

Deaths in Custody Australia

No. 4 Australian Deaths in Custody 1992

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The monitoring of custodial deaths has become an important element in the Australian Institute of Criminology's work program. Commencing with this issue in the Deaths in Custody, Australia series, the Institute will produce six-monthly reports providing data and analysis on custodial deaths. Additional reports which disseminate information flowing from individual research projects

in the deaths in custody area will also be produced.

This report shows that the number of custodial deaths which occurred throughout Australia in 1992 was similar to the previous year. Indeed, little change in incidence has occurred over the last five years. We all hope that the number of custodial deaths will soon commence to fall, particularly as we see the impact

of the fuller implementation of the many recommendations of the Royal Commission into Aboriginal Deaths in Custody. The Institute's work, part of which is demonstrated through this publication series, is one component of this important nationwide effort.

Duncan Chappell
Director



INTRODUCTION

This paper, the fourth in the Deaths in Custody, Australia series, presents information on the deaths which occurred in police and prison custody and juvenile detention in Australia during 1992. It updates the information contained in the first paper in this series which provided detailed information on the 1990 and 1991 deaths, along with summary data on the whole period since 1980. The purpose of this paper is to provide policy makers, the managers of custodial facilities and the public with information which will enable them to remain aware of trends in custodial deaths, both nationally and at the state/territory level. In doing so, the Australian Institute of

Criminology is implementing Recommendation 41 of the Royal Commission into Aboriginal Deaths in Custody which addressed the need for the monitoring, on an ongoing basis, of Australian deaths in custody.

Details on the methodology used in this project were included in the first paper in this series and will not be repeated here. In brief, however, each of Australia's eight police services, corrections authorities and juvenile justice or juvenile welfare authorities was asked to provide information, in a standard format, on all deaths in custody which occurred within their area of responsibility during 1992. Lists of deaths were also compiled from other sources, including media reports and

concerned community members and organisations; these were checked against the custodial authorities' lists. In addition, each State Coroner or equivalent was asked to review the lists and check them for completeness. At the time of writing, coronial inquests had been completed on approximately one-third of the 1992 cases; the findings of those inquests have been used to confirm and supplement information received from the custodial authorities.



WHAT IS A DEATH IN CUSTODY?

Consistency in definitions and counting rules is especially important in this type of project

SUMMARY

During 1992, 62 deaths in custody occurred in Australia. Twenty-six (42 per cent) of these deaths occurred in police custody and 36 (58 per cent) were in prison. All but five of the people who died in custody were male. As in previous years, Aboriginal people were over-represented in the numbers of custodial deaths. Seven Aboriginal people died in custody during 1992. This represents 11 per cent of all custodial deaths, whereas Aboriginal people comprise only 1.6 per cent of the Australian population.

The ages of the people who died ranged from 14 years to 77 years, averaging 30 years. Half (31 of the 62 deaths) were self-inflicted, and accidents (12

deaths) were the next most frequent cause of death. With regard to the offences that led to custody, the five most serious offences (namely homicide, assault, sexual offences, robbery and other offences against the person) accounted for 45 per cent of the cases. Four deaths occurred among people who were in police custody owing to public drunkenness; these deaths all occurred in states that have not decriminalised the offence. In terms of legal status, almost half of the people (28 of the 62 deaths) were sentenced to a period of imprisonment at the time of death, with another 16 people being held on remand. Ten of the 36 prison custody deaths were among remandees

who constitute only 12 per cent of the prison population.

The total of 62 deaths in custody during 1992 is a relatively high figure when compared with the numbers over the last 13 years but is similar to that observed over the past five years. Overall the number of deaths in custody has not fallen in the period since the Royal Commission into Aboriginal Deaths in Custody completed its work.

In terms of Aboriginality, the seven deaths of Aboriginal people during 1992 is a relatively low number when compared with figures from recent years. Of particular note, is the low number of Aboriginal deaths in prison custody (just two during 1992).

which aims to provide information on trends. The deaths in custody monitoring program has adopted the definition of a 'death in custody' which was recommended for this purpose by the Royal Commission into Aboriginal Deaths in Custody and which has been agreed to by all governments. In Recommendations 6 and 41 the Royal Commission expressed the view that the definition of a death in custody

Should include at least the following categories:

- (i) the death wherever occurring of a person who is in prison custody or police custody or detention as a juvenile;*
- (ii) the death wherever occurring of a person whose death is caused or contributed to by traumatic injuries sustained, or by lack of proper care whilst in such custody or detention;*
- (iii) the death wherever occurring of a person who dies or*

is fatally injured in the process of police or prison officers attempting to detain that person; and

- (iv) the death wherever occurring of a person who dies or is fatally injured in the process of that person escaping or attempting to escape from prison custody or police custody or juvenile detention (Royal Commission into Aboriginal Deaths in Custody 1991, vol. 1, p.190).*

It is important to note that this definition is broader than that used in the past by some custodial authorities (but, importantly, not by the Royal Commission with regard to the Aboriginal deaths which it investigated). This broadening is of particular relevance to police custody deaths, but also impacts on some deaths which are the concern of other custodial authorities. It seems that, in the 1980-1989 data, a death in custody was restricted, in the main, to deaths which met the first two elements of the

definition, that is deaths which occurred in a lockup, prison, juvenile detention centre, and so on, or in a hospital after an inmate was transferred there direct from such a facility. During that period, deaths of escapees were, it appears, also counted as custodial deaths.

The third part of the definition is of concern to some police services as it refers to deaths which occur while police or prison officers are attempting to detain the person. This means, for example, that a person whom police wish to detain (for any purpose) and who is being pursued in a motor vehicle and who dies as a result of that vehicle crashing, would be a 'death in custody'. (These situations are often referred to as high-speed motor vehicle pursuits.) Other examples come from siege situations. Cases have occurred where an armed person locks himself or herself in a building with police laying siege to the premises and the person dies by gunshot, either self-inflicted or inflicted by police.

This is also a 'death in custody' according to the Royal Commission's definition, as the police were seeking to detain the person, regardless of whether the detention was for the purpose of charging the person with an offence, for questioning, or for the person's own welfare.

These definitional issues have been discussed with all police services. On the basis that all Australian governments have accepted the definition of a 'death in custody' as recommended by the Royal Commission, all police services are now reporting deaths which meet this definition, except for the Queensland Police Service. That agency is still considering the interpretation of the definition. This does not appear to have affected the 1992 monitoring, as we are not aware of any 1992 Queensland deaths which we believe fall within the definition of a 'death in custody' but which are not accepted as such by the Queensland Police Service.

To assist readers in understanding trends in custodial deaths, we have differentiated the lockup/prison/hospital deaths (which have always been considered to be deaths in custody) from those additional categories which now fall within the definition. Most of these additional deaths, as suggested by the above examples, fall within the category of a death which occurs during the process of police or prison officers attempting to detain the person. The discussion at page 4 provides details. The total number of police custody deaths has remained reasonably stable over the last five years (see Table 10). Given that the definition has widened, this implies a reduction in the number of deaths in police lockups.

A second refinement of the monitoring program and of the presentation in this paper is its

expanded coverage of custodial authorities. The first paper in this series (which covered deaths in the 1980-1991 period) covered only police and prison custody deaths. The coverage now also incorporates deaths of young people in juvenile detention which have occurred since 1980. Fortunately, no such deaths occurred during 1992. Information on the deaths of juveniles in detention was provided in the third paper in this series (Howlett 1993) and full details of the deaths of young people in custody during 1980-1992 will be provided in the next paper in this series.

THE INCIDENCE OF DEATHS IN CUSTODY

Sixty-two people died in custody in Australia during 1992. Twenty-six (42 per cent) of these deaths occurred in police custody and 36 (58 per cent) were in prison custody. As in previous years, Aboriginal people are over-represented in the numbers of custodial deaths. Seven Aboriginal people died in custody during 1992. This represents 11 per cent of all custodial deaths, whereas Aboriginal people comprise only 1.6 per cent of the Australian population.

The incidence of deaths among Aboriginal people was much

higher in police custody than in prison custody. Five (71 per cent) of the seven Aboriginal deaths occurred in police custody and two (29 per cent) occurred in prison. This is in contrast to the distribution of non-Aboriginal deaths, with 34 (62 per cent) of these occurring in prison and 21 (38 per cent) in police custody. This pattern is different from that of 1990-1991 but similar to the 1980-1989 trend.

Table 1 provides details on the number of custodial deaths, by state/territory and Aboriginality, for 1992. Torres Strait Islander people are not shown separately in this table as no Torres Strait Islanders are recorded as having died in custody during 1992. Similarly, no young people are reported to have died in juvenile detention during the year.

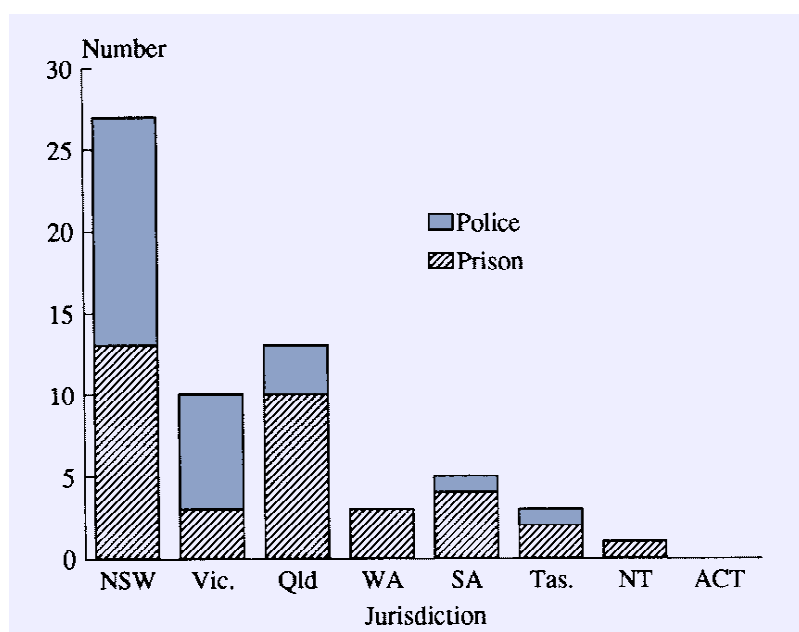
It will be observed from Table 1 that during 1992 New South Wales had the highest number of custodial deaths: 27 which is 44 per cent of the national total. The occurrence of these deaths was evenly distributed between police and prison custody. New South Wales also recorded the highest number of Aboriginal deaths with four of the national total of seven, three of these occurring in police custody. Queensland had the next highest number of deaths in custody with 13, the majority of these deaths (10) occurring in prison. Victoria recorded the next highest

TABLE 1
Aboriginal and Non-Aboriginal Deaths in Custody,
Jurisdiction, 1992

	Police			Prison			Total		Grand Total
	Ab'l	Non-Ab'l	Total	Ab'l	Non-Ab'l	Total	Ab'l	Non-Ab'l	
NSW	3	11	14	1	12	13	4	23	27
Vic.	1	6	7	-	3	3	1	9	10
Qld	1	2	3	1	9	10	2	11	13
WA	-	-	-	-	3	3	-	3	3
SA	-	1	1	-	4	4	-	5	5
Tas.	-	1	1	-	2	2	-	3	3
NT	-	-	-	-	1	1	-	1	1
ACT	-	-	-	-	-	-	-	-	-
Aust.	5	21	26	2	34	36	7	55	62

FIGURE 1

Deaths in Police and Prison Custody, Jurisdiction, 1992



number of custodial deaths with 10. In contrast to the Queensland pattern, most of the deaths in Victoria (seven) occurred in police custody.

The number of deaths was much smaller in each of the less populous states. Prison deaths substantially exceeded police custody deaths in South Australia. Tasmania recorded two prison deaths and one death in police custody; there were three prison deaths and no police custody deaths in Western Australia; and similarly, the Northern Territory had one prison death and no deaths in police custody. During 1992, the Australian Capital Territory was the only jurisdiction in Australia to record no deaths in custody.

established by the Royal Commission into Aboriginal Deaths in Custody is quite broad. The 62 deaths which occurred during 1992 are summarised in Table 2 using four categories: deaths in institutions (for example prisons and police lockups) or in hospital following transfer from an institution; deaths which occurred while police or prison officers were in the process of detaining the person; deaths which occurred while a detainee was escaping; and a residual category, 'other'.

As one would expect, almost all of the prison deaths (34 out of 36) fall into the category 'Institution', that is they were deaths in prison or in hospital following transfer from a prison, where an illness or injury occurred in that prison.

Of greater significance is the information in Table 2 regarding police custody deaths: only 11 of the 26 deaths in police custody occurred in police lockups or in hospital following transfer from lockups. These are the deaths which most observers would automatically consider to be 'deaths in custody' and which were routinely reported as such prior to the Royal Commission's investigations.

A little more than half (14 out of 26) of the police custody deaths in 1992, however, were of people who died or were fatally injured in the process of police officers attempting to detain that person, to paraphrase the definition developed by the Royal Commission. The 14 deaths comprised the following:

- self-inflicted 5
- shot by police 4
- motor vehicle crashes 2
- head injury received in a fall 1
- shot by partner in a siege situation 1
- drug overdose 1

It is clear, then, that a significant proportion of the 1992 police custody deaths occurred not in police lockups but rather while police were attempting to detain alleged offenders and others. The majority of these deaths were either self-inflicted (often in siege situations) or were instances where police shot and killed people whom they were seeking to detain. This breakdown of police custody in deaths should be borne in mind

DEATHS IN INSTITUTIONAL PLACES OF CUSTODY AND OTHER CIRCUMSTANCES

As already noted, the definition of a 'death in custody' as

TABLE 2
Circumstances of Death, Custodial Authority, 1992

<i>Circumstances*</i>	<i>Police</i>	<i>Prison</i>	<i>Total</i>
Institution	11	34	45
Detaining	14	1	15
Escaping	-	1	1
Other	1	-	1
Total	26	36	62

*See text for definitions

TABLE 3

Police and Prison Custody Death Rates 1992
Denominator: Total Australian Populations

	Population 1991 census ^(a)	Persons 15 years+ ^(a)	Deaths in custody 1992	Deaths per 100,000 population 15 years+, per annum
Aboriginal/TSI	265,465	159,710	7	4.38
Non-Aboriginal ^(b)	16,584,875	12,925,947	55	0.43
Total	16,850,340	13,085,657	62	0.47

(a) Source: Derived from Australian Bureau of Statistics, 1991 Census Matrix Software, Cat. No. 2714.0, ABS, Canberra, 1993.

(b) Includes 'not stated'.

interpreting the information set out in this paper.

TABLE 4

Prison Death Rates 1992

	Prison population 30 June 1992 ^(a)	Prison deaths	Deaths per 1,000 prisoners, per annum
Aboriginal/TSI	2,198	2	0.91
Non-Aboriginal ^(b)	13,361	34	2.54
Total	15,559	36	2.31

(a) Source: Walker, J. & Salloom, S. 1993, *Australian Prisoners 1992: Results of the National Prison Census*, 30 June 1992, Australian Institute of Criminology, Canberra.

(b) Includes 'not stated'.

DEATH RATES

The rates of custodial deaths may be expressed in terms of the ratio of the number of deaths to the number of people in the community or as the ratio of the number of deaths to the number of people in custody. Commencing with the first of these two approaches, it is observed that the 1992 crude death rate for police and prison custody combined was 0.37 per 100,000 of the total Australian population. When we consider only the population aged 15 years and above, to enhance comparability with the age structure of the custodial population, the death rate was 0.47 per 100,000.

The recent release of final data from the 1991 Census of Population and Housing enables comparisons to be made between the rates of custodial deaths of Aboriginal people and non-Aboriginal people. Details are in Table 3.

It will be observed from Table 3 that, although only 11.3 per cent of the deaths were among Aboriginal people, the fact that they comprise only 1.2 per cent of the adult population means that their adult (15 years and

above) crude death rate was more than 10 times that of non-Aboriginal people.¹

¹ The mortality rates given here are crude rates, i.e., they are not adjusted for the differences in the age distributions of the Aboriginal and non-Aboriginal populations. This is because the crude and age adjusted Aboriginal mortality rates are similar. (This reflects the similarity in the age distribution of the Aboriginal and non-Aboriginal people at risk of death in custody.) The all ages directly standardised mortality rate for Aboriginal custodial deaths is 3.32 per 100,000 (95 per cent confidence interval 2.23-4.24) using the non-Aboriginal Australian population as the standard; this may be compared with the all ages crude rate of Aboriginal custodial deaths of 2.64 per 100,000. Given the closeness of the adjusted and crude Aboriginal rates, and the fact that they are so much higher than those of the non-Aboriginal custodial population (0.33 per 100,000) little advantage lies in using adjusted rates.

As stated above, it is also useful to express the rates of deaths in custody in terms of the number of deaths compared to the number of people in custody. Prison custody death rates are set out in Table 4.

Perhaps the most significant point to note from this table is that the relative risk of prison custody death for Aboriginal prisoners (compared with non-Aboriginal prisoners) is 0.36 (that is 0.91 divided by 2.54). In other words, the risk of death of Aboriginal people in prison in 1992 was approximately two-thirds less than that experienced by non-Aboriginal prisoners. This is a reversal of the pattern seen in 1990 and 1991 and reflects the very low number of Aboriginal prison deaths (two) in 1992. It should be recalled, however, that this relatively low

TABLE 5

Aboriginality and Gender, Deaths in Custody, 1992

	Ab'l	Police Non- Ab'l	Total	Ab'l	Prison Non-Ab'l	Total	Ab'l	Total Non-Ab'l	Grand Total
Male	2	19	21	2	34	36	4	53	57
Female	3	2	5	-	-	-	3	2	5
Total	5	21	26	2	34	36	7	55	62

risk of Aboriginal prison deaths is in contrast to the corresponding relative risk of 4.76 where the numbers of Aboriginal and non-Aboriginal prison deaths are compared with the relative sizes of the Aboriginal and non-Aboriginal populations in the community at large. The difference between these two estimates of risk is explained by the continuing over-representation of Aboriginal people in prison custody (Cunneen 1992).

Turning now to police custody death rates, a similar pattern is observed. The relative risk of death in police custody of Aboriginal detainees (compared with non-Aboriginal detainees) in 1992 using lockup deaths as the numerator and person/days in custody as the denominator, was 0.76 per cent. In other words, Aboriginal detainees experienced a risk of death which was approximately one-quarter less than that experienced by non-Aboriginal detainees. When we relate the total number of deaths in police custody to the total Aboriginal and non-Aboriginal populations, however, we find that the relative risk experienced by Aboriginal detainees was 14.87 (or 19.27 when only the population aged 15 years and above is used as the denominator). This greatly elevated risk of death in police custody of Aboriginal detainees, compared with that of non-Aboriginal detainees, is explained by the heavy over-

representation of Aboriginal people in police custody.²

DEMOGRAPHIC CHARACTER- ISTICS

Aboriginality and Gender

The majority (92 per cent) of the people who died in custody during 1992 were male (see Table 5). As noted above, Aboriginal people comprised 11 per cent of the deaths. The five women who died were all held in police custody; three of these were Aboriginal women.

Age

As in previous years, the people who died in custody during 1992 were young. Their ages ranged from 14 to 77 years, with a mean age of 30 years and a median (the point above and below which half the cases fell) of 29.5 years. The Aboriginal people who died in custody had a similar age distribution to that of the non-Aboriginal people, with mean ages of 33 and 35 years respectively.

Table 6 displays the age distributions of the Aboriginal and non-Aboriginal people who

died in police and prison custody during 1992. Differences exist in the mean ages of people who died in the two different custodial environments. The mean age at death of people who died in prison custody was 31 years compared with 40 years in police custody. The mean age at death of Aboriginal people in both custodial environments was younger than that of non-Aboriginal people: in police custody 37 years compared with 41 years, and in prison 25 years compared with 32 years. (Note that two Aboriginal people died in prison custody during 1992).

Seven of the deaths in custody that occurred during 1992 were of people aged 19 years or younger. This involved one police custody death of a 14-year-old, another police custody death of a 15-year-old, one police and one prison custody death of 17-year-olds, one prison custody death of an 18-year-old and two prison custody deaths of 19-year-olds.

MANNER OF DEATH

Information on the cause and manner of death is derived from two main sources, namely coroners and the custodial authorities. The data presented in this section is based on coroners' findings in 20 of the 62 cases: nine of the 26 police custody deaths and 11 of the 36 prison custody deaths. Subsequent reports in this series will update this information if coroners' findings on the cause

² These figures are based on preliminary data from the August 1992 National Police Custody Survey (McDonald 1993). Details of the periods spent in police lockups will be provided in the full report on the survey which will be published in this series later in 1993.

TABLE 6

Age Group, Deaths in Custody, 1992

	<i>Police</i>			<i>Prison</i>			<i>Total</i>		<i>Grand Total</i>
	<i>Ab'l</i>	<i>Non-Ab'l</i>	<i>Total</i>	<i>Ab'l</i>	<i>Non-Ab'l</i>	<i>Total</i>	<i>Ab'l</i>	<i>Non-Ab'l</i>	
<15	1	-	1	-	-	-	1	-	1
15-19	-	2	2	-	4	4	-	6	6
20-24	-	3	3	1	8	9	1	11	12
25-29	1	2	3	1	8	9	2	10	12
30-34	-	1	1	-	5	5	-	6	6
35-39	1	-	1	-	1	1	1	1	2
40-44	1	5	6	-	3	3	1	8	9
45-49	-	2	2	-	1	1	-	3	3
50-54	-	2	2	-	-	-	-	2	2
55-59	-	-	-	-	1	1	-	1	1
60-64	1	1	2	-	1	1	1	2	3
65+	-	3	3	-	2	2	-	5	5
Total	5	21	26	2	34	36	7	55	62

and manner of particular deaths differ from those reported to us by the custodial authorities. The manner of death for those who died in custody in Australia during 1992 is summarised in Table 7 and Figure 2.

Hanging was the most frequent manner of death, accounting for 22 or 35 per cent of the deaths overall. Half the prison deaths were by hanging, as were 15 per cent of the police custody deaths. Gunshot deaths was the next most frequent category (11 deaths, all but two being in police custody), followed by deaths from natural causes (nine), drug/alcohol caused deaths (eight) and those caused by other external trauma (seven).

It will be noted that nine of the 26 police custody deaths were

caused by firearms. As discussed above, most of these occurred in siege situations: five were self-inflicted and four were inflicted by police. Of the nine deaths from natural causes (that is illness), four resulted from heart disease, two from cancer, and one each from stroke, respiratory disease and digestive system diseases. Both of the police custody deaths in this category were from heart disease.

Table 7 also includes deaths from external trauma other than hanging, gunshot wounds or head injury. The three such police custody deaths comprised two in motor vehicle crashes and one by self-inflicted stabbing. The four prison custody deaths were two from self-inflicted wounds and two resulting from assault by other prisoners.

Finally, it is noted that just on half of the deaths (31) were self-inflicted. Twenty-one were by hanging. (In one case, a person died by hanging but it has not yet been determined if it was self-inflicted or homicide.) Gunshot and other forms of external trauma (three from stab wounds and one from a vehicle crash) each accounted for four cases, and one person died from asphyxiation by means of a plastic bag over the head and one from swallowing potassium cyanide.

**CUSTODY**

This section presents information on the custodial status of people who died in custody in Australia during 1992. Data are provided on the

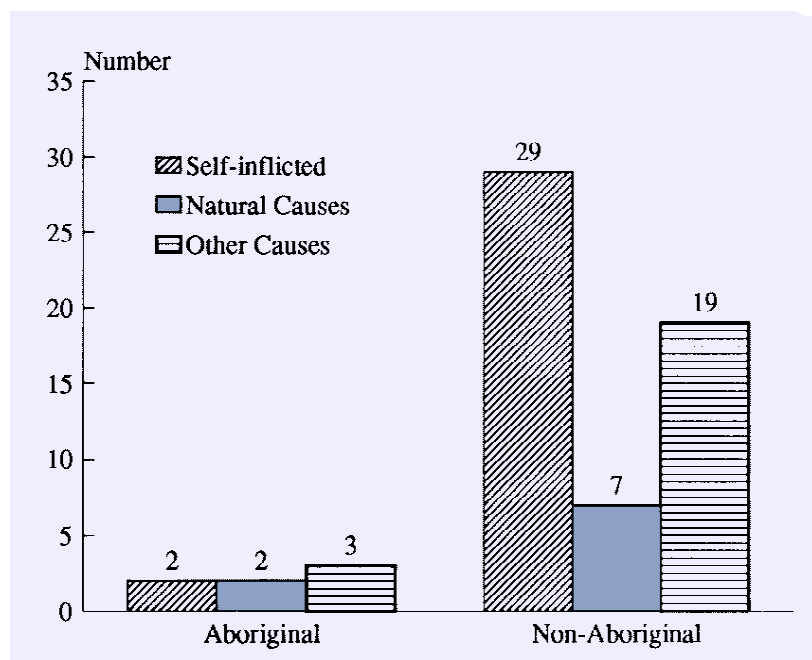
TABLE 7

Manner of Death, Aboriginality and Custodial Authority, Deaths in Custody, 1992

	<i>Police</i>			<i>Prison</i>			<i>Total</i>		<i>Grand Total</i>
	<i>Ab'l</i>	<i>Non-Ab'l</i>	<i>Total</i>	<i>Ab'l</i>	<i>Non-Ab'l</i>	<i>Total</i>	<i>Ab'l</i>	<i>Non-Ab'l</i>	
Hanging	1	3	4	1	17	18	2	20	22
Natural causes	1	1	2	1	6	7	2	7	9
Gunshot	-	9	9	-	2	2	-	11	11
Head injury	-	3	3	-	-	-	-	3	3
Other external trauma	1	2	3	-	4	4	1	6	7
Drugs/alcohol	2	2	4	-	4	4	2	6	8
Other	-	1	1	-	1	1	-	2	2
Total	5	21	26	2	34	36	7	55	62

FIGURE 2

Reported Cause of Death in Custody, Aboriginality, 1992



offences that led to the final period of custody of these people, their legal status at the time of death, and the length of time that they had spent in custody prior to death. The issue of why people were held in police custody rather than

released on bail is also considered.

Offence

Information is available on the most serious offence associated with people being in custody. It

should be noted that the legal status of these people varied. In many cases they had not been convicted of the offences (for example, where they were being held on remand awaiting a court hearing), and in some instances people died before being charged or without even being liable to be charged (for example, where held in protective custody for public drunkenness in jurisdictions where such behaviour is not an offence).

From Table 8 it will be observed that, during 1992, the highest number of custodial deaths occurred among people whose most serious offence was robbery. Nine of the 62 deaths were in this category: two occurring in police custody and seven in prison. After robbery, the next most common offence type was homicide with seven deaths. Overall the five most serious categories of offences, namely homicide, assault, sex offences, robbery and other offences against the person, accounted for 45 per cent of the

TABLE 8

Most Serious Offence Leading to Custody, Deaths in Custody, 1992

	Ab'l	Police Non-Ab'l	Total	Ab'l	Prison Non-Ab'l	Total	Ab'l	Total Non-Ab'l	Grand Total
Homicide	-	2	2	-	5	5	-	7	7
Assault	-	1	1	-	4	4	-	5	5
Sex offences	-	1	1	1	3	4	1	4	5
Other offences against the person	-	2	2	-	-	-	-	2	2
Robbery	-	2	2	-	7	7	-	9	9
Break and enter	-	-	-	1	5	6	1	5	6
Fraud	-	1	1	-	1	1	-	2	2
Motor vehicle theft	1	2	3	-	2	2	1	4	5
Other theft	-	1	1	-	-	-	-	1	1
Property damage	-	1	1	-	1	1	-	2	2
Justice procedures	1	1	2	-	2	2	1	3	4
Drunkenness*	1	3	4	-	-	-	1	3	4
Deal or traffic in drugs	-	1	1	-	2	2	-	3	3
Other drug offences	1	-	1	-	1	1	1	1	2
Drink driving	-	1	1	-	-	-	-	1	1
Other traffic offences	-	1	1	-	-	-	-	1	1
Other offences	-	-	-	-	1	1	-	1	1
Not known	1	1	2	-	-	-	1	1	2
Total	5	21	26	2	34	36	7	55	62

* Includes both public drunkenness in the states where it is an offence and protective custody owing to intoxication in the other states and territories where public drunkenness has been decriminalised.

cases. (All but one of these were non-Aboriginal cases.) As may be expected, most of the people held in relation to such serious offences were in prison. Overall, some 59 per cent of the deaths of people in custody for these offences were self-inflicted.

A total of 12 (or 19 per cent) of the people who died in custody during 1992 were detained for the property offences of break and enter, motor vehicle theft and other theft. Five deaths occurred among people who were held in relation to drug offences and four among people who were in custody due to offences against justice procedures, namely resist arrest, breach of restraining order, escape lawful custody, and breach of parole.

Another four deaths occurred among people for whom drunkenness was the most serious offence. This involves the offence of public drunkenness in Victoria, Queensland and Tasmania as these states have not decriminalised this form of behaviour. The offence category also includes the holding of intoxicated people in police lockups on a protective custody basis in other states and territories where the offence has been abolished. During 1992, all of the people who died whilst being held for drunkenness were in police custody in states that

have not decriminalised the offence of public drunkenness: two deaths each in Victoria and Queensland.

Two people were held in police custody in relation to motor vehicle traffic offences; one person (included in the other offences category) was held in prison for the offence of import prohibited imports; and the offences that led to two other people being in custody were not known at the time of preparation of this report.

Legal Status

Table 9 shows the legal status of the people who died in custody during 1992. It will be observed that almost half (45 per cent) of the people were sentenced to a period of imprisonment at the time of their death: two were held in police custody and 26 in prison. Another 16 people (or 26 per cent) were on remand at the time of their death; all of these people were unconvicted, awaiting trial. The 14 deaths in the category 'other' were all people who died whilst police were in the process of attempting to detain them, as detailed at page 4.

Information on the legal status of the people who died in prison custody is important: both Australian and overseas research has demonstrated an over-representation of custodial

deaths among remandees compared with sentenced prisoners (Biles & McDonald 1992; Liebling 1992). It should be noted that, during 1992, ten (or 28 per cent) of the people who died in prison were remandees. This proportion of 28 per cent is high when compared to the prison population as a whole where, during 1992, 12.3 per cent of the prison population was held on remand (Salloom 1993). This produces a measure of relative risk of 2.3. In other words, the proportion of deaths among this group of prisoners is more than twice what one would expect from their proportion in the prison population.

Bail

Of the 26 deaths in police custody during 1992, there were only six cases where it would have been possible for police officers to have released the person on bail. Bail was not applicable in the other cases. They covered a variety of circumstances, such as people in custody where no offence was involved (for example, protective custody), or where the person died prior to being charged with an offence (for example, in transit to a police station or during the process of being detained). In three other cases police did not have the power to release the people on bail

TABLE 9

Legal Status, Aboriginality and Custodial Authority, Deaths in Custody, 1992

	<i>Police</i>			<i>Prison</i>			<i>Total</i>		<i>Grand Total</i>
	<i>Ab'l</i>	<i>Non-Ab'l</i>	<i>Total</i>	<i>Ab'l</i>	<i>Non-Ab'l</i>	<i>Total</i>	<i>Ab'l</i>	<i>Non-Ab'l</i>	
Sentenced ^(a)	1	1	2	2	24	26	3	25	28
Remand ^(b)	1	5	6	-	10	10	1	15	16
Questioning/inquiries ^(c)	2	2	4	-	-	-	2	2	4
Other	1	13	14	-	-	-	1	13	14
Total	5	21	26	2	34	36	7	55	62

(a) Includes under sentence: no appeal current and under sentence: awaiting determination of any appeal (verdict or sentence).

(b) Includes unconvicted: awaiting court hearing/trial extradition, purging of contempt, and so on, awaiting sentence, and awaiting deportation (if held in a gazetted prison).

(c) Held for questioning/inquiries.

because they were in police custody by order of a court, one as a remandee and two as sentenced prisoners.

In three of the six cases where bail was available, the detainees were reported by police to have been too intoxicated to be released; these cases were in Victoria and Queensland where public drunkenness remains an offence. Bail was denied to the other three people to whom it could otherwise have been granted because of the serious nature of the alleged offence in one case, the threatening manner of a person in another case, and the need to detain a third person in custody whilst police inquiries were conducted.

Length of time in custody

Information on the length of time people spent in custody prior to death is available for 16 (62 per cent) of the police custody deaths and all of the prison deaths. (Such information is not relevant where death did not occur in prison or a police lockup.)

As may be expected, the reported period of time spent in custody prior to death differs greatly between the two custodial environments, with averages in police custody of approximately one day 11 hours, and in prison custody of approximately two years two months. For this reason the two custodial environments will be considered separately in the following discussion.

Police Custody As noted above, the mean length of time people spent in police custody prior to death was 35 hours. In almost half of the cases (seven), people died within the first six hours. (Three of these deaths were self-inflicted.) Eleven of the 16 people on whom information on the length of time in custody is available and relevant, died after being in police custody for

less than 24 hours. Four of these people were Aboriginal and seven were non-Aboriginal.

Prison Custody The lengths of time people had spent in prison prior to death ranged from two days to over 27 years, with a mean of two years two months and a median of seven months. In relation to self-inflicted deaths in custody, the early period in prison does not appear to be as dangerous as in police custody. During 1992, none of the 20 self-inflicted deaths in prison occurred in the first day of prison custody. The lengths of time people had spent in prison prior to self-inflicted death ranged from three days to eight years four months, with most (11) occurring in the time between one month and one year in custody.

It has been noted above that remanded prisoners are over-represented in the prison custody deaths: 10 (or 28 per cent) of the people who died in prison during 1992 were held on remand. Of these 10 deaths, eight were the result of self-inflicted hangings. The lengths of time these remanded people had spent in prison prior to self-inflicted death ranged from three days to just over one year, with a mean time of three months and a median of two months. This period in custody prior to self-inflicted death is much shorter than that spent by sentenced prisoners whose deaths were self-inflicted: the lengths of time spent in prison by this group ranged from two months to eight years four months, with a mean of two years two months and a median of seven months.



TRENDS 1980 TO 1992

In this section we present information on the trends in custodial deaths over the 13-year period 1980 to 1992. In this regard, it should be noted that

the 1980-89 data were obtained by the Criminology Unit of the Royal Commission into Aboriginal Deaths in Custody from each police service and correctional authority. As noted above, it has been suggested that it is likely that different criteria for defining deaths in custody were applied at different times and in different states and territories. The information on non-Aboriginal deaths provided to the Royal Commission was not checked by Commission staff against coroners' findings. Perhaps most importantly, it is likely that the definition of a custodial death used for cases which have occurred since 1989, namely that recommended by the Royal Commission based upon its inquiries and Federal Court decisions, is broader than that applied by the custodial authorities in previous years. This means that, in reviewing trends, one should not place too much emphasis on small variations in numbers of cases. Now that the definition of a death in custody is settled, the ongoing data collection in this area will not exhibit the biases potentially found in the retrospective data collecting of the Royal Commission.

Table 10 and Figures 3 and 4 set out details on the number of custodial deaths reported for each year over the last 13 years.

Table 10 shows a generally upward trend, including an increase of 48 per cent between the 42 cases in 1980 and the 62 cases in 1992. The mean annual number of deaths over the full period is 54, the median 48. The 95 per cent confidence interval for the mean is 46 to 62. (The 95 per cent confidence interval is the range within which the mean is expected to fall 95 per cent of the time.) The number of deaths falls within this confidence interval for each year except 1980, 1981, 1982 and 1986, when it was a little below the interval, 1988 when it was a little above, and 1987 when it was far

TABLE 10

Year of Death, Custodial Authority and Aboriginality, 1980-92

Year	Police			Prison			Total		Grand Total
	Ab'l	Non-A'b'l	Total	Ab'l	Non-A'b'l	Total	Ab'l	Non-A'b'l	
1980	5	7	12	5	25	30	10	32	42
1981	3	12	15	1	27	28	4	39	43
1982	4	15	19	4	21	25	8	36	44
1983	6	10	16	5	26	31	11	36	47
1984	3	12	15	4	27	31	7	39	46
1985	6	16	22	4	22	26	10	38	48
1986	8	13	21	1	16	17	9	29	38
1987	15	26	41	5	48	53	20	74	94
1988	7	14	21	6	36	42	13	50	63
1989	10	11	21	3	37	40	13	48	61
1990	2	20	22	6	25	31	8	45	53
1991	3	19	22	8	31	39	11	50	61
1992	5	21	26	2	34	36	7	55	62
Total	77	196	273	54	375	429	131	571	702

above the interval. The massive increase in custodial deaths in 1987 was the stimulus for the appointment of the Royal Commission into Aboriginal Deaths in Custody and was discussed in its report (1991, vol. 2, pp. 123-30). The annual mean for the 13-year period excluding the extreme case of 1987 is 51 deaths, with a 95 per cent confidence interval of 46 to 56 deaths. This highlights the fact that the 62 deaths in 1992 is a

relatively high figure when compared with the numbers over the full 13-year period but is similar to the numbers observed over the last five years. As shown in Figure 3, this pattern was exhibited, in general, in both the police and prison environments.

The average number of Aboriginal deaths each year over the full 13-year period is 10.1; it is 9.2 when the 1987 extreme is omitted. On this basis, the seven

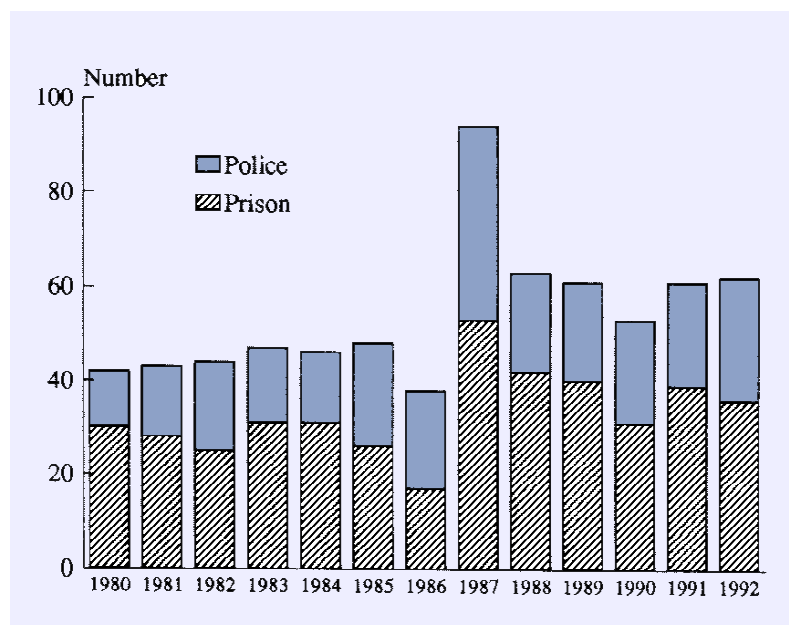
Aboriginal deaths in 1992 is a relatively low number. The 13-year mean for non-Aboriginal deaths is 44; it is 41 when the 1987 extreme year is omitted. Seen in this light, the 55 non-Aboriginal deaths in 1992 is relatively high.

The trends by custodial authority are also revealed in Table 10. Referring to police custody deaths first, the total (26 deaths in 1992) is relatively high, but not extreme compared with recent years. (The wider definition of a custodial death, discussed earlier in this paper, probably accounts for part of the increase in these figures.) The number of deaths of Aboriginal people in police custody (five in 1992) remains relatively low.

Turning to prison custody deaths, the rising prison population is maintaining the number of deaths at a relatively high level. Of particular note, however, is the low number of Aboriginal prison deaths—two in 1992.

Finally, reference should be made to the custodial deaths which have occurred since 31 May 1989, the cut-off date for the Aboriginal deaths investigated by the Royal Commission into Aboriginal Deaths in Custody. Between that date and 31 December 1992, 34 Aboriginal and 185 non-Aboriginal deaths, a total of 219, have been reported. In terms of monitoring the impact on Aboriginal deaths of the Royal Commission's work, this represents an average of 9.5 deaths per annum, compared with 10.5 per annum during the period covered by the Royal Commission. Clearly, the action taken to date to reduce the number of Aboriginal deaths in custody has not yet resulted in any significant reduction in such deaths.

FIGURE 3

Year of Death and Custodial Authority, 1992

CONCLUSION

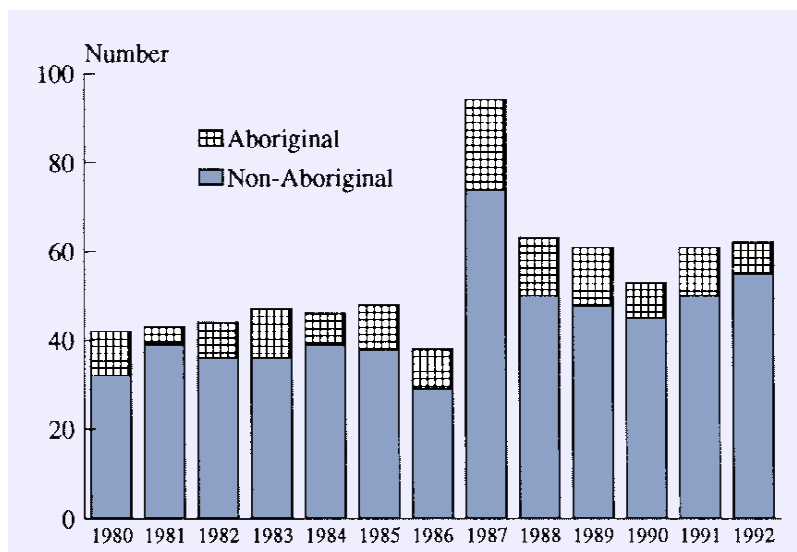
This report on the deaths in custody which occurred throughout Australia during 1992 demonstrates the usefulness of monitoring and research in this area. It has revealed that the number of such deaths, nationally, was almost the same as in the previous year and similar to that experienced in most of the period since 1988.

The scope of the Australian Institute of Criminology's monitoring program is now more comprehensive than in the past, covering Aboriginal, Torres Strait Islander and non-Aboriginal deaths occurring in each of the three key custodial environments: the police, prison and juvenile welfare/justice areas. The availability of information from all these areas enhances the usefulness of the monitoring process.

The next paper to be published in this series, number five, is in response to requests for quantitative information on the deaths of children and young adults in all forms of custody. It will complement the case material on juvenile detention deaths presented in the third paper in this series. Information on the deaths in all custodial settings during the period July 1992 to June 1993 will be published towards the end of 1993.

FIGURE 4

Year of Death and Aboriginality



REFERENCES

- Biles, D. & McDonald, D. (eds) 1992, *Deaths in Custody, Australia 1980-1989*, Australian Institute of Criminology, Canberra.
- Cunneen, C. 1992, "Aboriginal imprisonment during and since the Royal Commission into Aboriginal Deaths in Custody", *Current Issues in Criminal Justice*, vol. 3, no. 3, pp. 351-5.
- Howlett, C. 1993, *Deaths in Juvenile Detention, 1980-1992*, Deaths in Custody, Australia, No. 3, Australian Institute of Criminology, Canberra.
- Liebling, A. 1992, *Suicides in Prison*, Routledge, London.
- McDonald, D. 1993, *National Police Custody Survey 1992: Preliminary Report*, Deaths in Custody, Australia, No. 2, Australian Institute of Criminology, Canberra.
- Royal Commission into Aboriginal Deaths in Custody 1991, *National Report*, (Commissioner Elliott Johnston), AGPS, Canberra.
- Salloom, S. 1993, *Australian Prison Trends*, (monthly), Australian Institute of Criminology, Canberra.
- Walker, J. & Salloom, S. 1993, *Australian Prisoners 1992: Results of the National Prison Census, 30 June 1992*, Australian Institute of Criminology, Canberra.

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