

Deaths in Custody Australia

No. 2 National Police Custody Survey 1992: Preliminary Report

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♦ Australian Institute of Criminology



The Australian Institute of Criminology is contributing to the implementation of the recommendations of the Royal Commission into Aboriginal Deaths in Custody. Central to those recommendations is the necessity for Australia to reduce the extreme over-representation of Aboriginal people in custody as one strategy for minimising the incidence of custodial deaths. In this context, the Royal Commission recommended that the Australian Institute of Criminology, in conjunction with Australia's eight state and territory police services, regularly conduct national surveys of people held in

police lockups. The first such survey was conducted by the Royal Commission's Criminology Unit in 1988. This paper presents preliminary findings from the Second National Police Custody Survey which the Institute, along with the police services, conducted in August 1992.

The study shows that the level of over-representation of Aboriginal people in police custody remains disturbingly high, despite the commitment of all governments to reducing this disproportion. The pleasing finding, however, is that fewer people are being held in police lockups

now than was the case four years ago.

The information derived through this study, along with the Institute's ongoing program of Annual Prison Censuses, is important to both governments and the community. It will enable them to assess the effectiveness of efforts aimed at achieving some of the most significant of the national goals enunciated by the Royal Commission into Aboriginal Deaths in Custody, namely those of using incarceration only in the last resort.

Duncan Chappell,
Director



INTRODUCTION

During August 1992 the Second National Police Custody Survey was conducted throughout Australia. Its purpose was to obtain information on the extent and nature of police custody in this country, and to answer such questions as: how many people are being held in police lockups? what are their personal characteristics? why are they there? how long do they stay?

under what circumstances do they leave custody?

A second set of questions the survey was designed to answer relate to the work of the Royal Commission into Aboriginal Deaths in Custody. The Royal Commission sponsored the First National Police Custody Survey, which was conducted by its Criminology Unit in August 1988 (McDonald 1992). Based upon that experience, the Royal Commission recommended (at

Recommendation 43) that a similar survey:

be conducted at regular intervals of, say, two to five years, with the aim of systematically monitoring and evaluating the degree to which needed improvements in legislation, attitudes, policies and procedures that affect police custody are implemented (Royal Commission into Aboriginal Deaths in Custody 1991, p. 195).

SUMMARY

The Second National Police Custody Survey was conducted in August 1992. It covered every occasion on which a person was lodged in a police cell anywhere in Australia during that month. A total of 25,654 such incidents occurred. Queensland had the largest number of custodies, followed by New South Wales and Western Australia. The other states and territories had substantially fewer cases. The custody rates (that is, the ratio of incidents of custody to population) also varied, with the Northern Territory having by far the highest rate, followed by Western Australia, South Australia and Queensland.

Nationally, Aboriginal people comprised 29 per cent of the incidents; they were in custody at a rate 26 times that of non-Aboriginal people. Aboriginal women were particularly heavily over-represented, making up 44 per cent of the female custodies.

The most frequent reason for custody was public drunkenness, either as an offence or as protective custody, followed by the offence category 'break and enter, fraud and theft'.

Generally speaking, people stayed in the police lockups for relatively short periods, with half being released within 4.7 hours and 87 per cent within 24 hours.

The number of custody incidents reported in August 1992 was, nationally, some 10 per cent *fewer* than in August 1988 (the time of the First National Police Custody Survey), despite population increases in the intervening period. This is a pleasing development, in light of the recommendations of the Royal Commission into Aboriginal Deaths in Custody that the number of people held in custody be minimised. Unfortunately, the proportion of Aboriginal cases remained almost the same, indicating that more effort is needed to reduce the heavy over-representation of Aboriginal people in police custody.

The 1992 survey followed a methodology similar to the earlier survey. It was conducted under the auspices of the Australian Institute of Criminology (as recommended by the Royal Commission) as part of the Commonwealth Government's response to the Royal Commission's recommendations. The survey was a joint activity of the Institute and of each of Australia's eight state and territory police services.

The Second National Police Custody Survey covered every occasion upon which a person was taken into police custody and physically lodged in a police cell, at any location in Australia, during the month of August 1992. It also covered people who were in custody at the commencement of the survey. Police officers at station level completed a separate data collection form for each occasion of custody. The forms were collated centrally by each police service, checked for completeness, and forwarded to the

Institute for coding, data entry, analysis and report preparation.

What follows is a preliminary report on the survey. It has been produced with the aim of making the basic data available as expeditiously as possible. A full report on the survey will be published in this series later in 1993.



NATIONAL POLICE CUSTODY SURVEY 1992

State and Aboriginality

This study covers the 25,654 incidents of police custody which occurred during the month of August 1992 throughout Australia. It includes 25,139 cases of people admitted to the cells during the month and 515 people who were already in the cells when the survey commenced.

The state with the largest number of custodies was Queensland, with 6,104 cases, followed by New South Wales with 5,617 and Western Australia with 4,917. The other states and territories had substantially fewer cases. Table 1 and Figure 1 provide details.

Torres Strait Islander people are shown separately in the first part of Table 1 (as 'TSI') but not elsewhere in this report, owing to the small number of them taken into police custody during the survey period. It follows that subsequent references in this paper to 'Aboriginal people' should be taken to include Torres Strait Islanders.

Aboriginal people continue to be heavily over-represented in police custody. As shown in Table 1, almost 29 per cent of the custodies were of Aboriginal people, although they make up only 1.5 per cent of the Australian population and less than one per cent of the adult (17 years and above) population.

TABLE 1**State and Aboriginality, National Police Custody Survey, August 1992**

	<i>NSW</i>	<i>Vic.</i>	<i>Qld</i>	<i>WA</i>	<i>SA</i>	<i>Tas.</i>	<i>NT</i>	<i>ACT</i>	<i>Aust.</i>
Aboriginal	813	122	1,317	2,799	593	19	1,387	8	7,058
TSI	46	6	86	4	3	2	4	-	151
Other	4,459	3,221	4,561	2,089	2,458	365	347	286	17,786
Not stated	299	56	140	25	118	3	17	1	659
Total	5,617	3,405	6,104	4,917	3,172	389	1,755	295	25,654

State and Aboriginality: Percentages^(a)

	<i>NSW</i>	<i>Vic.</i>	<i>Qld</i>	<i>WA</i>	<i>SA</i>	<i>Tas.</i>	<i>NT</i>	<i>ACT</i>	<i>Aust.</i>
Aboriginal/TSI	16.2	3.8	23.5	57.3	19.5	5.4	80.0	2.7	28.8
Other ^(b)	83.8	96.2	76.5	42.7	80.5	94.6	20.0	97.3	71.2
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

(a) Missing data are excluded from percentage calculations.

(b) Cases other than Aboriginal or TSI and excluding 'not stated'.

TABLE 2**Custody Rates, National Police Custody Survey, August 1992**

<i>State</i>	<i>Aboriginal^(a)</i>	<i>Non- Aboriginal^{(a)(b)}</i>	<i>Total^(a)</i>	<i>Level of Aboriginal over- representation^(c)</i>
NSW	1,246	79	98	15.8
Vic.	772	76	80	10.2
Qld	2,094	157	205	13.3
WA	7,007	135	310	51.9
SA	3,720	178	226	20.9
Tas.	242	82	86	3.0
NT	3,628	253	1,001	14.3
ACT	452	103	105	4.4
Aust.	2,801	107	152	26.2

(a) Police custodies August 1992 per 100,000 of the relevant population at the 1991 census.

(b) Denominators include cases where Aboriginality was not stated.

(c) Ratios of Aboriginal custody rates to non-Aboriginal custody rates.

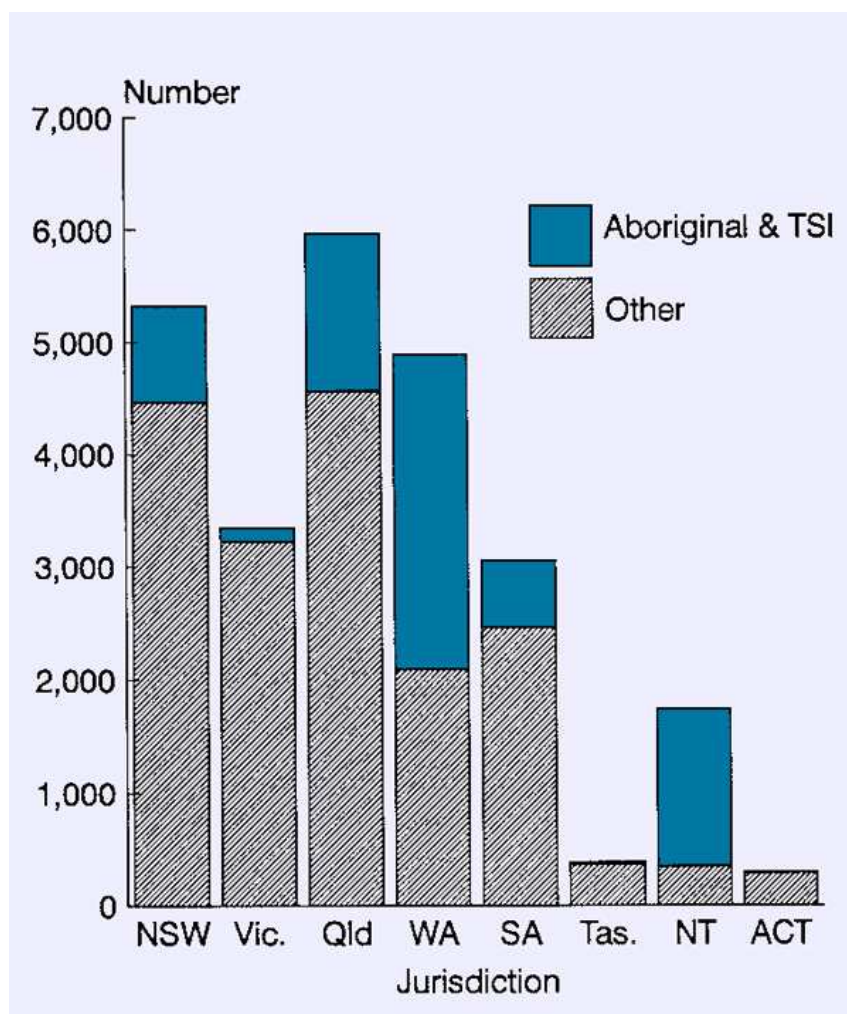
The extent and pattern of over-representation is perhaps observed more directly through a comparison of custody rates, that is, the number of Aboriginal and non-Aboriginal custodies, respectively, per 100,000 of the relevant population. Table 2 reveals that the national rate of police custody during August 1992 was 152 per 100,000 of the Australian population. It was 2,801 per 100,000 for Aboriginal people and 107 per 100,000 for non-Aboriginal people. This gives a national level of over-representation of Aboriginal people taken into police custody of 26.2 (i.e., $2,801 \div 107$). In other words, Aboriginal people were held in the police cells at a rate over 26 times that of non-Aboriginal people.

Substantial differences between the various states and territories occurred in the custody rates and levels of over-representation. By far the highest custody rate was observed in the Northern Territory: 1,001 per 100,000. This was followed by Western Australia at 310, South Australia at 226 and Queensland at 205. The police custody rates in the other states and territories were much lower.

The pattern of Aboriginal custody rates differed, however, from the above rates which are based on the Aboriginal and non-Aboriginal populations combined. It is clear from Table 2 that the highest Aboriginal custody rate was found in Western Australia (7,007 per 100,000), followed by South Australia and the Northern Territory, with the latter two jurisdictions having custody rates approximately half that of Western Australia. The rates in the other jurisdictions were substantially lower than these, although the Aboriginal rate was higher than the non-Aboriginal rate in every case. The level of Aboriginal over-representation was particularly high in Western

FIGURE 1

Aboriginality by Jurisdiction, National Police Custody Survey, August 1992



Australia, where Aboriginal people were placed in the cells at a rate over 50 times that of non-Aboriginal people.

Gender

As one might expect, most of the people taken into custody during the month were males (87.9 per cent). Aboriginal females were heavily over-represented, comprising over 44 per cent of the female cases, although they make up only 1.5 per cent of the Australian female population (see Table 3).

Age

The people taken into custody were relatively young, with a mean age of 28.2 years and a median age (the point above and below which half the cases fell), of 26 years. Some 56 per cent were aged between 18 and 29 years. The ages ranged from as young as 10 years, with 1,836 of the people taken into custody being under 18 years of age. Aboriginal detainees were, on average, 10 months older than non-Aboriginal detainees (28.8 years and 27.9 years respectively). The ages of females and males did not differ significantly.

TABLE 3***Aboriginality and Gender, National Police Custody Survey, August 1992***

	<i>Aboriginal</i>		<i>Non-Aboriginal</i>		<i>Total</i>	
	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>
Male	5,793	80.8	16,100	90.7	22,465	87.9
Female	1,377	19.2	1,643	9.3	3,098	12.1
Not stated	39	-	43	-	91	-
Total	7,209	100.0	17,786	100.0	25,654	100.0

Note: Missing data are excluded from percentage calculations. Cases where Aboriginality was not stated are included in the row totals.

When taken into custody

The occasions of custody were distributed throughout the week, with the highest numbers on Fridays and Saturdays and much fewer on Sundays. With regard to the time of day, peaks were observed in the 0900-1000 hours period (presumably reflecting large numbers of people being taken to the cells on the way to court) and in the evenings when street offences, including public drunkenness, increase in

frequency. Tables 4 and 5 provide details.

Reasons for custody

In this study, the reasons given for people being taken into custody and held in the police cells were classified as arrested without warrant, arrested under the authority of a warrant, protective custody for intoxicated people in the states and territories where intoxication is not an offence, and a residual

category 'other'. It will be noted from Table 6 that arrested without warrant was the largest category, representing 47.7 per cent of the cases, followed by arrested on warrant (27.2 per cent) and protective custody for intoxication (12.8 per cent). Almost all of the cases classified as 'other' reasons for being placed in the cells referred to the movement of people, for example, between prisons, police lockups and courthouses.

TABLE 4***Day of Week Admitted to Police Custody, August 1992***

<i>Weekday</i>	<i>No.</i>	<i>%</i>
Monday	3,616	14.4
Tuesday	3,035	12.1
Wednesday	3,285	13.1
Thursday	3,827	15.2
Friday	4,406	17.6
Saturday	4,276	17.0
Sunday	2,660	10.6
Total	25,105	100.0

Note: Missing data are excluded from this table.

TABLE 5***Time of Day Admitted to Policy Custody, August 1992***

<i>Time period</i>	<i>No.</i>	<i>%</i>	<i>Time period</i>	<i>No.</i>	<i>%</i>
Midnight-0059	1,208	4.8	1200-1259	1,047	4.2
0100-0159	1,202	4.8	1300-1359	976	3.9
0200-0259	939	3.8	1400-1459	948	3.8
0300-0359	772	3.1	1500-1559	1,060	4.3
0400-0459	542	2.2	1600-1659	1,146	4.6
0500-0559	375	1.5	1700-1759	1,233	4.9
0600-0659	259	1.0	1800-1859	1,203	4.8
0700-0759	363	1.5	1900-1959	1,078	4.3
0800-0859	813	3.3	2000-2059	1,196	4.8
0900-0959	1,900	7.6	2100-2159	1,304	5.2
1000-1059	1,546	6.2	2200-2259	1,331	5.3
1100-1159	1,204	4.8	2300-midnight	1,270	5.1

Note: Missing data are excluded from this table.

TABLE 6***Reasons for Custody, National Police Custody Survey, August 1992***

<i>Reason for custody</i>	<i>Aboriginal</i>		<i>Non-Aboriginal</i>		<i>Total</i>	
	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>
Arrest without warrant	2,578	35.9	9,300	52.6	12,162	47.7
Arrest on warrant	1,699	23.6	5,061	28.6	6,944	27.2
Intoxication detentions	2,375	33.1	828	4.7	3,267	12.8
Other	533	7.4	2,495	14.1	3,140	12.3
Not stated	24	-	102	-	141	-
Total	7,209	100.0	17,786	100.0	25,654	100.0

Note: Missing data are excluded from percentage calculations. Cases where Aboriginality was not stated are included in the row totals.

Differences exist between Aboriginal and non-Aboriginal people regarding the reasons for custody. While similar proportions of each were placed in the cells following arrest on warrant, a far higher percentage of Aboriginal people, compared

with non-Aboriginal people, were detained for intoxication where it is not an offence: 33.1 per cent compared with 4.7 per cent. The opposite situation applied to arrests without warrant: this reason for custody was given in the case of 52.6 per cent of the

non-Aboriginal people but only 35.9 per cent of the Aboriginal people.

Since it is widely accepted that one mechanism for minimising the number of people in custody is to proceed against them,

wherever possible, by means of summons rather than arrest, it is interesting to observe the state-by-state differences in the proportion of cases entering custody as a result of arrest without warrant. Since three jurisdictions (Victoria, Queensland and Tasmania) still have an offence of public drunkenness, for purposes of state-by-state comparisons we consider at this point only arrests for offences other than drunkenness and also exclude people taken into custody (without arrest) owing to public intoxication.

The highest proportion of such cases which entered custody as arrests without warrant occurred in Queensland (72 per cent of

that state's custodies being arrest without warrant), followed by Tasmania (61 per cent), Northern Territory (60 per cent), the Australian Capital Territory (55 per cent), Western Australia (54 per cent), South Australia (36 per cent), New South Wales (34 per cent) and Victoria (33 per cent).

Offences

Table 7 provides details on the offences which led to people being placed in the cells. (Where people were detained for multiple offences, only the most serious of these is included.) This table includes in the 'not applicable/not stated' row the 3,267 cases shown in Table 6 where people

were apprehended without arrest and detained as intoxicated people in the five states and territories where public drunkenness is not an offence.

Two offence categories ('break and enter, fraud and theft') and public drunkenness stand out, accounting for 21.6 per cent and 15.2 per cent, respectively, of the cases for which offence data are applicable and available. These offences are followed in frequency by drink-driving and justice procedures (11.3 per cent), and assault, drug offences and offences against good order (other than drunkenness) each at approximately 9 per cent.

TABLE 7

Offences, National Police Custody Survey, August 1992

<i>Offence</i>	<i>Aboriginal</i>		<i>Non-Aboriginal</i>		<i>Total</i>	
	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>
Homicide	17	0.4	84	0.7	102	0.6
Assault	521	13.8	1,035	8.2	1,586	9.4
Sexual offences	46	1.2	180	1.4	232	1.4
Other offences against person	12	0.3	58	0.5	74	0.4
Robbery	30	0.8	226	1.8	259	1.5
Break and enter, fraud and theft	743	19.6	2,806	22.1	3,638	21.6
Property damage	137	3.6	322	2.5	473	2.8
Justice procedures	403	10.7	1,448	11.4	1,895	11.3
Public drunkenness	632	16.7	1,873	14.8	2,555	15.2
Other good order offences	631	16.7	939	7.4	1,595	9.5
Drugs	71	1.9	1,409	11.1	1,516	9.0
Drink driving	364	9.6	1,497	11.8	1,897	11.3
Other traffic offences	132	3.5	728	5.7	878	5.2
Other offences	43	1.1	86	0.7	133	0.8
Not applicable/not stated	3,427	-	5,095	-	8,821	-
Total	7,209	100.0	17,786	100.0	25,654	100.0

Note: Missing data are excluded from percentage calculations. Cases where Aboriginality was not stated are included in the row totals.

Aboriginal people were proportionately more likely than non-Aboriginal people to be in custody for assault and offences against good order (other than drunkenness). Higher proportions of non-Aboriginal people than Aboriginal people were in custody particularly for drug offences.

Reasons for release

The circumstances under which detainees left the police cells, that is, the circumstances under which the occasion of custody concluded, were classified as transfer to court, prison, another place of police custody, etc.; release on bail; release following a period of protective detention for being intoxicated in public; release having served a sentence in police custody or having paid a fine; and a residual category 'other'. Table 8 provides details.

Relatively high proportions left the cells having been granted bail (40.8 per cent) and on transfer to another part of the criminal justice system (34.8 per cent). A further 13.1 per cent were released following a period of detention without arrest owing to intoxication while some 4.0 per cent had served a sentence.

Length of time in custody

On the whole, the periods of time that people spent in the police cells were brief. Although the mean period was 18.6 hours, the median (the point below which half of the cases fell) was only 4.7 hours. Some 87 per cent of the cases were for periods of less than 24 hours and 93 per cent were for less than 48 hours. The median periods of custody among males and females were similar (4.7 and 4.5 hours respectively), whereas the median for Aboriginal people was

two hours longer than that of non-Aboriginal people.



COMPARISONS, 1988 and 1992

As noted in the introduction, the August 1992 survey essentially replicated that conducted in August 1988. For this reason, it can serve as an instrument for monitoring changes in the incidence and patterns of police custody over the intervening four-year period. Table 9 shows the number of custodies for each survey by state/territory, the proportion in each that was Aboriginal people, and the percentage change in both the state totals and the proportions of Aboriginal people detained in each state.

TABLE 8

Reason for Release, National Police Custody Survey, August 1992

Reason for release	Aboriginal		Non-Aboriginal		Total	
	No.	%	No.	%	No.	%
Bail	2,084	30.0	7,778	45.3	10,079	40.8
To court, etc.(a)	1,664	24.0	6,674	38.9	8,614	34.8
Intoxication detention end	2,351	33.9	816	4.8	3,230	13.1
Sentence served	419	6.0	540	3.1	981	4.0
Other (b)	421	6.1	1,354	7.9	1,826	7.4
Not stated/not applicable	270	-	624	-	924	-
Total	7,209	100.0	17,786	100.0	25,654	100.0

Note: Missing data are excluded from percentage calculations. Cases where Aboriginality was not stated are included in the row totals.

(a)To court, prison, other police custody, etc.

(b)While the actual nature of 'other' reasons for release were not provided in most of these cases, a small number were stated to have left the cells following the payment of a fine (771 cases), on transfer to hospital or another medical facility (57), or transfer to the custody of immigration authorities (32 cases).

TABLE 9

National Police Custody Surveys, Months of August 1988 & 1992

State	1988		1992		% change	
	No.	% Ab'l	No.	% Ab'l	No.	% Ab'l
NSW	5,582	14.3	5,617	16.2	0.6	13.3
Vic.	4,936	4.1	3,405	3.8	-31.0	-7.3
Qld	6,143	28.8	6,104	23.5	-0.6	-18.4
WA	5,416	54.2	4,917	57.3	-9.2	5.7
SA	3,217	21.8	3,172	19.5	-1.4	-10.6
Tas.	590	7.5	389	5.4	-34.1	-28.0
NT	2,191	76.3	1,755	80.0	-19.9	4.8
ACT	491	5.0	295	2.7	-39.9	-46.0
Aust.	28,566	28.6	25,654	28.8	-10.2	0.7

Perhaps the most significant conclusion to be drawn from the 1988 and 1992 comparison is that, nationally, the total number of incidents of police custody *decreased* by 10.2 per cent. This reduction needs to be seen in light of the facts that the Australian population *increased* by some 6.3 per cent over the same period and that August 1992 had five weekends (periods when the number of custody incidents is high) whereas August 1988 had four.

The reduction was not spread evenly among the states and territories, as Table 9 reveals. It was greatest in absolute numbers and high in terms of percentage change in Victoria (a fall of 31 per cent). Large percentage reductions also occurred in the Australian Capital Territory, Tasmania and the Northern Territory, but the numbers involved were much smaller. The only state in which an increase occurred was New South Wales and that was only 35 cases. (It should be recalled, furthermore, that New South Wales has a relatively low rate of police custody.)

Although there was an overall fall in the number of occasions of custody, the proportion of Aboriginal people involved did not fall; indeed, it rose by 0.7 per cent nationally. This national figure conceals important state-by-state differences. The proportion of Aboriginal people taken into custody and held in the cells fell in Queensland by 18.4 per cent, in South Australia by 10.6 per cent and in Victoria by 7.3 per cent. (Large percentage reductions also occurred in the Australian Capital Territory and in Tasmania, but the actual numbers involved there are small.)

The proportion of Aboriginal detentions increased in New South Wales by 13.3 per cent, in Western Australia by 5.7 per cent and in the Northern Territory by 4.8 per cent. Again, these changes should be seen in the light of population changes: Australia's Aboriginal population, as enumerated in the five-yearly Censuses, rose by 13.0 per cent between 1986 and 1991, equivalent to an increase of 10.4 per cent in a four-year period, whereas the non-Aboriginal

population rose by only 7.9 per cent, equivalent to 6.3 per cent over four years. The full report on this project will explore the reasons underlying the changes described above.



CONCLUSION

The Second National Police Custody Survey was conducted throughout Australia during the month of August 1992. It was a joint project of the Australian Institute of Criminology and all of Australia's police services. The purpose of the survey was to provide updated information on the extent and patterns of police custody and to monitor trends in this area. This report has presented preliminary data from the survey.

During the survey month, 25,654 occasions of custody occurred. The number of such incidents is lower than the number observed in the first survey which was conducted four years earlier, and the national custody rates are also lower. While the reasons for

these changes will be explored in the full report on the survey, it is probable that the reduction in numbers of people being taken into custody and held in police lockups is a function of the greater use of bail and summonses and the greater use of cautions as alternatives to arrests. It appears, then, that Australia's police services are moving towards meeting the goals enunciated by the Royal Commission into Aboriginal Deaths in Custody concerned with minimising the number of people held in police custody. For this, they have earned the community's approbation.

Nationally, although Aboriginal custody rates have fallen, the level of Aboriginal over-representation in custody remains high. More attention needs to be given to reducing this disparity through the fuller implementation of the recommendations of the Royal Commission into Aboriginal Deaths in Custody.

A full report on this project will be produced by the Australian Institute of Criminology later in 1993.



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Deaths in Custody, Australia, No. 2
National Police Custody Survey 1992:
Preliminary Report

This is the second research paper in the Deaths in Custody series produced by the Australian Institute of Criminology. It has been compiled by the Institute's Deaths in Custody Monitoring and Research Unit which was established as one of the Commonwealth Government's responses to the Royal Commission into Aboriginal Deaths in Custody.

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