedures.
[b]Only 51 weeks are shown owing to the reporting method used by the Victorian Police to end a weekly report at 30 June, the end of the financial year.
[c]Week 42 was an unusually high figure owing to the processing then of a backlog of supplementary reports.

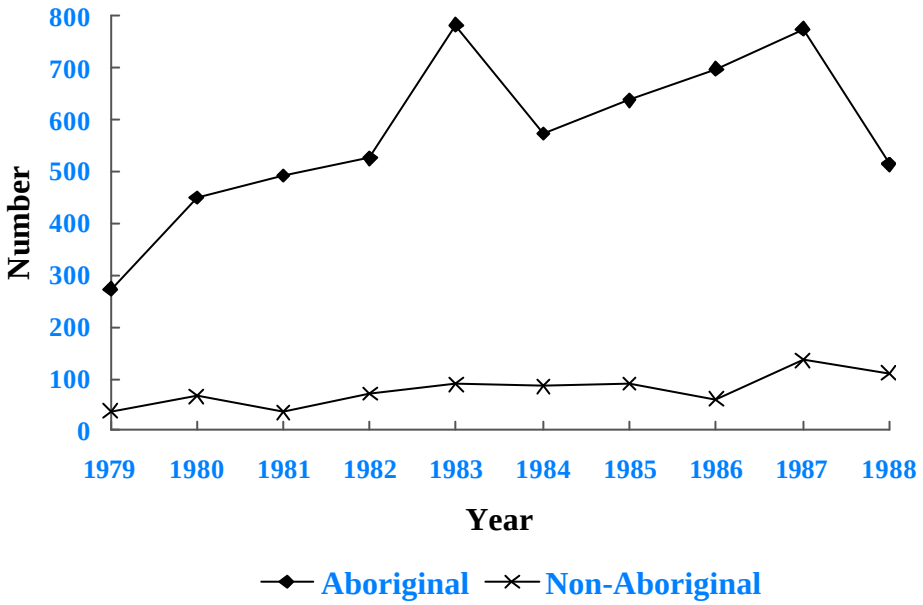
Western Australia

The report of the WA *Interim Inquiry Into Aboriginal Deaths in Custody in Western Australia* (the *Vincent Report*) 1988, states that 'Police Department records reveal that in 1986 alone 84,624 people were processed through police lockups in Western Australia' (p. 13). This is the equivalent to 7,052 per month. The survey reported 5,416 cases of police custody in the month of August 1988, 23 per cent lower than the 1986 monthly mean. This discrepancy could be caused by lower numbers of people being held in the cells in August 1988 or reflect different counting rules. Certainly 'processed through police lockups' is not the

same as 'held in police cells': many traffic offenders and people charged with minor offences are processed through police lockups but never enter cells.

Data received from the WA Department of Corrective Services provide information on the number of prisoners released from police lockups during the month of August each year from 1979 to 1988, as follows:

FIGURE 13.11
Prisoners Released from Police Lockups During the Month of August of the Year Specified, Western Australia, 1980-88



These data are consistent with those from the *Vincent Report*, showing an increasing number as the decade advanced and a lower number in 1988. The proportion of Aboriginal people is reasonably consistent over the years shown.

Tasmania

The Tasmania Police have provided data on charges laid in that state for the offence of drunkenness each year from 1980/81 to 1987/88, as illustrated in Figure 13.12. It is believed that in almost all of these cases the person would have been held for a period in the cells. Accordingly, the temporal pattern observed could be a useful index of the trends in police custody in general, in that state. Figure 13.12 reveals a generally upward, though fluctuating trend, with the number of drunkenness charges in 1987/88 being 20 per cent higher than the 1980/81 figure.

Northern Territory

Figure 13.13 shows the number of cases of intoxicated people apprehended without arrest by members of the NT Police Force and held in protective custody in police cells, under the provisions of the *Police Administration Act*, during 1988. Ninety per cent were Aboriginal people. (The graph excludes people taken by police direct to sobering-up facilities.) The numbers have fluctuated with August, the survey month, being close to the monthly mean for the year.

FIGURE 13.12
Charges for Drunkenness, Tasmania, 1980/81-1987/88

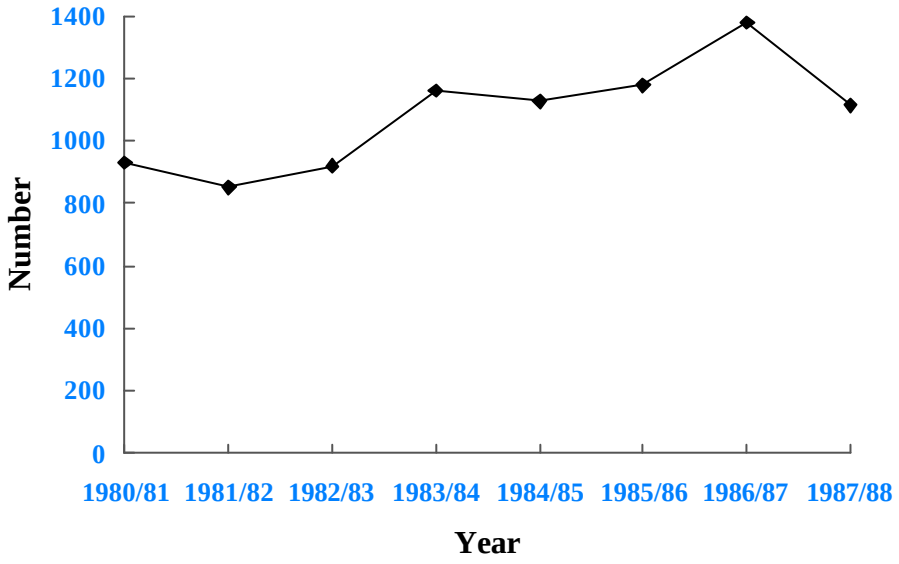
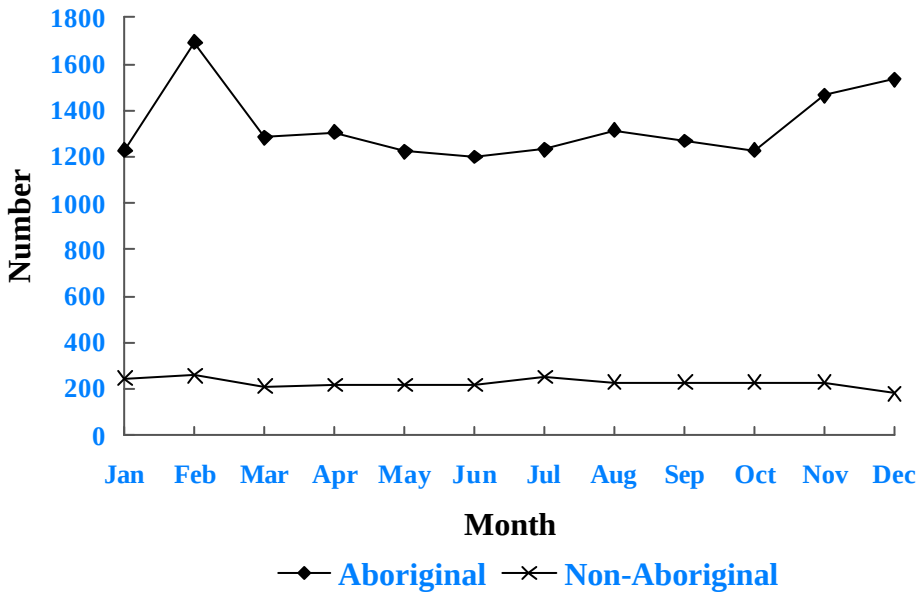


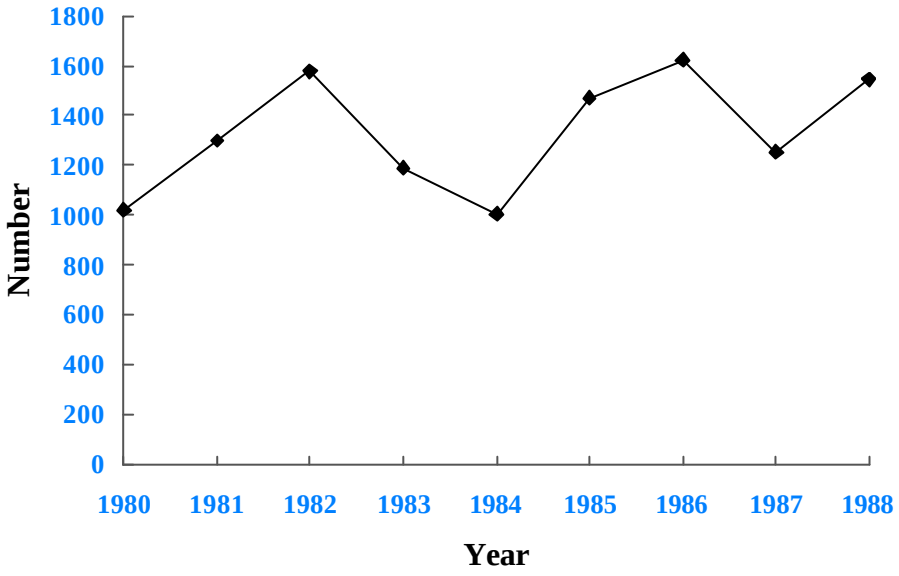
FIGURE 13.13
Protective Custody Cases Held in Police Cells, Northern Territory, 1988



Note: Intoxicated people taken direct to sobering-up shelters are excluded from these data.

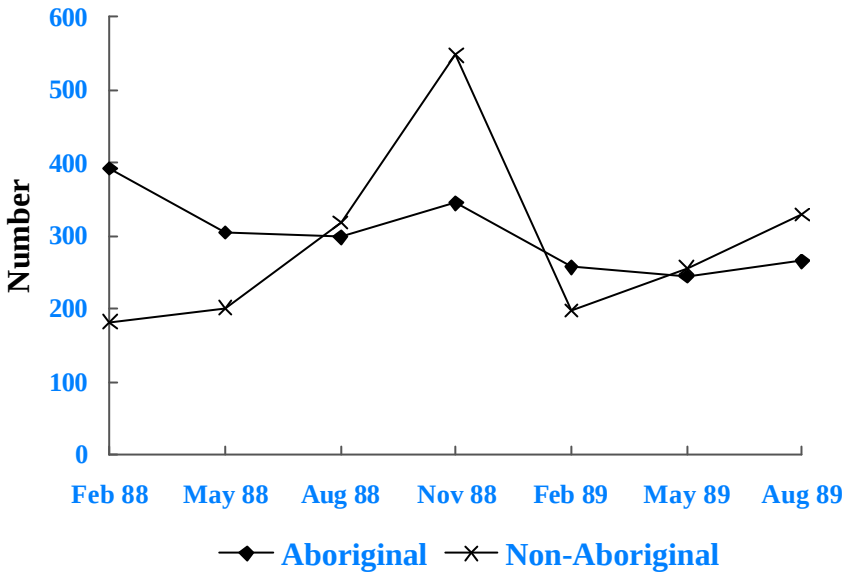
Figure 13.14 extends this analysis by showing the number of cases of intoxicated people held in protective custody in Northern Territory police cells in August of each year from 1980 to 1988. No consistent trend is observable over the nine-year period.

FIGURE 13.14
Protective Custody Cases Held in Police Cells During the Month of August of the Year Specified, Northern Territory, 1980-88



A third useful set of data from the Northern Territory, Figure 13.15, shows the number of Aboriginal and non-Aboriginal people, separately, arrested in the Northern Territory at three-month intervals from February 1988 to August 1989, again covering the August 1988 survey period. Note that these figures do not include public drunkenness cases, since that behaviour is not an offence in the Northern Territory. Although some fluctuation in numbers occurred, the survey month, with 616 arrests, was close to the mean which was 591. This further suggests that the survey period was not atypical.

FIGURE 13.15
Arrests, Northern Territory, Selected Months, February 1988-August 1989



Australian Capital Territory

The Australian Federal Police have made a systematic count of people placed in their Canberra cells during relevant months in the two years prior to the August 1988 survey. This was done retrospectively, using existing records. Data on Aboriginality were available in some of the cases but the proportion of these is so low that attention is best drawn to the total number of custodies.

Table 13.21 shows that the number of people held in police cells in Canberra fluctuated markedly over the three years, with a negative difference of 35 per cent between the August 1986 and August 1987 figures and a positive difference of 31 per cent between the August 1987 and August 1988 figures. While one cannot generalise from such data, they suggest that the number of custodies in August 1988 was not atypical of the 1986-88 period in the ACT.

TABLE 13.21
Police Custody, Canberra, 1986-88

	1986		*1987*		*1988*
	July	*August*	*July*	*August*	*August*
Aboriginal	2	2	1	1	24
Non-Aboriginal	111	101	80	252	460
Not stated	411	476	246	122	7
Total	524	579	327	375	491

Conclusion

The data presented in this Appendix have been collated with the aim of answering two related questions: firstly, how representative of all 1988 police custodies was August 1988; and, secondly, how representative was it of the full period 1 January 1980 to 31 May 1989 being addressed by the Royal Commission's terms of reference? In other words, are there marked month-by-month fluctuations in the number of police custodies nationally and has there been any broad trend in the number of custodies over the decade which commenced in 1980?

The available data do not enable one to draw firm, detailed conclusions. It is probably safe to conclude, however, that August 1988 was similar to the other months of that year, once the data are aggregated up to the state/territory and national levels. (This is not the case at the local police station level, however, as both seasonal variables such as wet/dry seasons or summer/winter temperatures, and specific events such as agricultural shows or sporting carnivals, can influence the number of people apprehended and held in the cells.)

The data on the 1980-89 trends are less conclusive. Arrest and clearance data are not good indicators of the *number of people held in cells*: many people, following arrest, are released on bail without ever entering the cells. Furthermore, clearances cover both arrest and summons cases. These data can provide, however, an index of *trends* if it is safe to assume that fluctuations in the number of people in custody will parallel fluctuations in the number of arrests and/or clearances. In so far as this is so, the data might suggest that the number of people held in the cells has increased, over the decade, at a rate similar to or a little above the rate of growth of the population of Australia.

It must be noted, however, that most jurisdictions have introduced new bail legislation and administrative procedures during the decade, with the result that many people who would formerly have been held in police cells are now dealt with in other ways. The establishment in three jursdictions of facilities where police can take intoxicated people, outside the police cell system, has had the same result. Finally, although only a limited amount of data are available for this Appendix which differentiate between Aboriginal and non-Aboriginal people, senior police officers from a number of jurisdictions (but not from all) have expressed the view that the proportion of Aboriginal people held in the cells could have fallen following the establishment of the Royal Commission. Both mass media reporting of the Royal Commission, and instructions issued by senior police officers to police station personnel, could have made staff more aware of the importance of releasing people on bail whenever possible, rather than holding them in police cells. It is possible that this increased level of awareness applies more markedly regarding Aboriginal people than it does regarding non-Aboriginal people.

It is concluded, then, that the number and patterns of police custody in Australia as revealed from the August 1988 survey data are reasonably representative of each month of 1988 and of the decade. By extrapolation, then, it can be concluded that, over a ten-year period, some three and a half million

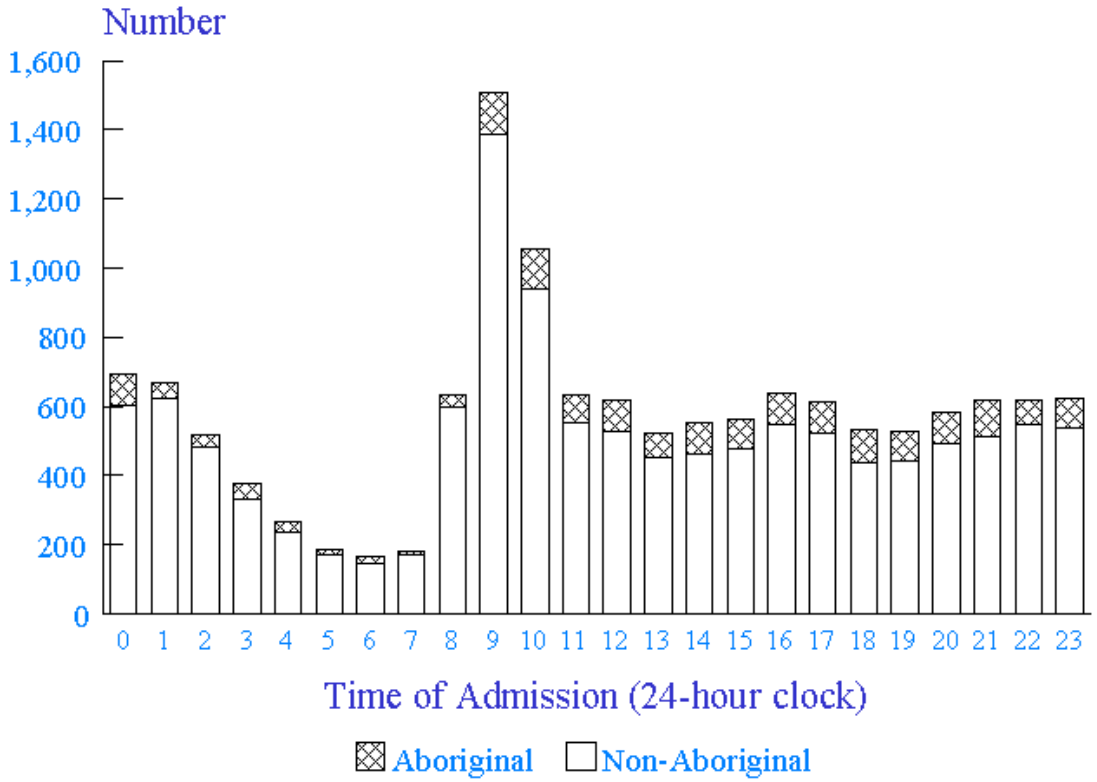
incidents of police custody have occurred throughout Australia, and some 30 per cent, or just over one million of these, were the custody of Aboriginal people.

March 1990

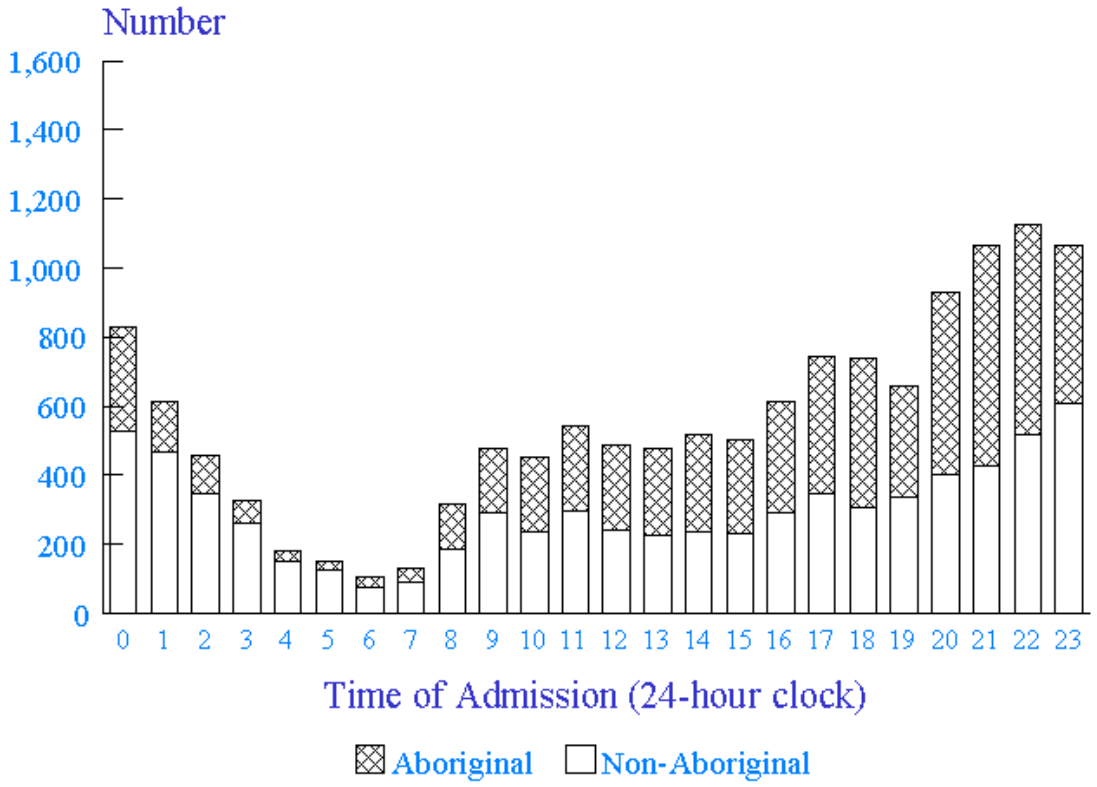
APPENDIX 13.3

Time Admitted to Cells

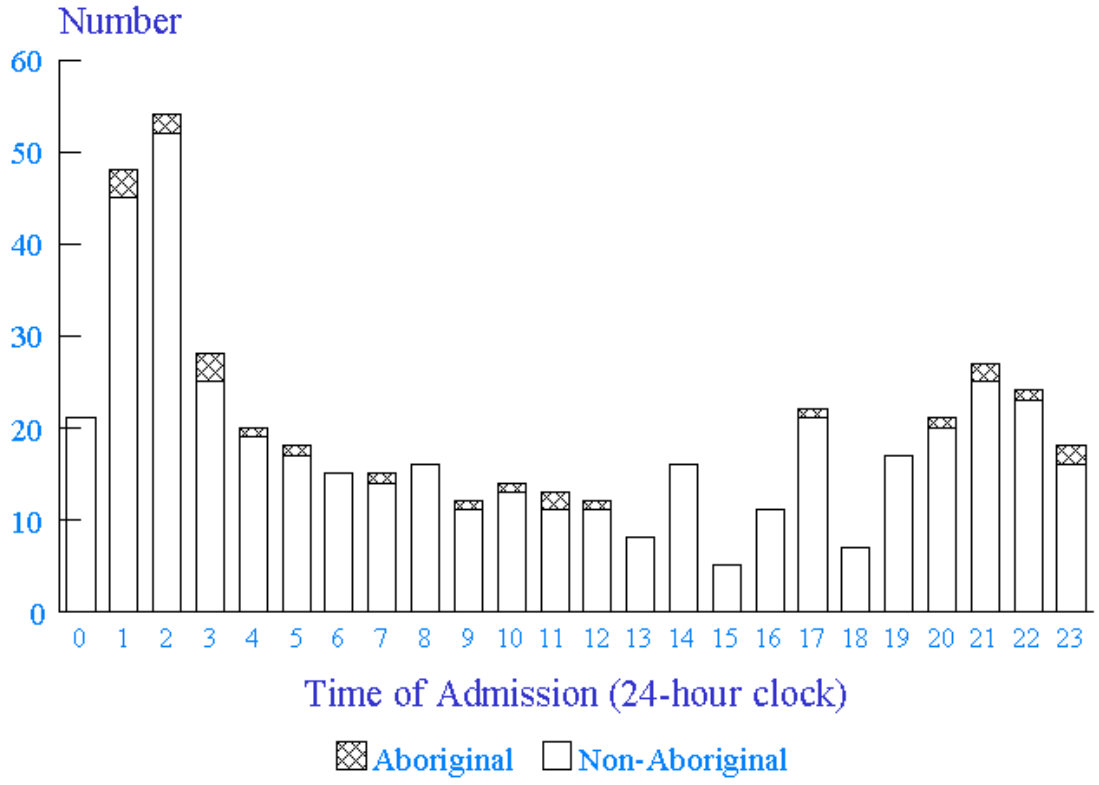
(A) New South Wales, Victoria, South Australia and Tasmania



(B) Queensland, Western Australia and Northern Territory



(C) Australian Capital Territory



RESEARCH PAPER NO. 14

Alcohol and Human Behaviour*

Janet Greeley
& David McDonald

The Clinical Pharmacology of Alcohol
(Abridged version of Chapter 2 by J. Saunders)

Absorption and distribution

In order to produce its effects on performance, alcohol must be absorbed into the blood and distributed throughout the body to the brain, the organ which controls cognitive and psychomotor functioning. Alcohol is rapidly absorbed from the gastrointestinal tract reaching peak blood alcohol concentrations 30-60 minutes after a single dose. Many factors influence the rate at which alcohol absorption takes place; for example, the strength of the drink. On an empty stomach, strong drinks such as spirits diluted with water or other mixers in a ratio of about 1 nip of spirits to 1 nip of mixer (about 20 per cent alcohol) are absorbed most rapidly. Beer (2-5 per cent) or wine (about 12 per cent) which have lower alcohol concentrations are absorbed more slowly.

The rate of stomach emptying is also important because alcohol is absorbed even more rapidly in the small intestine than in the stomach. Very strong drinks, such as straight spirits which are 40-50 per cent alcohol by volume, may slow absorption by causing gastric irritation and spasms of the pyloric sphincter, the valve leading from the stomach to the small intestine. Drugs such as metoclopramide (Maxolon') which relax the pyloric sphincter can increase the rate of alcohol absorption. Food in the stomach both dilutes the alcohol and delays stomach emptying thereby reducing the rate at which the alcohol is absorbed and also reducing the peak concentration of alcohol in the blood.

The blood alcohol concentration (BAC) is the amount of alcohol present in a given volume of blood. It can be expressed in a number of different ways but

*This paper is an abridged version of a 200 page report entitled *The Effects of Alcohol on Cognitive, Psychomotor, and Affective Functioning: Report and Recommendations Prepared by an Expert Working Group for the Royal Commission into Aboriginal Deaths in Custody* (1989) edited by Janet Greeley and William Gladstone. That report was prepared from the work of members of an expert group convened by Dr Greeley under the auspices of the National Drug and Alcohol Research Centre, The University of New South Wales, Sydney, in response to a request by the Royal Commission. A copy of the table of contents of the full report is at Appendix 14.1.

It will be noted that, along with the title of each section of this paper, the person or people whose contribution to the full report forms the basis of the particular section are identified.

perhaps the most commonly used measure is grams per cent (g%) often referred to as simply %. When a person blows into a breathalyser or is given a blood test and the BAC is determined to be, say 0.05 g%, this means that there are 0.05 grams of alcohol in every 100 millilitres (or 50 milligrams per 1 decilitre) of his or her blood.

A standard drink is defined as the amount of a beverage that contains approximately 6 to 10 grams of alcohol. The amounts of different types of beverages which contain 6 to 10 grams of alcohol vary according to the per cent alcohol in a given volume of the beverage. The lower the per cent by volume of alcohol, the greater the amount of the beverage is needed to make up a standard drink. Thus, a standard drink is equivalent to approximately two 285 mL glasses ('middies' in NSW) of low alcohol beer (2 to 3 per cent by volume), one 285 mL glass of normal strength beer (4 to 5 per cent by volume), one four-ounce glass of wine (approximately 10 per cent by volume), one two-ounce glass of fortified wine (approximately 20 per cent by volume) or one ounce of spirits (approximately 40 per cent by volume).

It is the concentration of alcohol in the blood which determines the amount of alcohol which reaches the brain. The speed with which a person drinks can affect the peak BAC reached. Two 425 mL glasses ('schooners' in NSW) of beer drunk over two hours will result in a much lower peak BAC than the same amount of beer drunk over 30 minutes. It will take the same amount of time for the alcohol in the beers to be eliminated from the body, but the amount of alcohol reaching the brain will be less if the beer is drunk slowly. With slower consumption, the liver can more efficiently break down the alcohol passing through it.

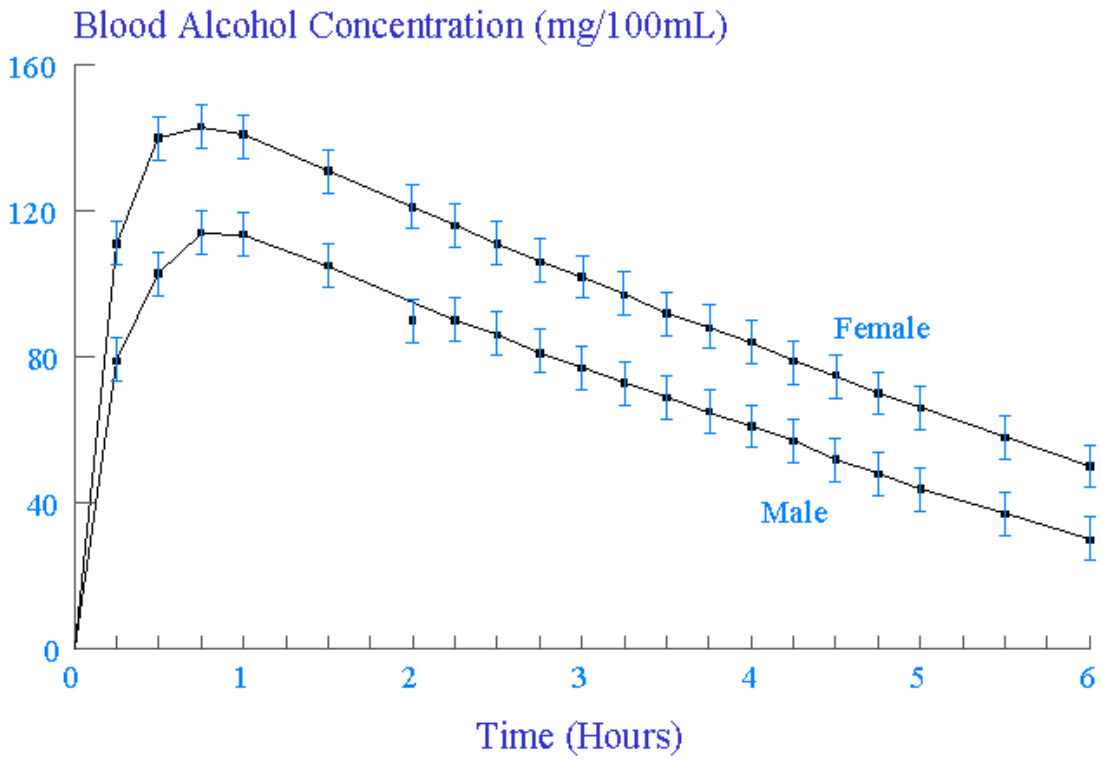
Because alcohol distributes quickly throughout all parts of the body where water goes (that is, the lean body mass), its distribution depends upon body size and the proportion of fat to lean body mass. After drinking the same amount of alcohol, someone weighing 40 kg will have a higher BAC than someone who weighs 120 kg because that person will have a smaller total body water volume. After drinking the same amount, women tend to show a higher BAC than men both because they tend to be smaller and because they tend to have a higher fat content than men (*see* Figure 14.1). Likewise, people who are obese tend to show higher BACs than muscular people of the same sex and body weight after drinking the same amount. Also, if someone is in a state of dehydration, the body water volume is decreased, and a given amount of alcohol will produce a higher BAC.

The speed with which alcohol distributes throughout different body tissues varies with their blood supply. Because the brain has a very good blood supply, during absorption it reaches peak levels more quickly than do some other parts of the body. However, once absorption is complete, the brain and other body tissues will contain similar concentrations of alcohol (Goldstein 1983).

Elimination

The rate at which alcohol is eliminated from the body also affects the BAC. A small proportion (5-10 per cent) of alcohol is excreted unchanged in expired air and urine. The majority of the alcohol consumed is eliminated from the body through metabolism (breaking down of the alcohol) by the liver. Several different liver enzymes are involved in this process, the most important being alcohol dehydrogenase. The rate of alcohol metabolism is not greatly affected by the amount of alcohol consumed or the concentration of alcohol in the blood. This is because there is only a limited amount of enzyme available to break down the alcohol coming into the liver. Once that amount is used up at BACs of around 0.05 g% then the metabolism of further alcohol coming into the liver must wait. Alcohol is eliminated from the body at a rate of approximately 0.013 g% to 0.02 g% per hour. In other words, a healthy 70 kg person can get rid of approximately one standard drink per hour.

FIGURE 14.1
Blood Alcohol Concentrations after an Oral Dose in Healthy Subjects



There is some evidence to indicate that differences in the rate at which alcohol is metabolised is an inherited characteristic. There are also racial differences in the composition of two enzymes involved in the elimination of alcohol, alcohol dehydrogenase and aldehyde dehydrogenase, but there have been no consistent findings of racial differences in the rate of alcohol elimination. A deficiency in a component of aldehyde dehydrogenase has been

found to cause a flushing reaction which occurs within the first few minutes after alcohol is consumed. The flush reaction is sometimes accompanied by nausea, palpitations and dizziness. People who experience this flushing reaction tend to drink less. This atypical enzyme is found in 25 to 60 per cent of people of Oriental (Mongoloid) extraction.

There is no known difference in the distribution of alcohol or in its rate of elimination between Australian Aboriginal people and white Caucasians. It is unknown whether aldehyde dehydrogenase deficiency occurs in Aboriginal people, although preliminary investigations suggest not (Jones 1988, personal communication). It is also unknown whether other aspects of alcohol metabolism differ between Aboriginal people and Caucasians (cf. Marinovich, Larrson & Barber 1976 & Gaa'l 1976).

People who have drunk heavily for a long time may show increased rates of alcohol metabolism of up to 50 or 70 per cent. This increased capacity to metabolise alcohol is sometimes termed metabolic tolerance. Serious liver damage, which is often seen after many years of heavy drinking, can have the opposite effect of slowing the rate of alcohol metabolism. Prior administration of sedative drugs which serve to increase enzyme activity can also increase, to a limited degree, the rate of alcohol metabolism.

As indicated earlier, many factors influence the BAC reached after drinking. As an approximate estimate, in a healthy 70 kg male 12 standard drinks consumed over two hours will result in a blood alcohol concentration of 0.20-0.25 g% one hour after the last drink.

The Analysis of Alcohol in Blood
(Abridged version of Chapter 3 by A. Hodda)

The determination of the concentration of alcohol in a sample of blood is a relatively straightforward analytical procedure. There are opportunities for error but good laboratory practice and the use of proper quality assurance procedures to ensure a laboratory's precision should guarantee the accuracy of the results.

The quality of results from an analysis of alcohol in a blood specimen can only be as good as the specimen provided. A poorly sampled specimen can lead to erroneous results. There are a number of factors which are important in obtaining a proper specimen. The body site from which the blood specimen is taken is important. It will be recalled that, after ingestion, alcohol is absorbed into the bloodstream through the stomach and small intestine. Once in the blood, the alcohol is initially transported to the liver where some of it is metabolised, then it passes on into the heart, lungs and other parts of the body through the arteries and veins. The concentration of alcohol found in the blood may vary as a function of the part of the body from which the blood sample is taken. This is especially so in the early phase of alcohol absorption when a sample taken from a source early in the circulatory path (such as the stomach)

would result in a higher BAC measure than that found in a sample taken from a peripheral site (such as the leg). Although blood samples taken from the chest, thorax or pleural cavity may give good BAC estimates, it is recommended that the sample be taken from a peripheral site like the femoral artery (the large artery in the thigh) if a truly representative BAC is sought. In addition, if internal injuries have occurred, alcohol might leak into the chest area from the stomach or small intestine. A peripheral site, such as the femoral artery, is sufficiently distant from these sources of contamination to avoid such problems.

Because alcohol is a volatile substance (that is, it evaporates in air), the integrity of post mortem blood specimens may be compromised by improperly sealed containers, delayed sample delivery, or exposure to elevated temperature. Each of these factors may result in a loss of alcohol from the blood sample. Also, if there is too much air in a container this hastens the rate at which alcohol is oxidised to acetaldehyde. If blood is unpreserved, and particularly if it is also unrefrigerated, its alcohol content can be metabolised by certain types of microbes. Storing the blood sample in a preservative can inhibit this microbial action.

Gain in the alcohol content of a blood sample can also occur in unpreservatised blood specimens due to the action of certain bacteria which produce alcohol. This is usually only seen when bacteria levels are quite high and can be avoided by the use of a preservative such as 1 per cent sodium fluoride solution.

BAC can also be estimated from a sample of expired air. The concentration of alcohol in a breath sample is greatly influenced by the degree of alcohol absorption that has taken place. Because, early in absorption, alcohol passes through the lungs before being distributed throughout the rest of the body, the BAC determined from a breath sample may be exaggerated. The determination of BAC through breath analysis will, in general, however, be in close agreement or slightly less than blood analysis for alcohol, when the samples are taken at approximately the same time.

The volume of air expired is also important in establishing an accurate BAC measure. Only air from the 'deep lung' or alveoli is useful for assessing the alcohol concentration. Poor sampling techniques can lead to errors, again in the direction of underestimations. Temperature and certain medical conditions such as diabetes can also affect the estimate of BAC from a breath sample. To increase the accuracy of the breath analysis technique, it has been recommended that the person's body temperature and the temperature of the person's expired air be measured.

In the hands of a trained operator, the analysis of BAC either by blood or breath sample can be carried out relatively easily and with a fairly high degree of accuracy. There are a variety of analytical techniques which can be used. The newer procedures, such as gas chromatography, tend to be more selective and less subject to error than some of the older analytical procedures.

The Acute Effects of Alcohol on Cognitive and Psychomotor Functioning (Abridged version of Chapter 4 by G. Chesher and J. Greeley)

It is well recognised that acute intoxication by alcohol can impair cognitive and psychomotor functioning across a range of doses and in both experienced and inexperienced drinkers. Most of the studies which have demonstrated the impairing effects of alcohol on cognitive and psychomotor functioning have been carried out with young, healthy volunteers. In these studies, volunteers are typically expected to consume a given dose of alcohol fairly rapidly (often within 30 minutes) in order to achieve a peak BAC of usually something less than 0.15 g%. Impairment has been observed at BACs as low as 0.02 g%. In general, the higher the BAC, the greater the impairment observed (Goldberg 1943). However, a more complicated picture arises when comparing BACs on the rising and the falling limbs of the BAC curve. This is discussed below in the section of this paper dealing with acute tolerance.

As was shown in the section on the clinical pharmacology of alcohol, the rate at which people drink affects the peak BACs they achieve. The rate of consumption also influences the degree of behavioural impairment seen at a given BAC. Even though a greater amount of alcohol is required to reach a given BAC if it is consumed over a longer period of time, the observed impairment is less. It may be that, at a slower rate of rise of the BAC, the person's nervous system has more time to adjust to the effects which alcohol produces. It has been postulated that this diminution of alcohol's effects is due to the development of acute tolerance.

In tracking the BAC changes resulting from a given dose of alcohol, a blood alcohol concentration curve is produced. Over time there is first a gradual rise in BAC, as the alcohol is absorbed into the bloodstream. Peak BAC is achieved within 30 to 90 minutes depending upon the amount of alcohol consumed. This is followed by a steady rate of fall in BAC as the alcohol is metabolised and eliminated from the body. Acute tolerance refers to the observation that, at a given BAC, the impairment of performance produced by alcohol is greater on the rising phase of the BAC curve than on the falling phase. Thus, it is possible to observe a greater level of impairment at say a BAC of 0.05 g% as the level of alcohol in the blood is rising during absorption than at say 0.08 g% as the BAC is declining.

Early research has shown that there are significant differences in mood on the rising phase of the BAC curve compared with the falling phase (Kelly, Myrsten, Neri & Rydberg 1970). Increased elation is reported during the rising phase and reduced elation, or dysphoria, during the falling phase. Furthermore, clinical reports suggest that this dysphoria is particularly marked at high BACs.

It is also important to note that enhanced drug effects can occur if alcohol is taken in combination with other drugs which have depressant effects on the brain (for example, barbiturates and minor tranquillisers such as Valium). (For a review of common alcohol-drug interactions *see* Saunders 1986.)

Alcohol affects many different systems. At BACs lower than 0.1 g%, alcohol can produce impairment in physical working capacity such that, for example, a person will not be able to jump as high or to run as fast as he or she can when sober. The ability to stand and walk steadily is also impaired at quite low BACs. It seems, however, that alcohol's effects on standing-steadiness is largely due to impairment of muscular control by the brain rather than an effect on muscle strength.

The processing of information through visual and auditory channels is also impaired, especially when a person is expected to attend to more than one thing at the same time, such as when driving a car or operating heavy equipment. At doses as low as 0.05 g%, alcohol affects control of muscles which move the eyes. In particular, alcohol increases the amount of time spent fixing the eye on an object, thus resulting in the perception of less information over a given time period. This increase in fixation time is thought to reflect an impairment in the processing capacity of the brain such that more time is required to interpret what is being seen.

Simple tracking tasks which require continuous monitoring and moving of an object to maintain its position in relation to another (for example, keeping a car on the road) do not show significant impairment until BACs of 0.10 g% or greater. However, as soon as an additional task such as watching out for traffic signs or pedestrians is added, impairment is observed at BACs as low as 0.05 g% or less.

Alcohol can also increase the amount of time it takes a person to respond to a stimulus depending, in part, on how motivated the person is to attend to the stimulus and respond. In one study, when people were paid for responding rapidly they showed no impairment in reaction time at a BAC of 0.09 g% but when the incentive to respond was decreased this same dose of alcohol produced impaired performance (Obitz, Rhodes & Creel 1977). As with the other tasks, if additional processing capacity is required by, for example, adding a second reaction time task, the impairment produced by alcohol is increased and occurs at lower BACs.

In more complex reaction time tasks, where the object of the task is to choose a correct target from a set of stimuli, reaction times are generally longer and are largely a function of the difficulty of the task. In these situations, as well as in the simple reaction time case, it is important to keep track not only of the time to respond, but also of whether or not the response given is an accurate one. Some individuals may be willing to sacrifice accuracy for speed, or vice versa. This is referred to as the speed-accuracy trade-off.

In addition to impairing performance, alcohol also affects one's capacity to learn and remember new things. Impairments of learning and memory have been observed in the laboratory within a BAC range of 0.02 to 0.12 g%

(Goldberg 1943). There have also been a few reports of low doses of alcohol facilitating memory (Parker et al. 1981). Alcohol is thought to produce its impairing effects by disrupting processes involved in the organisation of information in memory (Rosen & Lee 1976) as well as processes involved in the retrieval of that information (Eich 1980). (For a review of the literature on the effects of alcohol intoxication on memory *see* Lister, Eckardt & Weingartner 1987.) There is an interesting phenomenon known as state-dependent learning or state-dependent retrieval (Eich 1980). It refers to situations in which people cannot remember something learned when they were drunk when they are in a sober state; or alternatively, they may not remember something they learned while sober when they are drunk. Retrieval of the apparently lost information may be facilitated by reinducing the state in which the information was acquired. Although there is evidence that this phenomenon exists, it is difficult to predict when it will occur.

The degree of performance impairment produced by alcohol is significantly influenced by factors other than the specific pharmacological effects of the drug. The person's level of skill on the task in question and the person's motivation to perform well and to pay attention to the task are all factors which influence performance and which can interact with the effects of alcohol.

Tolerance to the Impairing Effects of Alcohol (Abridged version of Chapter 5 by G. Chesher, J. Greeley and J. Saunders)

In the previous section it was pointed out that many factors, both pharmacological and non-pharmacological in nature, can interact with BAC to modulate the degree of impairment observed under alcohol. One very important factor is the amount of experience a person has had in dealing with the intoxicating effects of this drug. It is commonly accepted that a person who is an experienced, heavy drinker will be less intoxicated by a given dose of alcohol than someone who has been an infrequent and light drinker. The heavy drinker is described as being tolerant to alcohol.

Tolerance, as a pharmacological concept, is defined as a decrease in the magnitude of effect of a given dose of a drug over repeated administrations of that drug. In order to achieve the magnitude of effect produced by earlier administrations, an increase in dosage is required (Kalant, LeBlanc & Gibbins 1971). Cross-tolerance also occurs between drugs such that a person who has become resistant to the sedative effects of alcohol will often require a higher dose of a barbiturate to be sedated.

There are two types of tolerance which develop over chronic alcohol usage: (1) dispositional tolerance (often referred to as metabolic tolerance) which is mainly due to physiochemical changes which affect the rate of metabolism and elimination of alcohol from the body; and (2) functional tolerance which is due to adaptation of body tissues, in particular the brain, to the pharmacological

effects of alcohol. Dispositional tolerance affects the amount of alcohol present in the body to act upon target tissues. Functional tolerance is the reduction in effect of a given BAC acting on those target tissues. While dispositional tolerance tends to diminish over a period of drug abstinence, functional tolerance appears to be more long-lasting. *The remainder of the discussion on tolerance will be restricted to the important characteristics of functional tolerance*.

There is an extensive research literature on the development of tolerance to the motor-impairing effects of alcohol in animals which addresses the important characteristics of functional tolerance such as: its magnitude, time course, reversibility and the amount of alcohol experience necessary to evoke it (Goldstein 1983). Less thorough information is available about these characteristics in humans. One of the more thorough assessments of tolerance to the cognitive and psychomotor impairing effects of alcohol in humans was conducted by Goldberg in 1943. He examined abstainers, light and heavy drinkers on their ability to carry out a set of psychomotor tasks across a range of BACs. His results revealed three non-overlapping dose response curves which were shifted progressively further to the right as a function of each group's increasing drinking experience. In other words, he found that the abstainers began to show impairment at a lower BAC than did the light drinkers, and the light drinkers at a lower BAC than the heavy drinkers. Goldberg found that abstainers and heavy drinkers differed in their sensitivity to alcohol's impairing effects by a factor of from 1.5 to 2 in BAC (cited in Goldstein 1983). In other words, heavy drinkers could handle approximately twice the BAC of abstainers. Higher estimates than these have been suggested.

One flaw in this study which does not permit us to attribute these differences in sensitivity to alcohol solely to the development of tolerance is the fact that the drinkers' initial sensitivity to alcohol, before they started drinking regularly, is unknown. Therefore, some of the observed differences among the groups may be due to differences in initial sensitivity which can vary a great deal from person to person.

Although this study and others have established that differences in the sensitivity to alcohol occur as a function of drinking history, we cannot tell when it was in the drinking history of these different groups that these differences began to emerge. Studies examining the effects of alcohol on heavy drinkers tend to use individuals who have drunk heavily over many years. Studies using animals suggest that significant levels of tolerance can be observed over several weeks of regular alcohol intake and even within a single alcohol administration session (that is, acute tolerance) (LeBlanc, Kalant, Gibbins & Berman 1969). As discussed above, acute tolerance, which refers to tolerance which appears over the course of administering a single dose of alcohol, has also been observed in humans. However, it is unknown whether the mechanisms underlying acute tolerance and tolerance which develops over repeated drinking sessions, typically referred to as chronic tolerance, are similar.

Chronic tolerance does develop to the obvious effects of alcohol intoxication (for example, staggering, slurring of speech) but the extent of that tolerance to other aspects of cognitive and psychomotor functioning is not at all clear. The research in this area is not particularly systematic or extensive. Two basic research strategies have been employed: (1) a comparison of the acute effects of alcohol on heavy versus light drinkers, and (2) studies which compare the performance of the same individuals over repeated drinking sessions. In all of the studies reported in this area, the same factors which were previously listed as affecting task performance under alcohol also apply. Hence, if motivation or attention were not specifically manipulated in a study, then the importance of those effects cannot be extricated from the outcome.

The findings from studies which compare the performance of heavy and light drinkers while under the influence of alcohol are mixed. Some have found evidence of tolerance in the heavy drinkers (for example, Mello 1972) and others have not (Parker, Alkana, Birnbaum, Hartley & Noble 1974). These discrepant findings may be attributed to any number of differences among the studies (such as the type of task, the drinking histories of the participants). Likewise, studies which have examined changes in performance over repeated drinking sessions also report diverse findings (Poulos, Wolff, Zilm, Kaplan & Cappell 1981; Maylor & Rabbitt 1987). In both types of studies, the conclusions drawn are based on small numbers of drinkers. It is not at all clear how readily findings from these small sample studies can be generalised to the greater population of drinkers.

A non-pharmacological factor which has been studied recently in humans is the influence of practice on a task, while under the influence of alcohol, on the development of tolerance to performance impairment. These human studies derived from early studies with animals on the phenomenon known as behaviourally augmented tolerance (LeBlanc, Kalant & Gibbins 1976). It appears that if an individual is given an opportunity to practise a task (Vogel-Sprott & Webster 1984) or even rehearse it mentally (Sdao-Jarvie & Vogel-Sprott 1986) while he or she is intoxicated, the development of tolerance to the impairing effects of alcohol on that task will be facilitated.

Other research suggests that tolerance is also influenced by the environmental cues which accompany drinking (for a review *see* Hinson & Siegel 1980). If an individual acquires tolerance in the presence of a particular environment, that tolerance may not transfer to intoxication in other environments. This phenomenon, which is referred to as conditioned tolerance, is not well studied in humans and requires much more research before its significance can be established.

Although it is known that tolerance to cognitive and psychomotor impairment produced by alcohol does occur, there is little knowledge of the variation in the degree of tolerance which develops to different functions or behaviours. The degree of tolerance people show to any particular behavioural effect of alcohol, at any given time, will depend upon: their drinking history which gives some idea of how much they have drunk and over what period of

time; their initial sensitivity to the effects of alcohol, which is partly an inherited characteristic; the time since their last drinking episode; and whether they have had an opportunity to practise the task before, while under the influence of alcohol. Perhaps the best guess one can make about a person's capacity to handle alcohol is to have knowledge of his or her behaviour in the recent past under similar BACs. Even then, there can be differences in intoxication level from one occasion to another due to the environmental circumstances, the person's mood state, the social setting, whether or not the alcohol was drunk quickly or slowly and so on. *It should be noted that although a substantial degree of tolerance may develop to various behavioural and mood-altering effects of alcohol, an equivalent degree of tolerance does not develop to the lethal effects of alcohol as a depressant of the respiratory and cardiovascular control centres of the brain.*

Estimations of the level of intoxication produced by an acute dose of alcohol, such as those presented in Table 14.1, are valid for most people. However, these estimations do not apply to regular, heavy drinkers in whom a variable degree of tolerance may exist. The table gives descriptions of the behaviours shown by social drinkers at the peak of intoxication after drinking has stopped and before the BAC curve begins to decline.

Nearly all of the laboratory studies which have examined tolerance to alcohol in humans have examined only fairly low BACs (typically between 0.05 and 0.12 g%). Laboratory assessments of tolerance to the behavioural effects of BACs greater than 0.20 g% are virtually nonexistent. One of the few experimental studies to examine tolerance to high doses of alcohol was published by Mendelson and Mello in 1966. In this study, individuals who had been diagnosed as chronic alcoholics were brought into an inpatient ward and allowed to consume as much alcohol as they wished over a given period of days. Within 24 hours all subjects had achieved BACs between 0.15 and 0.30 g%. These individuals showed only mild signs of intoxication characterised by a tendency to become more talkative and boisterous, without concomitant slurring of speech, motor incoordination or gross disturbances of behaviour.

Their cognitive and psychomotor performance were evaluated by having them perform tasks in order to receive either alcohol or money as reinforcement. One task involved pressing a button according to one of four predetermined schedules of reinforcement. (A schedule of reinforcement refers to the number of responses required from the subject before a reinforcer is delivered or the amount of time which is to elapse between reinforcers.) The participants showed no difficulty in figuring out the schedules of button presses required to receive reinforcement. A second task was similar to a video parlour driving simulator in which the subject had to turn on the ignition, keep the car on the road and attend to traffic signals. Points were scored for correct performance and the points traded in for alcohol or money. The participants were able to perform both these tasks and receive reinforcements, despite their very high BACs.

TABLE 14.1
Effects of Alcohol at Various Blood Concentrations

BAC	*Likely effects (during upswing of BAC curve)*
0.03	Feeling of well-being and relaxation. More talkative. Slightly slower reactions.
0.05	Euphoria. Increased self-confidence. Impairment of attention, judgement and psychomotor reactions. Increased risk of accidents.
0.075	Disinhibition. Garrulousness. Further loss of judgement and coordination. Nausea.
0.10	Emotional instability. Argumentativeness. Impaired balance. Onset of ataxia (staggering gait). Slurred speech. Dizziness. Desire to sleep when not in company.
0.15	Confusion and disorientation. Apathy. Drowsiness and sleep. Decreased pain sensation. Worsening ataxia.
0.20	Stupor. Inertia. Inability to stand or walk. Vomiting. Incontinence.
0.30+	Coma. Anaesthesia. Hypothermia. Possible death from respiratory paralysis, aspiration of vomit.

Note that these effects are typical of those experienced by non-tolerant drinkers. When tolerance has developed the effects on behaviour and coordination may not be seen until the BAC is three to four times higher. Note also that dysphoria, apathy and nausea are commonly experienced at BACs below 0.075 g% during the downswing of the BAC curve. (From *Alcoholism and Problem Drinking: Theories and Treatment* (p. 87) by J. Christopher Clarke and John B. Saunders, 1988, Sydney: Permagon Press (Australia). Copyright 1988 by J. Christopher Clarke with John B. Saunders. Reprinted by permission.)

Several other sources of information collected outside the laboratory have provided useful descriptive data on tolerance to the readily observable signs of alcohol intoxication such as motor incoordination, slurring of speech and disorientation in place and time. One of these sources is BAC data collected for traffic law enforcement. In a sample of 13,230 cases drawn from a number of studies reported on by the Council of Scientific Affairs, Division of Personal and Public Health Policy of the American Medical Association (Council Report 1986), the percentages of people perceived to be drunk at a range of different BACs is shown in Table 14.2.

It should be noted that at BACs greater than 0.20 g%, between 1 and 7 per cent of individuals, within each BAC subclassification, were not considered to be drunk. Unfortunately, the criteria for drunkenness were not reported.

BACs of drivers of motor vehicles or pedestrians who were involved in a road crash during 1987 were collected under the NSW Motor Traffic Act by the New South Wales Police Department (Moynham 1988). Of the total number sampled, 532 people had BACs of 0.30 g% or greater. This subset made up 2.6 per cent of the total blood samples showing a BAC of 0.05 g% or greater. This tells us little of the specific cognitive and psychomotor performance

capacities of these individuals but it does tell us that these individuals were capable of walking on the street or driving a car, however badly. Thus, they were showing some degree of tolerance compared with the average social drinker who is estimated to be comatose at a BAC of 0.30 g% (*see* Table 14.1).

TABLE 14.2
Percentages of People Perceived to be Drunk at a Range of Different BACs

BAC (g%)	Percentage considered to be 'drunk'
0.000-0.05	0 to 10
0.051-0.10	14 to 68
0.101-0.15	42 to 93
0.151-0.20	83 to 97
0.201-0.25	93 to 100
0.251-0.30	94 to 100
0.301-0.35	96 to 100
0.351-0.40	93 to 100
0.401	99 to 100

Attempts have been made to develop behavioural tests which correlate with BAC for use in legal situations where, for example, breath analysis cannot be conducted (Burns 1985; Penttila, Tenhu & Kataja 1971; Teplin & Lutz 1985). The BAC and corresponding behavioural data gathered in the development of these Field Sobriety Tests (FST) give some idea of tolerance levels in the drinking population. In a study in which individuals were trained to identify drunkenness in others who were stopped while driving a motor vehicle, it was found that only about 20 per cent of drivers whose BACs were 0.10 g% or over were identified as drunk. Whether this result was due to tolerance in the drivers or poor identification techniques used by the raters, we cannot tell.

The behavioural measures used in these FSTs are usually fairly conspicuous performance measures such as: walking tests with eyes open and closed, gait in turning, Romberg's test (that is, degree of steadiness with eyes open and closed), finger-finger test, match test, speech and behaviour, counting backwards test, and orientation in place and time. The three tests which have been recommended by a group in the United States are: horizontal gaze nystagmus, the walk and turn test and the one-leg stand test (Burns 1985).

Another source of information about the obvious behavioural capacities of individuals at high BACs are documented reports of individuals presenting at casualty departments and detoxification centres with BACs exceeding 0.25 g%. Some of these cases make medical history. There are case reports of individuals surviving and, in some instances, walking and talking at BACs of 0.78 g% (Hammond, Rumack & Rogerson, 1973) and 1.51 g% (Johnson, Noll & Rodney 1982).

As well as these case reports, more systematic records have been kept on the BACs and gross behavioural capacities of individuals entering hospital. One such study was carried out on a group of alcoholic patients admitted to the detoxification unit at the Royal Prince Alfred Hospital in Sydney. Patients who agreed to participate in the study were screened by breath alcohol analysis 40 minutes after arrival at the Unit. Those found to have a BAC exceeding 0.15 g% had blood samples collected within 10 minutes of the breath analysis and were assessed for signs of central nervous system depression by the investigator. All 32 patients were ambulatory at the time of presentation even though 17 of them (53 per cent of the sample) had BACs in excess of 0.30 g%. Although all of the patients showed some degree of muscular incoordination and slurring of speech there was very little evidence of intoxication. The scale used by the investigator to rate intoxication levels in this study was as follows: 0 = apparently unaffected; 1 = altered mood or behaviour; 2 = confused; 3 = drowsy; 4 = stuporous; and 5 = comatose. The maximum rating used was 3 and that was applied to only one patient in the group with BACs exceeding 0.30 g% and to two other patients. One of these patients had a BAC of 0.26 g% while the other had a BAC of 0.30 g% and may have been concurrently under the influence of a benzodiazepine (Davis & Lipson 1986).

In a similar study carried out in Pittsburg, USA, it was found that of 110 admissions, 54 cases had BACs of 0.20 g% or higher and, of these, 13 (24 per cent) showed no signs of clinical intoxication. The measures of intoxication used were: vision, pupilliary size, speech, verbal comprehension, coordination and ability to undress (Perper, Twerski & Wienand 1986).

From these and other clinical reports, it is apparent that there is a considerable number of people who fail to show obvious signs of drunkenness even though they have very high BACs. Whether they would show impairment on more subtle measures of psychomotor and cognitive performance is unknown.

Other Effects of Chronic Alcohol Consumption

Alcohol dependence
(Abridged version of Chapter 6 by H. Burns)

Over time, heavy drinking can lead to the development of physical and psychological dependence on alcohol. Alcohol dependence has been defined as a clinical syndrome consisting of the following common elements: (a) a subjective awareness of a strong desire to drink; (b) narrowing of the drinking repertoire–the more dependent, the more stereotyped the drinking schedule; (c) primacy of drinking over other activities–a dedicated occupation; (d) altered tolerance to the drug with tolerance increasing during the early stages of the drinking career but declining in the later stages of drinking; (e) repeated withdrawal symptoms which may vary in intensity; (f) relief of withdrawal

symptoms with further drinking; and (g) reinstatement of the drinking pattern after abstinence (Edwards, Arif & Hodgson 1981; Edwards et al. 1977).

A distinction is made between psychological and physical dependence. Psychological dependence is defined as 'a condition in which a drug produces a feeling of satisfaction, and a psychic drive that requires periodic or continued administration of the drug to produce pleasure and avoid discomfort' (Royal College of Psychiatrists 1986, pp. 52-3). Physical dependence is defined as 'an adaptive state that manifests itself by intense physical disturbance when the administration of the drug is suspended' (Royal College of Psychiatrists 1986, p. 53).

The relationship between tolerance and physical dependence is far from completely understood. It is generally thought that dependence rarely exists without tolerance. Sometimes, however, it has been found that the clinical manifestations of dependence are observed without concomitant evidence of tolerance. This is the case in some heavy drinkers who are in the later stages of an extended drinking history. After many years of heavy drinking, what is often referred to as a 'break in tolerance' can be seen in which an individual shows signs of intoxication at a dose of alcohol which he or she could easily have handled in the past without showing evidence of drunkenness. This break in tolerance may be related to the development of liver damage which results in a slowing down of the metabolism of alcohol.

People who are physically dependent on alcohol are likely to develop withdrawal symptoms 6 to 24 hours after ceasing or substantially reducing alcohol consumption. Withdrawal symptoms include tremor, sweating and agitation. The withdrawal syndrome may progress to delirium tremens which encompasses confusion, hallucinations and sometimes seizures. Seizures can occur both in simple withdrawal and in delirium tremens. This is a potentially life-threatening condition and requires urgent medical treatment.

The temporal pattern of the withdrawal syndrome is rather unusual in that the most severe signs are the latest to appear, and they only occur in the patients who have the most intense overall withdrawal reactions. Mild symptoms such as tremor, commonly referred to as 'the shakes', insomnia, irritability and sweating can occur within 6 to 24 hours of the last drink. During the first 24 hours, hallucinations, without the loss of orientation, may occur. In severely affected persons, seizures may occur after 12 to 60 hours of abstinence. If the person has been on a prolonged or intense drinking binge, his or her condition may worsen over the third and fourth days as disorientation and more serious hallucinations manifest themselves as part of the onset of delirium tremens. Severe overactivity of bodily functions with sweating, hypertension, nausea, vomiting, diarrhoea and fever are part of this condition. This can be life-threatening, especially in cases of high fever. In addition to the severity of the withdrawal symptoms themselves, many individuals who are severely affected by alcohol withdrawal also have other medical problems due to concurrent injuries and infections, and these may be exacerbated by the complications of withdrawal (*see* Goldstein 1983, pp. 100-101).

Sobering up from alcohol intoxication and detoxification from alcohol refer to different processes. Sobering up refers to the situation when an intoxicated person stops drinking and remains abstinent from alcohol until his or her BAC has returned to zero or to a level at which he or she can function without physical or behavioural impairment. Detoxification is a more prolonged process in which a person who is physically dependent on alcohol remains abstinent from alcohol for a period of up to a week or longer until he or she has overcome the symptoms of alcohol withdrawal. Suddenly stopping or sharply decreasing alcohol consumption can be a life-threatening event for someone who is physically dependent on alcohol. When people are admitted to sobering up facilities it is difficult to predict who will and who will not show withdrawal symptoms as their BACs decrease. For these and other obvious reasons, such as the possibility that people may asphyxiate during sleep or accidentally harm themselves while moving about in an uncoordinated manner while intoxicated, a safe and caring environment should be provided for individuals who require sobering up. They should be monitored to ensure that they cannot harm themselves and to ensure that medical assistance is sought should complications from alcohol withdrawal arise. Continuous medical supervision is not required.

For those individuals who are physically dependent on alcohol, proper detoxification facilities should be made available. Detoxification can be undertaken in both medical and non-medical settings. It is most important that the intoxicated individual be placed under the observation of a person who is experienced in detecting signs which may require medical intervention. In the event that medical complications may arise, provisions for urgent medical assistance should be available.

It may takes years of drinking before a person can acquire the capacity to drink large amounts of alcohol without becoming ill or passing out. Once that capacity is acquired, several days of heavy drinking can result in the emergence of severe physical dependence symptoms when drinking ceases (*see* Goldstein 1983, p. 105). The development of alcohol withdrawal varies from person to person and, within the same person, from one occasion to another. The severity of symptoms depends upon the duration and intensity of the preceding drinking episode, the person's severity of dependence and whether or not the person has used other sedative drugs.

It is often the case that individuals who have a physical or psychological dependence on alcohol also have dependencies on other drugs. This factor can be important during detoxification as one sedative drug may suppress the manifestations of physical dependence produced by another, and help maintain the physically dependent state (Jaffe 1985). In many cases, however, drugs are used to assist the detoxifying individual through the more severe stages of withdrawal.

In addition to the development of alcohol dependence, there are other alcohol-related disabilities that require attention which may also predispose an individual to special problems of a physical, mental or social nature. Many medical conditions may be exacerbated by the excessive use of alcohol, and

these should be attended to in the care of the intoxicated person. Marital and family problems are also often part of a heavy drinker's life. Awareness of, and attention to, these areas of concern can be vital in the assessment and treatment of individuals who appear to have problems related to excessive drinking. It is all too often the case that individuals apprehended for behaviour such as public drunkenness are people without homes or without the option of suitable venues in which to imbibe alcohol. The implementation of appropriate solutions for these people needs to be considered.

Alcohol-related brain damage
(Abridged version of Chapter 7 by M. Jackson)

Aside from its acute impairing effects on cognitive and psychomotor functioning, chronic alcohol misuse can lead to brain damage which itself produces cognitive dysfunction. Two syndromes of cognitive impairment resulting from long-term alcohol abuse are: (1) the Korsakoff amnesic syndrome and (2) an adaptive behaviour syndrome. The Korsakoff amnesic syndrome is characterised by intact immediate memory, a profound difficulty learning new information, poor recall of recent events, confabulation (that is, inventing fictitious details of past events) and lack of spontaneity. The adaptive behaviour syndrome is characterised by poor planning and organisation, concrete and inflexible thinking, lack of insight, inappropriate behaviour and a lack of self-criticism.

While it has been suggested that drinking alcohol, even as little as two or three drinks per day, can cause chronic cognitive impairment, recent evidence suggests that this is not the case. The latest research suggests that there is a threshold effect for alcohol-related brain damage rather than a dose-response relationship. The precise levels of consumption that cause chronic cognitive impairment are unknown. The National Health and Medical Research Council estimates that the probability of experiencing harmful medical effects from alcohol increases at consumption levels which exceed 60 grams of alcohol (6 standard drinks) per day for males and 40 grams of alcohol (4 standard drinks) per day for females. Cognitive impairment is likely to result from chronic alcohol consumption before clinically significant medical problems such as liver disease occur, therefore it is too late to wait until a significant medical problem arises before some intervention is attempted.

In people recovering from alcohol-related brain damage, improvement in cognitive functioning over the first two weeks of abstinence has been well established, but conflicting evidence exists as to the possibility of further improvement over a longer period of time.

Although sex differences exist in the rate of alcohol metabolism and susceptibility to the toxic effects of alcohol, no conclusive evidence exists as to whether males or females are more prone to incurring alcohol-related cognitive impairment. There have been no reports on racial differences in susceptibility

to chronic cognitive impairment by alcohol and there have been no studies explicitly assessing gender or racial differences in this area.

Little evidence exists indicating that there is a significant interaction between alcohol consumption and age with respect to chronic cognitive impairment by alcohol. Both young and old alcoholics are found to be impaired on tests of cognition. It is also unknown whether the pattern of alcohol consumption over the drinking history influences the likelihood of incurring cognitive impairment. There have been no studies to determine whether differences in susceptibility to brain damage exist between binge and steady drinkers.

Other Issues

Social and environmental factors

A person's social and physical environments are also relevant in determining patterns of drinking and responses to alcohol in the body. Most drinkers consume alcoholic beverages in a social context; drinking alone is generally a socially unacceptable form of behaviour. Social factors, particularly the values of the people with whom we live, are powerful determinants of our alcoholic beverages preferences, times and places of drinking, and amounts consumed. For example, a pattern of behaviour exists in which young men drink very large quantities of alcohol, and become quite intoxicated, following some sporting fixtures. Becoming intoxicated is, in this context, a normal and accepted form of activity. On the other hand, consuming small amounts of alcohol in conjunction with a meal is commonplace among many sectors of the society, but becoming intoxicated in this context is unacceptable.

Patterns of alcohol use are integrated into other aspects of social systems. Even patterns of heavy drinking, such as those reported among Aboriginal people in the 'Top End' of the Northern Territory by Sansom (1980), are an integral part of complex social systems. Whereas a high proportion of Aboriginal people are non-drinkers (Watson, Fleming & Alexander 1988) at least one observer (Gerrard 1988) has argued that some Aboriginal people have patterns of drinking that can be understood in terms of patterns of consumption that apply to many products. She describes this as a pattern in which 'you get as much as you can and you consume all that you have as quickly as possible' (p. 55).

The physical environment also influences drinking patterns and the community's response to drinking. As Brady (1988) has pointed out in her study of alcohol use in Tennant Creek, most non-Aboriginal members of the community have congenial drinking places–clubs and hotels–that facilitate behaviour, in the context of drinking, that is acceptable to the dominant society. Other members of society, particularly Aboriginal people, do not have access to these facilities and are therefore forced to drink in public places where what are essentially private activities, such as minor disputes, occur in the public eye

and frequently lead to intervention by police. Biochemical, psychological, social environmental and physical environmental factors interrelate, then, in determining how human beings respond to elevated levels of blood alcohol.

The management of alcohol-related problems

The management of alcohol related problems includes a range of options. The key to their effective use is to match the needs of the individual with the appropriate service. Options available include sobering-up; detoxification, either in-patient or out-patient; minimal treatment interventions, such as the provision of advice or counselling; short-term psychological therapies, presented in either residential or non-residential settings; and long-term programs, either residential or non-residential. It is important to note that many people develop alcohol related disabilities, including social problems and ill health, without becoming dependent on alcohol. For them, the problems surrounding the drinking should be the primary emphasis of interventions rather than therapies aimed at treating alcohol dependence itself.

A substantial amount of research has been done to evaluate the effectiveness of the treatment of alcohol dependence and alcohol related problems. This research has been reviewed by the National Drug and Alcohol Research Centre (Heather & Tebbutt 1989) and the following summary is adapted from their conclusions:

- Increasing attention is being paid to early detection and intervention and appropriate methods for these purposes are being developed.

- Minimal interventions in the community are especially important in this regard. The primary health care setting has an essential role here but other settings—medical, legal, industrial and non-government organisations—are also highly relevant.

- The cognitive-behavioural approach to therapy offers the best prospect for an overall improvement in the effectiveness of treatment for drug and alcohol problems. The application of cognitive behavioural treatments is supported by a greater body of evidence than any other treatment approach in this field.

- Since the initiation of behaviour change is far easier than its maintenance over extended periods of time, the principles and practices of relapse prevention should become an integral part of treatment programs for drug and alcohol problems.

- Similarly, since motivational issues lie at the heart of the difficulties encountered in treatment in this area, the principles of motivational interviewing should become incorporated, where appropriate, in treatment programs, particularly with regard to early intervention.

- Treatment goals have expanded from an exclusive preoccupation with abstinence from alcohol. In particular, the controlled drinking goal, used mainly with problem drinkers with relatively low levels of alcohol dependence, is now supported by a large body of favourable research findings.

- Compared with other aspects of treatment, detoxification constitutes a relatively simple, straightforward set of procedures, for which clear practice guidelines now exist.

- At present, pharmacological treatments are at best adjunctive, rather than being of central importance, in the modification of alcohol problems.

- Little evidence exists for the effectiveness of traditional psychotherapy in the treatment of alcohol problems.

- There is no evidence that, for most purposes, in-patient treatment confers any added benefit compared with out-patient treatment.

- Irrespective of setting, there is no evidence that extended treatment (that is, longer than four weeks) is of greater effectiveness than shorter treatment.

- Although Alcoholics Anonymous is accessible, continuous over time and has undoubtedly helped many severely dependent problem drinkers, there is no evidence that it is a superior resource to conventional forms of treatment and it may even be inferior for many types of problem drinker.

Summary and Conclusions

Alcohol is rapidly absorbed into the bloodstream through the gastrointestinal tract and distributes throughout the body water. It reaches the brain fairly rapidly where it produces its effects on cognitive functioning. It is eliminated principally by metabolism in the liver at a rate of approximately one standard drink per hour in a healthy 70 kg person. This rate can be increased by 50 to 70 per cent in alcohol dependent persons.

Many factors can influence the blood alcohol concentrations (BACs) reached after drinking, including: the type of drink consumed, the pattern of drinking, the presence of food in the stomach, body weight and composition, gender, rate of metabolism, previous alcohol and other drug use, and concurrent disease. There are person to person variations in the composition of the principal alcohol metabolising enzymes but no reported differences in rates of elimination.

BAC can be determined either through analysis of blood or expired air. Results from breath analysis will, in general, be in close agreement or slightly less than BAC determined through blood analysis, when samples are taken at approximately the same time. Provided appropriate sampling techniques are

used and the laboratory employs high standards of analytical practice, the BAC of a sample of blood can be determined with a high degree of accuracy. The integrity of post mortem blood samples can be compromised by delays in sampling and sample delivery, as well as by exposure to elevated temperatures.

Alcohol can impair a person's cognitive and psychomotor functioning, as measured in laboratory tests, at BACs as low as 0.02 g%. More obvious signs of intoxication can also be readily observed outside the laboratory setting. Whether or not impairment of functioning can be seen in a person who has a positive BAC depends upon many factors, both pharmacological and non-pharmacological in nature. Pharmacological influences include: the dose of alcohol consumed; the time over which it was drunk; whether the person was observed shortly after he or she had consumed the alcohol, when it was still being absorbed, or some time later, when the alcohol was being removed from the body; whether or not the person had taken other drugs; and the person's prior experience with alcohol and other drugs. Some important non-pharmacological influences include: the person's motivation to perform well on the required task; whether the person focuses attention on the task; whether the person has had experience with the task either while sober or while intoxicated; and the difficulty of the task.

One factor of particular importance, especially with regard to the more obvious signs of alcohol intoxication (staggering and slurring of speech) is the development of tolerance to these effects by experienced drinkers. Some people have the capacity to sustain very high BACs without appearing to be drunk. Whether or not these same people would show cognitive and psychomotor impairment in tests administered under laboratory conditions is not clear. Some studies suggest yes, others no. Variation exists in the degree of tolerance which develops to different behavioural effects of alcohol and there is no evidence with regard to the degree of tolerance which develops to specific tasks such as knot-tying. Very few studies have examined tolerance to the behavioural impairing effects of very high BACs in humans. Furthermore, little is known about the distribution of various degrees of tolerance to alcohol among the population of alcohol consumers.

Other effects of chronic alcohol use which may interact with the acute effects of a given BAC are the presence of alcohol dependence and alcohol-related brain damage. These factors can significantly influence the cognitive functioning and behaviour of a drinker both during intoxication and while the person is sobering up, as in the case of alcohol withdrawal. It is not well established what levels of alcohol consumption, over what period of time, are required before these chronic effects of alcohol consumption pose a significant influence on the drinker's behaviour. These are elements of a person's history, however, which are relevant to the interpretation of his or her behaviour while under the influence of any drug.

For people who are physically dependent on alcohol, withdrawal from alcohol can be a dangerous and sometimes life-threatening experience. It is imperative that such people be regularly monitored by someone capable of

recognising the serious medical complications which can arise during alcohol detoxification and that medical assistance be readily accessible to these people, should it be required.

Recommendations for Research

It is not possible to specify with any degree of certainty the probability that a given individual will show tolerance to the intoxicating effects of alcohol or the degree of any such tolerance. A large scale study is needed to determine the distribution of various degrees of tolerance to the cognitive and psychomotor impairing effects of alcohol across a wide range of levels of alcohol consumption throughout the general community. The findings from such a study would have important implications for forensic and medical practice. This study would not necessarily involve the administration of alcohol to sober subjects but might rely on the assessment of individuals who are found to be intoxicated upon admission to detoxification units, hospitals, sobering up facilities or during random breath testing by the police.

Given that a search of the relevant literature revealed only one study that investigated the metabolism of alcohol by Australian Aboriginal people, it was proposed that a study should be undertaken to investigate this topic. If differences were found in the way alcohol is metabolised by people of Australian Aboriginal descent and by people of European Caucasian descent, then this would have implications for evaluating tolerance and dependence to alcohol in these populations and may, in turn, influence the development of pharmacological and other treatment options, as well as prevention options, for alcohol-related problems.

The point should be made that, with regard to this proposed study and others which aim to investigate racial differences, it would first have to be established how 'Aboriginal descent' was to be defined. Such studies may not have implications for the Australian Aboriginal community as a whole. Furthermore, any research that pertains to Aboriginal people should include Aboriginal people in its design and implementation, and should provide an opportunity for transfer of skills to Aboriginal people. Researchers should be referred to the document which arose from the conference held at Alice Springs in November 1986 on 'Research Priorities to Improve Aboriginal Health', and to the National Health and Medical Research Council's publication 'Some Advisory Notes on Ethical Matters in Aboriginal Research'.

Research is needed to investigate possible differences in the propensity towards alcohol-related brain damage between binge drinkers and steady drinkers and between males and females. More research is also needed to investigate gender differences in the acute effects of alcohol on cognitive and psychomotor functioning. There is a paucity of research on these subjects, yet results from such investigations would have important health and forensic implications.

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APPENDIX 14.1

Table of Contents from Original Report

Table of Contents

Acknowledgments vi
Contributors vii
Abbreviations x

1. Introduction 1
Janet Greeley

2. The Clinical Pharmacology of Alcohol 6
John Saunders

1. The fate of alcohol in the body 6
2. Factors influencing blood alcohol concentrations 7
3 Individual and racial variations in 10 alcohol metabolising enzymes 10

3. The Analysis of Alcohol in Blood Specimens 15
Allan Hodda

1. Introduction 15
2. The blood sample 15
3. Analytical procedures 19
4. Laboratory quality assurance 21
5. Breath analysis 23
6. Conclusion 25

4. The Effect of Alcohol on Cognitive and Psychomotor Functioning 28
Greg Chesher & Janet Greeley

1. Measurement of cognitive and psychomotor functioning 28
2. What kind of drug is alcohol 30
3. A review of the literature 30

5. Tolerance to the Effects of Alcohol 44
Greg Chesher, Janet Greeley & John Saunders

1. Introduction 44
2. The biological basis of functional tolerance 44
3. Drug and alcohol interactions 46
4. Tolerance to the cognitive and psychomotor effects of alcohol 46
5. Learning and tolerance 51
6. Tolerance to high concentrations of alcohol 52
7. Conclusions 61

6. Treatment of Alcohol Dependence 66
F. Harding-Burns

1. Identification of tolerance and dependence 66
2. The pattern of drinking in Australia 69
3. Alcohol withdrawal 70
4. Alcohol-related medical problems 71
5. Treatment 72
6. Early intervention 73
7. Summary 73

7. Alcohol-Related Brain Damage 77
Martin Jackson

1. Introduction 77
2. The Korsakoff amnesic syndrome 77
3. Non-amnesic cognitive deficits 79
4. Social drinking 80
5. Recovery of function 81
6. Other medical problems 82
7. Sex differences 82
8. Effects due to ageing 82
9. Conclusions 83

8. The Effects of Alcohol on Mood 87
Greg Chesher & Janet Greeley

1. Introduction 87
2. Pharmacological factors 87
3. Nonpharmacological factors 88
4. Mood states in social drinkers 88
5. Mood effects in experienced drinkers 92
6. Conclusion 92

9. Suicide, Alcohol, Incarceration and Indigenous Populations: A Review 96

Ernest M. Hunter

1. Introduction 96
2. Suicide and indigenous populations 97
3. Suicide and alcohol 102
4 Incarceration and suicide 107
5. Conclusion 110

10. Alcohol, Suicide and Self-Harm: A View on the Relevance of Empirical Research to Clinical Situations 119
John Ellard

1. Introduction 119
2. Problems of the empirical approach 119
3. Research into dangerousness 123
4. Some notes on the published literature 124
5. Conclusion 127

11. Part A: Commentary on the Other Sections of the Report Raising Matters of Relevance to Aboriginal People, Culture and Health 130
Patricia Fagan and Pat Swan
Aboriginal Medical Service, Redfern, New South Wales
An Aboriginal Community Controlled Health Service

1. Introduction 130
2. Alcohol and Aboriginal people 131
3. Alcohol, Aboriginal people, non-Aboriginal people and the law 134
4. Aboriginal people, alcohol, suicide and custody 136
5. Comments on existing treatment and prevention programs 136
6. Comments on other sections of the report 138
7. Conclusions 144
8. Recommendations 145

Part B: Commentary on the Report 150
Jean Jans in Collaboration with the Aboriginal Coordinating Council in Queensland

1. Introduction 150
2. Conclusions 154
3. Communication 157

12. Conclusions and Recommendations 160

A. Conclusions 160
B. Recommendations 167

Appendix A: Proposal for Preparation of Report 170

Appendix B: Minutes of First Meeting: Planning the Report 173

Appendix C: Guidelines and Agenda for Workshop: Reviewing the Papers 184

Appendix D: Equation to Estimate Blood Alcohol Concentration 190

Appendix E: Recommendations Arising From the Workshop on Priorities to Improve Aboriginal Health Alice Springs, 26-28 November, 1986 191

Appendix F: Expert Testimony: A Suggested Reference List 194

Glossary 195

APPENDIX 14.2

Glossary

Acute: short-term, not long-lasting. For example, the effects of a single administration of alcohol on cognitive functioning.

Alcohol dependence: a state, psychic, sometimes also physical, which results from the interaction between a living organism and [alcohol. It is] characterised by behavioural and other responses which always include a compulsion to [drink alcohol] on a continued or periodic basis, in order to experience its psychic effects, and sometimes to avoid the discomforts of its absence (Royal College of Psychiatrists, 1986, p. 52).

Cognition; cognitive: refer to forms of knowing about the world. Cognition includes perceiving, imagining, reasoning and judging.

Confabulation: the making up of tales and recitals and a readiness to give a fluent answer with no regard, whatever, to any question put.

Chronic: lasting over time, long-term. For example, the effects of years of heavy alcohol consumption on cognitive functioning.

Cross-tolerance: exposure to one drug decreases a person's sensitivity to another drug.

Detoxification: a lengthy procedure lasting up to a week or longer during which time an individual who is physically dependent on alcohol abstains from using alcohol and goes through the symptoms of physical withdrawal. The person should be monitored throughout this period to ensure that medical assistance is summoned if complications arise.

Dysphoria: a state of unease or mental discomfort.

Enzyme: a chemical substance which will catalyse a biochemical reaction but not be altered itself.

Finger-finger test: a disk of cardboard is attached to one forefinger and a pointed thimble to the other. With arms extended the forefingers are brought together repeatedly producing a pattern of dots on the cardboard. The area defined by the dots is compared before and after intoxication.

Forensic: pertaining to courts of law or public discussion and debate. (Macquarie).

Horizontal gaze nystagmus: tendency for the eyeballs to oscillate (shift back and forth) horizontally when fixating on an object.

Lean body mass: the portion of the body tissue where body water is found. It is contrasted with fatty tissue where water is not found. Alcohol distributes throughout the body water in the lean body mass.

Match test: four matches are thrown on the floor within an area of 0.5 meters diameter. The subject is required to collect the matches from the floor and place them on a table using only one hand. The subject's response on the test was graded according to the following scale: 1 for fumbling during collection; 2 for repeatedly dropping the matches or leaving some on the floor; 3 if attempts to pick up the matches are failures (for example, the subject throws the matches around).

Metabolising, metabolise: tissue change effected by biochemical processes within the body. One form of metabolism involves the breaking down of substances such as alcohol into different chemical parts which are eventually eliminated from the body. Some alcohol is excreted from the body unchanged.

Psychomotor: processes carried out in the brain which control movement and responding to external and internal stimulation and information.

Romberg's test: the person stands with feet together and eyes closed and note is taken of the extent of body sway.

Sobering up: the short term process of abstaining from alcohol until the blood alcohol concentration has reached or is close to 0.00 g%. This is what typically occurs after an evening of heavy drinking. However, if a person is physically dependent on alcohol and has been drinking fairly consistently over an extended period of time, the sobering up process may result in complications which require access to a detoxification facility and medical assistance.

Standard drink: an amount of an alcoholic beverage which contains approximately 10 grams of alcohol. For example, each of the following contains approximately one standard drink: two 285 mL glasses of light beer, one 285 mL glass of ordinary beer, one 120 mL glass of table wine, one 60 mL glass of fortified wine, one 30 mL glass of spirits. (Note 30 mL is equal to approximately 1 ounce.)

Tolerance: the decrease in effect of a drug over repeated administrations of the drug. An increase in dosage is required in order to achieve the effect originally produced by a lower dose.

RESEARCH PAPER NO. 15

International Review of Deaths in Custody

David Biles

The results of research conducted previously within the Royal Commission have tended to show that, for both police and prison custody, Aboriginal people have died in custody at rates similar to those of non-Aboriginal people. Although the pattern of causes of death differ between the two groups, the major explanation for the unacceptably high numbers of Aboriginal deaths in custody is the gross over-representation of Aboriginal people in both forms of custody. Much work remains to be done on the reasons for this over-representation, but that issue will not be pursued in this paper.

However, the general pattern of research results prompts another question: are Australian rates of death in custody high, low or average, compared with other countries in the world? Is a mean of almost exactly one death per week in custody (462 in nine years) a level which may be expected in a country where there are approximately 12,000 persons in prison at any time and between 500 and 1,000 persons in police cells? Perhaps Australia has a *general* problem of unacceptably high rates of death in custody that apply to both Aboriginal and non-Aboriginal people. This paper will endeavour to present the basic facts that are needed to answer these questions.

An additional reason for pursuing this project was a remarkable claim made in a number of Australian newspapers soon after the establishment of the Royal Commission. It was claimed that the number of Black deaths in custody in South Africa since 1980 was smaller than the number of Aboriginal deaths in custody in Australia. Various efforts to track down the basis for this claim led only to the advice that at the conclusion of the film *Cry Freedom* only about 70 names were listed, whereas the Royal Commission had over 100 names on its list. As is shown later, this simplistic claim must be dismissed if one takes into account the relative numbers of persons in custody in Australia and South Africa.

Methodology

The major challenge associated with the conduct of this project was the search for relevant data from overseas sources. Initially, letters seeking information, advice and assistance were sent by the author to a large number of professional colleagues in different parts of the world. These letters yielded many encouraging and interested replies, but very little hard data.

Secondly, arrangements were made for an international journal, *CJ International*, which is produced in the United States, to publish a short article

on this subject which appealed for assistance. This, again, yielded little or no useable information. A copy of this article is reproduced at Appendix 15.1.

Thirdly, a search was undertaken of the annual reports of various police and corrections agencies which were held in libraries, especially the J.V. Barry Library of the Australian Institute of Criminology and the National Library of Australia. As many annual reports include the category 'died' as one of the possible means of leaving prison, some quite valuable information was obtained from these sources.

Finally, the assistance of a number of Embassies and High Commissions was sought, with that of Britain being particularly useful in relation to deaths in both police and prison custody. With the exception of Britain and New Zealand, however, these various efforts at data collection produced no results in relation to police custody. The bulk of the information reviewed in this paper therefore relates to deaths in prisons. It is nevertheless quite substantial, with some information being obtained on well over 16,000 cases from eleven different countries in recent years.

The basic results are presented separately for each country, in no particular order except that those which seem to be more comparable with Australia are dealt with earlier, and a comparative overview is attempted towards the end of the paper. However, the basic facts relating to Australia are presented first.

Australia

The basic facts about deaths in custody in Australia over the period 1980 to 1988 have been given in Research Paper No. 7 (*see* pp. 107-36 of this volume). In summary, that paper shows that 280 persons died in prison custody and 182 died in police custody over this period. (For both types of custody deaths were included where a person was transferred to a hospital or was in transit, provided that he or she was technically still in custody at the time of death. The criteria for inclusion are not identical to that applying to the official list of deaths in custody of the Royal Commission, however, as among other differences, deaths in juvenile institutions were not included in this research project.)

The numbers of deaths were not evenly distributed throughout the nine-year period, with 1987 being a particularly bad year. The actual numbers are shown in Table 15.1 and the pattern is also shown in Figure 15.1.

Details of the deaths in prison custody for the nine-year period for each Australian jurisdiction are shown in Table 15.2. From this table it can be seen that there are wide differences between the rates of deaths in prison between jurisdictions, but that the national rate is 2.98 deaths per 1,000 prisoners. This, admittedly somewhat crude measure, will be used as a yardstick for comparisons with other countries.

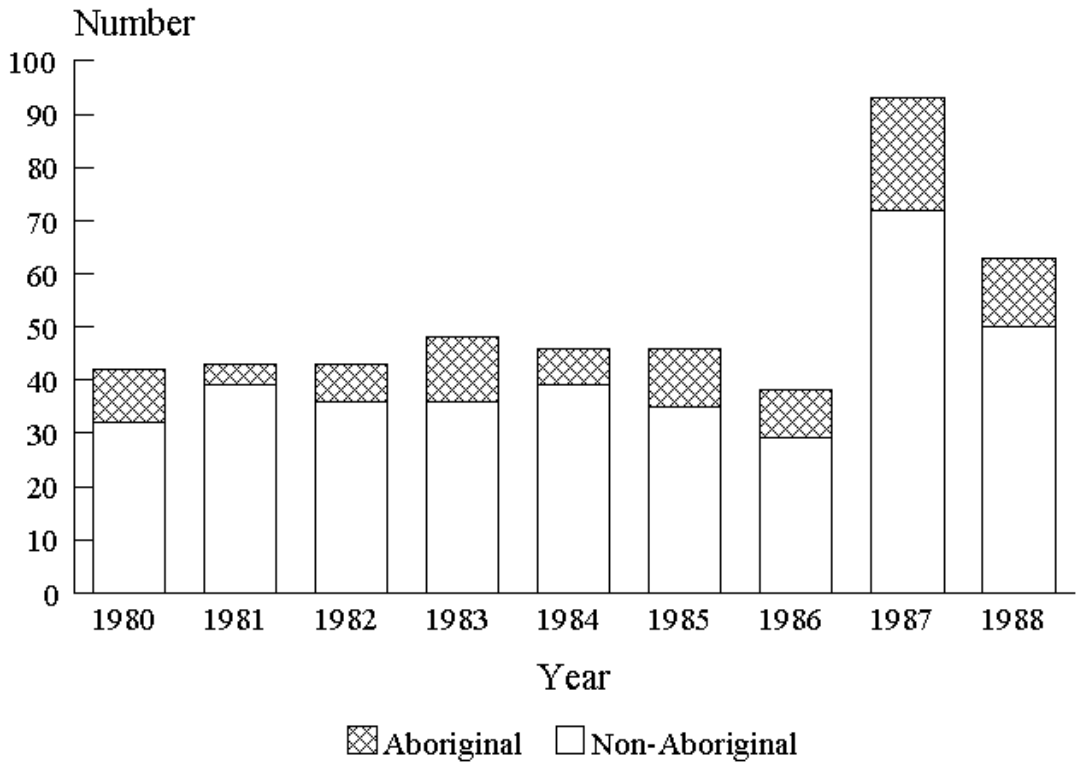
The Australian data in relation to deaths in police custody over this period are shown in Table 15.3. Here it will be seen that for each jurisdiction the number of deaths per million of the relevant population is given as the critical measure. This measure is used because of the difficulties associated with establishing reliable

estimates of the numbers of persons in police custody in Australia and in other countries. As with the prison data, notable differences between jurisdictions can be seen in Table 15.3, but it is the national figure of 1.31 deaths in police custody per million of the population that will be used for the purposes of international comparisons.

TABLE 15.1
Deaths in Custody, Australia, Aboriginality, 1980-88

	Police			*Prison*			
	Aboriginal	*Non-Aboriginal*	*Total*	*Aboriginal*	*Non-Aboriginal*	*Total*	***All cases***
1980	5	7	12	5	25	30	42
1981	3	12	15	1	27	28	43
1982	4	15	19	3	21	24	43
1983	6	10	16	6	26	32	48
1984	3	12	15	4	27	31	46
1985	7	15	22	4	20	24	46
1986	8	13	21	1	16	17	38
1987	16	25	41	5	47	52	93
1988	7	14	21	6	36	42	63
Total	59	123	182	35	245	280	462

FIGURE 15.1
Deaths in Custody, Australia, Aboriginality, 1980-88



New Zealand

Deaths in prisons

Information on deaths in New Zealand prisons for the period 1980 to 1988 were supplied on request by the Department of Justice with more detailed information for the years 1987 and 1988 being supplied by the Department of Statistics. Over this nine-year period there were 69 deaths in New Zealand prisons, indicating a mean of 7.7 deaths per year. With an average number of persons in prison for that period of 2,810, the number of deaths per 1,000 prisoners is 2.74. This is fairly close to the Australian rate.

TABLE 15.2
Deaths in Prisons by State, Australia, 1980-88

	Total deaths	*Mean deaths per year*	*Mean prison population*	*Deaths per 1,000 prisoners*
NSW	83	9.22	3,672	2.51
Vic.	75	8.33	1,913	4.36
Qld	57	6.33	1,956	3.24
WA	31	3.44	1,498	2.30
SA	22	2.44	801	3.05
Tas.	5	0.56	252	2.20
NT	6	0.67	325	2.05
ACT	1	0.11	13	8.55
Aust.	280	31.11	10,430	2.98

TABLE 15.3
Deaths in Police Custody by State, Australia, 1980-88

	Total deaths	*Mean deaths per year*	*Mean population* (millions)*	*Deaths per million population (millions)*
NSW	51	5.67	5.38	1.05
Vic.	25	2.78	4.05	0.69
Qld	38	4.22	2.48	1.70
WA	37	4.11	1.38	2.98
SA	15	1.67	1.35	1.23
Tas.	5	0.56	0.44	1.26
NT	11	1.22	0.14	8.73
ACT	-	-	0.24	-
Aust.	182	20.22	15.47	1.31

*Mean of census results 30 June 1981 and 30 June 1986

The data supplied by the Department of Justice also shows that the 69 deaths in prisons comprised 36 (52 per cent) Maori deaths and 33 (48 per cent) non-Maori deaths. These proportions are reasonably close to the proportions of Maori and non-Maori prisoners found by a census taken on 12 November 1987. More precisely, the census found that 48.6 per cent of prisoners were Maori, 44.1 per cent were Pakeha (Caucasian) and 6.7 per cent were from the Pacific Islands. In contrast, the 1986 New Zealand census of the general population found that 12.5 per cent of New Zealanders were of Maori origin.

These data suggest that there is a level of Maori over-representation in prison in New Zealand which is similar to that of Aboriginal people in Australian prisons. The overall imprisonment rate of New Zealand, however, varied during

this period from between 78 and 100 per 100,000 of the population which is considerably higher than the Australian national imprisonment rate which varied between 60 and 74 over the same period.

Deaths in police custody

Data supplied by the New Zealand Department of Statistics indicated that over the period 1 January 1980 to 31 March 1988, that is 8.25 years, there were 32 deaths in police cells, or approximately 3.9 per year. With an overall population of some 3.26 million people, the rate of deaths in police custody can be established as 1.19 per million per year. This is slightly lower than the Australian rate.

Other information available indicates that the 32 cases comprised 28 males and four females, and that 27 of the total deaths were classified as suicide. With regard to ethnicity, 14 were classified as Maori, 12 as European and six were unknown. Also unknown is the proportion of all persons taken into police custody during this period who were Maori.

England and Wales

Deaths in prisons

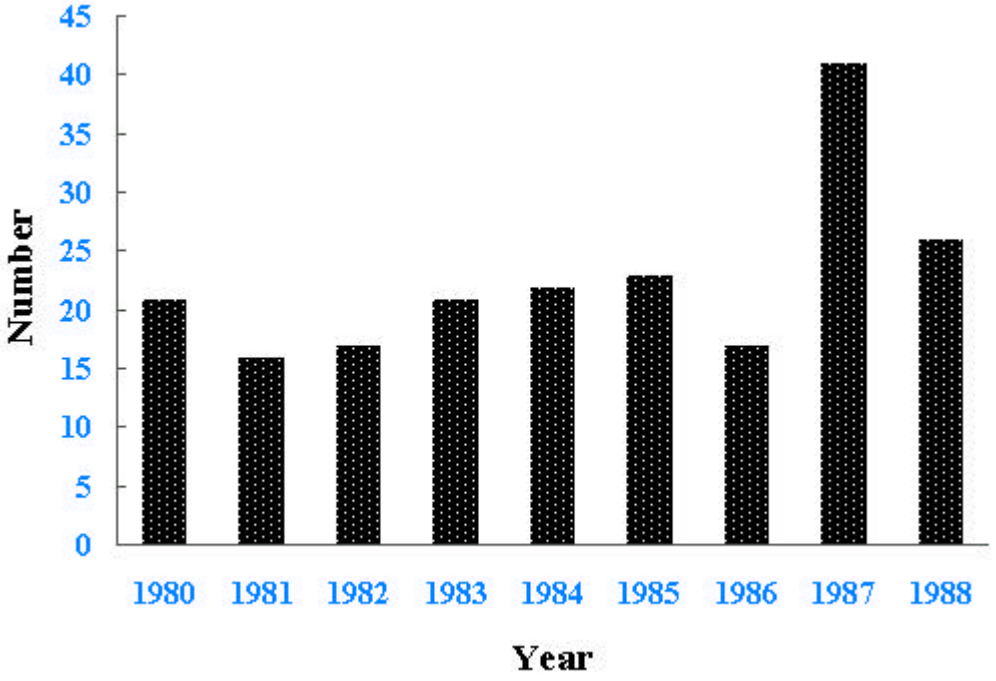
Information on prison deaths in England and Wales was obtained from a number of different sources. The *Weekly Hansard* of the House of Commons was a rich source of information on all individual cases of suicides in prisons from 1979 to 1986 and for all types of deaths in prisons for 1987 and 1988. This information was presented in a form that facilitated analysis by computer. In addition, the aggregate figures for each year over the period 1976 to 1988 were supplied to the writer by the Deputy Head of the Research and Planning Unit of the Home Office. This series of aggregate data was based on calendar years from 1980 to 1983 and for April to March periods from 1985 to 1988, with the data being provided for a 15-month period from January 1984 to March 1985. In total, information on 525 deaths in prisons was obtained.

This total number yields an average of 63.6 prison deaths per year which, with a mean prison population of 43,022 for the period under review, yields an annual death rate per 1,000 prisoners of 1.48, almost exactly half of the Australian rate.

A comparative analysis of the causes of death in prisons in England and Wales and in Australia (Biles 1991) shows that almost identical proportions of the deaths were classified as self-inflicted or resulting from suicide in the two countries. However, a higher proportion of the deaths in England and Wales was classified as due to natural causes and conversely there were proportionately more prison deaths in Australia resulting from accident or misadventure. Similarly, a higher proportion of the deaths in England and Wales was of remand prisoners, but in both countries the data indicate that remandees have a higher probability of death in prison than do convicted prisoners.

A further interesting comparison between England and Wales and Australia can be made when the data relating to the incidence of suicide in prison in England and Wales are analysed. As can be seen from Figure 15.2, the distribution of cases each year from 1980 to 1988 is remarkably similar to the Australian pattern with 1987 being associated with abnormally high numbers.

FIGURE 15.2
Prison Suicides, England and Wales, 1980-88



No simple explanation for the similar patterns shown in Figures 15.1 and 15.2 is proposed. It cannot be seriously suggested, for example, that the publicity surrounding the establishment of the Royal Commission in Australia had an impact in England. Such a suggestion has been made within Australia in relation to suicides in custody in Australia, but, even there, it cannot rationally explain the increase in prison deaths by natural causes which also occurred during 1987.

Deaths in police custody

Details of deaths in police custody from 1980 to 1987 were obtained from the annual reports of Her Majesty's Chief Inspector of Constabulary and the annual reports of the Commissioner of Police for the Metropolis. The data from both sources for 1980 and 1981 were less comprehensive than they were for later years. In total some information was obtained on 372 separate cases. In a small number of cases noted in the annual reports the person was 'otherwise with the police' and not necessarily in custody. These included some cases where the records suggest that the person died in a police station while reporting a crime. Also, there are a small number of cases where deaths occurred while police were substituting for the ambulance service during national health disputes. Where

these cases have been identified in the relevant annual reports they have been excluded from this study in order to ensure the highest possible level of comparability between different data sources. These exclusions reduced the total to 367 cases.

As with the Australian data on deaths in police custody, the total for England and Wales of 367 cases over the period 1980 to 1987, an annual mean of 45.9 deaths, is to be related to the mean general population for the period of 49.8 million. This produces a rate of 0.92 deaths in police custody per annum per million population, a figure considerably lower than the Australian rate of 1.31.

It is of some interest to note that the analysis of those cases for which full data are available shows that proportionately fewer of the cases from England and Wales were classified as suicide or self-inflicted than were so classified in Australia: 12 per cent compared with 46 per cent. Conversely, there were proportionately more cases in England and Wales classified as accidental or resulting from misadventure, 52 per cent, than in Australia, 13 per cent. It is possible, of course, that this terminology is used differently in the two countries.

Another major difference between the two countries is that in England and Wales a clear majority of deaths in police custody occurred in hospitals or in locations other than police stations, 67 per cent, whereas in Australia 86 per cent of the deaths occurred in police stations or watch-houses. It is also of interest to note that the police custody data for England and Wales show no particular tendency to cluster in 1987, as was found with British prison suicides and with all custodial deaths in Australia.

Scotland

Deaths in prisons

Aggregate data on deaths in prison in Scotland were obtained from the annual reports, *Prisons in Scotland*, for 1982 to 1986. Similar data on deaths in police custody were obtained from the annual reports of Her Majesty's Chief Inspector of Constabulary in Scotland for 1980 to 1987. As with the figures for England and Wales, cases of death in police custody where the person was 'otherwise with the police' or where the police were substituting for the ambulance service were excluded for the purpose of this analysis.

There were a total of 46 deaths in Scottish prisons over this five-year period indicating an annual mean of 9.2 deaths. With a mean prison population of 5,111 prisoners, this represents an annual rate of 1.80 per 1,000 prisoners. This is slightly higher than the rate for England and Wales but is considerably lower than the Australian rate.

The information available suggests that 35 of the 46 deaths (76 per cent) actually occurred in prisons, while in the remaining cases the prisoner was transferred to hospital before the death occurred. The annual report also shows that 28 of the cases (61 per cent) were classified as suicidal or self-inflicted.

Deaths in police custody

Over the eight-year period, 1980 to 1987, there were 62 deaths reported in police custody in Scotland, or a mean of 7.7 per year. With a general population of 5.1 million, this represents a rate of 1.51 deaths in police custody per million which is higher than the rates of Australia, New Zealand, and England and Wales.

United States

The principal source of information from the United States for this project was the *Sourcebook of Criminal Justice Statistics*, an annual publication of the Bureau of Justice Statistics which is prepared at the Hindelang Criminal Justice Research Center of the State University of New York at Albany. This publication contains a vast array of data on federal and state correctional systems, including the number of deaths that occur each year, as well as some information on deaths in local gaols, the latter on an irregular basis. The publication contains no information, however, on deaths in police custody, and this has not been obtainable from any other source. Other publications of the Bureau of Justice Statistics also provided information on correctional populations and gaol inmates.

The counting rules for the compilation of statistics relating to the deaths of prisoners have been determined by the Bureau of Justice Statistics as follows:

> *The counts of prisoner deaths are collected annually from each of the 50 states, the District of Columbia, and the federal prison system. Two counting rules are imposed:*
>
> 1. *deaths are reportable for those inmates serving sentences of more than one year in duration; and*
>
> 2. *deaths are reportable for those inmates under the jurisdiction of a prison system regardless of the location of physical custody.*
>
> *The first rule reflects the problem of grouping similar populations subject to incarceration in different states. Generally, locally-operated gaols confine persons with sentences up to one year in length while state-operated prisons house offenders with sentences greater than one year (this is essentially the difference between a misdemeanour offence and a felony offence). However, in six states and the District of Columbia gaols are combined with prisons and operated under state authority. Thus, the rule is intended to identify a comparable prison population across all state-operated institutions.*

> *The second rule is intended to capture the count of persons subject to the authority of a state prison system even if the inmate is housed elsewhere. Thus, prisoner deaths occurring in a hospital external to a prison facility would be counted unless the state had given up legal jurisdiction over the individual* (J.M. Bessette 1989, personal communication, 27 September).

It is observed that the first of these rules must result in a slight undercounting as deaths of persons serving less than one year in those jurisdictions without separate local gaol systems would be excluded. It is not possible reliably to estimate the numbers that are excluded but for the nation as a whole it is not considered that this rule would create a serious distortion of the facts. On the other hand, the second counting rule ensures that the statistics are comparable with those from Australia with regard to the location of death.

In the United States there are three separate correctional systems which are administered by the three levels of government: federal, state and local. (As indicated earlier, in six states and the District of Columbia, local gaols are combined with prisons under state authority.) Such information as is available will be presented separately for each type of correctional institution.

Federal institutions

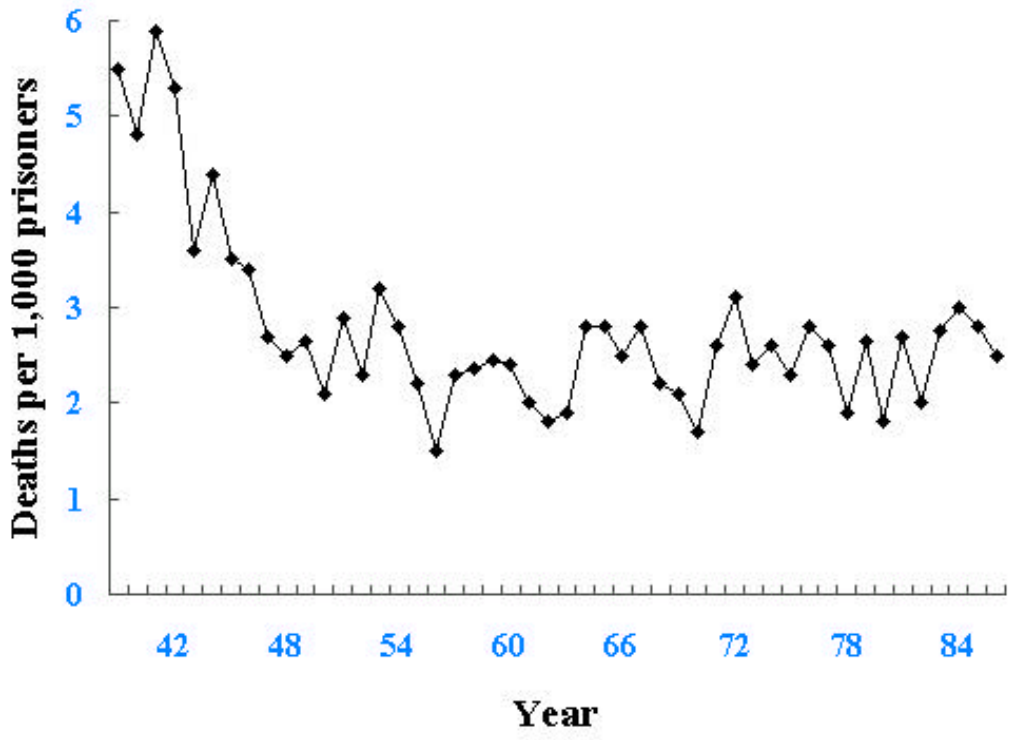
Unlike Australia, in the United States persons convicted of offences against the laws of the federal Government serve those sentences in federal penitentiaries. The basic facts about deaths in these institutions over the period 1974 to 1986 are given in Table 15.4.

TABLE 15.4
Deaths in Federal Correctional Institutions, United States, 1974-86

Year	*Deaths*	*Average prisoners*	*Deaths per 1,000 prisoners*
1974	55	22,588	2.43
1975	61	23,246	2.62
1976	72	25,465	2.83
1977	73	27,815	2.62
1978	53	27,520	1.93
1979	66	24,489	2.70
1980	40	21,599	1.85
1981	58	21,390	2.71
1982	47	22,910	2.05
1983	69	24,991	2.76
1984	84	26,966	3.12
1985	87	30,148	2.89
1986	88	34,613	2.54
Annual Average	65.6	25,673	2.56

The rate of death per 1,000 prisoners shows very little variation over the period 1974 to 1986, but over the longer term there is evidence to suggest that the rate of deaths in federal institutions has declined significantly from a peak of around six per thousand in the early 1940s. This is illustrated in Figure 15.3.

FIGURE 15.3
Deaths per 1,000 Inmates in Federal Institutions, United States, 1939-86



State institutions

The prison systems controlled by the states are considerably larger in terms of prison populations than either the federal penitentiary system or the system of local, or county, gaols. It is also worthy of note that the state prison systems have more than doubled in size over the period 1974 to 1986. The basic facts about deaths in state institutions over this period are given in Table 15.5.

No information has been obtained on the race of persons who have died in state or federal institutions, but it is of interest to note that there is a markedly different racial composition of the prison population of the federal and state systems. This is illustrated in Figure 15.4 which shows that there are proportionately many more Blacks in the state system, but there are higher proportions of other racial groups in the federal system. Blacks comprise approximately 12 per cent of the American population, yet constitute nearly one half of all persons in state prisons. This indicates a serious over-representation problem. The other groups include American Indians, Alaska Natives, Asians and Pacific Islanders. There is almost certainly over-representation among these groups but the data necessary to establish this are not available.

Local gaols

The third level of correctional administration in the United States comprises approximately 3,500 separate institutions known as local or county gaols. The

most recently available information suggests that these institutions house over 270,000 persons at any time. Total accuracy of statistical information relating to local gaols has not been achieved and therefore only approximations of the number of deaths that have occurred are available. Data are also not available on the numbers of deaths that have occurred in local gaols for each year of the period reviewed for federal and state correctional institutions. However, the *Sourcebook* for 1986 includes figures which indicate 611 deaths in gaols in 1978 (223 of which were classified as suicide) and 554 deaths in 1983 (200 of which were classified as suicide). These figures may be conservative as Rowan & Hayes (1988), who are specialists in the prevention of gaol suicide, have reported 453 gaol suicides for 1985 and 401 for 1986. Unless there was a very marked increase in suicides in local gaols between 1983 and 1985, there is a serious discrepancy between these two sets of figures.

TABLE 15.5
Deaths in State Correctional Institutions, United States, 1974-86

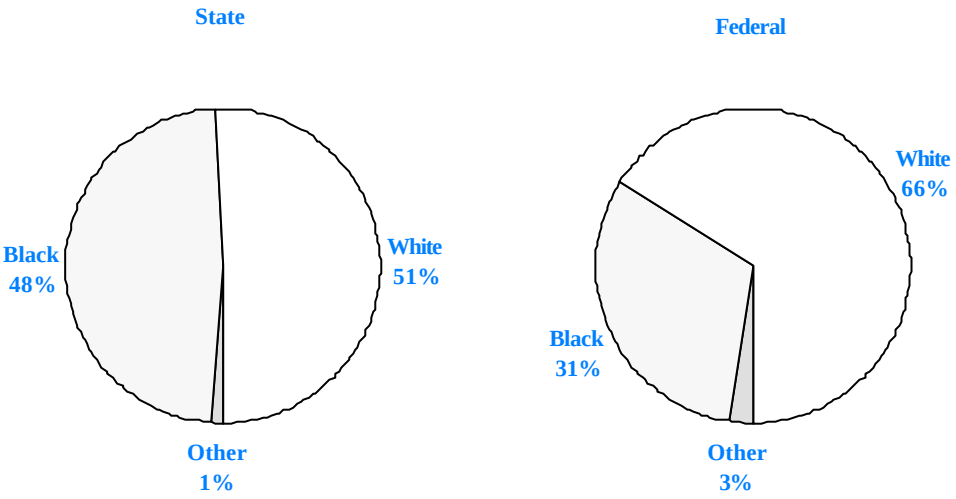
Year	*Deaths*	*Average prisoners*	*Deaths per 1,000 prisoners*
1974	584	188,620	3.10
1975	705	207,362	3.40
1976	580	226,477	2.56
1977	547	242,672	2.25
1978	579	261,981	2.21
1979	615	273,217	2.25
1980	687	286,276	2.40
1981	733	313,181	2.34
1982	752	351,962	2.14
1983	827	382,627	2.16
1984	963	404,626	2.38
1985	1,088	432,054	2.52
1986	1,202	466,794	2.58
Annual Average	759	310,603	2.44

Even though the data may not be absolutely accurate, the figures in the *Sourcebook* for 1986 suggest that there may be marked differences between the numbers of deaths in local gaols per 1,000 gaol inmates in different regions for the United States. This proposition is illustrated in Figure 15.5. From this figure, it may also be inferred that there has been some degree of reduction in the incidence of deaths in local gaols between 1978 and 1983.

In summary, the evidence from various sources suggests that for each year in the late 1980s in the United States as a whole, a total of between 1,500 and 2,000 persons have died while under one or other form of incarceration.

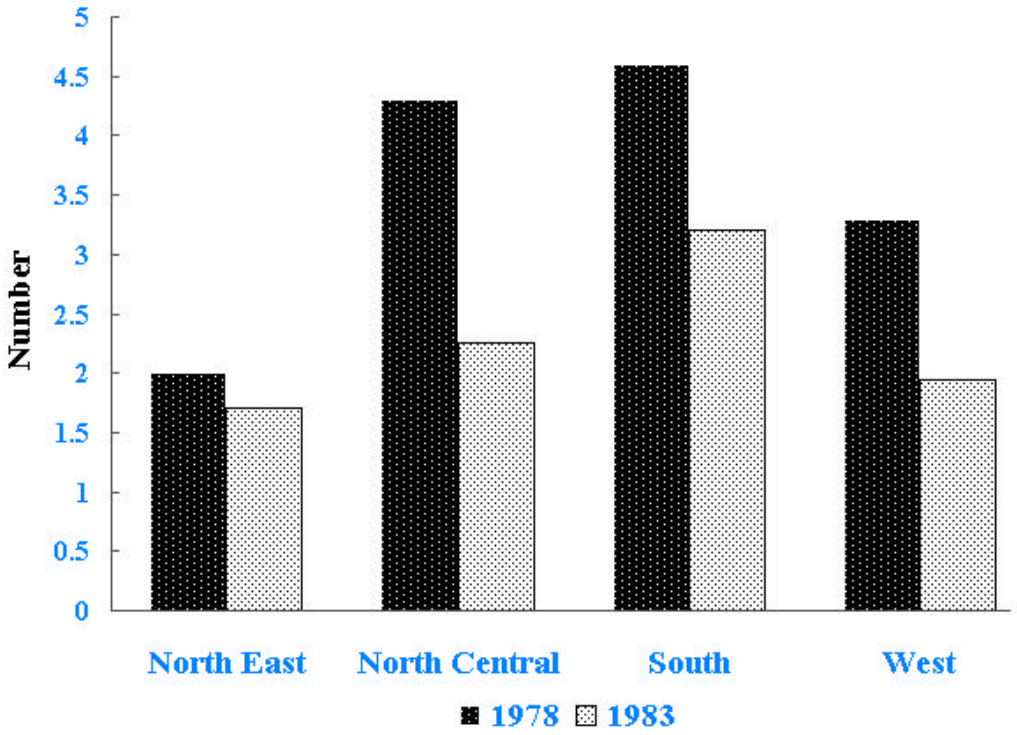
Some incomplete information is available from the *Sourcebook* on the causes of death in the different types of prisons in the United States. For example, in 1980 natural causes were reported as the most common cause of death in federal and state institutions (65 per cent and 45 per cent respectively), followed by homicide (18 per cent and 17 per cent) and suicide (12 per cent and 11 per cent), while a different picture emerged for local gaols. The available information suggests that suicide (46 per cent) was the major cause of death in local gaols in 1983 followed by natural causes (35 per cent), accident (11 per cent) and homicide (6 per cent).

FIGURE 15.4
Racial Composition of State and Federal Prisons, United States, 1986



Source: Bureau of Justice Statistics, *Correctional Populations in the United States, 1986* (Washington, DC, US Department of Justice, February 1989).

FIGURE 15.5
Local Gaol Deaths per 1,000 Inmates by Region, 1978 and 1983



Canada

Information on deaths in provincial prisons and federal correctional institutions was culled from publications of the Canadian Centre for Justice Statistics, which is a part of Statistics Canada. No information was obtained on deaths in police custody.

The data obtained have been analysed separately for provincial prisons and federal institutions as a different pattern of findings has been revealed for the two types of institutions. (Both sets of data include deaths of prisoners that occurred in locations other than a prison, for example, deaths following transfers to hospitals.) Offenders sentenced to two years or more in Canada serve their sentences in federal institutions, while persons sentenced to lesser terms serve their sentences in provincial prisons.

The basic facts about deaths in provincial prisons over the period 1978/79 to 1987/88 are shown in Table 15.6. It can be seen from this table that the rate of deaths per 1,000 prisoners has varied between 1.24 and 3.26 per year, but that the annual average rate for the total period was 2.17. This is considerably lower than the Australian rate.

TABLE 15.6
Deaths in Provincial Prisons, Canada, 1978/79-1987/88

Year	Deaths	Average prisoners	Deaths per 1,000 prisoners
1978/79	44	13,479	3.26
1979/80	40	13,412	2.98
1980/81	28	13,900	2.01
1981/82	26	15,096	1.72
1982/83	34	17,149	1.98
1983/84	36	16,542	2.18
1984/85	28	16,777	1.67
1985/86	20	16,178	1.24
1986/87	38	15,787	2.41
1987/88	41	16,077	2.55
Annual Average	33.5	15,440	2.17

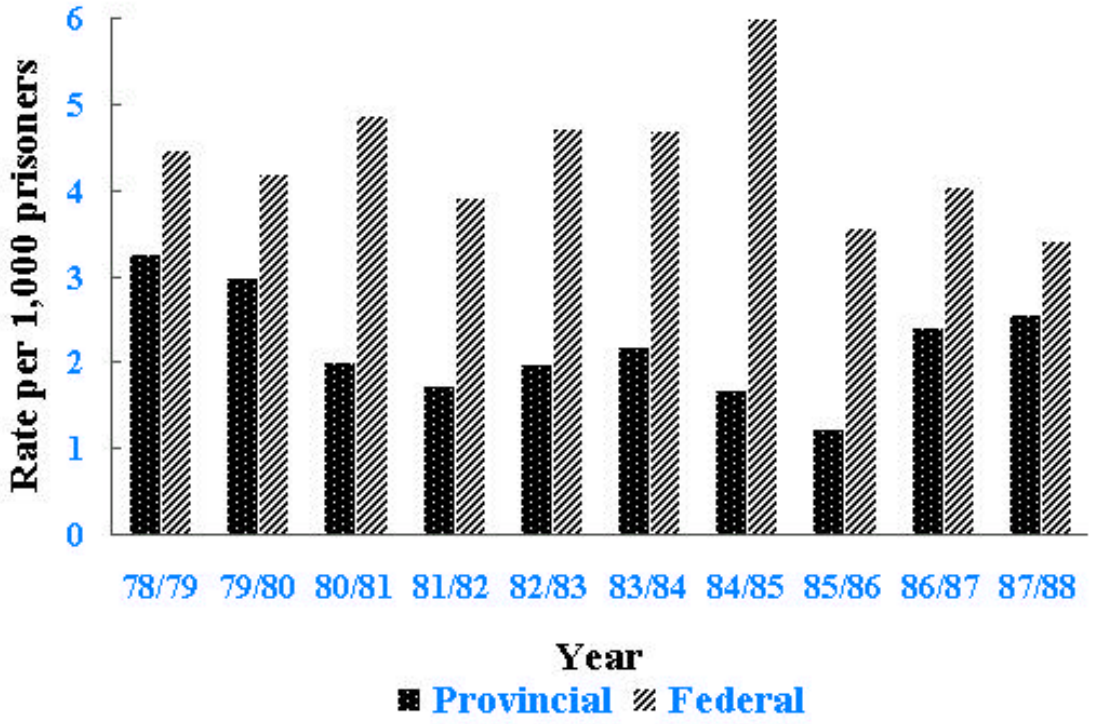
The complementary information relating to deaths in federal correctional institutions over the same period is shown in Table 15.7. In this table a little less variability from year to year is noticeable, but the annual average rate of 4.38 deaths per 1,000 prisoners per year is very much higher than the rate for Canadian provincial prisons and also higher than the rate for Australian prisons.

The dramatic difference between the death rates in these two types of institutions is illustrated graphically in Figure 15.6.

TABLE 15.7
Deaths in Federal Correctional Institutions, Canada, 1978/79-1987/88

Year	Deaths	Average prisoners	Deaths per 1,000 prisoners
1978/79	38	8,484	4.48
1979/80	36	8,568	4.20
1980/81	42	8,650	4.86
1981/82	35	8,940	3.91
1982/83	46	9,775	4.71
1983/84	49	10,438	4.69
1984/85	65	10,856	5.99
1985/86	40	11,214	3.57
1986/87	45	11,106	4.05
1987/88	36	10,557	3.41
Annual Average	43.2	9,859	4.38

FIGURE 15.6
Deaths in all Canadian prisons, 1978/79-1987/88



If these two data sets are combined, it can be readily calculated that over the period 1978/79 to 1987/88 there were 767 deaths among the annual average of

25,299 persons in prisons. This represents an average rate of 3.03 deaths per 1,000 prisoners per year, which is very slightly higher than the general Australian rate.

Incomplete, but nevertheless interesting, information was obtained on the causes of deaths for prisoners in Canadian federal institutions. This information covers the five-year period 1983/84 to 1987/88 and suggests that the major causes of death were: suicide (37.9 per cent), natural causes (25.5 per cent), accident (7.2 per cent), murder (19.6 per cent) and legal intervention (5.1 per cent). The remaining 4.7 per cent of the deaths were of unknown cause. The most striking difference between this list and the reported causes of death in Australian prisons is the high proportion of murders of Canadian prisoners. The equivalent proportion for deaths by homicide in Australian prisons is 6 per cent (Research Paper No. 11, *see* pp. 213-37 of this volume).

An additional comparison between Canada and Australia that is of some interest is the difference between the two national imprisonment rates (prisoners per 100,000 of the general population). With a total population of approximately 26 million and prison populations as shown in Tables 15.6 and 15.7, the Canadian imprisonment rate for the ten-year period has averaged approximately 97, within the range 84 to 106. As indicated earlier, the equivalent Australian rate over this period varied within the range 60 to 74.

South Africa

As was mentioned in the introduction, there is a particular reason for endeavouring to include data from South Africa in this international review. This stems from the claim that 'over the past decade there have been only 61 Black South African deaths in custody out of a total of 25 million Blacks, while in Australia there have been 120 Aboriginal deaths in custody out of a total of only 200,000 Aboriginals'. This statement was attributed to the Chairman of the Australian Catholic Social Justice Council, Bishop William Brennan, and was widely reported in the press (*see*, for example, *The Canberra Times*, 5 December 1988). The source for this claim was found on inquiry to be the list of names shown at the end of the film *Cry Freedom* (Bishop Brennan 1988, personal communication, 19 December).

At about the same time, the Australian press reported from a British television documentary to the effect that 'Black people in custody in Australia died at a rate 13 times higher than those in South Africa' (*The Age*, 14 December 1988; *Daily News*, 14 December 1988). Both of these reports were later quoted in a book by Dr Roberta Sykes (1989) and were repeated in later newspaper reports. As will be shown below, the published facts present a picture which is significantly different.

The annual reports of the Commissioner of Prisons of the Republic of South Africa (which are held by the National Library in Canberra) include a range of statistical and descriptive information about the general prison population and about deaths in prison. In each annual report one statistical table presents details

of deaths of unsentenced prisoners and another of sentenced prisoners. For each table the deaths are classified as: assaults (fellow prisoners), assaults (members), accident, during escape, suicide, poisoning, drowning, natural causes, etc., but the racial origins of the deceased prisoners are not given. Footnotes to these statistical tables provide short descriptions of the circumstances of the more unusual deaths. From these descriptions it may be inferred that deaths of prisoners in hospitals in the community are included in the published statistics. Elsewhere in each annual report, the daily average number of prisoners is given.

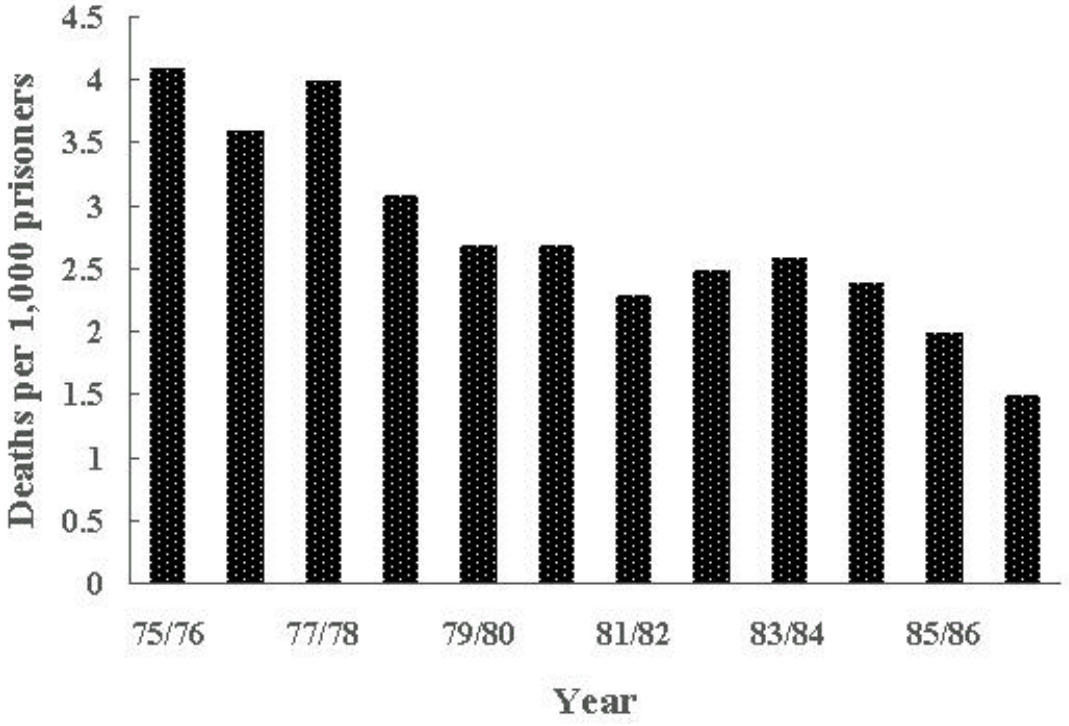
Table 15.8 presents a summary of this information over the twelve-year period 1975/76 to 1986/87. The most striking aspect of this table is the fall in the crude death rate that has occurred over this period. This fall is shown graphically in Figure 15.7.

The other major comment that must be made on the data in Table 15.8 is the fact that the mean crude death rate over this period was 2.76 per 1,000 prisoners, which is only a little lower than the equivalent Australian rate, 2.98 per 1,000 prisoners. There is certainly no suggestion here that the South African rate is 12 or 13 times lower than the Australian rate.

TABLE 15.8
Deaths in Prisons, South Africa, 1975/76-1986/87

Year	Deaths	Average prisoners	Deaths per 1,000 prisoners
1975/76	391	94,861	4.12
1976/77	358	98,985	3.62
1977/78	393	99,292	3.96
1978/79	308	98,292	3.13
1979/80	276	100,677	2.74
1980/81	270	100,533	2.69
1981/82	199	87,539	2.27
1982/83	253	101,302	2.50
1983/84	275	107,174	2.57
1984/85	263	108,955	2.41
1985/86	218	111,401	1.96
1986/87	174	114,098	1.53
Annual Average	281.5	101,926	2.76

FIGURE 15.7
Deaths in Prisons per 1,000 Prisoners, South Africa, 1975/76-1986/87



It is of interest to note however, that South Africa, which has a general population slightly less than twice the general population of Australia, has an annual average number of deaths in prison which is more than nine times higher than the Australian average number. The explanation for this apparent anomaly lies, of course, in the differences in imprisonment rates between the two countries. As is shown in Table 15.9, the imprisonment rate for South Africa as a whole for 1986/87 was over 413. At the same time the Australian imprisonment rate was approximately 70. In other words, the probability of an individual person in South Africa being in prison at any time is approximately six times greater than the equivalent probability for a person in Australia, but once in prison there is little or no difference between the two countries in the probability of death.

The racial composition of the South African prison population as well as the imprisonment rates per 100,000 of the general population for each major population group for the year 1986/1987 are shown in Table 15.9. From this table it can be seen that persons classified as Coloured are more than twice as likely to be in prison than those classified as Black, but that the Black imprisonment rate is more than four times higher than the imprisonment rates of Whites and Asians.

TABLE 15.9
Daily Average Prison Population, South Africa, 1986/87

	Prisoners			*General population ('000)**	*Prisoners per 100,000 population*
	Male	*Female*	*Total*		
Whites	4,567	180	4,747	4,832	98.2
Blacks	78,091	3,701	81,792	19,052	429.3
Asians	731	30	761	861	88.4
Coloureds	25,708	1,090	26,798	2,862	936.3
Total	109,097	5,001	114,098	27,607	413.3

*1986, estimated by Central Statistical Service. Excluding persons living in the independent homelands of Venda, Bophuthatswana, Transkei and Ciskei.

It can also be ascertained from Table 15.9 that Blacks comprised 69.0 per cent of the general community and 71.7 per cent of the persons in prison. If it is assumed that the numbers of deaths in prison for each racial group were in proportion to the numbers of prisoners in each group, then for 1986/87 there would have been 125 Black deaths in prison. That year was the lowest in the series for deaths in prison and for 1975/76, for example, using the same assumption, there would have 280 Black deaths in prison. It therefore seem reasonable to infer that the total number of Black deaths in prison in South Africa over the period 1980 to 1988 inclusive would have been within the range of 1,100 to 2,500. An estimate based on the annual average of 281.5 deaths per year would be 1,817. Over the same period in Australia there was a total of 35 Aboriginal deaths in prisons.

Notwithstanding this very large difference in numbers between the two countries, it is nevertheless the case that the Aboriginal imprisonment rate in Australia is considerably higher than the Black imprisonment rate in South Africa, and it is therefore highly likely that an individual Aboriginal person in Australia has a higher probability of dying in prison than does a Black person in South Africa. (The Australian Aboriginal imprisonment rate in 1987 was shown to be 775.8 in Research Paper No. 6, *see* pp. 85-105 of this volume. Even though this is considerably higher than the Black rate in South Africa, it is lower than the Coloured rate shown in Table 15.9.) The difference in the actual numbers of deaths is, of course, attributable to their relative numbers in both general communities.

As indicated above, the annual reports classify prison deaths into a large number of causes. The information over eleven years shows that, in descending order of frequency, the causes of death were: natural causes (78 per cent), assault (by fellow prisoners) (10 per cent), suicide (5 per cent), accident (4 per cent), and assault (by members) (1 per cent), with the remaining 2 per cent being either classified as 'other' or 'unknown'. The very high proportion of deaths reported as

by natural causes (2,627 out of 3,378) is very unusual, compared with other countries, as is the very low proportion of suicides. Also unusual are the sub-groups within those classified as accidental deaths that were caused by drowning. A total of 18 of the 138 accidental deaths were attributed to drowning.

Each annual report includes a number of short descriptions of some of the deaths that occurred in that year. Of considerable interest are the descriptions of some of the deaths that followed assaults by members (or prison officers). The following extracts appeared in the annual report for 1980/81:

> *On 8 August 1980 a Black prisoner died at Point Prison after he was wounded by a member of the Railways Police while working in a work team in the dock area. The member of the Railways Police was found guilty of culpable homicide on 22 April 1981 and sentenced to 12 months' imprisonment, suspended for 3 years.*

> *On 28 July 1980 a Black prisoner died at Vereeniging Prison after having been wounded by a member while working in a workteam. The member was found guilty of culpable homicide and sentenced to 18 months imprisonment, suspended for five years.*

> *On 2 February 1981 a Coloured prisoner died at Grootte Schuurhospital after he was allegedly assaulted by a member. The Attorney-General refused to prosecute.*

No particular conclusions or inferences are drawn from these extracts, but it is suggested that they add a different dimension of understanding to that which is gained from the raw statistical material.

The final point that must be made about the South African data on prison deaths is that executions are excluded. Information on the numbers of executions that have occurred over a period of time is not available, but a recent newspaper report suggested that 'in 1987, 164 people were executed in Central Prison, the highest number in South Africa's history' (*The Age*, 20 December 1989). For that year at least, this suggests that the number of executions was almost equal to the number of prison deaths resulting from all other causes.

Finland

Information on deaths in prisons in Finland was supplied by the Helsinki Institute for Crime Prevention and Control affiliated with the United Nations in response to a request circulated through the United Nations Criminal Justice Information Network. No data on deaths in police custody were supplied.

For each calendar year 1969 to 1988, the data showed for each death: gender, age, cause of death, prisoner category and length of sentence. The daily average

prison population for each year was also supplied. The basic facts for this 20-year period are shown in Table 15.10.

It is not surprising to find in relatively small jurisdictions that the numbers of prison deaths have varied considerably from year to year. The crude annual rate per 1,000 prisoners shown in Table 15.10 varies between 1.95 and 5.25, but of greater significance is the fact that the annual average rate is 3.33, which is clearly higher than the Australian rate of 2.98.

The second observation that must be made about Table 15.10 is the fact that since 1976 the average number of prisoners has been declining at a fairly steady rate. Over this 13-year period the actual numbers have fallen from 5,596 to 3,972, a reduction of 29 per cent. When these numbers are converted into imprisonment rates (prisoners per 100,000 of the population) the fall over this period is from 118 to 80, which is a reduction of 32 per cent in the use of imprisonment. The change in the imprisonment rate over the full 20 year period is shown in Figure 15.8.

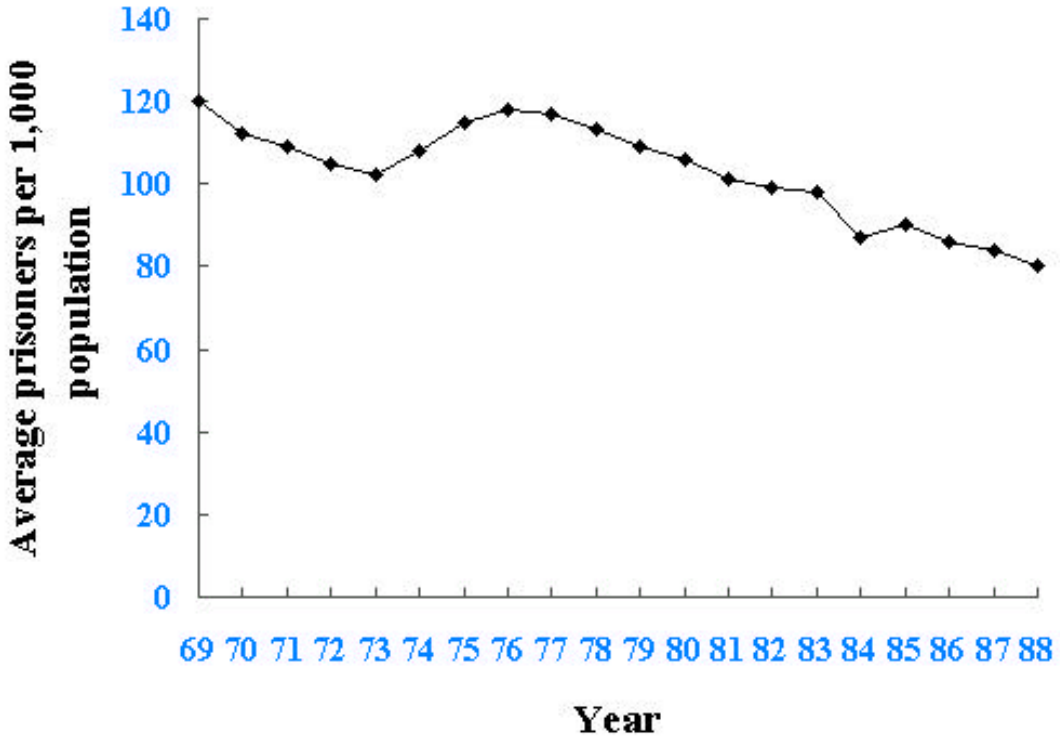
An analysis of the reported cause of death of the 327 cases reveals a pattern which is similar to that found in Australia. The two most common causes were reported as suicide (47 per cent) and disease (41 per cent), while accident (6 per cent) and violence (4 per cent) were relatively rare. It is also of interest to note that only eight of the deaths were of females. This is just over 2 per cent of the total.

The most common prisoner category for those who died was prisoner serving a sentence (80 per cent) followed by remand prisoner (13 per cent), fine defaulter (5 per cent), incarcerated in preventive detention (2 per cent), and prisoner under 21 serving a sentence (1 per cent). There was also a single case of a person classified as a 'prisoner being investigated for vagrancy'. While of some interest, the proportion of deaths in each of these categories is of little value, of course, without the background information of the relative proportions of prisoners in each category.

TABLE 15.10
Deaths in Prisons, Finland, 1969-88

Year	Deaths	Average prisoners	Deaths per 1,000 prisoners
1969	14	5,544	2.53
1970	10	5,140	1.95
1971	8	5,054	1.58
1972	15	4,925	3.05
1973	19	4,802	3.96
1974	14	5,104	2.74
1975	20	5,452	3.67
1976	22	5,596	3.93
1977	17	5,555	3.06
1978	23	5,399	4.26
1979	17	5,216	3.26
1980	19	5,088	3.73
1981	14	4,883	2.87
1982	25	4,766	5.25
1983	10	4,709	2.12
1984	18	4,254	4.23
1985	16	4,411	3.63
1986	13	4,219	3.08
1987	19	4,175	4.55
1988	14	3,972	3.52
Annual Average	16.4	4,913.2	3.33

FIGURE 15.8
Imprisonment Rates, Finland, 1969-88



Thailand

The information contained in Table 15.11 was extracted from annual reports of the Department of Corrections of the Thai Ministry of the Interior which are located in the National Library, Canberra. In each report, the numbers of deaths, other than executions, that have occurred each year are recorded as are the total prison populations at the beginning and the end of each year. For the purposes of this paper, an estimate of the average prison population for each year was established by calculating the mean of the latter two figures. No other relevant information could be found in these reports.

TABLE 15.11
Deaths in Prisons, Thailand, 1974-85

Year	Deaths	Average prisoners	Deaths per 1,000 prisoners
1974	211	43,676	4.83
1975	247	42,917	5.76
1976	269	44,174	6.09
1977	214	45,570	4.70
1978	217	48,420	4.48
1979	208	55,643	3.74
1980	242	52,556	4.60
1981	214	56,572	3.78
1982	253	62,083	4.08
1983	266	64,806	4.10
1984	306	69,353	4.41
1985	299	72,649	4.12
Annual Average	245.5	54,868	4.47

The most striking aspect of Table 15.11 is the relatively high death rates that are shown. In fact, the mean of 4.47 for the 12-year period is the highest that has been found in this study.

The Information Office of the Royal Thai Embassy in Canberra has indicated that the current population of Thailand is approximately 54 million, but that in 1984 it was estimated to be 50.61 million. On this basis the mean imprisonment rate for the period under consideration can be calculated as approximately 108 per 100,000 population.

Japan

Information on deaths in prisons in Japan has been supplied by the United Nations Asia and Far East Institute for the Prevention of Crime and Treatment of Offenders in Tokyo. The information supplied covered the five-year period 1984 to 1988 and is summarised in Table 15.12.

TABLE 15.12
Deaths in Prisons, Japan, 1984-88

Year	Deaths	Average prisoners	Deaths per 1,000 prisoners
1984	90	54,508	1.65
1985	99	55,263	1.79
1986	103	55,348	1.86
1987	100	55,210	1.81
1988	100	54,344	1.84
Annual Average	98.4	54,935	1.79

The most noticeable aspect of the information shown in Table 15.12 is its lack of variability. The number of prison deaths each year varied between 90 and 103, and the average number of prisoners varied very little during this period. As a consequence, the crude prison death rate was relatively stable over the five-year period. The average rate of 1.79 deaths per 1,000 prisoners is lower than most other countries covered by this review, and is considerably lower than the Australian rate of 2.98.

Other information supplied by the United Nations Institute in Tokyo shows that 4 per cent of the deaths were of females, and in 93 per cent of the cases the reported cause of death was disease, while 7 per cent were attributed to suicide. There were no deaths attributed to accident or homicide. Furthermore, for 1988 only, 6 per cent of the deaths were of unconvicted persons, while nearly 16 per cent of all prisoners were unconvicted. Thus, contrary to the Australian experience, unconvicted prisoners in Japan seem to be less likely to die in custody than are those who are convicted.

Information supplied by the Embassy of Japan in Canberra indicates that in 1986, the mid-point of the period under consideration, the population of Japan was estimated to be 121.6 million. When this is related to the average number of prisoners shown in Table 15.12, the imprisonment rate can be calculated as approximately 45 per 100,000 population. This is an exceptionally low figure.

Sri Lanka

Information on the numbers of deaths in prisons in Sri Lanka was obtained from a publication *Prison Statistics of Sri Lanka*, vol. 7, 1988, published by the Statistics Division of the Prisons Department of Sri Lanka. This covers the ten-year period 1978 to 1987 and the essential elements are reproduced in Table 15.13. This publication does not indicate whether or not deaths of prisoners in hospitals were included.

The remarkably high number of deaths in 1983 is explained in a note which reads 'includes 53 Tamil terrorist detainees killed by criminal prisoners at Welikada prison in the course of a riot'. If that number had been excluded, the rate for the total period would drop from 1.57 to 1.09 and this would be the lowest of any country examined in this review. This suggests that a restricted definition of death in prison was used.

TABLE 15.13
Deaths in Prisons, Sri Lanka, 1978-87

Year	Deaths	Average prisoners	Deaths per 1,000 prisoners
1978	6	9,436	0.64
1979	9	11,115	0.81
1980	11	10,782	1.02
1981	5	10,202	0.49
1982	8	9,563	0.84
1983	63	11,220	5.61
1984	15	11,693	1.28
1985	30	11,162	2.69
1986	15	11,451	1.31
1987	9	12,180	0.74
Annual Average	17.1	10,880	1.57

The High Commission for Sri Lanka in Canberra has indicated that a national census conducted in 1981 revealed a total population for the country of 14.8 million. Using this figure as the denominator, the average imprisonment rate for the relevant period can be calculated as approximately 74 per 100,000 population. This is almost exactly the same as the current Australian rate.

India

No statistical information is available from Indian authorities on deaths in either police or prison custody, but deaths in custody is nevertheless a subject of considerable public concern. This is illustrated by an item in *The Times of India* of 8 November 1989. If the report referred to in the article—prepared by the People's Union for Democratic Rights—is accurate in its claim that 48 people died in the custody of the New Delhi police over the period 1980 to 1989 and, if New Delhi is representative in this regard of the rest of the nation, the national total of deaths in police custody must be extremely high.

Comparative Rates of Death in Police Custody

As indicated earlier, data were available on the incidence of death in police custody from only four countries. These data are reproduced in Table 15.14.

The two countries with the largest numbers, England and Wales and Australia, may be assumed to have more reliable figures than the two smaller countries, and, to the extent that that is true, it is clear that Australia has the higher rate of the two for deaths in police custody. The rate for Scotland is even higher than the Australian rate, but, because of the smaller numbers, it may be unwise to place too much confidence in the Scottish figures. At all events, the available evidence, limited as it is, suggests that there is no room for complacency about the Australian rate of death in police custody.

TABLE 15.14
Comparative Crude Rates of Deaths in Police Custody

	Period	*Total deaths*	*Mean deaths per year*	*Mean population (millions)*	*Deaths per million population*
England and Wales	1980-87	367	45.9	49.8	0.92
New Zealand	*1980-88	32	3.9	3.3	1.19
Australia	1980-88	182	20.2	15.5	1.31
Scotland	1980-87	62	7.7	5.1	1.51

*1 January 1980 to 31 March 1988

Comparative Rates of Death in Prison

The key elements of the statistical material that has been presented earlier is consolidated in Table 15.15. This table summarises the findings of this review in relation to deaths in prisons, with the jurisdictions listed in ascending order of crude death rates.

The main findings of this review are repeated in Figure 15.9, from which it can be seen that the Australian rate is towards the upper end of the range.

FIGURE 15.9
Comparative Rates of Death in Prison

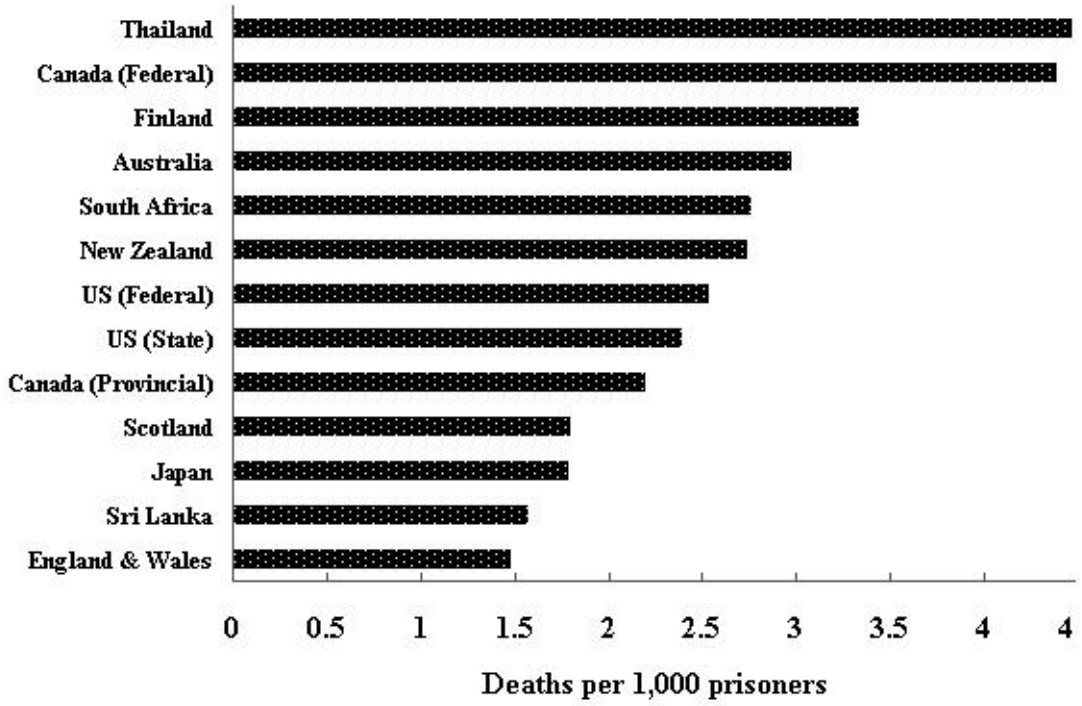


TABLE 15.15
Comparative Crude Rates of Death in Prison

	Period	*Total deaths*	*Mean deaths per year*	*Mean prison population*	*Deaths per 1,000 prisoners*
England and Wales	*1980-88	525	63.6	43,022	1.48
Sri Lanka	1978-87	171	17.1	10,880	1.57
Japan	1984-88	492	98.4	54,935	1.79
Scotland	1982-86	46	9.2	5,111	1.80
Canada (Prov'l)	1978/79-87/88	335	33.5	15,440	2.20
US (State)	1974-86	7,273	661.2	276,272	2.39
US (Federal)	1974-86	678	61.8	24,271	2.54
New Zealand	1980-88	69	7.7	2,810	2.74
South Africa	1975/76-86/87	3,378	281.5	101,926	2.76
Australia	1980-88	280	31.1	10,430	2.98
Finland	1969-88	327	16.4	4,913	3.33
Canada (Federal)	1978/79-87/88	432	43.2	9,859	4.39
Thailand	1974-85	2,946	245.5	54,868	4.47

*1 January 1980 to 31 March 1988.

Discussion and Conclusions

This review of the statistics of deaths in police and prison custody in a number of different countries has shown that while Australia is not at the top of either list, there is certainly no ground for complacency or self-congratulation. Compared with England and Wales and New Zealand, the Australian statistics are a cause for concern. Australia certainly does have a problem of deaths in custody, even though the Aboriginal and non-Aboriginal rates are similar to each other.

Perhaps the greatest surprise to emerge from this review is the fact that the Australian prison death rate is shown to be higher than the rates for either the federal or state correctional systems of the United States (although the latter rates are to be viewed with caution as persons serving less than one year are not counted for the reasons given earlier). Also surprising is the high rate of the Canadian federal system, which is almost exactly twice as high as the equivalent for the Canadian provincial system. A possible explanation for this difference is the fact that only persons sentenced to two years or more enter the federal system in Canada. This could mean that federal prisoners are more violent and less emotionally stable than provincial prisoners. This hypothesis is supported by the fact that there seems to have been a very high number of murders in Canadian federal institutions.

(An attempt was made to test the hypothesis that long-term sentenced prisoners are more likely to die from violent causes in prison than short-term sentenced prisoners by examining the Australian data more closely. This proved to be a fruitless exercise, however, as after data on unconvicted remandees and those who died from natural causes had been removed, as well as others for whom either the sentence imposed or the legal status was unknown, the number of cases remaining was so small that the results were of doubtful validity. For what it was worth, the limited evidence available tended to suggest that short-term prisoners were more at risk than were long-termers.)

Another comparison of particular interest is that between the prison statistics of South Africa and Australia. The reasons for this interest have been outlined earlier, but the fact that South Africa has an extremely high imprisonment rate but a reported prison death rate which is slightly lower than that of Australia raises the question of whether or not there is a correlation between these two measures. In other words, do countries which have relatively high proportions of their populations in prison also have relatively high rates of death in prison?

This question was examined as closely as the available data allowed, but a statistically significant correlation between imprisonment rates and prison death rates was not found. The relationship between these two measures, even though positive, could have occurred by chance.

Apart from the relative incidence of deaths in custody, which has been the major focus of this paper, some interesting differences have been found in the causes of death in different prison systems. There is considerable variability between jurisdictions in both the extent to which causes of deaths are published and also in the terminology that is used. It is also likely that the same words are

used to describe different causes in different parts of the world. Nevertheless, the striking difference between the causes of deaths in police custody in Britain and Australia has previously been mentioned, with suicide being comparatively rare in England and Wales but death by accident or misadventure being much more common than in Australia. Reference has also been made to the relative incidence of different causes of death in the different prison systems of the United States. (By remarkable coincidence, the pattern cited for local gaols in the United States is identical to the pattern found in Australian prisons: suicide, 46 per cent; natural causes, 35 per cent; accident, 11 per cent; and homicide, 6 per cent.)

In most of the countries reviewed, suicide is the most common cause of death in prison, but there are some important exceptions. In Japan, 95 per cent of prison deaths were attributed to disease, and in South Africa 78 per cent were attributed to natural causes. Also, in the United States federal and state systems, natural causes were predominant, followed by homicide, with suicide being the third most frequently mentioned cause. These differences may reflect different cultural reactions to custody, but it is also possible that the differences are largely a matter of terminology and classification.

There would almost certainly be value in further effort being made to identify and explain the distribution of causes of death in different custodial environments, but it is suggested that higher priority should be given to the continuous monitoring of changes in imprisonment rates and prison death rates from as many countries as possible. Both of these measures should be easy to establish as no sophisticated data gathering or analysis is involved. It is to be hoped that the distribution of this paper may encourage more countries to collect and publish these two indices. In particular, it is suggested that comparisons between Australia and more European and Scandinavian countries would be of particular interest because of the similarities of standard of living and other social and economic indicators.

Comparative studies of deaths in police custody are a little more difficult because very few, if any, countries collect and publish data in a systematic manner on the use of police custody. Nevertheless, the publication of the basic facts of all cases of deaths in police custody should become standard practice for all police forces. For both police custody and prison custody, however, it is suggested that improved data gathering together with the publication of the results is an essential first step to keeping deaths in custody around the world at the lowest possible level. As more countries publish the basic facts, and as international comparisons are inevitably drawn, it is likely to follow that those countries with high rates of custodial deaths will increase their efforts to keep the numbers down. Thus, the circulation of information may of itself assist in finding a solution to the tragedy of unacceptably high rates of death in custody.

Summary

1. This review has endeavoured to establish whether Australian rates of death in police or prison custody are high, low or average, compared with other countries in the world.

2. Information was sought from criminologists and criminal justice agencies in many parts of the world. A short article seeking information was published in an international journal, libraries were searched, and the assistance of a number of Embassies and High Commissions was sought.

3. Statistical information on deaths in police custody was obtained from only four countries, but equivalent information was obtained from eleven countries in relation to deaths in prisons. This covered over 16,000 cases in recent years.

4. The *Australian* national rates of 2.98 deaths per thousand prisoners and 1.31 deaths in police custody per million of the total population were used as the basis for international comparisons, but substantial differences in these rates were noted for the different states and territories of Australia.

5. The *New Zealand* rates for deaths in both forms of custody were found to be slightly lower than the Australian rates, and it was noted that approximately half of the deaths in both settings were of Maori people.

6. Both aggregate and unit data were obtained for *England* and *Wales* in relation to deaths in prison and police custody. The deaths in prison rate was found to be almost exactly half of the Australian rate, and for both countries the year 1987 was found to be associated with abnormally high numbers. The rate of deaths in police custody in England and Wales was found to be considerably lower than in Australia.

7. The data from *Scotland* showed a rate of deaths in prisons which was lower than that of Australia, but a rate of death in police custody which was higher.

8. Information on deaths in *United States* federal and state correctional systems produced rates which were slightly lower than the equivalent Australian rate. Incomplete information was available on deaths in local gaols in the United States, but some illustrative facts had been presented.

9. Information from *Canada* has shown a relatively low rate of death in provincial prisons, but a much higher rate in federal institutions, the latter being higher than the Australian rate.

10. The *South African* information showed a prison death rate slightly lower than the Australian rate, but an imprisonment rate (prisoners per 100,000 of the

population) which was approximately six times higher in South Africa than in Australia.

11. A comprehensive data set covering 20 years of deaths in prison in *Finland* showed a rate higher than that found in Australia, but an imprisonment rate which had declined significantly over the past decade or more.

12. The rate of death in prison in *Thailand* was shown to be higher than in any other country examined in this review, but the equivalent rate for *Japan* was found to be nearly the lowest. The rate for *Sri Lanka* was also found to be very low.

13. The relative frequency of different causes of deaths in prisons was found to vary from country to country and it is suggested that this could either reflect different cultural reactions to custody or it could be a matter of differences in terminology or classification.

14. It is concluded that while Australia does not have the highest rates of death in prison or police custody, the statistics are nevertheless a cause for concern. The Australian rates of death in either form of custody are notably higher than the rates found in most other countries under examination.

15. It is suggested that further comparative research of this type be undertaken, with a particular effort being made to obtain the necessary information from more European and Scandinavian countries because of their similarities to Australia.

June 1990

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ACKNOWLEDGMENTS

No country, including Australia before the appointment of the Royal Commission, had readily available and systematic data on deaths in either police or prison custody. Creative searching for information was therefore needed, and those persons who actually found useful information are particularly to be commended.

The staff of the National Library of Australia and the J.V. Barry Library at the Australian Institute of Criminology were particularly helpful, as were the staff of the High Commissions of Britain, Canada and New Zealand. The United Nations Institutes in Tokyo and Helsinki, the United States Bureau of Justice Statistics and the British Home Office Research and Planning Unit were also particularly helpful. The cooperation of the Editor of *CJ International* and of the United Nations Criminal Justice Information Network (UNCJIN) is also acknowledged.

APPENDIX 15.1

Reprinted from *CJ International*, vol. 5, no. 5, September-October 1989

AUSTRALIA

Deaths in Custody in the International Context

by David Biles

The Research Unit of the Royal Commission into Aboriginal Deaths in Custody in Australia has compiled lists of all Aboriginal and non-Aboriginal deaths in prison and police custody over the nine year period, 1980 to 1988 inclusive. These lists include cases where the deaths occurred in a hospital or other location where the person was still technically in police or prison custody. Deaths in juvenile detention institutions, sobering up centers, etc have not been included in this study unless the institutions were controlled by prison or prison authorities.

The basic results of this data collection are shown in Table 1.

Table 1

	Aboriginal	*Non-Aboriginal*	
Prison	35	245	280
Police	59	123	182
	94	368	462

The major observations to be made from this table are:

- nearly four times as many non-Aborigines than Aborigines died in custody.
- overall, more deaths occurred in prisons than in police custody.
- more Aborigines died in police custody than in prison, but the converse is true for non-Aborigines.

It is also relevant to observe that the proportions of the deaths that are Aboriginal (13 per cent for prisons and 32 per cent for police custody) are either equal to or lower than the proportions of Aborigines in either form of custody. The explanation for this unexpected finding is the gross over-representation of Aborigines in custody. The levels of over-representation have been calculated from an annual census of all persons in prison and a national survey of all persons taken into police custody throughout Australia during August 1988. It should be noted that Aborigines comprise just under 1.5 per cent of the total Australian population.

This summary of some of the research undertaken to date for the Royal Commission has prompted the question of whether the total of 462 deaths in custody over this nine year period is high, low or average compared with other countries. More precisely, what view should be taken of approximately one death in custody each week on average in a relatively prosperous nation of 16.5 million people, with about 12,000 people in prison and between 500 to 1,000 people in police custody at any time?

International comparisons of criminological information are always fraught with difficulty, but if any reader of this note has any data on deaths in custody (either police, prisons, or both) for any other country, please forward it to the writer. Any other comments or suggestions would also be welcome.

Please contact: David Biles, Head of Research, Royal Commission into Aboriginal Deaths in Custody, Bag No. 21, Queen Victoria Terrace, PARKES ACT 2600, AUSTRALIA; Tel: 61-62-702300, Fax: 61-62-732823.

RESEARCH PAPER NO. 16

Self-Inflicted Harm in Custody

Jillian Fleming
David McDonald
& David Biles

The following extracts from official reports illustrate the problem of self-inflicted harm from the perspective of custodial officers. Such reports do not, of course, reflect the anguish experienced by many of the people in custody.

'. . . the prisoner was in his cell talking to his cell mate about the Bible and Christianity. The cell mate dozed off for a short time then heard clanging noises on the bars. He woke up and saw the prisoner hanging from the cell bars with a blanket . . . making choking noises. The cell mate then jumped up, pushed the body up and released the weight from the noose then untied the knot. The prisoner was lowered to the ground in an unconscious state. Assistance was called for from Police and at that time the prisoner began to shake and vomit. The prisoner was then conveyed to hospital . . .'

'When checking cell 4 he found that the prisoner had slashed both wrists and her inner left elbow . . . she was still conscious and her injuries, whilst reasonably serious had stopped bleeding . . . She was immediately conveyed to casualty . . . where she received 16 stitches to her right arm and 21 stitches to her left arm . . .'

'Alone in the cell and no other prisoners in custody . . . When checked . . . was found hanging by the neck with his shirt tied around his neck and to a bar of the cell grill. The lower portions of his body were on the cell floor and he appeared to be forcing forwards against the tied shirt. The cell door was forced open partially against his body while the arresting officer . . . gained entry and removed the knotted shirt. After a few minutes he commenced shouting abuse again while laying prostrate on the cell floor. He then began banging his head against the cell wall whilst still lying on the floor. He was restrained . . .'

Previous research papers focusing on deaths in police and prison custody during 1980 to 1988 have demonstrated the seriousness of self-inflicted death or suicide in custody. Suicide was the most commonly reported cause of death

among people in custody during this period, accounting for 46 per cent of all deaths (Research Paper no. 7, *see* pp. 107-36 of this volume). This paper addresses the issue of attempted suicide or self-inflicted harm in custody. Its main purpose is to provide information which could be used to develop policies and practices that may reduce the incidence of self-inflicted deaths in custody.

This project provides for the first time in Australia a description of the phenomenon of self-inflicted harm in custody. It aims to produce information or insights that could be useful in the development or refinement of suicide prevention policies. As the number of attempts is much greater than the number of completed suicides in custody, the identification of potential attempters should be facilitated by this study. The project also provides a mechanism for describing how deaths were prevented in these cases.

Literature Review

International literature

There are many more times the number of attempted suicides than there are completed suicides (*see*, for example, Gispert et al. 1985; Ross & Davis 1986). Actual rates for attempted suicide vary enormously and although they are considered unreliable owing to under-reporting of incidents, they do provide an indication of the extent of the problem. Attempted suicide rates have been calculated in numerous countries, and are quoted as ranging from 40 to 2,000 per 100,000 of the general population (*see*, for example, Rotheram 1987; Whitehead et al. 1973).

While suicides and attempted suicides are common in the general community, they are even more so in police and prison custody, with the average rate of non-fatal self-inflicted injuries being more than twice that of the general community (*see*, for example, Albanese 1983; Wool & Dooley 1987; Ramsay et al. 1987). Despite these alarmingly high rates, international literature examining attempted suicide in custody is limited (Beigel & Russell 1972; Rieger 1971; Albanese 1983).

The value of studying attempted suicide in custody is supported by evidence that a high percentage of those who have died from self-inflicted wounds either had a history of self-destructive behaviour or had attempted suicide previously (*see*, for example, Danto 1973; Albanese 1983). Research has shown that between 30 and 50 per cent of those prisoners committing suicide had a history of previous attempts (*see*, for example, Topp 1979; Novick & Remmlinger 1987; DeHeer & Schweitzer 1985). Conversely, if a sample of suicide attempters is followed up, it is suggested that within twelve months, more than 1 per cent would be found to have died by suicide (Wool & Dooley 1987; Gregory 1987).

The term 'suicide' has been used in previous research papers in this series and in this paper with the meaning used by social scientists and that of everyday speech, namely, all self-inflicted deaths regardless of whether or not the person

had formed a definite intention of dying by his or her own hand (*see*, for example, Gregory 1987).

While suicide is hard to define because of different legal and social definitions, attempted suicide is even more difficult. A distinction is often made between 'attempted suicide' and other forms of self-destructive behaviour. Attempted suicide is defined as an action where death is averted although the person concerned intended to kill him/herself. Other forms of self-destructive behaviour are often called 'parasuicide' or 'self-mutilation' and refer specifically to self-injuring acts that are not motivated by a genuine wish to die (Oxford Concise Medical Dictionary 1987). In a recent review of the literature on self-injury in prison, Lloyd (1990) emphasises that although this distinction is conceptually clear, it is empirically very difficult to define.

> *. . . it is difficult to be certain that an individual who has injured himself genuinely intended to take his own life. If the person dies the same is true: there are many instances described in the literature where 'manipulative gestures' appear to have gone wrong, and the inmate has died apparently without fully intending to do so (p. 25).*

Pattison & Kahan (1983) have called this type of behaviour 'deliberate self-harm syndrome'. It is characterised by persons consciously performing painful and destructive acts upon themselves without the apparent intention of killing themselves (for example, various types of tattooing and carving on the body). Numerous psychological theories have been proposed to explain this form of behaviour, from manipulative emotional black-mail and attention-seeking, to identifying with a particular peer group (*see*, for example, Ross et al. 1978).

Lloyd (1990) found six major studies on self-mutilation in a penal setting and concluded that they described a range of different behaviours seemingly dependent upon the nature and history of the institution in which they occurred and the different characteristics of the inmates studied, particularly in regard to gender, age and psychiatric morbidity. Self-mutilation was found to be more common among females, particularly adolescent females, and the incidence and nature of behaviour among severely disturbed inmates was seen to differ greatly from more normal populations.

Other research conducted on self-injury in custody has offered numerous explanations of self-mutilation. These studies describe a range of behaviours from a variety of inmate populations. This form of behaviour ranges from inmate populations who are chronically bored inflicting minor self-injury on themselves simply for something to do or to elicit a reaction of some kind (Cookson 1977), emotional blackmail, or achieving a feeling of self-control, to serving the sole aim of manipulating the correctional authorities and system (*see*, for example, Ross et al. 1978; Kennedy & Homant 1988). Furthermore, there will be occasions when people will be protesting, with justification, about unfair treatment, or will be suffering from mental illness.

While these explanations of this form of behaviour are not rejected, some authors believe that self-mutilation and attempted suicide are in fact indistinguishable (*see*, for example, Wicks 1974). Wicks takes the view that while many of the attempts may be manipulative gestures, a manipulative inmate can die from self-inflicted wounds just as easily as can a 'serious' suicidal inmate. Danto (1973) contends that some forms of self-injurious behaviour are in fact coping measures to relieve stress and if not successful suicide, while not initially the intended behaviour, may appear to be the only way out.

It may seem reasonable to ask the question, how many of these attempts are serious attempts at self-destruction and how many are solely manipulative gestures? A frequent method for determining whether or not an attempt is indeed serious or manipulative, is to equate the degree of intent with the seriousness of the injury (*see*, for example, Johnson 1973; Danto 1973). Some research outside of prisons has shown that people who attempt suicide by methods which resemble actual suicides are more likely to go on to commit suicide and therefore represent genuine suicide attempts (Lloyd 1990). Leading on from this, a hanging attempt would therefore imply a more serious attempt. However, there are problems with this view and, in fact, it can be argued that it is also potentially dangerous. For example, the concept of 'medical seriousness' has been shown to be unreliable as an indicator of future suicide and a low correlation has been found between suicidal intent and outcome (*see*, for example, Albanese 1983; Rotheram 1987; Lloyd 1990). It is also possible for inmates to fake a suicide attempt by hanging and, finally, research indicates that people are often not aware of the seriousness of the methods chosen to attempt suicide (Lloyd 1990).

A relationship is found in the literature between suicide and attempted suicide on a number of variables. British studies examining the relationship between suicide and attempted suicide have shown that both are likely to occur among people on remand and soon after incarceration, and that people who suicide are likely to have a history of self-destructive behaviour and previous psychiatric histories.

Finally, it is worth noting that over the past two decades, an important objective of research has been the identification of the typical suicide attempter. In America, the 'typical' suicide attempter in the community (young, white, female and married) is in contrast with the 'typical' attempter in custody (young, white, male, arrested for non-violent crimes, with a history of prior suicide attempts and a history of alcohol or drug misuse) (*see*, for example, Beigel & Russell 1972; Wool & Dooley 1987; DeHeer & Schweitzer 1985). While it is obviously beneficial to attempt to identify someone who is at risk of suicide in custody, it should not be seen as a fool-proof method of identifying persons at risk or take preference over the importance of appropriate surveillance of persons in custody. There are problems in trying to describe the 'typical' attempter. Allen Hess (1987) has shown that many of the profiles describing the at-risk inmate also describe the typical gaol inmate. Rotheram (1987) also argues that the current strategies for assessing suicide risk in suicide attempters (for

example, medical lethality, psychological profiles) display a very small degree of success in actually predicting which people will suicide.

Australian literature

Australia has a serious problem with regard to suicide among its youth both inside and outside of custody. Suicide rates and attempted suicides among youth in the community have been increasing in recent years. It has been estimated that young Australians are now committing suicide at a rate of about one per day. The suicide rate for males aged 15 to 19 years has more than doubled from 6 to 13 per 100,000 over the past two decades (Eckersley 1988). In 1987, suicide accounted for 19 per cent of all deaths among people aged 15 to 44 years. It is the most common cause of death in the 25 to 44 year age group, accounting for 28 per 100,000 of the estimated mid-year population in that age group and the second most common cause of death, accounting for 24 per 100,000 of the estimated mid-year population, in the 15 to 24 year age group (Australian Bureau of Statistics 1989).

The incidence of attempted suicide also appears to have increased over the past decade. In Western Australia the rate of hospital admissions for attempted suicide for boys aged 14 and under has trebled in the past decade and doubled for girls under 14 years. Attempted suicide admissions for girls outnumber boys by about three to one (Eckersley 1988).

There are very few studies which have examined suicide and attempted suicide in Australia, especially in police and prison custody. The figures available for custodial environments have been collected in a somewhat ad hoc fashion. For example, one of the first studies to focus on attempted suicide in the Australian prison population was conducted in 1984 (Clark 1984). This study compared suicides in Victoria and New South Wales prisons between 1982 and 1984, but only reported on attempted suicides for Victorian prisons over a two-and-half-year period. The results showed that in the 186 incidents, females were over-represented, sharp instruments were most commonly employed, and incidents were most likely to have occurred between 9 a.m. and 12 midnight. More recent figures provided by the Northern Territory Police Force show that between 1 August 1987 and the end of August 1988, a total of 20 attempted suicides occurred in police custody, eight of which were of Aboriginal detainees (Reser 1989a). In Western Australia it has been reported that, from January 1980 to September 1988, 28 suicides and 109 suicide attempts occurred in police custody (Billing 1988).

Despite claims that 'there is no such thing as Aboriginal suicide', research has shown a high number of both suicides and attempted suicides among Aboriginal people in many communities throughout Australia. Work in North Queensland examining the incidence and causal context of Aboriginal suicide and self-injury provides support for the existence of this form of behaviour outside of custody.

> *. . . it is clear that Aboriginal suicide and suicide attempts are endemic in many communities throughout Australia and have been for at least*

> *the past decade, and in some regions for much longer . . . That such a characteristic symptom of more general societal and cultural distress would not find expression in a prison population of which fifteen per cent are Aboriginal and where over thirty per cent of those in police custody at any point in time are Aboriginal is very difficult to credit and would be without precedent* (Reser 1989b, p. 44).

Even though there may be difficulties in defining the concept of a 'traditional' Aboriginal community, Reser argues that a distinction can be made between traditionally-oriented communities and less traditional settlements in the incidence of suicide and self-injury.

> *There would appear to be a considerable consensus among Australian ethnographers to the effect that there was no traditional precedent for suicide … In addition, it would appear that instances of 'suicide' in these traditionally oriented communities over the past several decades are rare* (p. 45).

> *While non-custody suicide attempts are endemic in some Aboriginal communities, this situation coexists with a general and possibly accurate perception that there is not a traditional precedent for suicide in Aboriginal cultures* (p. 48).

Hunter (1988), who has also studied Aboriginal suicides and self-injury, supports Reser's conclusions above with his own findings.

> *While suicide as conceptualised in European culture appears to have been at most very uncommon among Aboriginal populations in the past, and traditionally oriented populations still, it is not uncommon among certain segments of the contemporary Aboriginal population* (p. 274).

In a study of 100 Aboriginal people incarcerated in the Broome police lockup during November and December 1987, Hunter (1989), also found that many of the inmates had either prior suicide attempts, suicidal ideation or previous impulses to injure themselves.

Finally, recent research in Palm Island, Queensland, also indicates high numbers of attempted suicides among residents.

> *During our stay on Palm [Island, for three months] six people that we know of made serious attempts to commit suicide. Two men tried to shoot themselves. One man cut his wrists, one woman and one man*

> *took an overdose of drugs and one woman tried to burn herself in the house* (Albers & Punt 1987, quoted in Reser, J 1989a, p. 45).

> *. . . serious suicide attempts in this small community occur at the rate of 1.25 every month (Palm Island Base Hospital statistics 1986), yielding an alarming annual figure of more than one per cent of the entire Aboriginal community* (Barber, Punt & Albers 1988, p. 88).

Suicide and attempted suicide remain extremely difficult concepts to define, identify and confirm. Very little data exist in Australia describing the incidence and phenomenon of attempted suicide in custody, yet it remains an everyday problem for custodial staff and inmates alike.

The preceding review of the literature has shown that all attempted suicides, even those forms of behaviour which are not intended to result in death, must be regarded equally seriously for two fundamental reasons: many non-serious suicidal gestures can accidentally result in death and the probability of a non-serious attempter becoming a serious and, in fact, a completed suicide case, is very high.

Methodology

The study reported here provides for the first time in Australia a detailed description of all reported incidents of self-inflicted injury which occurred in Australian police stations and prisons during a six-month period, 1 April 1989 to 30 September 1989.

In developing the scope of this project, the Research Unit acknowledged that problems exist in defining 'attempted suicide'. Because of the difficulty in determining whether or not an individual intended to kill him/herself, for the purposes of this study the following definition was developed and provided to the police and prison administrations as a guide to which behaviours were to be reported upon.

> *Any action which is potentially suicidal or self-destructive regardless of whether or not it is believed to be a genuine attempt at suicide. Threats not accompanied by actions are not to be included.*

It is to be noted that the terms attempted suicide and self-inflicted harm are, therefore, used interchangeably in this paper.

The information collected could form the basis for the development of preventive projects in prisons and police stations and for the improved training of staff. While the information will be necessarily statistical in nature it will provide a useful supplement to the much more detailed inquiries into individual self-inflicted deaths. The results when compared with the established facts about

deaths in custody may provide some basis for drawing tentative conclusions about the types of self-destructive behaviour that are more dangerous or potentially lethal than others.

There are two main limitations to this study. Firstly, it does not really allow for a meaningful consideration of precipitating cause, prior attempts, psychological profile, and so on, to be explored and secondly, it does not establish precisely the number of incidents of self-harm that occurred in the different custodial environments or jurisdictions as not all jurisdictions have interpreted the definition of self-harm in the same way.

A data collection form (*see* Appendix 16.1) was designed by the Research Unit of the Royal Commission to cover the following items: identification of the attempter (identification number rather than name), age, gender, Aboriginality, reason for custody, period in custody to time of attempt, date and day of attempt, time and place, description of attempt, whether alone or not, action taken immediately on becoming aware of attempt (for example, applied resuscitation, placed under special surveillance), action taken subsequently (for example, taken to hospital, charged), and provision for other information to be included such as whether the person was under the influence of alcohol or drugs and the degree of intoxication.

The above information was recorded on the data collection form by the relevant police or prison authority at the time of the attempt and forms were sent immediately or at the end of each month or at the end of the six-month data collection period to the Research Unit of the Royal Commission.

While all police and corrections departments gave their full support to the project, it is apparent from our examination of the data received that the coverage varies widely between jurisdictions. A number of reasons exist for this. As all reported cases were recorded by the individual police and prison officers present at the time of the incident, some behaviours not regarded by officers as serious attempts at suicide may have been left out of the study. It may also appear that Queensland prisons were unable to supply full information but the numbers supplied by that jurisdiction have been subsequently confirmed as correct by the Queensland Corrective Services Commission.

Confidentiality was assured in most cases by the participating departments providing identification numbers rather than names. In those cases where names were supplied to the Research Unit, confidentiality was guaranteed by the researchers and individual case information was stored in a locked filing cabinet. No identifying information has been entered into the computer data set.

It needs to be noted that the data in this report comprise reported incidents of self-inflicted harm in custody as distinct from the number of separate individuals. A person who was reported to have engaged in more than one incident of self-destructive behaviour during the six-month period was coded for each separate incident. This also applies to individuals who made several attempts over a relatively short period of time. For example, the following extract concerns a police custody case and was coded as three separate incidents of reported self-inflicted harm in custody:

> *. . . Police attend the yard of the cell complex after another prisoner called for help. The prisoner was found with a cell blanket around his neck in the form of a noose and attached to the shower outlet. The blanket and his shoes were removed and he was placed into a cell. Police were again called to attend to the prisoner who was found with his head in the toilet bowl and flushing it. A check a short time later found the prisoner with his clothes that he had removed and tied together attached to the cell door flap and he was exerting pressure to his neck . . .*

This paper presents findings of reported self-inflicted harm in custody for all police and prison administrations in Australia over the six month period 1 April 1989 to 30 September 1989. The information is presented in the following manner: national overview, demographic characteristics, incidents of self-harm in custody, custody data, place of attempt, action taken, alcohol and other drug involvement, comparison with completed suicides, conclusion and summary of findings.

National Overview

As shown in Table 16.1, the basic data set comprises 375 cases of reported self-inflicted harm in prison or police custody. It can also be seen that there is a marked difference between the two population groups and the relevant custodial authority. Aboriginal people who attempted suicide in custody were much more likely to do so in police custody (61 per cent) than in prisons (39 per cent); conversely, non-Aboriginal people were much more likely to attempt suicide in prison (65 per cent) than in police custody. This pattern reflects what has previously been found with regard to deaths in custody, and all reported completed suicides, during 1980 to 1988 (Research Paper No. 7, *see* pp. 107-36 of this volume).

TABLE 16.1
Aboriginal and Non-Aboriginal Incidents of Reported Self-Inflicted Harm in Custody 1 April-30 September 1989

	Aboriginal	Non-Aboriginal	Total
Prison	31	192	223
Police	49	103	152
Total	80	295	375

Table 16.2 shows the distribution of reported incidents between the Australian states and territories. As mentioned in the introduction, direct comparisons between jurisdictions in regard to the actual number of incidents should not be made. However, looking at the data it can be seen that the following patterns emerge. In Queensland, South Australia, Tasmania, the Northern Territory and the Australian Capital Territory, more incidents of reported self-inflicted harm occurred in police custody than in prisons, while the reverse was true for New South Wales, Victoria and Western Australia. In all jurisdictions except the Northern Territory and Queensland, non-Aboriginal incidents out numbered Aboriginal incidents to a significant degree. The majority of reported incidents of self-inflicted harm among Aboriginal people occurred in Western Australia and South Australia accounting for 35 per cent and 22 per cent respectively, of all Aboriginal incidents. Victoria and New South Wales had the highest reported number of non-Aboriginal incidents of self-harm, accounting for 34 per cent and 25 per cent respectively.

TABLE 16.2

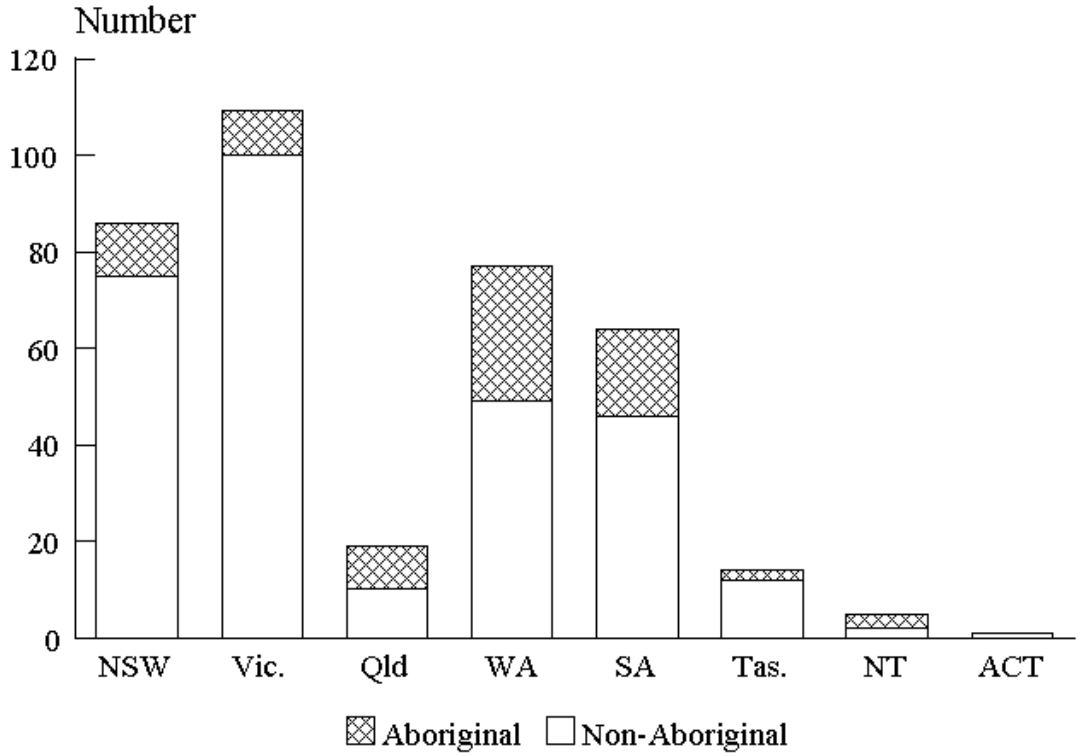
Aboriginal and Non-Aboriginal Incidents of Reported Self-Inflicted Harm in Prison and Police Custody by Jurisdiction, 1 April-30 September 1989

	Police			*Prison*			
State	*Aboriginal*	*Non-Aboriginal*	*Total*	*Aboriginal*	*Non-Aboriginal*	*Total*	***All Cases***
NSW	9	32	41	2	43	45	86
Vic.	6	11	17	3	89	92	109
Qld	7	9	16	2	1	3	19
WA	10	13	23	18	36	54	77
SA	12	26	38	6	20	26	64
Tas.	2	10	12	-	2	2	14
NT	3	1	4	-	1	1	5
ACT	-	1	1	-	-	-	1
Aust.	49	103	152	31	192	223	375

It is noted from this table that the proportions of Aboriginal and non-Aboriginal incidents of self-inflicted harm are similar to the proportions of Aboriginal and non-Aboriginal persons in police and prison custody.

The overall distribution of Aboriginal and non-Aboriginal reported incidents of self-inflicted harm by jurisdictions is illustrated in Figure 16.1.

FIGURE 16.1
Aboriginal and Non-Aboriginal Incidents of Reported Self-Inflicted Harm in Custody, 1 April-30 September 1989



Demographic Characteristics

Aboriginality and gender

The Aboriginality and gender of the reported cases of self-inflicted harm in custody are set out in Table 16.3. From this table it can be seen that 19 per cent of all reported incidents were among females with the proportion of reported Aboriginal female incidents being slightly higher. The majority (70 per cent) of reported attempts among females occurred in prisons. The proportion of female cases, both Aboriginal and non-Aboriginal, was much higher than found for completed suicide in either form of custody.

Age

The mean age of people reported to have attempted suicide in custody was 26.6 years, with half the cases being aged 25 years or younger. The Aboriginal and non-Aboriginal groups had similar age distributions with the corresponding figures for Aboriginal people being 27.1 and 26 years respectively; for non-Aboriginal people 26.5 and 25 years respectively. The ages ranged from 13 to 50 years among Aboriginal people and 14 to 57 among non-Aboriginal people.

TABLE 16.3
Aboriginality and Gender, Incidents of Reported Self-Inflicted Harm in Custody 1 April-30 September 1989

	Aboriginal		Non-Aboriginal		Total	
Gender	No.	%	No.	%	No.	%
Male	61	76	241	82	302	81
Female	19	24	54	18	73	19
Total	80	100	295	100	375	100

The distribution of age groups of Aboriginal and non-Aboriginal reports of self-inflicted harm, as well as the age group distribution of the general community, is shown in Table 16.4 and Figure 16.2. Table 16.4 shows that the majority (73 per cent) of reports occurred among people aged under 30 years, with very few incidents reported among people aged over 34 years.

TABLE 16.4
Age Group, Incidents of Reported Self-Inflicted Harm in Custody 1 April-30 September 1989

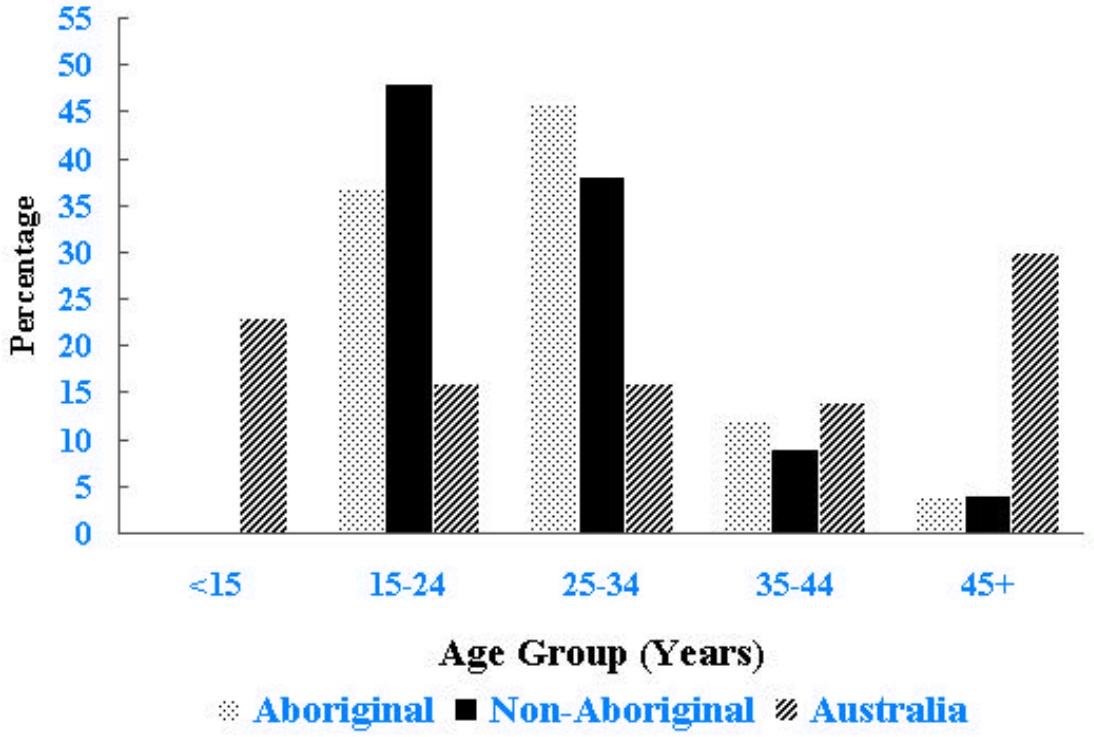
	Aboriginal		*Non-Aboriginal*		*Total*		*General* population*
Age group	*No.*	*%*	*No.*	*%*	*No.*	*%*	*%*
<15	-	-	1	-	1	-	23
15-19	14	17	37	13	51	14	8
20-24	16	20	105	36	121	32	8
25-29	23	29	77	26	100	27	8
30-34	14	17	36	12	50	13	8
35-39	10	12	19	6	29	8	8
40-44	-	-	8	3	8	2	6
45-49	2	2	9	3	11	3	5
50-54	1	1	1	-	2	1	5
55-59	-	-	2	1	2	1	5
60-64	-	-	-	-	-	-	4
65+	-	-	-	-	-	-	11
Total	80	98	295	100	375	101	99

*Proportions based on 1986 census data.

Incidents of Reported Self-Inflicted Harm in Custody

Differences exist between the two custodial environments in the type of opportunities available for self-inflicted harm both in terms of method and instrument. The following information has therefore been divided into two sections dealing separately with each custodial authority.

FIGURE 16.2
Age Group, Incidents of Reported Self-Inflicted Harm in Custody
1 April-30 September 1989 and Total Australian Population



Note: The columns labelled 'Aboriginal' and Non-Aboriginal' represent the percentages of the Aboriginal and non-Aboriginal people, who died in custody, who were in the age groups specified. The columns labelled 'Australia' are the percentages of the total population in the respective age groups as enumerated in the 1986 census.

Police

During the period 1 April 1989 to 30 September 1989, a total of 152 incidents of self-inflicted harm in police custody were reported, 49 Aboriginal and 103 non-Aboriginal. Table 16.5 shows the Aboriginality and gender of these people. From this table it can be seen that the number of reported incidents among Aboriginal females was significantly higher than the number of reported incidents among non-Aboriginal females.

It is of interest to note that the proportion of reported Aboriginal incidents, both male and female, shown in this table is a little higher than the proportion of male and female Aboriginal people detained in police custody revealed by the national survey conducted in August 1988 (Research Paper No. 13, *see* pp. 277-319 of this volume). This underlines the results of other research which have demonstrated the dangers of police custody for Aboriginal people.

Age The mean age of reported incidents of self-inflicted harm in police custody was 27.4 years, with half the reports being aged 24 years or younger. The ages ranged from 13 to 50 years among Aboriginal people and 14 to 57 years among non-Aboriginal people. For both Aboriginal and non-Aboriginal people, two-thirds (67 per cent and 66 per cent respectively) were aged under 30 years.

Day of week The reported incidents of self-inflicted harm in police custody were spread fairly evenly throughout the week with Wednesdays and Thursdays recording the highest number of cases. The days which deviated furthest from the daily average of 21.7 were Sunday, having a significantly lower number of reports (11) and Wednesday and Thursday, significantly higher numbers (29 and 26 respectively). The National Police Custody Survey conducted in August 1988 also revealed that the number of custodies was spread fairly evenly throughout the week, although Friday had a significantly higher number of custodies than other days and Sunday a significantly lower number.

TABLE 16.5

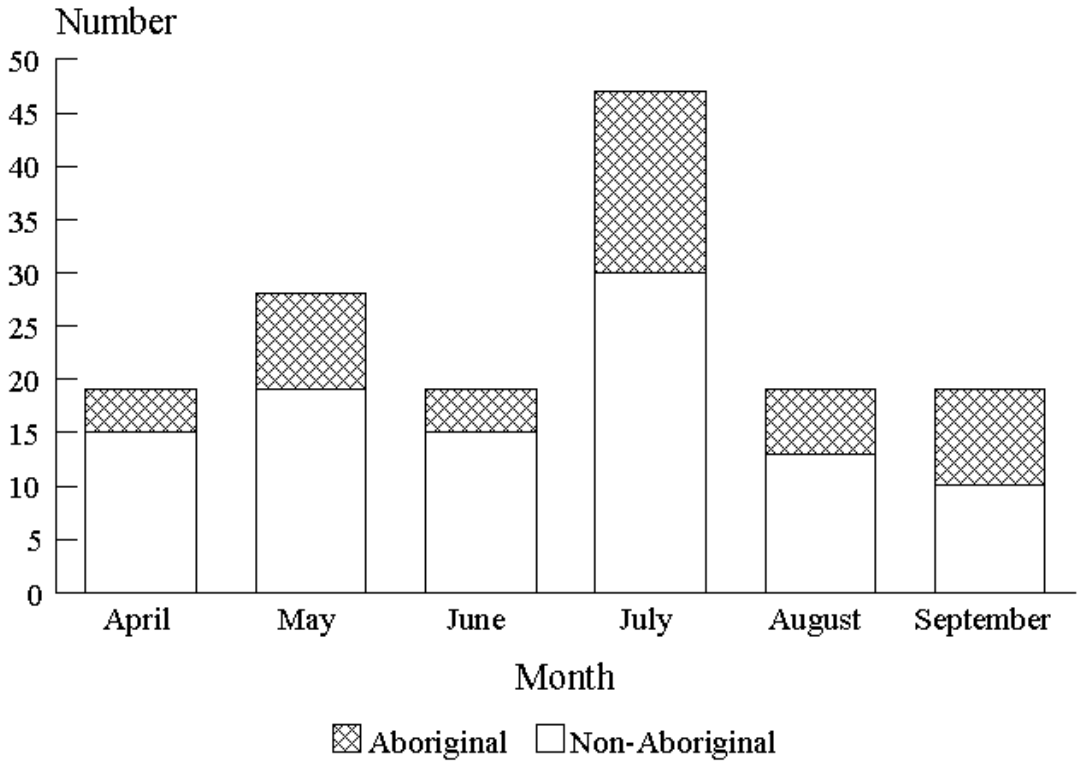
Aboriginality and Gender, Incidents of Reported Self-Inflicted Harm in Police Custody

1 April-30 September 1989

	Aboriginal		*Non-Aboriginal*		*Total*	
Gender	*No.*	*%*	*No.*	*%*	*No.*	*%*
Male	36	73	94	91	130	86
Female	13	27	9	9	22	14
Total	49	100	103	100	152	100

Month of reported incident The number of reported incidents of self-inflicted harm each month in police custody remained fairly consistent throughout the six-month period, with the exception of July. As shown in Figure 16.3, 47 incidents were reported for that month. July accounted for 35 per cent of all Aboriginal reports in police custody and 29 per cent of all non-Aboriginal reports in police custody.

FIGURE 16.3
Month of Reported Incident in Police Custody, 1 April-30 September 1989



Methods used The methods used for incidents of self-harm were reported in all police custody cases. Hanging was by far the most frequently reported method of self-inflicted harm, accounting for 70 per cent of all reports. As Table 16.6 indicates, hanging was reported in 88 per cent of Aboriginal cases compared with 61 per cent of non-Aboriginal cases.

TABLE 16.6
Methods of Reported Self-Inflicted Harm in Police Custody, 1 April-30 September 1989

	Aboriginal		*Non-Aboriginal*		*Total*	
Method	*No.*	*%*	*No.*	*%*	*No.*	*%*
Hanging	43	88	63	61	106	70
Laceration	1	2	24	23	25	16
Strangulation	3	6	10	10	13	9
Ingestion	1	2	1	1	2	1
Fire	1	2	-	-	1	1
Suffocation	-	-	-	-	-	-
Other	-	-	5	5	5	3
Total	49	100	103	100	152	100

There was no significant difference between reported method and gender. Hanging was the most frequently reported method for both men and women. There was no difference between Aboriginal and non-Aboriginal women on this variable.

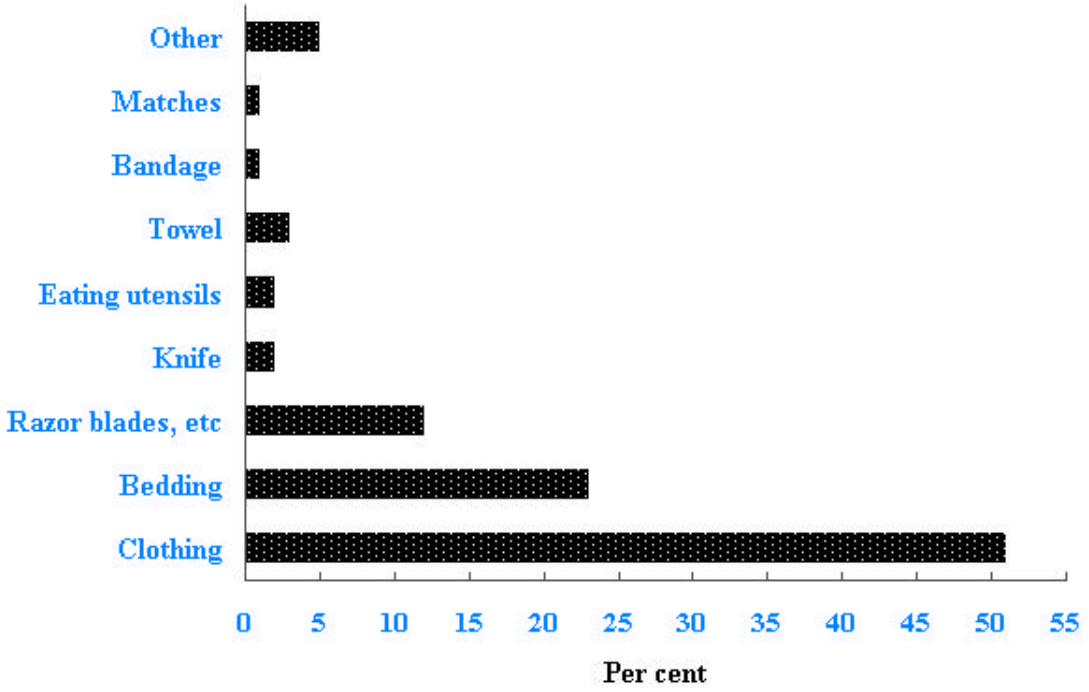
The five cases categorised as 'other' consist of two incidents of biting and one each of head banging, electrocution and attempting to drown in a toilet.

Instrument used Various instruments were used for the purpose of self-inflicted harm (*see* Figure 16.4). Information on the instrument used for each incident was recorded in 150 (99 per cent) of the 152 reported incidents of self-inflicted harm in police custody. As would be expected the type of instrument used related to its availability in police cells with 'clothing' being the most frequently reported instrument, accounting for approximately half of all reports. The most frequently used items of clothing were shirts (37 per cent) and jumpers (16 per cent). The next most common category of instrument used was bedding (including blankets, pillows and mattresses) which was reported in 35 (23 per cent) of the cases. Razors and other sharp implements, consisting of a safety pin, nail, scalpel blade and glass, was the next largest category of the remaining cases (18 of the remaining 39 cases).

A significant difference exists between Aboriginal and non-Aboriginal people on this variable. Clothing was reported as being used in 65 per cent of the Aboriginal cases compared with 44 per cent of the non-Aboriginal cases. Conversely, razor blades and other sharp implements were reported in 17 per cent of the non-Aboriginal cases compared with only 2 per cent of the Aboriginal reports. There was no difference between males and females and type of instrument reported to have been used.

As might be expected a difference exists between the instrument used and the reported method of self-inflicted harm. In hanging attempts, the most frequently used implements were clothing (63 per cent) followed by bedding (31 per cent). Ten of the 13 strangulation reports also involved the use of clothing, while razor blades and other sharp implements accounted for the majority (71 per cent) of all the reported lacerations.

FIGURE 16.4
Instrument Used in Reported Self-Inflicted Harm in Police Custody, 1 April-30 September 1989



Time of attempt Information was provided by police authorities on the time of the suicide attempt in 151 of the 152 police cases. More than three-quarters of the attempts (77 per cent) took place during the period 1500-0159 hours. In contrast, it is noted that the National Police Custody Survey, conducted in August 1988, revealed that 57 per cent of custodies occurred during this time period. Peak times in which people were taken into custody occurred in the 0900-1100 hours and 2000-0100 hours periods. The fact that self-inflicted harm behaviour is more apparent in the evening than in the morning periods is probably largely explained by the high numbers of people arrested or detained for drunkenness during these hours.

Prison

During the period 1 April 1989 to 30 September 1989, a total of 223 incidents of self-inflicted harm in prison was reported, 31 Aboriginal and 192 non-Aboriginal. Table 16.7 shows the Aboriginality and gender of these people. From this table it can be seen that, in contrast to the police custody environment, the number of reported incidents among non-Aboriginal females was higher than the number among Aboriginal females.

Interestingly, the proportion of reported Aboriginal incidents shown in this table is almost identical to the proportion of Aboriginal persons in prison as shown by earlier research (Research Paper No. 6, *see* pp. 85-105 of this volume).

TABLE 16.7
Aboriginality and Gender, Incidents of Reported Self-Inflicted Harm in Police Custody, 1 April-30 September 1989

	Aboriginal		*Non-Aboriginal*		*Total*	
Gender	*No.*	*%*	*No.*	*%*	*No.*	*%*
Male	25	81	147	77	172	77
Female	6	19	45	23	51	23
Total	31	100	192	100	223	100

Age The mean age of people reported to have attempted suicide in prison was 26.0 years, with half the reports being aged 25 years or younger. The ages ranged from 18 to 37 years among Aboriginal people and 18 to 42 years among non-Aboriginal people. For Aboriginal people almost two-thirds (65 per cent) were reported to be under 30 years whereas some 79 per cent of non-Aboriginal people were aged under 30 years. It should also be noted that no incidents were reported among people aged over 40 years.

Day of week As was seen with regard to reported incidents of self-inflicted harm in police custody, the reported incidents were spread fairly evenly throughout the week with Wednesdays and Thursdays recording the highest number of reports and Sundays the lowest.

Month of reported incident The number of reported incidents of self-inflicted harm each month in prison fluctuated over the six-month period. As shown in Figure 16.5, the highest number of reports overall occurred in May with 47 incidents, with the lowest number being recorded in September with 24 reports. The highest number of Aboriginal reports occurred in April, accounting for 29 per cent of all Aboriginal incidents throughout this period.

Methods used The method used for reported incidents of self-inflicted harm was recorded in 221 (99 per cent) of the prison cases. In contrast to police custody, laceration was by far the most frequently reported method of self-inflicted harm, accounting for 68 per cent of all reports. As Table 16.8 indicates, laceration was reported in 71 per cent of Aboriginal cases and 68 per cent of non-Aboriginal cases.

The seven cases categorised as 'other' consist of three incidents of banging heads against walls, three of stabbing, and one of a person cutting off a portion of an ear.

FIGURE 16.5
Month of Reported Incident, Prison Custody,
1 April-30 September 1989

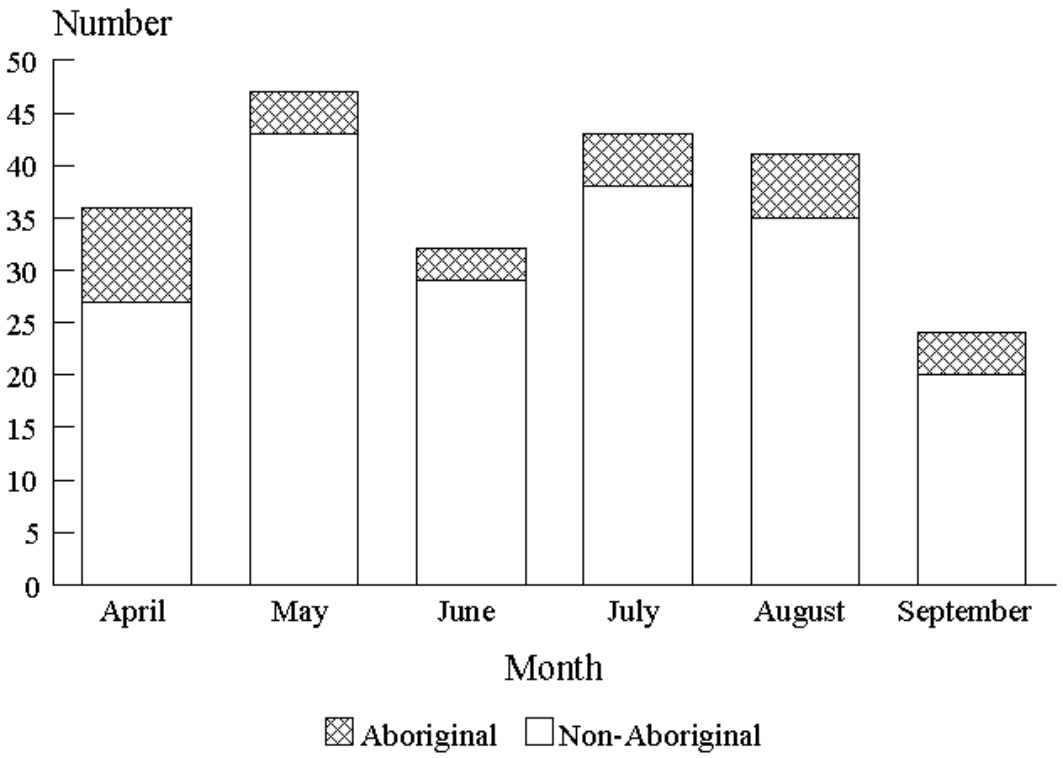


TABLE 16.8
Methods of Reported Self-Inflicted Harm in Prison Custody
1 April-30 September 1989

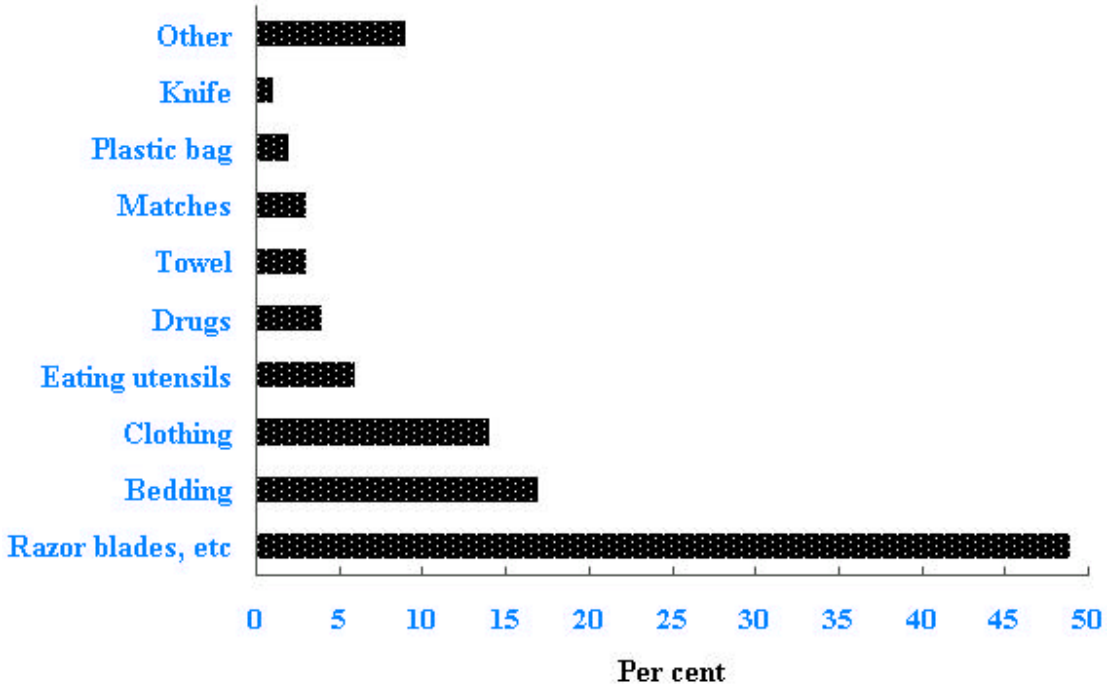
	Aboriginal		*Non-Aboriginal*		*Total*	
Method	*No.*	*%*	*No.*	*%*	*No.*	*%*
Laceration	22	71	129	68	151	68
Hanging	4	13	35	18	39	18
Ingestion	3	10	12	6	15	7
Fire	1	3	3	2	4	2
Strangulation	1	3	2	1	3	1
Suffocation	-	-	2	1	2	1
Other	-	-	7	4	7	3
Total	31	100	190	100	221	100

Instrument used Various instruments were used for the purpose of self-inflicted harm. Information on the instrument used for each incident was recorded in only 108 (49 per cent) of the 223 incidents of self-inflicted harm in prison and therefore the following analysis must be treated with caution. As

expected the type of instrument used related to its availability in prison with 'razor and other sharp implements' being the most frequently reported, accounting for almost half (49 per cent) of all reports (*see* Figure 16.6). The next most frequently used category of instrument was bedding (includes blankets, pillows and mattresses) which was reported in 17 (16 per cent) of the cases, followed by clothing (13 per cent). No significant difference exists between Aboriginal and non-Aboriginal people on this variable. Razor blades and other sharp implements were the most frequently used instruments for both groups, accounting for 56 per cent and 43 per cent respectively. Drugs were involved in four of the 'ingestion' cases.

As might be expected a relationship exists between the instrument used and the reported method of self-inflicted harm. The most commonly reported method, laceration, is related to the most frequently used instrument, 'razor blades and other sharp implements', accounting for 85 per cent of all laceration reports. Together, bedding and clothing accounted for the majority of all hanging reports, 48 per cent and 42 per cent respectively.

FIGURE 16.6
Instrument Used in Reported Self-Inflicted Harm in Prison, 1 April-30 September 1989



Time of attempt Information was provided by prison authorities on the time of the reported self-inflicted harm behaviour in 220 of the 223 prison cases. In contrast to police cases, proportionately more prison attempts took place during the morning time period. Approximately two-thirds, 66 per cent, of the attempts

were reported during the 0800-1959 hours period, with one-third occurring during the night (2000-0759 hours period).

It is important to note that this contrasts to previous research on prison suicide deaths (Research Paper No. 6, *see* pp. 85-105 of this volume) which revealed that 59 per cent of suicides occurred during the 2001-0759 hours period and only 41 per cent took place during the 0800-2000 hours period.

Custody

Offence

Information on the most serious offence or charge that led to the person being placed in police custody or prison was available for 370 (99 per cent) of the 375 reported cases (97 per cent of the police cases and 100 per cent of the prison cases). This information was classified according to the modified Australian National Classification of Offences that has been used in previous research papers of the Royal Commission.

From Table 16.9, it will be noted that theft is by far the most common offence, accounting for 15 per cent of the cases for which data are available. The five most serious categories (homicide, assault, sexual offences, robbery and other offences against the person) together account for some 38 per cent of the cases. Custody owing to drunkenness (either as an offence or protective detentions where it has been decriminalised) comprised 31 (21 per cent) of the police cases.

TABLE 16.9
Most Serious Offence, Incidents of Reported Self-Inflicted Harm in Custody 1 April-30 September 1989

	Police		*Prison*		*Total*		
Offence	*Abg*	*Non-Abg*	*Abg*	*Non-Abg*	*Abg*	*Non-Abg*	***All cases***
Homicide	-	1	1	21	1	22	23
Assault	10	11	8	14	18	25	43
Sexual offences	-	3	8	24	8	27	35
Other against person	-	-	1	2	1	2	3
Robbery	1	4	1	29	2	33	35
Break and enter	7	10	8	22	15	32	47
Fraud	-	1	-	5	-	6	6
Theft	5	13	1	35	6	48	54
Property damage	2	3	1	7	3	10	13
Justice procedures	6	8	1	12	7	20	27
Drunkenness	11	20	-	-	11	20	31
Other good order	6	14	-	6	6	20	26
Drug offences	-	6	-	12	-	18	18
Traffic offences	-	5	-	3	-	8	8
Other offences	1	-	-	-	1	-	1
Total	49	99	30	192	79	291	370

Table 16.9 also reveals substantial differences, regarding most serious offence, between the prison and police reported self-inflicted harm cases. As one would expect, a higher proportion of the prison cases (49 per cent) was among people incarcerated because of serious offences, such as homicide, assault, sexual offences, robbery and break and enter. By contrast, higher proportions of minor offences, especially drunkenness (21 per cent) and other good order offences, were seen among police custody cases.

This pattern is reflected in the findings of the National Police Custody Survey, August 1988, which revealed that drunkenness was the most commonly reported offence, accounting for 29.4 per cent of all police custodies. In contrast, the annual census of prisoners generally show that about 40 per cent of prisoners are in custody for offences against the person.

A significant difference exists between Aboriginal and non-Aboriginal people on this variable. Non-Aboriginal people were over-represented (compared with Aboriginal cases) in the offence of robbery (11 per cent compared with 3 per cent). The reverse holds true for assault, which was the most serious offence category accounting for 23 per cent of the reported Aboriginal cases but for only nine per cent of the reported non-Aboriginal cases. A difference was also observed between males and females with males being over-represented in sex offences (12 per cent compared with 0 per cent), and conversely females were over-represented in drug offences (11 per cent compared with 3 per cent).

Bail denial

A variety of reasons were given by police for not releasing a person on bail. They have been categorised, for the purposes of this paper, as follows:

- *Antecedents*: cases where the person was held owing to concerns based on his or her past behaviour, such as not fulfilling bail requirements.
- *Intoxication*: cases where the person was arrested and detained for the offence of drunkenness where it is still an offence.
- *Not forthcoming*: cases where the person was granted bail but was unable to raise the money or other surety specified.
- *Sentenced*: cases where the person was sentenced by a court to a period of imprisonment, which was being served in the police cells.
- *Remand*: cases where the person was being held on remand.
- *Seriousness of crime*: cases where the offence involved was considered by the police to be too serious for the detainee to be released on bail pending a court appearance.

Table 16.10 sets out the reasons given for people being held in police custody rather than being released on bail. This information applies to police custody cases only and must be treated with caution as data were provided in only 89 (59 per cent) of the 152 cases of reported self-inflicted harm in police custody (53 per cent of the Aboriginal and 62 per cent of the non-Aboriginal cases). The most common reasons given for not releasing a person from custody were due to antecedents, accounting for 26 per cent of the cases followed by intoxication, accounting for 20 per cent of all cases and bail not forthcoming, 19 per cent of cases.

The eight cases categorised as 'other' include two reported incidents on route to a police station and one each of the following: awaiting interview, bail refused by offender, fears held for safety of offender, committed to an institution, detained for 'cooling off period' and detained for 'lack of somewhere better to go'.

TABLE 16.10
Reason for Bail Denial, Incidents of Reported Self-Inflicted Harm in Custody 1 April-30 September 1989

	Aboriginal		*Non-Aboriginal*		*Total*	
Reason for bail denial	*No.*	*%*	*No.*	*%*	*No.*	*%*
Antecedents	9	35	14	22	23	26
Intoxication	6	23	12	19	18	20
Not forthcoming	4	15	13	21	17	19
Sentenced	2	8	6	10	8	9
Remand	-	-	5	8	5	6
Seriousness of crime	-	-	2	3	2	2
Reason not stated	3	12	5	8	8	9
Other	2	8	6	10	8	9
Total	26	101	63	101	89	100

As the question of bail denial is of central relevance to the work of the Royal Commission, it is suggested that further research be undertaken on this subject.

Length of time in custody

Data were provided on the length of time that people were in custody prior to the reported suicide attempt. The following analysis is presented separately for police and prison custody reports.

Police As Table 16.11 indicates, information was provided in 146 (96 per cent) of the 152 police custody reports. Half of the cases were in custody prior to the reported self-inflicted injury for 1.1 hours or less (1.0 for Aboriginal and 1.3 for non-Aboriginal people). Expressed differently, of the 146 cases, 107 attempted suicide within the first three hours of incarceration. There is no significant difference between Aboriginal and non-Aboriginal people on this variable.

Figure 16.7 illustrates that the first few hours in police custody are particularly dangerous in terms of reported self-inflicted injuries.

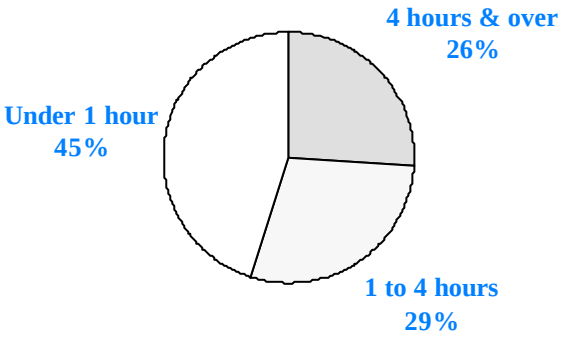
A relationship exists between time in police custody and reported method of self-inflicted injury. The majority (80 per cent) of hanging attempts were reported in the first three hours of custody, whereas over half (52 per cent) of the reported laceration attempts took place after the first 24 hours of custody.

Prison Information was provided in 215 (96 per cent) of the 223 prison reports. Table 16.12 sets out the available data on this variable and, as can be seen, in sharp contrast to police custody the first few days do not stand out as being particularly dangerous.

TABLE 16.11
Time in Police Custody Prior to Reported Self-Inflicted Harm, 1 April-30 September 1989

	Aboriginal		*Non-Aboriginal*		*Total*	
Time in police custody	*No.*	*%*	*No.*	*%*	*No.*	*%*
Under 1 hour	22	47	44	44	66	45
1 and under 2 hours	8	17	18	18	26	18
2 and under 3 hours	6	13	9	9	15	10
3 and under 4 hours	1	2	-	-	1	1
4 and under 5 hours	-	-	1	1	1	1
5 and under 6 hours	-	-	2	2	2	1
6 and under 7 hours	-	-	-	-	-	-
7 and under 8 hours	1	2	-	-	1	1
8 and under 9 hours	-	-	1	1	1	1
9 and under 10 hours	-	-	1	1	1	1
10 and under 11 hours	2	4	1	1	3	2
11 and under 12 hours	1	2	-	-	1	1
12 and under 24 hours	1	2	2	2	3	2
1 and under 2 days	-	-	4	4	4	3
2 and under 7 days	3	6	10	10	13	9
7 and under 14 days	2	4	6	6	8	5
Total	47	100	99	99	146	101

FIGURE 16.7
Time in Police Custody Prior to Reported Self-Inflicted Harm, 1 April-30 September 1989



The distribution revealed in Table 16.12 is skewed, with a mean of 370 days (1 year and 5 days) and a median, the point above and below which half of the cases fall, of 122 days (4 months). A total of 159 reports of self-inflicted injury (74 per cent of the cases for which data are available) occurred in the first year of imprisonment, the balance being spread up to a maximum of 15 years. Only seven

reported incidents (3 per cent) occurred in the first 48 hours of imprisonment The mean period served prior to the reported suicide attempt for Aboriginal people was 277 days (nine months) with a median of 197 days (approximately six-and-a-half months) while the equivalent mean for non-Aboriginal people was 385 days (thirteen months) with a median of 92 days (three months).

TABLE 16.12
Time in Prison Prior to Reported Self-Inflicted Harm, 1 April-30 September 1989

	Aboriginal		*Non-Aboriginal*		*Total*	
Time in prison	*No.*	*%*	*No.*	*%*	*No.*	*%*
Under 1 day	-	-	2	1	2	1
1 and under 2 days	1	3	4	2	5	2
2 and under 7 days	-	-	6	3	6	3
1 and under 2 weeks	-	-	7	4	7	3
2 weeks and under 1 month	3	10	9	5	12	6
1 and under 3 months	5	17	55	30	60	28
3 and under 6 months	5	17	26	14	31	14
6 and under 9 months	4	13	14	8	18	8
9 and under 12 months	1	3	17	9	18	8
1 and under 2 years	10	33	16	9	26	12
2 and under 3 years	1	3	12	6	13	6
3 and under 4 years	-	-	5	3	5	2
4 and under 5 years	-	-	3	2	3	1
5 years and above	-	-	9	5	9	4
Total	30	99	185	101	215	98

A significant difference also exists between the categories of reported method of self-inflicted injury and the time served in custody. This information is set out in Table 16.13.

Table 16.13 shows that 23 per cent of the reported self-inflicted injuries by hanging occurred in less than one month of imprisonment compared with 10 per cent of the lacerations. This may have important implications in terms of prison management due to the lethality of hanging as a method of attempted suicide.

Alone at time of reported self-inflicted harm

The authorities were asked to advise whether the person was alone or with others at the time of the reported incident of self-inflicted injury. Data are available on 369 (98 per cent) of the 375 cases. As shown in Table 16.14, most (86 per cent) of the reported attempts took place when the person was alone; this applied to both Aboriginal and non-Aboriginal people.

TABLE 16.13
Time in Prison by Reported Method of Self-Inflicted Harm, 1 April-30 September 1989

	Laceration		*Hanging*		*All other methods*		*Total*	
Time in prison	*No.*	*%*	*No.*	*%*	*No.*	*%*	*No.*	*%*
Under 1 day	2	1	-	-	-	-	2	1
1 and under 2 days	2	1	1	3	2	7	5	2
2 and under 7 days	2	1	3	8	1	3	6	3
1 and under 2 weeks	2	1	3	8	2	7	7	3
2 weeks and under 1 month	9	6	2	5	1	3	12	6
1 and under 3 months	45	31	9	23	5	17	59	28
3 and under 6 months	24	17	3	8	3	10	30	14
6 and under 9 months	15	10	3	8	-	-	18	8
9 and under 12 months	9	6	6	15	3	10	18	8
1 and under 2 years	16	11	3	8	7	24	26	12
2 and under 3 years	10	7	2	5	1	3	13	6
3 and under 4 years	4	3	1	3	-	-	5	2
4 and under 5 years	1	1	1	3	1	3	3	1
5 years and above	4	3	2	5	3	10	9	4
Total	145	99	39	102	29	97	213	98

TABLE 16.14
Alone or With Others at Time of Reported Self-Inflicted Harm, 1 April-30 September 1989

	Aboriginal		*Non-Aboriginal*		*Total*	
Alone	*No.*	*%*	*No.*	*%*	*No.*	*%*
Alone	67	84	250	87	317	86
With Others	13	16	39	13	52	14
Total	80	100	289	100	369	100

There was no significant difference between police and prison custody on this factor, with 84 per cent of reported incidents of self-inflicted harm in police custody occurring while the person was alone compared with 87 per cent of prison reports.

A closer examination of these data, focusing on reported method of self-inflicted injury, reveal that, overall, 89 per cent of the hanging attempts and 83 per cent of the lacerations occurred when the person was alone. A difference was observed between Aboriginal and non-Aboriginal people on this variable, with 81

per cent of the hanging attempts among Aboriginal people occurring when alone, compared with 93 per cent of non-Aboriginal attempts. There was no difference between Aboriginal and non-Aboriginal people on this variable with regard to laceration.

Place of Reported Self-Inflicted Harm

The custodial authorities were asked to provide information about the location of the reported self-inflicted injury. This information was provided in 369 (98 per cent) of the 375 cases. As can be seen from Table 16.15, the most frequently reported location in which self-inflicted injuries occurred was in single cell accommodation, accounting for 65 per cent of the reports for which information was provided. Special cells or observation cells and shared cell accommodation were the next most frequently reported location, each accounting for 9 per cent of the cases.

TABLE 16.15
Place of Reported Self-Inflicted Harm in Custody, 1 April-30 September 1989

	Police		*Prison*		*Total*		
Place of attempt	*Abg*	*Non-Abg*	*Abg*	*Non-Abg*	*Abg*	*Non-Abg*	***All cases***
Single cell	32	67	19	123	51	190	241
Special/observation	2	9	6	18	8	27	35
Shared cell	5	12	-	15	5	27	32
Yards	3	9	4	10	7	19	26
Vehicle	6	3	-	1	6	4	10
Ablution block	-	2	-	7	-	9	9
Recreation/dining	-	-	-	7	-	7	7
Cell-type not stated	-	-	-	1	-	1	1
Other	1	1	1	5	2	6	8
Total	49	103	30	187	79	290	369

As reported above, the majority (86 per cent) of reported self-inflicted injuries took place when the person was alone. Of these, 76 per cent took place in single cells. Of the 52 reported incidents where the person was with other people, exactly half were reported to have occurred in shared cell accommodation with the remainder being reported to have taken place in the yards (19 per cent), recreation/dining rooms (10 per cent), ablution blocks (8 per cent) and single cells, special/observation cells, vehicles, and other (2 per cent each).

As might be expected, a relationship exists between the reported method of self-inflicted injury and location. The two most frequent methods of reported

self-inflicted injury, laceration and hanging, both occurred more commonly in single cell environments.

Action Taken

Table 16.16 shows the range of different actions taken by the police and prison officers in response to a reported incident of self-inflicted harm. Some form of action was reported in all but one case and, as one would expect, in the majority of cases more than one action was taken after the event. The response most frequently taken was to have the person placed under some form of direct supervision, either in a padded cell or a special observation unit. However, almost half (48 per cent) of all reported incidents of self-inflicted harm actually resulted in removal either to a general hospital or to a prison hospital or clinic for treatment.

TABLE 16.16
Action Taken,[(a)] Incidents of Reported Self-Inflicted Harm in Custody
1 April-30 September 1989

	Aboriginal		*Non-Aboriginal*		*Total*	
Action taken	*No.*	*%*	*No.*	*%*	*No.*	*%*
Observation	32	40	141	48	173	46
First aid/rescusitation	30	37	129	44	159	42
Taken to hospital	19	24	84	28	103	27
Reduced opportunity[(b)]	28	35	57	19	85	23
Taken to prison hospital	7	9	70	24	77	21
Taken to other form of custody	6	7	55	19	61	16
Doctor called	11	14	35	12	46	12
Bailed	18	22	26	9	44	12
Ambulance called	10	12	23	8	33	9
Restrained	1	1	10	3	11	3

[(a)]Multiple response question—responses do not add to 100 per cent.
[(b)]For example, removal of clothing and/or other articles which could be used for further self-harm.

In over half (51 per cent) of those cases where a person was removed to a general hospital or a prison hospital, the reported method of self-inflicted injury was by laceration. The next most frequently reported method which resulted in treatment being sought from a hospital was hanging, accounting for 31 per cent of these cases.

It will be recalled that hanging was the method used in 145 (39 per cent) of the cases reported. Frequently, the hanging attempt had not progressed far and the detainee had not actually incurred any physical injury. In these cases, first aid or resuscitation was not required but action was taken, such as the removal of the hanging instrument or material, to reduce the likelihood of the attempt being repeated.

A significant difference exists between action taken and custodial authority. By far the greatest difference is seen in the reported use of first aid. This procedure was applied in 61 per cent of the prison cases compared with only 16 per cent of police cases. In contrast, the opportunity for self-inflicted harm was reduced by the officers removing items of clothing or bedding in 42 per cent of the police cases compared with only 9 per cent of prison cases.

This marked difference between custodial authority and action taken can be largely attributed to the most frequently reported method of self-inflicted harm in each custodial institution. Almost two-thirds (61 per cent) of the first aid cases in prison were due to laceration which, in turn, accounted for 68 per cent of all prison incidents. In police custody, however, 84 per cent of the cases where action was taken to reduce the opportunity for further self-harm were hanging cases which, in turn, accounted for some 70 per cent of all police incidents.

Table 16.17 provides details of the differences between the custodial authorities with respect to this variable.

TABLE 16.17

Action Taken by Authority—Per cent of Cases,[a] Incidents of Reported Self-Inflicted Harm in Custody by Jurisdiction, 1 April-30 September 1989

Action taken	Police	Prison
Observation	50	43
First aid	16	61
Taken to hospital	46	15
Reduced opportunity[b]	42	9
Taken to prison hospital	-	35
Taken to other form of custody	12	19
Doctor called	21	6
Bailed	29	-
Ambulance called	18	2
Restrained	3	3

[a]Multiple response question—responses do not add to 100 per cent.

[b]For example, removal of clothing and/or other articles which could be used for further self-harm.

Charged

Information was provided on whether or not an individual was charged either with the actual reported incident of self-inflicted harm, or with a related offence such as property damage. In some Australian states and territories, there are various charges associated with the act of self-inflicted injury. These charges are wide ranging and include the actual offence of attempted suicide, property damage and numerous offences under prison regulations. This information was provided on 146 cases. Of these, 18 (12 per cent) were charged in connection with the act of self-inflicted injury. Of the 18 people, 10 were male and eight were female. All but one were non-Aboriginal cases. Of the 18 cases, 14 occurred in prison and four in police custody. There were eight cases in Victoria, five in South Australia, three in New South Wales and two in Western Australia.

Alcohol and Other Drug Involvement

Whether or not a person was under the influence of alcohol was recorded in only 280 (75 per cent) of the 375 reported incidents of self-inflicted harm in custody. Of these cases, alcohol was reported to be a factor involved in 94 (34 per cent) reported incidents of self-inflicted harm, all but four being police custody cases. In almost half (47 per cent) of all Aboriginal reported incidents for which information was provided, the person was reported to be under the influence of alcohol at the time of the attempt. The corresponding figure for non-Aboriginal people is 29 per cent.

Data on the degree of other drug involvement was provided for 274 (73 per cent) of the 375 reported incidents of self-inflicted harm in custody. Of these, only 29 (11 per cent) were reported to be under the influence of some type of drug at the time of the reported incident. In contrast to alcohol, proportionately more non-Aboriginal people were reported to be under the influence of drugs, 12 per cent, than were Aboriginal people, 5 per cent.

Comparisons with Completed Suicides in Custody

As mentioned earlier, evidence suggests that a high percentage of those who die from self-inflicted injuries have a history of self-destructive behaviour and that similarities exist between attempted suicide and suicide. Previous research on Aboriginal and non-Aboriginal deaths in police and prison custody for 1980-88 has identified those people who were reported to have died from suicide or self-inflicted injuries. Difficulties exist in comparing that data set with the current study. These difficulties arise because of the different time periods between the two studies and the differences in the quality of the two data sets. The present study provides information only on those incidents which were reported to the Research Unit, whereas the suicide data set contains information on all suicides in custody during the nine-year period.

The problem of direct comparison is especially borne out in the Aboriginality and gender differences apparent between the two groups. However, it is noted that Aboriginal people composed a higher proportion of the suicide attempts, 21 per cent, than they did the completed suicides, 15 per cent. Similarly, proportionately more (19 per cent) of the reported incidents of self-inflicted harm were females than were reported suicides (4 per cent).

Despite the difficulties with direct comparisons, it is still worthwhile to make some descriptive comments on these two groups. Overall, similarities exist between completed suicides and attempted suicides with respect to age, custodial authority, offence and methods used.

Both suicides and attempted suicides were young, with mean ages of 28.3 years and 26.6 years respectively. A similar pattern exists between Aboriginal and non-Aboriginal people with regard to custodial authority. Aboriginal people were more likely to attempt and complete suicide in police custody than in prisons; conversely, non-Aboriginal people were more likely to attempt and complete suicide in prison than in police custody. In police custody, drunkenness was the most frequently reported offence among both completed suicides and attempted suicides, accounting for 21 per cent of all cases. In prison, however, a difference exists between completed and attempted suicides with homicide being the most frequently reported offence among the former accounting for 27 per cent of such cases and theft the most frequently reported offence among the latter, accounting for 16 per cent of cases.

Of particular interest is the similarity found with regard to method chosen for both suicides and attempted suicides in police custody. Hanging accounted for 70 per cent of the suicide attempts in police custody and 95 per cent of the completed suicides. Although this may reflect the limited methods available in police custody, it has important consequences in regard to management of people in police custody.

In sharp contrast to this, a difference was found between the two groups in prison. While hanging was the most commonly used method for completed suicides in prison, accounting for 89 per cent of cases, it was used in only 18 per cent of the reported attempts. Laceration was the method most frequently employed among attempts in prison accounting for 68 per cent of such cases. This pattern was observed in both Aboriginal and non-Aboriginal cases.

Conclusion and Summary

Conclusion

This project provides for the first time in Australia a description of all reported incidents of self-inflicted harm in custody during a six-month period, 1 April 1989 to 30 September 1989, as determined by the police and prison authorities. During this period, a total of 375 incidents were reported, 152 in police custody and 223 in prison. Of these, 21 per cent were Aboriginal.

Important differences are apparent between Aboriginal and non-Aboriginal people with respect to the different custodial environments. Aboriginal people who attempted suicide in custody were much more likely to do so in police custody than in prisons; conversely, non-Aboriginal people were much more likely to have attempted suicide in prison. As this pattern was also found with respect to suicides in custody, it further highlights the importance of police cell procedures in preventing deaths in custody and in particular, Aboriginal deaths in police custody.

The methods chosen for attempted suicides in the two custodial environments is also important with regard to the management of potential suicides. For example, it is of some concern that hanging was the most frequently used method in police custody for both attempted suicides and suicides. This method is particularly known for its lethality. In contrast to police custody, the prison environment presents a different pattern of self inflicted harm. The high incidence of laceration, while not as lethal a method as hanging, still presents numerous problems for prison management as attempts to remove the instruments of self-inflicted harm can create an oppressive and inhuman custodial environment.

Finally, this study highlights the enormous problem of attempted suicide in custody, both in terms of the obvious psychological stress placed on individuals in custody and in terms of the management of suicidal inmates by custodial officers. The fact that in a six-months period there were 375 potential suicides, 145 of which were related to hanging, highlights the importance of appropriate surveillance of persons in police and prison custody. The most important method, however, to reduce both self-inflicted harm and suicide in custody is to keep the numbers of persons in custody to an absolute minimum, and to ensure that for those for whom custody is unavoidable the physical and social environment is not unduly stressful.

Summary

1. This project provides for the first time in Australia a description of all reported incidents of self-inflicted harm in custody during a six month period, 1 April 1989 to 30 September 1989. It uses data provided to the Research Unit of the Royal Commission by the police and prison authorities in each Australian state and territory.

2. A total of 375 cases of self-inflicted harm in prison and police custody were reported as having occurred during the six-month period. This included 223 cases in prison and 152 cases in police custody. Aboriginal people made up 21 per cent of the reported incidents.

3. Aboriginal people who attempted suicide in custody or engaged in other self-destructive behaviour, were much more likely to do so in police custody than in prisons; conversely, non-Aboriginal people were much more likely to have attempted suicide in prison.

4. Some 19 per cent of the reported cases were females, with a slightly higher proportion of females being found among the Aboriginal detainees than among the non-Aboriginal people.

5. The mean age of people reported to have attempted suicide in custody was 26.6 years, with little age difference being observed between Aboriginal and non-Aboriginal detainees.

6. Differences exist between the two custodial environments in the type of opportunities available for self-inflicted harm, both in terms of method and instrument used. Hanging was by far the most frequently used method of reported self-inflicted harm in police custody, accounting for 70 per cent of all police reports, of which 45 were Aboriginal people. Conversely, in prison custody, laceration was the most frequently used method, accounting for 68 per cent of all prison cases.

7. Clothing was the most frequently reported instrument used in police custody accounting for approximately half of all reports, while razors and other sharp implements accounted for approximately half of all reported cases in prison.

8. Some 20 per cent of the police cases were in custody for drunkenness: either arrests for the offence of drunkenness, or protective custody detentions for public intoxication where drunkenness is not an offence. A higher proportion (63 per cent) of the prison cases was among people incarcerated because of serious offences, such as homicide, assault, sexual offences, robbery and break and enter.

9. Whether or not bail was refused was reported in only 90 (59 per cent) of the 152 police custody cases. The reasons given most commonly for not releasing a person on bail were the person's past behaviour, such as not fulfilling bail conditions (26 per cent) (this occurred proportionately more among Aboriginal than non-Aboriginal people); intoxication (21 per cent), and bail monies or surety not being forthcoming after conditional bail had been granted by police (19 per cent).

10. The majority (73 per cent) of reported attempts in police custody took place within the first three hours of custody. In contrast, half the prison cases occurred after four months of imprisonment. This parallels the temporal pattern observed among deaths in custody.

11. In some 86 per cent of the reported incidents, people were alone at the time of the attempt. The proportion was similar for both Aboriginal and non-Aboriginal people.

12. Of the 146 cases for which relevant information was provided, in 18 cases people were charged in connection with the self-inflicted injury.

13. Single cell accommodation was the most frequently reported location in which self-inflicted injuries occurred, accounting for some 65 per cent of the reports.

14. The response most frequently reported as being taken by custodial officers after the suicide attempt was to have the person placed under some form of direct supervision, either in a padded cell or a special observation unit. It is also noted that some 48 per cent of all reported incidents actually resulted in removal to either a general hospital or to a prison hospital or clinic for treatment.

15. Alcohol was reported to be a factor involved in 34 per cent of the 280 cases for which information was provided. Most were police custody cases. In almost half (47 per cent) of the Aboriginal reported incidents for which information was provided, the person was reported to be under the influence of alcohol at the time of the attempt.

16. Difficulties exist in comparing attempted suicide data with completed suicide data because of the different time periods between the two studies and the differences in the quality of the two data sets. However, it is noted that Aboriginal people comprised a higher proportion of the suicide attempts, (21 per cent) than they did the completed suicides (15 per cent).

17. Detainees who suicided or attempted suicide were both young, with mean ages of 28.3 years and 26.6 years respectively. Aboriginal people were more likely to attempt and complete suicide in police custody, conversely, non-Aboriginal people were more likely to attempt and complete suicide in prison.

18. In police custody, drunkenness was the most frequently reported offence among both completed suicides and attempted suicides. In prison, however, homicide was the most frequently reported offence for completed suicides and theft for attempted suicide.

19. Hanging accounted for 70 per cent of the suicide attempts in police custody and 95 per cent of the completed suicides. This has important consequences in regard to the management of people in police custody. In contrast to this, while hanging was the most commonly used method for completed suicides in prison, accounting for 89 per cent of cases, laceration was the most commonly used method for attempted suicides in prison, accounting for 68 per cent of all cases.

August 1990

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As for many earlier projects, I would like to record my sincere appreciation of the full cooperation from all Australian police and prison authorities in providing the basic information for this research.

APPENDIX 16.1

The Survey Instrument

CONFIDENTIAL

1

ROYAL COMMISSION INTO ABORIGINAL DEATHS IN CUSTODY
ATTEMPTED SUICIDE IN CUSTODY
DATA COLLECTION FORM
1 APRIL TO 30 SEPTEMBER 1989

Office Use Only

JURISDICTION | ID NUMBER

NAME (Optional) | GENDER (m/f)

RACE (Aboriginal/Other) | AGE AT ATTEMPT

MOST SERIOUS OFFENCE — 8

REASON FOR BAIL DENIAL (if applicable) — 9

DETAILS OF SUICIDE ATTEMPT

DATE OF ATTEMPT | DAY OF WEEK

TIME OF ATTEMPT | ALONE (Yes/No)

PERIOD IN CUSTODY TO TIME OF ATTEMPT — 14

NAME OF POLICE STATION OR PRISON — 16

DESCRIPTION OF PLACE OF ATTEMPT eg; cell, exercise yard etc. — 17

DESCRIPTION OF ATTEMPT — 18

CONFIDENTIAL

PLEASE TURN OVER

1

ACTION TAKEN BY STAFF IMMEDIATELY ON BECOMING AWARE OF ATTEMPT eg; applied resuscitation, placed under special surveillance.

19

ACTION TAKEN SUBSEQUENTLY eg; taken to hospital, bailed, charged.

20

OTHER MATTERS

PERSON UNDER INFLUENCE OF ALCOHOL (slightly, moderately, severely)?

21

PERSON UNDER INFLUENCE OF DRUGS (which drugs?); slightly, moderately, severely?

22

23

PERSON COMPLETING THIS FORM:

Name: Telephone: Date:

PLEASE SEND COMPLETED FORMS TO: Head of Research
Royal Commission into Aboriginal Deaths in Custody
West Block, Queen Victoria Terrace,
PARKES, A.C.T. 2600

RESEARCH PAPER NO. 17

Methodological Issues in the Calculation of Over-Representation and Exposure to Risk in Custody

David McDonald
& David Biles

The Royal Commission is carrying out its task of investigating the deaths in custody of Aboriginal people, that occurred between 1 January 1980 and 31 May 1989, in a variety of ways. The Royal Commissioners are conducting formal hearings into the individual deaths that fall within their terms of reference; they are conducting hearings into the underlying social, cultural and legal factors which could have a bearing on those deaths; and they are commissioning external researchers to investigate and report upon specific underlying issues. Furthermore, within the structure of the Royal Commission are a number of regionally-based Aboriginal Issues Units, state research units, and a national Criminology Unit. The Criminology Unit, since its inception in February 1988, has been carrying out an extensive program of research, approved by the Commissioners, with the aim of facilitating understanding of the phenomenon of Aboriginal deaths in custody which form the heart of the Royal Commission's inquiries. This is the seventeenth Research Paper published by the Criminology Unit, presenting the findings of its research projects.

When the research program commenced, it became clear to the staff of the Research Unit and to the then Royal Commissioner, the Hon. J. H. Muirhead, QC, that substantial gaps in knowledge existed concerning the size and nature of the custodial population or populations and their similarities to and differences from the population of Australia as a whole and of its eight major states and territories. To help fill these gaps, a number of research projects were initiated in relevant areas, some developing new data, others reviewing and presenting existing data in a new way.

It became apparent, at an early stage of research, that the levels of over-representation in custody of Aboriginal people, compared with non-Aboriginal people, required special attention. Data were needed to help answer the basic question: are Aboriginal people dying in custody at a rate higher than, similar to, or lower than the rate of deaths in custody of non-Aboriginal people? It quickly became clear that this question had to be broken down into two parts: first, a comparison of death rates (and patterns of deaths) of Aboriginal and non-Aboriginal people in custody, and, secondly, a corresponding comparison of death rates with those out of custody.

The conceptualisation and measurement of over-representation in custody and exposure to risk, the subjects of this paper, have been central to most of the projects reported upon in this series of research papers prepared by the Criminology Unit.

The concept of *over-representation in custody* is relatively straightforward, though its measurement is not. The research papers have used expressions such as 'Aboriginal people are exactly ten times more likely than non-Aboriginal people to be in prison' (Research Paper No. 6, *see* pp. 85-105 of this volume) and 'Aboriginal people were apprehended and placed in police cells at a rate twenty times that of non-Aboriginal people' (Research Paper No. 13, *see* pp. 277-319 of this volume). These statements seem to be intuitively understandable, on the surface, but complexities arise when one examines them closely. This paper discusses the various approaches available, and used in this series of research papers and elsewhere, to present information on the over-representation of Aboriginal people in custody in Australia.

The second concept of interest, the relative *exposure to risk* of the groups being compared, is somewhat less concrete. At one level, since risk is synonymous with the probability of an event occurring, in the custodial context interest lies simply in assessing the relative number of person/time units of custody among the groups being compared. A broader perspective exists, however, one which includes consideration of the nature of those person/days in custody: differing characteristics of the people in the groups being compared and differing characteristics of the custodial environment and experience. Commonsense suggests that the concept of exposure to risk should also embrace these broader issues.

In the Criminology Unit's research papers, a number of approaches have been used to seek to aid understanding of the level of over-representation of Aboriginal people in custody in Australia, and of the levels and nature of their exposure to risk, compared with other groups. While a concluded view has not been presented in these papers on how best to present data in these areas to non-specialist readers (the intended audience of the Criminology Unit's research papers), this paper discusses the techniques used, their limitations and strengths. The aim of this paper, then, is to assist readers of the Royal Commission's research papers and similar research reported upon by others, and to guide other researchers initiating projects in this area.

Over-Representation

Data used

In this section the various approaches to measuring and presenting the over-representation of Aboriginal people in custody will be discussed. Before doing so, however, some attention needs to be paid to the data that are used, as the indices of over-representation can never be accurate if the data from which they are calculated are faulty. Problems have arisen with a potential for bias coming

from differing definitions of a given concept, and differing quality of data from different times and places. Since the essence of measuring over-representation is the comparison of two or more groups, it is essential that the data on each group are, in fact, comparable.

Problems with definitions: Three central concepts have been used in the research projects related to over-representation: Aboriginality, custody and death. These concepts had to be operationalised; definitions that could be used with data derived from diverse sources had to be specified. With regard to Aboriginality, the Research Unit tried, where possible, to apply the widely-accepted Commonwealth Government definition:

> *An Aboriginal or Torres Strait Islander is a person of Aboriginal or Torres Strait Islander descent who identifies as an Aboriginal or Torres Strait Islander and is accepted as such by the community in which he or she lives* (Australian Bureau of Statistics 1989, p. 2)[1].

The basic information used for calculating over-representation, that is the number of Aboriginal and non-Aboriginal people, respectively, in custody and in the community, is not usually provided according to this definition. Rarely is the third element in the definition (a person being accepted by the local community as Aboriginal) explicitly applied. The first two elements (Aboriginal descent and self-identification as Aboriginal) are used in the Australian Bureau of Statistics' national Census of Population and Housing. It is applied by a number of custodial administrations (police forces and prison departments). Others apply only the criterion of self-identification by asking a person in custody 'are you Aboriginal?'. It is suspected that some data sources apply none of these criteria rigorously: a story, perhaps apocryphal, circulates suggesting that one prison administration formerly determined prisoners' Aboriginality from inspections of their photographs! In many cases, when using departmental data, the Research Unit has had to accept the classification of Aboriginality of people in custody as provided by the relevant custodial authority, while recognising that some differences will occur in their application of the definition of Aboriginality quoted above.

The concept of *custody* also needs defining precisely to allow valid comparisons to be made. For the purpose of the Royal Commission's research program, two main categories of custody are used: police custody and prison custody. In the projects reported in the Research Papers, which compare custodial patterns and deaths in custody of Aboriginal and non-Aboriginal people respectively (especially Research Papers No. 6, 8 and 13 on the custodial populations and Research Papers No. 7, 10 and 11 on deaths in custody), only these two custodial environments are included. People in the custody of immigration officers, or in juvenile offenders' or neglected children's institutions, or in sobering-up shelters, for example, are not included, owing to

[1]. Throughout this paper, for convenience, the term 'Aboriginal' is used to refer to both Aboriginal people and Torres Strait Islanders.

the difficulties in defining these populations consistently across the nation and in obtaining data from the large number of organisations involved.

Attention must be paid to who has the legal custody of a person, on the one hand, and the actual physical custody of the person, on the other. For example, a long-term detainee of a prison could be in a police cell en route to a court appearance, or could be in the community on prerelease leave. A person remanded in police custody awaiting bail could be in hospital being treated for an illness. Prison hospitals exist, as do closed wards for prisoners in general hospitals. Prisoners are often treated in the normal wards of general hospitals and may or may not be there under guard. Finally, deaths have occurred in police sieges when the person killed was not physically in the custody of police officers.

So far as possible, the custodial authority (police, prison, other) identified in the Commission's research papers has been the authority which had the *legal custody* of the person at the relevant time, regardless of the actual location of the person. Care has been taken in assembling the data sets to determine whether or not a particular death was, in fact, a death in custody. In the case of Aboriginal deaths between 1 January 1980 and 31 May 1989, the Royal Commission makes relevant determinations. Indeed, a number of jurisdictional hearings have been held into this very issue, and some of the decisions have been challenged in the courts. The Commissioners' reports on the individual deaths in custody frequently discuss this issue; sometimes the reasoning behind the decision on jurisdictional issues (especially when jurisdiction is contested) is published in full as an appendix to the report (*see* O'Dea 1989, pp. 19-26). The Letters Patent under which the Royal Commission operates are quite broad, so that some deaths which occurred outside of police or prison cells, such as in hospitals or, in one case, in a private home, fall within them.

In the absence of a formal legal process of identifying which deaths of non-Aboriginal people could be classified as deaths in custody, the Criminology Unit has, in general, relied on the definitions applied by the custodial authorities—prison and police—who supplied the relevant data. Where their decisions appear to conflict with those used by the Royal Commission regarding Aboriginal cases, the decision on inclusion of the case, or otherwise, has been arrived at through discussion between the researchers and the custodial authority.

Finally, the concept of *death* in custody holds fewer complications. Since each research project covers only the deaths that occurred during a specified period (*see*, for example, 1980-88 as in Research Paper No. 7, pp. 107-36 of this volume) the determination of the date of death can be an issue. The Criminology Unit has accepted the view put to it by some custodial authorities that the date on which life was declared extinct, as noted on a death certificate, is the appropriate date. This does not necessarily accord exactly with other definitions of death, such as the date of brain death. Furthermore, it differs from the method used by the Australian Bureau of Statistics in its annual publications *Deaths, Australia* and *Causes of Death, Australia*. They provide data classified

according to the number of deaths registered in a given year, rather than the number of actual occurrence of death in the year. The Australian Bureau of Statistics points out that 'normally about 5-6 per cent of deaths occurring in one year are not registered until the following year or even later' (Australian Bureau of Statistics 1989, p. 28). (Substantial delays in registration have occurred in some cases where deaths cannot be registered until a coroner determines the cause of death. This problem is being addressed in some jurisdictions by legislation permitting the registration of a death prior to the certification of the cause of death.)

Data quality: The quality of the data used in the Royal Commission's research papers and used in the calculation of over-representation in custody and exposure to risk has not been totally consistent. The fact that different providers of data apply different definitions, as discussed above, is problematic. The variables of data source and time are also relevant.

Many sources of data have been used in the research papers. This, in itself, is not a problem until one comes to compare data derived in different ways from different sources. For example, it is unlikely that any deaths of Aboriginal people, that occurred during the period covered by the Royal Commission's enquiries, would not be known about and therefore would be omitted from the list of such deaths. (This is because all Aboriginal organisations and, indeed, individuals, were urged to report all Aboriginal deaths in custody, however broadly defined. No notifications of Aboriginal deaths in custody occurred late in the Royal Commission's period of operation.) On the other hand, the list of non-Aboriginal deaths in custody was provided by police and prison authorities, rather than by the families and associates of the deceased. The possibility exists, therefore, that some non-Aboriginal cases have been missed. This has been discussed in some detail in Research Paper No. 7 (*see* pp. 107-36 of this volume). Attention is drawn in that paper to the possibility that some non-Aboriginal deaths which occurred in hospitals, rather than in the cells themselves, may have been missed, and an attempt is made to assess the extent of this source of bias. It is concluded that little bias of this type exists, as similar proportions of Aboriginal and non-Aboriginal 'natural causes' deaths in custody actually occurred in hospitals.

It is inevitable that the passage of time has affected data quality. The data used in the research papers, covering the personal particulars of the individuals who died, their correctional histories, circumstances of death, administrative and individual responses to the deaths, and so on, were not originally recorded with research in mind. No consistency in the range of items recorded nor in the degree of detail of the records exists between localities nor over time. Indeed, very little information is available on a number of the deaths in custody—particularly the non-Aboriginal deaths in custody—that are included in the data sets used. The extent of missing data in some cases is extreme. For example, of the 182 deaths in police custody analysed in Research Paper No. 10 (*see* pp. 191-212 of this volume), data on the offences for which people were in custody are currently available on only 98, or 54 per cent, of the cases. This

reflects the fact that the original documents which contained the relevant data, such as cell books, are not generally available to central authorities some years after the deaths occurred. Until recently, few police or prison administrations maintained central (state) registers of deaths in custody, and it is believed that, even today, at least one Australian police department does not maintain such a central register.

An additional data quality problem is missing data on Aboriginality, that is the identification of people as being Aboriginal or not. Since data from various censuses are generally used in the denominators when calculating custody rates, and there are always some cases where Aboriginality is not stated on the data collection instruments, decisions have to be made on the handling of missing data. In the 1986 national Australian Bureau of Statistics Census of Population and Housing, 227,645 people identified themselves as being Aboriginal and 15,106,479 as being not Aboriginal. An additional 268,032 people failed to answer the Aboriginality question and their Aboriginality was not able to be inferred from the answers to other questions. In other words, Aboriginality was unknown for more people than there were people who identified themselves as being Aboriginal.

The proportion of cases where Aboriginality was not stated varied between the states and territories, from a low of 1.1 per cent in the Australian Capital Territory to 3.6 per cent in the Northern Territory. The national proportion was 1.7 per cent. The number of non-responses to this question was higher than the number stating that they were Aboriginal in New South Wales, Victoria, South Australia and the Australian Capital Territory, with the discrepancy being most marked in Victoria where 12,610 people stated that they were Aboriginal or Torres Strait Islander and an additional 82,801 failed to answer the question.

A corresponding problem of missing data exists with the Australian Institute of Criminology's annual National Prison Census. The proportion of prisoners whose Aboriginality is not stated has fallen dramatically in recent years to the point where only 2.3 per cent were in this category in the 30 June 1988 census, the most recently published. In addition, Aboriginality was not stated in 1.5 per cent of the cases in the August 1988 National Police Custody Survey, the only national estimate available of the incidence of police custody in Australia.

The missing data on Aboriginality are frequently dealt with by comparing rates for Aboriginal people with those for the total community, that is with Aboriginal plus non-Aboriginal people. The rationale for this is the very small proportion of the total that Aboriginal people comprise, in most comparisons. The Australian Bureau of Statistics and the Australian Institute of Health, for example, often take this approach, rather than presenting Aboriginal and non-Aboriginal rates as such. The error introduced by what amounts to a double counting of Aboriginal people in this manner is so small that, for most purposes, it can be ignored. In this paper, however, wherever possible missing data on Aboriginality are treated as such.

Questions are sometimes asked about the accuracy of the Australian Bureau of Statistics Census of Population and Housing count of Aboriginal people. Some argue that the census seriously underestimates the number of Aboriginal people. The view of the Australian Bureau of Statistics, however, is that the 1986 national census provided an accurate estimate of the size of the Aboriginal population. No data exist, at the national level, to seriously challenge this conclusion (Australian Bureau of Statistics 1989).

Another data quality problem also deserves comment. The National Prison Census is conducted in winter, on 30 June, each year. It has been suggested that the number of Aboriginal prisoners may vary, in some localities at least, according to seasonal factors. If data on each occasion of custody were available nationally, rather than simply census data, accurate estimates of the size of the prison population could be developed. In the absence of such data, however, reliance must be placed upon the annual prison census.

Calculation of over-representation

When a researcher states that 'Aboriginal people are over-represented in custody, compared with non-Aboriginal people' he or she is, in essence, drawing a comparison between the rates of custody of the two populations (Aboriginal and non-Aboriginal people, respectively). The data used are, first, the number (or proportion) of Aboriginal and non-Aboriginal people, respectively, in custody, and secondly, in total (in custody plus out of custody). In detailed analyses, as discussed below, consideration will also be given to the distribution of these populations by such variables as age and gender.

The Royal Commission's research papers have used two methods of communicating the extent of over-representation of Aboriginal people in custody: the comparison of Aboriginal and non-Aboriginal custody rates and the comparison of the proportions of Aboriginal people in custody and in the community. These approaches are illustrated and discussed separately.

Method 1: comparing Aboriginal and Non-Aboriginal custody rates In this method, the Aboriginal and non-Aboriginal custody rates are compared directly. Sometimes incidence data are used, sometimes prevalence data.

Research Paper No. 13, the full report of the National Police Custody Survey (*see* pp. 277-319 of this volume), includes the data shown in Table 17.1.

TABLE 17.1
Custody Rates,[a] National Police Custody Survey, August 1988

State (1)	*Aboriginal* (2)	*Non-Aboriginal* (3)	*Total* (4)	*Level of over-representation*[b] (5)
NSW	1,312	87	103	15
Vic.	1,570	117	123	13
Qld	2,840	170	237	17
WA	7,730	180	385	43
SA	4,877	187	239	26
Tas.	640	123	135	5
NT	4,776	429	1,415	11
ACT	1,967	185	197	11
Aust.	3,539	131	183	27

[a]Incidences of police custody August 1988 per 100,000 population at the 1986 census.
[b]Rate ratios, that is, ratios of Aboriginal custody rates to non-Aboriginal rates.

Table 17.1 applies a standard technique of epidemiology: the presentation of the incidence of occurrence of events and the comparison of the incidences found in the two populations of interest, to produce a measure of relative risk. Incidence, in epidemiological terms, refers to 'the number of new events . . . in a defined population within a specified period of time' (Last 1988, p. 63). (Being placed in custody is treated, here, as 'a new event'.) When the incidence is expressed in terms of its magnitude relative to the size of the population at risk of the event being counted, the result is referred to as cumulative incidence, for example, 183 per 100,000 population, or 183 per 100,000 person/years.

In Table 17.1, column (2) presents the incidence of police custody during the one-month study period for Aboriginal people (3,539 per 100,000) and column (3) presents the corresponding measure for non-Aboriginal people (131 per 100,000). Dividing the incidence among Aboriginal people by that among non-Aboriginal people (3,539 ÷ 131 = 27) as in column (5) provides a measure of the level of over-representation of Aboriginal people taken into police custody: they were placed in police custody at a rate 27 times that of non-Aboriginal people. This ratio is generally referred to as a measure of 'relative risk' or a 'risk ratio', where 'risk' refers to the probability that an event (in this case, being placed in police cells) will occur.

This relative risk measure may well be the most meaningful method of presenting and quantifying the over-representation of Aboriginal people received into custody. It uses incidence measures, that is, the number of new custodies that occurred during a specified period, rather than prevalence measures, that is, the number of people in custody at a specified point in time, or over a specified period. As such, it is a more difficult measure to obtain than

one based on prevalence, since prevalence data can be obtained from a 'one-off' census of people in custody, whereas incidence measures come from recording each new custody that occurs during the relevant period.

Prevalence data are frequently used. Research Paper No. 6 (*see* pp. 85-105 of this volume), for example, which provides details on Aboriginal imprisonment (in contrast to police custody, illustrated above), includes the data shown in Table 17.2.

TABLE 17.2
Australian Prison Custody Prevalence Rates, 30 June 1987* (per 100,000)

State	*Aboriginal*	*Non-Aboriginal*	*Total*
(1)	*(2)*	*(3)*	*(4)*
NSW	612.6	70.7	77.5
Vic.	412.3	44.8	46.5
Qld	577.8	77.0	88.9
WA	1,331.1	78.2	110.3
SA	1,029.0	53.2	63.4
Tas.	104.2	54.2	62.1
NT	961.5	115.4	311.3
Aust.	775.8	63.9	74.8

*The layout of this table varies slightly from that in Research Paper No. 6 to facilitate comparisons within the present paper.

Columns (2), (3) and (4) parallel those presented in Table 17.1, excepting that here they present prevalence data, rather than the incidence data presented in Table 17.1. Prevalence is defined as 'the number of instances of a . . . condition in a given population at a designated time' (Last 1988, p. 103). When the designated time is a single point in time, the term 'point prevalence' is used, in contrast to 'period prevalence', which is the number of people with the relevant condition in a given population at any time during a designated period, such as a one-month period. Only point prevalence data are presented in this paper.

The data sources for Table 17.2 are censuses which, by definition, provide point prevalence data. Column (2) shows the number of Aboriginal people in Australian prisons, as enumerated in the 30 June 1987 National Prison Census conducted by the Australian Institute of Criminology in conjunction with each state and territory's corrections department, per 100,000 Aboriginal people in Australia as a whole (including prisoners) as enumerated at the 30 June 1986 Census of Population and Housing, conducted by the Australian Bureau of Statistics. Column (3) presents corresponding data for non-Aboriginal people. The level of over-representation of Aboriginal people in prison can be calculated by comparing the imprisonment prevalence rates: 775.8 Aboriginal prisoners per 100,000 of the Aboriginal population compared with 63.9 non-

Aboriginal prisoners per 100,000 of the non-Aboriginal population. The resulting measure of over-representation is the ratio 775.8 ÷ 63.9 or 12.14. In other words, Aboriginal people were in prison on 30 June 1987 at a rate 12.14 times that of non-Aboriginal people.

It can be seen, then, that the first group of methods available is based on the comparison of Aboriginal and non-Aboriginal custody rates. The first method described above compares their incidence rates. In other words, its uses 'flow data': the flow of people into custody, also referred to as 'receptions' into custody. The second method presented compares point prevalence rates. It uses 'stock data': the stock of people in custody at a specified point in time (Cox 1976, p. 12). These two sources of measures inevitably provide different results. Which will be used depends, first, upon what information is required and, secondly, upon what data are available.

Incidence or flow data enable researchers to quantify the over-representation of Aboriginal people in the number of receptions into custody, over a specified *period* of time. Point prevalence or stock data, on the other hand, quantify the over-representation of Aboriginal people in the custody population at a specified *point* in time. Incidence or flow data broken down by Aboriginality are less commonly available than are point prevalence data, although criminal justice agencies are increasingly adding Aboriginality to the list of variables upon which they collect and publish data.

Data are available that enable the reader to observe the magnitude of the differences in over-representation measures produced by using incidence and prevalence data, respectively. As demonstrated above, from Table 17.2 it can be calculated that the level of over-representation of Aboriginal people in prison on 30 June 1987 (a prevalence or stock measure) was 12.1 (that is 775.8 ÷ 63.9). Incidence or flow measures can be calculated from unpublished data provided by the Australian Institute of Criminology. During the month of April 1989, a special study was undertaken at the request of the Research Unit to determine the number of receptions into Australian prisons of sentenced Aboriginal and non-Aboriginal people, respectively. It was found that 337 Aboriginal and 1,312 non-Aboriginal receptions occurred during the month, providing full-year incidence levels of 1,786 receptions per 100,000 Aboriginal people (using 1986 population census data) and 101 receptions per 100,000 non-Aboriginal people. The Aboriginal over-representation level, then, was 1,786 ÷ 101 or 17.7.

From the above, the comparison of prevalence/stock data with incidence/flow/reception data, in the context of Aboriginal imprisonment, is as follows:

- Aboriginal people in Australian prisons on 30 June 1987 were over-represented, compared with non-Aboriginal people, by a factor of 12.1.

- Aboriginal people received into Australian prisons as sentenced prisoners in April 1989 were over-represented, compared with non-Aboriginal people, by a factor of 17.7.

The difference between these two methods of conceptualising and presenting the issue is based upon differences that exist in the average lengths of time spent in custody by the two populations being compared, since prevalence or stock is a function of the number of receptions and the mean lengths of stay in custody for each population. Indeed, accurate estimates of prevalence can be derived from incidence data if individuals received into custody and their lengths of time in custody are identified. The mathematical relationship between incidence, prevalence and duration is discussed fully in the epidemiological literature (*see*, for example, Hennekens & Buring 1987, pp. 64-6).

Method 2: odds ratio It is not uncommon to see over-representation presented not as a comparison of custody rates, as described above, but in the form of a comparison between the proportion of prisoners who are Aboriginal compared with the proportion of the total community who are Aboriginal. For example, the Canadian Final Report of the Task Force on Aboriginal People in Federal Institutions opens with the words:

> *Aboriginal people have been a concern of the Ministry of the Solicitor General of Canada since the early 1970s. Although they comprise 2.5 per cent of Canada's population, approximately 9 per cent of federally incarcerated inmates are Aboriginal people* (Canada 1988, p. 1).

Odds ratios may be used, when such data are available, to calculate levels of over-representation.

Odds ratios (or risk ratios) are measures of relative risk. In this context, 'odds' may be defined as 'the ratio of the probability of occurrence of an event to that of non-occurrence, or the ratio of the probability that something is so, to the probability that it is not so' (Last 1988, p. 91). The odds ratio, then, is simply the ratio of two odds. It is often used when direct measures of risk, such as the custody rates in Method 1, are not available.

Consider the following:

Aboriginality	Prison Population	Total Population
Aboriginal	AP	AT
Non-Aboriginal	NP	NT

Where AP is the proportion of prisoners who are Aboriginal, NP the proportion of prisoners who are not Aboriginal, AT the proportion of the total population who are Aboriginal and NT the proportion of the total population who are not Aboriginal, the odds ratio is:

$$\frac{AP}{NP} \div \frac{AT}{NT}$$

Substituting the data in Table 17.3, produces the following:

$$\frac{14.76}{85.24} \div \frac{1.46}{98.54} = 11.7$$

In other words, the odds ratio, or estimate of relative risk, is 11.7, a figure close to that of 12.1 obtained in the first method. (In fact, it differs only because of different techniques used in handling missing data. When this does not occur, as in Table 17.4, which is presented following the next section, the two methods produce identical results. The algebraic proof is in Appendix 17.1.)

Method 3: directly comparing the proportions of Aboriginal people in custody and in the total population Research Paper No. 6 (*see* pp. 85-105 of this volume) which, it will be recalled, provides details on Aboriginal imprisonment, includes the information in Table 17.3.

From this table, one can conclude that Aboriginal people are over-represented in Australian prisons by a factor of 10.11. This measure of over-representation is the ratio of two prevalence rates.

The data sources for Table 17.3 are censuses which, by definition, provide prevalence data. Column (2) presents the proportion (here a percentage) of the population which stated that they were Aboriginal in the 30 June 1986 national Census of Population and Housing, conducted by the Australian Bureau of Statistics. (These data are based on 'place of enumeration' not on 'place of usual residence'.) Column (3) presents the proportion (percentage) of people who were stated as being Aboriginal in the 30 June 1987 National Prison Census, referred to above.

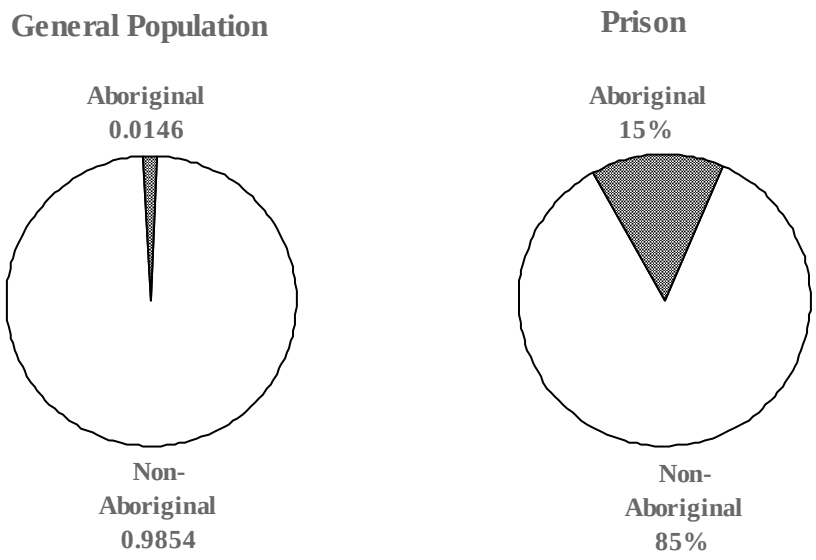
Column (4) of Table 17.3 quantifies the over-representation of Aboriginal people in custody at 30 June 1987 by comparing the proportion of prisoners who were Aboriginal, namely 14.76 per cent, with the proportion of Aboriginal people in Australia overall (which includes prisoners), namely 1.46 per cent. The level of over-representation of Aboriginal people compared with non-Aboriginal people, is shown, therefore, as 10.11, calculated from the ratio $14.76 \div 1.46$. Pie graphs were used in Research Paper No. 6 (*see* pp. 85-105 of this volume) to demonstrate this relationship, although the actual numbers used

varied slightly from the above owing to differences in the methods of handling missing data.

TABLE 17.3
Aboriginal Over-Representation in Prison, by Jurisdiction, 1987

(1)	*% Aboriginal in Community (2)*	*% Aboriginal in Prison (3)*	*Level of Over-Representation (4)*
NSW	1.04	8.24	7.92
Vic.	0.31	2.69	8.68
Qld	2.37	15.13	6.38
WA	2.69	30.91	11.49
SA	1.06	16.81	15.86
Tas.	1.54	2.82	1.83
NT	22.44	71.52	3.19
Aust.	1.46	14.76	10.11

FIGURE 17.1
Aboriginal Over-Representation in Prison, 1987



The estimate of over-representation derived in this manner (10.11) is lower than the estimate derived in the methods discussed above, which compared custody rates using prevalence data and used the odds ratio (11.7). As expected, it is considerably lower than the corresponding factor of 17.7 derived from incidence or flow data, owing to the shorter mean length of stay in custody of

Aboriginal people compared with non-Aboriginal people, which is discussed below.

This method of presenting over-representation is frequently seen. For example, a Table 17.similar to Table 17.3 in this paper but using 1986 data is included in a paper by Hazlehurst (1988). Its use is implied whenever pairs of percentages are presented, as in the above quotation from the Canadian Task Force.

Method 3, the % ÷ % ratio, is not directly comparable to the first two methods. Whereas they compare the custody rates or odds of the two groups of interest, Aboriginal with non-Aboriginal people, the third method actually compares the custody rates of Aboriginal people with the custody rates of the total community. In other words, it compares the custody rates of Aboriginal people with those of Aboriginal plus non-Aboriginal people. (The algebraic proof of this relationship is set out in Appendix 17.1.)

Which method to use? Three methods of calculating the over-representation of Aboriginal people in custody have been described above: first, comparing the custody rates of Aboriginal people with those of non-Aboriginal people, secondly, comparing them by means of the odds ratio, and thirdly, directly comparing the proportion of prisoners who are Aboriginal with the proportion of the community which is Aboriginal. It has been observed that they produce similar, though not identical, estimates of the level of over-representation. Which is to be preferred?

It is clear that the third technique measures something quite different from the first two. The first two answer the question 'what proportion of Aboriginal people are in custody compared with the proportion of non-Aboriginal people who are in custody?'. The third answers the question 'what proportion of the custodial population is Aboriginal compared with the proportion of the total population that is Aboriginal?'. One would conclude, using the first and second methods, that Aboriginal people in custody are over-represented compared with non-Aboriginal people in custody. Using the third method, one would conclude that Aboriginal people in custody are over-represented compared with Aboriginal people in the community. Since the concept of over-representation is usually understood to be the comparing of the levels of Aboriginal incarceration with non-Aboriginal incarceration, having regard to the relative sizes of the two populations from which the incarcerated people are drawn (the populations at risk), it is reasonable to conclude that the first two methods provide a more direct measure of over-representation and are, therefore, preferable to the third method.

It could be argued that it matters little which technique is used, as the estimates produced by each are similar. In fact, this similarity is an artefact of the magnitude of the data used in this case: the relative numbers of Aboriginal people in custody, Aboriginal people in the community, total persons in custody and total persons in the community. When the proportion of Aboriginal people involved is very small (as in the population of all states except the Northern Territory), the methods will produce similar results.

Table 17.4 illustrates the changes in the size of the estimated level of over-representation of Aboriginal people in prison for different Aboriginal prison population sizes. (The 30 June 1987 National Prison Census counted 1,766 Aboriginal people out of a total prison population of 11,972.)

TABLE 17.4
Level of Over-Representation of Aboriginal Prisoners, Calculated by Three Different Methods and Using Hypothetical Aboriginal Prison Population Sizes[a]

	Number of Aboriginal Prisoners				
Method	*400*	*800*	*1,766[e]*	*3,000*	*10,206[f]*
Method 1[b]	2.6	5.2	11.5	19.5	66.4
Method 2[c]	2.6	5.2	11.5	19.5	66.4
Method 3[d]	2.5	4.9	9.9	15.3	33.7

[a]Calculated using prison populations at 30 June 1987 and community populations at the 30 June 1986 national census. The cases where Aboriginality was not stated are excluded from the analysis. The data in Table 17.4 differ slightly from corresponding figures elsewhere in this paper, which quote other sources, owing to differences in the methods of handling missing data.
[b]Method 1 is the ratio of the rate of imprisonment of Aboriginal people to the rate of imprisonment of non-Aboriginal people.
[c]Method 2 is the odds ratio.
[d]Method 3 is the ratio of Aboriginal prisoners as a proportion of all prisoners to Aboriginal people in total (that is, both in and not in prison) as a proportion of the total population.
[e]Actual number of Aboriginal prisoners counted at the 30 June 1987 National Prison Census.
[f]Equals the number of non-Aboriginal prisoners counted at the 30 June 1987 National Prison Census.

It will be observed that the relative risks calculated from custody rates (Method 1) and the odds ratio (Method 2), are identical. However, as the number of Aboriginal prisoners increases (with the other elements unchanged), the difference between these levels of over-representation and those calculated by the third method increases. For example, if there were only 400 Aboriginal prisoners, each method would produce a similar estimate of the level of over-representation: Aboriginal people in prison at a level approximately 2.6 times that of non-Aboriginal people, having regard to the relative sizes of their populations. The actual number of Aboriginal people in prison at 30 June 1987, 1,766, produces over-representation estimates calculated by methods one and two, on the one hand, and Method 3, on the other, that differ in the ratio of 1.16:1. Approximately doubling the hypothetical prison population to 3,000 produces a ratio of 1.27:1. The extreme hypothetical case of an Aboriginal

prison population the same size as that of non-Aboriginal people, 10,206, provides a ratio of 1.97:1.

The similarity in the magnitude of the over-representation estimate produced by the different methods using actual prison population figures should not be interpreted, then, as evidence that the methods are measuring the same phenomenon. The similarity is coincidental.

This phenomenon is further illustrated by disaggregating the national data to show the over-representation of Aboriginal people in prison in each of the states and territories. Table 17.5 presents the data according to the two methods discussed above.

TABLE 17.5
Level of Over-Representation of Aboriginal Prisoners, Calculated by Different Methods, by Jurisdiction, 30 June 1987[a]

Jurisdiction	*Methods 1 and 2[b]*	*Method 3[c]*	*Ratio Methods 1 and 2:3*
NSW	8.0	7.4	1.08
Vic.	8.6	8.4	1.02
Qld	7.2	6.3	1.15
WA	16.0	11.4	1.41
SA	18.6	15.6	1.19
Tas.	1.8	1.8	1.01
NT	8.3	3.1	2.69
ACT[d]	-	-	-
Aust.	11.5	9.9	1.16

[a]Calculated using prison populations at 30 June 1987 and community populations at the 30 June 1986 Australian Bureau of Statistics Census of Population and Housing. The cases where Aboriginality was not stated are excluded from the analysis.
[b]Method 1 is the ratio of the rate of imprisonment of Aboriginal people to the rate of imprisonment of non-Aboriginal people. Method 2 is the odds ratio.
[c]Method 3 is the ratio of Aboriginal prisoners as a proportion of all prisoners to Aboriginal people in total (that is, both in and not in prison) as a proportion of the total population.
[d]No Aboriginal prisoners in the ACT on 30 June 1987.

It will be noted that the two approaches produce similar estimates of over-representation in all but two jurisdictions: the Northern Territory and, to a lesser extent, Western Australia. The discrepancy is most marked in the Northern Territory, where the comparison of imprisonment rates and the use of the odds ratio shows Aboriginal people to be over-represented by a factor of 8.3, compared with a factor of 3.1 when the proportion of prisoners who are Aboriginal is compared with the proportion of the community which is

Aboriginal. Each of these measures provides a level of over-representation of Aboriginal people in the Northern Territory substantially lower than the national level. Although the Northern Territory has a very high level of imprisonment of Aboriginal people (961 per 100,000 population), it also has a very high level of non-Aboriginal imprisonment (116 per 100,000). Similarly, although the Northern Territory has a very high proportion of prisoners who are Aboriginal (72 per cent) it has a very high proportion of community members who are Aboriginal (23 per cent).

The Northern Territory and Western Australia comparisons in Table 17.5 highlight, then, the fact that the two approaches to expressing over-representation are measuring different phenomena.

One implication of the application of the two approaches is that the ranking of jurisdictions on this variable will vary according to the method chosen. This is illustrated in Table 17.6. The ranking of the Northern Territory, Queensland and New South Wales, in particular, differ between the two approaches.

TABLE 17.6
States and Territories Ranked by Level of Over-Representation of Aboriginal Prisoners, 30 June 1987

	Level of Over-representation			
Rank	*Methods 1 & 2*		*Method 3*	
1	SA	(18.6)	SA	(15.6)
2	WA	(16.0)	WA	(11.4)
3	Vic.	(8.6)	Vic.	(8.4)
4	NT	(8.3)	NSW	(7.4)
5	NSW	(8.0)	Qld	(6.3)
6	Qld	(7.2)	NT	(3.1)
7	Tas.	(1.8)	Tas.	(1.8)

The difference between the two approaches is further illustrated using New Zealand data. In that country, approximately 49 per cent of prisoners are Maori compared with 12 per cent of the general community. The over-representation of Maori people calculated by the first two methods is a factor of 6.7. By the third method it is a factor of 4.1.

These quantitative examples lend support to the suggestion made above: it is preferable to use the measures of over-representation called here Method 1, comparing the custody rates of Aboriginal people with those of non-Aboriginal people, or Method 2, using the odds ratios, when only proportions (not rates) are available. The third method, comparing the proportion of prisoners who are Aboriginal with the proportion of the community which is Aboriginal, has the attraction of being easy to communicate to a general audience, and therefore may sometimes be used to establish whether or not closer examination of the

data is required. However. the calculation of over-representation by dividing one proportion by the other is now seen by us to be imprecise and therefore inappropriate.

Confounding variables: age and gender

The examples of rates of custody and therefore of levels of over-representation presented so far in this paper have all used crude or unadjusted custody rates. They deal with the total populations being compared, without reference to any differences that may exist between the populations on variables such as age and gender. This presents no difficulty when the populations being compared have similar age and gender distributions, but this is not always the case.

In particular, the age distribution of the Australian Aboriginal population differs markedly from that of the non-Aboriginal population, as shown in Table 17.7. Over half of the Aboriginal people enumerated at the 1986 national census were aged less than 20 years, compared with less than one-third of the total Australian population. Only 4 per cent of Aboriginal people were aged 60 years and over, compared with 15 per cent of the total population.

TABLE 17.7
Aboriginal and Total Australian Populations: Age Structure (per cent)

Age	*Aboriginal people*	*Total Australia*
0-14	39.8	23.3
15-19	12.8	8.4
20-24	10.6	8.2
25-29	8.6	8.3
30-34	6.7	7.9
35-39	5.5	7.9
40-44	4.1	6.3
45-49	3.3	5.2
50-54	2.6	4.6
55-59	2.0	4.7
60-64	1.5	4.5
65+	2.7	10.6
All ages	100.0	100.0

Source: Australian Bureau of Statistics Microfiche Table CA0001: Total persons—Age by Aboriginal origin by sex—Total Australia

It will be noted that similar proportions of Aboriginal and non-Aboriginal people are found in the age groups which are most prone to being imprisoned or placed in police custody: young adults. In fact, some 66 per cent of people

placed in police custody and 76 per cent of prisoners are in the 20-39 years age group.

Significant differences exist between the age distributions of Aboriginal and non-Aboriginal people in custody, as well as in the broader community, as shown in Table 17.8. The Aboriginal people held in custody in police cells in August 1988 were, on average, 1.4 years older than the non-Aboriginal detainees. On the other hand, Aboriginal people in Australian prisons on 30 June 1988 were, on average, four years younger than non-Aboriginal prisoners.

The differences between the age distributions of Aboriginal and non-Aboriginal people in both the custodial environments and the community suggest that the issue of age should be taken into account when one is comparing the custody rates of the Aboriginal and non-Aboriginal populations. A number of methods exist for making such allowances, including using adult custody rates, age specific custody rates, and age standardised custody rates.

TABLE 17.8
Age Parameters in Years, Aboriginality and Custodial Authority

	Police custody[a]			*Prison custody*[b]		
Parameter	*Aboriginal*	*Other*	*Australia*	*Aboriginal*	*Other*	*Australia*
Mean	28.8	27.4	27.8	26.4	30.4	29.8
Standard deviation	10.9	10.0	10.3	7.4	9.5	9.4
Median	26.0	25.0	25.0	25.0	28.0	28.0

[a]National Police Custody Survey August 1988.
[b]National Prison Census 30 June 1988.

Adult versus all ages imprisonment rates A widely used approach to controlling for age distributions in the presentation of data on imprisonment rates is to present them as *adult* custody rates, that is, using the relevant adult population as the denominator in calculating rates, rather than the all ages population. This is the approach used by the Australian Institute of Criminology in its monthly report on Australia's prison population, *Australian Prison Trends*, and its annual National Prison Census. These publications present adult custody rates, defining 'adult' as a person aged 17 years or above. This is because, in general terms, people in this age group are the imprisonable population or population at risk of imprisonment. Only rarely is a person aged less than 17 years sentenced to a period of imprisonment or held on remand in prison.

Ideally, the denominator in the calculation of rates is the population at risk of appearing in the numerator. In the present case the population of imprisonable age (that is adults) would be the appropriate denominator. The all-ages population is frequently used, however. This is a particularly common

practice when one wishes to make international comparisons, as not all nations have available up-to-date and accurate age specific population estimates.

Table 17.9 shows the imprisonment rates and the resulting levels of over-representation of Aboriginal people in prison, compared with non-Aboriginal people, separately for the adult population and for all ages. It will be noted that the national imprisonment rate for adult Aboriginal people is twice that of Aboriginal people of all ages. The adult non-Aboriginal rate is one-third higher than the corresponding all-ages rate.

The impact on levels of over-representation is shown in columns (4) and (7) of the table. The adult national level is 44 per cent higher than the all-ages national level of over-representation; a similar pattern exists in each state. This demonstrates the impact of the differing age structures of the Aboriginal and non-Aboriginal populations, and highlights the fact that authors need to define clearly just what population base custody rates and levels of over-representation are based upon.

TABLE 17.9
Imprisonment Rates[a], Adults and All Ages, 1988

	Adults		
Jurisdiction	*Aboriginal(b)*	*Non-Aboriginal(b)*	*Over-Representation(c)*
(1)	*(2)*	*(3)*	*(4)*
NSW	1,206	99	12.2
Vic.	908	64	14.2
Qld	1,295	101	12.8
WA	2,522	105	24.0
SA	1,420	69	20.6
Tas.	287	80	3.6
NT	1,444	118	12.2
ACT[e]	-	7	-
Aust.	1,452	86	16.9

TABLE 17.9 CONT'D

	All Ages		
Jurisdiction	*Aboriginal[d]* (5)	*Non-Aboriginal[d]* (6)	*Over-Representation[c]* (7)
NSW	607	74	8.2
Vic.	460	48	9.6
Qld	671	74	9.1
WA	1289	78	16.5
SA	756	52	14.5
Tas.	149	60	2.5
NT	783	89	8.8
ACT[e]	-	5	-
Aust.	749	64	11.7

[a]Rates per 100,000.
[b]Source: J. Walker 1989, *Australian Prisoners 1988: Results of the National Prison Census 30 June 1988*, Australian Institute of Criminology, Canberra, p. 25. The denominators in these calculations are adults, that is persons aged 17 years and above.
[c]Level of over-representation of Aboriginal people, that is the Aboriginal custody rate divided by the non-Aboriginal custody rate.
[d]Prison population data from Walker, p. 24. The population data in denominators are from the 30 June 1986 Australian Bureau of Statistics Census of Population and Housing. Persons whose Aboriginality was not stated are excluded from the analysis.
[e]No Aboriginal prisoners in the Australian Capital Territory on 30 June 1988.

Category specific custody rates The maximum amount of information, in comparing custody rates from populations with differing age and/or gender distributions, comes from a perusal of tables of age and gender specific custody rates. Table 17.10 is an example, using data derived from the August 1988 National Police Custody Survey. (Gender is not differentiated here.) The custody rate for each age group is presented for each of the populations being compared. For example, in the 20 to 24 years age group (the one with the largest number of custodies) the Aboriginal custody rate (column (4)) was 7,653 per 100,000 and the non-Aboriginal rate 461. Column (7) shows the level of over-representation of Aboriginal people in police custody, compared with non-Aboriginal people in police custody, for each age group. The over-representation level (relative risk) for the 20-24 years age group is 17, and for all ages, the crude (unadjusted) rate is 27.

The only real problem that exists in presenting over-representation data in this manner is that it fails to provide an accurate overall, or all-ages, measure of over-representation if the populations being compared have markedly differing age distributions. To obtain such a measure, one needs to use age adjusted or age standardised rates.

TABLE 17.10
National Police Custody Survey, August 1988
Age Specific Custody Rates, Aboriginality[a]

Age Group (1)	*Total custodies* (2)	*Aboriginal custodies* (3)	*Aboriginal custody rate[b]* (4)
0-14	302	103	114
15-19	5,292	1,487	5,109
20-24	7,541	1,840	7,653
25-29	5,329	1,427	7,325
30-34	3,263	974	6,344
35-39	2,129	714	5,754
40-44	1,403	483	5,139
45-49	964	379	5,117
50-54	560	235	3,994
55-59	380	126	2,781
60-64	212	64	1,840
65+	150	48	794
All Ages	28,566	8,056	3,539

TABLE 17.10 CONT'D

Age Group	*Non-Aboriginal custodies* (5)	*Non-Aboriginal custody rate[b]* (6)	*Level of over-representation[c]* (7)
0-14	199	6	20
15-19	3,805	299	17
20-24	5,701	461	17
25-29	3,902	311	24
30-34	2,289	191	33
35-39	1,415	118	49
40-44	920	96	54
45-49	585	73	70
50-54	325	47	86
55-59	254	35	79
60-64	148	22	85
65+	102	6	123
All ages	20,084	133	27

[a]Excludes police custody cases where the age or Aboriginality was not stated.
[b]Custodies August 1988 per 100,000 of the relevant population as enumerated in the 30 June 1986 Australian Bureau of Statistics Census of Population and Housing.

(c) Ratio of Aboriginal to non-Aboriginal custody rates; relative risk of custody or level of over-representation.

Age standardised custody rates As noted above, age standardising is a technique for adjusting rates, in this instance custody rates, with the aim of maximising the comparability of data derived from populations with differing age distributions. The age standardised custody rate, derived from age specific custody data by the so-called direct method of standardisation, may be defined as the overall custody rate that would have prevailed in a standard population if it had experienced at each age group the custody rates of the population being studied (Pollard, Yusaf & Pollard, p. 72). It is important to note that an age standardised rate has little intrinsic meaning but is used for comparing rates in populations with different age structures. The techniques available are fully described in standard reference works (*see*, for example, Pollard, Yusaf & Pollard 1972, pp. 69-74; Armitage & Berry 1987, pp. 399-405) so will not be repeated here.

When the police custody data in Table 17.10 are directly standardised, using the 1986 Australian population as the standard, the age standardised (adjusted) custody rate for Aboriginal people becomes 3,726 per 100,000 and the rate for non-Aboriginal people becomes 130 per 100,000. This provides a relative risk or over-representation level of 28.7. (The Aboriginal age standardised rate can be interpreted as being the custody rate that Aboriginal people would have had if the Aboriginal people taken into police custody had the same age distribution as the total Australian population as counted in the 1986 census.) The over-representation level (relative risk) derived from age standardised data, 28.7, is similar to the level derived from the crude or unadjusted data, namely 26.6. This reflects the fact that the age distribution of Aboriginal and non-Aboriginal people in police custody are similar. Nevertheless, age adjustment is frequently a valuable, even essential, tool to use when one is comparing the custody rates of populations with dissimilar age distributions.

Over-representation in stock versus over-representation in flow

In the previous sections of this paper, care has been taken to differentiate systematically between stock or prevalence measures (how many people were in custody at a particular point in time) and flow or incidence measures (how many receptions into custody occurred during a specified time period). It is important to ensure that one does not attempt to compare data produced from the two types of measures as they quantify quite different phenomena.

The difference between stock/prevalence and flow/incidence data is highlighted by the regular publications of the Australian Institute of Criminology. As noted above, each month it releases prison custody data, on both a stock and a flow basis, in the series *Australian Prison Trends*. For example, in the May 1990 issue the 'daily average number of persons' held in prison (a stock/prevalence measure) is shown to be 13,242 and the national

'imprisonment rate' is shown to be 77.7 prisoners per 100,000 of the total population. This imprisonment rate is, of course, a prevalence rate. It uses an estimate of the Australian population at the end of May 1990, projected from June 1989 Australian Bureau of Statistics data, as the denominator in the calculation of the imprisonment rate. *Australian Prison Trends* also shows the number of 'sentenced prisoners received' (that is, excluding people entering prison on remand; figures on the stock of remandees are shown separately). During the relevant month, May 1990, 1,860 sentenced prisoners were received into prisons across Australia. This provides a flow measure, a cumulative incidence, of 10.9 per 100,000 for the month, or an annualised rate of 131 per 100,000.

It should be quite clear that the stock or prevalence of prison custody, 78 per 100,000, cannot be directly compared with the flow or incidence of prison custody, 11 per 100,000 in one month or 131 per 100,000 in a year. Unfortunately, the fundamental distinction between the two types of measures is not always maintained.

Incidence density An additional factor requires attention in the calculation of rates of flow or incidence, namely, the specification of the denominator. In the example given above, the denominator is an estimate of the size of the Australian population at the end of the month during which the receptions into prison were counted. The population changes only slowly, and it is sufficiently accurate to use this estimate as the average Australian population during the month. Accordingly, the level of over-representation of Aboriginal people, as assessed by comparing the cumulative incidence of their imprisonment with that of non-Aboriginal people, is validly calculated in this manner.

Frequently, however, the population at risk, that is the denominator, is not of this type. It includes people who enter the population and then leave it having spent varying periods of time in the population from which the incident cases are drawn. For example, if one wished to measure the incidence of deaths in custody, the numerator would be the number of deaths that occurred in the specified period and the optimal denominator would be a measure of the total person/time in custody during that period. If one were to measure the incidence of deaths in custody in a one-year period, then, the numerator would be the number of deaths in the relevant year and the denominator the total number of person/years spent in custody during the relevant year. This measure is known as an 'incidence rate' or 'incidence density' (Last 1988, p. 63).

The use of incidence density is desirable when one is comparing populations which have different lengths of stay in custody. This is the case with Aboriginal and non-Aboriginal prisoners: they are reported to have mean durations served in prison of 3.9 months and 5.6 months respectively (Walker 1989). In the case of police custody, the mean period in police cells during August 1988 was 9.7 hours for Aboriginal people and 7.6 hours for non-Aboriginal people (*see* Research Paper No. 13, pp. 277-319 of this volume). The use of person/time units in the denominators of calculations of incidence rates, then, becomes highly desirable in these cases. (A separate research

project of the Royal Commission is currently being undertaken to produce estimates of the relative risks of deaths in custody of Aboriginal and non-Aboriginal people (and of prisoners compared with people in the community). Incidence density measures will become available from that project to supplement the data on cumulative incidence presented in earlier Research Papers in this series. It has become possible to calculate the incidence density of mortality in police custody in Australia only since the August 1988 National Police Custody Survey findings have become available in Research Paper No. 13, as they provide, for the first time, estimates of the numbers of Aboriginal and non-Aboriginal cases of police custody and their lengths of stay in police cells.)

Over-representation in number of separate individuals versus number of occasions of custody

The discussion in this paper so far has been restricted to methodological issues in calculating the over-representation of Aboriginal people in custody with reference to discrete occasions of custody. The statement that 28,566 occasions of police custody occurred in Australia during the month of August 1988, comprising 8,056 Aboriginal, 20,084 non-Aboriginal and 426 cases where Aboriginality was not stated, is an example. Ratios of over-representation, based on these data, deal only with occasions of custody.

Sometimes interest may not be in occasions of custody, however, but in numbers of separate individuals placed in custody during a specified period. For example, in the National Police Custody Survey, referred to above, the 28,566 occasions of custody included approximately 23,877 separate individuals. If one is interested in the over-representation based on numbers of unique individuals, rather than on occasions of custody, one must consider the patterns of recidivism. If levels of over-representation are being assessed by comparing populations with differing levels of recidivism, the levels of over-representation derived from occasions of custody data will differ from those derived from separate individuals data.

This issue is relevant to the theme of this paper as a body of evidence, based on a range of indicators, shows that Aboriginal people have higher custody recidivism rates than do non-Aboriginal people. For example, the National Police Custody Survey indicated that the Aboriginal people who were in police custody at any time during the survey month were, on average, in custody 1.29 times during the month. The corresponding recidivism rate of non-Aboriginal people was 1.16 (*see* Research Paper No. 13, pp. 277-319 of this volume). A South Australian study of prisoners who had served sentences of twelve months or more and who were released on parole or unconditionally between July 1982 and June 1985 showed that 'the five-year reconviction rate for Aboriginal offenders is 93 per cent compared with the non-Aboriginal rate of 61 per cent' (South Australian Department of Corrective Services 1989, p. 54). Perhaps the most thorough work in this field has been conducted by Broadhurst and colleagues, using Western Australian data. They found that,

among people released for the first time from Western Australian prisons between July 1975 and June 1984, the probability of recidivism (defined as reincarceration) was 80 per cent for Aboriginal male prisoners and 48 per cent for non-Aboriginal male prisoners. The median lengths of time to reincarceration were 11 months and 18 months, respectively (Broadhurst et al. 1988, pp. 83-108).

Since custody prevalence data are more frequently available than are custody incidence data, and incidence data rarely identify separate individuals but are aggregated up to the level of occasions of custody, the over-representation of Aboriginal people in custody is generally expressed in terms of occasions of custody.

Summary of discussion of over-representation

In summary, the information on techniques available for calculating and presenting data on levels of over-representation in custody of particular groups, and the examples of their application to the over-representation of Aboriginal people drawn from published sources, suggest the following conclusions:

- Estimates of over-representation may be derived from either incidence (flow) data or from prevalence (stock) data. The use of incidence data is preferable but, if it is not available, prevalence data may be used.

- It is essential that the data used in calculating over-representation be specified. It is particularly important to differentiate between flow and stock data; they should not be used together in a particular ratio.

- Unless special reasons exist for doing otherwise, over-representation should be calculated as the ratio of the Aboriginal custody rate to that of the non-Aboriginal custody rate if such data are available, or using the odds ratio if only proportions are available. One may observe the differences in the proportions of Aboriginal people in custody and in the community, but these proportions should not be divided one into the other to calculate levels of over-representation.

- In calculating custody rates, the population at risk of being in custody should be used as the denominator.

- Wherever possible, allowance should be made for differences in the age distributions of the populations being compared. The optimal technique is direct age standardisation; other approaches also exist.

Exposure to Risk

In this second part of this paper, attention is drawn to the concept of exposure to risk. In the context of the Royal Commission's enquiries, exposure to risk of death in custody is the central concern.

Since 'risk' refers to the probability of an event occurring, the focus here is to identify the various factors that lead to different probabilities of death in custody occurring among different populations. The main emphasis is, of course, on the differences that exist between Aboriginal and non-Aboriginal people in custody.

The most straightforward approach to measuring the relative risk of death in custody of two groups is to compare their mortality rates. (In this context, the terms relative risk, risk ratio and rate ratio are synonymous.) The mortality rate for each group is ideally calculated in terms of the number of deaths in the group during a specified time period, say one year, divided by the number of person/time units of exposure, such as the number of person/years served in custody by that group. (As noted above, a separate research project of the Royal Commission is being conducted in this area.) This provides the most direct measure of exposure to risk (the person/time units of custody) and of the levels of mortality in custody. Other components of the 'exposure to risk' concept exist, however, an exploration of which will aid understanding of the exposure to risk of death in custody of particular groups of people and, indeed, of particular individuals. These components include the differing characteristics of different populations, the temporal pattern of deaths in custody and the issue of recidivism.

Differing characteristics of different populations

Earlier papers in this series have pointed to the high proportion of deaths in custody that are attributable to ill health. Indeed, during the 1980-88 period, 36 per cent of all Australian deaths in custody were attributed to natural causes, that is diseases rather than externally caused events (*see* Research Paper No. 7, p. 107-36 of this volume). This proportion is not seen equally, however, among the Aboriginal and non-Aboriginal custody deaths: some 46 per cent of the Aboriginal deaths in custody (using police and prison cause of death reports) and 33 per cent of non-Aboriginal custody deaths were reported to be from natural causes. The predominance of naturally caused deaths among Aboriginal people in custody is particularly marked in prison, where they comprise 54 per cent of the Aboriginal deaths. Forty per cent of the Aboriginal deaths in police custody were from natural causes.

The higher proportions of deaths in custody from natural causes among Aboriginal people, compared with non-Aboriginal people, reflects the poor state of health and early deaths of Aboriginal people in the community. A recent South Australian review, for example, showed that the life expectancy at birth of Aboriginal males was in the range 50 to 55 years (total state male population 73.6 years) and among Aboriginal females it was between 65 and

70 years (total state female population 80.3 years) (Australian Bureau of Statistics & Aboriginal Health Organisation of South Australia 1990). The significance of these figures is that, although Australian Aboriginal people have mortality patterns which are far better than those of the world's least developed countries, they are far worse than those of non-Aboriginal people in this country. Insofar as the health status of people in custody reflects that of the communities from which they come, Aboriginal people in custody are at a higher risk of death than are non-Aboriginal people in custody because of their generally poor health status. This factor is additive to the increased risk provided by their over-representation in custody.

A second difference between Aboriginal and non-Aboriginal people, that lead the former to have a high level of exposure to risk of death in custody, is the poor level of health of Aboriginal people while in custody. As discussed above, many Aboriginal people are in poor health when they enter custody. They often have health problems that are both serious and acute, such as bleeding inside the skull consequent on a blow to the head, or poisoning by alcohol. These types of problems are especially common among people entering police custody. They also suffer from chronic disease, frequently the so-called 'lifestyle diseases', such as hypertension or diabetes mellitus, which have their aetiology in poor diet, obesity, smoking, lack of exercise, and so on (Australian Institute of Health 1988, pp. 114-19). They bring into custody, then, the poor health status experienced outside of custody and are thereby at increased risk.

The custodial environment itself creates risks to health. It has been forcefully argued that the mental health of Aboriginal people in police custody is adversely affected by the custodial experience in ways not experienced by people of other cultural backgrounds. For example, Reser, in Research Paper No. 9 (*see* pp. 147-190 of this volume), discusses the following areas of cultural difference:

- the perception of the police and the lockup situation;
- the state of the individual when arrested;
- the effect of being arrested and placed in custody;
- the impact of being alone;
- the effect of confinement;
- the nature of Aboriginal kinship systems and avoidance relations;
- the nature of support relationships between Aboriginal individuals and extended family;

- the nature of traditionally-oriented Aboriginal emotional expression and coping responses;
- the ways in which drugs and alcohol are used and experienced;
- the community and cultural context of suicide;
- the cultural institution of self-injury;
- the nature of traditionally-oriented anxieties and fears; and
- the general physical health of Aboriginal detainees (Reser 1989, *see* Research Paper No. 9, pp. 147-90 of this volume).

Based on research among Aboriginal people in the Kimberley region of Western Australia, Hunter has covered similar ground, pointing to what he sees as the possible relationship between heavy alcohol consumption and disruption of interpersonal attachments caused by incarceration, on the one hand, and self-inflicted death, on the other (Hunter 1988, pp. 264-71).

On the basis of these and other studies by Reser, Hunter and others, it is suggested that the custodial experience itself is particularly damaging to the mental health of Aboriginal people, as seen in their self-destructive behaviour in custody. (Of course, self-inflicted death in custody is not confined to Aboriginal detainees. In fact, as reported in Research Paper No. 7 (*see* pp. 107-36 of this volume), a higher proportion of non-Aboriginal deaths in custody during the 1980-88 period were reported to be self-inflicted than were Aboriginal custody deaths: 49 per cent compared with 34 per cent. This pattern was seen in both police and prison custody.) It may be the case, however, that the physical health of some Aboriginal people (and others) may be better in prison than in the community, owing to better diets, better medical care and the virtual absence of alcohol in prison.

Thirdly, Aboriginal people have frequently argued that they are at greater risk of death in custody than are other people because they are treated particularly poorly by police and prison officers. Indeed, the initial call by Aboriginal people for the establishment of the Royal Commission was based upon their perception that large numbers of their people were dying in custody as a result of neglect or foul play perpetrated by custodial staff (Hogan et al. 1988). Although none of the reports into the deaths of individual Aboriginal people in custody that have been released to date has found that the death was caused by foul play on the part of custodians, many have pointed to serious inadequacies in the attitudes, procedures and practices of custodians, inadequacies that were related to the deaths. With racism directed against Aboriginal people being commonplace in Australia, it is to be expected that some police and prison officers will deal with Aboriginal people in a less caring manner than they do with non-Aboriginal people. The Royal Commission's *Interim Report* (1988, pp. 44-52) includes recommendations aimed towards

ensuring that only people who hold positive attitudes towards Aboriginal people be employed in police or prison officer roles.

Length of time in custody prior to death

It has been pointed out above that the basic measurement of exposure to risk of death in custody is the number of person/time units of custody. Such an approach rests on the assumption that the risk of death in custody is consistent throughout the whole of the custody experience. Such is not the case, however.

Research from both overseas (Lloyd 1990, pp. 16-18) and Australia (*see* Research Paper Nos 7, 10 & 11, pp. 107-36, 191-237 of this volume) indicates that the early stage of incarceration has a higher incidence of death than do later stages. In particular, the first few hours of police custody is the time of highest risk. In Australia during the 1980-88 period, of the 123 deaths in police custody for which relevant data are available, the mean period the person was in custody prior to death was 15 hours; the median was only five hours. (A quite different pattern was observed in prison, with a mean of one year ten months, a median of five months, and only nine of 212 deaths occurring in the first 48 hours of imprisonment. It is also relevant that remand prisoners have a much higher risk of death in custody than sentenced prisoners.)

It is important to note that the first few hours of police custody are problematic with regard to both deaths by natural causes and self-inflicted deaths. Although 40 of the 57 self-inflicted deaths (70 per cent) occurred in the first six hours of police custody (as expected from overseas research), 12 of the 38 police custody deaths by natural causes (32 per cent) also occurred in the first six hours and 21 of them (55 per cent) occurred in the first 12 hours. (It should be noted, however, that the National Police Custody Survey, August 1988 (Research Paper No. 13, pp. 277-319 of this volume) showed that the median length of time that people were held in police cells in Australia that month was 5.9 hours. The mean was 24.0 hours.) This raises the question of whether or not many of these people should have been in a hospital rather than in a police cell. The Royal Commission is seeking to answer this question with regard to the Aboriginal deaths it is investigating.

The significance of these data is that, other things being equal, the risk of death in custody is higher in a jurisdiction that has a large number of people passing through its police cells, even if their lengths of stay are brief. Table 17.11 provides the relevant data. Of course, other things are not equal: many factors including chance interact to produce the observed incidence of deaths in police custody in the different jurisdictions. The dangerous nature of the initial hours of police custody is one of the factors, however, that contribute to differential levels of exposure to risk of death in custody in different locations and among different populations.

Risk of a particular individual ultimately dying in custody

In the first section of this paper, attention was drawn to the need to differentiate carefully, in calculating over-representation in custody, between data on separate individuals, on the one hand, and occasions of custody, on the other. It was pointed out, in particular, that Aboriginal people have higher rates of recidivism than do non-Aboriginal people, with regard to both police and prison custody. This issue has relevance to the current exploration of the concept of differing exposure to risk among different populations.

TABLE 17.11
Mean Lengths of Time in Police Cells, Police Custody Rates, Jurisdiction, August 1988*

Jurisdiction	*Number of occasions of custody*	*Mean time in cells (hours)*	*Custody rate (per 100,000)*
NSW	5,582	10.2	103
Vic.	4,936	7.9	123
Qld	6,143	8.0	237
WA	5,416	7.5	385
SA	3,217	7.3	239
Tas.	590	7.4	135
NT	2,191	8.3	1,415
ACT	491	5.8	197
Aust.	28,566	8.2	183

*National Police Custody Survey, August 1988.

Broadhurst & Maller have recently pointed out the importance of differentiating between the day-to-day risk of death in custody for the custodial population generally, which is the basis of much of this paper's discussion, and the risk of a *particular individual ultimately dying in custody* (Broadhurst & Maller 1989). These are two quite different concepts and have different methodological considerations.

The standard technique for calculating the incidence of deaths in custody and the resulting relative risks of, in this case, Aboriginal and non-Aboriginal people dying in custody, follow the former approach: the day-to-day risk experienced by all people in custody. It was pointed out earlier in this paper that the optional denominators for calculating such incidence measures are person/time units, for example, the number of person/years served in custody by all detainees over a twelve-month period. The latter approach, however, focuses not on the person/time units served by all detainees over a given period, but on the person/time units served by a particular individual over his or her lifetime. An individual's exposure to risk of ever or ultimately dying in custody

will be a function of, among other things, the amount of time that the person spends in custody throughout her or his life.

Since Aboriginal people have higher rates of recidivism (as well as incarceration) than do non-Aboriginal people, it is likely that a particular Aboriginal person will have a higher risk of ultimately dying in custody than will a non-Aboriginal person. This will hold if the lifelong lengths of time spent in custody, rather than the simple fact of repeat incarcerations, are greater for Aboriginal people. In fact, it appears that the mean lengths of prison sentences of Aboriginal people are much *shorter* than those of non-Aboriginal people: 42.6 months compared with 74.9 months, on one national estimate (Walker 1987, p. 111). On the other hand, their mean lengths of time in police custody (and a higher proportion of Aboriginal custody deaths occur there than in prison) are *longer* than for non-Aboriginal people: medians of 8.7 hours and 5.0 hours respectively in the August 1988 national survey (*see* Research Paper No. 13, pp. 277-319 of this volume). It is likely, however, as Broadhurst & Maller (p. 7) point out, that Aboriginal people's much higher recidivism rates would more than compensate for their shorter prison sentence lengths, with the result that Aboriginal people, over their lifetimes, are in custody for longer time periods than are non-Aboriginal people.

The discussion earlier in this paper concerning the different health statuses of Aboriginal and non-Aboriginal people is also relevant. In particular, the facts that Aboriginal people's life expectancy at birth is some 20 years less than that of the total community and their recidivism levels are higher than those of the total community, mean that the proportion of their lives spent in custody will, on average, be higher than in the case of non-Aboriginal people.

Discussions of exposure to risk, then, could include the issue of individuals' lifelong experience of custody, the total periods in custody as proportions of life spans and the resulting exposure to risk of death in custody, as well as the day-to-day risk of death among people in custody at any particular time.

Conclusion

The over-representation of Aboriginal people in police and prison custody reflects the serious structural inequities of Australian society. This paper has explored methodological issues involved in measuring this level of over-representation. The most appropriate methods have been presented and other techniques, ones that can be used when the data required for the optimal methods are not available, are also discussed.

Little value exists in further measurement of the over-representation of Aboriginal people in custody for its own sake. Such measurement is important, however, for a number of other reasons. Assessing the levels of over-representation by jurisdiction (state and territory; police or prison) can facilitate understanding of the patterns and causes of the observed national levels of over-representation and can assist people developing policies aimed at reducing the discrepancies in custody rates. Furthermore, accurate measurement

techniques facilitate the monitoring over time of the levels of over-representation. Such monitoring is an essential tool in assessing the impact of new policies and procedures aimed at reducing both the number of Aboriginal people in custody and their over-representation compared with non-Aboriginal people. (Comprehensive data on over-representation, using the techniques outlined in this paper, will be included in a later paper in this series.)

It has also been pointed out in this paper that exposure to the risk of death in custody is multifactorial in nature. While actually being in custody is the central factor, others include the differing health statuses of different populations in custody, the ways that they are treated in custody, different degrees of risk at different stages in the custodial experience, and differing levels of recidivism. In other words, the quantitative approaches used in producing useful summary measures of risk need to be interpreted in the context of the social dynamics of the custodial experience.

Summary

1. From the commencement of the Royal Commission, it became apparent that information about the levels of over-representation in custody of Aboriginal people, compared with non-Aboriginal people, was required to help answer the question: are Aboriginal people dying in custody at rates higher than, similar to or lower than the rates of non-Aboriginal people? This paper discusses, first, the conceptualisation and measurement of over-representation in custody and, secondly, the concept of exposure to risk in custody.

2. The data used to calculate levels of over-representation are often inadequate. Problems with definitions of key concepts, including Aboriginality, custody and death need to be resolved. The quality of data available on these variables is inconsistent across Australia and through time. Nevertheless, the basic data needed to calculate over-representation are available.

3. Three methods have been used by researchers to calculate the over-representation of Aboriginal people in custody compared with non-Aboriginal people, that is, the relative risk of custody:

    - The first method is a direct comparison of the custody rates of Aboriginal people with those of non-Aboriginal people. This can use either incidence data (that is, the flow of people into custody over a specified period) or prevalence data (that is, the stock of people in custody at a particular time). Care must be taken to avoid confusing flow data with stock data.

- The second method is the odds ratio. It is used when the proportions of Aboriginal and non-Aboriginal people in custody, and in the community, are known, but the actual custody rates are not. The odds ratio is the odds of a person in custody being Aboriginal divided by the odds of such a person not being Aboriginal, divided by the corresponding ratio in the total or non-custodial population.

- The third method is simply to divide the proportion of the custodial population that is Aboriginal by the proportion of the total community that is Aboriginal.

The first and second methods produce the same results and are to be preferred over the third method. This is because the first two methods compare the custody of Aboriginal with non-Aboriginal people, whereas the third method compares the custody of Aboriginal people with that of the total community, that is, with Aboriginal plus non-Aboriginal people. Estimates derived by the third method differ from those derived by the first two methods, particularly when the proportion of Aboriginal people in the general population is relatively high, as in the Northern Territory.

4. In calculating custody rates, the population at risk of being in custody (for example, adults) is the most appropriate denominator. On many occasions, when it is intended that the custody rates of different groups or populations be compared, in the absence of more specific data the total population (all ages) will be used as the denominator.

5. Wherever possible, allowance should be made for differences in the age structures of populations being compared. The optimal technique is age standardisation.

6. Levels of exposure to risk in custody, especially to the risk of death in custody, are determined by a range of factors in addition to the relative risks of different groups simply being in custody. The general health status of Aboriginal people in the community is far worse than that of non-Aboriginal people and this differential is reflected in the custodial population. Specific health problems are common, particularly among people in police custody, including brain injury, alcohol toxicity and the complications of alcohol withdrawal. Psychological stresses are produced by the experience of being in custody: some are particularly serious among Aboriginal people.

7. The length of time that a person has been in custody is a factor influencing risk levels: a disproportionate level of deaths among the police cells and prison remand populations is observed during the early period of custody.

8. The risk of death in custody at any period in his or her life is, on average, greater for an Aboriginal person than for others owing to the higher levels of recidivism among Aboriginal people and their shorter average lifespans. These factors produce risks additional to those derived from the actual level of over-representation of Aboriginal people in custody discussed above.

October 1990

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Comments and suggestions of different types and in different forms made by the persons named above, as well as many others, have provided the starting point for this paper. We see the paper not as a finishing point, however, but as a contribution to the on-going debate about the methodological issues that pertain in this difficult area of research.

APPENDIX 17.1

Calculation of Over-representation—Algebraic Relationships

It has been pointed out in this paper that three methods of calculating the over-representation of Aboriginal people in custody are used, and that they are related algebraically. The methods are:

1. Comparing the custody rate of Aboriginal people with those of non-Aboriginal people;

2. Comparing the odds of being Aboriginal (rather than non-Aboriginal) in custody with the odds of being Aboriginal (rather than non-Aboriginal) in the community; and

3. Comparing the proportion of prisoners who are Aboriginal with the proportion of the community which is Aboriginal.

Only Methods 1 and 2 provide estimates of the over-representation in custody of Aboriginal people compared with non-Aboriginal people, specifically. These methods produce identical results. Consider the following table:

Location	*Aboriginal*	*Non-Aboriginal*	*Total*
Prison	AP	NP	AP + NP
Community	AC	NC	AC + NC
Total	AT	NT	AT + NT

Let:

AP = the number of Aboriginal people in prison
AC = the number of Aboriginal people in the community, that is, not in prison
AT = the total number of Aboriginal people, that is, in prison plus in the community
NP = the number of non-Aboriginal people in prison
NC = the number of non-Aboriginal people in the community
NT = the total number of Aboriginal people.

Method 1, the comparison of custody rates, is:

$$\frac{AP}{AT} \div \frac{NP}{NT}$$

Method 2, the odds ratio, is:

$$\frac{AP}{NP} \div \frac{AT}{NT}$$

Method 3, the comparison of Aboriginal people in prison with Aboriginal people in total, is:

$$\frac{AP}{AP+NP} \div \frac{AT}{AT+NT}$$

These are related as follows:

Method 1:

$$\frac{AP}{AT} \div \frac{NP}{NT} = \frac{AP}{NP} \div \frac{AT}{NT}$$

which is the odds ratio, Method 2.

Method 3 differs from the above:

$$\frac{AP}{AP+NP} \div \frac{AT}{AT+NT} = \frac{AP}{AT} \div \frac{AP+NP}{AT+NT}$$

But $\frac{AP}{AT}$ is the Aboriginal custody rate and $\frac{AP+NP}{AT+NT}$ the total custody rate, that is the custody rate of the total population, Aboriginal people plus non-Aboriginal people, and so differs from the estimates derived from Methods 1 and 2.

In summary then, the first two methods compare Aboriginal custodies with non-Aboriginal custodies. The third compares Aboriginal custodies with all custodies.

RESEARCH PAPER NO. 18

Arrests, Custody and Bail, Kalgoorlie, 1987 and 1990

David McDonald

In the early months of 1990, the staff of the Royal Commission's Perth office gathered data on activities in the Kalgoorlie, Western Australia, police station. The aim was to describe patterns of arrest, bail and custody there, following allegations received by Royal Commission staff that bias existed, on the grounds of Aboriginality, in the practice of granting bail. Those data, covering the period 1 October to 8 November 1987, were analysed by Mr David Biles, Consultant Criminologist and Head of Research at the Royal Commission, at the request of the Royal Commission's Western Australian office. The results of that analysis are set out in a paper prepared by Biles, entitled 'Arrest, Bail and Custody at Kalgoorlie Police Station', dated 14 February 1990 and revised on 30 March 1990.

The study using 1987 data concluded that 'the clear majority of Aboriginal cases resulted in custody while the clear majority of non-Aboriginal cases resulted in bail'. This pattern appeared to exist for all offences combined, for drunkenness offences only, and for all offences other than drunkenness.

In May 1990, the Western Australian office again approached the Royal Commission's Criminology Unit, requesting assistance in replicating the study using 1990 data. Since the data had not been collected at that point, the opportunity was taken to develop a more sophisticated data collection and analysis system, one which would result in a more comprehensive report on the patterns of arrest, custody and release from the Kalgoorlie police station. This report sets out the findings of that study, and draws comparisons between the 1987 and 1990 study periods. The purpose of the study, then, is to describe the patterns of arrest, custody and release from the Kalgoorlie police station and to point to any changes that may have occurred in these patterns between 1987 and 1990, with particular reference to any differences that may exist regarding the patterns relating to Aboriginal and non-Aboriginal people.

Methodology

Data for the 1990 study of arrests, bail and custody at Kalgoorlie police station were obtained from two primary documents: the form 'Inventory of Property Taken From Prisoner' and the Occurrence Book, both kept at Kalgoorlie police station. The property inventory was the most important source; the occurrence book was used to cross-check problematic entries in the property inventory. At

least basic identifying data were available from the property inventory on all cases and full information was available on most cases.

The scope of the study included all cases recorded in the Kalgoorlie police station property inventory as an occasion upon which a person was lodged in the Kalgoorlie police station at any time from 1 March 1990 to 14 April 1990, a period of 45 days. Almost all of those cases were people arrested by Kalgoorlie police. In fewer than ten cases the prisoners came to the station by means other than arrest by Kalgoorlie police, for example on transfer from another custodial facility. (For ease of communication, all cases will be referred to, in this paper, as 'arrests'.)

Data on the following variables were drawn from the property inventory and used in the study: identification number, age, gender, Aboriginality, condition of prisoner, time and date lodged at the police station, arrested on warrant or without warrant, offence/s, date and time released or escorted from the police station, and the circumstances of release or escort from the police station, including the place to which the person was escorted, if applicable.

A simple data collection form was developed covering these variables, along with brief instructions for completing the form. The instrument was pre-tested in the Kalgoorlie police station, using the source documents referred to above, and a final instrument was developed. (*See* Appendix 18.1.)

With the cooperation of the Western Australian Police, the relevant documents, that is the property inventory forms and the occurrence books covering the relevant period, were examined in the Kalgoorlie police station and relevant data were transcribed onto the data collection instrument, one form for each arrest recorded. This paper reports the data derived on this basis, not on the basis of separate individuals.

Although the basic data collection source document was the property inventory form, it has been confirmed by Royal Commission staff in Perth, having investigated the matter with the Kalgoorlie police, that such a form is completed in the case of every individual who is arrested and taken to the Kalgoorlie police station, regardless of whether or not the person's property is actually held by the station staff. On this basis, the form fills a wider function than simply recording property, as may be suggested by its title.

The completed data collection forms–374 in total–were forwarded to the national Criminology Unit of the Royal Commission for data entry, checking, analysis, and report writing.

Unit record data were not available for interrogation for the 1987 study period. Where comparisons are made between the 1990 and 1987 study periods, then, the 1990 data in this paper are compared with those summarised by Biles in his 30 March 1990 paper referred to above, and other summaries produced by staff of the Royal Commission's Perth office.

Kalgoorlie Arrests, 1 March to 14 April 1990

Demographic characteristics

Aboriginality and gender During the 45 days of the study period, 374 people were taken to the Kalgoorlie police station. This included 170 Aboriginal people, 197 non-Aboriginal people, and seven additional cases where the Aboriginality was not stated. In other words, 46 per cent of the arrests (for which Aboriginality was stated) were of Aboriginal people and 54 per cent were of non-Aboriginal people.

As expected, males made up most (83 per cent) of the cases. A statistically significant difference exists between Aboriginal people and non-Aboriginal people relating to gender, with the proportion of Aboriginal people who were female being more than twice the proportion of non-Aboriginal people who were female. Details are shown in Table 18.1.

TABLE 18.1
Aboriginality and Gender, Kalgoorlie Arrests, 1 March-14 April 1990

	Aboriginal		*Non-Aboriginal*		*Not stated*		*Total*	
Gender	*No.*	*%*	*No.*	*%*	*No.*	*%*	*No.*	*%*
Male	127	75	176	89	3	-	306	83
Female	43	25	21	11	-	-	64	17
Not stated	-	-	-	-	4	-	4	-
Total	170	100	197	100	7	100	374	100

Notes: 1. Percentages exclude cases where relevant data are not stated.

2. It will be noted from Table 18.1 that in seven cases (2 per cent) the Aboriginality is not stated. For ease of interpretation, in most tables in the balance of this report these cases will be omitted. For that reason, the totals may not always equal 374. Throughout this report, percentages are given in the form of 'valid per cent', that is, where data on the relevant variable are missing ('not stated') those cases are excluded from the percentage calculation. Some percentages may not total to 100, owing to rounding. Throughout this paper, for convenience, the term 'Aboriginal' is used to refer to both Aboriginal people and Torres Strait Islanders.

Age The mean age of the people arrested was 25 years with the median (the point above and below which half the cases fell) being 23 years. The ages ranged from 12 to 52 years. A statistically significant difference exists between the age distribution of the Aboriginal people and others, with the Aboriginal people having a mean age of 23.7 years and a median of 22.0 years, and the non-Aboriginal people having a mean of 26.0 years and a median of 24.0 years. In other words, the Aboriginal people were, on average, 2.3 years younger than the non-Aboriginal people.

In 69 of the 370 cases for which age is known, that is 19 per cent, the person was under the age of 18 years. This included four cases aged 12 years;

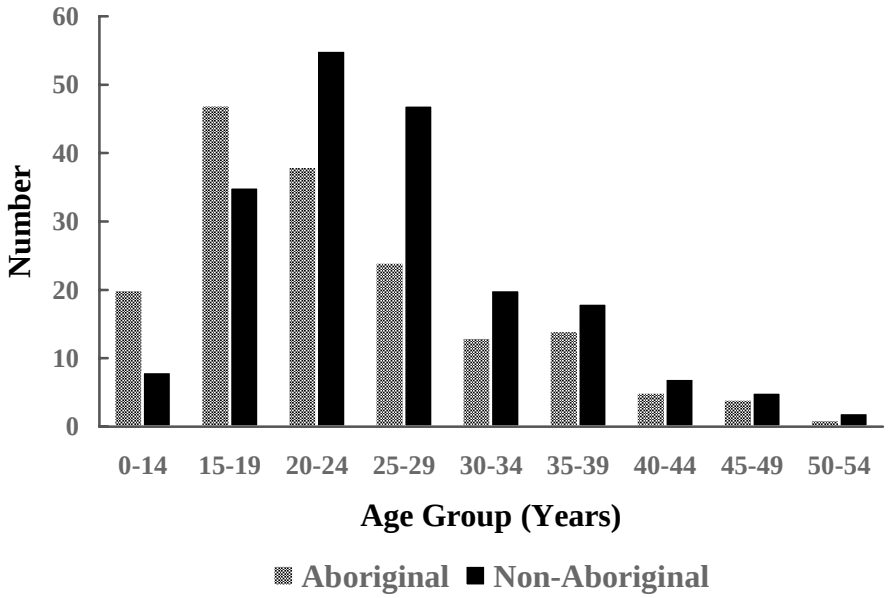
twelve aged 13 years; thirteen aged 14 years; thirteen aged 15 years; nine aged 16 years; and eighteen aged 17 years. Aboriginal people were over-represented in the young age groups, with 28 per cent of the Aboriginal people arrested being under 18 years of age, compared with 11 per cent of the non-Aboriginal cases. This is a statistically significant difference. The age distribution is set out in Table 18.2 and Figure 18.1.

TABLE 18.2
Age Group, Kalgoorlie Arrests, 1 March-14 April 1990

	Aboriginal		*Non-Aboriginal*		*Total*	
Age group	*No.*	*%*	*No.*	*%*	*No.*	*%*
0-14	20	12	8	4	28	8
15-19	47	28	35	18	82	23
20-24	38	23	55	28	93	26
25-29	24	14	47	24	71	20
30-34	13	8	20	10	33	9
35-39	14	8	18	9	32	9
40-44	5	3	7	4	12	3
45-49	4	2	5	3	9	2
50-54	1	1	2	1	3	1
55+	-	-	-	-	-	-
Not stated	4	-	-	-	4	-
Total	170	100	197	100	367	100

Note: Percentages exclude cases where relevant data are not stated.

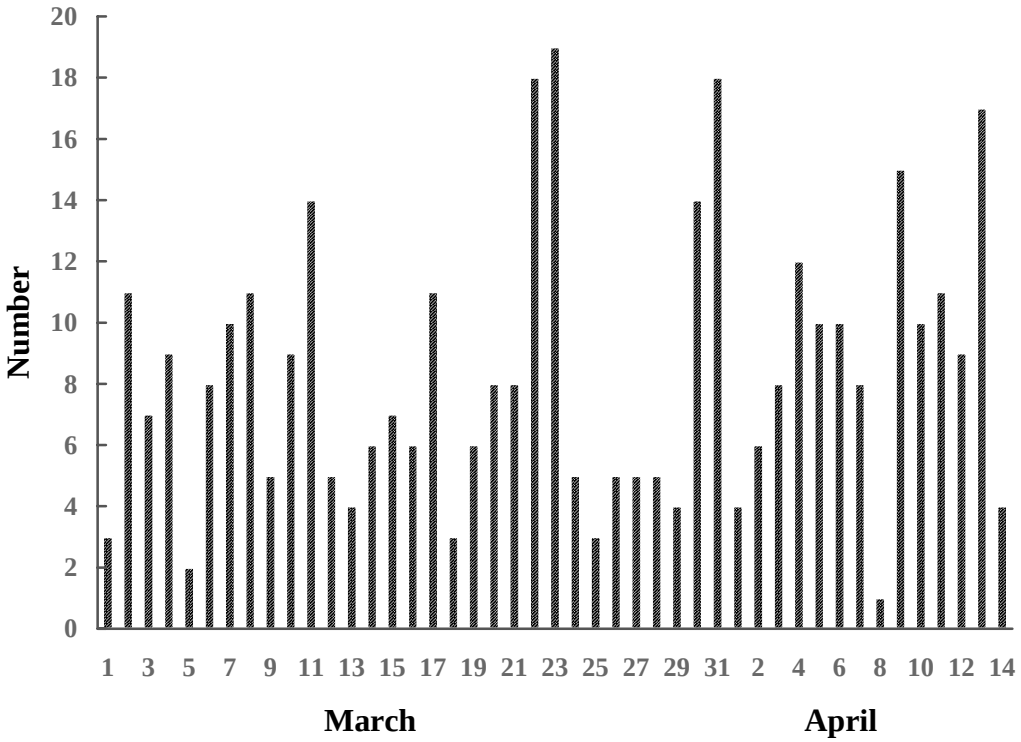
FIGURE 18.1
Age Group, Aboriginality, Kalgoorlie Arrests, 1 March-14 April 1990



Date of arrest

Figure 18.2 and Table 18.3 show the number of arrests which were reported to have occurred on each day of the study period. It will be noted that the numbers varied markedly, with peaks, although not consistently, towards the end of each week. 'Pension days' were 1, 15, 29 March and 12 April. Substantial peaks did not necessarily follow pension day, as was observed in the National Police Custody Survey of August 1988 (Research Paper No. 13, *see* pp. 277- of this volume).

FIGURE 18.2
Date Arrested, Kalgoorlie Arrests, 1 March-14 April 1990



As shown in Figure 18.3 the differences in numbers between the days of the week was not especially marked, although Friday, having the highest number of arrests (82), had approaching three times the number of arrests of the quietest day, Sunday, with 32 arrests. The number for each week day was as follows: Monday 39; Tuesday 43; Wednesday 52; Thursday 62; Friday 82; Saturday 64; and Sunday 32. No statistically significant difference exists between Aboriginal and other people on the variable.

FIGURE 18.3
Day of Week Arrested, Aboriginality, Kalgoorlie Arrests, 1 March-14 April 1990

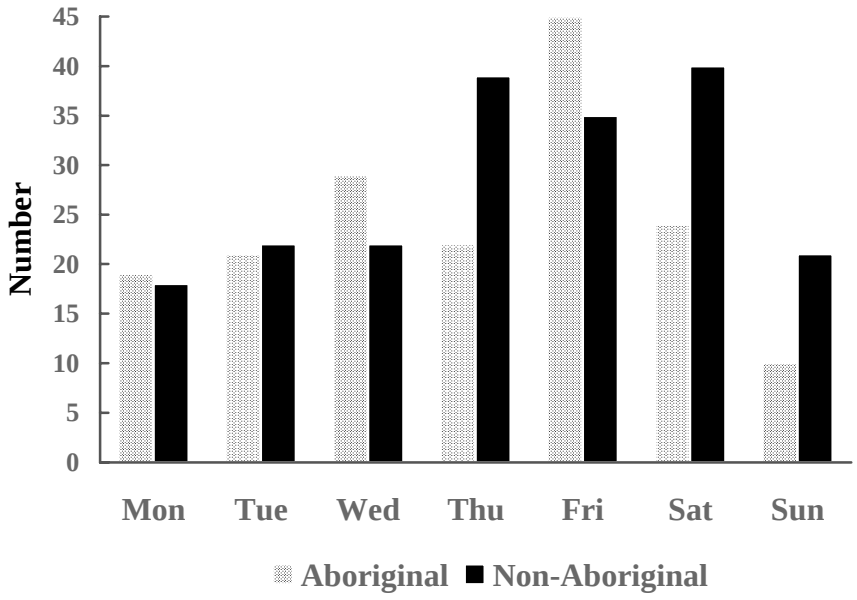


TABLE 18.3
Date Arrested, Kalgoorlie Arrests, 1 March-14 April 1990

Date	*Aboriginal*	*Non-Aboriginal*	*Not stated*	*Total*	*Comment*
Thu, 1-Mar	3	-	-	3	Pension day
Fri, 2-Mar	7	4	-	11	
Sat, 3-Mar	2	5	-	7	
Sun, 4-Mar	2	7	-	9	
Mon, 5-Mar	-	2	-	2	
Tue, 6-Mar	3	5	-	8	
Wed, 7-Mar	4	6	-	10	
Thu, 8-Mar	3	8	-	11	
Fri, 9-Mar	-	5	-	5	
Sat, 10-Mar	6	3	-	9	
Sun, 11-Mar	6	8	-	14	
Mon, 12-Mar	1	4	-	5	
Tue, 13-Mar	2	2	-	4	
Wed, 14-Mar	3	3	-	6	
Thu,15-Mar	3	4	-	7	Pension day
Fri, 16-Mar	5	1	-	6	
Sat, 17-Mar	7	4	-	11	
Sun, 18-Mar	-	3	-	3	
Mon, 19-Mar	4	2	-	6	
Tue, 20-Mar	1	7	-	8	
Wed, 21-Mar	7	1	-	8	
Thu, 22-Mar	2	6	-	18	
Fri, 23-Mar	8	10	1	19	
Sat, 24-Mar	1	4	-	5	Election day
Sun, 25-Mar	2	1	-	3	
Mon, 26-Mar	1	3	1	5	
Tue, 27-Mar	4	1	-	5	
Wed, 28-Mar	2	3	-	5	
Thu, 29-Mar	3	1	-	4	Pension day
Fri, 30-Mar	10	4	-	14	
Sat, 31-Mar	4	14	-	18	
Sun, 1-Apr	-	3	1	4	
Mon, 2-Apr	3	3	-	6	
Tue, 3-Apr	5	3	-	8	
Wed, 4-Apr	5	7	-	12	
Thu, 5-Apr	5	5	-	10	
Fri, 6-Apr	4	6	-	10	
Sat, 7-Apr	1	7	-	8	
Sun, 8-Apr	-	1	-	1	
Mon, 9-Apr	10	4	1	15	
Tue, 10-Apr	6	4	-	10	
Wed, 11-Apr	8	2	1	11	
Thu, 12-Apr	3	5	1	9	Pension day
Fri, 13-Apr	11	5	1	17	Easter
Sat, 14-Apr	3	1	-	4	Easter

Use of warrants

Apprehension on warrant occurred in 68 cases (18 per cent of the total), with 38 (22 per cent) of the Aboriginal and 29 (15 per cent) of the non-Aboriginal cases being apprehended on warrant. This difference is not statistically significant.

Offence data are available on only 40 of the warrant cases. The most serious offences involved in them were as follows: offences against good order, other than drunkenness (12); break and enter, fraud and theft (7); justice procedures (7); drink driving (4); other traffic offences (4); assault (3); property damage (1); and drunkenness (1).

Offences involved

In 60 per cent (226) of the cases, the person was arrested having committed only one offence. An additional 21 per cent (80 cases) were arrested for having committed two offences, 11.5 per cent (43 cases) for three offences, 3 per cent (10 cases) for four offences and 4 per cent (15 cases) for more than four offences. In other words, 96 per cent of the cases were arrested for having committed four or fewer offences. No statistically significant difference exists between Aboriginal and non-Aboriginal people with regard to the number of offences.

The most serious offence that lead to each arrest is shown in Table 18.4. It will be noted that the most frequent category was offences against good order, other than drunkenness, accounting for 84 (25 per cent) of the 339 cases for which data on offence and Aboriginality are available. This was closely followed by drink driving at 79 cases. Aggregating break and enter, fraud, motor vehicle theft and other forms of theft produces a total of 73 cases. Differences exist between Aboriginal and non-Aboriginal people on this variable. Substantially higher proportions of Aboriginal people, compared with non-Aboriginal people, were arrested for break and enter, motor vehicle theft and damaging property, whereas higher proportions of non-Aboriginal people were arrested for drink driving, other traffic offences and drug offences.

One of the most important observations here is the low number of arrests for the offence of drunkenness: a total of 13 cases including eight Aboriginal and five non-Aboriginal people. As discussed below, this is a massive reduction compared with the position in 1987. (It should be noted that, in both the 1987 and 1990 study periods discussed in this paper, public drunkenness was an offence in Western Australia. The State Government announced in 1989 that it intends to decriminalise public drunkenness and to establish sobering-up facilities for intoxicated people found in public.)

As noted above, offences against good order, other than public drunkenness, made up a quarter of the cases. This category includes 48 cases of disorderly conduct, 18 of hinder police, 12 of trespassing, and 10 of other offences against good order. No significant difference exists between Aboriginal and non-Aboriginal people on this variable.

TABLE 18.4
Most Serious Offence, Kalgoorlie Arrests, 1 March-14 April 1990

	Aboriginal		*Non-Aboriginal*		*Total*	
	No.	*%*	*No.*	*%*	*No.*	*%*
Assault	13	8	10	5	23	7
Sexual offences	5	3	3	2	8	2
Break and enter	15	10	10	5	25	7
Fraud	1	1	2	1	3	1
Motor vehicle theft	17	11	5	3	22	6
Other theft	12	8	11	6	23	7
Property damage	10	6	4	2	14	4
Justice procedures	6	4	5	3	11	3
Drunkenness	8	5	5	3	13	4
Other good order	43	28	41	22	84	25
Drug offences	2	1	10	5	12	4
Drink driving	20	13	59	32	79	23
Other traffic	3	2	17	9	20	6
Other offences	-	-	2	1	2	1
Not stated	15	-	13	-	28	-
Total	170	100	197	100	367	100

Note: Percentages exclude cases where relevant data are not stated.

Condition of prisoner

The police station property inventory form includes a section headed 'Condition of Prisoner (describe if suicidal, injured, ill, etc)'. Information on the condition of the prisoner and Aboriginality is available in 363 of the 374 cases. As shown in Table 18.5 the condition of the prisoner was said to be 'good' in 56 per cent of the cases and the prisoner was shown to have been intoxicated by alcohol, but not to have any other adverse condition, in an additional 30 per cent of the cases. As noted above, very few people had public drunkenness as their most serious offence and so these people, although intoxicated, were charged with an offence more serious than simple public drunkenness, primarily drink driving and disorderly conduct.

No cases were shown to be very ill or dangerously affected by alcohol; certainly none was shown to be unconscious or close to unconsciousness. It was reported that 26 cases were suffering some degree of injury, though naturally this was reported as being very minor in nature in most of the cases. On two occasions the person arrested was recorded as being 'suicidal'. This was, in fact, one individual arrested twice on the same day.

Aboriginal and non-Aboriginal people differ in some respects on this variable. It will be noted that a substantially higher percentage of the non-Aboriginal prisoners (63 per cent) had their condition described as 'good'

compared with 50 per cent of the Aboriginal prisoners. In contrast, although the numbers are small, significantly higher proportions of Aboriginal people were shown to be injured, although not intoxicated, and sick. This reflects, perhaps, the relatively poor health of Aboriginal people in the community at large. Similar proportions of Aboriginal people and non-Aboriginal people were noted as being intoxicated by alcohol.

TABLE 18.5
Condition of Prisoner, Kalgoorlie Arrests, 1 March-14 April 1990

	Aboriginal		*Non-Aboriginal*		*Total*	
Condition	*No.*	*%*	*No.*	*%*	*No.*	*%*
Good	84	50	123	63	207	56
Intoxicated alcohol	53	32	56	29	109	30
Intoxicated - drug	2	1	1	1	3	1
Injured - intoxicated	8	5	5	3	13	4
Injured - not intoxicated	10	6	3	2	13	4
Sick	4	2	-	-	4	1
Suicidal	2	1	-	-	2	1
Aggressive	3	2	2	1	5	1
Other	2	1	5	3	7	2
Not stated	2	-	2	-	4	-
Total	170	100	197	100	367	100

Note: Percentages exclude cases where relevant data are not stated.

Reason for departure from police station

The property inventory form indicates the circumstances under which the person left the police station. As shown in Table 18.6 the vast majority (74 per cent) were shown to have been released on bail, with an additional 21 per cent having been escorted to another correctional or health facility. Most of the balance were shown as having been released to 'freedom'. (Some of the cases released on bail could have been released to undergo medical treatment.) A statistically significant difference exists between Aboriginal and non-Aboriginal people on this variable, with a higher proportion of non-Aboriginal people shown to have been released on bail and a higher proportion of Aboriginal people, on the other hand, shown as having left the Kalgoorlie police station under escort to another custodial facility.

Of the 77 cases (the 75 shown above plus two for which Aboriginality is not known) which left the police station under escort to another facility, 59 were shown as being escorted to the Eastern Goldfields Regional Prison, four to

the Merredin police watch-house, four to the Department for Community Services, three to Perth for court hearings, two to Longmore (a juvenile detention centre), and one each to Graylands Psychiatric Hospital in Perth, Kambalda (presumably to the lockup at the Kambalda police station for a court hearing), and to Riverbank Juvenile Institution. In the remaining two cases the place to which the person was escorted was not stated.

TABLE 18.6
Circumstances of Departure from Police Station, Kalgoorlie Arrests, 1 March-14 April 1990

	Aboriginal		*Non-Aboriginal*		*Total*	
Circumstances	*No.*	*%*	*No.*	*%*	*No.*	*%*
Bail	111	67	156	80	267	74
Escort	45	27	30	15	75	21
Freedom	8	5	9	5	17	5
Other	1	1	-	-	1	-
Not stated	5	-	2	-	7	-
Total	170	100	197	100	367	100

Note: Percentages exclude cases where relevant data are not stated.

The cases shown as having been released to 'freedom' perhaps need clarification. All but three were people shown as having entered custody on a warrant. This suggests that, in these cases, the prisoners had either been released having served a sentence, or had paid a fine, in accordance with the warrant conditions, and had then been released. The other three cases, it has been suggested, may be people who had been arrested, had appeared before a court, and had been released to freedom by the court.

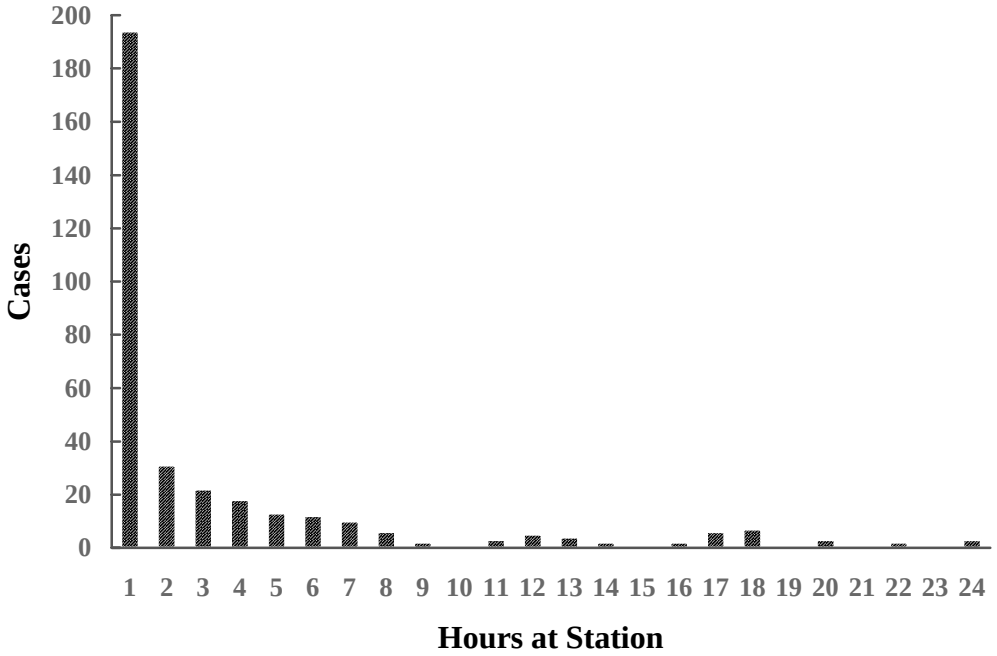
Number of hours lodged in lockup

As noted in the introduction to this paper, much of the motivation for conducting this study was to investigate whether Aboriginal and non-Aboriginal people were dealt with differently in terms of the patterns of arrest, custody and bail in Kalgoorlie. In all but three of the cases data are available on the date and time that the person was lodged at the police station and the date and time of release, enabling the number of hours involved to be calculated. These data are available for all but two of the Aboriginal prisoners, for all but one of the non-Aboriginal prisoners and for each of the seven cases where Aboriginality was not stated. As shown in Figure 18.4 more than half (52 per cent) of the people arrested left the Kalgoorlie police station on the basis of release on bail, release to freedom, or under escort to another facility, within one hour. Indeed, half the cases were released within 47 minutes, and three-

quarters of the cases in less than five hours. The mean length of time at the police station was five hours, but this mean is affected by a small number of cases that were detained for substantial periods of time, the range overall being from a minimum of a matter of minutes up to 61 hours. Table 18.7 provides details.

The comparison between Aboriginal and non-Aboriginal people in terms of the number of hours that they spent at the Kalgoorlie police station during the period of the study is a little complex. Overall, that is taking into account all time periods at the station, a statistically significant difference exists between the two groups regarding the periods of time at the station, with Aboriginal people having mean periods significantly longer than non-Aboriginal people: means of 6.6 hours and 3.7 hours respectively. The corresponding medians were 2.3 hours and 0.4 hours respectively. Even omitting the 10 per cent of cases held for the longest period, since this small number of extreme cases substantially affects the mean, the difference between the Aboriginal people and non-Aboriginal people remains statistically significant.

FIGURE 18.4
Number of Hours at Kalgoorlie Police Station, Kalgoorlie Arrests, 1 March-14 April 1990 (People held for less than 24 hours*)



*People held for less than 24 hours represented 94 per cent of all cases.

TABLE 18.7
Number of Hours at Kalgoorlie Police Station, Kalgoorlie Arrests, 1 March-14 April 1990

	Aboriginal		*Non-Aboriginal*		*Total*	
	No.	*%*	*No.*	*%*	*No.*	*%*
Under 1 hour	65	39	126	64	191	52
1 & under 2 hours	12	7	19	10	31	9
2 & under 3 hours	14	8	8	4	22	6
3 & under 4 hours	13	8	4	2	17	5
4 & under 5 hours	9	5	4	2	13	4
5 & under 6 hours	8	5	4	2	12	3
6 & under 9 hours	9	5	8	4	17	5
9 & under 12 hours	6	4	2	1	8	2
12 & under 24 hours	21	13	10	5	31	9
24 & under 48 hours	9	5	10	5	19	5
48 hours & above	2	1	1	1	3	1
Not stated	2	-	1	-	3	-
Total	170	100	197	100	367	100

Note: Percentages exclude cases where relevant data are not stated.

The pattern was different, however, among the cases which were held only for short periods of time. Having regard only to the cases that were at the station for less than two hours (222 cases or 61 per cent of the total), Aboriginal people and non-Aboriginal people were held for similar periods: this group of Aboriginal people had a mean of 30 minutes at the station and for non-Aboriginal people the corresponding mean was 26 minutes.

As one would expect, the length of time that people stayed at the station was related to their reason for leaving. For people released on bail, the mean length of time at the station was 2.4 hours; for those escorted to another facility, the period was 10.2 hours; and for those released to freedom, the mean period at the station was 13.4 hours. Among the cases of people released on bail (which, it will be recalled, made up 74 per cent of all cases) Aboriginal people had a mean period in custody of 3.2 hours with non-Aboriginal people having a mean of 1.9 hours. (This difference is statistically significant.) Referring again to the 61 per cent of cases that were held for less than two hours, no statistically significant difference regarding the length of time at the station exists between Aboriginal and non-Aboriginal people who were released on bail.

Among the 17 cases released to 'freedom' the mean period shown in custody at the police station for Aboriginal people was 18.9 hours compared with 8.2 hours for non-Aboriginal people. (This difference is not statistically significant at the .05 per cent level, owing to the variation that exists between the values for individual cases.)

The people who were held at the station on warrant (68 cases) stayed for relatively long periods: a mean of 13 hours and a median of 12 hours, with the range extending from a few minutes to 61 hours. Although the mean for Aboriginal people held on warrants was somewhat longer than that of non-Aboriginal people (15 hours and 10 hours respectively) the difference is not statistically significant as wide variations exist in both groups.

Finally, as shown in Table 18.8 the nature of the offence is related to the period that people spent in the cells. The category of offence which occurred most frequently, offences against good order (other than drunkenness), resulted in people being held at the station for 3.6 hours on average, with a substantial difference existing between Aboriginal and non-Aboriginal people, namely 3.6 hours and 2.9 hours respectively. The second most frequent offence, drink driving, showed a similar pattern with a mean length of time in custody for that offence of 3.2 hours with a large difference existing between Aboriginal and non-Aboriginal people: means of 6.9 and 1.9 hours respectively. Differences also existed between the two groups regarding other offences, including assault, sexual offences, motor vehicle theft, property damage, justice procedures and traffic offences where Aboriginal people were held, on average, for substantially longer periods than were non-Aboriginal people. The opposite applied to break and enter, fraud and public drunkenness.

TABLE 18.8
Mean Hours at Station and Most Serious Offence, Kalgoorlie Arrests, 1 March-14 April 1990

Offence	*Aboriginal*	*Non-Aboriginal*	***All cases***
Assault	5.3	2.4	4.0
Sex offences	8.7	0.8	5.7
Break & enter	5.6	9.1	6.7
Fraud	3.1	13.4	10.0
Motor vehicle theft	4.7	2.0	4.0
Other theft	5.0	6.4	5.5
Property damage	5.2	0.3	3.7
Justice procedures	7.8	5.7	6.9
Drunkenness	2.7	4.5	3.4
Other good order	3.6	2.9	3.6
Drug offences	2.5	0.6	0.9
Drink driving	6.9	1.9	3.2
Other traffic	9.5	2.9	3.9
Other offences	-	5.4	5.4

Comparisons with 1987 Data

As noted in the introduction to this paper, part of the rationale for the current study is to enable comparisons to be made between patterns of arrest, custody and bail in Kalgoorlie over the last few years. Such a comparison is possible because a similar study was undertaken covering arrests that took place in Kalgoorlie during the period 1 October to 8 November 1987, as reported upon in the paper by Biles (1990). The data used in the two studies are not totally comparable, as far more data are available in the current study than in the 1987 one. It remains possible, however, to draw some comparisons on the most important variables, namely the numbers of people apprehended, the proportions of Aboriginal and non-Aboriginal people apprehended, and the proportions of Aboriginal and non-Aboriginal people released on bail.

The overall numbers, and the proportions of Aboriginal people during the two periods, are shown in Table 18.9. It will be observed that the 1987 study covered 39 days whereas the 1990 study covered 45 days. For that reason, the data are presented showing the actual number of cases which occurred in each study period and this number converted, for each study period, to the number of cases per month. This has been done to facilitate comparing the two study periods. The Aboriginality of people arrested was shown for all cases that were included in the 1987 study although, as noted above, Aboriginality was not stated in seven of the 1990 cases.

It will be observed from Table 18.9 that over the 39 days of the 1987 study period 491 arrests occurred. This represents 383 per month. Over the 45 days of the 1990 study, a total of 374 arrests occurred, representing 253 per month. It can be seen, then, that the total number fell from 383 per month to 253 per month, that is a reduction of 130, or 34 per cent. Most of this reduction occurred among Aboriginal people; their numbers fell by 49 per cent compared with a fall of 12 per cent among non-Aboriginal people.

The proportion of Aboriginal people has also fallen. Aboriginal people made up 61 per cent of all arrests in the 1987 period and 46 per cent in the 1990 study period, a 25 per cent reduction.

A review of the data on the offences involved reveals that the reduction is explained almost entirely by changes in the number of Aboriginal people arrested for public drunkenness. It will be noted that, although drunkenness was by far the most common offence during the 1987 study period, during the March/April 1990 period very few people were arrested for public drunkenness. The change from 1987 to 1990 is a reduction from 168 cases per month to 9 per month, a fall of 95 per cent. Aboriginal cases fell from 197 to 8 and non-Aboriginal cases fell from 18 to 5. The reduction in Aboriginal drunkenness cases, then, more than accounts for the total reduction in arrests between the two periods. (Figure 18.5 provides a graphical representation of this pattern.)

By way of comparison, it is useful to look at the drink driving offences (for which data are also available for both study periods), recalling that this offence was the second most frequently recorded in the 1990 study period (accounting

then for 23 per cent of the cases). From Table 18.9 it will be noted that little change occurred between the 1987 and 1990 study periods in the numbers of drink driving arrests. The total number in this category fell from 62 to 53 per month; the Aboriginal cases rose from 5 to 14 cases per month, while the non-Aboriginal cases fell from 58 to 40 per month. This tends to provide further confirmation that the change in the total numbers, referred to above, is accounted for by the massive reduction in Aboriginal drunkenness apprehensions.

TABLE 18.9
Aboriginality and Selected Offences, Kalgoorlie, 1 October-8 November 1987

	Aboriginal		*Non-Aboriginal*		*Total*	
Offence	*Full Period*	*Per Month*	*Full Period*	*Per Month*	*Full Period*	*Per Month*
Drunkenness	197	154	18	14	215	168
Drink driving	6	5	74	58	80	62
All offences	298	226	193	151	491	383

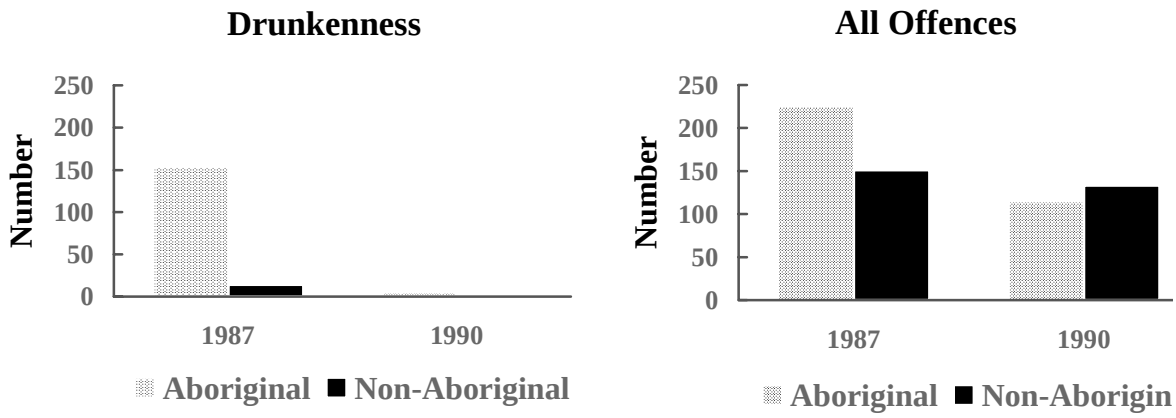
TABLE 18.9 (CONT.)
Aboriginality and Selected Offences, Kalgoorlie, 1 March-14 April 1990

	Aboriginal		*Non-Aboriginal*		*Total*	
Offence	*Full Period*	*Per Month*	*Full Period*	*Per Month*	*Full Period*	*Per Month*
Drunkenness	8	5	5	3	13	9
Drink driving	20	14	59	40	79	53
All offences	170	115	197	133	374	253

One possible explanation for the reduction in charges for the offence of public drunkenness is that, during the 1990 study period, intoxicated people were still being arrested by the police but were being charged with an offence other than public drunkenness. The data do not support this hypothesis. In 123 or 33 per cent of the cases, the person arrested was recorded by the police as being intoxicated at the time. Of these, 41 were charged with 'offences against good order (other than drunkenness)' as their most serious offence. Of that 41, only 28 were arrested for 'disorderly conduct', the offence most likely to be substituted for 'drunkenness' if such substitution had occurred. It appears, then, that the reduction in drunkenness arrests is real and is not simply a matter of charging people with a difference offence.

FIGURE 18.5

Arrests per Month for Drunkenness and all Offences, Aboriginality, 1987 and 1990 Study Periods, Kalgoorlie



Release on bail

Much of the motivation for the current study was to test the hypothesis that, other things being equal, Aboriginal people tend to be given bail less frequently than non-Aboriginal people. The paper on the 1987 study concluded that this was the case with regard to the Kalgoorlie police station at that time. It reported that 87 per cent of the October/November 1987 Aboriginal cases resulted in custody while 89 per cent of the non-Aboriginal cases resulted in bail. This pattern held for all offences combined, for drunkenness offences only and for offences other than drunkenness.

It will be recalled that 74 per cent of the 1990 study period cases were released on bail. To compare the findings from the two periods, it is necessary to attempt to align the two sets of data. Biles has observed that, with regard to the 1987 study data:

> *. . . a comparison of the time arrested and the time of release makes it relatively easy for the reader to confidently classify each case as 'bailed' or 'custody'. For example, in virtually all custody cases the person was held at least overnight and in virtually all of the bailed cases the total period between arrest and release was less than one hour. In perhaps 10 or 12 cases out of the total the person was bailed after two, three or four hours in custody and it would seem reasonable to assume that some of that time would have been spent locked in a cell. In my view, these cases should have been classified as custody, rather than as bailed, or they should have been removed from the analysis [on] the ground that insufficient information was available. Nevertheless, the general pattern of the findings is so clear that it would make no difference if this small number of ambiguous cases were included or excluded* (Biles 1990, pp. 1-2).

Biles took this approach to the analysis as the 1987 data were presented in terms of the number of cases 'bailed' and the numbers of cases 'installed in lockup'. To enable comparisons to be made between the two time periods, then, the 1990 study data have been broken down into two categories depending on the length of time that the person was in custody. Where the period in custody was less than one hour, the case is labelled as 'immediate bail'. Where the person was released on bail after one hour or more had elapsed, the case is classified as 'custody'. The data, using this approach, are set out in Table 18.10. (It should be recalled that all of these 1990 cases were people released on bail; the difference between the two categories is the amount of time that elapsed between their being lodged in custody at the police station and being released on bail.)

TABLE 18.10
Bail and Custody, 1 October-8 November 1987, Kalgoorlie

	Aboriginal		*Non-Aboriginal*		*Total*	
Offence	*No.*	*%*	*No.*	*%*	*No.*	*%*
Bailed	38	13	172	89	210	43
Custody	260	87	21	11	281	57
Total	298	100	193	100	491	100

$\chi^2 = 275$; d.f. = 1; $p < .001$.

TABLE18.10 (CONT.)
Bail and Custody, 1 March-14 April 1990, Kalgoorlie

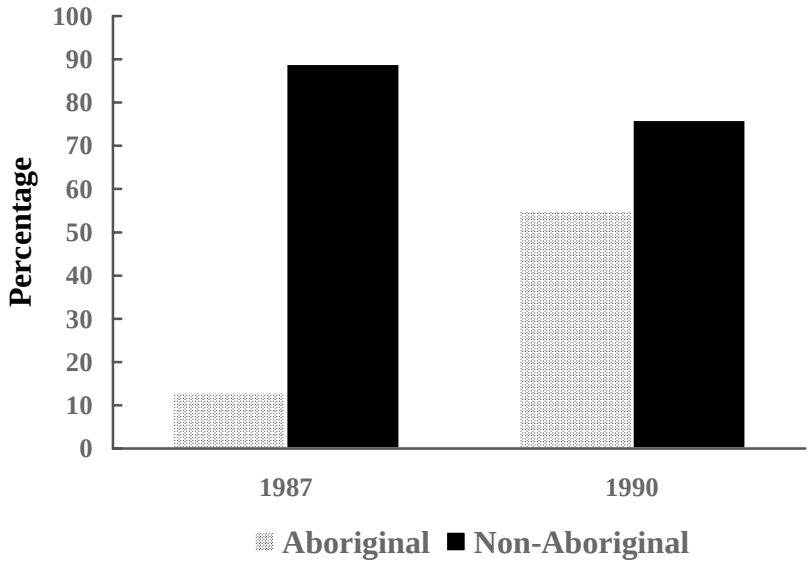
	Aboriginal		*Non-Aboriginal*		*Total*	
Offence	*No.*	*%*	*No.*	*%*	*No.*	*%*
Immediate bail	60	55	119	76	182	68
Custody	49	45	37	24	86	32
Total	109	100	156	100	269	100

$\chi^2 = 13.2$; d.f. = 1; $p < .001$.

It is apparent, from Table 18.10 and Figure 18.6, that during the 1987 study period a significant bias existed towards retaining Aboriginal people in custody and releasing non-Aboriginal people on bail. This pattern has continued in the 1990 study period, although not to such a marked extent. Whereas in 1987 only 13 per cent of the Aboriginal people were noted as being released on bail and 89 per cent of the non-Aboriginal people were so released, in the 1990 study period 55 per cent of the Aboriginal cases under consideration were released on bail compared with 76 per cent of the non-Aboriginal people. The relationship is statistically significant in both time periods: the two categories, Aboriginality

and bailed/custody, are not independent. (Some caution should be observed, however, in comparing the data from the two time periods as the definitions of bail and custody are not exactly the same. The quotation above from the Biles' paper suggests, however, that the overall pattern identified here is valid.)

FIGURE 18.6
Percentage of Cases released on Bail, Aboriginality, 1987 and 1990 Study Periods, Kalgoorlie



This discussion of comparisons between the 1987 and 1990 studies can be summarised as follows:

- The proportion of arrests which were of Aboriginal people has fallen substantially.
- Although arrests for drunkenness among Aboriginal people was the main source of cases in the 1987 study period, such events rarely occurred in the 1990 study period.
- During both study periods, higher proportions of Aboriginal people than non-Aboriginal people were held in custody, rather than being released quickly on bail. However, the discrepancy between the two groups was much lower in 1990 than in 1987.
- The proportion of both Aboriginal and non-Aboriginal people released on bail has increased between the 1987 and 1990 study periods, so that in the 1990 period higher proportions of both groups were released on immediate bail than were held in custody.

Conclusion and Summary

Conclusion

Police practices with regard to arrest, custody and the granting of bail are being investigated across Australia through the work of the Royal Commission into Aboriginal Deaths in Custody. This reflects the fact that 39 per cent of all deaths which occurred in custody during the period 1980 to 1988 occurred while the person was in police custody, rather than in prison. Among the Aboriginal deaths in custody during this period, however, 63 per cent occurred in police custody, rather than in prison (Research Paper No. 7, *see* pp. 107-36 of this volume). Most of these people were in custody because bail had been refused either by senior officers at the relevant police station or by a court.

The present study was undertaken to provide a description of the patterns of arrest, custody and bail at one Australian police station during a period of some six weeks. Although it is not suggested that the Kalgoorlie police station is typical of all police stations in Western Australia, nor of all stations in rural Australia, it is useful to have available information describing some aspects of policing in Kalgoorlie. (Caution should be observed, however, in extrapolating from the relatively short study periods to longer periods of time.)

Emphasis has been placed in this report on the granting of bail. This reflects two concerns, namely, concerns about discrimination and concerns about deaths of Aboriginal people in custody. It has been alleged that Aboriginal people are discriminated against by being held in custody, rather than being released on bail, proportionately more frequently than are non-Aboriginal people. The 1987 component of this study confirmed that this bias existed strongly at that stage with very high proportions of Aboriginal people being held in custody, while the non-Aboriginal people tended to be released early on bail. The 1990 component of the study suggests that this pattern still exists though to a greatly reduced degree.

The emphasis on bail also reflects the fact that the early hours of custody are particularly implicated in deaths in police custody, including deaths from injuries, deaths from disease, and self-inflicted deaths (Research Paper No. 7, pp. 123-4). Commissioner Muirhead, the original Commissioner of the Royal Commission into Aboriginal Deaths in Custody, outlined his concern as follows:

> *. . . the material before this Commission indicates that the first few hours of solitary custody are likely to be perilous for some prisoners who may be at risk, and where the security of others is not threatened and the individual is unlikely to abscond, early and simple release on bail should be facilitated. The practices of charging a person for a non-serious offence followed by confinement in custody, fingerprinting and his presentation without bail before the next available court should be utilised only when there is no true alternative. Administratively the procedure of swearing a complaint and serving a*

> *summons may be tedious to police officers. Nevertheless, it is essential, in the interests of justice, that such procedures should be adopted as an alternative to retaining a person in custody overnight or for more extended intervals (*Royal Commission into Aboriginal Deaths in Custody 1988, p. 22).

It is hoped that this study will assist the work of the Royal Commission in Western Australia, and others concerned with police custody in Australia, as they consider patterns of arrest, custody and bail generally and, in particular, in localities where many Aboriginal people are arrested.

Summary

1. This study was initiated by the staff of the Perth office of the Royal Commission into Aboriginal Deaths in Custody. Its purpose was to obtain information on the patterns of arrest, custody and bail at the Kalgoorlie, Western Australia, police station, and to test the hypothesis that differences exists between Aboriginal and non-Aboriginal people, at the Kalgoorlie police station, with regard to the granting of bail.

2. Data were collected covering each occasion upon which a person was taken to the Kalgoorlie police station during the period 1 March to 14 April 1990. A comparison of the findings from that period was made with information about arrests, custody and bail during the period 1 October to 8 November 1987, which are contained in a report prepared by the Criminology Unit of the Royal Commission in February 1990. The project was implemented with the full cooperation of the Western Australian Police.

3. During the 45 days from 1 March to 14 April 1990, 374 people were arrested and taken to the Kalgoorlie police station. Forty-six per cent of these were Aboriginal people, and 83 per cent were male. Their ages ranged from 12 to 52 years with 19 per cent of the people being less than 18 years of age.

4. The number of arrests per day varied markedly with peaks towards the end of the week: the largest number of apprehensions occurred on Thursdays, Fridays and Saturdays.

5. In 18 per cent of the cases the person was apprehended on warrant.

6. Offences against good order, other than drunkenness, was the most frequent category of offence, accounting for 25 per cent of the cases for which data on offence and Aboriginality were available, with an additional 23 per cent of the arrests being for drink driving. Only 13 arrests, or 4 per cent of the total, were for the offence of public drunkenness.

7. The condition of the prisoner was noted by the police station staff. In approximately half of the cases the condition of the prisoner was said to be 'good' and, in an additional 30 per cent of the cases, the person was shown to have been intoxicated by alcohol but not to have had any other adverse condition. In one-quarter of the cases, the prisoners were reported to be suffering some degree of injury although the injury was minor in many cases. A significantly higher proportion of the non-Aboriginal prisoners, compared with the Aboriginal ones, had their condition described as 'good'.

8. Approximately three-quarters of the cases (74 per cent) were released on bail, with an additional 21 per cent leaving the station under escort to another custodial or health facility. A higher proportion of non-Aboriginal people, compared with Aboriginal people, were shown to have been released on bail, and a higher proportion of Aboriginal people, on the other hand, were shown as having left the Kalgoorlie police station under escort to another custodial facility.

9. The periods in custody were generally quite short, with half the cases being released within 47 minutes and three-quarters of the cases within 5 hours. Aboriginal people were held significantly longer than non-Aboriginal people, having means of 6.6 hours and 3.7 hours in custody, respectively. Among the 73 per cent of the cases that were released on bail, 55 per cent of the Aboriginal people and 76 per cent of the non-Aboriginal people were released within one hour.

10. A comparison of the patterns of arrest, custody and bail at the Kalgoorlie police station during the 1 October-8 November 1987 and 1 March-14 April 1990 periods revealed the following:

· The proportion of arrests which were of Aboriginal people had fallen substantially.

· Although arrests for drunkenness among Aboriginal people were the main source of cases in the 1987 study period, such events rarely occurred in the 1990 study period.

· During both study periods, higher proportions of Aboriginal people than non-Aboriginal people were held in custody, rather than being released quickly on bail. The discrepancy between the two groups was much lower in 1990 than in 1987.

· The proportion of both Aboriginal and non-Aboriginal people released on bail has increased between the 1987 and 1990 study periods, so that in the 1990 period higher proportions of both groups were released on immediate bail than were held in custody.

11. It is hoped that this information on arrests, bail and custody at Kalgoorlie police station will be of value not only to the management of that station but also to the Royal Commission and others who are interested in the patterns of policing in Australia. The importance of releasing as many people as possible on bail, rather than holding them in police custody, is highlighted by the fact that 63 per cent of the Aboriginal deaths in custody and 39 per cent of all deaths in custody during the 1980-1988 period, took place in police custody, and in half of these police cases the person died within the first five hours of custody.

October 1990

References

Biles, D. 1990, 'Arrest, Bail and Custody at Kalgoorlie Police Station', Royal Commission into Aboriginal Deaths in Custody, 14 February, revised 30 March, Canberra.

Royal Commission into Aboriginal Deaths in Custody 1988, *Interim Report: Commonwealth, New South Wales, Victoria, Queensland, Western Australia, South Australia, Tasmania and Northern Territory*, AGPS, Canberra.

ACKNOWLEDGMENTS

The research project that is reported in this paper was undertaken at the request of the staff of the Perth office of the Royal Commission. It also received their full cooperation. At every stage of the work Commissioner Daniel O'Dea gave his full support and encouragement.

Appendix 18.1

Survey Instrument
Royal Commission into Aboriginal Deaths in Custody

SURVEY OF ARREST, BAIL AND CUSTODY AT

[ ] **POLICE STATION**

This form is to be completed for all cases of arrest, with or without warrant, where the arrested person was taken to the police station during the survey period, even if that person is bailed immediately. Persons in custody at the beginning and end of the survey period are to be included.

NAME OF ARRESTED PERSON [ ]

AGE [ ] years **GENDER** [ ] **RACE** [ ]

DATE AND TIME OF LODGEMENT AT POLICE STATION

d d m m y y [ ][ ][ ][ ][ ][ ] [ ][ ][ ][ ] 24 hour clock

ARRESTED ON WARRANT? YES OR NO [ ]

NUMBER OF OFFENCES [ ]

MOST SERIOUS OFFENCE [ ]

CONDITION OF PRISONER [ ]

STILL AT STATION AT END OF SURVEY PERIOD? YES OR NO [ ]

DATE AND TIME OF RELEASE

d d m m y y [ ][ ][ ][ ][ ][ ] [ ][ ][ ][ ] 24 hour clock

RELEASE TO BAIL, FREEDOM OR ESCORT [ ]

IF ESCORT, TO WHERE? [ ]

SURVEY OF ARREST, BAIL AND CUSTODY

Instructions

The information to be recorded should be as noted in the inventory of property and/or other police station records taken from prisoner.

1. Name - the full name of the arrested person is to be given.

2. Age of the arrestee in years only is required.

3. Gender as indicated in the inventory of property.

4. Race - indicate as Aboriginal, other or unknown.

5. Date and time of lodgement at police station - the date is to be shown in figures, e.g., 07/05/90 for 7 May 1990 and a 24 hour clock is to be used. Midnight is 0000.

6. Arrested on warrant - indicate yes or no.

7. Number of offences - the total number of offences preferred on this occasion to be recorded.

8. Most serious offence or charge - this is to be indicated in writing. This information will be coded later.

9. Condition of prisoner - as indicated on the inventory of property.

10. Date and time of release - as for item 5 above.

11. Release to bail, freedom or escort - indicate which option is relevant. If the escort is to prison or hospital, etc., that is to be shown where indicated.

RESEARCH PAPER NO. 19

Aboriginal People in Prisons and Non-Custodial Corrections

David Biles
& David McDonald

This paper is intended to serve a number of related purposes. In the first place it aims to present the most recently available information on Aboriginal imprisonment in Australia and thus bring up to date the basic statistical data presented in an earlier paper in this series (Research Paper No. 6, *see* pp. 85-105 of this volume). Secondly, it will present some original data on the *flow* of Aboriginal people into prisons and contrast this information with the *stock* data obtained from censuses of prisoners. Thirdly, it will present the most comprehensive data yet available about Aboriginal involvement in alternatives to imprisonment or non-custodial corrections. Finally, and possibly most importantly, this paper may be seen as a direct application of the recently released research paper which focussed on methodological issues in the calculation of over-representation and exposure to risk (Research Paper No. 17, *see* pp. 417-52 of this volume). At a broader level, all of these specific purposes may be subsumed under the general purpose of all of the papers produced by the Research Unit which is to provide a sound factual basis for the national report of the Royal Commission while placing the phenomenon of Aboriginal deaths in custody into a broader context.

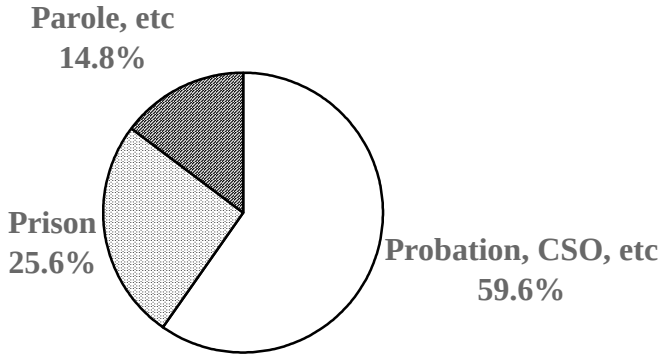
Nearly all of the statistical information used in this paper has been taken from the collections developed by the Australian Institute of Criminology in cooperation with the corrections departments of all states and territories. These include the censuses of prisoners and of persons serving community based correctional orders as well as monthly statistical collections. In some cases, additional collections have been undertaken and additional analyses of the data have been conducted at the request of the Criminology Unit of the Royal Commission.

The main focus throughout the paper is on information held by corrections departments and, therefore, some programs which might be seen as alternatives to imprisonment, or at least alternatives to detention, are not covered in the paper. These programs include the use of community justice panels in Victoria, proclaimed places in New South Wales and sobering-up shelters in the Northern Territory. These, and similar programs elsewhere, all aim to divert certain types of offenders out of the criminal justice system and they have the effect of reducing the numbers of persons held in police custody and appearing in the courts. Important as they are, these programs are not likely to have a major impact on the numbers of people in prison.

Australian Correctional Systems

The basic facts about the correctional systems of the six states, the two main Territories and the Commonwealth were presented in Research Paper No. 6 and will not be repeated here. It is worthy of note, however, that since the preparation of that paper the total number of persons in prison in Australia has increased markedly as also have the numbers of persons serving non-custodial correctional orders. For example, on 30 June 1985 the biennial census showed that there were 31,403 distinct persons serving non-custodial orders throughout Australia and on that date there was a total of 10,844 persons in prisons. Two years later there were 34,794 distinct persons serving non-custodial orders and a further 12,113 persons in prison. On both occasions prisoners comprised just over 25.6 per cent of all persons serving correctional orders, and the bulk of the non-custodial orders comprised persons serving probation or community service orders (CSOs). The broad picture is illustrated in Figure 19.1.

FIGURE 19.1
Correctional Orders, Australia, 30 June 1987



The very large numbers of probation and community service orders may be described as alternatives to imprisonment as they are imposed by judges or magistrates in circumstances where a sentence of imprisonment could have been imposed. The smaller group of post-prison orders, such as parole, release on licence, and so on, are not strictly alternatives to imprisonment but are measures that shorten the period of imprisonment that is imposed by the courts. However, the post-prison orders also have the effect of reducing the numbers of people in prison.

The various types of court-based and prison-based non-custodial orders will be outlined later in this paper together with a review of the most recently available evidence on the extent to which Aboriginal people are involved with these measures.

Prison Statistics from 1982 to 1989

Since 1982 the Australian Institute of Criminology, with the full cooperation of every Australian corrections department, has coordinated a national census of all prisoners held in gazetted prisons on 30 June each year. The Institute has published the most significant results of these censuses annually under the title Australian Prisoners. One of the items of information sought each year for each prisoner has been whether or not the prisoner considers himself or herself to be Aboriginal or a Torres Strait Islander. The responses to this item have provided a basic source of information on the extent of Aboriginal over-representation in Australian prison systems. In most jurisdictions in most years there is a small number of prisoners for whom this question could not be answered and therefore they are recorded as 'Aboriginality unknown'. Also, in Queensland as a matter of government policy this information was not released for any prisoners until 1987. However, the data presented in Table 19.1 and Table 19.2 present the most complete picture of the numbers of Aboriginal and non-Aboriginal prisoners in each Australian prison system each year from 1982 to 1989.

From Table 19.1 it can be seen that over this eight-year period the total number of prisoners on census day each year has increased from 9,826 in 1982 to 12,964 in 1989, that is an increase of more than 3,000 prisoners or 31.9 per cent. Over the total eight-year period, it can be seen that the number of prisoners known to be Aboriginal has increased from 1,049 to 1,825, a 74 per cent increase, but this is not a valid comparison as the number of 'unknowns' has varied over this period from a peak of nearly 2,500 to fewer than 200 for the reasons outlined above. The change in the structure of prison populations is shown more clearly in Table 19.2 where the same figures are presented as percentages for each jurisdiction.

In order to take into account the changing proportions of 'unknowns', particularly in the Queensland figures, calculations of the percentage of prisoners known to be either Aboriginal or non-Aboriginal have been made excluding the Queensland data for the total period and also excluding all cases where the Aboriginality of the prisoner was recorded as 'unknown'. The results of these calculations are shown in Figure 19.2.

TABLE 19.1
Australian Prisoners, 1982 to 1989 by Jurisdiction and Aboriginality

	NSW	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*ACT*	*Aust.*
1982									
Aboriginal	216	71	-	441	118	5	198	-	1,049
Non-Aboriginal	3,476	1,547	-	909	668	232	114	5	6,951
Unknown	27	135	1638	-	26	-	-	-	1,826
Total	3,719	1,753	1,638	1,350	812	237	312	5	9,826
1983									
Aboriginal	236	72	-	523	116	9	162	-	1,118
Non-Aboriginal	3,394	1,916	-	980	630	198	105	2	7,225
Unknown	103	8	1,709	-	18	2	-	13	1,853
Total	3,733	1,996	1,709	1,503	764	209	267	15	10,196
1984									
Aboriginal	242	47	-	492	88	22	127	-	1,018
Non-Aboriginal	3,047	1,615	-	1,051	416	216	122	17	6,484
Unknown	65	183	1881	-	60	3	-	-	2,192
Total	3,354	1,845	1,881	1,543	564	241	249	17	9,694
1985									
Aboriginal	304	44	-	489	93	8	214	1	1,153
Non-Aboriginal	3,726	1,789	-	1,006	644	187	120	-	7,472
Unknown	85	46	1,999	-	46	33	-	10	2,219
Total	4,115	1,879	1,999	1,495	783	228	334	11	10,844
1986									
Aboriginal	338	42	-	517	112	15	289	-	1,313
Non-Aboriginal	3,763	1,879	-	1,095	635	217	140	17	7,746
Unknown	129	34	2186	-	63	26	-	-	2,438
Total	4,230	1,955	2,186	1,612	810	258	429	17	11,497
1987									
Aboriginal	369	52	354	503	147	7	334	-	1,766
Non-Aboriginal	4,105	1,877	1,985	1,124	727	241	133	14	10,206
Unknown	77	27	6	-	2	32	-	-	144
Total	4,551	1,956	2,345	1,627	876	280	467	14	12116
1988									
Aboriginal	385	65	431	528	114	10	276	-	1,809
Non-Aboriginal	4,097	1,984	1,930	1,121	723	259	104	14	10,232
Unknown	209	22	13	-	7	28	1	-	280
Total	4,691	2,071	2,374	1,649	844	297	381	14	12321
1989									
Aboriginal	415	86	412	558	102	9	243	-	1,825
Non-Aboriginal	4,839	2,156	1,855	1,010	761	215	109	22	10,967
Unknown	7	14	122	-	8	21	-	-	172
Total	5,261	2,256	2,389	1,568	871	245	352	22	12,964

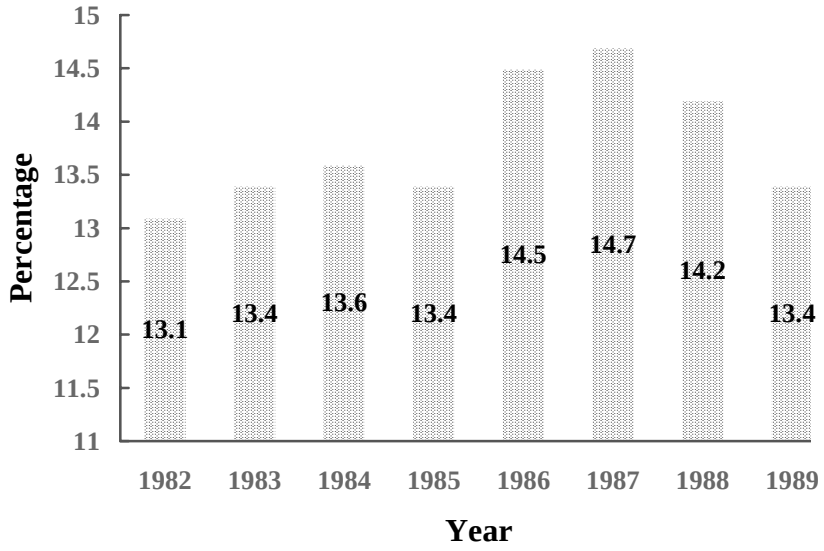
TABLE 19.2
Percentage of Aboriginal and Non-Aboriginal Prisoners in each Jurisdiction, 1982 to 1989

	NSW %	*Vic.* %	*Qld* %	*WA* %	*SA* %	*Tas.* %	*NT* %	*ACT* %	*Aust.* %
1982									
Aboriginal	5.8	4.1	-	32.7	14.5	2.2	63.5	-	10.7
Non-Aboriginal	93.5	88.2	-	67.3	82.3	97.9	36.5	100.0	70.7
Unknown	0.7	7.7	100.0	-	3.2	-	-	-	18.6
1983									
Aboriginal	6.3	3.6	-	34.8	15.2	4.3	60.7	-	11.0
Non-Aboriginal	90.9	96.0	-	65.2	82.5	94.7	39.3	13.3	70.9
Unknown	2.8	0.4	100.0	-	2.4	1.0	-	86.7	18.2
1984									
Aboriginal	7.2	2.5	-	31.9	15.6	9.1	51.0	-	10.5
Non-Aboriginal	90.8	87.6	-	68.1	73.8	89.6	49.0	100.0	66.9
Unknown	1.9	9.9	100.0	-	10.6	1.2	-	-	22.6
1985									
Aboriginal	7.4	2.3	-	32.7	11.9	3.5	64.1	9.1	10.6
Non-Aboriginal	90.5	95.2	-	67.3	82.3	82.0	35.9	-	68.9
Unknown	2.1	2.4	100.0	-	5.9	14.5	-	90.9	20.5
1986									
Aboriginal	8.0	2.1	-	32.1	13.8	5.8	67.4	-	11.4
Non-Aboriginal	89.0	96.1	-	67.9	78.4	84.1	32.6	100.0	67.4
Unknown	3.0	1.7	100.0	-	7.8	10.1	-	-	21.2
1987									
Aboriginal	8.1	2.7	15.1	30.9	16.8	2.5	71.5	-	14.6
Non-Aboriginal	90.2	96.0	84.7	69.1	83.0	86.1	28.5	100.0	84.2
Unknown	1.7	1.4	0.3	-	0.2	11.4	-	-	1.2
1988									
Aboriginal	8.2	3.1	18.2	32.0	13.5	3.4	72.4	-	14.7
Non-Aboriginal	87.3	95.8	81.3	68.0	85.7	87.2	27.3	100.0	83.0
Unknown	4.5	1.1	0.5	-	0.8	9.4	0.3	-	2.3
1989									
Aboriginal	7.9	3.8	17.2	35.6	11.7	3.7	69.0	-	14.1
Non-Aboriginal	92.0	95.6	77.6	64.4	87.4	87.8	31.0	100.0	84.6
Unknown	0.1	0.6	5.1	-	0.9	8.6	-	-	1.3

The trends shown in Figure 19.2, and also in Tables 19.1 and 19.2, are of such relevance to the work of the Royal Commission that they warrant close scrutiny. Possibly the most interesting fact to emerge is the decrease in the

proportion of prisoners who were known to be Aboriginal over the period 1987 to 1989, the period that the Royal Commission has been in operation. This later trend is in clear contrast to the period 1982 to 1987 which was marked by a fairly steady trend towards an increasing proportion of prisoners being known to be Aboriginal.

FIGURE 19.2
Proportion of Australian Prisoners (excluding Queensland) known to be Aboriginal, 1982-89



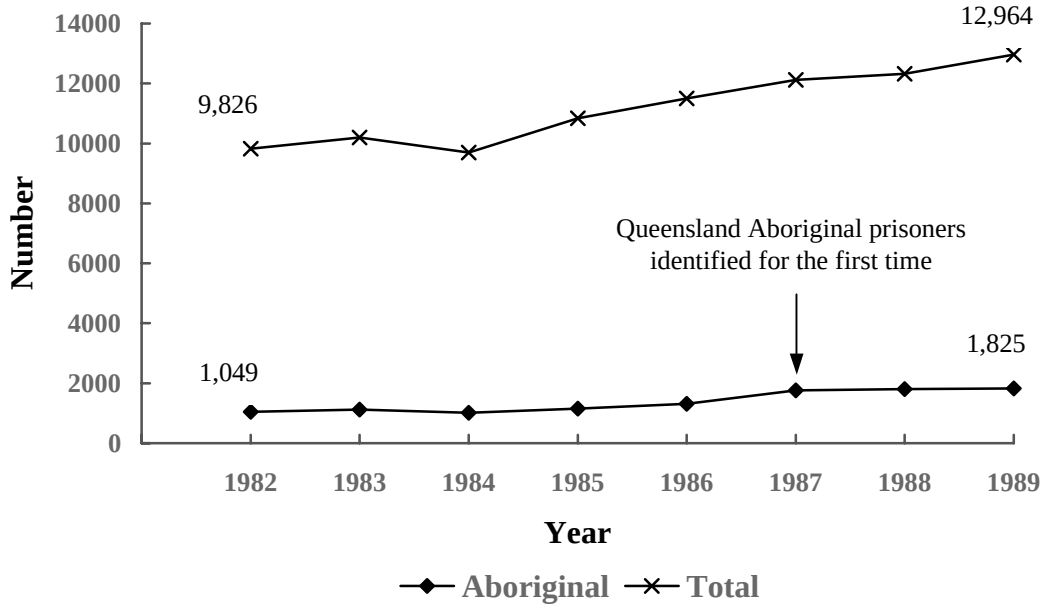
A close examination of the figures shows that from 1987 to 1989, excluding Queensland, the total number of non-Aboriginal prisoners increased by 10.8 per cent while the total number of Aboriginal prisoners did not change. This is the principal reason for the trend in the later years shown in Figure 19.2 above.

Figure 19.3 illustrates the pattern of change for Australia as a whole from 1982 to 1989. It can be seen then that the increase in the total number of prisoners has been over 3,000 during this eight-year period, a figure which is considerably higher than the highest estimate of Aboriginal prisoners which is fewer than 2,000.

An examination of the percentages in Table 19.2 may reveal which jurisdictions have increasing or decreasing proportions of Aboriginal prisoners. (It is important to note that the percentages in this table are calculated on the basis of tables including 'unknowns', and the national proportions also include Queensland, and therefore these percentages are not directly comparable with those shown in Figure 19.2.) It can be seen, for example, that the proportion of prisoners known to be Aboriginal has increased over this period in New South Wales from under 6 per cent to approximately 8 per cent, while in Victoria the proportion has varied from approximately 2 per cent to 4 per cent but there is no clear trend. In Western Australia the proportion of Aboriginal prisoners has

varied between 31 and 35 per cent, again without any clear trend, while in South Australia the proportion has varied from around 12 to 17 per cent with a decrease being seen in the last three years. In Tasmania the proportion of Aboriginal prisoners has varied between around 2 and 9 per cent, and in the Northern Territory between around 51 and 72 per cent, without any clear trend in either case. No trend can be seen in the incomplete Queensland figures, but the Aboriginal proportion of the prison population seems to vary between 15 and 18 per cent.

FIGURE 19.3
Australian Prisoners known to be Aboriginal and Total Prisoners, 30 June 1982-89



Aboriginal Over-Representation in Prison Populations

As mentioned previously, the appropriate method for calculating Aboriginal over-representation in prison has been fully discussed in Research Paper No. 17. In essence, it was concluded in that paper that over-representation should be calculated on the basis of a comparison between the Aboriginal and non-Aboriginal imprisonment rates rather than on the basis of a comparison between the proportion of Aboriginal people in the community and in prison.

Applying the preferred method to the 1989 prison census data, Aboriginal and non-Aboriginal imprisonment rates have been calculated for each jurisdiction together with the levels of over-representation found in each jurisdiction and in Australia as a whole. The results are shown in Table 19.3 and also in Figure 19.4.

The imprisonment rates for Aboriginal people and non-Aboriginal people shown in Table 19.3 have been calculated on the basis of the total Aboriginal

and non-Aboriginal populations in each jurisdiction as shown by the 1986 population census. Thus, each rate represents the number of persons in prison per 100,000 of the relevant population. This is the usual method in criminological research for expressing the relative use of imprisonment for different jurisdictions or for different segments of the population. This method can be refined, however, if the necessary background information is available, by calculating imprisonment rates on the basis of the adult (that is 17 years and above) Aboriginal and non-Aboriginal population in each jurisdiction. This refinement more accurately reflects the reality of Aboriginal and non-Aboriginal imprisonment and levels of over-representation because persons under 17 years of age are very rarely imprisoned and also because there is a striking difference between the Aboriginal and non-Aboriginal populations in terms of age distribution. For these reasons this refinement is worthwhile.

TABLE 19.3
Aboriginal and Non-Aboriginal Imprisonment Rates[a] and Level of Over-Representation, by Jurisdiction, 30 June 1989

Jurisdiction	*Aboriginal*	*Non-Aboriginal*	*Level of over-representation*
NSW[b]	689.0	88.5	7.8
Vic.	682.0	54.9	12.4
Qld	672.5	74.6	9.0
WA	1,476.7	74.8	19.7
SA	713.7	57.9	12.3
Tas.	134.1	50.8	2.6
NT	699.5	95.1	7.3
Aust.	801.7	72.6	11.0

[a]Prisoners per 100,000 of the relevant *total* population at 1986 Census of Population and Housing
[b]Including ACT

Table 19.4 shows the Aboriginal and non-Aboriginal adult imprisonment rates and the levels of over-representation for each jurisdiction and for Australia as a whole calculated on the basis of these rates. The essential facts of over-representation are also shown graphically in Figure 19.4.

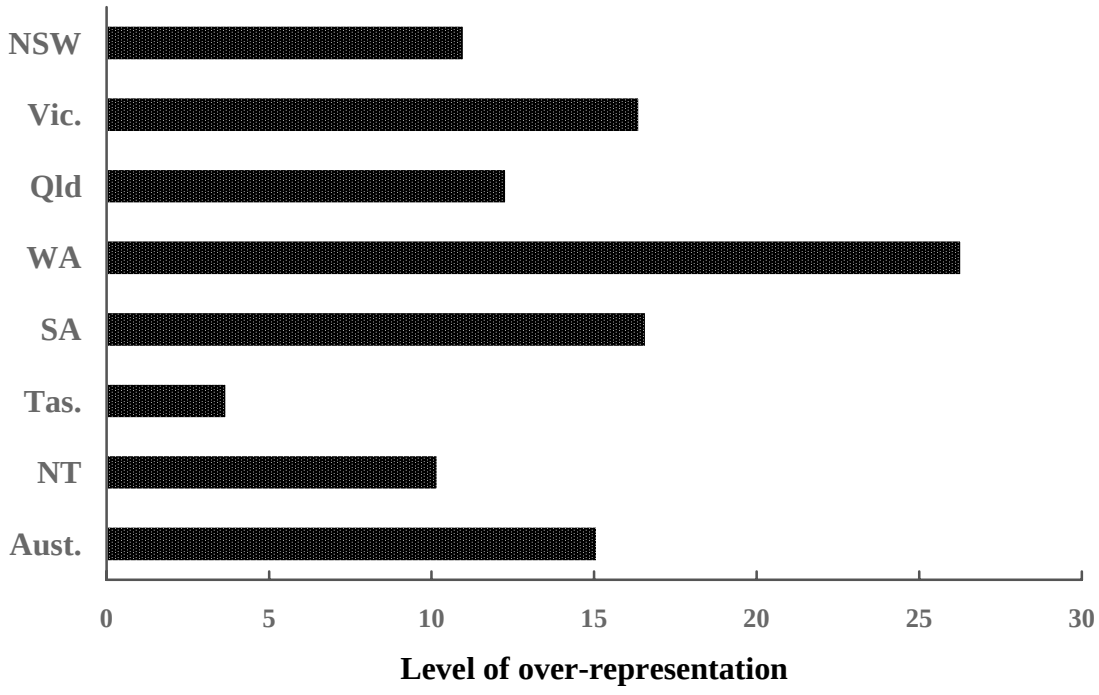
It can be seen from Table 19.4 that for Australia as a whole Aboriginal adults are just over fifteen times more likely than non-Aboriginal adults to be in prison, but this probability is very much higher in some jurisdictions than it is in others. Clearly, Western Australia has the highest level of Aboriginal over-representation in prison, while South Australia and Victoria have the next highest levels. The Tasmanian level of over-representation is very much lower than the level in all other jurisdictions, but the actual numbers here are very small.

TABLE 19.4
Aboriginal and Non-Aboriginal Adult[a] Imprisonment Rates and Level of Over-Representation, by Jurisdiction, 30 June 1989

Jurisdiction	*Aboriginal*	*Non-Aboriginal*	*Level of over-representation*
NSW[b]	1,300.4	118.1	11.0
Vic.	1,201.3	73.2	16.4
Qld	1,238.4	100.8	12.3
WA	2,665.6	101.5	26.3
SA	1,270.4	76.5	16.6
Tas.	258.2	69.3	3.7
NT	1,271.5	124.5	10.2
Aust.	1,464.9	97.2	15.1

[a]Prisoners per 100,000 of the relevant *adult (17 years and above)* population at 1986 Census of Population and Housing
[b]Including ACT

FIGURE 19.4
Levels of Adult (17+ years) Aboriginal Over-Representation in Prison, by Jurisdiction, 30 June 1989



Gender Differences

As with the non-Aboriginal prison population, there are many times more Aboriginal males in prison than Aboriginal females. On 30 June 1989 there were 1,714 Aboriginal males and 111 Aboriginal females in Australian prisons.

They comprised 14.1 per cent of all male prisoners and 16.4 per cent of all female prisoners.

Over the period 1982 to 1989, the proportion of all male prisoners who were Aboriginal has varied between 13.0 and 14.9 per cent, while the equivalent range for female prisoners varied between 12.6 to 16.4 per cent. (These percentages were calculated on the basis of only those prisoners for whom Aboriginality was known.) The trend for male and female Aboriginal prisoners over this period is shown in Figure 19.5. This graph shows that for most years in the series the percentage of female prisoners known to be Aboriginal has been higher than the equivalent percentage of male prisoners known to be Aboriginal.

The actual numbers of male and female Aboriginal prisoners in each jurisdiction as at 30 June 1989 are shown in Table 19.5.

Offences Leading to Imprisonment

As was previously shown with 1987 data in Research paper No. 6 (*see* pp. 85-105 of this volume) there is little or no evidence to support the popular assumption that the majority of Aboriginal persons who have been sentenced to imprisonment have been convicted of relatively trivial public order offences such as drunkenness or offensive behaviour. The data from the 1989 National Prison Census, reproduced in Table 19.6 again show that for both Aboriginal and non-Aboriginal prisoners, the offences leading to imprisonment are generally of a very serious nature. In fact, for both groups, the presence of well over three-quarters of persons in prison can be accounted for by reference to only seven offence categories: homicide, assault, sex offences, robbery, breaking and entering, theft and drug offences.

FIGURE 19.5

Percentage of Male and Female Prisoners known to be Aboriginal, 1982-89

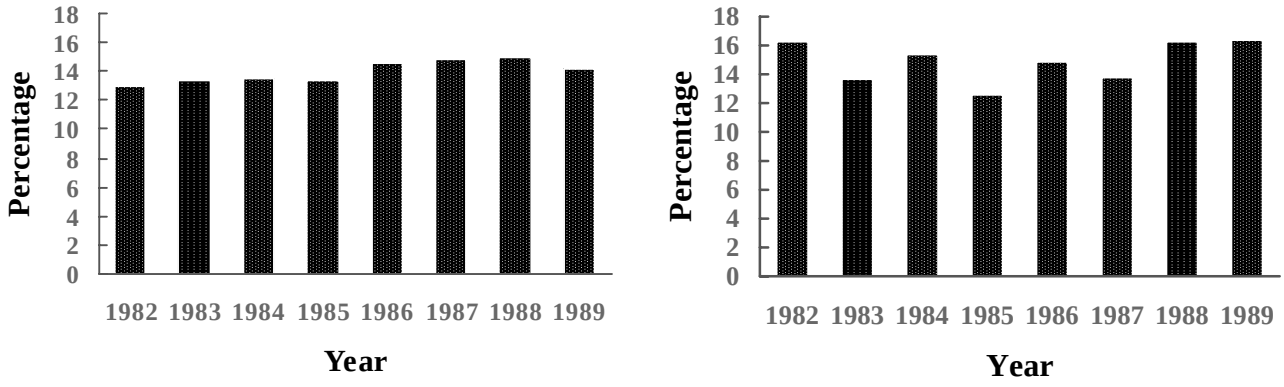


TABLE 19.5
Aboriginal Prisoners by Gender and Jurisdiction, 30 June 1989*

	Male	*Female*	*Total*
NSW	382	33	415
Vic.	75	11	86
Qld	392	20	412
WA	519	39	558
SA	97	5	102
Tas.	9	-	9
NT	240	3	243
Aust.	1,714	111	1,825

*There were no Aboriginal prisoners in the ACT on that date.

Notwithstanding the overall picture of prison being generally used for relatively serious offences, there are some interesting differences between Aboriginal and non-Aboriginal prisoners in relation to the most serious offence that led to conviction or charge. The proportions of Aboriginal prisoners held for assault, sex offences and breaking and entering are much higher than the proportions of non-Aboriginal prisoners, but the opposite is the case for drug offences and robbery. At the less serious end of the scale, it is also to be noted that Table 19.6 shows proportionately more Aboriginal people in prison for traffic and good order offences, for property damage, and also for the group of offences known as 'justice procedures'. Brief explanations of these and of the other offence categories used in Table 19.6 are:

Homicide includes murder, attempted murder, conspiracy to murder, manslaughter and driving causing death.
Assault includes occasioning grievous bodily harm, actual bodily harm, etc.
Sex Offences include rape, carnal knowledge, incest, indecent assault, etc.
Robbery (for the purposes of this table) includes the relatively small number of cases of extortion.
Break and Enter includes burglary in relation to dwellings, shops and other buildings.
Fraud includes misappropriation, forgery and false pretences.
Theft (for the purposes of this table) includes receiving and unlawful possession of stolen goods as well as motor vehicle theft, stealing from the person, etc.
Justice Procedures includes breach of probation, parole, etc, contempt of court, breach of family law court orders, escape from custody, fine default, etc.
Good Order Offences include offensive behaviour, drunkenness, etc.

Drug Offences include possession or use, dealing and trafficking, manufacture and growing any unlawful drugs, and

Traffic Offences includes all driving offences (including driving under the influence of alcohol) and licence or registration offences.

Prison Receptions

At the request of the Criminology Unit of the Royal Commission all Australian corrections departments agreed to conduct a special data collection of persons received into prison under sentence during the month of April 1989. (This was undertaken as a supplement to the monthly *Australian Prison Trends* data collection which is coordinated and published by the Australian Institute of Criminology.) For the purpose of this collection, data on Aboriginality and on the most serious offence leading to conviction and sentencing were recorded for all sentenced prisoners entering prison in that month. As there is particular interest in the numbers of Aboriginal and non-Aboriginal persons who are imprisoned for the non-payment of fines, in this collection a special category of 'fine default' was included in the list of offences. The actual numbers of prisoners received for each jurisdiction are shown in Table 19.7.

TABLE 19.6
Most Serious Offence on Conviction or Charge, Aboriginal and Non-Aboriginal Prisoners, 30 June 1989

	Aboriginal		*Non-Aboriginal*	
Offence	*No.*	*%*	*No.*	*%*
Homicide	161	8.8	1,167	10.6
Assault	322	17.6	760	6.9
Sex offences	256	14.0	1,046	9.5
Other against person	24	1.3	119	1.1
Robbery	117	6.4	1,397	12.7
Break and enter	352	19.3	1,620	14.8
Fraud	20	1.1	504	4.6
Theft	193	10.6	1,219	11.1
Property damage	49	2.7	177	1.6
Justice procedures	113	6.2	587	5.4
Drug offences	25	1.4	1,260	11.5
Good order offences	46	2.5	142	1.3
Traffic offences	102	5.6	449	4.1
Other	45	2.5	520	4.7
All offences	1,825	100.0	10,967	100.0

The most striking fact to emerge from this Table 19.7 is the 20.4 per cent of the prisoners received being identified as Aboriginal. This is to be compared with the percentages revealed by the annual censuses which over the past decade have ranged between 13 and 15 per cent. it can be seen therefore that

the *flow* of Aboriginal people into prison is considerably higher than the *stock* at any one time.

It is also of note that for all jurisdictions except Queensland and the Northern Territory the proportion of prison receptions identified as Aboriginal was greater than the proportions shown in the censuses. For Queensland and the Northern Territory there is little difference between the *stock* and *flow* percentages, but the difference is very great in Western Australia with over 56 per cent of the sentenced receptions being Aboriginal compared with between 30 and 35 per cent of the totals revealed by the annual censuses.

A further matter of interest is the pattern of offences, for both Aboriginal people and non-Aboriginal people, that lead to prison sentences being imposed. The basic facts are shown in Table 19.8.

Table 19.8 reveals a number of differences between Aboriginal people and non-Aboriginal people. The most striking is the 39.5 per cent of Aboriginal prison receptions for fine default compared with the 19.7 per cent for non-Aboriginal receptions. This finding provides independent confirmation of the results of a study of Aboriginal fine default in South Australia funded by the Criminology Research Council in 1986 (South Australian Cabinet 1987). It is also worthy of note that the proportion of Aboriginal receptions sentenced for assault is considerably higher than the equivalent proportion of non-Aboriginal receptions. The opposite is true, however, for theft, break and enter, traffic offences, justice procedures (other than fine default), robbery and drug offences.

TABLE 19.7
Sentenced Prisoners Received by Aboriginality and Jurisdiction, April 1989

Jurisdiction	*Aboriginal*	*Non-Aboriginal*	*Not stated*	*Total*	***Per cent Aboriginal*[(a)]**
NSW[(b)]	44	416	73	533	9.6
Vic.	11	216	-	227	4.8
Qld	55	327	-	382	14.4
WA	123	95	-	218	56.4
SA	46	162	1	209	22.1
Tas.	11	74	-	85	12.9
NT	47	22	-	69	68.1
Aust.	337	1,312	74	1,723	20.4

[(a)]Percentage of those persons for whom Aboriginality was stated in the data collection
[(b)]Including prisoners sentenced in the ACT

TABLE 19.8
Most Serious Offence of Sentenced Prison Receptions, Aboriginal and Non-Aboriginal, April 1989

	Aboriginal		*Non-Aboriginal*	
Offence	*No.*	*%*	*No.*	*%*
Homicide	4	1.2	13	1.0
Assault	40	11.9	87	6.6
Sex Offences	11	3.3	42	3.2
Other Against Person	1	0.3	13	1.0
Robbery	1	0.3	28	2.1
Break and Enter	25	7.4	144	11.0
Fraud	2	0.6	71	5.4
Theft	28	8.3	212	16.2
Property Damage	14	4.2	19	1.4
Fine Default	133	39.5	258	19.7
Justice Procedures	18	5.3	110	8.4
Good Order Offences	11	3.3	39	3.0
Drug Offences	3	0.9	60	4.6
Traffic Offences	37	11.0	204	15.5
Other	9	2.7	12	0.9
Total	337	100.0	1,312	100.0

In addition to the differences between Aboriginal and non-Aboriginal receptions that are shown in Table 19.8, it is of interest to compare these patterns with those shown in Table 19.6 for the prison census of 30 June 1989. This comparison shows that for both Aboriginal people and non-Aboriginal people the flow data in Table 19.8 gives much lower percentages for all of the serious offence categories than are shown in Table 19.6 for stock data. This is not surprising as serious offences result in longer prison sentences and therefore make a greater contribution to prison populations. It is not often possible, however, to present this comparison as clearly as is shown by these two tables.

Aboriginal Over-Representation in Prison Receptions

The data on Aboriginal over-representation in prison presented up to this point have been based on information received from the annual National Prison Census. This approach provides information on the size and composition of the prison population at a particular time. In other words, it uses stock data. A somewhat different pattern arises, however, when one uses information on receptions to prison, that is. flow data. As indicated in Tables 19.7 and 8, above, during the month of April 1989, 337 Aboriginal and 1312 non-Aboriginal receptions occurred. The one month reception rates for all ages and for adults, respectively, along with over-representation levels, are set out in Table 19.9.

TABLE 19.9
Sentenced Prisoner Reception Rates,[(a)] all Ages and Adults,[(b)] April 1989

	All ages			*Adults*		
Jurisdiction	*Aboriginal*	*Non-Aboriginal*	*Over-representation*	*Aboriginal*	*Non-Aboriginal*	*Over-representation*
NSW	74.6	7.8	9.6	137.9	10.6	13.1
Vic.	87.2	5.4	16.2	153.7	7.3	20.9
Qld	89.8	12.9	6.9	165.3	17.8	9.3
WA	325.5	6.9	46.9	587.6	9.5	61.6
SA	321.9	12.2	26.5	572.9	16.3	35.2
Tas.	163.9	17.2	9.5	315.5	23.9	13.2
NT	135.3	18.3	7.4	245.9	25.1	9.8
Aust.	148.0	8.5	17.3	270.5	11.6	23.4

[(a)]Rates per 100,000
[(b)]Aged 17 years and above

A comparison of Table 19.3 and Table 19.9 indicates that, with regard to estimates of over-representation using all ages denominator data, Aboriginal people in prison, as counted at the 30 June 1989 Prison Census, were over-represented compared with non-Aboriginal people by a factor of 11.0. The over-representation level based on April 1989 receptions, however, provides an Aboriginal over-representation level of 17.3. The corresponding over-representation levels calculated on an adult population basis is 15.1 for prison census data and 23.4 on a prison receptions basis. The differences between the estimates of over-representation levels using *stock* and *flow* data, respectively, reflect the fact that Aboriginal people have, on average, shorter sentences than non-Aboriginal people. In other words, the higher over-representation level of Aboriginal people derived by *flow* data compared with *stock* data indicates that large numbers of Aboriginal people are received into prisons but stay there for relatively shorter periods compared with non-Aboriginal people. The data presented here highlight the fact that, when quoting rates of imprisonment and over-representation, it is important to specify clearly what are the data used to produce the calculations, and in particular to specify whether stock or flow data are used.

Non-Custodial Corrections

All Australian states and territories have made provision for a broad range of sentencing options, generally referred to as alternatives to imprisonment, to be available to the courts, as well as a number of administrative arrangements which have the effect of reducing the time which sentenced prisoners actually

serve in custody. These options and arrangements are often referred to as either non-custodial or community based correctional orders. Details vary markedly between jurisdictions, but the most widely used court-based option is probation (also known as supervised recognizance) and this is available in all jurisdictions. In recent years at any time over 20,000 people have been serving probation orders or the equivalent throughout Australia. That is, at any one time about twice as many people are serving probation orders as there are in prison.

The second most widely used court-based option is the community service order. This is now available in all jurisdictions having been introduced first in Tasmania in 1971 and most recently in the ACT in 1985 (*see further* Chan & Zdenowski, pp. 67-90, 131-54). The use of this option has increased markedly in recent years with over 7,000 community service orders being served on 30 June 1987 (Debaecker 1990).

The most important post-prison order is parole (generally called release on licence for persons sentenced to life imprisonment). Approximately 5,000 ex-prisoners are serving parole orders at any time throughout the country. Parole is also available in all states and territories.

Compared with these three major non-custodial orders, the other options available attract relatively small numbers and none is available in all jurisdictions. Details of numbers are presented below but these additional types of orders include: pre-sentence supervision, fine option orders, attendance centre orders, aftercare provision, and pre-release orders. In Victoria, community based orders are used for all non-custodial corrections and may include a number of different conditions relating to work, education, treatment, reporting, and so on. Non-custodial orders in Victoria are therefore not always comparable with those in other jurisdictions.

Statistics indicating the numbers and types of people serving non-custodial correctional orders in Australia are not as well developed as they are for prisons. A national census covering this area was first conducted by the Australian Institute of Criminology in 1985. Some of the results of that census were included in Research Paper No. 6, but their value was reduced by the fact that in well over half of the cases the Aboriginality of the individual person was not stated. A second census of community based corrections was conducted in 1987. On that occasion the number of cases where Aboriginality was not stated was considerably reduced, but was nevertheless disappointing, especially for New South Wales. (At the time of writing, October 1990, the official results of the third census conducted in 1989 are not available, but unofficially it is known that the proportion of cases where Aboriginality was not stated is considerably higher than was the case in 1987.) The basic findings from the 1987 census are shown in Table 19.10.

TABLE 19.10
Distinct Persons Serving Non-Custodial Correctional Orders by Jurisdiction and Aboriginality, 30 June 1987

Jurisdiction	*Aboriginal*	*Non-Aboriginal*	*Not stated*	*Total*	***Per cent Aboriginal****
NSW	793	10,071	2,352	13,216	7.3
Vic.	116	4,992	829	5,937	2.3
Qld	464	6,144	183	6,791	7.0
WA	480	2,771	-	3,251	14.8
SA	211	2,379	154	2,744	8.1
Tas.	83	1,173	366	1,622	6.6
NT	447	451	3	901	49.8
ACT	1	318	13	332	0.3
Aust.	2,595	28,299	3,900	34,794	8.4

*Percentage of those persons for whom Aboriginality was stated in the census

It is of interest to note that in all jurisdictions except Tasmania the proportion of persons serving non-custodial correctional orders who were Aboriginal was noticeably lower than the equivalent proportion of Aboriginal prisoners at that time. This comparison is shown clearly in Table 19.11. For the sake of completeness this table also shows the percentage of the adult community (17 years and above) who were identified as Aboriginal in the 1986 population census (calculated from Table ABSTAT4, Australian Bureau of Statistics, Census of Population and Housing, 1986). Following the conclusion reached in Research Paper No. 17, the calculation of levels of over-representation from these data is not recommended other than by the 'odds ratio' method.

The differences in Aboriginal representation in custodial and non-custodial corrections is most striking in those jurisdictions where the proportions of Aboriginal prisoners are highest. Thus, the difference between the two sets of percentages is highest in the Northern Territory, Western Australia, South Australia and Queensland, and is considerably lower in New South Wales and Victoria.

TABLE 19.11
Percentage of Aboriginal Persons in Prison and Serving Non-Custodial Correctional Orders by Jurisdiction, 30 June 1987, and in the Adult[a] Community, 30 June 1986

Jurisdiction	*Prison[b]*	*Non-custodial[b]*	*Community*
NSW	8.2	7.3	0.8
Vic.	2.7	2.3	0.2
Qld	15.1	7.0	1.8
WA	30.9	14.8	2.1
SA	16.8	8.1	0.8
Tas.	2.8	6.6	1.1
NT	71.5	49.8	17.9
ACT	-	-	0.4
Aust.	14.8	8.4	1.1

[a]17 years and above
[b]Cases where Aboriginality was not stated have been excluded

For all jurisdictions it is apparent that Aboriginal people are over represented in non-custodial corrections but generally at a lower level than their over-representation in prisons. Speculatively, it may be suggested that this difference is due to a perception by judges and magistrates that Aboriginal offenders are less likely than non-Aboriginal offenders to comply with the conditions of non-custodial orders. If this is true, it may provide some explanation of the generally shorter prison terms served by Aboriginal people as identified by Walker (1987, pp. 106-17). Alternatively, the difference shown in Table 19.11 may be due to some extent to the fact that some Aboriginal offenders decline to accept the conditions of non-custodial orders. This was reported as a relevant consideration in a South Australian study of imprisonment for non-payment of fines that was mentioned above (South Australian Cabinet 1987). On the basis of the available evidence it is not possible to differentiate between these two hypothetical explanations.

Some further insight might be gained, however, by examining the numbers of Aboriginal people and non-Aboriginal people serving each type of non-custodial order in each jurisdiction. As there are major differences between jurisdictions in the availability of the various types of orders this examination is best conducted by focussing on each jurisdiction separately.

In the statistical tables presented for each jurisdiction below it should be noted that the numbers refer to persons serving orders, not distinct persons. These two concepts are different as distinct persons could be serving two or more orders simultaneously, for example, a probation order and a community service order. For this reason, totals for all order types for each jurisdiction have not been included.

New South Wales

In addition to the three standard types of non-custodial orders, probation, parole and community service orders, New South Wales in 1987 had a small number of persons under pre-sentence supervision. This was usually as a condition of bail which was set for a relatively short period while a pre-sentence report was prepared for the court by a probation officer. At that time there was also a larger number of persons serving aftercare probation orders. These were persons who had been sentenced to prison for three years or less and had had a non probation period named by the court. (The major differences between parole and aftercare probation were the fact that the latter provided for automatic release, not subject to the discretion of the parole board, and aftercare probation only applied to sentences of three years or less.) Aftercare probation has lapsed in NSW following legislation in 1989 which provided for what is popularly known as 'truth in sentencing'.

TABLE 19.12
Persons Serving Orders by Type of Order and Aboriginality, New South Wales, 30 June 1987

Order type	*Aboriginal*	*Non-Aboriginal*	*Not stated*	*Total*	***Per cent Aboriginal****
Pre-sentence supervision	16	126	29	171	11.3
Probation, supervised recognizance	568	6,946	1,574	9,088	7.6
Community service order	112	1,443	369	1,924	7.2
Aftercare probation	86	865	154	1,105	9.0
Parole/licence	84	1,507	290	1,881	5.3

*Excludes cases where Aboriginality is not stated.

The value of the data shown in Table 19.12 is considerably reduced by the large number of cases for which Aboriginality is not stated. Nevertheless, it is of interest to note that there was a lower proportion of Aboriginal people on parole than was the case for all other types of order. This finding is of some importance as parole is an effective mechanism for reducing the number of persons in prison.

Victoria

As mentioned above, all non-custodial correction orders in Victoria are adapted from general community based orders to which special conditions are added by the court as deemed appropriate for each case. The types of orders shown in Table 19.13 may not therefore be exactly equivalent to orders with the same names in other jurisdictions. In 1987, Victoria was also different from other

jurisdictions in that it made provision for attendance centre orders and pre-release orders. The former generally required offenders to participate in treatment, education or training, while the latter was a special form of early release for prisoners that also required attendance at a designated centre. Also in Victoria a small number of persons were under fine option orders in 1987. These are equivalent to community service orders but are specifically designed to avoid imprisonment for the non-payment of fines.

It can be seen from Table 19.13 that the proportion of persons serving each type of order who were identified as Aboriginal was relatively small. As with New South Wales, the proportion of Aboriginal parolees in Victoria was considerably less than the proportion of Aboriginal prisoners.

Queensland

The range of non-custodial correctional options available in Queensland in 1987 is shown in Table 19.14. Fine option orders and aftercare probation were the two additions to the standard probation, parole and community service orders.

TABLE 19.13
Persons Serving Orders by Type of Order and Aboriginality, Victoria, 30 June 1987

Order type	*Aboriginal*	*Non-Aboriginal*	*Not stated*	*Total*	***Per cent Aboriginal****
Fine option order	1	105	10	116	0.9
Probation, supervised recognizance	44	2,052	363	2,459	2.1
Community service order	46	1,625	217	1,888	2.8
Attendance centre order	11	356	53	420	3.0
Pre release order	2	142	32	176	1.4
Parole/licence	12	758	153	923	1.6

*Excludes cases where Aboriginality is not stated.

Since 1987, Queensland has also had a home detention program which was designed to allow carefully selected prisoners to serve the last part of their sentences in the community. On 30 June 1987 there were 90 persons in Queensland serving home detention orders and one year later the number had increased to 134. It has not been possible to establish how many of these people were Aboriginal and therefore they are not included in Table 19.14.

TABLE 19.14
Persons Serving Orders by Type of Order and Aboriginality, Queensland, 30 June 1987

Order type	*Aboriginal*	*Non-Aboriginal*	*Not stated*	*Total*	***Per cent Aboriginal****
Fine option order	50	872	24	946	5.4
Probation, supervised recognizance	273	3,822	96	4,191	6.7
Community service order	123	997	26	1,146	11.0
Aftercare probation	65	582	24	671	10.0
Parole/licence	12	399	21	432	2.9

*Excludes cases where Aboriginality is not stated.

The most noticeable fact to emerge from Table 19.14 is the very low proportion of Aboriginal people in the parole/licence group. It was shown earlier that over 15 per cent of Queensland prisoners were Aboriginal, and it is therefore a matter of some concern that fewer than 3 per cent of Queensland parolees were Aboriginal. This difference is even greater than was found in New South Wales and Victoria.

Western Australia

Compared with all other jurisdictions, the statistical information from Western Australia is easier to interpret as only the three major types of orders are used and in all cases the Aboriginality of the persons serving the orders has been stated. The basic facts are shown in Table 19.15.

TABLE 19.15
Persons Serving Orders by Type of Order and Aboriginality, Western Australia, 30 June 1987

Order type	*Aboriginal*	*Non-Aboriginal*	*Not stated*	*Total*	***Per cent Aboriginal***
Probation, supervised recognizance	261	1,792	-	2,053	12.7
Community service order	133	702	-	835	15.9
Parole/licence	156	657	-	813	19.2

It can be seen from this table that, unlike all of the larger jurisdictions, in Western Australia the proportion of parolees who were Aboriginal was greater than the proportions serving probation or community service orders. The general pattern found earlier is reinforced, however, as the 19.2 per cent of parolees is to be compared with the 30.9 per cent of prisoners who were identified as Aboriginal.

South Australia

South Australia has a similar pattern of non-custodial orders as Western Australia with the addition of a very small number of persons under pre-sentence supervision. In contrast, however, there is in the South Australian data a fairly large number of cases for which Aboriginality is not stated.

Like Queensland, South Australia has a home detention program for the early release of prisoners and in some cases the individual person may be required to wear an electronic surveillance device to help ensure that the conditions of the release are observed. Home detention may be used as either a precursor to parole or to release to freedom. As home detention is not covered by the census of community based corrections, and as no details of Aboriginal and non-Aboriginal participation in the program are available, home detention is not listed in Table 19.16.

The remarkably high percentage of Aboriginal people under pre-sentence supervision shown in this table must be discounted as it is based on trivial numbers. For the other types of orders, the percentages are higher than the percentage of Aboriginal people in the general community but are considerably lower than the percentage in prison which was shown earlier to be 16.8.

TABLE 19.16
Persons Serving Orders by Type of Order and Aboriginality, South Australia, 30 June 1987

Order type	*Aboriginal*	*Non-Aboriginal*	*Not stated*	*Total*	***Per cent Aboriginal****
Pre-sentence supervision	2	5	-	7	28.6
Probation, supervised recognizance	81	1,342	106	1,529	5.7
Community service order	73	537	18	628	12.0
Parole/licence	59	537	33	629	9.9

*Excludes cases where Aboriginality is not stated.

Tasmania

From a criminological perspective, Tasmania has for many years been different from all other Australian jurisdictions in that it has had proportionately very large numbers of people serving non-custodial correctional orders. It was the first Australian jurisdiction to introduce a community service order program (originally called a work order program) and also has had for many years a rate of using probation which is much higher than the rate for the rest of Australia. It may or may not be relevant to note in this context that Tasmania has the only prison system in Australia which is not overcrowded. In fact, in recent years the main prison at Risdon has seldom been much more than half full.

The basic facts about persons serving non-custodial orders in Tasmania are shown in Table 19.17.

TABLE 19.17
Persons Serving Orders by Type of Order and Aboriginality, Tasmania, 30 June 1987

Order type	*Aboriginal*	*Non-Aboriginal*	*Not stated*	*Total*	***Per cent Aboriginal****
Probation, supervised recognizance	71	923	278	1,272	7.1
Community service order	14	266	113	393	5.0
Aftercare probation	2	49	5	56	3.9
Parole/licence	4	43	12	59	8.5

*Excludes cases where Aboriginality is not stated.

Apart from the high numbers of persons serving probation and community service orders the most unusual aspect of Table 19.17 is the fact that for all types of orders the proportions identified as Aboriginal are considerably higher than the proportion in prison, which at that time was 2.8 per cent. This must be interpreted cautiously, however, as the actual numbers are relatively small and the proportion for whom Aboriginality is not stated is relatively large.

Northern Territory

As is shown in Table 19.18, the Northern Territory has a fairly wide range of non-custodial orders. It also has had since 1988 a well developed home detention program which is quite different from the programs in Queensland and South Australia as in the Northern Territory offenders may be sentenced to periods of home detention directly by the courts. This is unique in Australia and is being watched with considerable interest. This program was established in February 1988 and from then until March 1990 a total of 127 home detention orders have been made by the courts in the Northern Territory. The recipients of these orders were: 18 Aboriginal males, 98 non-Aboriginal males, 3 Aboriginal females and 8 non-Aboriginal females. These cases are not included in Table 19.18.

TABLE 19.18
Persons Serving Orders by Type of Order and Aboriginality, Northern Territory, 30 June 1987

Order type	*Aboriginal*	*Non-Aboriginal*	*Not stated*	*Total*	***Per cent Aboriginal****
Fine option	48	126	-	174	27.6
Probation, supervised recognizance	201	186	2	389	51.9
Community service order	100	63	-	163	61.4
Aftercare probation	53	34	-	87	63.1
Parole/licence	61	54	1	116	53.0

*Excludes cases where Aboriginality is not stated.

From Table 19.18 it can be seen that the percentages of Aboriginal people serving each type of non-custodial order in the Northern Territory are much higher than in any other Australian jurisdiction but none is as high as that found in prison. It was shown above that in 1987, 71.5 per cent of prisoners in the Northern Territory were identified as Aboriginal.

Australian Capital Territory

A statistical table has not been developed for the ACT as the 1987 census of community based orders identified only one Aboriginal person serving an order of any type in that jurisdiction. Also, the total number of cases in the ACT is relatively small. For the sake of completeness, however, it is of interest to note that the options available in the ACT include: probation, community service orders, parole, pre-sentence supervision, aftercare probation and attendance centre orders. It is also to be noted that all convicted prisoners in the ACT serve their sentences in New South Wales prisons, while unconvicted prisoners on remand are held at the Belconnen Remand Centre in the ACT.

Australia

The detailed information presented for each jurisdiction in the preceding pages is consolidated for Australia as a whole in Table 19.19.

From this table it can be seen that throughout Australia reasonably large numbers of Aboriginal offenders were serving probation and community service orders in 1987, but most significantly only 8.8 per cent of the persons under parole orders were identified as Aboriginal. This is to be compared with the 14.8 per cent of prisoners who were identified as Aboriginal at that time.

TABLE 19.19
Persons Serving Orders by Type of Order and Aboriginality, Australia, 30 June 1987

Order type	*Aboriginal*	*Non-Aboriginal*	*Not stated*	*Total*	***Per cent Aboriginal****
Pre-sentence supervision	18	152	29	199	10.6
Fine option	99	1,103	34	1,236	8.2
Probation, supervised recognizance	1,499	17,241	2,426	21,166	8.0
Community service order	602	5,714	753	7,069	9.5
Attendance centre order	11	356	53	420	3.0
Aftercare probation	206	1,539	183	1,928	11.8
Pre release order	2	142	32	176	1.4
Parole/licence	388	4,007	512	4,907	8.8

*Excludes cases where Aboriginality is not stated.

Aboriginal Over-Representation in Non-Custodial Corrections

Adopting the same approach that was used in the calculation of Aboriginal over-representation in prisons, rates have been calculated here for Aboriginal and non-Aboriginal participation in non-custodial corrections on the basis of both total and adult populations. Table 19.20 shows Aboriginal and non-Aboriginal participation rates as at 30 June 1987 based on total populations. Cases where Aboriginality was not stated have been excluded.

For the reasons given previously, it is preferable to calculate these rates on the basis of adult populations only and this has been done in Table 19.21. This refinement has the effect of making all of the rates higher (as the denominators are smaller) as well as the levels of over-representation (due to the relatively smaller proportion of Aboriginal people in the community aged 17 years and above).

From this table it can be seen that for Australia as a whole, adult Aboriginal people are more than eight times more likely than adult non-Aboriginal people to be serving non-custodial correctional orders. There are noticeable differences between jurisdictions, however, with the levels being highest in South Australia, New South Wales and Victoria. Queensland is shown to have the lowest level of Aboriginal over-representation in non-custodial corrections, apart from the ACT.

TABLE 19.20

Aboriginal and Non-Aboriginal Rates* of Participation in Non-Custodial Correctional Orders and Levels of Over-Representation, by Jurisdiction, 30 June 1987

Jurisdiction	*Aboriginal*	*Non-Aboriginal*	*Level of over-representation*
NSW	1,344	192	7.0
Vic.	920	127	7.2
Qld	757	247	3.1
WA	1,270	205	6.2
SA	1,476	181	8.2
Tas.	1,237	277	4.5
NT	1,373	394	3.5
ACT	82	130	0.6
Aust.	1,140	187	6.1

*Per 100,000 of the relevant *total* population as recorded in the 1986 Census of Population and Housing

The basic facts about Aboriginal over-representation in non-custodial corrections (calculated from adult participation rates) are shown graphically in Figure 19.6. For ease of comparison with over-representation in prisons, this figure has been developed using the same scale as was used in Figure 19.4. The comparison clearly shows the overall lower rate of Aboriginal over-representation in non-custodial corrections than is found in prisons.

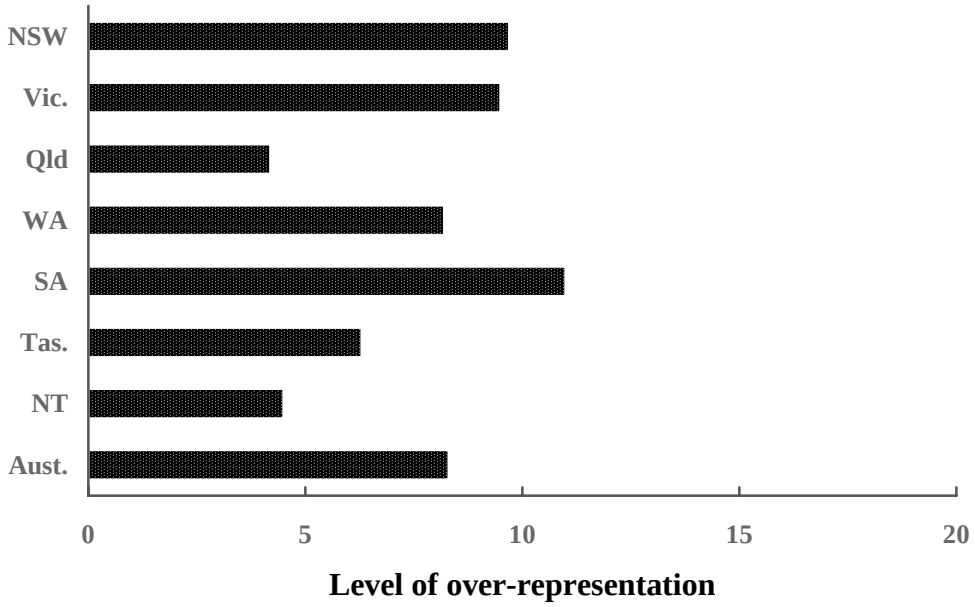
TABLE 19.21

Aboriginal and Non-Aboriginal Adult* Participation Rates* in Non-Custodial Corrections and Levels of Over-Representation, by Jurisdiction, 30 June 1987

Jurisdiction	*Aboriginal*	*Non-Aboriginal*	*Level of over-representation*
NSW	2,485	255	9.7
Vic.	1,620	170	9.5
Qld	1,395	334	4.2
WA	2,293	278	8.2
SA	2,628	239	11.0
Tas.	2,381	378	6.3
NT	2,339	515	4.5
ACT	146	183	0.8
Aust.	2,083	251	8.3

*Per 100,000 of the relevant *adult* population as recorded in the 1986 Census of Population and Housing

FIGURE 19.6
Levels of Adult (17+ years) Aboriginal Over-Representation in Participation in Non-Custodial Corrections by Jurisdiction, 30 June 1987



Discussion and Conclusions

This paper has presented the basic facts about Aboriginal over-representation in prisons and in non-custodial corrections for all Australian jurisdictions. While some jurisdictions have higher levels of over-representation than others, and while Aboriginal over-representation in non-custodial corrections is generally slightly lower than is the case for prisons, there is little joy to be gained from any of these statistics. To be sure, the proportion of prisoners identified as Aboriginal in Australia as a whole (excluding Queensland) has shown a slight decrease, from 14.7 to 13.4 per cent, from 1987 to 1989, but this is largely due to the massive increase in non-Aboriginal prisoners over this period. The reality is that the 1987 prison census showed 1,766 Aboriginal prisoners while the 1989 census showed 1,825.

This picture is gloomy enough, but the reality is likely to be even worse because there may well be some degree of under-counting of Aboriginal prisoners. It is understood that a highly original research project undertaken by the national Aboriginal and Islander Legal Services Secretariat has found that the actual number of Aboriginal people in several prisons in New South Wales and Queensland was substantially higher than shown by official records. This difference was established by representatives of the organisation who visited the prisons and asked to speak to all of the prisoners who were identified by the records as Aboriginal. In each prison, higher numbers of Aboriginal prisoners were found than were officially recorded (as reported in person conversations between the senior author and the research staff of the National Aboriginal and Islander Legal Services Secretariat). Furthermore, the Royal Commission's own

investigations of deaths in custody have revealed a number of Aboriginal cases that were not recorded as Aboriginal in official records. It is not possible to establish the extent of the probable under-counting of Aboriginal prisoners, but it may be confidently asserted that the statistics of Aboriginal involvement in both custodial and non-custodial corrections presented in this paper represent the absolute minima. Certainly, if there are any errors in the data, they are highly likely to be in the direction of under-counting of Aboriginal people rather than over-counting.

In reality, the enormity of the problem of Aboriginal over-representation in custody is such that it matters little if the figures change by a few percentage points (even though it is obviously of vital interest to know whether the problem is worsening or lessening over time). The urgent message that flows from this array of data is that steps must be taken to redress the situation. What those steps should be is beyond the scope of this paper, but in our view, to respond to these data by proposing separate Aboriginal prisons, as has been seriously suggested by a number of people, is self-defeating. Efforts must be made to reduce the over-representation rather than to accept what is fundamentally unacceptable.

A more practical question is the significance of the general finding that the level of Aboriginal over-representation in prison is considerably higher than the equivalent figure for non-custodial corrections. Our best estimates are that, for Australia as a whole, adult Aboriginal people are 15.1 times more likely than adult non-Aboriginal people to be in prison, but they are only 8.3 times more likely to be serving non-custodial correctional orders. This difference raises concerns of a very different nature from the concerns which are frequently expressed about Aboriginal over-representation in corrections generally. If it were shown, for example that the difference was due to a belief held by judges, magistrates and parole authorities that Aboriginal people are either less able or less willing to comply with the requirements of non-custodial correctional orders than are non-Aboriginal people, it would seem reasonable at least to question the basis for such a belief. It is possible that closer examination, facilitated by careful research, may show that Aboriginal people who are convicted of offences may respond very constructively to some types of non-custodial orders but not to others. A traditional probation order, or even a more modern community service order, for example, may well be less appropriate for a young Aboriginal offender than an order requiring the person to live at a particular location and to accept the directions of community leaders.

Such an approach may have some appeal, but the hard reality is that insufficient research has been undertaken to establish which types of sanctions are likely to be more effective with which types of offenders in general, let alone Aboriginal offenders. More research is certainly needed, but easy solutions should not be expected when the problems being addressed are deep seated and subject to many influences well beyond the scope of the criminal law or the criminal justice system. Certainly, small changes to the law or

practice in relation to the treatment of offenders should not be expected to have significant impacts on the patterns described in this paper.

Nevertheless, greater efforts are needed at all levels to keep the numbers of persons in prison, both Aboriginal and non-Aboriginal, to the lowest level that is consistent with public safety and well-being. There is certainly ample evidence to support the proposition that increasing prisoner numbers does not reduce crime and therefore increase public safety. Even though our earlier research has shown that the death rates of persons serving non-custodial correction orders are higher than the equivalent rates of people in prison, this is no basis for choosing imprisonment over its alternatives (*see* Research Paper No. 12, pp. 239-76 of this volume). The principles of humanity, equity and economy demand that the least disruptive option that is consistent with public safety is to be preferred, and non-custodial orders are certainly less disruptive than is incarceration. Furthermore, the limited evidence available suggests that non-custodial options are equally effective and much less expensive than imprisonment.

Summary

1. Statistics derived from the annual national census of prisoners from 1982 to 1989 show that over this period the total number of prisoners has increased from 9,826 to 12,964, while the number identified as Aboriginal has increased from 1,049 to 1,825. The latter comparison is not valid, however, as prior to 1987 the Queensland Government did not allow details of the Aboriginality of prisoners to be released.

2. If Queensland is excluded from the analysis, the proportion of prisoners known to be Aboriginal increased from 13.1 per cent in 1982 to 14.7 per cent in 1987 and then decreased to 13.4 per cent in 1989. The main reason for the decrease seems to be a massive increase in non-Aboriginal prisoners in recent years and a lower level of increase in Aboriginal prisoners.

3. A close analysis of the total and adult imprisonment rates for Aboriginal people and non-Aboriginal people at 30 June 1989 indicates that the adult Aboriginal rate was 15.1 times higher than the equivalent non-Aboriginal rate. It is suggested that this is the most accurate measure of Aboriginal over-representation in Australia's total prison population. The level of over-representation is shown to be highest in Western Australia at 26.3 and lowest in Tasmania at 3.7.

4. An examination of gender differences of Aboriginal prisoners from 1982 to 1989 shows that for most years the proportion of female prisoners known to be Aboriginal was slightly higher than the proportion of male prisoners known to be Aboriginal. On 30 June 1989, Aboriginal people comprised 14.1 per cent of all male prisoners and 16.4 per cent of all female prisoners.

5. The offences leading to imprisonment for both Aboriginal and non-Aboriginal prisoners are generally of a very serious nature. Well over three-quarters of both groups are in prison for one or more of seven offence categories: homicide, assault, sex offences, robbery, breaking and entering, theft and drug offences. Despite the overall similarities, the proportions of Aboriginal prisoners sentenced for assault, sex offences and breaking and entering are much higher than the proportions of non-Aboriginal prisoners, but the opposite is the case for drug offences and robbery.

6. An analysis of a small study of prison receptions shows that for April 1989, Aboriginal people comprised 20.4 per cent of all persons received into prison under sentence in Australia, with the proportions in the Northern Territory and Western Australia being 68.1 per cent and 56.4 per cent respectively. Nearly 40 per cent of the Aboriginal people and nearly 20 per cent of the non-Aboriginal people were sentenced for non-payment of fines. The level of Aboriginal over-representation in prison receptions is 23.4 for adults for Australia as a whole. The equivalent figure for Western Australia, the jurisdiction with the highest level of over-representation, is 61.6.

7. An examination of the numbers of Aboriginal and non-Aboriginal persons serving non-custodial correctional orders at 30 June 1987, shows that 8.4 per cent of all such persons were Aboriginal. The proportions were higher, however, in the Northern Territory and Western Australia at 49.8 per cent and 14.8 per cent respectively.

8. The actual numbers of Aboriginal and non-Aboriginal persons serving each type of non-custodial order in each state and territory are then examined in detail with particular emphasis on the orders which attract the highest numbers: probation, community service and parole. The limited information available on the use of home detention in Queensland, South Australia and the Northern Territory is also reviewed.

9. A comparison of the adult Aboriginal and non-Aboriginal participation rates in non-custodial corrections reveals that Aboriginal people are over-represented by a factor of 8.3 for Australia as a whole. This is to be compared with a factor of 15.1 for prison populations and 23.4 for sentenced prison receptions. The differences between jurisdictions in over-representation in non-custodial corrections are considerably less than they are for prison populations.

10. It is suggested that the lower level of Aboriginal over-representation in non-custodial corrections compared with prisons may possibly be due to the fact that some judges, magistrates and parole authorities hold the view

that Aboriginal people are either less able or less willing to comply with the requirements of non-custodial correction orders than are non-Aboriginal people. It is further suggested that careful research is needed to establish which types of non-custodial orders are more effective for different types of offenders.

November 1990

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The statistical data which form the basis of this paper are almost entirely taken from various collections conducted by the Australian Institute of Criminology with the cooperation of the correctional authorities in all Australian states and mainland territories. Institute staff with major responsibility for these collections are Mr John Walker and Dr François Debaecker.

The collections that are most valuable for the type of analysis undertaken in this paper are the annual census of all persons held in gazetted prisons and the biennial census of all persons serving non-custodial correctional orders. The censuses, as well as other data collections, are coordinated by a body known as the National Correctional Statistics Committee. This committee comprises research officers from each corrections department together with representatives of the Australian Bureau of Statistics and the Australian Institute of Criminology.

The members of this committee agreed in 1989 to undertake a special data collection of Aboriginal and non-Aboriginal prison receptions at the request of the Criminology Unit of the Royal Commission. For this additional work, and

for their continued assistance and cooperation with regular collections, we extend our sincere thanks to all members of the National Correctional Statistics Committee.

RESEARCH PAPER NO. 20

Australian Deaths in Custody 1980-89: an Epidemiological Analysis of the Relative Risks of Death for Aboriginal and Non-Aboriginal People

Neil Thomson
& David McDonald

The Royal Commission was established to enquire into the deaths of Aboriginal people in custody, and also the social, cultural and legal factors that have a bearing on those deaths. A number of the research projects carried out by the Commission's Criminology Unit and external researchers have been directed at obtaining information which helps place into a broader context the findings of the detailed enquiries into the Aboriginal deaths in custody. This broader context includes information on the deaths in custody of non-Aboriginal people and the deaths of Aboriginal people in the community, that is, not in custody. Interest lies in both the numbers and causes of deaths.

In earlier papers in this series, estimates were provided of the relative risks of death in police custody and in prison for Aboriginal and non-Aboriginal people (Research Paper Nos. 7, 10 & 11, *see* pp. 107-36, 191-212, & 213-37 of this volume). After making allowances for age and their relative representation in the Australian population, it was found that the rates of Aboriginal deaths in custody were much higher than those of non-Aboriginal people. These papers noted that the much higher death rates were explained, almost entirely, by the over-representation of Aboriginal people in custody (Research Paper No. 10, p. 210; Research Paper No. 11, p. 232).

However, as pointed out in a later paper in this series (Research Paper No. 17, *see* pp. 417-52 of this volume), the comparison of Aboriginal and non-Aboriginal deaths in custody needs to take account of the actual exposures to risk of death in custody, rather than relating the numbers of deaths to general measures of over-representation in custody. In broad terms, a comparison based on actual exposures relates the numbers of deaths to the person-years at risk of death in custody (that is, of being in custody). This paper presents a number of estimates of the relative risks of death for Aboriginal and non-Aboriginal people in police custody and in prison custody. In doing so, it expands and updates the information presented earlier and, as with each of the Research Papers in this series, is submitted to the Commissioners as a discussion paper to

assist them in their consideration of the underlying issues relating to Aboriginal deaths in custody.

Methodology

General issues

Before summarising the data sources and the methodology used in comparing the risks of death for Aboriginal and non-Aboriginal people in custody, it is worth considering in a little more detail the concept of exposure to risk.

As noted in the Research Unit's paper on methodological issues (Research Paper No. 17, *see* pp. 417-52 of this volume), risk refers to the probability of an event occurring, in this case a death in custody. This risk is usually expressed as a death rate, which relates the number of deaths to the average population at risk of dying over a specified period.

While the identification of deaths in custody is straightforward, the definition of the population at risk of dying in custody poses more problems. Clearly, people not in custody are not exposed to the risk of dying in custody, so should not be included in estimating the risk of death in custody. Knowledge of the numbers of people in custody (as could be obtained from a census, for example) is not enough. One needs to know also the period of time that each individual is exposed to the risk (that is, the risk of dying in custody).

Death rates can be calculated by dividing the number of deaths occurring in a specified time period (usually one year) by the number of person-years of exposure to the risk of dying in custody. The comparison of these rates for Aboriginal and non-Aboriginal people would provide a measure of their relative risks of dying in custody. A better comparison, however, also takes account of age and sex distributions in a process known as standardisation.

Because of the need to compare the mortality experiences of a number of populations, Aboriginal and non-Aboriginal, male and female, police custody and prison custody, it was decided that the main comparison for each population would be with the relevant total Australian population for 1986, the reference population for this analysis. (Ideally, the comparison should be with the death rates of the non-custodial populations. However, because of the comparatively very small numbers of people dying in custody, comparisons with general populations (including custody populations) are satisfactory. Of the Aboriginal deaths included in this analysis, the median case occurred in early 1986.) A procedure known as indirect standardisation produces an estimate of the number of deaths expected in each custodial population if it experienced the same age and sex specific death rates as the relevant reference population. The ratio of the actual number of deaths occurring for each custodial population (the observed number) to the number expected is known as the standardised mortality ratio (SMR). An indication of the statistical accuracy of each SMR is provided by 95 per cent confidence limits. (Confidence limits or intervals (conventionally, 95 per cent limits are used) show the variation of the SMR which could occur purely by statistical chance. For two SMRs to be

significantly different, statistically, the range of their confidence limits cannot overlap. The actual confidence range will vary according to the size of the observed and expected numbers, with wider ranges resulting from smaller numbers. The confidence limits have been calculated according to Armitage and Berry (1987)).

It should be noted that the SMR provides a valid comparison for each subpopulation with the relevant total Australian population, but the individual SMRs are not strictly comparable. However, because the various custodial subpopulations have broadly similar age structures, this is not likely to substantially influence the comparisons (Kahn 1983, Rothman 1986).

For strict internal comparability, direct standardisation, applying the custodial age-specific death rates to the age distribution of the reference population, should be used. Although the small numbers of deaths for many of the custodial subpopulations (for example, there were only 10 deaths of Aboriginal females, nine in police custody and one in prison) precluded the general use of direct standardisation to provide estimates of standardised rate ratios (SRRs—the SRR is the ratio of the standardised death rate to the rate of the standard population, in this case the 1986 population)), this procedure was used to check the consistency of the relativities suggested by the SMRs.

Data sources

Information about all deaths occurring in custody in the ten-year period 1980-89 was provided by each state and territory custodial authority. For each case, this information included name, age, sex, Aboriginality, date, time and place of death, and cause of death.

The causes of death were allocated to the main classifications of the International Classification of Diseases (World Health Organization 1977). For non-Aboriginal deaths, this allocation was based solely on the information provided by the custodial authorities, which was not as complete as would be provided on a medical certificate of cause of death. (The summarised information did not allow a formal coding of cause of death, but was sufficient to allocate most cases to the appropriate ICD chapter. In 30 cases, however, the cause of death was reported as 'natural causes' (or something similar). These cases were allocated to Chapter XVI, 'Symptoms, sign and ill-defined conditions', which includes the specific cause of death 'Other unknown and unspecified cause'. For most of the Aboriginal cases, the classification benefited from the conclusions reached by the Commission (as recorded in the published case reports) from the more detailed information available to it.

In the absence of any detailed data on person-years in police custody, an estimate was obtained by a special survey undertaken by the Commission's Research Unit (Research Paper No. 13, *see* pp. 277-319 of this volume). For the month of August 1988, this survey collected information about the numbers of receptions (by age, sex and Aboriginality) into police custody and the hours spent in custody. These data were used to estimate the person-hours (and hence

person-years) of exposure to death in police custody (*see* Appendix 20.1, Table 20.10 for estimated person-years).

Information about the exposure of people to the risk of death in prison was derived from data obtained by the Australian Institute of Criminology as part of its annual census of the prison population, conducted on 30 June each year. The census collects information on prisoner numbers by age, sex and Aboriginality (until the 1987 census, not all custodial authorities provided information on Aboriginality), and average months served can be calculated. For this analysis, the data for 30 June 1987 were used, as these data are closer to the mid-point of the ten-year period 1980-89 than are more recent data. As the average months served could not be used to calculate total prisoner person-years, it was necessary to assume that the census count provided a reasonable estimate of the average daily number of prisoners, and therefore the number of person-years served in a year (*see* Appendix 20.1, Table 20.11). Of the 11,541 prisoners counted in the census, Aboriginality was not specified in 141 cases and, for the 1,688 Aboriginal prisoners, there were no details of age in 72 cases. It was assumed there was no bias in these two groups and the cases were allocated in the following manner. First, within each age group, the cases for which Aboriginality was not specified were allocated to the Aboriginal or non-Aboriginal group according to the observed proportion of cases within that age group. Second, the 72 Aboriginal cases for which age was not specified were then allocated to age groups according to the age-specific proportions of cases for which age was stated.

As well as comparing the risks of death for Aboriginal and non-Aboriginal people in custody, this paper provides also a comparison with the overall risk of death for Aboriginal people. For this comparison, data from a number of separate regions and time periods were combined to give single estimates for the Aboriginal populations, male and female. These data relate to Aboriginal people living in western New South Wales in 1984-87, in the Queensland communities in 1984-86, in Western Australia in 1985-86, in South Australia in 1985 and in the Northern Territory in 1985. Although more recent data are available for some of these regions, these earlier data were used as they are close to the mid-point of the ten-year period 1980-89.

Results

The deaths in custody

During the ten-year period 1980-89, there were 527 deaths in custody throughout Australia. Of these deaths, 108 were Aboriginal people, 10 females and 98 males. It should be noted that the number of Aboriginal cases reported here, 108, differs slightly from the 99 cases within the jurisdiction of the Royal Commission. There are three main reasons for this difference. First, a number of cases occurred after 31 May 1989 (the final date for Royal Commission jurisdiction); second, three cases within the Commission's jurisdiction concerned deaths occurring in juvenile institutions and were excluded from this analysis as comparable data for non-Aboriginal deaths were not available; and

third, the analysis included a small number of Aboriginal deaths reported by the custodial authorities which were ruled by the Commission to be outside its jurisdiction. With regard to the causes of death of 12 Aboriginal cases outside the jurisdiction of the Royal Commission, it was necessary to rely on the information provided by custodial authorities. Of these cases, two were allocated to ICD Chapter XVI. There were 419 non-Aboriginal deaths, 17 of females and 402 of males.

Tables 20.1 and 20.2 show details of the 527 deaths. Of the 10 deaths of Aboriginal females, nine occurred in police custody and one in prison. Sixty of the deaths of Aboriginal males occurred in police custody and 38 in prison. Of the 17 deaths of non-Aboriginal females, four occurred in police custody and 13 in prison. One hundred and twenty of the deaths of non-Aboriginal males occurred in police custody and 282 in prison.

Standardised mortality ratios: police and prison custody

Many more deaths occurred in police custody than would be expected from total Australian death rates, for Aboriginal and non-Aboriginal people, male and female The differences in the various expected numbers reflects the differences in the person-years of exposure to death in police custody of each of the populations considered. The numbers of police custody deaths, observed and expected, along with the SMRs (the ratios of observed to expected numbers) and their confidence limits, are shown in Table 20.3. For Aboriginal males, the SMR is 15.1 (60 deaths occurred and 4.0 were expected from total Australian death rates). Although this SMR is slightly higher than the 12.9 for non-Aboriginal males (120 deaths occurred and 9.3 were expected), the difference is not statistically significant. (This is seen in the overlapping 95 per cent confidence ranges.) The SMR for Aboriginal females, 15.3, is not significantly lower than that for non-Aboriginal females, 20.0.

TABLE 20.1
Aboriginal and Non-Aboriginal Deaths in Police Custody, 1980-89, by Gender and Age Group

	Aboriginal		*Non-Aboriginal*	
Age group	*Male*	*Female*	*Male*	*Female*
15-19	7	-	6	1
20-24	11	1	20	1
25-29	13	3	23	-
30-34	7	2	7	1
35-39	3	2	14	1
40-44	7	-	16	-
45-49	2	-	8	-
50-54	5	-	8	-
55-59	4	1	8	-
>60	1	-	10	-
All ages	60	9	120	4

Source: Information provided by state and territory police forces.

TABLE 20.2
Aboriginal and Non-Aboriginal Deaths in Prison Custody, 1980-89, by Gender and Age Group

	Aboriginal		*Non-Aboriginal*	
Age group	*Male*	*Female*	*Male*	*Female*
15-19	4	-	25	-
20-24	3	-	56	3
25-29	13	-	52	9
30-34	9	-	38	-
35-39	1	-	23	-
40-44	4	1	22	-
45-49	1	-	14	1
50-54	2	-	16	-
55-59	1	-	9	-
>60	-	-	27	-
All ages	38	1	282	13

Source: Information provided by state and territory corrections departments.

TABLE 20.3
Aboriginal and Non-Aboriginal Deaths in Police Custody: observed and expected Numbers and Standardised Mortality Ratios, 1980-89

Gender	*Aboriginal*			*Non-Aboriginal*		
	Observed number	*Expected number*	*SMR*	*Observed number*	*Expected number*	*SMR*
Male	60	4.0	15.1	120	9.3	12.9
		(11.3-18.9)				(10.6-15.2)
Female	9	0.6	15.3	4	0.2	20.0
		(5.3-25.2)				(0.4-39.6)

Notes: 1. See text for details of method used in estimating the expected number of deaths
2. The numbers in parentheses are the 95 per cent confidence limits for the SMRs
3. Any discrepancy in the tabulated figures is due to rounding for presentation.

For deaths in *prison custody*, the numbers occurring were only slightly higher than the numbers expected from total Australian death rates (*see* Table 20.4). For both Aboriginal and non-Aboriginal males, the SMR is 1.3. The SMR for Aboriginal females, 1.8, is slightly lower than that for non-Aboriginal females, 2.7, but, again, the difference is not statistically significant.

TABLE 20.4
Aboriginal and Non-Aboriginal Deaths in Prison Custody: observed and expected Numbers and Standardised Mortality Ratios, 1980-89

Gender	*Aboriginal*			*Non-Aboriginal*		
	Observed number	*Expected number*	*SMR*	*Observed number*	*Expected number*	*SMR*
Male	38	28.4	1.3	282	223.8	1.3
		(0.9-1.8)				(1.1-1.4)
Female	1	0.6	1.8	13	4.9	2.7
		(0-5.2)				(1.2-4.1)

Notes: 1. See text for details of method used in estimating the expected number of deaths
2. The numbers in parentheses are the 95 per cent confidence limits for the SMRs
3. Any discrepancy in the tabulated figures is due to rounding for presentation.

Standardised mortality ratios, excluding motor vehicle accident deaths

One obvious problem with using the total Australian death rates to estimate the risks of deaths expected in custody is that the custodial and non-custodial populations may have differential exposure to certain causes of death. For example, the relatively young custodial population has minimal exposure to death from motor vehicle accidents, one of the leading causes of death for young Australians.

While it is not possible to take account of all causes of death for which the exposure to risk may be different, the expected numbers of deaths were re-calculated excluding from the total Australian rates deaths from motor vehicle accidents. These re-calculations resulted in the following SMRs. The SMR for Aboriginal males in *police custody* is 18.8 (95 per cent confidence limits: 14.0-23.6), slightly, but not statistically significantly, higher than that for non-Aboriginal males, 16.5 (13.5-.4). Similarly, the slightly lower SMR for Aboriginal females in police custody, 17.0 (5.9-28.1), is not statistically different from that for non-Aboriginal females, 25.0 (0.5-49.5).

The re-calculation does result in a slight, but not statistically significant, difference between the SMRs of males in *prison custody*: for Aboriginal males, 1.8 (1.2-2.4), compared with 1.5 (1.3-1.7) for non-Aboriginal males. The SMR for Aboriginal females in prison is 2.1 (0-6.3), and for non-Aboriginal females 3.0 (1.4-4.7).

The Aboriginal:non-Aboriginal relativities of these estimates for males were confirmed by the SRRs calculated using 10-year age groups for the male custodial populations aged 15 to 64 years. Older age groups, for which there were very few person-years in custody, were excluded from the calculations, as their inclusion would have distorted the comparisons. The non-inclusion of

these age groups required 24 non-Aboriginal male deaths (six in police custody and 18 in prisons) to be excluded from the calculations. Excluding deaths resulting from motor vehicle accidents, the SRR for Aboriginal male deaths in *police custody* is 13.7 (10.2-17.2), virtually the same as for non-Aboriginal males, 14.3 (11.6-16.9). Similarly, the SRR for Aboriginal male deaths in *prison*, 0.98 (0.67-1.29), is virtually the same as that for non-Aboriginal males, 1.02 (0.90-1.14). The differences between these values and those of the SMRs partly reflect the restriction of these calculations to 15 to 64-year-olds.

Standardised mortality ratios using the combined custodial population

To further explore the possibility that the use of total Australian death rates, with or without deaths from motor vehicle accidents, was concealing real differences between the numbers of Aboriginal and non-Aboriginal deaths occurring in custody, another procedure was undertaken. Clearly, there is no 'right' procedure for testing these differences, but the Commission wanted to minimise the risk of overlooking real differences between the various populations. This procedure involved comparing the mortality experience of each custodial subpopulation, Aboriginal and non-Aboriginal, male and female, police custody and prison, with the death rates of the combined custodial population. Death rates for the combined custodial population were calculated by dividing the total number of deaths for each age group by the person-years of exposure to custody for that age group. These rates were then used to calculated the expected number of deaths for each custodial subpopulation. The combined rates are, of course, most influenced by the largest custodial subpopulation, non-Aboriginal males in prison.

Using these combined custodial death rates to calculate the expected numbers of deaths for each custodial population resulted in the following SMRs. The SMR for Aboriginal males in police custody is 4.7 (3.5-5.9), virtually identical to that for non-Aboriginal males, 4.6 (3.8-5.4). Perhaps because of the very small numbers of female deaths, this procedure changed the relativity of the SMRs for females in police custody: the SMR for Aboriginal females, 3.4 (1.2-5.7), is slightly (but not statistically significantly) higher than that for non-Aboriginal females, 2.7 (0.1-5.3).

The SMR for Aboriginal males in prison custody is 0.6 (0.4-0.8), slightly, but not statistically significantly, lower than that for non-Aboriginal males, 0.7 (0.6-0.8). Similarly, the slightly lower SMR for Aboriginal females in prison, 0.4 (0-1.1), is not significantly different to that for non-Aboriginal females, 0.7 (0.3-1.0).

Aboriginal deaths in and out of custody

As noted above, the risks of death of Aboriginal people in the general community were also analysed. Compared with the numbers of deaths occurring in the combined Aboriginal populations, 1,134 of males and 791 of females, the numbers of Aboriginal deaths expected from total Australian rates

are 355.8 of males and 219.3 of females (*see* Table 20.5). The SMR for Aboriginal males is 3.2 (3.0-3.4) and for Aboriginal females is 3.6 (3.4-3.9). In other words, Aboriginal males in the community generally (that is. those in custody plus those not in custody) died at a rate approximately 3.2 times that of all males in the community. The difference in the case of females was 3.6 times.

The SMRs for Aboriginal people in police custody are much higher than these estimates, but the SMRs for those in prison are lower. For comparison purposes, the best of the estimates provided above are those excluding deaths from motor vehicle accidents from the total Australian death rates. Because of the differences in the age structures of the custodial and general Aboriginal populations, SRRs would provide the best comparison, but the numbers of female deaths are too small to permit valid SRRs to be calculated for the female custodial populations. Following the same procedures (including the same age groups) as described above, for the combined Aboriginal populations, the SRR is 4.6 (4.3-5.0) for males and 5.2 (4.7-5.7) for females.

As summarised above, the SMR for Aboriginal males in police custody is 18.8 (14.0-23.6), and that for Aboriginal females is 17.0 (5.9-28.1). For Aboriginal people in prison, the SMR for males is 1.8 (1.2-2.4), and for females is 2.1 (0-6.3).

The fact that the SMRs for Aboriginal people in prison are lower than those for the total Aboriginal populations highlights the very poor level of Aboriginal health. Clearly, much more needs to be done to enable Aboriginal people to achieve levels of health comparable with those of other Australians.

Causes of death in custody

This analysis of all deaths in custody known to have occurred in the ten-year period 1980-89 confirms the general findings reported by the Royal Commission's Research Unit from the information available for the nine-year period 1980-88 (Research Paper Nos. 7, 10 and 11, *see* pp. 107-36, 191-212, & 213-37 of this volume).

TABLE 20.5

Aboriginal People: observed and expected Number of Deaths and Standardised Mortality Ratios, combined Regions, 1984-87

	Observed number	*Expected number*	*SMR*
Males	1,134	355.8	3.2 (3.0-3.4)
Females	791	219.3	3.6 (3.4-3.9)

Notes: 1. See text for details of method used in estimating the expected number of deaths.
2. The numbers in parentheses are the 95 per cent confidence limits for the SMRs.
3. These data related to Aboriginal people living in western New South Wales in 1984-87, in the Queensland communities in 1984-86, in Western Australia in 1985-86, in South Australia in 1985 and in the Northern Territory in 1985.
4. Any discrepancy in the tabulated figures is due to rounding for presentation.

Sources: Australian Institute of Health, unpublished, from data provided by the Queensland Department of Health, the Health Department of Western Australia and the Northern Territory Department of Health and Community Services; Divakaran-Brown & Honari 1990; Gray & Hogg 1989.

Main causes Self-inflicted deaths were much more common than any other cause of death. Of the 527 deaths known to have occurred in custody, 231 were the result of self-harmful behaviour other than by drug overdose. Of these 231 deaths, 218 (33 Aboriginal and 185 non-Aboriginal) were the result of hanging. A further 34 deaths (three Aboriginal and 31 non-Aboriginal) were the result of drug overdoses. For many of the deaths of non-Aboriginal people, it is not known, definitely, whether they were the result of an accidental or intentional overdose, but it is probable that most were intentional. Thus, around a half of all deaths occurring in custody were self-inflicted (*see* Tables 20.6 and 20.7).

TABLE 20.6
Aboriginal and Non-Aboriginal Deaths in Police Custody, 1980-89, by Gender and Cause

Cause of death	*Aboriginal*		*Non-Aboriginal*	
	Male	*Female*	*Male*	*Female*
Self-inflicted	24	1	55	2
Other injuries	15	1	20	1
Disease of the circulatory system	7	2	13	1
Disease of the respiratory system	4	1	6	-
Drug overdose	1	1	7	-
Homicide	-	1	3	-
Other causes	9	2	16	-
All causes	60	9	120	4

Source: Information provided by state and territory police forces.

Disease of the circulatory system, particularly heart disease, was the next most common cause of death in custody, being responsible for a total of 83 deaths (22 Aboriginal and 61 non-Aboriginal).

TABLE 20.7
Aboriginal and Non-Aboriginal Deaths in Prison Custody, 1980-89, by Gender and Cause

Cause of death	*Aboriginal*		*Non-Aboriginal*	
	Male	*Female*	*Male*	*Female*
Self-inflicted	11	-	132	6
Other injuries	5	-	22	3
Disease of the circulatory system	13	-	47	-
Disease of the respiratory system	2	1	10	-
Drug overdose	1	-	20	4
Homicide	-	-	15	-
Other causes	6	-	36	-
All causes	38	1	282	13

Source: Information provided by state and territory corrections departments.

Injuries, other than self-inflicted injuries and homicide, were responsible for a total of 67 deaths (21 Aboriginal and 46 non-Aboriginal). It should be noted that in this analysis, deaths determined to be 'justifiable homicide' have been included in the 'Other injuries' group and not in the group designated 'Homicide'. This is in accordance with the ICD convention of separating deaths due to 'Homicide and injury purposely inflicted by other persons' from those resulting from 'Legal intervention' (World Health Organization 1977, pp. 624-8)/ There were 19 deaths attributed to homicide (one Aboriginal—that of a female, and 18 non-Aboriginal—all males).

Disease of the respiratory system was responsible for 24 deaths (eight Aboriginal and 16 non-Aboriginal).

Self-inflicted deaths The risk of death from self-harmful behaviour in custody, particularly police custody, is much greater than the risk in the general population. The SMR for this cause of death among Aboriginal males in police custody is 56 (34-78), and for non-Aboriginal males it is 52 (39-65) (*see* Table 20.8). The SMR for Aboriginal males in prison is 2.6 (1.1-4.0), statistically significantly lower than that for non-Aboriginal males, 5.8 (4.8-6.7) (*see* Table 20.9).

Reflecting the much lower rates of death from self-harmful behaviour for females in the general population, for females in police custody the numbers of deaths occurring were very much higher than the number expected: the SMR for Aboriginal females is 67 (0-159), and for non-Aboriginal females it is 107 (0-255). Because of the small numbers involved, details of these SMRs are not tabulated. For Aboriginal females, no deaths from self-harmful behaviour

occurred in prison. For non-Aboriginal females in prison, the SMR for self-inflicted deaths is 29 (11-46).

TABLE 20.8

Aboriginal and Non-Aboriginal male Deaths in Police Custody: observed and expected Numbers and Standardised Mortality Ratios, 1980-89, by selected Causes

Gender	*Aboriginal*			*Non-Aboriginal*		
	Observed number	*Expected number*	*SMR*	*Observed number*	*Expected number*	*SMR*
Total self-inflicted	25	0.45 (34-78)	56	62	1.19 (39-65)	52
Other injuries	15	0.36 (21-62)	41	20	0.92 (12-31)	22
Disease of circulatory system	7	0.96 (1.9-13)	7.3	13	1.99 (3.0-10)	6.5
Homicide	-	0.06 (0-46)	-	3	0.14	22

Notes: 1 See text for details of method used in estimating the expected number of deaths (deaths from motor vehicle accidents were excluded from the reference rates).
2 The numbers in parentheses are the 95 per cent confidence limits.
3 Total self-inflicted deaths include those attributed to drug overdose.
4 Any discrepancy in the tabulated figures is due to rounding for presentation.

TABLE 20.9

Aboriginal and Non-Aboriginal Male Deaths in Prison Custody: observed and expected Numbers and Standardised Mortality Ratios, 1980-89, by selected Causes

Gender	*Aboriginal*			*Non-Aboriginal*		
	Observed number	*Expected number*	*SMR*	*Observed number*	*Expected number*	*SMR*
Disease of circulatory system	13	4.14	3.1	47	56.77	0.8
		(1.4-4.8)				(0.6-1.1)
Total self-inflicted	12	4.65	2.6	152	26.37	5.8
		(1.1-4.0)				(4.8-6.7)
Other injuries	5	3.44	1.5	22	19.52	1.1
		(0.2-2.7)				(0.7-1.6)
Homicide	-	0.51	-	15	3.10	4.8
						(2.4-7.3)

Notes: 1 See text for details of method used in estimating the expected number of deaths (deaths from motor vehicle accidents were excluded from the reference rates).
2 The numbers in parentheses are the 95 per cent confidence limits.
3 Total self-inflicted deaths include those attributed to drug overdose.
4 Any discrepancy in the tabulated figures is due to rounding for presentation.

For each of the subpopulations, Aboriginal and non-Aboriginal, male and female, police custody and prison, the numbers of self-inflicted deaths occurring were also compared with the numbers expected from the death rates of the combined custodial population. These comparisons confirmed the statistically significantly lower ratio of observed to expected numbers of self-inflicted deaths for Aboriginal males in prison (0.3 (0.1-0.5)) than for non-Aboriginal males (0.8 (0.7-1.0)). For males, the SMRs for self-inflicted deaths occurring in police custody are similar (Aboriginal 2.9 (1.8-4.1), non-Aboriginal, 3.6 (2.7-4.5)), and the ratios were statistically significantly higher than the ratios for deaths occurring in prison. For females in custody, the only noteworthy finding was that the ratio of the number of self-inflicted non-Aboriginal deaths occurring in prison to the number expected (1.1 (0.4-1.8)) was similar to the ratio for non-Aboriginal males.

As noted in previous reports of the Commission's Research Unit (Research Paper Nos. 10 and 11), the pattern of deaths in custody from self-harmful behaviour is quite different from that in the general community, where hangings make up only 13 per cent of such deaths (14 per cent of males, and nine per cent of females). In the general community, poisoning and the use of firearms are much more common causes of self-inflicted deaths. The options

for self-harmful behaviour are very limited for people in custody, who have virtually no access to firearms and very little access to poisons. As well, there is generally a higher level of surveillance of people in custody than would be found in the general community. It should also be noted that hanging is a particularly lethal method of self-harmful behaviour, as it provides little opportunity for intervention, change of mind or resuscitation.

Other external causes and homicide In addition to the self-inflicted deaths, of the 527 deaths reported as occurring in custody in the period 1980-89, there were a total of 86 deaths that would be classified within the International Classification of Diseases grouping 'External causes of injury and poisoning'. Nineteen of these 86 deaths were the result of injury purposely inflicted by another person, the remaining 67 being from other external causes, such as the result of a head injury from a fall. Some of these may have been as a result of the deliberate action of another person, but without definite knowledge of this they cannot be added to the 19 homicide deaths noted above.

Only one of the Aboriginal deaths occurring in custody, that of a female, was homicide inflicted by another detainee in a police cell. The remaining 18 deaths in this group were all of non-Aboriginal males. The 15 homicides of non-Aboriginal males in prison were 4.8 (2.4-7.3) times the 3.1 homicides expected from total Australian rates, a difference which is statistically significant.

Of the 67 deaths from other 'external causes of injury and poisoning', 37 occurred while the person was in police custody. For males, the numbers of deaths occurring in police custody were significantly higher than expected. Although the ratio of observed to expected numbers of deaths was higher for Aboriginal males (13.1 (6.5-.7)) than for non-Aboriginal males (6.8 (3.8-9.8)), the difference was not statistically significant.

Circulatory system disease The next most frequent cause of death in custody, and the leading cause for Aboriginal males in prison, was disease of the circulatory system. Of the 527 deaths reported to have occurred in custody in the period 1980-89, a total of 83 deaths were attributed to disease of the circulatory system, primarily heart disease. Of these 83 deaths, there were 80 deaths of males and three of females. Twenty Aboriginal males died from circulatory system disease, seven in police custody and 13 in prison. Thirteen of the deaths of non-Aboriginal males occurred in police custody and 47 in prison. All three female deaths occurred in police custody: two were Aboriginal, and one non-Aboriginal.

For males in police custody, the number of Aboriginal deaths occurring from circulatory system disease, seven, was 7.3 (1.9-12.7) times the number expected from total Australian rates. For non-Aboriginal males, the number occurring, 13, was 6.5 (3.0-10.1) times the number expected. For Aboriginal males in prison, the number of deaths occurring, 13, was 3.1 (1.4-4.8) times the number expected, significantly higher than the ratio for non-Aboriginal males,

0.8 (0.6-1.1) (47 deaths). The very small numbers of female deaths precluded any useful comparison using total Australian rates.

These overall ratios, however, conceal some important differences between Aboriginal and non-Aboriginal deaths from disease of the circulatory system. Overall, the Aboriginal males dying from disease of the circulatory system were much younger than were the non-Aboriginal males. For the seven Aboriginal males dying from this cause in police custody, the mean age at death was 46 years and the median age 50 years. In comparison, for the 13 circulatory system disease deaths of non-Aboriginal males, the mean age and median age at death were both 52 years. The differences for those dying from this cause in prison were even greater: for the 13 deaths of Aboriginal males, the mean age at death was 37 years and the median age 34 years, whereas for the 47 deaths of non-Aboriginal males, the mean and median ages at death were both 48 years.

Discussion

This analysis of deaths in custody, relating the deaths occurring to the extent of exposure to death in custody (person-years), has confirmed the general findings of the Commission's Research Unit: the excess of Aboriginal to non-Aboriginal deaths in police and prison custody compared with general population figures is due to the over-representation of Aboriginal people in custody.

For Aboriginal and non-Aboriginal people, male and female, many more deaths occurred in police custody than would be expected from the death rates of the total Australian population. For each subpopulation, the number of deaths occurring in prison was also higher than expected, but the SMRs were much less extreme than those found for deaths in police custody.

There are, however, a number of methodological issues which must be noted. First, there must be some doubt about the completeness of reporting of the deaths occurring in custody. In the absence of formal centralised collections, each custodial authority undertook the difficult task of compiling, retrospectively, details of deaths that occurred up to eight years previously. In view of the publicity surrounding the appointment and operation of the Royal Commission, it is likely that information on the number and nature of Aboriginal deaths is more complete than that on non-Aboriginal deaths. That is, the extent of any underestimate of the SMRs for Aboriginal people is likely to be less than the underestimate of the SMRs for non-Aboriginal people.

The accuracy of the estimates of the person-years of exposure to death in custody is even more difficult to assess. For people in police custody, it has been necessary to rely on the only detailed census undertaken of receptions into police custody and the hours spent in custody. Clearly, the pattern of receptions and hours spent in custody may have changed significantly over the ten-year period, 1980-89, and this one-month census, undertaken in August 1988, may not accurately reflect the overall pattern. There is no way of knowing just how representative of the ten-year period these data are but, in the absence of other data, they provide the only reasonable estimates.

Similarly, the estimates of person-years in prison have been derived from a census, in this case a one-day census conducted on 30 June 1987. In the absence of precise data, it has been necessary to assume that the number of people in prison on that day is representative of the ten-year period. Clearly, this assumption is a potential source of inaccuracy but, as with the data on person-hours of exposure to death in police custody, there was really no other choice.

It is worth drawing attention to recent work which complements the analysis presented here. Broadhurst and Maller (1990) have analysed Western Australian data on prison deaths and the recidivism of prisoners. Rather than assess the relative risks of death on the basis of person-years of exposure to death in custody, as in this paper, the authors have sought to estimate the risks of people *ultimately* dying in custody. This is done by making allowance for recidivism rates. Since Aboriginal people have far higher recidivism rates than non-Aboriginal people, when other variables are held constant, the risk of the former dying in custody *at some stage in life* is higher than it is for the latter. Broadhurst and Maller conclude that, with regard to Western Australian prison deaths, the risk of an Aboriginal person ultimately dying in prison custody there is of the order of three times the risk of a non-Aboriginal person dying. Unfortunately, the national police and prison recidivism data needed to apply this type of analysis beyond Western Australia are not available.

The findings of this paper, some new and others confirming the results of relatively crude analyses undertaken earlier using more limited data, have a range of policy implications. It has been observed that the age standardised death rates of Aboriginal people in Australia are more than three times those of the total Australian population (the differences for people aged 15 to 64 years are even greater). While both Aboriginal and non-Aboriginal people in prison have risks of death similar to those of the total Australian populations, they both have risks of death in police custody between ten and twenty times that of the risk of death experienced by the general populations. Naturally, a person in prison should be protected against ill-health and injury, as the result of the exercise of the duty of care which custodians have in law. On this basis, and considering the poor state of health of so many Aboriginal people in the community, it should not be surprising that Aboriginal people have lower risks of death in prison than they do in the community. It is particularly disturbing to observe, however, the greatly elevated risks facing both Aboriginal and non-Aboriginal people in police custody.

The appropriateness of the Royal Commission's focus on the causes of the over-representation of Aboriginal people in custody, and on the dangers of custodial environments and the need for action to minimise the danger there, are supported by the findings of this study.

Summary

1. Earlier Research Papers in this series have concluded that, in broad terms, the risks of death in custody experienced by Aboriginal people and non-Aboriginal people are similar. Because this conclusion was based upon relatively simple analyses of the data available at the time those papers were prepared, the project reported upon in this paper was conducted jointly by the Royal Commission's Research Unit and the Australian Institute of Health, with the aim of exploring the issue more broadly and in greater depth. The paper presents an epidemiological analysis of the relative risks of death, among Aboriginal and non-Aboriginal people, in custodial environments and in the community. The potentially confounding variables of age and gender are controlled for using stratification by gender and indirect age standardisation.

2. The paper presents standardised mortality ratios (SMRs) which indicate that both Aboriginal and non-Aboriginal people have far higher levels of risk of death in *police custody* than they do in the community but that each group has only slightly higher risks when one compares *prison custody* with the general community. For all causes of death combined, no statistically significant differences exist in the relative risks of death between the Aboriginal and non-Aboriginal groups in either police or prison custody.

3. Data are presented comparing the risks of death of Aboriginal people in and out of custody with those of the total Australian populations, male and female. The risks of death for Aboriginal people in police custody are far higher than those of Aboriginal people in the community, whereas the rates for Aboriginal people in prison custody are somewhat lower than those of Aboriginal people in the community. In other words, a protective factor exists with regard to prison custody (as one would expect) but not with regard to police custody.

4. The paper includes an analysis of cause of deaths in custody and in the community. Self-inflicted deaths were much more common than any other cause of death. The risk of self-inflicted death in custody (particularly police custody) is much greater than in the community, even though the opportunities for self-harm are more limited in custodial situations. The risks for Aboriginal and non-Aboriginal people in police custody are similar, whereas Aboriginal people have lower risks of self-inflicted deaths in prison than do non-Aboriginal people. Data on homicide, other external causes and circulatory system disease are also presented.

5. These broad conclusions hold when deaths from motor vehicle accidents in the community are excluded from the analysis, and when the combined

custodial population is used as the reference population, rather than the Australian population.

6. The paper concludes that, while both Aboriginal and non-Aboriginal people in prison have risks of death only slightly higher than those of the total Australian populations, they both have risks of death in police custody between ten and twenty times that of the risk of death experienced by the general populations. A person in prison should be protected against ill-health and injury, as the result of the exercise of the duty of care which custodians have in law. On this basis, and considering the poor state of health of so many Aboriginal people in the community, it should not be surprising that Aboriginal people have lower risks of death in prison than they do in the community. It is particularly disturbing to observe, however, the greatly elevated risks facing both Aboriginal and non-Aboriginal people in police custody.

7. The appropriateness of the Royal Commission's focus on the causes of the over-representation of Aboriginal people in custody, and on the dangers of custodial environments and the need for action to minimise the danger there, are supported by the findings of this study.

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APPENDIX 20.1
Estimated Person-Years in Custody

TABLE 20.10
Estimated Annual Aboriginal and Non-Aboriginal Person-Years in Police Custody, by Gender and Age Group

Age group	*Aboriginal*		*Non-Aboriginal*	
	Male	*Female*	*Male*	*Female*
10-14	0.82	0.59	1.54	0.43
15-	41.16	6.66	67.25	3.81
20-24	46.95	10.85	138.62	9.41
25-29	33.33	6.30	107.95	8.82
30-34	22.12	5.94	63.76	2.92
35-39	13.57	5.65	35.05	1.36
40-44	11.81	3.45	19.82	1.26
45-49	7.71	2.27	16.04	0.30
50-54	4.50	1.32	8.95	0.08
55-59	2.88	0.68	5.14	0.18
>60	1.73	0.64	3.58	0.07
All ages	186.60	44.40	467.70	28.6

Source: Research Paper No. 13 (*see* pp. 277-319 of this volume).

TABLE 20.11
Estimated Annual Aboriginal and Non-Aboriginal Person-Years in Prison Custody, by Gender and Age Group

Age group	*Aboriginal*		*Non-Aboriginal*	
	Male	*Female*	*Male*	*Female*
15-	60.5	1.5	68.1	1.5
20-24	601.7	21.8	22	20.6
81.8				
25-29	464.1	20.7	2430.5	161.
30-34	283.9	13.3	1881.1	105.0
35-39	155.3	12.5	1269.2	64.8
40-44	73.8	5.1	824.3	40.0
45-49	37.4	3.1	516.2	18.0
50-54	15.9	1.0	311.8	4.0
55-59	10.9	-	162.5	5.0
>60	3.1	-	150.0	11.0
All ages	1706.6	79.0	9834.3	492.9

Source: Australian Institute of Criminology, unpublished data from 30 June 1987 prison census.

RESEARCH PAPER NO. 21

The Royal Commission Cases: a Statistical Description

David Biles
David McDonald
& Robyn Draper

This paper brings together the basic facts that have been gathered about the 99 deceased Aboriginal people who have been deemed to fall within the Terms of Reference of the Royal Commission and whose deaths have been the subject of investigation and report. Cases that were investigated and reported upon that were ruled by the Commissioners as falling outside the Terms of Reference are not included in this total.

The information about each case was compiled by the staff of the relevant Regional Offices of the Royal Commission who completed comprehensive questionnaires that were developed by the staff of the Criminology Unit with the assistance and advice of senior Counsel Assisting, Mr Geoff Eames, QC. Suggestions for particular items to be included in the questionnaire were solicited and received from all Regional Offices. Even though the questionnaire that was used is relatively uncomplicated, it is possible that there were some slight differences between staff in the interpretation of what was required. This possibility was reduced, however, as in virtually all cases the staff of the Criminology Unit sought more information or clarification of the data that had been supplied. The assembly of the database was therefore a somewhat time consuming, exacting and arduous process.

Wherever possible the facts supplied by the Regional Offices were checked against the information that is included in the reports on individual cases prepared by the Commissioners, with the latter being regarded as the more authoritative. In many cases, however, the Commissioners' reports did not cover the full range of facts that were included in the questionnaire as not all of this information was relevant to the inquiries that were conducted.

In each case approximately 120 separate pieces of information were collected, and every reasonable effort was made to ensure the accuracy of the information. It is not possible, however, to give an absolute guarantee of accuracy and it is possible that some small errors remain, but, if this is the case, it is suggested that such errors would not change significantly the general picture that emerges from this exercise.

In essence, this paper presents a statistical description of the Aboriginal people who died in custody between 1 January 1980 and 31 May 1989 and about the inquiries that were made in relation to those deaths, but it is not claimed that the database from which the statistics were derived is as comprehensive as it

could possibly be. In any exercise of this type, judgment must be exercised as to what should be included in the questionnaire, and hence in the database, and what should be omitted. As a result, it is inevitable that some information that might have been seen as of value was not collected.

Judgment has also been exercised in the preparation of this paper, as by no means every possible statistical table that could be derived from the database has been included. Only those tables that contain information of particular interest have been included, and an effort has been made to minimise the duplication of the major findings. An even more succinct statistical description has been submitted to Commissioners to assist in the preparation of the National Report of the Royal Commission.

The structure of this paper follows the structure of the questionnaire that was used to collect the information. Following a brief overview of the major findings, the paper presents what is known about the demographic characteristics of the deceased persons and an outline of their earlier contact with police, courts and correctional institutions. Details of the last apprehension and detention and the basic facts of the custodial authority holding these people as well as the institutions in which the deaths occurred are then given, followed by the known information about each of the deaths. The final section of the paper focuses on the post-death inquiries that were conducted and the medical and family backgrounds of the deceased persons.

Overview

In the opinion of the authors of this paper, the most important facts about the 99 cases of Aboriginal deaths in custody can be presented in four simple statistical tables. From each of these tables useful information can be gained by examining the column and row totals as well as the actual numbers in the body of the tables.

Age and gender

It can be seen from Table 21.1 that the 99 cases comprised 88 males and 11 females and that the age group 25 to 29 years contain the highest number of cases. The mean age was 32 years, the median age (the point above and below which half of the cases fell) was 29 years, and the range was 14 to 62 years.

Custodial authority and state or territory

The state or territory shown in Table 21.2 indicates the jurisdiction in which the person was in custody prior to death. It is also the state or territory in which the Royal Commission inquiries were conducted. It can be seen that the highest numbers of cases occurred in Western Australia and Queensland, which together had well over half of the total. It is also to be noted that there was not one case in the Australian Capital Territory during the relevant period.

Possibly of greater significance is the fact that nearly twice as many of the deaths occurred in police custody as occurred in prisons, and that there were no

Aboriginal deaths in prisons in Victoria, Tasmania or the Australian Capital Territory. The police custody deaths were highest in Queensland and Western Australia and the prison deaths were highest in Western Australia.

TABLE 21.1
Age and Gender, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Age group	*Male*	*Female*	*Total*
0-14	-	1	1
15-19	12	-	12
20-24	13	1	14
25-29	20	3	23
30-34	16	2	18
35-39	4	2	6
40-44	12	1	13
45-49	2	-	2
50-54	2	-	2
55-59	4	1	5
60+	3	-	3
Total	88	11	99

TABLE 21.2
State and Custodial Authority, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

State	*Police*	*Prison*	*Juvenile centre*	*Total*
NSW	9	5	1	15
Vic.	3	-	-	3
Qld	19	7	1	27
WA	19	13	-	32
SA	7	4	1	12
Tas.	1	-	-	1
NT	5	4	-	9
ACT	-	-	-	-
Total	63	33	3	99

Manner and year of death

The term 'manner of death' is used in Table 21.3, and in other tables in this paper, to indicate the broad category into which each case may be assigned without making any judgment or comment on responsibility for the death or whether or

not the death was intentional. Manner of death is therefore quite different from the cause of death as determined by coroners or by Commissioners.

It can be seen from the row totals in Table 21.3 that natural causes was the most common manner of death, followed by hanging and head injury, in that order. From the column totals it can be seen that during 1987 the total number of deaths was very much higher than the mean of the previous seven years, which was 8.6. The number of deaths resulting from hanging in 1987 can be seen to have been extremely high, and the number in the following year was also higher than expected.

TABLE 21.3
Manner of Death and Year of Death, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Manner of death	*1980*	*1981*	*1982*	*1983*	*1984*	*1985*	*1986*	*1987*	*1988*	*1989**	*Total*
Hanging	3	1	1	1	1	1	4	12	5	1	30
Head injury	3	1	2	2	-	2	1	-	1	-	12
Gunshot	1	1	1	-	-	-	-	-	-	1	4
Other external trauma	2	-	-	1	2	-	-	-	2	-	7
Drug use	-	-	-	1	-	-	1	-	2	-	4
Alcohol use	1	-	-	-	1	1	-	2	-	-	5
Natural causes	1	3	4	6	2	5	3	6	4	3	37
Total	11	6	8	11	6	9	9	20	14	5	99

*1 January to 31 May 1989

Time in custody prior to death and custodial authority

Table 21.4 sets out details on the period of time that the deceased were in custody prior to death or transfer to hospital or another medical facility. It can be seen that the Aboriginal people who died in police custody were in custody for relatively short periods of time prior to death, whereas those who died in prisons had been in custody for much longer periods of time. In over one-half of the police custody cases the time in custody was under six hours, and for one-third of the cases it was less than two hours. The mean and median times in police custody prior to death were 11.7 hours and 3.8 hours, whereas the mean and median times in custody prior to death in prisons were 15.2 months and 5.5 months respectively.

Demographic Characteristics

Age and gender

During the period 1 January 1980 to 31 May 1989 there were 99 reported cases of Aboriginal deaths in custody in Australia. They comprised 88 males and eleven females. The mean age was 32 years, the median age (i.e. the point above and below which half the cases fell) was 29 years and the range was 14 to 62 years.

TABLE 21.4

Time in Custody Prior to Death or Transfer to Hospital or another Medical Facility, and Custodial Authority, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Time in custody	*Police*	*Prison*	*Juvenile centre*	*Total*
Under 2 hours	21	-	1	22
2 & under 6 hours	12	-	-	12
6 & under 8 hours	9	-	-	9
8 & under 12 hours	7	-	-	7
12 & under 24 hours	6	-	-	6
1 & under 7 days	8	2	-	10
7 days & under 1 month	-	4	1	5
1 & under 3 months	-	8	-	8
3 & under 12 months	-	6	1	7
1 & under 2 years	-	5	-	5
2 & under 3 years	-	4	-	4
3 & under 5 years	-	2	-	2
Over 5 years	-	2	-	2
Total	63	33	3	99

TABLE 21.5
Age and Gender, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Age group	*Male*	*Female*	*Total*
0-14	-	1	1
15-19	12	-	12
20-24	13	1	14
25-29	20	3	23
30-34	16	2	18
35-39	4	2	6
40-44	12	1	13
45-49	2	-	2
50-54	2	-	2
55-59	4	1	5
60+	3	-	3
Total	88	11	99

Age and state

Table 21.6 shows the age group and the state or territory in which the person was in custody prior to death. It is also the state or territory in which the Royal Commission inquiries were conducted. The highest number of cases occurred in Western Australia and Queensland, which represented over half of the cases, while there were no cases in the Australian Capital Territory during the relevant period.

TABLE 21.6
Age at Death[(a)] and State, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Age group	*NSW*	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*ACT[(b)]*	*NT*	*Total*
0-14	-	-	1	-	-	-	-	-	1
15-19	2	-	5	3	2	-	-	-	12
20-24	3	-	2	5	1	1	-	2	14
25-29	6	-	2	11	1	-	-	3	23
30-34	2	-	5	5	4	-	-	2	18
35-39	1	-	4	1	-	-	-	-	6
40-44	-	1	7	3	-	-	-	2	13
45-49	1	-	-	-	1	-	-	-	2
50-54	-	1	-	1	-	-	-	-	2
55-59	-	1	1	1	2	-	-	-	5
60+	-	-	-	2	1	-	-	-	3
Total	15	3	27	32	12	1	-	9	99

(a)In ten cases the exact age was not known and an estimated age has been included.
(b)As none of the cases related in any way to the ACT, all other tables will exclude any reference to the ACT.

Requests for the suppression of deceased's name

In 17 cases the Commissioner responsible for the hearing ruled to suppress publication of the deceased person's name. This was generally done at the request of the family of the deceased person. As can be seen in Table 21.7 the majority of these cases were in the Northern Territory, where all of the deceased's names were suppressed. The other states where the deceased's names were suppressed were Queensland, Western Australia and South Australia.

TABLE 21.7
Name Suppressed and State, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Category	*NSW*	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*Total*
Suppressed	-	-	3	3	2	-	9	17
Not suppressed	15	3	24	29	10	1	-	82
Total	15	3	27	32	12	1	9	99

Place of birth

The state or territory of birth place of the deceased, compared with the state or territory of the place of death is displayed in Table 21.8. While most of the persons are shown as having died in the state or territory of birth, thirteen of the cases did not.

TABLE 21.8
State of Birth and State of Death, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

	State of death							
State of birth	*NSW*	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*Total*
NSW	11	2	3	-	-	-	-	16
Vic.	1	1	-	-	-	-	-	2
Qld	1	-	24	1	-	-	2	28
WA	-	-	-	30	-	-	-	30
SA	1	-	-	1	12	-	-	14
Tas.	1	-	-	-	-	1	-	2
NT	-	-	-	-	-	-	7	7
Total	15	3	27	32	12	1	9	99

Marital status

The marital status of the deceased persons is shown in Table 21.9. It will be noted that, in 73 cases the person was not in a marital relationship immediately prior to incarceration, i.e. was classified as having never been married, being separated from a relationship or being widowed.

TABLE 21.9
Marital Status and State, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Marital status	*NSW*	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*Total*
Never married	9	1	17	12	5	1	5	50
Married*	-	-	-	3	4	-	3	10
Married - de facto	3	-	4	7	1	-	1	16
Separated - not divorced	1	-	1	1	1	-	-	4
Widowed	-	2	2	-	1	-	-	5
Other**	2	-	3	9	-	-	-	14
Total	15	3	27	32	12	1	9	99

*Married either by Aboriginal or non-Aboriginal law.
**Includes married-de facto, since separated; and married by Aboriginal law, since separated.

Employment

The employment status immediately prior to the last detention is shown in Table 21.10 by state or territory of death. (The category 'employed' covers paid employment and does not include subsistence hunting/gathering, art and craft activities and other unpaid services.) It can be seen that most of the deceased (83 cases) were unemployed; eight were employed full-time; six were employed part-time; and one was engaged in home duties. The persons classified as employed were in New South Wales, Queensland, Western Australia and the Northern Territory at the time of death.

TABLE 21.10
Employment Status prior to last Detention and State, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Employment status	*NSW*	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*Total*
Employed full time	1	-	2	5	-	-	-	8
Employed part time	1	-	4	-	-	-	1	6
Home duties	-	-	-	-	1	-	-	1
Unemployed	13	3	21	26	11	1	8	83
Not known	-	-	-	1	-	-	-	1
Total	15	3	27	32	12	1	9	99

Occupation

The usual occupation of each of the persons is displayed in Table 21.11, together with the state or territory of death. It can be seen that in 35 cases the person was either usually unemployed (27 cases) or in receipt of a pension (eight cases). In New South Wales 10 persons were recorded as having a usual occupation, in Victoria all three persons, in Queensland 18 persons, in Western Australia 27 persons, in South Australia 5 persons, in the Northern Territory 6 persons and the sole case in Tasmania was recorded as not having a usual occupation.

TABLE 21.11
Usual Occupation and State, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Usual occupation	*NSW*	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*Total*
Unemployed	4	-	9	4	6	1	3	27
Labourer	6	-	11	6	-	-	1	24
Stockman	-	-	4	5	1	-	4	14
Rural labourer	1	1	1	8	-	-	1	12
Pensioner	-	2	-	4	2	-	-	8
Student	1	-	1	1	-	-	-	3
Driver	1	-	-	-	1	-	-	2
Home duties	-	-	-	-	1	-	-	1
Clerical	-	-	1	-	-	-	-	1
Shearer	-	-	-	1	-	-	-	1
Tradesman	1	-	-	-	-	-	-	1
Gardener	-	-	-	1	-	-	-	1
Supervisor	-	-	-	1	-	-	-	1
Not known	1	-	-	1	1	-	-	3
Total	15	3	27	32	12	1	9	99

Highest education

The highest level of education attained is shown in Table 21.12 together with the state or territory of death. Most of the persons had received at least some secondary education, while a sizeable minority had not proceeded beyond primary school. Three persons had received some tertiary education, but only one completed studies at that level.

TABLE 21.12
Highest Education Level Attained and State, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Education level	*NSW*	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*Total*
No formal education	-	-	2	3	1	-	2	8
Some primary	1	1	9	2	4	-	3	20
Completed primary	1	1	6	2	1	-	1	12
Some secondary	10	-	9	23	5	-	3	50
Completed secondary	1	-	1	-	-	-	-	2
Some TAFE	1	-	-	-	-	1	-	2
Completed TAFE	1	-	-	-	-	-	-	1
Not known	-	1	-	2	1	-	-	4
Total	15	3	27	32	12	1	9	99

Community

The community in which the person lived during most of the five years prior to detention has been classified and displayed with the state or territory of death in Table 21.13. It can be seen that most of the deceased lived in urban communities, with 24 persons in major urban communities and 35 persons in minor urban communities. The majority of the 21 persons who lived in formal Aboriginal communities were in Queensland and Western Australia, while the five cases in which the people lived in fringe camps were in Western Australia and South Australia.

The type of community immediately prior to apprehension together with the state or territory of death is shown in Table 21.14. Compared with Table 21.13, it can be seen that there was a small shift towards urban communities, which can be seen in New South Wales, Queensland and Western Australia.

Childhood separation

As can be seen in Table 21.15, 43 of the 99 deceased persons experienced childhood separation from their natural families through intervention by the state, mission organisations or other institutions. In New South Wales and Western Australia in over half of the cases the deceased persons had been separated from their families. For Queensland, the proportion was nearly one half.

TABLE 21.13

Type of Community During five Years prior to Apprehension and State, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

*Type of community**	*NSW*	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*Total*
Major urban	4	-	7	7	4	1	1	24
Minor urban	6	3	5	13	5	-	3	35
Fringe camp	-	-	-	4	1	-	-	5
Formal Aboriginal community	1	-	12	5	1	-	2	21
Rural centre	2	-	2	2	1	-	1	8
Rural property	-	-	1	1	-	-	2	4
Itinerant	2	-	-	-	-	-	-	2
Total	15	3	27	32	12	1	9	99

*Major urban: population 100,000 and over; Minor urban: population 1,000 to 99,999; Rural centre: population 200 to 999; Formal Aboriginal community: as recognised by legislation.

TABLE 21.14

Type of Community immediately prior to Apprehension and State, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

*Type of community**	*NSW*	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*Total*
Major urban	5	-	7	10	4	1	-	27
Minor urban	7	3	7	13	5	-	3	38
Fringe camp	-	-	-	3	1	-	2	6
Formal Aboriginal community	1	-	11	3	1	-	2	18
Rural centre	2	-	2	1	1	-	1	7
Rural property	-	-	-	2	-	-	1	3
Total	15	3	27	32	12	1	9	99

*Major urban: population 100,000 and over; Minor urban: population 1,000 to 99,999; Rural centre: population 200 to 999; Formal Aboriginal community: as recognised by legislation.

TABLE 21.15
Childhood Separation by Intervention and State, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Category	*NSW*	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*Total*
Separated	8	-	12	17	4	1	1	43
Not separated	7	3	15	11	8	-	7	51
Not known	-	-	-	4	-	-	1	5
Total	15	3	27	32	12	1	9	99

For the 43 persons who had experienced childhood separation, the mean age at the time of death was 27.5 years, compared to 32.0 years for all cases.

Table 21.16 shows the age groups at which the 43 person were first separated together with the type of community immediately prior to apprehension. The majority of the 43 cases were from major or minor urban communities, but for the 51 persons who did not experience childhood separation, the majority were from minor urban communities or Aboriginal communities.

TABLE 21.16
Type of Community during five Years prior to Apprehension and State, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Type of community	*Age groups* 0-4	5-9	10-14	15-17	*Total*
Major urban	3	7	8	2	20
Minor urban	3	4	3	3	13
Fringe camp	-	1	-	-	1
Aboriginal community	1	2	2	2	7
Rural centre	-	-	2	-	2
Rural property	-	-	-	-	-
Total	7	14	15	7	43

It may also be noted that the majority (67 per cent) of the childhood separations occurred between the ages of 5 and 14 years.

Criminal History

Age at first criminal charge

The reported age at the time of the first criminal charge is shown in Table 21.17, together with the state or territory of death. It can be seen that three-quarters of the cases were under 20 years of age at the time of their first criminal charge. Of

these, approximately half were separated from their family during childhood, as described earlier.

The mean age when first charged was 18.4 years, the median age was 16.0 years and the age range was 9 to 55 years.

Most frequent offence during whole of life

Information concerning the most frequent offence during the whole of life is presented in Table 21.18, for the 99 cases. An examination of this table reveals that the most frequent offence overall was drunkenness. This is the case in Victoria, Queensland, Western Australia and the Northern Territory. In New South Wales the most frequent offence was break and enter. Drunkenness was the most frequent offence for seven of the eleven deceased female persons.

TABLE 21.17
Age at First Criminal Charge and State, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Age group	*NSW*	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*Total*
0-14	7	1	9	12	3	-	1	33
15-19	8	-	9	15	4	1	4	41
20-24	-	1	3	2	1	-	1	8
25-29	-	-	3	1	1	-	3	8
30-39	-	1	-	1	2	-	-	4
35-39	-	-	-	1	-	-	-	1
40-44	-	-	2	-	1	-	-	3
45+	-	-	1	-	-	-	-	1
Total	15	3	27	32	12	1	9	99

TABLE 21.18
Most Frequent Offence, Whole of Life, and State, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Offence	*NSW*	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*Total*
Assault	1	-	1	2	1	-	1	6
Sex offences	-	-	1	-	-	-	1	2
Break & enter	5	-	2	9	2	-	1	19
Motor theft	2	-	3	2	1	-	1	9
Theft	3	-	1	1	-	1	-	6
Property damage	-	-	1	-	-	-	-	1
Justice procedures	1	-	-	-	-	-	-	1
Drunkenness	1	3	14	13	5	-	2	38
Other good order	1	-	2	5	2	-	1	11
Drink driving	1	-	1	-	1	-	1	4
Other traffic	-	-	-	-	-	-	1	1
Other offences	-	-	1	-	-	-	-	1
Total	15	3	27	32	12	1	9	99

Notes: (1) Where no single offence occurred more frequently than others, the most serious of the most frequent offences is included here.

(2) Intoxication was not an offence in New South Wales after 17 March 1980; in South Australia after 3 September 1984; and in the Northern Territory after 21 October 1974. In all 99 cases, however, the deceased had, at some time in her or his life, committed at least one offence.

On examining the most frequent offence in relation to the occurrence of childhood separation it was observed that 58 per cent of the cases, where the most frequent offence was break and enter, experienced childhood separation. It was also shown that the most frequent offence for 29 per cent of the persons who experienced childhood separation was drunkenness and for a further 17 per cent for the offence of assault.

Length of time in prison during whole of life

Table 21.19 displays the length of time in prison during the whole of life together with the most serious offence during the whole of life. It can be seen that 80 per cent of the deceased persons spent some time in prison during the whole of life. The mean length of time in prison was 2.4 years, the median was 9.6 months and the range was nil to 18 years.

TABLE 21.19
Length of Time in Prison and Most Serious Offence, Whole of Life, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

		Months						*Years*						
Offence	*Nil*	*<1*	*1& <3*	*3& <6*	*6& <9*	*9& <12*	*1& <1.5*	*1.5& <2*	*2& <3*	*3& <4*	*4& <5*	*5& <10*	*10& over*	*Total*
Homicide	-	-	-	-	-	-	1	-	1	-	-	3	1	6
Assault	4	1	4	6	3	1	4	1	4	1	3	5	-	37
Sex offences	-	-	2	-	1	-	-	1	1	1	1	2	4	13
Other person	-	-	-	-	-	-	-	-	-	-	1	-	-	1
Robbery	-	-	-	-	-	-	-	-	1	-	-	-	1	2
Break & enter	3	1	-	1	-	-	-	-	1	-	-	1	-	7
Fraud	-	-	-	-	1	-	-	-	-	-	-	-	-	1
Motor theft	-	-	-	-	-	-	1	-	-	-	-	-	-	1
Theft	4	-	-	2	1	-	-	1	1	-	-	-	-	9
Property damage	-	-	-	-	-	-	1	1	-	-	-	-	-	2
Justice procedures	-	-	1	-	-	-	-	-	-	-	-	-	-	1
Drunkenness	2	-	-	-	-	-	-	-	-	-	-	-	-	2
Other good order	4	1	3	1	1	-	1	-	-	-	-	-	-	11
Drink driving	2	1	-	-	1	-	-	-	-	1	-	-	-	5
Other offences	1	-	-	-	-	-	-	-	-	-	-	-	-	1
Total	20	4	10	10	8	1	8	4	9	3	5	11	6	99

Type of non-custodial orders served

Sixty-two cases had served non-custodial orders while 36 cases had not done so. In one case the information was not available. The orders served included fines, good behaviour bonds, probation, parole, child welfare and community service orders.

Details of time spent in, and type of, other institutions

Of the 99 cases investigated, 46 cases had spent time in other institutions, while 47 cases had no history of time spent in other institutions. The information is not available in six cases. In some cases the person had attended more than one type of institution. The type of institutions were juvenile detention facilities (35 cases), drug/alcohol facilities (four cases), psychiatric institutions (nine cases), child welfare institutions (three cases) and in one case the person had attended a boarding school for the deaf.

Last Apprehension and Detention

Place where last taken into custody

Table 21.20 indicates the state or territory in which the final apprehension occurred. In 97 cases the person died in the same state or territory as she or he had been apprehended. In one case, the death occurred in Western Australia but the person was apprehended in Adelaide, South Australia, on a warrant for the offence of indecent assault which had previously occurred in Adelaide. The person was later extradited to Western Australia to answer charges of escape legal custody and rape. In another case, where the death occurred in the Northern Territory, the person had been apprehended for wilful damage and disorderly behaviour in Broome, Western Australia, and later extradited to Alice Springs to face charges in the Northern Territory of indecent assault and attempted rape.

TABLE 21.20
State of Apprehension and State of Death, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

State of	*State of death*							
apprehension	*NSW*	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*Total*
NSW	15	-	-	-	-	-	-	15
Vic.	-	3	-	-	-	-	-	3
Qld	-	-	27	-	-	-	-	27
WA	-	-	-	31	-	-	1	32
SA	-	-	-	1	12	-	-	13
Tas.	-	-	-	-	-	1	-	1
NT	-	-	-	-	-	-	8	8
Total	15	3	27	32	12	1	9	99

In 90 cases the arresting authority was the state police while in nine cases the arresting authority was Aboriginal Community Police in Queensland. There were no arrests made under the authority of Aboriginal police aides alone.

Reason for apprehension

The reasons for apprehension are set out in Table 21.21. In the majority of cases (67) the person was apprehended for committing an offence. In 19 cases the person was apprehended under a warrant. No offence was involved in the remaining 13 cases where the person was either apprehended for intoxication where it was not an offence or for other reasons where no offence had been committed.

Most serious offence leading to last detention

Table 21.22 provides information relating to the most serious offence leading to the last detention for 87 cases out of the total of 99 cases. Of the remaining 12 cases an offence was not committed: in eight cases the person was detained as an intoxicated person where it was not an offence; in one case the person was unlawfully detained in police cells; in one case the person was detained for threatening absconding/truancy while a ward of the state; in one case the person was unlawfully detained by police acting upon a search warrant; and in one case the person was detained under mental health legislation.

TABLE 21.21
Reason for Apprehension and State, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Reason for apprehension	*NSW*	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*Total*
Arrest-offence	7	-	10	17	5	-	2	41
Arrest-warrant	2	2	1	6	5	-	3	19
Intoxicated-offence	-	1	14	9	1	1	-	26
Intoxicated-not offence	4	-	-	-	1	-	4	9
Other	2	-	2	-	-	-	-	4
Total	15	3	27	32	12	1	9	99

TABLE 21.22
Most Serious Offence leading to last Detention and State, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Offence	*NSW*	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*Total*
Homicide	1	-	2	1	-	-	-	4
Assault	2	-	1	2	3	-	1	9
Sex offences	2	-	2	4	-	-	-	8
Break & enter	-	-	-	5	1	1	-	7
Motor theft	1	-	1	1	-	-	-	3
Theft	*1	-	-	-	-	-	2	3
Property damage	1	-	-	1	1	-	1	4
Justice procedures	-	-	1	1	2	-	1	5
Drunkenness	-	3	14	9	1	-	-	27
Other good order	1	-	3	3	2	-	-	9
Drink driving	1	-	1	5	1	-	-	8
Total	10	3	25	32	11	1	5	87

*In one case, the person was apprehended for intoxication where it was not an offence and was further detained on the execution of an outstanding warrant for the offence of theft.

Table 21.22 reveals dramatically the heavy involvement of alcohol use in reasons for custody. It was by far the dominant reason, with public drunkenness being the most serious offence resulting in the final detention in 27 of the 87 cases for which this information is relevant. (As noted above, in an additional nine cases the person was held because of public drunkenness in jurisdictions where it was not an offence.) Each of the three Victorian deaths were drunkenness cases, as were more than half of the Queensland cases. Offences against good order, other than public drunkenness, accounted for nine of the 87 cases. Only 21 of the deceased were held for the most serious categories of offences, namely, homicide, assault and sexual offences.

Police custody

Reason for bail denial Sixty-three of the 99 deaths occurred while the person was in the custody of police. (The balance were in prison or juvenile institution custody.) Bail was denied or was not applicable in these cases for a number of reasons, shown in Table 21.23, as: 'sentenced'—cases where the person was sentenced by a court to a period of imprisonment, which was being served in the police cells; 'antecedents'—where there was an outstanding warrant or the person was on bail at the time of the offence; 'remand'—cases where the person was remanded in police custody; 'intoxicated'—where the person had been arrested for an offence but was too intoxicated to be released; 'not considered'—where it was reported that bail was not considered for various reasons; 'not applicable'—cases where the person was detained and where there was not an offence; and 'not known'—where the reasons for bail denial are not known to the Royal Commission.

TABLE 21.23

Reason for Bail Denial and State, Police Custody Cases Only, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Reason	*NSW*	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*Total*
Sentenced	1	2	1	4	1	-	1	10
Antecedents	2	-	2	3	-	1	-	8
Remand	-	-	-	-	2	-	-	2
Intoxicated	1	1	14	10	1	-	-	27
Not considered	-	-	1	1	2	-	-	4
Not applicable	5	-	1	-	1	-	4	11
Not known	-	-	-	1	-	-	-	1
Total	9	3	19	19	7	1	5	63

It will be noted that bail was denied in nearly half the cases (27 out of 63) as the person was deemed to be considered too intoxicated to be released. An additional ten cases were of people serving a sentence of imprisonment in a police lockup.

In four of the ten cases denied bail because they were serving a sentence, the offence was drunkenness, in two cases the offence was theft, in two cases the offence was drink driving, one case was in the category justice procedures and in another case the person was sentenced for a good order offence other than drunkenness.

Physical condition on apprehension The reported physical condition on apprehension is shown in Table 21.24. It can be seen that, in the majority of cases (37), the person was reported to be intoxicated. In only twelve cases the person was reported to be well and in a further 13 cases the person was considered to be sick or injured. In one case the person was unconscious on apprehension.

TABLE 21.24
Physical Condition on Apprehension and State, Police Custody Cases only, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Condition	*NSW*	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*Total*
Well	1	2	2	3	3	-	1	12
Sick	1	-	2	1	1	-	-	5
Injured	-	-	1	5	2	-	-	8
Intoxicated	7	1	14	9	1	1	4	37
Unconscious	-	-	-	1	-	-	-	1
Total	9	3	19	19	7	1	5	63

Observed level of intoxication on apprehension The observed level of intoxication on apprehension in the 63 police custody cases is shown in Table 21.25. The majority of persons were noted as being intoxicated to some degree, while seven cases were not intoxicated. Of the 56 persons who were observed as intoxicated the level of intoxication was recorded as 'alcohol-high' in 31 cases and as an alcohol/drug combination in two cases .

TABLE 21.25
Level of Intoxication and State, Police Custody Cases only, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Level	*NSW*	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*Total*
Alcohol-mild	-	1	-	3	3	-	-	7
Alcohol-moderate	2	-	1	-	1	-	-	4
Alcohol-high	4	-	13	11	-	-	3	31
Alcohol-level not known	-	1	4	3	1	1	2	12
Alcohol/drug combination	1	-	-	-	1	-	-	2
None	2	1	1	2	1	-	-	7
Total	9	3	19	19	7	1	5	63

State of consciousness on apprehension The observed state of consciousness on apprehension is shown in Table 21.26. The majority of persons were awake on apprehension while there were eight cases considered to be difficult to arouse, six cases could not be aroused and in one case there were a number of conflicting observations concerning the consciousness of the deceased.

Custody

Custodial authority

As noted above, of the 99 cases, 63 were held in police custody, 33 were held in prison custody and three were held in juvenile detention. Table 21.27 and Figure 21.1 show the distribution for each state or territory.

It can be seen from Table 21.27 and Figure 21.1 that nearly twice as many of the deaths occurred in police custody as occurred in prisons and that the highest totals were in Western Australia and in Queensland. It is to be noted that there were no Aboriginal deaths in prison custody in Victoria, Tasmania or the Australian Capital Territory; indeed, there were no Aboriginal deaths in custody in the Australian Capital Territory. The three deaths of Aboriginal persons in juvenile detention facilities occurred in New South Wales, Queensland and South Australia.

TABLE 21.26
State of Consciousness and State, Police Custody Cases only, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Category	*NSW*	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*Total*
Awake	8	2	14	14	6	1	3	48
Asleep-OK	-	-	1	-	-	-	-	1
Arouse-difficult	1	1	4	1	1	-	-	8
Not arouse	-	-	-	4	-	-	2	6
Total	9	3	19	19	7	1	5	63

TABLE 21.27
Custodial Authority and State, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Custodial authority	*NSW*	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*Total*
Police	9	3	19	19	7	1	5	63
Prison	5	-	7	13	4	-	4	33
Juvenile centre	1	-	1	-	1	-	-	3
Total	15	3	27	32	12	1	9	99

Legal status

The legal status of the deceased persons, at the time of death, is shown in Table 21.28. In 48 cases the persons had been charged but not sentenced, in 39 cases the persons were serving a sentence, in eight cases the persons were detained for intoxication where it was not an offence and in four cases the persons were detained for other reasons, where an offence had not been committed. As noted above, the four cases detained for other reasons were: one case was unlawfully detained by police executing a search warrant (New South Wales); one case was unlawfully detained in a police cell (New South Wales); one case was detained under mental health legislation (Queensland); and one case was detained for threatened absconding/truancy while a ward of the state (Queensland).

FIGURE 21.1
Aboriginal Deaths in Custody by Custodial Authority, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

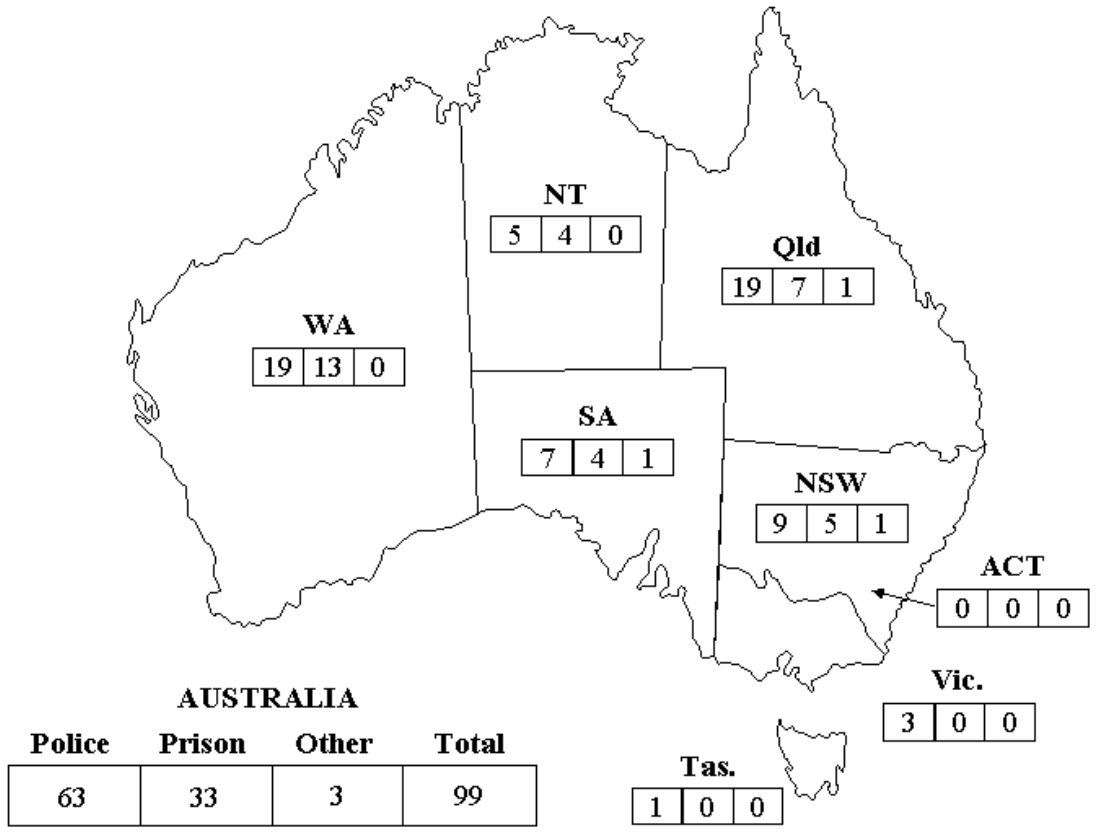


TABLE 21.28
Legal Status and State, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Legal status	*NSW*	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*Total*
Charged*	5	1	18	16	5	1	2	48
Serving sentence	5	2	7	16	6	-	3	39
Intoxicated-not offence	3	-	-	-	1	-	4	8
Other	2	-	2	-	-	-	-	4
Total	15	3	27	32	12	1	9	99

*'Charged' implies either not yet brought before the court or remanded in custody awaiting trial or sentence.

As can be seen, in Queensland two-thirds of the persons were charged but not sentenced, while in New South Wales one-third of the cases were in this category, in Western Australia half of the cases were charged and not sentenced,

and in Tasmania the single case investigated was also charged and not sentenced. In the Northern Territory the most frequent legal status was detention for intoxication where it was not an offence.

The custodial authority and the legal status is displayed in Table 21.29. Forty-two of the 48 cases charged and not sentenced were in police custody while five were in prison custody, being held on remand, and one was held in juvenile detention. There were 28 persons serving a sentence in prison custody, ten persons serving a sentence in police custody and one person serving a sentence in a juvenile institution. Of the four cases detained for other reasons (as described earlier) three were in police custody and one was in a juvenile centre.

TABLE 21.29
Custodial Authority and Legal Status, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Legal status	*Police*	*Prison*	*Juvenile centre*	*Total*
Charged-not sentenced	42	5	1	48
Serving sentence	10	28	1	39
Intoxicated-not offence	8	-	-	8
Other	3	-	1	4
Total	63	33	3	99

Prison Custody

Prison security rating and state

As mentioned above, 33 persons died in prison custody. Information concerning the prison security ratings for these cases is shown in Table 21.30. Of the 13 cases held in maximum security the most serious offence leading to apprehension for each case was homicide (2 cases), assault (1 case), sexual offences (4 cases), break and enter (3 cases), property damage (1 case) and justice procedures (2 cases). (Note: there were no Aboriginal deaths in prison custody in Victoria or Tasmania. Therefore, these jurisdictions are not shown in Tables 21.30 to 21.33.)

The participation in prison programs is displayed in Table 21.31. The types of activities include education programs, art and craft activities, drama group, reading, guitar playing, sport and recreation room activities. Fourteen persons were reported to have participated in programs, 14 persons did not participate and the information was not available in five cases.

TABLE 21.30
Security Rating and State, Prison Custody Cases only, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Security rating	*NSW*	*Qld*	*WA*	*SA*	*NT*	*Total*
Maximum	3	2	6	-	2	13
Medium	1	1	1	2	-	5
Minimum	1	-	6	-	1	8
Not known	-	4	-	2	1	7
Total	5	7	13	4	4	33

TABLE 21.31
Program Participation and State, Prison Custody Cases only, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Category	*NSW*	*Qld*	*WA*	*SA*	*NT*	*Total*
Participation	2	4	6	1	1	14
No participation	3	2	6	1	2	14
Not known	-	1	1	2	1	5
Total	5	7	13	4	4	33

Participation in work assignments during prison custody is reported in Table 21.32. Sixteen persons had received work assignments, 13 persons did not and in four cases the information is not known. The types of work assignments included prison barber, cleaning, collecting horse manure, cook, farm work, gardening, laundry duties, messman, metal work and sweeper.

TABLE 21.32
Work Assignment and State, Prison Custody Cases only, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Category	*NSW*	*Qld*	*WA*	*SA*	*NT*	*Total*
Participated	2	4	7	2	1	16
Not participated	3	3	4	1	2	13
Not known	-	-	2	1	1	4
Total	5	7	13	4	4	33

As can be seen in Table 21.33, while in prison custody 21 persons either received visitors or had telephone or mail contact with outside friends or family, seven did not have any outside contacts and in five cases the information is not known.

TABLE 21.33
Outside Contacts and State, Prison Custody Cases only, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Category	*NSW*	*Qld*	*WA*	*SA*	*NT*	*Total*
Contacts	4	5	8	1	3	21
No contacts	1	1	2	2	1	7
Not known	-	1	3	1	-	5
Total	5	7	13	4	4	33

Medical inspections while in custody

Of the 99 cases reviewed by the Royal Commission, 39 of the deceased were reported to have received a medical inspection during the final period of custody, of which 32 were in prison custody, six were in police custody and one was in juvenile detention (*see* Table 21.34).

Of the 39 persons who received a medical inspection, the mean number of days between medical inspection and death was 58 days and the range was nil to 395 days.

TABLE 21.34
Medical Inspections* and State, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Category	*NSW*	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*Total*
Inspection	8	1	8	13	5	-	4	39
No inspection	7	2	19	19	7	1	5	60
Total	15	3	27	32	12	1	9	99

*The types of medical inspections included were: prison entry medical, prison medical officer by request, other prison medical staff, ambulance officers and general practitioner visits.

Duration of custody prior to death

The length of time in custody prior to death or transfer to a hospital or other medical facility is detailed in Table 21.35 for all cases. In police custody the mean length of time was 11.7 hours, in prison custody the mean length of time was 15 months and for custody in a juvenile centre the mean length of time was 39 days.

The length of time in custody is displayed in Table 21.36, together with the state or territory of death. Overall, approximately one-third of the cases were in police custody for less than six hours. In Queensland, half the cases were in custody for less than six hours, while in New South Wales and in Western Australia approximately one-third of persons were in custody for this period.

TABLE 21.35

Length of Time in Custody prior to Death or Transfer to Hospital or other Medical Facility, and Custodial Authority, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Length of time	*Police*	*Prison*	*Juvenile centre*	*Total*
Under 2 hours	21	-	1	22
2 & under 6 hours	12	-	-	12
6 & under 8 hours	9	-	-	9
8 & under 12 hours	7	-	-	7
12 & under 24 hours	6	-	-	6
1 & under 7 days	8	2	-	10
7 days & under 1 month	-	4	1	5
1 & under 3 months	-	8	-	8
3 & under 12 months	-	6	1	7
1 & under 2 years	-	5	-	5
2 & under 3 years	-	4	-	4
3 & under 5 years	-	2	-	2
Over 5 years	-	2	-	2
Total	63	33	3	99

TABLE 21.36

Length of Time in Custody prior to Death or Transfer to Hospital or other Medical Facility, and State, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Length of time	*NSW*	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*Total*
Under 2 hours	3	-	9	6	2	-	2	22
2 & under 6 hours	2	-	4	4	1	1	-	12
6 & under 8 hours	2	2	2	1	1	-	1	9
8 & under 12 hours	1	-	1	4	1	-	-	7
12 & under 24 hours	-	-	3	1	1	-	1	6
1 & under 7 days	1	1	2	4	1	-	1	10
7 days & under 1 month	1	-	-	2	1	-	1*	5
1 & under 3 months	1	-	2	2	2	-	1	8
3 & under 12 months	1	-	-	2	2	-	2	7
1 & under 2 years	1	-	1	3	-	-	-	5
2 & under 3 years	2	-	-	2	-	-	-	4
3 & under 5 years	-	-	1	1	-	-	-	2
Over 5 years	-	-	2	-	-	-	-	2
Total	15	3	27	32	12	1	9	99

The mean length of time in custody prior to death is shown in Table 21.37 for police and prison custody and state or territory of death. In police custody the single case in Tasmania was in custody 2.0 hours, while the highest mean length of time was in the Northern Territory with 16.4 hours. In prison custody, on the other hand, the lowest mean length of time was in South Australia with 2.8 months and the highest mean length of time was in Queensland with 34.1 months.

TABLE 21.37

Mean Length of Time in Custody prior to Death or Transfer to Hospital or other Medical Facility, Police and Prison Custody, and State, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

		State							
Custodial authority	*Unit of measurement*	*NSW*	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*Total*
Police	Hours	13.8	25.2	7.4	12.0	11.9	2.0	16.4	11.7
Prison	Months	14.7	-	34.1	12.6	2.8	-	3.4	15.2

Time to be served in custody

Of the 39 cases serving sentences, the length of the unserved sentence is displayed in Table 21.38. It can be seen that, of the sentenced persons who died in prison custody, over half had one year or more to serve. In one case (police custody in Western Australia) the person had served a two day sentence and died in hospital four days later. In another case (prison custody in Western Australia) the person's sentence was remitted while he was in hospital prior to his death. Both of these cases were ruled by Commissioners as falling within the Terms of Reference of the Royal Commission.

Proportion of sentence served

Of the 33 prison cases, 28 were serving sentences (five were in prison held on remand). The mean proportion of sentence served among the sentenced prisoners was 47 per cent, the median was 48 per cent and the range was 3.3 to 100 per cent (*see* Table 21.39).

Details of the Deaths

Custodial authority and year of death

Table 21.40 and Figure 21.2, summarise the year of death and the custodial authority. The greatest numbers of deaths in a year, in all forms of custody combined, occurred in 1987 (20 cases) and in 1988 (14 cases). The year 1987 had the highest number of deaths in police custody. Prison custody deaths, on the other hand, were most frequent in 1988 (6 cases) and in 1980 and 1983 (5 cases each). The highest occurrence of deaths in police custody occurred in Queensland in 1987 (8 cases) while Western Australia reported the highest number of prison custody deaths in 1984 (3 cases).

TABLE 21.38

Unserved Sentence and Custodial Authority, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Length of time	*Police*	*Prison*	*Juvenile centre*	*Total*
Nil*	1	1	-	2
Under 2 hours	1	-	-	1
2 & under 6 hours	-	-	-	-
6 & under 8 hours	-	-	-	-
8 & under 12 hours	-	-	-	-
12 & under 24 hours	2	-	-	2
1 & under 7 days	3	2	-	5
7 days & under 1 month	2	2	-	4
1 & under 3 months	1	3	-	4
3 & under 12 months	-	4	1	5
1 & under 2 years	-	6	-	6
2 & under 3 years	-	4	-	4
3 & under 5 years	-	4	-	4
Over 5 years	-	2	-	2
Total	10	28	1	39

*In one case the person had served the sentence; in the other case the sentence had been remitted.

TABLE 21.39

Proportion of Sentence Served, Prison Custody Cases, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Per cent served	*Number*
0-9	3
10-19	-
20-29	5
30-39	3
40-49	3
50-59	5
60-69	4
70-79	2
80-89	2
90-99	-
100	1
Total	28

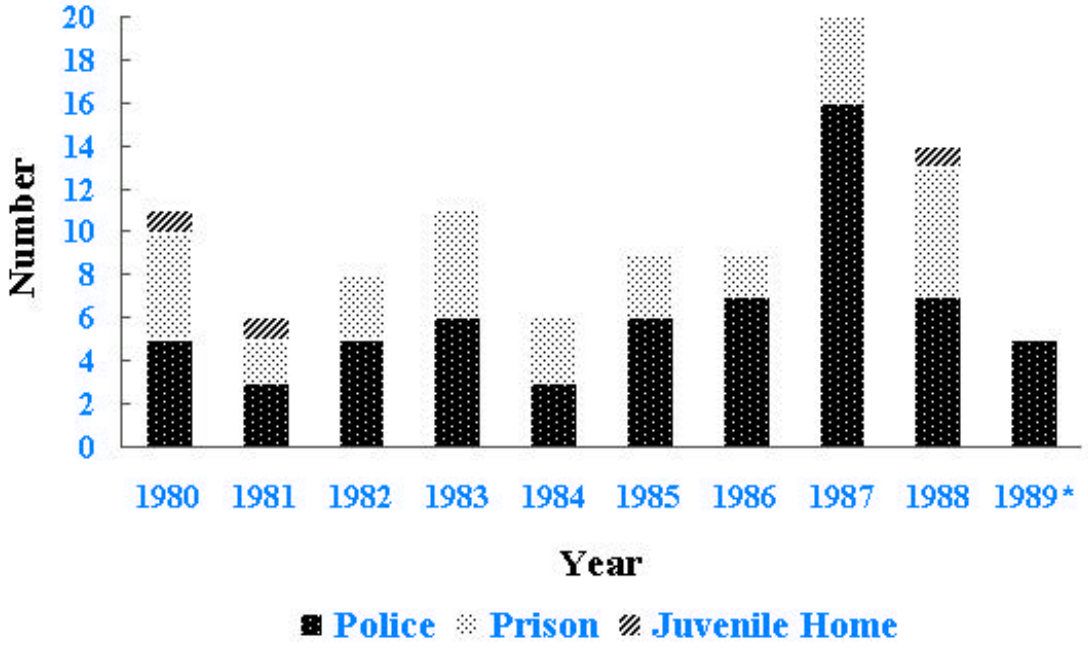
These aggregates are broken down in Table 21.41 to show the individual states, year of death and custodial authority.

TABLE 21.40
Year of Death and Custodial Authority, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Custodial authority	*1980*	*1981*	*1982*	*1983*	*1984*	*1985*	*1986*	*1987*	*1988*	*1989**	*Total*
Police	5	3	5	6	3	6	7	16	7	5	63
Prison	5	2	3	5	3	3	2	4	6	-	33
Juvenile centre	1	1	-	-	-	-	-	-	1	-	3
Total	11	6	8	11	6	9	9	20	14	5	99

*1 January to 31 May 1989

FIGURE 21.2
Year of Death and Custodial Authority, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989



Place of death

The actual location of death was not always the same as the location of custody, as can be seen in Table 21.42. Sixteen of the 63 police custody cases died in hospital while nine of the persons in prison custody died in hospital and one person in a juvenile centre died in hospital. Details are set out in Table 21.42.

The place of death for the eight persons shown as 'other' in Table 21.42 were: one police and two prison custody cases died in vehicles on the way to hospital;

one died in a prison vehicle elsewhere; one police custody case died on a roadside; one police case died in a private residence; and the two juvenile cases in this category died in juvenile detention centres.

TABLE 21.41
Year of Death and Custodial Authority, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Year	*NSW*	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*Total*
				POLICE				
1980	-	-	-	3	-	-	2	5
1981	1	-	1	1	-	-	-	3
1982	2	2	-	1	-	-	-	5
1983	-	-	-	3	3	-	-	6
1984	-	-	2	-	-	-	1	3
1985	1	-	1	3	-	-	1	6
1986	2	-	3	-	1	1	-	7
1987	2	18	3	1	-	1	16	
1988	-	-	1	5	1	-	-	7
1989*	1	-	3	-	1	-	-	5
Total	9	3	19	19	7	1	5	63
				PRISON				
1980	1	-	1	1	1	-	1	5
1981	-	-	2	-	-	-	-	2
1982	-	-	-	2	1	-	-	3
1983	2	-	-	2	1	-	-	5
1984	-	-	-	3	-	-	-	3
1985	-	-	1	1	-	-	1	3
1986	-	-	1	1	-	-	-	2
1987	1	-	1	1	1	-	-	4
1988	1	-	1	2	-	-	2	6
1989*	-	-	-	-	-	-	-	-
Total	5	-	7	13	4	-	4	33
				JUVENILE CENTRE				
1980	-	-	1	-	-	-	-	1
1981	1	-	-	-	-	-	-	1
1982	-	-	-	-	-	-	-	-
1983	-	-	-	-	-	-	-	-
1984	-	-	-	-	-	-	-	-
1985	-	-	-	-	-	-	-	-
1986	-	-	-	-	-	-	-	-
1987	-	-	-	-	-	-	-	-
1988	-	-	-	-	1	-	-	1
1989*	-	-	-	-	-	-	-	-
Total	1	-	1	-	1	-	-	3

*1 January to 31 May 1989

Time of death

The time of day that the deaths occurred is displayed in Table 21.43, and indicates that one-third of the deaths occurred between 2200 hours and 0600 hours.

TABLE 21.42
Place of Death and Custodial Authority, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

	Place of death				
Custodial authority	*Police*	*Prison*	*General hospital*	*Other*	*Total*
Police	44	-	16	2	63
Prison	-	23	9	3	33
Juvenile centre -	-	1	2	3	
Total	44	23	26	8	99

TABLE 21.43
Time of Death and Custodial Authority, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Time of death	*Police*	*Prison*	*Juvenile centre*	*Total*
Midnight to before 0600 hours	16	7	1	24
0600 to before 0800 hours	5	-	-	5
0800 to before 1000 hours	2	3	-	5
1000 to before 1200 hours	-	5	1	6
1200 to before 1400 hours	9	-	-	9
1400 to before 1600 hours	7	5	-	12
1600 to before 1800 hours	7	3	1	11
1800 to before 2000 hours	7	1	-	8
2000 to before 2200 hours	9	2	-	11
2200 to before midnight	1	7	-	8
Total	63	33	3	99

Manner of death

Table 21.44 shows the manner of death and the custodial authority of each of the 99 cases investigated by the Royal Commission. The term 'manner of death' is used here to describe how the death occurred, without indicating intention or responsibly. In 37 cases death was from natural causes, and in 30 cases death was self-inflicted by hanging. Of the deaths which occurred in policy custody, 35 per

cent were caused by hanging and 30 per cent were from natural causes. Of the deaths in prison custody, however, 52 per cent were from natural causes and 21 per cent were from hanging.

The manner of death labelled 'alcohol use' in Table 21.44 and subsequently includes four deaths from withdrawal and one from acute poisoning by alcohol. Diseases which are not externally caused and to which long-term alcohol use does or may contribute, such as alcoholic liver disease or cardiomyopathy, are included in the 'natural causes' category.

The manner of death and the state or territory of death is shown in Table 21.45. All of the Victorian cases were deaths from natural causes, while in Queensland 12 out of 27 were so classified and, in the Northern Territory, 3 out of 9. Similar proportions of the deaths were by hanging in New South Wales, 6 out of 15, and in Queensland, 11 out of 27.

Where the manner of death was by hanging, the mean age at death 25.6 years, the median was 23 years and the range was 17 to 55 years. For the 37 cases where the death was from natural causes, the mean age at death was 36 years, the median was 33 years and the range was 17 to 58 years.

Finally, of the eleven female cases, the death was from natural causes in six cases; a head injury in one case; self-inflicted hanging in one case; self-inflicted drug use in one case; as a result of fire in one case; and from injuries caused by an assault from other detainees in one case.

TABLE 21.44

Manner of Death and Custodial Authority, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Manner of death	*Police*	*Prison*	*Juvenile centre*	*Total*
Hanging	22	7	1	30
Head injury	11	1	-	12
Gunshot	2	2	-	4
Other external trauma	2	4	1	7
Drug use	2	2	-	4
Alcohol use	5	-	-	5
Natural causes	19	17	1	37
Total	63	33	3	99

TABLE 21.45
Manner of Death and State, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Manner of death	*NSW*	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*Total*
Hanging	6	-	11	7	3	1	2	30
Head injury	2	-	-	6	3	-	1	12
Gunshot	1	-	1	1	-	-	1	4
Other external trauma	2	-	2	3	-	-	-	7
Drug use	2	-	-	-	1	-	1	4
Alcohol use	-	-	1	3	-	-	1	5
Natural causes	2	3	12	12	5	-	3	37
Total	15	3	27	32	12	1	9	99

Police custody The manner of death in police custody is displayed in Table 21.46, with the state or territory of death. Death by hanging in police custody can be seen to have been relatively frequent in New South Wales, Queensland and Western Australia. No hangings occurred in Victoria or the Northern Territory. In eight of the Queensland cases, the deaths were from natural causes.

TABLE 21.46
Manner of Death and State, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Manner of death	*NSW*	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*Total*
Hanging	5	-	9	6	1	1	-	22
Head injury	2	-	-	6	2	-	1	11
Gunshot	1	-	-	-	-	-	1	2
Other external trauma	-	-	1	1	-	-	-	2
Drug use	1	-	-	-	1	-	-	2
Alcohol use	-	-	1	3	-	-	1	5
Natural causes	-	3	8	3	3	-	2	19
Total	9	3	19	19	7	1	5	63

TABLE 21.47
Manner of Death and State, Police Custody Cases Only, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Manner of death	*NSW*	*Qld*	*WA*	*SA*	*NT*	*Total*
Hanging	1	2	1	1	2	7
Head injury	-	-	-	1	-	1
Gunshot	-	1	1	-	-	2
Other external trauma	2	-	2	-	-	4
Drug use	1	-	-	-	1	2
Alcohol use	-	-	-	-	-	-
Natural causes	1	4	9	2	1	17
Total	5	7	13	4	4	33

Prison custody The manner of death for prison custody cases is shown in Table 21.47. Overall, the most frequent manner of death was natural causes, and this pattern was seen especially in Western Australia and Queensland.

Outside contacts—prison custody As can be seen, there is no support from the data presented here for the possible hypothesis that prisoners who have no contact with friends or family are more likely to hang themselves. For the prison custody cases, the details of the manner of death and the history of contacts with friends and family are displayed.

Natural causes

In 37 cases the manner of death is classified as 'natural causes', that is, deaths from diseases rather than from externally events. The condition present and described as the manner of death was: heart condition (19 cases); stroke (two cases); respiratory condition (nine cases); digestive condition (one case); and other diseases (six cases). The 'other diseases' category included epilepsy (three cases), hypoglycaemia (two cases) and haemorrhage into ovarian cyst (one case).

TABLE 21.48
Manner of Death and Contacts, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Manner of death Contacts	*No contacts*	*Not known*	*Total*
Hanging	6	-	1	7
Head injury	-	1	-	1
Gunshot	2	-	-	2
Other external trauma	3	1	-	4
Drug use	2	-	-	2
Alcohol use	-	-	-	-
Natural causes	8	5	4	17
Total	21	7	5	33

Resuscitation attempts by custodial staff and/or prisoners

Table 21.49, displays the reported attempts by custodial staff and/or prisoners to resuscitate the deceased, together with the custodial authority. As can be seen, in 52 cases resuscitation was not attempted, while in 23 cases it was attempted. In police custody attempts were made in 16 per cent of the cases, while in prison custody attempts were made in 33 per cent of the cases.

TABLE 21.49
Custodial Authority and Resuscitation Attempts, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Resuscitation	*Police*	*Prison*	*Juvenile centre*	*Total*
Attempted	10	11	2	23
Not attempted	37	15	-	52
Not applicable (died in hospital)	16	7	1	24
Total	63	33	3	99

Level of intoxication at time of death—police

Thirty-six of the police custody cases had a positive blood alcohol reading at death. Among these cases, the mean blood alcohol concentration was 0.22g%, the median was 0.23g% and the range was .02g% to 0.61g%. In 25 cases the person was reported as not being intoxicated - nine cases in Western Australia, five in Queensland and four in New South Wales, while some level of intoxication was reported for 37 cases.

TABLE 21.50
Level of Intoxication at Death, Police Custody Cases only, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Intoxication level	*NSW*	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*Total*
Alcohol-mild	1	-	2	1	2	-	-	6
Alcohol-moderate	-	1	4	3	1	-	1	10
Alcohol-high	3	-	7	6	-	1	2	19
Alcohol/drug combination	1	-	-	-	1	-	-	2
None	4	2	5	9	3	-	2	25
Not known	-	-	1	-	-	-	-	1
Total	9	3	19	19	7	1	5	63

Time since last seen alive

Table 21.51 shows the length of time since the deceased was last seen alive and the custodial authority involved. In 28 cases, the person died in a hospital; this variable is of most interest with regard to the remaining cases where the people died in the physical custody of non-medical personnel. Of these 71 cases, 34 had been seen by custodians within one hour of the death. In police custody the most frequent length of time since last seen alive was also under one hour, while in prison custody the most frequent length of time is classified in the table as 'nil', that is, where the person died in the presence of custodial staff.

TABLE 21.51
Time Since last seen and Custodial Authority, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Length of time	*Police*	*Prison*	*Juvenile centre*	*Total*
Nil	3	7	-	10
Under 1 hour	17	5	2	24
1 & under 2 hours	8	1	-	9
2 & under 3 hours	7	1	-	8
3 & under 4 hours	3	2	-	5
4 & under 8 hours	6	2	-	8
8 & under 12 hours	1	2	-	3
Over 12 hours	1	3	-	4
Died in hospital	17	10	1	28
Total	63	33	3	99

State of consciousness when last observed

In just over half of the cases the person was awake when last observed, while 24 persons were not able to be aroused or difficult to arouse and in four cases the person was unconscious when last observed.

TABLE 21.52
State of Consciousness and State, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Category	*NSW*	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*Total*
Awake	8	2	19	15	7	1	5	57
Asleep	3	-	4	4	2	-	1	14
Arouse-difficult	-	-	1	-	-	-	-	1
Not arouse	4	1	2	13	-	-	3	23
Unconscious	-	-	1	-	3	-	-	4
Total	15	3	27	32	12	1	9	99

Demeanour when last observed

For the 56 cases which were reported as awake, the demeanour when last observed is shown Table 21.53. As can be seen, overall the demeanour was reported as normal in 25 cases, and aggressive in a further twelve cases. The demeanour of the four persons shown under the category of 'other' included: highly intoxicated, violent behaviour, drug affected and different from normal.

TABLE 21.53
Demeanour and State, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Category	*NSW*	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*Total*
Normal	2	2	9	7	4	-	1	25
Aggressive	1	-	5	2	1	1	2	12
Distressed	3	-	2	2	1	-	1	9
Depressed	1	-	2	-	-	-	-	3
Sick	-	-	1	1	-	-	-	2
Other	-	-	-	2	1	-	1	4
Not known	1	-	-	-	-	-	-	1
Total	8	2	19	14	7	1	5	56

Notification of next of kin

Full details of the actions taken by custodial or medical authorities to inform the next of kin of each death have been recorded in the data base. This information is not, however, in a form that would allow for statistical presentation in tabular form as in eight cases no use able information was made available, in 14 cases the time taken to notify the next of kin was not recorded, and in 15 cases the information supplied did not indicate the relationship of the deceased to the person who was notified. Nevertheless, the data available indicate that the persons notified were mother (15 cases), sister or brother (14), family (10), parents (7), de facto (7), wife (5), uncle (4), father or step-father (3), relations (3), cousin (2), husband (2), niece or step-niece (2), son (1), and grandmother (1). In 24 cases the next of kin were notified immediately or were present at the place of death. In a further 22 cases the notification was transmitted in less than three hours, and in 19 cases it was made later, but on the same day. In nine cases the next of kin were notified the next day, and in three cases more than one day later.

Post Death Enquiries

Post-mortem examination

A post-mortem examination was conducted in each case; the medical specialty of the practitioners who conducted the examinations are set out in Table 21.54. In the majority of cases the post-mortem was conducted by a forensic pathologist. The occurrence for each category in each state or territory reflects, to a substantial degree, the availability of suitably qualified personnel to perform the task within that state or territory.

TABLE 21.54
Conduct of Post-Mortem and State, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Category	*NSW*	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*Total*
General practitioner	6	-	17	1	-	-	-	24
Pathologist	6	2	5	-	4	-	1	18
Forensic pathologist	3	1	5	31	8	1	8	57
Total	15	3	27	32	12	1	9	99

Inquest

As can be seen in Table 21.55, an inquest was conducted in 87 of the 99 cases investigated by the Royal Commission.

Assistance to coroner at hearings

As already observed, an inquest was conducted in 87 cases. The details of the assistance provided to the coroner, in these 87 cases, are shown in Table 21.56. The coroner was assisted in 54 cases by police officers and in 26 cases by independent lawyers. The seven cases where the coroner received no assistance were in South Australia.

TABLE 21.55
Conduct of Inquest and State, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Category	*NSW*	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*Total*
Conducted	15	3	21	28	11	1	8	87
Not conducted	-	-	6	4	1	-	1	12
Total	15	3	27	32	12*	1	9	99

*In one case, in South Australia, an inquest was not conducted. The case was later investigated by the South Australian Prison's Royal Commission. For the purposes of this report, the hearings at that Royal Commission have been treated as if they were conducted as an inquest.

TABLE 21.56
Assistance to Coroner and State, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Assistance to Coroner	*NSW*	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*Total*
Assisted by police	10	2	21	18	2	-	1	54
Assisted by lawyer	5	1	-	10	2	1	7	26
Not assisted	-	-	-	-	7	-	-	7
Total	15	3	21	28	11	1	8	87

Legal representation at inquest

Table 21.57 indicates that the family of the deceased was represented at 69 of the 87 inquests. It may be noted that in all jurisdictions except Tasmania there were some inquests at which the family of the deceased person had no legal representation. Indeed, considered in the light of the information provided in Table 21.60, in only 69 of the 99 deaths were the families of the deceased represented at a judicial inquiry into the death.

TABLE 21.57
Family Legally represented at Inquest and State, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Representation	*NSW*	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*Total*
Represented	13	2	16	25	7	1	5	69
Not represented	2	1	5	3	4	-	3	18
Total	15	3	21	28	11	1	8	87

Time between death and delivery of coroner's findings

The mean time between death and delivery of the coroner's findings was 8.0 months, the median was 6.0 months and the range was 1 to 28 months. The mean time for police custody cases was 8.4 months and for prison custody cases the mean was 7.4 months. The details of the length of time between death and the delivery of the coroner's findings is shown in Table 21.63. Considerable differences exist between the states and the Northern Territory with regard to elapsed time, with the Northern Territory generally having taken much longer than the other jurisdictions to deliver the coroner's findings.

TABLE 21.58
Time between Death and Coroner's Findings delivered and State, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Length of time	*NSW*	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*Total*
Under 2 months	-	-	2	1	-	-	-	3
2 & under 4 months	-	2	4	5	-	1	1	13
4 & under 6 months	4	1	5	11	3	-	-	24
6 & under 8 months	5	-	5	8	6	-	2	26
8 & under 10 months	1	-	2	2	-	-	-	5
10 & under 12 months	1	-	4	2	1	-	1	9
1 & under 1.5 years	3	-	2	3	2	-	1	11
1.5 & under 2 years	1	-	2	-	-	-	3	6
Over 2 years	-	-	1	-	-	-	1	2
Total	15	3	27	32	12	1	9	99

Time between start of inquest and delivery of coroner's findings

Where an inquest was conducted (87 cases), the time between the start of the inquest and the delivery of the coroner's findings is shown in Table 21.59. The mean duration was 3.2 months, the median was 1.2 months and the range was from one day to 21 months. For police custody cases the mean duration was 3.7

months, for prison the mean was 2.4 months and the mean duration for juvenile cases was 1.3 months.

It is of interest to note that of the 67 cases where the family was represented, 33 (49 per cent) were resolved within two months; 13 of the 18 cases where the family was not represented (72 per cent) were also resolved within two months.

Medical Background

State of health in the period immediately prior to death

The state of health of the person in the period immediately prior to death is shown in Table 21.60. The information has been compiled from a combination of sources, including custodial authorities, medical records and submissions to the Royal Commission hearings. While these categorisations are subject to the nature of the source and the bias of the observer, this information provides an insight into the general state of health of the persons under review.

TABLE 21.59
Time from Inquest Start to Delivery of Coroner's Finding and State, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Duration	*NSW*	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*Total*
Under 2 months	10	3	11	16	4	1	1	46
2 & under 4 months	1	-	3	2	5	-	1	12
4 & under 6 months	2	-	4	5	1	-	1	13
6 & under 8 months	-	-	1	1	1	-	1	4
8 & under months	-	-	1	2	-	-	2	5
10 & under 12 months	-	-	-	1	-	-	-	1
1 & under 1.5 years	1	-	1	-	-	-	2	4
1.5 & under 2 years	1	-	1	-	-	-	-	2
Total	15	3	22	27[(a)]	11	1	8	87

[(a)]In one case in Western Australia, the information is not available.

In a clear majority of cases the person was considered to be either sick, injured or intoxicated (65 cases). Where the manner of death was hanging, the person was observed to be well in 13 cases, intoxicated in eleven cases, sick in five cases and injured in one case. Of the 37 cases where the manner of death was natural causes, the person was known to be sick in 23 cases.

TABLE 21.60
State of Health in the Period immediately Prior to Death, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Manner of death	*Well*	*Sick*	*Injured*	*Intoxicated*	*Total*
Hanging	13	5	1	11	30
Head injury	-	10	2	-	12
Gunshot	4	-	-	-	4
Other external trauma	2	3	2	-	7
Drug use	2	-	-	2	4
Alcohol use	-	4	-	1	5
Natural causes	13	23	-	1	37
Total	34	45	5	15	99

For the police custody cases, 16 were considered to be well immediately prior to death, 28 were sick, 14 were intoxicated and five were injured. Where the person was in a prison, 17 cases were considered sick and 15 were considered to be well. All juvenile custody cases were reported as well immediately prior to death.

Medical treatment received for illnesses that related to death

The medical treatment received, for conditions which related directly to the death, is shown in Table 21.61. Where treatment was not related to the death or was not possible, the information is shown as 'not applicable' to the death. In half of the cases where treatment was possible, no treatment was received. It will be noted that in one case, where the manner of death was by hanging, treatment was received; in this case, the person was unsuccessfully treated in hospital for injuries sustained from self-inflicted hanging.

TABLE 21.61
Medical Treatment related to Death and Manner of Death, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Manner of death	*Yes*	*No*	*Not applicable*	*Not known*	*Total*
Hanging	1	-	29	-	30
Head injury	7	4	1	-	12
Gunshot	-	-	4	-	4
Other external trauma	2	-	5	-	7
Drug use	1	-	3	-	4
Alcohol use	1	4	-	-	5
Natural causes	16	20	-	1	37
Total	28	28	42	1	99

In 36 of the 63 police custody cases, where treatment was possible, 19 received medical treatment relating to the manner of death. Of the prison custody cases, nine of the 19 cases received medical treatment relating to the manner of death where it was possible. Of the ten cases which did not receive medical treatment, all died as a result of natural causes.

History of attempted suicide/self-harm

The history of previous attempts of suicide or self-harm is shown in Table 21.62. Seventeen of the 99 cases had previously attempted suicide or self-harm, of which 13 died from self-inflicted injuries (hanging, other external trauma where it was self-inflicted, drug use and alcohol use).

Where there was a history of attempted suicide or self-harm, the mean age at death was 29.1 years (compared to 32 years in all cases). Other items of interest include 65 per cent of the persons who had experienced childhood separation had a history of attempted suicide or self-harm and three of the eleven females also had such a history.

History of problematic alcohol/drug use

The manner of death is displayed in Table 21.63, together with an indication of whether or not the person was known to have had a history of problematic alcohol or drug use. It can be seen that 88 cases had a history of problematic alcohol or drug use while in ten cases there was no such history.

TABLE 21.62

Manner of Death and History of attempted Suicide/Self-Harm, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

	History			
Manner of death	*Yes*	*No*	*Not known*	*Total*
Hanging	10	19	1	30
Head injury	1	8	2	11
Gunshot	-	3	1	4
Other external trauma	3	4	-	7
Drug use	2	2	-	4
Alcohol use	1	3	1	5
Natural causes	-	38	-	38
Total	17	77	5	99

TABLE 21.63
Manner of Death and History of Alcohol/Drug Use, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

	History			
Manner of death	*Yes*	*No*	*Not known*	*Total*
Hanging	28	2	-	30
Head injury	10	1	-	11
Gunshot	1	2	1	4
Other external trauma	6	1	-	7
Drug use	4	-	-	4
Alcohol use	5	-	-	5
Natural causes	34	4	-	38
Total	88	10	1	99

Family Background at Time of last Detention

Household size

The size of the person's household at the time of the last detention is displayed in Table 21.64. Information was available in 75 cases, of which 16 lived an itinerant existence, six lived alone and three were institutionalised or residing in a hostel. In 17 cases the person was living with one other person, and in 33 cases the person was living in a household with two or more other people.

TABLE 21.64
Household Size and State, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

Category	*NSW*	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*Total*
Itinerant	1	-	6	1	3	-	5	16
Self only	1	1	1	2	-	-	1	6
Self and 1 other	2	-	5	6	1	1	2	17
Self and 2 others	1	2	2	1	2	-	1	9
Self and 3 others	3	-	1	2	3	-	-	9
Self and 4 others	2	-	1	-	1	-	-	4
Self and 5 others	-	-	-	-	-	-	-	-
Self and 6 others	1	-	3	-	1	-	-	5
Self and 7 others	1	-	-	1	-	-	-	2
Self and over 7 others	2	-	2	-	-	-	-	4
Institution/hostel	-	-	2	1	-	-	-	3
Not known	1	-	4	18	1	-	-	24
Total	15	3	27	32	12	1	9	99

Offspring living with deceased

In Table 21.65 the number of offspring living with the deceased is displayed. In the majority of cases the person was not living with any offspring, while in ten cases the person was living with one or two children.

TABLE 21.65
Offspring living with Deceased and State, Aboriginal Deaths in Custody, 1 January 1980-31 May 1989

	NSW	*Vic.*	*Qld*	*WA*	*SA*	*Tas.*	*NT*	*Total*
Nil	13	3	22	24	10	1	8	81
1 child	1	-	1	2	1	-	1	6
2 children	-	-	1	2	1	-	-	4
Not known	1	-	3	4	-	-	-	8
Total	15	3	27	32	12	1	9	99

Conclusion and Summary

This Research Paper presents a statistical description of the lives and deaths of the 99 Aboriginal people who died in custody during the nine years and ten months period covered by the Royal Commission's Terms of Reference and whose deaths have been the subject of investigation and report by the Commission. It presents the basic facts without drawing comparisons with non-Aboriginal deaths in custody nor with Aboriginal deaths in the community. Such comparative analyses have been drawn in other Research Papers in this series, particularly No. 7 (*see* pp. 107-36 of this volume) and No. 20 (*see* pp. 507-23 of this volume)

The central findings, set out in this Research Paper, may be summarised as follows:

- The 99 deceased Aboriginal people who died in custody in Australia during the period 1 January 1980 to 31 May 1989 comprised 88 males and 11 females.
- Their mean age at the time of death was 32 years.
- Nearly twice as many deaths occurred in police custody (63) as in prisons (33). An additional three deaths occurred in juvenile centres.
- Western Australia and Queensland had the highest number of deaths, 30 and 28 respectively.
- Unusually high numbers of deaths in custody occurred in the calendar year 1987.

- The average time in custody before death or transfer to a hospital or other medical facility was much shorter in the police custody cases (12 hours) than in prison custody cases (15 months).

- The predominant cause of death were natural causes (37) and hanging (30), with much smaller numbers being associated with head injuries (12), gun shot (4), other external trauma (7), alcohol poisoning or withdrawal (5), and drug use (4). (The question of where responsibility for these deaths lies is dealt with in full in the Royal Commission's final National Report.)

The reader will be aware that this paper is essentially an aggregation of information about the Aboriginal people who died in custody. Being a statistical description, it cannot provide the insights into the lives of the deceased that come from a reading of the individual reports on the cases which the Commissioners have written. Similarly, it does not aim to place these ninety-nine deaths into any broader context. The final National Report of the Royal Commission does this, addressing the complex mix of historical, cultural, social and legal factors which underlie the stark details of the demographic backgrounds, custodial experiences and deaths summarised in this paper.

RESEARCH PAPER NO. 22

Overview of the Research Program and Abstracts of Research Papers

David Biles
& David McDonald

This is the final paper in the series produced by the Criminology Unit of the Royal Commission. Its aim is to explore the relationships, if any, between the 21 papers that preceded it with a view to showing how the series was developed, and, more importantly, to draw out general conclusions that only emerge when two or more of the papers are considered together.

With the wisdom of hindsight, and perhaps with a little generosity of spirit, it is possible to detect a cumulative element in the knowledge and understanding that emerges from this series of papers. It is not suggested that the series represents a clear logical progression from one question to another in a planned sequence, but in a number of cases it can be seen that the findings of one study prompted further study which resulted in insights that had previously not been considered. It would not be true to suggest that the totality of research findings represents a mosaic, as in reality they do not fit together as neatly as one might like, but many findings clearly do relate to each other and it is suggested that the totality of knowledge gained is greater than the sum of the individual parts.

One aspect of the cumulative process that is readily admitted is the fact that in a number of early research papers mistakes were made. Some of these were methodological (we had not yet learned how best to handle some concepts) and some were factual (we had either been given incorrect information or we had misused or misunderstood information that was correct). In many cases, we have produced revised versions of the relevant papers, clearly acknowledging the date of the original publication and the date of the revision. While we have always endeavoured to correct mistakes before the papers were released, and to this end a rigorous system of circulating drafts was instituted, it is suggested that a small degree of latitude might be permissible in pursuing a comprehensive research program into an uncharted and complex area. Be that as it may, we acknowledge that errors were made and may well continue to be made.

At every stage of the development of the research program the approval of the Commissioners was sought and gained, and this was also the case with the release of research papers. The early drafts of the research program included topics such as Aboriginal health, education and housing, but after the establishment of Aboriginal Issues Units in early 1989 in many parts of Australia, the focus of the Criminology Unit was redirected to those topics which were more technical or statistical in nature and which often involved the gaining of

cooperation from police and correctional authorities. This sharper focus, it is suggested, enabled optimum use to be made of the research skills and experience available to the Commission.

All of the papers in the series had the basic aim of providing information that would lead to an understanding of the phenomenon of Aboriginal deaths in custody and how that phenomenon may be reduced or eliminated. In many of the papers that was achieved, or an attempt was made to facilitate the achievement, but casting the phenomenon in different contexts, thus seeing Aboriginal deaths in custody in the context of all deaths in custody, in the context of the total Aboriginal and Torres Strait Islander population, or in the context of the numbers of Aboriginal or non-Aboriginal people in police or prison custody, and so on, produced different views than that which is obtained by the study of the individual cases that were investigated by the Royal Commission.

The first research paper (pp. 1-10), released initially in February 1988 and in a revised form in June 1988, is a modest example of a broader view of Aboriginal deaths in custody, compared with the view obtained from a case by case approach. Produced without the aid of a computer, this study was able to show that:

- nearly twice as many Aboriginal deaths occurred in police custody rather than prisons,

- Western Australia and South Australia had the highest rates of Aboriginal deaths in custody per 1,000 Aboriginal adults in the relevant community, and

- an abnormally high number of the deaths occurred in 1987 with more than half of them in that year being caused by hanging.

These very basic facts have not been challenged by the more sophisticated research that was conducted later, even though better information and vastly improved equipment became available. The penultimate paper in this series is, in fact, a considerably improved version of the first paper with much more information being available for each case.

Notwithstanding the cumulative nature of most of the research papers, some of them are the result of virtually independent inquiries into particular subjects. Thus these papers bear little or no relationship to other papers in the series. They were prepared in response to a particular need or a direct request from the Royal Commissioners. Papers Nos. 2 and 5 which cover draft guidelines for the prevention of Aboriginal deaths in custody and drug testing in prisons, respectively, fall into this category. The draft guidelines, released in April 1988, were specifically requested by Commissioner Muirhead to stimulate discussion and practical action about the steps that needed to be taken to overcome what was perceived to be a tragedy which had profound national and international implications. This paper provoked very detailed responses from police and prisons departments and from many other agencies, but it was subsequently overshadowed by the more authoritative *Interim Report* that was released in December 1988.

Similarly, Research Paper No. 5 (pp. 65-84) was specifically requested by the then National Commissioner who was investigating a death which had occurred in a prison and in which the apparent ready availability of illegal drugs was a relevant consideration. As it happened, the subject of the availability of drugs in prisons did not seem later to be such a major issue as it was in the particular case that was investigated in the first few months of the Commission's work.

In contrast to this, a subject of central relevance to many of the deaths that occurred in police custody, as well as to the underlying issues, is that of alcohol and its effects on human behaviour and health. Again, it was a particular inquiry which lead to the question being raised of whether a person with a very high blood/alcohol reading could be capable of performing intricate tasks, such as the tying of knots. The subject was studied by an expert team commissioned by the Royal Commission to produce a report which would reflect the current state of knowledge and opinion from the relevant academic disciplines (*see* Greeley & Gladstone 1989). The report was very long and highly technical, and in order to increase the accessibility of its central findings a summary version was produced as Research Paper No. 14, 'Alcohol and Human Behaviour' (pp. 321-49).

A further paper which is of a stand-alone character is No. 9, 'The Design of Safe and Humane Police Cells: A Discussion of Some Issues Relating to Aboriginal People in Police Custody'. This paper, which was prepared by a visiting scholar to the Unit, was prompted by the extensive list of recommendations in the *Interim Report* relating to conditions and procedures at police lockups. This paper reviews the extensive anthropological, criminological and psychological literature that is relevant to the topic. As was intended, this paper provoked considerable discussion among police authorities, and it is now seen as a standard reference on this complex subject.

Even before police cell design became a matter of particular interest to the Royal Commission, it was apparent from even a casual review of the basic facts of the cases to be investigated that the subject of public drunkenness was going to be of central relevance. In a significant proportion of the Aboriginal deaths in police cells, the reason for custody was either that the person had been charged with public drunkenness or he or she had been detained as an intoxicated person in those jurisdictions where public drunkenness had been decriminalised. A study of this subject was undertaken, the results of which were published as Research Paper No. 3, 'Public Drunkenness—Australian Law and Practice' (pp. 21-42). This paper was released initially in October 1988 and reprinted with corrections in February 1990.

This study reviews both the relevant law in each state and territory as well as such statistical material as was available. It found that all jurisdictions except Victoria, Queensland and Western Australia had established by the end of 1988 some form of decriminalisation of public drunkenness with provision being made for the care of at least some intoxicated persons in places other than police cells. The study also showed that in those jurisdictions where public drunkenness had

been decriminalised, one consequence was an increase, rather than a decrease, in the total number of intoxicated persons held in some form of detention.

Apart from Research Paper No. 1, perhaps the starting point for a systematic study of the Aboriginal deaths in custody is to be found in Research Paper No. 4 (pp. 43-63), which is a review of the known facts about the Aboriginal and Torres Strait Islander population in Australia. It was considered essential that this information be collected as the basis for the later calculation of rates of Aboriginal imprisonment, detention in police custody, death (in custody and elsewhere), as well as levels of over-representation in either form of custody. This paper reviewed the difficulties experienced by the Australian Bureau of Statistics in obtaining accurate figures for Aboriginal people and Torres Strait Islanders, but concluded that the 1986 census figure of 227,645, or just under 1.5 per cent of the Australian population, was the most accurate figure available. A later comparison of the age structure of the Aboriginal and non-Aboriginal populations showed that Aboriginal people comprised approximately 1.1 per cent of all persons in Australia aged 17 years and above.

Having established, as reliably as possible, the numbers of Aboriginal people in Australia, and in each state and territory, the next obvious step was to endeavour to establish the numbers of Aboriginal people in police and prison custody. This was a relatively simple task as far as prisons are concerned as each year since 1982 the Australian Institute of Criminology, in association with all Australian correctional authorities, has conducted an annual census of all persons in gazetted prisons. There is no equivalent source of information, however, for persons in police custody. How this deficiency was overcome will be outlined later.

The annual census of prisoners was an invaluable source of basic information, especially as one of the items on the data collection form required a statement of whether or not the prisoner identified as an Aboriginal or Torres Strait Islander. In nearly all jurisdictions there was a small number of prisoners for whom Aboriginality was not known or was not stated and for Queensland as a whole no information on Aboriginality was released until 1987. Notwithstanding this limitation, it was shown in Research Paper No. 6 (pp. 85-105) that the proportion of all prisoners for whom Aboriginality was known had increased from 13.1 per cent to 14.7 per cent from 1982 to 1987. (It was later shown in Research Paper No. 19, however, that from 1987 to 1989 this proportion decreased to 13.4 per cent, largely due to a massive increase in the numbers of non-Aboriginal prisoners over this period.) Even at its lowest levels, the proportion of prisoners identified as Aboriginal was shown to be many times higher than the proportion of prisoners in the community who were identified as Aboriginal. Aboriginal over-representation in prisons thus became an issue of central interest to the Royal Commission.

Research Paper No. 6 also showed that the levels of over-representation in prison were highest in South Australia and Western Australia, that the sentences imposed on Aboriginal offenders tended to be shorter than the sentences imposed for the same offence on non-Aboriginal offenders, and that the

Aboriginal recidivism rates appeared to be much higher than the rates for non-Aboriginal prisoners. The limited evidence then available also showed that Aboriginal over-representation in non-custodial corrections was not as marked as it was in prisons.

With the basic facts of Aboriginal over-representation in prisons established to a reasonable level of accuracy, it was important to determine the facts in relation to police custody. As indicated above, no published data existed on this subject, and it was therefore decided to seek the assistance of all Australian police forces in the conduct of a national police custody survey. This would aim to establish who was taken into police custody, for what reason, and for how long. The focus of the survey was to be not on persons *arrested* by the police, but on persons *lodged in police cells* for any period of time. After extensive negotiations and testing of a data collection form in different locations this survey was conducted throughout Australia during the month of August 1988.

The preliminary results of this survey were reported in Research Paper No. 8 (pp. 137-46), with more detailed findings and analysis being reported in Research Paper No. 13 (pp. 277-319). The most important (and to a large extent expected) findings were that during the survey period there were over 28,500 incidents of people being placed in police custody and that approximately 29 per cent of them were Aboriginal people. It was also shown that approximately 50 per cent of all of the females taken into custody were Aboriginal people, and that the average period of custody was longer for Aboriginal people than it was for non-Aboriginal people. Of the 90 per cent of the cases that were in custody for less than 48 hours, the mean period was 9.7 hours for Aboriginal people and 7.6 hours for non-Aboriginal people. There were differences between jurisdictions on this dimension, but in each state and territory the mean period of detention was longer for Aboriginal people than for non-Aboriginal people.

These two studies of the numbers of Aboriginal people and non-Aboriginal people in prison and police custody provide an essential background that is needed for the interpretation of the numbers of Aboriginal and non-Aboriginal deaths in custody reported in Research Paper No. 7 (pp. 107-36). This paper, which is considered to be a key element that links much of the research program together, brought together the basic facts of all deaths in custody over the nine-year period 1980 to 1988 as reported to the Criminology Unit by all police and prison authorities.

The study reported in Research Paper No. 7 showed that over this period there was a total of 462 deaths in police or prison custody throughout Australia. ninety-four of these deaths were of Aboriginal people and 368 were of non-Aboriginal people. Furthermore, 280 of the total were of prisoners and 182 were of persons in police custody. The distribution of cases by Aboriginality and by custodial authority is most clearly shown in Table 22.1.

TABLE 22.1
Aboriginal and Non-Aboriginal Deaths in Custody, 1980-88

	Aboriginal	*Non-Aboriginal*	
Prison	35	245	280
Police	59	123	182
	94	**368**	**462**

It can be seen from this table that there were nearly twice as many Aboriginal deaths in police custody as there were in prisons, as was shown earlier in Research Paper No. 1, but that almost exactly the opposite is the case as far as non-Aboriginal deaths are concerned. This pattern is statistically significant at a high level of confidence. It can also be readily calculated from the figures in this table that exactly 12.5 per cent of the deaths that occurred in prisons were of Aboriginal people while 32.4 per cent of the deaths in police custody were of Aboriginal people. These two percentages are of particular interest as they may be compared with the proportions of all persons who were in police or prison custody, but before such a comparison is made it is necessary to draw a clear distinction between *stock* and *flow* statistics for either form of custody.

In the two studies of Aboriginal people in prisons and police custody outlined above, the prison statistics were derived from annual censuses rather than the numbers of people entering or leaving prison. They provide snapshots of who was in prison on particular days, and are therefore examples of *stock* data. In contrast, the police custody survey counted the numbers of people entering police custody during the relevant period and provided therefore an example of *flow* data. Ideally, both types of data would be available for both types of custody, and with a little additional work these can be established at an acceptable level of accuracy.

At the request of the Criminology Unit, the Australian Institute of Criminology, with the assistance of all Australian prison authorities, undertook a small study of persons received into prison under sentence during the month of April 1989. The results of this study are presented in some detail in Research Paper No. 19 (pp. 477-506), but the finding of particular interest in this context is the fact that for Australia as a whole 20.4 per cent of sentenced prison receptions during that month were of Aboriginal people. This is a *flow* statistic which is to be compared with the stock figures from the censuses which varied between 13.1 and 14.7 per cent, with a mean of 13.8 per cent.

Using the data from the police custody survey on the average length of detention for Aboriginal people and non-Aboriginal people it is also possible to provide both sets of data for this form of custody. It was shown above that the average period of detention for Aboriginal people was 9.7 hours compared with 7.6 hours for non-Aboriginal people. In other words, Aboriginal detainees were held 27.6 per cent longer. The survey also showed that 28.6 per cent of all persons entering police custody during the survey period were Aboriginal, and if that percentage is increased proportionately to reflect the differences in detention time it is readily established that 36.5 per cent of the person/hours in police cells were served during the survey period by Aboriginal detainees.

The crucially important data from Research Paper No. 7 and from the studies of prison and police custody are brought together in Table 22.2. From this it can be seen that for both forms of custody the proportion of all of the deaths in custody over the 1980 to 1988 period that were identified as Aboriginal was smaller than the proportion of persons who were Aboriginal. The proportion of receptions that was identified as Aboriginal was lower than the proportion of deaths in prison custody, but higher for police custody.

TABLE 22.2
Aboriginal Deaths and Aboriginal People in Custody, 1980-88

		Aboriginal people in Custody	
Custody	*Aboriginal Deaths*[a]	*Stock*	*Flow*
Prison	12.5%	13.8%	20.4%
Police	32.4%	36.5%[b]	28.6%

[a] It is relevant to note that the database used for Research Paper No. 7, known as 'B&W 80/88', produced proportions of Aboriginal deaths which were slightly different from the proportions indicated by two other related databases. The first modified database, not elsewhere reported, extends the coverage for a full ten-year period and is therefore known as 'B&W 80/89'. This extended version found that 11.8 per cent of the prison deaths and 33.0 per cent of the police custody deaths were of Aboriginal people. The second modified database focuses on the period covered by the Royal Commission, 1 January 1980 to 31 May 1989. It is referred to as 'B&W 9.5' and covers 99 Aboriginal and 383 non-Aboriginal deaths. From this source it is found that 11.5 per cent of the deaths in prison and 32.8 per cent of the deaths in police custody were of Aboriginal people. It is not suggested that these small differences are of any consequence, but they are recorded in order to show that the percentages derived from Research Paper No. 7 were not unrepresentative of other, overlapping time periods. In fact, both of the modified data bases yield slightly lower percentages for Aboriginal deaths in prisons and slightly higher percentages for police custody.

[b] This is not strictly a *stock* statistic, but an estimate of the person/hours in police custody.

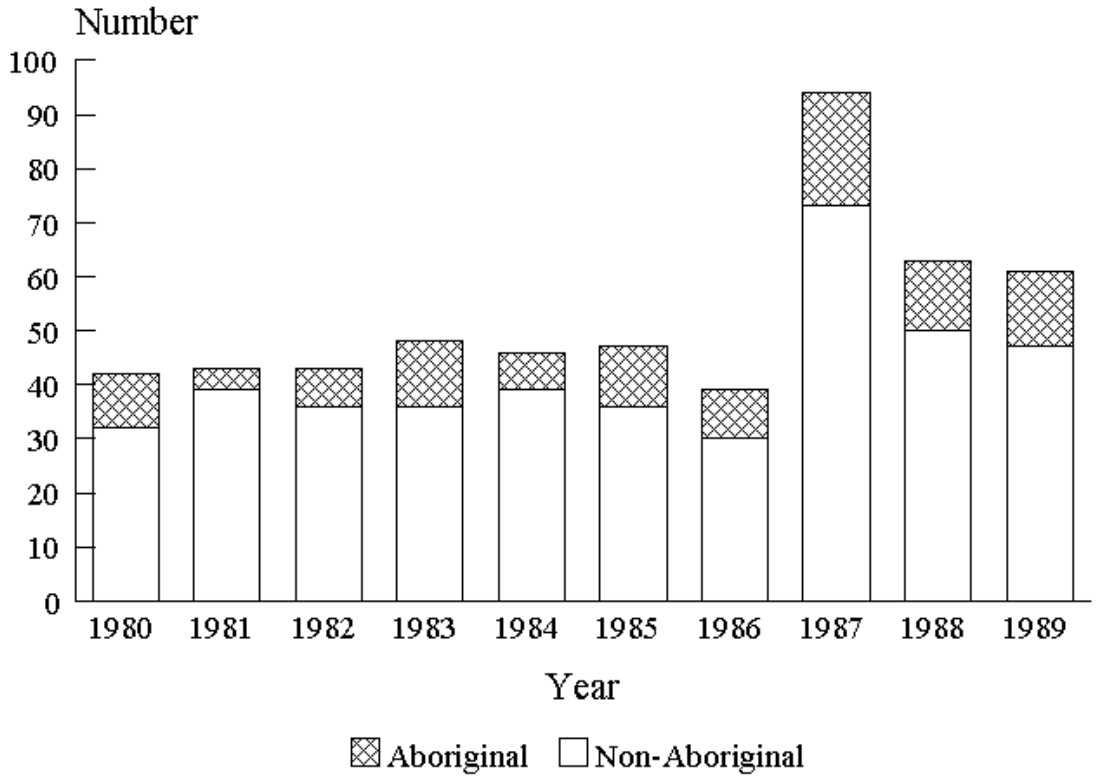
These figures establish that the number of Aboriginal deaths in prison custody was slightly lower than might be expected on the basis of the number of Aboriginal people in prison, but the number of Aboriginal deaths in police custody was almost exactly what would be expected on the basis of the number of

Aboriginal people in police custody. This general finding is of considerable significance to the Royal Commission and therefore justifies closer scrutiny.

It was suggested in Research Paper No. 7, and also later in Research Papers Nos. 10 (pp. 191-212) and 11 (pp. 213-37) which examined deaths in police and prison custody separately, that it was likely that there had been some undercounting of non-Aboriginal deaths in both forms of custody. It follows therefore that the percentages of deaths shown to be Aboriginal in Table 22.2 probably are slightly over-stated. Conversely, as the prison censuses and the police custody survey could not conceivably over-state the proportion of Aboriginal people in either form of custody, as it is highly likely that the vast majority of cases where Aboriginality was not stated were non-Aboriginal, these percentages are likely to be conservative. Thus, the general conclusion drawn from the figures in Table 22.2 is itself conservative. To the extent that any errors have been incorporated in these figures, the elimination of those errors would have the effect of strengthening that conclusion.

Even this cautiously worded conclusion (Aboriginal people, once they are in custody, are no more likely to die in custody than are non-Aboriginal people) prompts further questions along a number of different dimensions. Research Paper No. 7, for example, clearly showed that proportionately more Aboriginal deaths in both forms of custody were due to natural causes rather than being self-inflicted or suicidal, whereas the opposite was the case for non-Aboriginal deaths. That paper also showed that 1987, which had been shown earlier to have a high number of Aboriginal deaths in custody, was associated with an abnormally high number of non-Aboriginal deaths, especially in New South Wales and Victoria. The importance of 1987 for both Aboriginal and non-Aboriginal deaths in custody is illustrated in Figure 22.1 which is derived from the ten-year data set, the first nine years of which was used in Research Paper No. 7.

FIGURE 22.1
Deaths in Custody, Australia, 1980-89



These and other findings from the analysis of Aboriginal and non-Aboriginal deaths in prison and police custody are worthy of much closer examination if a full understanding of the phenomenon is to be achieved, but there remain two unanswered questions of even greater potential significance. In the first place, the data for Aboriginal deaths in prisons and for Aboriginal people either in or entering prison indicate that the over-representation explanation does rather more than is required. If it is really true that at least 13.8 per cent of the people in Australian prisons at any time are Aboriginal people, and if it is really true that at least 20.4 per cent of prison receptions are of Aboriginal people, the question becomes: how can it be that only from 11.5 to 12.5 per cent of all deaths in prisons are of Aboriginal people? Is it possible that imprisonment reduces the probability of death for Aboriginal people, or is this finding no more than a statistical aberration? This is a question which is explored in detail in Research Paper No. 20 (pp. 507-23).

The second major question raised by the conclusion drawn from the data in Table 22.2 relates to the possibility that Australia could have an abnormally high level of deaths in custody, which applies equally to Aboriginal people and non-Aboriginal people once they are in custody. This question is examined in Research Paper No. 15, 'International Review of Deaths in Custody', (pp. 352-80) which attempted to bring together information on the incidence of death in prison

or police custody from as many countries as possible. This attempt was only partially successful as, despite numerous requests using a variety of approaches, very few countries were able to supply the information that was needed, especially with regard to deaths in police custody. In the event, data on deaths in police custody were obtained from only four countries, but data on deaths in prisons were obtained from eleven countries. For both types of custody, it was shown that the Australian rates were higher than the average of the other countries. The Australian rate of death in prisons was found to be higher than the rates of South Africa, New Zealand, United States (federal and state), Canada (provincial), Scotland, Japan, Sri Lanka, and England and Wales, but lower than Thailand, Canada (federal) and Finland. Of particular interest was the fact that the Australian rate of deaths per 1,000 prisoners was shown to be exactly twice as high as the equivalent rate for England and Wales. It was concluded that the Australian general rate of deaths in custody are a cause of concern, even if the reasons for the high numbers of Aboriginal deaths are understood. (A matter of some interest emerging from this paper is the comparison of deaths in prisons in South Africa and Australia. Contrary to some publicly expressed views, the South African rate was slightly lower than the Australian rate, but the imprisonment rate in South Africa was shown to be approximately six times higher).

A further question that was prompted by the general pattern of research findings established in the first series of projects was that of the relative incidence of deaths of persons in prison compared with persons serving probation, parole, community service and related orders. A small study conducted earlier in New South Wales had suggested that persons serving such orders in the community were more at risk than were people in prison (Haege unpub.). Correctional administrators, as well as the Royal Commissioners, were interested to know if this were true for Australia as a whole. In order to establish the facts, a project was undertaken which resulted in Research Paper No. 12, 'Deaths in Non-Custodial Corrections Australia and New Zealand, 1987 and 1988' (pp. 239-76). The results of this project included the fact that 31 of the 394 Australian deaths over this period were of Aboriginal people serving non-custodial orders. That is 7.9 per cent of the total, which is slightly lower than the 8.8 per cent of the total persons serving such orders (shown to be the case later in Research Paper No. 19). The study also showed that the crude mortality rate for persons serving non-custodial orders was 5.6 per 1,000 people, whereas the crude mortality rate for prisons was 2.6 per 1,000 prisoners. As was observed in Research Paper No. 12, 'Life in the general community for both Aboriginal and non-Aboriginal young males with a criminal history is bound to be more dangerous, owing to the risk of death from drink driving, drug use, assaults, etc., than is life in prison'. Thus, again, there is a hint that for some types of people, custody may reduce rather than increase the risk of death.

A related issue is the nature and extent of attempted suicide or self-inflicted harm in prisons and in police facilities. Even though it had been shown in Research Paper No. 7 that the reported cause of death was self-inflicted or suicide in only one-third of the Aboriginal cases, compared with nearly half

which were attributed to natural causes, self-inflicted causes were predominant for the total of all cases as nearly half of the non-Aboriginal cases were in this group. Also, the Research Unit had received reports of numerous cases of attempted suicide from police and prison authorities and was therefore interested to establish the frequency of these incidents. A national survey, the first of its type, was conducted for a six-month period in 1989 with the cooperation of all police and prison authorities, the results being presented in Research Paper No. 16, 'Self-inflicted Harm in Custody' (pp. 381-416).

The data set established for this project was not entirely satisfactory as some authorities apparently interpreted the requirements in different ways, thus making inter-jurisdictional comparisons unreliable. Nevertheless, details of 375 incidents were collected and they were distributed in terms of Aboriginality and custodial authority as shown in Table 22.3.

TABLE 22.3

Aboriginal and Non-Aboriginal Incidents of Reported Self-Inflicted Harm in Custody, 1 April to 30 September 1989

	Aboriginal	*Non-Aboriginal*	
Prison	31	192	**223**
Police	49	103	**152**
	80	**295**	**375**

The remarkable thing about Table 22.3 is that it reflects almost exactly the pattern shown in Table 22.1 for all deaths in custody over a nine-year period. As far as self-inflicted harm is concerned, the danger for Aboriginal people is greater in police custody than it is in prisons, and the opposite is true for non-Aboriginal people. Putting this another way, 13.9 per cent of the incidents in prisons involved Aboriginal prisoners and 32.2 per cent of the incidents in police custody involved Aboriginal detainees. These percentages may be compared with the stock and flow figures for Aboriginal people in custody shown in Table 22.2. (For the sake of completeness it should perhaps be pointed out that the distribution of self-inflicted death cases is similar to the distribution of deaths from all causes shown in Table 22.1. For self-inflicted death, or completed suicide, over the 1980 to 1988 period, 8.7 per cent of the prison deaths were of Aboriginal people and 25 per cent of the police custody deaths were Aboriginal people). Once again, the numbers of Aboriginal incidents are explained, in this

case almost exactly, by the numbers of Aboriginal prisoners or detainees in custody at any time.

This study also illustrated the pervasiveness of self-inflicted harm in custody. Even though, as indicated above, the data collection was not completely satisfactory, and even though it is not suggested that all of the incidents that were reported should be seen as potentially lethal, it is nevertheless worthy of note that the total number of incidents in this six-month period was considerable higher than the total for completed suicides reported over a ten-year period. It is clear from this observation that self-inflicted harm is a problem of great consequence in the management of both police and prison custody.

As the research program had reached a stage where it had collected a very considerable quantity of statistical information and as it became more widely accepted that the concept of Aboriginal over-representation in both police and prison custody was of central relevance to the work of the Royal Commission, the research staff gave closer attention to this concept. Assisted by discussions and the exchange of views by correspondence with leading researchers in many parts of Australia, a number of methods of calculating over-representation were considered and applied to the police and prison data that had been collected previously. The results of these deliberations appeared in Research Paper No. 17, 'Methodological Issues in the Calculation of Over-representation and Exposure to Risk in Custody' (pp. 417-52). This paper concluded that it was preferable to compare Aboriginal and non-Aboriginal custody rates in order to calculate over-representation rather than to compare the proportions of Aboriginal people in custody and in the general community.

Unlike all of the previous research papers which adopted a national or international perspective, the next paper in the series focused on a relatively small locality in one state. This was Research Paper No. 18, 'Arrests, Custody and Bail, Kalgoorlie, Western Australia, Police Station, 1987 and 1990' (pp. 453-75). This paper resulted from two studies of data collection, relating to substantial periods in 1987 and 1990, undertaken by the staff of the Perth office of the Royal Commission. The data were analysed by the Research Unit, and the results were included in the series of research papers because they were extraordinarily interesting in their own right, and also because they were relevant to the findings of Research Papers Nos. 3, 8 and 13. In essence, this study of the records of the Kalgoorlie police station showed that in 1990, as compared with 1987, there were very few arrests for public drunkenness and that the proportion of Aboriginal arrestees who were released on bail was much higher that it was three years earlier. It was also shown, however, that for both periods there was some degree of discrimination against Aboriginal offenders in terms of the time spent in custody prior to release on bail, but this was less marked in the latter period.

As mentioned above, Research Paper No. 19, 'Aboriginal People in Prisons and Non-custodial Corrections' (pp. 477-506), was essentially an update and extension of the information provided in Research Paper No. 6, but it was also a vehicle for the application of the methodological approach outlined in Research

Paper No. 17 for the calculation of Aboriginal over-representation. This paper showed that Aboriginal adults were just over 15 times more likely than non-Aboriginal adults to be in prison, but for non-custodial corrections the difference was just over 8 times. It was speculatively suggested that this difference may have been due to a belief by judges, magistrates and parole authorities that Aboriginal people are either less able or less willing than non-Aboriginal people to comply with the conditions of non-custodial correctional orders, and hence were more likely to be sentenced to short prison terms.

As the over-representation of Aboriginal people in custody has emerged as a vitally important issue, there may be some danger that some commentators may see the solution to Aboriginal deaths in custody in the reduction of the numbers of Aboriginal people in custody by the elimination of this over-representation. Certainly, for a multitude of humanitarian and economic reasons the numbers of people, both Aboriginal and non-Aboriginal, in police and prison custody should be kept as low as is consistent with public safety, but to pursue this aim by shifting large numbers of offenders from prison to non-custodial corrections is to overlook the fact that, as established in Research Paper No. 12, the persons serving such orders are at least twice as likely to die (from all causes) as are people in prison. It is also to overlook the fact that the available evidence seems to suggest that young adult Aboriginal males have almost exactly the same probability of dying when they are in the community as when they are in prison. The solutions to Aboriginal over-representation will only be found by addressing the fundamental causes of Aboriginal social and economic disadvantage, not by making small changes to the operation of criminal justice systems.

With a number of projects concluding, in broad terms and using relatively crude data, that the risks of death in custody experienced by Aboriginal people and non-Aboriginal people are similar, a project was undertaken jointly by the Research Unit and the Australian Institute of Health with the aim of exploring the issue more broadly and in greater depth. The outcome of this project was reported in Research Paper No. 20 (pp. 507-23), an epidemiological analysis of the relative risks of death, among Aboriginal and non-Aboriginal people, in custody and in the community. The careful statistical analysis undertaken confirmed the earlier perception of the similarity in risk levels between Aboriginal and non-Aboriginal people in custody, and quantified the relative risks involved. The finding that both Aboriginal and non-Aboriginal people have risks of death in *police* custody that are far higher than they have in the community would not be surprising to many, but the finding that, in both groups, the risk of *prison* death is similar to that in the community is perhaps more novel. Self-inflicted death, injury and circulatory system diseases dominated the picture, as in earlier analyses.

It should be axiomatic that a person in custody (that is, in the care of the state) should be safer from illness, injury and death than he or she would be while at large in the community. This project confirms that this is the case with regard to *prison* deaths among Aboriginal people, reflecting their very poor state of health and exposure to injury in the community. The reverse is the case, however,

with regard to *police* custody: both Aboriginal and non-Aboriginal people have much higher death rates in that environment than they have in the community. This fact highlights the constantly emerging theme of the dangers of the police custody environment and the concomitant need for more sensitive police custody policies and procedures, along with improved attitudes, training and supervision of police personnel.

The penultimate paper in the series takes the research program to the point of closure in a full circle as it presents, in very considerable detail, the known facts about the lives and deaths of the 99 Aboriginal men and women who died in custody during the period of nine years and five months that was covered by the Royal Commission and who were adjudged to fall within the terms of reference. For each case some 120 separate items of information were collected and these were checked against the findings of the Commissioners as presented in their reports of individual cases. The numbers have changed slightly, but the overall picture that emerges is much the same as was portrayed in Research Paper No. 1. There were nearly twice as many deaths in police custody as in prisons, the highest numbers were in Western Australia and Queensland, and 1987 had the highest numbers. Without making any attribution of responsibility or intention, the data indicate that 37 of the deaths were due to natural causes, 30 to hanging, 12 to head injuries, 7 to other external trauma, and 5 to alcohol poisoning or withdrawal, and 4 each to drug use and gun shot. The detailed findings as to the cause of death in each case are to be found in the Commissioners' reports, but a non-legal and non-judicial collection can do no more than to reflect upon the tragic waste of so many young lives, and also to reflect upon the even more pervasive tragedy which led to such disproportionate numbers of Aboriginal people being in custody in the first place.

The preceding pages have presented an overview of the Criminology Unit's program of work, and its outputs, as seen through the twenty-two research papers which have been prepared over the period February 1988 to March 1991. Some of the information contained in the papers is not new, although its presentation is new. Other papers report on original research which involved the collection of new data. The papers have been presented to the Commissioners with the aim of assisting them in their consideration of the broader issues underlying the Aboriginal deaths in custody which they have investigated. The papers have also been made available to the public with the aim of adding to the community's knowledge of the issues and stimulating discussion. This has, in fact, eventuated, with discussions appearing, for example, in the mass media, learned journals, and conferences.

The staff of the Criminology Unit are conscious of the fact that the Unit's contribution to the work of the Royal Commission has been only part of the total research effort. Its work has to be seen alongside that of the Aboriginal Issues Units which were established in each state, and the products of the many external researchers contracted to undertake particular research tasks, as well as the Commission's state offices' research staff. Their reports are available in the papers of the Royal Commission. It is hoped that these complementary research

activities have added to knowledge of Aboriginal deaths in custody and factors related to those deaths and, in so doing, have assisted the Commissioners in their task of investigating and understanding the phenomenon of Aboriginal deaths in custody and identifying recommendations for action which will minimise the incidence, in the future, of such tragic deaths.

Abstracts of Research Papers

RESEARCH PAPER NO. 1

Preliminary Analysis of Current Data Base

David Biles

This paper provides a preliminary analysis of the current data base of Aboriginal deaths in custody since 1980, as at 9 June 1988. It provides information on 108 cases of Aboriginal deaths in custody, outlining the following information; name, age, state or territory, date of death, location and reported cause of death. The major findings showed that Western Australia and South Australia had the highest death rates based on the size of the adult Aboriginal community in each jurisdiction, with the Northern Territory having the lowest rate. It also showed that the incidence of Aboriginal deaths in custody has increased over the period 1980 to 1987, with the figures for 1987 being particularly high. More than half of the 1987 cases were attributable to hanging. Deaths in police custody were more common than deaths in prisons or in other forms of custody accounting for over half of all cases. Hanging was more likely to have occurred in police custody than in prisons and in nearly two-thirds of these cases where the age was known, the person was under 25 years at the time of death. Over half of all cases, where the age was known, were under 30 years of age when they died.

June 1988

RESEARCH PAPER NO. 2

Draft Guidelines for the Prevention of Aboriginal Deaths in Custody

David Biles

This paper was written with the intention of provoking discussion and comment. It does not present a concluded view. It aims to identify the basic principles that are to be addressed in the development of detailed policy directives which should guide police and prison officers in fulfilling their duties without significant risk of death or serious injury occurring to persons in their care, Aboriginal or not.

The information contained in this paper has been assisted by a wide range of documentary material including the Ministerial guidelines issued by Senator Michael Tate and Mr Gerry Hand in September 1987, the *Vincent Report* from Western Australia, the Law-Powder report from Queensland, and numerous submissions made to the Royal Commission by interested organisations and individuals. The guidelines described in this paper cover such topics as appropriate use of police and prison facilities, recognition of the rights of detainees, appropriate training for custodial staff, awareness of cultural differences and appropriately designed architecture to reduce the possibility of death.

April 1988

RESEARCH PAPER NO. 3

Public Drunkenness—Australian Law and Practice

Jillian Brewer

This paper outlines the current laws relating to public drunkenness in each jurisdiction and police practices in enforcing the law. It draws on information collected from a variety of sources, including court statistics, police statistics and information collected by drug and alcohol agencies. The major findings showed that while there is no uniform collection of statistics for drunkenness arrest and detentions around Australia, data from various sources show that the number of people taken into custody have risen in all jurisdictions over the past few years. Substantial increases in detention rates have occurred in states and territories where drunkenness has been decriminalised. Various explanations are offered for these increases, including improved reporting of admissions by various agencies, and a greater willingness on the part of police to detain persons under drunkenness provisions which do not require preparation of cases, than for offences under other Acts. The vast majority of intoxicated people picked up around the country spend the night in police cells. In recent years, in NSW and some areas of the NT, intoxicated people have been taken in greater numbers to sobering-up shelters. In other jurisdictions, however there is at present virtually no alternative accommodation to police cells. Other findings showed that Aboriginal people are apprehended at a greater rate than non-Aboriginal people in all those jurisdictions where records are kept of Aboriginal and non-Aboriginal detainees. The form of decriminalisation by which the offence of public drunkenness is removed but intoxicated people continue to be detained in the police cells achieves only part of society's goals in decriminalisation. The more that can be done to enhance the quality of care and protection, by providing better

alternatives to police cells for such people, the lower will be the risk of their dying in custody.

October 1988

RESEARCH PAPER NO. 4

The Aboriginal and Torres Strait Islander Population

Rosaleen Smyth

This paper was prepared in order to provide accurate information on the numbers of Aboriginal people and Torres Strait Islanders in each Australian jurisdiction. It also provides information on geographic distribution, age and gender structures, marital status and languages, which is necessary as a basis for understanding many other aspects of Aboriginal lifestyles. The major findings showed that the enumeration of Australia's Aboriginal population is an area in which precision has so far proved impossible. Not only is the size of the Aboriginal population at first contact in dispute but so too are population totals arrived at as a result of the various censuses published since the 1967 Referendum. It also showed that the most outstanding feature of Australia's Aboriginal population as revealed at the 1986 Census is the radical difference in the age distribution when compared with the Australian population as a whole. A much higher proportion of Aboriginal people is found in the younger age group with relatively few Aboriginal people in the sixty and over age bracket. The increasing urbanisation of the Aboriginal population is another noticeable trend but this development has to be treated with caution because of the self-identification factor.

February 1989

RESEARCH PAPER NO. 5

Drug Testing in Prisons

David McDonald

The matter of drug use in prisons is of wide community concern. Evidence has been presented to hearings of the Royal Commission pointing to the involvement of drugs in at least some of the deaths of Aboriginal people in custody. This paper provides an overview of social policies on drugs, reviews some of the key issues of testing for drugs in the prison environment and current research findings on

prisoners' drug use prior to incarceration and in prison, and describes current legislation and policy in Australia and overseas. The major findings of this paper showed that the prevalence of drug use in prison varies from institution to institution, and over time. A range of problems are associated with drug use in prison, as in the broader community. These include crime, adverse health consequences, including the spread of HIV/AIDS and Hepatitis B, and a multitude of prison management problems such as attempting to prevent the distribution of drugs entering prison and being manufactured in prison, reducing the demand for drugs and testing for the presence of drugs. The findings also showed that a substantial level of diversity exists, between the Australian jurisdictions and overseas, in legislation and practice relating to testing for drug use in prisons. This reflects the range of different uses of testing; as well as historical circumstances within particular jurisdictions. Recommendations are provided to support the policy goals of minimising drug use in prison and thereby making the prisons as safe as possible. Coherent policies and programs relating to testing for the presence of drug use are an integral part of this process.

February 1989

RESEARCH PAPER NO. 6

Aboriginal Imprisonment—A Statistical Analysis

David Biles

This paper aims to present details of Aboriginal over-representation in all Australian prison systems and also to examine trends in Aboriginal imprisonment in recent years. Almost all the statistical material used in this paper is derived from the Annual Census of Prisoners conducted on 30 June each year since 1982. The findings reveal that the annual census of prisoners has shown that over the period 1982 to 1987 the total number of prisoners in Australia has increased from under 10,000 to over 12,000, but the proportion who are identified as Aboriginal increased even more rapidly. Aboriginal people are at least ten times more likely than non-Aboriginal people to be in prison, and the level of over-representation is highest in South Australia and Western Australia. It is lowest in Tasmania and the Northern Territory. In all jurisdictions Aboriginal imprisonment rates are many times higher than non-Aboriginal rates. It also showed that Aboriginal prisoners in general are markedly younger than non-Aboriginal prisoners, that their employment status at reception and the education level achieved both reflect the disadvantaged backgrounds of Aboriginal prisoners. Aboriginal over-representation in non-custodial corrections is not as marked as it

is in prisons, but Aboriginal recidivism rates appear to be much higher than the rates for non-Aboriginal prisoners.

July 1989

RESEARCH PAPER NO. 7

Australian Deaths in Custody 1980-88—an Analysis of Aboriginal and Non-Aboriginal Deaths in Prison and Police Custody

David Biles, David McDonald & Jillian Fleming

This paper aims to place the phenomenon of Aboriginal deaths in custody in the broader context of all deaths in police and prison custody over the nine-year period 1 January 1980 to 31 December 1988. The basic information contained in this paper was supplied by the 16 police and prison agencies throughout Australia. Police forces supplied lists which included for each case: name, gender, Aboriginality, age, time and date of death, place of death, cause/manner of death, reason for detention, alcohol level if known, time in custody, time since inspection and whether or not the deceased person was alone at the time of death. Prison administrators supplied similar information to the police lists but excluded reference to alcohol level and included more detail of the place of death, legal status, time served, time to serve, and made provision for other relevant factors to be noted. The major findings showed that during the period 1980 to 1988, 462 deaths in custody occurred. Thirty-nine per cent of these deaths occurred in police custody and 61 per cent in the custody of prison authorities. They also showed that Aboriginal people composed 20 per cent of the deaths in custody, although they are less than 1.2 per cent of the Australian population aged 15 years and above. The average age at death was 35 years. Suicide and other self-inflicted injuries was the most common cause of death, followed by natural causes. Some 91 per cent of the deaths reported as suicide were caused by hanging. A higher proportion of Aboriginal people, compared with non-Aboriginal people, died from natural causes. In 1987 a dramatic increase occurred in the number of deaths in both prison and police custody and among both Aboriginal and non-Aboriginal people. The greatest increase in Aboriginal deaths in 1987 in terms of both the number of deaths and percentage increase, occurred in Queensland, primarily among young males who were reported to have died by hanging in police custody.

July 1989

RESEARCH PAPER NO. 8

National Police Custody Survey August 1988—Preliminary Descriptive Findings

David McDonald

This report presents the preliminary findings of a survey conducted during August 1988 of all persons taken into custody by police and lodged in cells anywhere in Australia. The survey was conducted with the full cooperation of the Commissioners of each of the eight Australian police forces. A survey form was developed by the Royal Commission Research Unit, in consultation with police forces, to cover each occasion when a person was taken into police custody during the month of August 1988 and lodged in police cells for any period of time. Some 28,568 instances of people being taken into police custody were reported including 559 people who were in police cells at the start of the month. Some Queensland Aboriginal community police custodies are not included in these figures. The major findings showed that Aboriginal people made up 29 per cent of the custodies with substantial differences existing between the jurisdictions in the Aboriginal custody rates. Aboriginal women were heavily over-represented, comprising about 50 per cent of the female custodies but less than 1.5 per cent of the national female population. Other findings showed that the mean age of people held in custody was 28 years, more custodies occurred on Wednesdays to Saturdays than on the other days of the week, with peaks during the weekends following the two pension days. Drunkenness and 'break enter steal, fraud and theft' were the most common offences leading to arrests, with Aboriginal people being over-represented in good order (including drunkenness) offences only. The periods of time held in custody were generally brief, with half being released after less than six hours of custody. Aboriginal people were in custody somewhat longer than the non-Aboriginal people.

June 1989

RESEARCH PAPER NO. 9

The Design of Safe and Humane Police Cells—A Discussion of some Issues relating to Aboriginal People in Police Custody

Joseph P. Reser

This paper addresses behavioural design considerations for custodial environments in Australia, with particular focus on the situation of Aboriginal people in police custody and the prevention of deaths in custody. It identifies and discusses relevant issues, in order to encourage input and discussion from individuals and organisations with respect to both issues and solutions. The many submissions which bear on the question of police cell design received by the Royal Commission as well as task force reports by police authorities in Australia which addressed this issue have been considered in the context of this discussion paper. This paper discusses such topics as provision for individual control, observation, privacy and crowding, stress and coping, social isolation and confinement, cultural similarities and differences, suicide prevention and high risk, violent or intoxication detainees. It also examines a number of specific design considerations such as cell layout, closed circuit TV surveillance, special and observation cells, spatial relation of cells to other functional areas and single/shared cells. The paper concludes with a discussion on the cross-cultural considerations and importance of Aboriginal input in the consultation process and recommends that this discussion paper in a final form and following feedback from relevant parties, might serve as a focus of discussion at a national meeting to develop a set of design principles for police facilities.

October 1989

RESEARCH PAPER NO. 10

Australian Deaths in Police Custody 1980-88—an Analysis of Aboriginal and Non-Aboriginal Deaths

David Biles, David McDonald & Jillian Fleming

This paper is a supplement to Research Paper No. 7 and provides an opportunity for exploring in some detail those deaths which occurred in police custody during the period 1 January 1980 to 31 December 1988. The basic data comprise 182 case histories, 59 of Aboriginal people and 123 of non-Aboriginal people who died in police custody anywhere in Australia during this period. The

information contained in this paper was supplied by each of the Australian police forces to the Research Unit of the Royal Commission. This information included for each case: name, gender, Aboriginality, age, time and date of death, place of death, cause/manner of death, reason for detention, alcohol level if known, time in custody, time since inspection, and whether or not the person was alone at the time of death. The major findings showed that when allowance is made for age and their relative representation in the Australian population, it is found that Aboriginal people died in police custody at a rate more than 40 times the rate of non-Aboriginal people. The alarming Aboriginal death rate is explained, almost entirely, by the over-representation of Aboriginal people in police custody. Other findings showed that substantial differences exist between the states and territories regarding rates of deaths in custody, with the Northern Territory having the highest ratio of deaths to population. Suicide and other self-inflicted injuries were the most common cause of death reported, with deaths by hanging accounting for 95 per cent of all reported suicides. The average length of time that people had been held in police custody, up to the time of death, was 15 hours. In 1987 a dramatic increase occurred in the number of deaths among both Aboriginal and non-Aboriginal people.

November 1989

RESEARCH PAPER NO. 11

Australian Deaths in Prisons 1980-1988—an Analysis of Aboriginal and Non-Aboriginal Deaths

David Biles, David McDonald & Jillian Fleming

This paper is a supplement to Research paper No. 7 and provides an opportunity for exploring in detail those deaths which occurred in prison custody during the period 1 January 1980 to 31 December 1988. The basic data comprise 280 case histories, 35 Aboriginal people and 245 non-Aboriginal people who died in the custody of prison authorities anywhere in Australia during this period. The information contained in this paper was supplied by each of the Australian correctional services. This information included for each case: name, gender, age, Aboriginality, date and time of death, time since last seen alive, cause/manner of death, most serious offence/charge, legal status, time served, time to serve, place of death and whether or not the person was alone at the time of death. The forms also made provision for other relevant factors to be noted. The major findings showed that when allowance is made for age and their relative representation in the Australian population, it is found that Aboriginal people died in prison custody at a rate nearly 13 times the rate of non-Aboriginal people. The alarming high death rate is explained, almost entirely, by the over-representation

of Aboriginal people in prison. The highest number of Aboriginal deaths occurred in WA whereas there were no Aboriginal deaths in Victoria, Tasmania or the ACT. Other findings showed that: the average age was 34 years with the age of death for Aboriginal people being lower; remandees made up 28 per cent of all deaths but only account for 16 per cent of the Australian prison population and suicide and other self-inflicted injuries were the most common cause of death reported. The average length of time that people had been imprisoned, up to the time of death, was one year and 10 months. In 1987, a dramatic increase occurred in the number of deaths among both Aboriginal and non-Aboriginal prisoners.

November 1989

RESEARCH PAPER NO. 12

Deaths in Non-Custodial Corrections—Australia and New Zealand, 1987 and 1988

Jillian Fleming, David McDonald & David Biles

This paper provides information on all adult deaths which were reported to have occurred in Australia or New Zealand while the person was serving a non-custodial correctional order during the years 1987 and 1988. Non-custodial correctional orders include probation, parole and community service orders.

A total of 391 such deaths were reported for Australia, including 31 which were reported as Aboriginal. This is equivalent to 22.6 per 100,000 Aboriginal people over 15 years of age in the general community, compared with 3.0 per 100,000 of the non-Aboriginal people in the same age group in the community. This high Aboriginal death rate is explained, almost entirely, by the over-representation of Aboriginal people in non-custodial correctional programs and the relatively poor health status of Aboriginal people in the general community. Accidental deaths were reported in over half the cases, with similar proportions of deaths recorded for suicide and natural causes. Noticeable differences exist in the causes of death of Aboriginal and non-Aboriginal people, respectively.

Some 71 New Zealand deaths were reported for the two years period, including 35 Maoris. This is equivalent to 14.1 per 100,000 Maoris over 15 years of age in the general community, compared with 1.6 per 100,000 of the non-Maori people in the same age group in the community. This high Maori death rate is explained, almost entirely, by the over-representation of Maori people in non-custodial correctional programs. Accidental deaths were reported in almost half of the cases, with an additional one-third of all deaths reported as suicide.

Noticeable differences exist between Maori and non-Maori people in relation to causes of death.

February 1990

RESEARCH PAPER NO. 13

National Police Custody Survey August 1988—National Report

David McDonald

This report presents the findings of a national survey conducted during August 1988 of all persons taken into custody by police and lodged in cells anywhere in Australia. A preliminary report on the survey was released in June 1989 as Research Paper No. 8 in this series. The survey was conducted with the full cooperation of the Commissioners of each of the eight Australian police forces. A survey form was developed by the Royal Commission Research Unit, in consultation with police forces, to cover each occasion when a person was taken into police custody during the month of August 1988 and lodged in police cells for any period of time. Some 28,566 instances of people being taken into police custody were reported including 559 people who were in police cells at the start of the month. Some Queensland Aboriginal community police custodies are not included in these figures.

The major findings were that Aboriginal people made up 29 per cent of the custodies with substantial differences existing between the jurisdictions in the Aboriginal custody rates. Aboriginal women were heavily over-represented, comprising nearly 50 per cent of the female custodies but less than 1.1 per cent of the national adult female population. The mean age of people held in custody was 28 years, more custodies occurred on Wednesdays to Saturdays than on the other days of the week, with peaks during the weekends following the two 'pension days'. Drunkenness and 'break enter steal, fraud and theft' were the most common offences leading to arrests, with Aboriginal people being over-represented in good order (including drunkenness) and assault offences only. The periods of time held in custody were generally brief, with half being released after less than six hours of custody. Aboriginal people were in custody significantly longer than non-Aboriginal people.

March 1990

RESEARCH PAPER NO. 14

Alcohol and Human Behaviour

Janet Greeley & David McDonald

This paper summarises a more detailed, technical report (*The Effects of Alcohol on Cognitive, Psychomotor and Affective Functioning*, eds. J. Greeley & W. Gladstone) prepared in 1989 for the Royal Commission by an expert group. The context of the project is evidence, such as that discussed by Commissioner Muirhead in the Eddie Murray case, which questions the capacity of people with elevated blood alcohol concentrations (BACs) to perform complex tasks, such as tying knots.

Current research findings are presented relating to the biochemistry of alcohol in the human body; the analysis of alcohol in the blood; factors that determine how an individual will behave while under the influence of alcohol; the acute and chronic effects of alcohol in humans, including tolerance, alcohol dependence, withdrawal and damage to the body caused by alcohol; and refers to some of the cultural and environmental factors that are relevant to how humans respond to alcohol and to some of the implications for the management of people with elevated blood alcohol concentrations.

It points out that, although alcohol can impair a light or social drinker's behaviour at BACs as low as 0.02 g%, some people develop tolerance to the drug. The paper includes cases which illustrate the fact that some experienced drinkers (including many who are dependent on alcohol) can have very high BACs and not appear to be drunk. Being alert to this possibility of tolerance to the more obvious signs of alcohol use is important in assessing people taken into custody, as poorly managed withdrawal from high BACs can cause serious, even life-threatening, reactions in the human body.

Importantly, the paper reveals that, contrary to what is sometimes stated, no research evidence exists which demonstrates that the body's responses to alcohol differ in significant ways between Australian Aboriginal people and white Caucasians. It suggests that, if further research is undertaken in this area, such research must follow the highest technical and ethical standards as recommended by key Aboriginal organisations and the National Health and Medical Research Council.

March 1990

RESEARCH PAPER NO. 15

International Review of Deaths in Custody

David Biles

A number of different approaches were pursued in order to obtain data on the number of deaths in police and prison custody in countries other than Australia. Statistics were eventually collected from eleven countries in relation to deaths in prisons and from four countries in relation to deaths in police custody. For both types of custody the Australian rates were shown to be higher than the average for the other countries. The Australian rate of death in police custody was found to be higher than the rates of England and Wales and of New Zealand, but lower than the rate of Scotland. The Australian rate of deaths in prison was found to be higher than the rates of South Africa, New Zealand, United States (federal and state), Canada (provincial), Scotland, Japan, Sri Lanka, and England and Wales, but lower than Thailand, Canada (federal) and Finland.

A comparison of particular interest is that of Australia and England and Wales. The Australian rate of deaths per 1,000 prisoners per year was found to be 2.98 while the equivalent rate for England and Wales was 1.48. It was concluded that the Australian rates of death in custody are a serious cause of concern.

June 1990

RESEARCH PAPER NO. 16

Self-Inflicted Harm in Custody

Jillian Fleming, David McDonald & David Biles

This project provides for the first time in Australia a description of all reported incidents of self-inflicted harm, including attempted suicide, in custody during a six-month period, 1 April 1989 to 30 September 1989. It uses data provided to the Research Unit of the Royal Commission by the police and prison authorities within each Australian state and territory. A total of 375 incidents were reported, 59 per cent from prisons and the balance from police sources. Aboriginal people made up 21 per cent of the total. A substantially higher proportion of Aboriginal self-harm incidents occurred in police custody whereas a substantially higher proportion of non-Aboriginal incidents occurred in prison.

Differences existed between the two custodial environments in the type of opportunities available for self-harm, both in terms of method and instrument

used. Hanging was by far the most frequently reported method in police custody whereas laceration was the most frequently used method in prison custody.

Some 73 per cent of reported attempts in police custody took place within the first three hours of custody, whereas half the prison cases occurred after four months of imprisonment. The response most frequently reported as having been taken by custodial officers after the self-harm incident was to have the person placed under some form of direct supervision.

The paper concludes that the most important technique for reducing both self-inflicted harm and completed suicide in custody is to keep the number of people in custody to an absolute minimum, and to ensure that for those for whom custody is unavoidable the physical and social environment is not unduly stressful.

August 1990

RESEARCH PAPER NO. 17

Methodological Issues in the Calculation of Over-representation and Exposure to Risk in Custody

David McDonald & David Biles

This paper seeks to clarify the central methodological issues involved in the calculation of over-representation, with particular reference to the over-representation of Aboriginal people in custody compared with non-Aboriginal people in custody. It also discusses the related concept of exposure to risk in custody.

The data used to calculate levels of over-representation are often inadequate with differing definitions of key concepts and varying quality depending on sources being common problems. Three methods have been used by researchers to quantify the relative risk of custody of Aboriginal and non-Aboriginal people. These are, first, a direct comparison of the custody rates, secondly, the odds ratio, and thirdly, dividing the proportion of the custodial populations that is Aboriginal by the proportion of the total community that is Aboriginal. It is concluded that the first and second methods, which produce the same results, are preferred over the third method. In calculating rates, the population at risk of being in custody is the most appropriate denominator and, wherever possible, allowance should be made for differences in the age structures of population being compared.

The levels of exposure to risk in custody, especially to the risk of death in custody, are determined by a range of factors in addition to the relative risks of different groups being in custody. Of particular relevance among Aboriginal people is their generally poor health status and specific health problems seen in

the custodial population. Other factors affecting the level of exposure to risk in custody include the length of time that a person has been in custody and, with regard to risk over a person's lifetime, the level of recidivism among different populations.

October 1990

RESEARCH PAPER NO. 18

Arrests, Custody and Bail, Kalgoorlie, 1987 and 1990

David McDonald

This paper reports a study of arrests, custody and bail in the Kalgoorlie, WA, police lockup during a 39-day period in 1987 and a 45-day period in 1990. Detailed information is available on the latter period although only summary information is available for the former.

During the 1990 study period, 376 people were arrested and taken to the Kalgoorlie police station, of whom 46 per cent were Aboriginal. Offences against good order, other than drunkenness, was the most frequent category of offence followed closely by drink-driving. Only 13 arrests, or 4 per cent of the total, were for the offence of public drunkenness. Approximately three-quarters of the cases were released on bail with most of the balance leaving the station under escort to another custodial or health facility. A lower proportion of Aboriginal people, compared with non-Aboriginal people, was shown to have been released on bail.

A comparison of the patterns between the 1987 and 1990 study periods indicated that the proportion of arrests which were of Aboriginal people had fallen substantially and that, although arrests for drunkenness among Aboriginal people were the main source of cases in the 1987 study period, such events rarely occurred during the 1990 period. Although during both study periods higher proportions of Aboriginal people than non-Aboriginal people were held in custody, rather than being released quickly on bail, the discrepancy between the two groups was much lower in 1990 than in 1987. Furthermore, the proportion of people released on bail increased between the two study periods such that in 1990 higher proportions of both Aboriginal and non-Aboriginal people were released on immediate bail than were held in custody.

October 1990

RESEARCH PAPER NO. 19

Aboriginal people in Prisons and Non-Custodial Corrections

David Biles & David McDonald

This paper extends for a further two years the information on Aboriginal imprisonment given in Research Paper No. 6 and it shows that the proportion of Australian prisoners (excluding those in Queensland) identified as Aboriginal in the annual census increased from 13.1 to 14.7 per cent from 1982 to 1987 but decreased to 13.4 per cent in 1989. It was suggested that the latter trend was largely due to the massive increase in the numbers of non-Aboriginal prisoners in recent years. It was also shown that as at 30 June 1989, the Australian adult Aboriginal imprisonment rate was 1464.9 compared with the equivalent rate for non-Aboriginal adults of 97.2. The Aboriginal rate was thus shown to be 15.1 times higher.

The results of a small study of Aboriginal and non-Aboriginal receptions to prison under sentence were also reported and this showed that the level of Aboriginal over-representation in sentenced prison receptions was 23.4 for Australia as a whole.

The numbers of Aboriginal and non-Aboriginal persons serving non-custodial correctional orders, especially probation, parole and community service orders, at 30 June 1987 were reviewed in detail for each jurisdiction and for Australia as a whole. It was found that Aboriginal people were over-represented in this area by a factor of 8.3, considerably lower than the level for prisons. It was speculatively suggested that this difference may be due to a belief by some judges, magistrates and parole authorities that Aboriginal people are either less able or less willing to comply with the requirements of non-custodial correctional orders than are non-Aboriginal people.

November 1990

RESEARCH PAPER NO. 20

Australian Deaths in Custody 1980-89: an Epidemiological Analysis of the relative Risks of Death for Aboriginal People and Non-Aboriginal People

Neil Thomson & David McDonald

Earlier Research Papers in this series have concluded that, in broad terms, the risks of death in custody experienced by Aboriginal people and non-Aboriginal people are similar. Because this conclusion was based upon relatively simple

analyses of the data available at the time those papers were prepared, the project reported upon in this paper was conducted jointly by the Royal Commission's Research Unit and the Australian Institute of Health, with the aim of exploring the issue more broadly and in greater depth. The paper presents an epidemiological analysis of the relative risks of death, among Aboriginal and non-Aboriginal people, in custodial environments and in the community. The potentially confounding variables of age and gender are controlled for using stratification by gender and indirect age standardisation.

The paper presents standardised mortality ratios (SMRs) which indicate that both Aboriginal and non-Aboriginal people have far higher levels of risk of death in *police custody* than they do in the community but that each group has only slightly higher risks when one compares *prison custody* with the general community. For all causes of death combined, no statistically significant difference exists in the relative risk of death between the Aboriginal and non-Aboriginal groups in either police or prison custody.

Data are presented comparing the risks of death of Aboriginal people in and out of custody with those of the total Australian populations, male and female. The risks of death for Aboriginal people in *police custody* are far higher than those of Aboriginal people in the community, whereas the risks for Aboriginal people in *prison custody* are somewhat lower than those of Aboriginal people in the community. In other words, a protective factor exists with regard to prison custody (as one would expect) but not with regard to police custody.

The paper concludes with a corresponding analysis of causes of death and relative risks in custody and in the community.

March 1991

RESEARCH PAPER NO. 21

The Royal Commission Cases: a Statistical Description

David Biles, David McDonald & Robyn Draper

Research Paper No. 21 brings together the basic facts that have been gathered about the ninety-nine deceased Aboriginal people who have been deemed to fall within the Terms of Reference of the Royal Commission and whose deaths have been the subject of investigation and report by Commissioners. Cases that were investigated and reported upon that were ruled by the Commissioners as falling outside the Terms of Reference are not included in this total.

Following a brief overview of the major findings, the paper presents what is known about the demographic characteristics of the deceased persons and an outline of their earlier contact with police, courts and correctional institutions. Details of the last apprehension and detention and the basic facts of the custodial

authority holding these people as well as the institutions in which the deaths occurred are then given, followed by the known information about each of the deaths. The final section of the paper focuses on the post-death inquiries that were conducted and the medical and family backgrounds of the deceased persons.

March 1991

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