

AUSTRALIAN DEATHS IN CUSTODY

No. 6 Australian Deaths in Custody 1992-93

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Public attention directed to the issue of deaths in custody has increased, since the publication of the previous report in this series, as a result of the tragic death of eighteen-year-old Daniel Yock in police custody in Brisbane on 7 November 1993. The Aboriginal community and its supporters have expressed their sorrow and outrage at this premature death.

The information provided in this issue in the Deaths in Custody Australia series shows both positive and negative features. It is pleasing to note that, in the year to 30 June 1993, the number of deaths of indigenous people was lower than that of the previous two years and that no Aboriginal or Torres Strait Islander deaths were reported in police lockups (although seven indigenous people died in other forms of custody). Sadly, though, the number of deaths of non-indigenous people has increased by some 38 per cent above the previous year's figure.

These facts emphasise the necessity for the full implementation of the many recommendations of the Royal Commission into Aboriginal Deaths in Custody. The Australian Institute of Criminology's six-monthly reports in this series will continue to provide information enabling governments and the community to remain aware of the extent to which such action is reflected in trends in custodial deaths throughout Australia.

Duncan Chappell

Director

SUMMARY

During the 12 months to 30 June 1993, 72 deaths in custody have been reported as occurring in Australia. Forty-two of these deaths, or 58 per cent, occurred in prison custody; the balance (30 deaths which is 42 per cent of all cases) occurred in police custody. No deaths were reported in the custody of the juvenile justice authorities. All but three of those who died were males. As in previous years, Aboriginal people were over-represented in the numbers of custodial deaths. Six Aboriginal people died in custody in the 1992-93 year. This represents 8 per cent of the deaths, although Aboriginal and Torres Strait Islander people make up less than 2 per cent of the Australian population.

The ages of those who died ranged from 14 to 77 years, averaging 34 years. Approximately half of the deaths are reported to have been self-inflicted. The most frequent manner of death for both indigenous and non-indigenous people was hanging (24 deaths), followed in frequency by deaths from illness (13) and gunshot (12), with smaller numbers accounted for by other causes.

With regard to the offences which resulted in the deceased detainees being in custody, the five most serious offences (namely homicide, assault, sex offences, robbery and other offences against the person) accounted for 54 per cent of the cases. Twenty-nine of the people who died were serving a sentence of imprisonment at the time of death and 19 were being held on remand. Approximately one-third of the prison deaths were among remandees, although remandees comprise only 12 per cent of the prison population.

The 72 custodial deaths in the 1992-93 year is substantially higher than the total number reported in each of the previous two years (57 in 1991-92 and 58 in 1990-91). The increase has occurred entirely among non-Aboriginal people. It is pleasing to note that the number of deaths of indigenous people during the year was fewer than either of the previous two years and that no indigenous people were reported to have died in police lockups during the year, although two Aboriginal people died in other forms of police custody and four in prison. The information provided in this monograph is summarised in the Commonwealth Government's *1992-93 Annual Report: Implementation of Commonwealth Government Responses to the Recommendations of the Royal Commission into Aboriginal Deaths in Custody*.

the findings of those inquests have been used to confirm and supplement information received from the custodial authorities. The information on trends presented towards the end of this paper updates that provided in earlier issues in this series. It incorporates new information on custodial deaths, primarily cases which have only recently been identified.

In providing information covering the 1992-93 financial year, the Australian Institute of Criminology is aligning its deaths in custody reporting to the standard public sector reporting period. The Institute will, nevertheless, continue to publish similar reports covering each calendar year as well as each year to 30 June. The usefulness of having reports covering both periods is illustrated by the AIC's contribution to the *1992-93 Annual Report: Implementation of Commonwealth Government Responses to the Recommendations of the Royal Commission into Aboriginal Deaths in Custody*. That report, prepared by the Commonwealth Government for tabling in the Commonwealth and the State/Territory parliaments, incorporates a summary of the information in the present monograph.

WHAT IS A DEATH IN CUSTODY?

Consistency in definitions and counting rules is especially important in this type of project 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, p. 190).

TABLE 1
Deaths in Custody, 1992-93,
Jurisdiction, Aboriginality and Custodial Authority

State	Police			Prison			Total		Grand Total
	Ab'l	Non-Ab'l	Total	Ab'l	Non-Ab'l	Total	Ab'l	Non-Ab'l	
NSW	2	13	15	1	19	20	3	32	35
Vic.	-	14	14	1	5	6	1	19	20
Qld	-	-	-	2	4	6	2	4	6
WA	-	-	-	-	5	5	-	5	5
SA	-	1	1	-	4	4	-	5	5
Tas.	-	-	-	-	-	-	-	-	-
NT	-	-	-	-	1	1	-	1	1
ACT	-	-	-	-	-	-	-	-	-
Aust.	2	28	30	4	38	42	6	66	72

In the fourth paper in this series (McDonald & Howlett 1993), the complexities involved in defining a custodial death for the purposes of this monitoring program and post-death investigations were discussed in some detail. In summary, it was pointed out that the definition quoted above 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). Prior to 1990, some custodial authorities (particularly the police services) took the view that a "death in custody" was limited to a death which occurred in a lockup, prison, juvenile detention centre, etc., or in a hospital after an inmate was transferred there direct from such a facility. Deaths which occurred in other forms of police custody (for example in a community setting), and deaths occurring while police or prison authorities were attempting to detain a person (for example in a pursuit), were often not categorised and dealt with as custodial deaths.

The definitional issues have been discussed with the 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. As at 30 June 1993, that agency had not determined how to interpret and therefore implement the definition.

To assist readers in understanding trends in custodial deaths, the lockup/prison/hospital deaths (which always have been considered to be deaths in custody) have been differentiated from those which now fall within the definition but which may not have done so prior to 1990. This differentiation is particularly significant in interpreting police custody deaths; Tables 10 and 11 provide details.

THE INCIDENCE OF DEATHS IN CUSTODY

Seventy-two people are reported to have died in custody in Australia between 1 July 1992 and 30 June 1993. Thirty (42 per cent) died in police custody and 42 (58 per cent) were in prison custody. Indigenous people are over-represented in the numbers of custodial deaths. Six Aboriginal people died in custody during this time period. This represents 8 per cent of all custodial deaths whereas Aboriginal people comprise only 1.6 per cent of the Australian population. Two Aboriginal people died in police custody and four Aboriginal people died in prison custody.

Table 1 provides details on the number of custodial deaths by State/Territory and Aboriginality for the 1992-93 period. It will be noted that no deaths occurred among Torres Strait Islanders nor in juvenile detention facilities during the year.

It will be observed from Table 1 that New South Wales, Australia's most populous State, experienced almost half of the 1992-93 deaths in custody, 35 out of the total of 72. Twenty of the deaths in this State occurred in prison custody with the remaining 15 occurring in police custody. New South Wales also had the most Aboriginal deaths (three out of the six nationally). Victoria recorded the next highest number of deaths in custody with 20, the majority of these deaths (14) occurring in police custody. Of the six people who died in prison custody in Victoria, one was Aboriginal.

Queensland (where the Police Service was apparently using a narrower definition of a custodial death than the other Police Services) had the next highest number of deaths in custody with six, all of which occurred in prison custody. Two of the deaths in Queensland were of Aboriginal people. Western Australia and South Australia each recorded five custodial deaths for the year, all of non-Aboriginal people. As in Queensland, all of the deaths in Western Australia occurred in prison custody, whilst in South Australia four deaths occurred in prison and one in police custody. The Northern Territory recorded one death of a non-Aboriginal person in prison custody. During 1992-93, Tasmania and the Australian Capital Territory were the only jurisdictions in Australia to record no deaths in custody.

DEATHS IN INSTITUTIONAL PLACES OF CUSTODY AND OTHER CIRCUMSTANCES

As already noted, the definition of a "death in custody" as established by the Royal Commission into Aboriginal Deaths in Custody is quite broad. The 72 deaths which occurred during 1992-93 are summarised in Table 2 using two categories:

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

(During 1992-93, no deaths occurred in other types of police custody.)

TABLE 2
Deaths in Custody 1992-93, Circumstances of Death, Aboriginality and Custodial Authority

<i>Circumstances</i> *	<i>Police</i>			<i>Prison</i>			<i>Total</i>		Grand Total
	<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>	
Institution	1	9	10	4	37	41	5	46	51
Detaining	1	19	20	-	1	1	1	20	21
Total	2	28	30	4	38	42	6	66	72

* See text for definitions

Fifty-one of the 72 deaths occurred in an institutional place of custody as defined above. It is of special significance that only one-third (10 out of 30) police custody deaths were in this category. The other police custody deaths took place while police officers were in the process of detaining, or attempting to detain, the individuals concerned. The 20 deaths comprised the following:

- self-inflicted (six shootings, one stabbing and one drug overdose) 8
- motor vehicle crashes during police pursuits 5
- shot by police 4
- head injury received in a fall 1
- shot by partner in a siege situation 1
- heart failure during a struggle whilst being arrested 1

It is therefore clear that a significant proportion of the deaths in police custody during 1992-93 occurred not in police lockups, but rather while police were attempting to detain people. Many of these deaths were self-inflicted, most occurring during siege situations. Deaths resulting from motor vehicle crashes during police pursuits and police shootings were also relatively frequent. This analysis of police custody deaths should be borne in mind when interpreting the information set out in this paper.

TABLE 3
Police and Prison Custody Death Rates 1992-93
Denominator: Total Australian Populations

<i>Aboriginality</i>	<i>Population 1991 census^(a)</i>	<i>Persons 15 yrs⁺^(a)</i>	<i>Deaths in Custody 1992-93</i>	<i>Deaths per 100,000 population 15 years⁺</i>
Aboriginal/TSI	265,465	159,710	6	3.76
Non-Aboriginal ^(b)	16,584,875	12,925,947	66	0.51
Total	16,850,340	13,085,657	72	0.55

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

(b) Includes "not stated".

Of the six Aboriginal deaths, four occurred in prison, one while police were attempting to detain the person (in a motor vehicle pursuit) and one where the person died in a police vehicle apparently as a result of the ingestion of an anti-depressant drug. It is pleasing to note that no Aboriginal or Torres Strait Islander deaths occurred in police lockups anywhere in Australia during the year.

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 approaches, it is observed that the 1992-93 crude death rate for police and prison custody combined was 0.43 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 0.55 per 100,000.

The 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 and Torres Strait Islander people and non-Aboriginal people. Details are presented in Table 3. It will be observed that, although only 8.3 per cent of the deaths were among Aboriginal and Torres Strait Islander 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 nearly seven-and-a-half times that of non-Aboriginal people.¹

In relation to the different forms of custody, for the 1992-93 period the adult (15 years and above) crude death rate for prison custody was 0.32 per 100,000 of the Australian population. The adult crude death rate for Aboriginal and Torres Strait Islander people in prison was 2.50 per 100,000 of the Australian population, whereas the death rate for non-Aboriginal people in prison was 0.29 per 100,000 of the Australian population. Therefore, during the period covered by this report, the relative risk of prison custody death for adult Aboriginal and Torres Strait Islander prisoners (compared with non-Aboriginal prisoners) was 8.62 (that is 2.50 divided by 0.29). In other words, the risk of death of Aboriginal and Torres Strait Islander people in prison during this time was more than eight-and-a-half times that experienced by non-Aboriginal prisoners.

¹ The odds ratio is actually 7.48. A similar pattern is observed when age standardised rates are used.

Turning now to police custody death rates, a similar pattern is observed. The adult crude death rate for all types of police custody for 1992-93 was 0.23 per 100,000 of the Australian population. The adult crude death rate for Aboriginal and Torres Strait Islander people in all circumstances of police custody was 1.25 per 100,000 of the Australian population, whereas the death rate for non-Aboriginal people in police custody was 0.22 per 100,000 of the Australian population. Therefore, the relative risk of death in all circumstances of police custody for adult Aboriginal and Torres Strait Islander people (compared with non-Aboriginal people) was 5.68 (that is 1.25 divided by 0.22). In other words, the risk of death of Aboriginal and Torres Strait Islander people in all forms of police custody during this time was almost six times that experienced by non-Aboriginal people.

However, 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. Applying this approach, the crude death rate for prison custody during 1992-93 was 2.7 per 1,000 of the prison population. In terms of Aboriginality, the crude death rate for Aboriginal and Torres Strait Islander prisoners was 1.82 per 1,000 prisoners, whereas the death rate for non-Aboriginal prisoners was 2.84 per 1,000 of the prison population. Therefore the relative risk of death in prison custody for Aboriginal and Torres Strait Islander people (compared with non-Aboriginal people) was 0.64 (that is 1.82 divided by 2.84). This means that the risk of death of non-Aboriginal prisoners was more than one-and-a-half times greater than that of Aboriginal and Torres Strait Islander prisoners when their death rates are expressed in this manner. This finding reflects the relatively low number of deaths (four) of indigenous people in prison custody during 1992-93. It should be recalled, however, that this relatively low risk of Aboriginal and Torres Strait Islander prison deaths is in contrast to the corresponding risk of 8.62 where the numbers of indigenous and non-indigenous prison deaths are compared with the relative sizes of the Aboriginal and Torres Strait Islander 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 and Torres Strait Islander people in the prison population.

The pattern is similar in terms of police custody death rates. The crude death rate for police custody during 1992-93, using only lockup deaths as the numerator and person/days in lockups as the denominator, was 0.45 per 1,000 of the police custody population. The crude death rate for non-Aboriginal people in police lockups during this time was 0.67 per 1,000 of the police custody population.² As no Aboriginal and Torres Strait Islander people were reported as dying in police lockups during 1992-93, it is not possible to calculate a measure of relative risk for deaths in police custody for indigenous people compared with non-indigenous people for this time period. However, once again it must be borne in mind that the zero risk of death for Aboriginal and Torres Strait Islander people in police lockups during 1992-93 is in contrast to the corresponding risk of 5.68 in all types of police custody where the numbers of indigenous and non-indigenous police custody deaths are compared with the relative sizes of the Aboriginal and Torres Strait Islander and non-Aboriginal populations in the community at large.

DEMOGRAPHIC CHARACTERISTICS

Aboriginality and Gender

The majority (96 per cent) of people who died in custody during 1992-93 were male. As noted above, six Aboriginal people died in custody during this time period. The three women who died were all non-Aboriginal women. All three died whilst police were in the process of attempting to detain them: one woman died in a motor vehicle crash during a police pursuit; another died due to self-inflicted stab wounds whilst police attempted to execute a search warrant; and the other woman was shot by her partner during a police siege situation.

Age

As in previous years, the people who died in custody during 1992-93 were young. Their ages ranged from 14 to 77 years, with a mean age of 34 years and a median (the point above and below which half of the cases fell) of 30 years. The three women who died in custody during this time period were all aged over 40 years. The indigenous people who died in custody were younger than the non-indigenous people, with mean ages of 25 and 35 years respectively. This pattern reflects the differing age distributions of these two groups in the community (but not in the custodial populations).

² These rates are calculated using only deaths in police lockups as the numerators and person x days in custody as the denominators. A similar pattern is observed when age standardised rates are used.

TABLE 4
Deaths in Custody, 1992-93,
Age Group, Aboriginality and Custodial Authority

Age group	Police			Prison			Total		Grand Total
	Ab'l	Non-Ab'l	Total	Ab'l	Non-Ab'l	Total	Ab'l	Non-Ab'l	
<15	1	-	1	-	-	-	1	-	1
15-19	-	4	4	-	4	4	-	8	8
20-24	-	5	5	3	7	10	3	12	15
25-29	-	4	4	1	5	6	1	9	10
30-34	-	1	1	-	11	11	-	12	12
35-39	-	-	-	-	1	1	-	1	1
40-44	1	5	6	-	2	2	1	7	8
45-49	-	4	4	-	2	2	-	6	6
50-54	-	2	2	-	1	1	-	3	3
55-59	-	-	-	-	-	-	-	-	-
60-64	-	-	-	-	4	4	-	4	4
65+	-	3	3	-	1	1	-	4	4
Total	2	28	30	4	38	42	6	66	72

Table 4 shows the age distributions of the indigenous and non-indigenous people who died in police and prison custody during 1992-93. Differences exist in the mean ages of the people who died in the two different custodial environments. The mean age at death of the people who died in prison custody was 33 years compared with 36 years in police custody. The mean age at death of indigenous people in both custodial environments was much younger than that of non-indigenous people: in police custody 28 years compared with 37 years, and in prison 23 years compared with 34 years.

TABLE 5
Deaths in Custody, 1992-93
Manner of Death, Aboriginality and Custodial Authority

Manner	Police			Prison			Total		Grand Total
	Ab'l	Non-Ab'l	Total	Ab'l	Non-Ab'l	Total	Ab'l	Non-Ab'l	
Hanging	-	5	5	3	16	19	3	21	24
Natural causes	-	-	-	1	12	13	1	12	13
Gunshot	-	11	11	-	1	1	-	12	12
Head injury	-	3	3	-	-	-	-	3	3
Other external trauma	1	5	6	-	4	4	1	9	10
Drugs/alcohol	1	2	3	-	4	4	1	6	7
Other	-	-	-	-	1	1	-	1	1
Not known	-	2	2	-	-	-	-	2	2
Total	2	28	30	4	38	42	6	66	72

Nine of the deaths in custody that occurred during 1992-93 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, two police and one prison custody death of 17-year-olds, two prison custody deaths of 18-year-olds, and one police and one prison custody death of 19-year-olds.

Manner of Death

Information on the cause and manner of death is derived from custodial authorities and coroners. Due to the lengthy period of time that often elapses between a death occurring and the handing down of the findings of the coroner, the data presented in this section are based on coroners' findings in just 13 of the 72 cases: eight of the 30 police custody deaths and five of the 42 prison custody deaths. Subsequent reports in this series will update this information if coroners' findings on the cause 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 1992-93 is summarised in Table 5.

Hanging was the most frequent manner of death, accounting for 24 (or 33 per cent) of the deaths overall. Almost half of the prison deaths were by hanging, as were 17 per cent of the police custody deaths. Natural causes and gunshot deaths were the next most frequent categories, with 13 and 12 deaths respectively. (All but one of the gunshot deaths were associated with police custody.) These categories were followed in frequency by deaths from external trauma other than gunshot or head injury (ten), drug/alcohol caused deaths (seven), and head injury (three). At the time of writing, the manner of death had not been determined in two cases.

Of the 13 deaths from natural causes (that is illness), four resulted from heart disease, three from cancer, one from an epileptic seizure, and the type of illness resulting in death is as yet undetermined in the five remaining cases. All of the deaths from natural causes occurred in prison custody. It will be noted that 11 of the 30 police custody deaths were caused by firearms. As discussed above, many of these occurred in siege situations: six were self-inflicted, four were inflicted by police, and one was inflicted by the deceased person's partner.

Table 5 also includes deaths from external trauma other than hanging, gunshot wounds or head injury. The six such police custody deaths comprised five in motor vehicle crashes and one by self-inflicted stabbing. The four prison custody deaths were two resulting from assault by other prisoners, one from self-inflicted wounds and one from burns sustained in a self-ignited fire.

Finally, it is noted that 34 (or 47 per cent) of the 72 deaths were self-inflicted. The majority of these deaths (24) were by hanging. In terms of custodial authority, 12 of the self-inflicted deaths occurred in police custody and 22 occurred in prison. The 12 such police custody deaths comprised six by gunshot, five by hanging, and one by stabbing. Nineteen of the 22 self-inflicted prison custody deaths were hangings, one was due to stab wounds, another was due to drug toxicity and one prisoner died from asphyxiation by means of a plastic bag over the head. In relation to Aboriginality, 31 of the 34 self-inflicted custodial deaths were of non-indigenous people. Three Aboriginal people died in prison custody by means of self-inflicted hanging.

CUSTODY

This section provides information on the custodial status of people who died in custody in Australia during 1992-93. Data are provided on the offences that led to the final period of custody of these people, their legal status at the time of death and the reason for people being 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 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 6 it will be observed that the highest number of custodial deaths occurred among people whose most serious offence was robbery. Thirteen of the 72 deaths were in this category: four occurring in police custody and nine in prison. After robbery, the next most common offence type was homicide with 11 deaths. Overall the five most serious categories of offences, namely homicide, assault, sex offences, robbery and other offences against the person, accounted for 54 per cent of the cases. (All but three of these were non-Aboriginal cases.) As may be expected, most of the people held in relation to such serious offences were in prison. The majority (21 or 55 per cent) of the deaths of people in custody for these serious offences were self-inflicted.

TABLE 6
Deaths in Custody, 1992-93,
Most Serious Offence Leading to Custody, Aboriginality and Custodial Authority

Offence	Police			Prison			Total		Grand Total
	Ab'l	Non-Ab'l	Total	Ab'l	Non-Ab'l	Total	Ab'l	Non-Ab'l	
Homicide	-	4	4	1	6	7	1	10	11
Assault	-	2	2	-	6	6	-	8	8
Sex offences	-	-	-	1	4	5	1	4	5
Robbery	-	4	4	1	8	9	1	12	13
Other offences									
against the person	-	2	2	-	-	-	-	2	2
Break, enter & steal	-	2	2	1	6	7	1	8	9
Fraud	-	1	1	-	-	-	-	1	1
Motor vehicle theft	1	2	3	-	1	1	1	3	4
Other theft	-	2	2	-	1	1	-	3	3
Property damage	-	2	2	-	-	-	-	2	2
Justice procedures	1	-	1	-	2	2	1	2	3
Drunkenness	-	2	2	-	-	-	-	2	2
Other against good order	-	1	1	-	-	-	-	1	1
Possess and/or use drugs	-	1	1	-	1	1	-	2	2
Deal or traffic in drugs	-	-	-	-	1	1	-	1	1
Other drug offences	-	-	-	-	1	1	-	1	1
Drink driving	-	1	1	-	-	-	-	1	1
Other traffic offences	-	1	1	-	-	-	-	1	1
Other offences	-	-	-	-	1	1	-	1	1
Not known	-	1	1	-	-	-	-	1	1
Total	2	28	30	4	38	42	6	66	72

A total of 17 (or 24 per cent) of the people who died in custody during 1992-93 were detained for the property offences of break, enter and steal, fraud, motor vehicle theft and other theft. Four deaths occurred among people who were held in relation to drug offences and three among people who were in custody due to offences against justice procedures, namely resist arrest, escape lawful custody, and fail to appear on a bail undertaking.

Two deaths occurred amongst people for whom drunkenness was the most serious offence. They were being detained by police for drunkenness in Victoria, a State that has not decriminalised the offence of public drunkenness.

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

Legal Status

Table 7 shows the legal status of the people who died in custody during 1992-93. It will be observed that most (29 or 40 per cent) of the people had been sentenced to a period of imprisonment at the time of their death: two were held in police custody and 27 in prison.

Another 19 people (or 26 per cent) were on remand at the time of their death: all of these people were unconvicted, being held in custody awaiting trial. The 22 deaths in the legal status category "other" comprised 20 people who died during the process of police attempting to detain them (as detailed at page 5); one person who was in police custody and certified as an involuntary psychiatric patient; and one person who was held on an indeterminate sentence in prison custody under the Victorian *Community Protection Act 1990*.

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 1992-93, 14 (or one-third) of the people who died in prison were held on remand. This proportion is very high when compared with the prison population as a whole where, during 1992, 11.9 per cent of the prison population was held on remand (Australian Institute of Criminology, unpublished data). This produces a measure of relative risk (an odds ratio) of 3.7. In other words, the proportion of deaths among this group of prisoners is more than three-and-a-half times what one would expect from their proportion in the prison population.

Bail

TABLE 7
Deaths in Custody, 1992-93,
Legal Status, Aboriginality and Custodial Authority

Legal status	Police			Prison			Total		Grand Total
	Ab'l	Non-Ab'l	Total	Ab'l	Non-Ab'l	Total	Ab'l	Non-Ab'l	
Sentenced ^(a)	-	2	2	2	25	27	2	27	29
Remand ^(b)	-	5	5	2	12	14	2	17	19
Questioning/inquiries ^(c)	1	1	2	-	-	-	1	1	2
Other	1	20	21	-	1	1	1	21	22
Total	2	28	30	4	38	42	6	66	72

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

(b) "Unconvicted: awaiting court hearing/trial extradition".

(c) "Held for questioning/inquiries".

Of the 30 deaths in police custody during 1992-93, there were only three 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 four other cases police did not have the power to release the people on bail because they were in police custody by order of a court, two as remandees and two as sentenced prisoners.

In one of the three cases where bail was available, the detainee was reported by police to have been too intoxicated to be released. This death occurred in Victoria where public drunkenness remains an offence. Police officers reported that bail was denied to the other two people to whom it could otherwise have been granted because of the "threatening manner" of one person, and, in the other case, because "police inquiries [were] being carried out".

TRENDS 1980 TO 1993

This section presents information on the trends in custodial deaths during the period 1 July 1980 to 30 June 1993. The figures for the period 1980 to the end of 1989 are based on data received by the Royal Commission into Aboriginal Deaths in Custody's Criminology Unit from the custodial authorities themselves. It is likely that the definition of a death in custody used over this period varied both between the jurisdictions and over time. For this reason, in reviewing trends, one should not place too much emphasis on small variations in numbers of cases.

The National Deaths in Custody Monitoring and Research Unit has sought to apply the new and expanded Royal Commission definition of a custodial death, detailed above, to all cases which have occurred since 1 January 1990. However, as will become evident in the following discussion, it is possible that the completeness of reporting of the deaths which occur in places other than institutions is improving, even over the period since 1990. In particular, as discussed below, the increase in deaths in police custody between 1991-92 and 1992-93 could reflect, in part, more complete reporting.

Table 8 sets out details on the number of custodial deaths reported for each financial year from 1980-81 to 1992-93. Table 9 shows the number of deaths in custody reported for each calendar year from 1980 to 1992. Since this report covers the year to 30 June 1993, the following discussion focuses on financial years. Calendar year information will be updated in the next monitoring report in this series.

TABLE 8
Year of Death, Custodial Authority and Aboriginality, 1980-81 to 1992-93

Year	Police			Prison			Juvenile Detention			Total		Grand Total
	Ab'l	Other	Total	Ab'l	Other	Total	Ab'l	Other	Total	Ab'l	Other	
1980-81	7	5	12	2	26	28	1	-	1	10	31	41
1981-82	2	13	15	3	26	29	-	-	-	5	39	44
1982-83	5	17	22	4	21	25	-	-	-	9	38	47
1983-84	3	11	14	2	30	32	-	1	1	5	42	47
1984-85	8	15	23	5	22	27	-	-	-	13	37	50
1985-86	5	12	17	4	16	20	-	-	-	9	28	37
1986-87	15	24	39	2	34	36	-	1	1	17	59	76
1987-88	6	15	21	4	40	44	1	1	2	11	56	67
1988-89	10	17	27	5	31	36	-	-	-	15	48	63
1989-90	9	15	24	9	43	52	1	1	2	19	59	78
1990-91	3	20	23	5	29	34	-	1	1	8	50	58
1991-92	6	19	25	4	28	32	-	-	-	10	47	57
1992-93	2	28	30	4	38	42	-	-	-	6	66	72
Total	81	211	292	53	384	437	3	5	8	137	600	737

It will be noted that the number of deaths each year was relatively low in the period 1980-81 to 1985-86. The substantial increase in Aboriginal deaths in 1987 (which was accompanied by an increase of similar magnitude in non-Aboriginal deaths) was the stimulus for the appointment of the Royal Commission into Aboriginal Deaths in Custody. Following this extreme year, the number of custodial deaths over the next three years (1987-88 to 1989-90) remained high, with an average of 69 deaths per year. It was lower during the 1990-91 and 1991-92 financial years and has risen again to 72 deaths during 1992-93.

It should be explained that Tables 8 and 9 include 11 deaths in custody that occurred during 1990 and 1991 which were not included in figures presented in previous reports in this series as they have only recently been identified as custodial deaths. Briefly, they comprise the following:

- three Aboriginal juveniles (one female and two males) who died in a motor vehicle crash during a police pursuit in Western Australia, April 1990;
- one non-Aboriginal male who was shot by police in New South Wales, July 1990;
- two non-Aboriginal males who were shot by police in Victoria, July and December 1990 respectively;

TABLE 9
Year of Death, Custodial Authority and Aboriginality, 1980 to 1992

Year	Police			Prison			Juvenile Detention			Total		Grand Total
	Ab'l	Non-Ab'l	Total	Ab'l	Non-Ab'l	Total	Ab'l	Non-Ab'l	Total	Ab'l	Non-Ab'l	
1980	5	7	12	5	25	30	1	-	1	11	32	43
1981	3	12	15	1	27	28	1	-	1	5	39	44
1982	4	15	19	4	21	25	-	-	-	8	36	44
1983	6	10	16	5	26	31	-	1	1	11	37	48
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	-	1	1	9	30	39
1987	15	26	41	5	48	53	-	1	1	20	75	95
1988	7	14	21	6	36	42	1	-	1	14	50	64
1989	10	11	21	3	37	40	-	1	1	13	49	62
1990	5	23	28	6	25	31	1	1	2	12	49	61
1991	5	22	27	8	31	39	-	-	-	13	53	66
1992	5	21	26	2	34	36	-	-	-	7	55	62
Total	82	202	284	54	375	429	4	5	9	140	582	722

- one Aboriginal male who died in a motor vehicle crash during a police pursuit in Western Australia, February 1991;
- two non-Aboriginal males who were shot by police in Victoria, August and December 1991 respectively;
- one non-Aboriginal male who died as a result of a self-inflicted gunshot wound during a police siege in Victoria, August 1991; and,
- one Aboriginal woman (held for drunkenness) who died as a result of head injury in a police lockup in Queensland, November 1991.

In summary, five of these deaths were of Aboriginal people and six were of non-Aboriginal people. Two of the deaths were of Aboriginal women. All of these additional 11 deaths occurred in police custody; 10 whilst police were attempting to detain people and one in a police lockup. Five people died as a result of police shootings (four in Victoria), and four Aboriginal juveniles died in motor vehicle crashes during police pursuits (all in Western Australia).

Table 10 shows the deaths that occurred in *all custodial circumstances* from 1990-91 to 1992-93. It will be observed from this table that the 72 deaths which were reported for the year covered by this report is a 26 per cent increase on the previous year when 57 custodial deaths occurred. Whilst the number of deaths of Aboriginal and Torres Strait Islander people decreased during this time from ten to six, the number of deaths of non-Aboriginal people in both police and prison custody increased by 40 per cent. However, as mentioned previously, it is possible that this increase is in part contributed to by more complete reporting of the deaths which occur in places other than institutions.

Table 11 provides information on custodial deaths that occurred in *institutions only* (police lockups, prisons, juvenile detention centres, or during transfer to or

TABLE 10

***Australian Deaths in Custody 1990-91 to 1992-93,
Aboriginality and Custodial Authority, Deaths in all Custodial Circumstances***

Year	Police			Prison			Juvenile detention			Total		Grand Total
	Ab'l	Non-Ab'l	Total	Ab'l	Non-Ab'l	Total	Ab'l	Non-Ab'l	Total	Ab'l	Non-Ab'l	
1990-91	3	20	23	5	29	34	-	1	1	8	50	58
1991-92	6	19	25	4	28	32	-	-	-	10	47	57
1992-93	2	28	30	4	38	42	-	-	-	6	66	72

TABLE 11

***Australian Deaths in Custody 1990-91 to 1992-93,
Aboriginality and Custodial Authority, Deaths in Institutions only****

Year	Police			Prison			Juvenile detention			Total		Grand Total
	Ab'l	Non-Ab'l	Total	Ab'l	Non-Ab'l	Total	Ab'l	Non-Ab'l	Total	Ab'l	Non-Ab'l	
1990-91	2	11	13	5	29	34	-	1	1	7	41	48
1991-92	5	9	14	4	27	31	-	-	-	9	36	45
1992-93	1	9	10	4	37	41	-	-	-	5	46	51

* Deaths in police lockups, prisons, juvenile detention centres, or during transfer to or from such institutions and in hospitals following transfer from such facilities.

from such institutions and in hospitals following transfer from such facilities) from 1990-91 to 1992-93. This table shows an increase of 13 per cent between the 45 deaths reported in 1991-92 and the 51 deaths reported for 1992-93. This increase occurred predominantly among non-Aboriginal people in prison custody. During this time, the number of deaths in or on transfer to police lockups has actually declined from 14 in 1991-92 to ten in 1992-93. Significantly, no deaths of Aboriginal or Torres Strait Islander people were reported as occurring in police lockups during the 1992-93 year.

ABORIGINAL AND TORRES STRAIT ISLANDER DEATHS SINCE THE ROYAL COMMISSION

In terms of monitoring the impact of the work of the Royal Commission into Aboriginal Deaths in Custody, it is important to consider the number of custodial deaths that have occurred since 31 May 1989, the cut-off date for the Aboriginal deaths investigated by the Royal Commission. Between that date and 30 June 1993, 43 Aboriginal people and 225 non-indigenous people, a total of 268, have been reported as having died in police and prison custody and juvenile detention in Australia. In relation to the impact that the Royal Commission's work has had on Aboriginal and Torres Strait Islander deaths in custody, this represents an average of 10.5 deaths of indigenous people per annum, the same annual average as was observed during the period covered by the Royal Commission. It is pleasing to note that the number of deaths in custody of Aboriginal and Torres Strait Islander people over the last three years is substantially lower than during the previous six years.

However, it should not be overlooked that the total number of indigenous and non-indigenous people who died in custody during 1992-93 is the highest figure recorded in Australia in three years. In order to significantly reduce the number of deaths in custody, there is clearly a need for strong action by all governments to implement the recommendations of the Royal Commission into Aboriginal Deaths in Custody.

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Australian Deaths in Custody 1992-93

This is the sixth research paper in the Deaths in Custody, Australia series produced by the Australian Institute of Criminology. It has been compiled by the Institute's National 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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- No. 2, McDonald, D., *National Police Custody Survey 1992: Preliminary Report*, (March 1993).
- No. 3, Howlett, C., *Deaths in Juvenile Detention, 1980-1992*, (May 1993).
- No. 4, McDonald, D. & Howlett, C., *Australian Deaths in Custody 1992*, (August 1993).
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