



No.105

Australian Deaths in Custody & Custody-related Police Operations, 1998

Vicki Dalton

In 1998, 93 people died in police or prison custody—a fall of 10 from the record year of 1997 (Dalton 1998a). That year, 1997, saw a significant increase in the number of prison deaths of non-Indigenous people—a 44 per cent increase over the previous calendar year period. Since the Royal Commission into Aboriginal Deaths in Custody the number of deaths of both Indigenous and non-Indigenous people in prison had more than doubled (from 33 in 1990 to 75 in 1997) (Dalton 1998b). The longer-term trend revealed that since 1980 the prison population had increased by 76 per cent while the number of prison deaths had increased by 150 per cent.

Compared with 1997, 1998 saw an increase (from 6 to 10) in deaths in institutional police custody and a decrease (from 22 to 14) in deaths in other custody-related police operations.

Sixteen Indigenous people died in custody in 1998 compared with 15 in 1997.

This report updates information on 1997 deaths and longer-term custodial death trends, highlighting some noticeable changes that have occurred during 1998. A number of reports examining jurisdictional and custodial patterns and changes in the causes of custodial deaths are in progress and will be available towards the end of the year.

Adam Graycar
Director

1998 Deaths—Summary

- A total of 93 people were reported to have died in all forms of custody during the year ended 31 December 1998: 24 in police custody or custody-related police operations, 68 in prison custody, and one youth died in a juvenile detention centre.
- While the total number of deaths is less than the record high reported during 1997, it remains the second highest number on record.
- The overall number of deaths in prison custody has risen over the last 19 years, from 30 in 1980 to 68 in 1998 (the second highest figure recorded).
- Four women died in prison during 1998.
- The overall number of deaths in all forms of police custody (institutional and police operations) has declined from 31 deaths in 1990 to 24 deaths in 1998. The trend reported in 1997—a noticeable decline in the proportion of deaths in “institutional” police custody (e.g. lockups), and an increase in the proportion in “police operations” (while police officers were in the process of detaining individuals in the community)—did not continue

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into the current reporting period.

- The one juvenile death during the year was of a 16-year-old Indigenous youth, in Queensland. This is the first Indigenous juvenile death to occur since 1988.
- In line with the 19-year trend to date, Indigenous people were significantly over-represented in the number of custodial deaths during 1998: 16 (or more than 17 per cent) of the 93 deaths were of Indigenous people.
- Nationally, Indigenous adults represent less than 2 per cent of the Australian adult population, but approximately 19 per cent of the total prison population. During 1998, 13 per cent of all prison deaths were of Indigenous people.
- 25 per cent (6 out of 24) of

the police custody deaths were of Indigenous people.

What is a Death in Custody?

At Recommendation 41, the Final Report of the Royal Commission into Aboriginal Deaths in Custody recommended that the definition of a “death in custody”:

- ... should include at least the following categories:
 - (i) the death wherever occurring of a person who is in prison custody or police custody or detention as a juvenile;
 - (ii) the death wherever occurring of a person whose death is caused or contributed to by traumatic injuries sustained, or by lack of proper care whilst in such custody or detention;
 - (iii) the death wherever occurring of a person who dies or is fatally injured in the process of police or prison officers attempting to detain that

person; and

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

The AIC’s National Deaths in Custody Monitoring and Research Program has applied this definition in compiling information about all custodial deaths occurring since 1 January 1990. This definition is broader than that generally applied during the Royal Commission period. It includes deaths that occur in an institutional place of custody; deaths or fatal injuries occurring in the process of police or prison officers detaining or attempting to detain that person; and deaths which occur when a person is escaping or attempting to escape from custody. Prior to 1990 nearly all deaths in custody

Table 1*: Australian deaths in custody, 1980 to 1998: Year of death, custodial authority and Aboriginality, INSTITUTIONAL SETTINGS**

Year	Police			Prison			Juvenile			Total		Overall Total
	Ind.	Other	Total	Ind.	Other	Total	Ind.	Other	Total	Ind.	Other	
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	10	29	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	4	36	40		1	1	14	48	62
1990	1	17	18	5	28	33		1	1	6	46	52
1991	3	14	17	8	31	39				11	45	56
1992	4	9	13	2	32	34				6	41	47
1993	2	7	9	7	42	49		1	1	9	50	59
1994	1	6	7	11	42	53		1	1	12	49	61
1995		4	4	17	42	59		2	2	17	48	65
1996	1	8	9	12	39	51		1	1	13	48	61
1997	2	4	6	9	66	75				11	70	81
1998	4	6	10	9	59	68	1		1	14	65	79

Note: Some of these figures differ from those previously published, reflecting information which subsequently became available on deaths in custody which were not previously identified as such.
 * The corresponding tables and graphs in reports prior to February 1995 are not directly comparable with these as they covered deaths in all settings, whereas (for consistency in the time series) this table and graphs covers only deaths in institutional settings.
 ** Deaths in prisons, police lockups or juvenile detention facilities, during transfer to or from them, or in medical facilities following transfer from detention facilities.

Ind. = Indigenous

were regarded as institutional deaths, i.e. they occurred either in prison, a police lockup or juvenile detention centre, during transfer to or from an institution or in hospital following transfer from the institution.

Institutional Deaths Only

Table 1 shows the number of deaths in institutional settings only for the period 1 January 1980 to 31 December 1998. It does not include deaths in police operations (for example, when police are attempting to detain a person).

The overall number of deaths in police institutional custody (e.g. a police lockup, police vehicle, or in hospital following transfer from a lockup) over the 19-year period varied enormously: from 12 deaths in 1980, peaking at 41 deaths in 1987 and declining rapidly to 6 deaths in 1997. However, during 1998, 10 deaths in institutional custody were reported; 5 people died in police lockups (and, in 5 cases, in hospital following transfer from the lockup).

All Custodial Deaths

Table 2 shows deaths that have occurred in *all custodial circumstances* for the period 1990 to 1998, all of which are covered by the post-Royal Commission definition of a “death in custody”. This includes both deaths in institutional settings and those in police operations in community settings such as sieges, shootings and pursuits. Figure 1 displays trend information on all deaths covered in Tables 1 and 2.

Demographics of 1998 Deaths

Table 3 provides details on the 1998 custodial deaths.

Table 2: Australian deaths in custody, 1990–98: Aboriginality and custodial authority, DEATHS IN ALL CUSTODIAL CIRCUMSTANCES

Year	Police			Prison			Juvenile detention			Total		Overall Total
	Ind.	Other	Total	Ind.	Other	Total	Ind.	Other	Total	Ind.	Other	
1990	5	26	31	5	28	33				10	55	65
1991	5	26	31	8	31	39				13	57	70
1992	7	24	31	2	34	36				9	58	67
1993	3	28	31	7	42	49	1	1		10	71	81
1994	3	24	27	11	42	53	1	1		14	67	81
1995	4	22	26	17	42	59	2	2		21	66	87
1996	6	23	29	12	40	52	1	1		18	64	82
1997	6	22	28	9	66	75				15	88	103
1998	6	18	24	9	59	68	1	1		16	77	93

Figure 1: Deaths in police and prison custody and juvenile detention, Australia 1980 to 1998

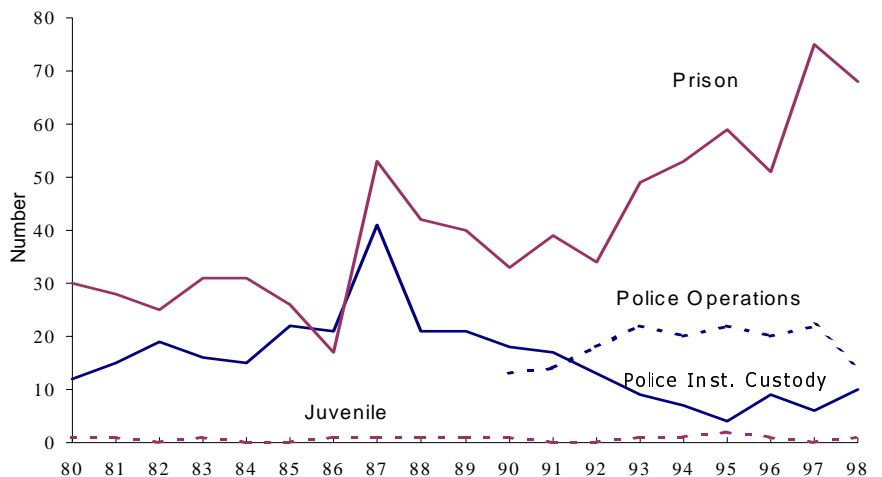
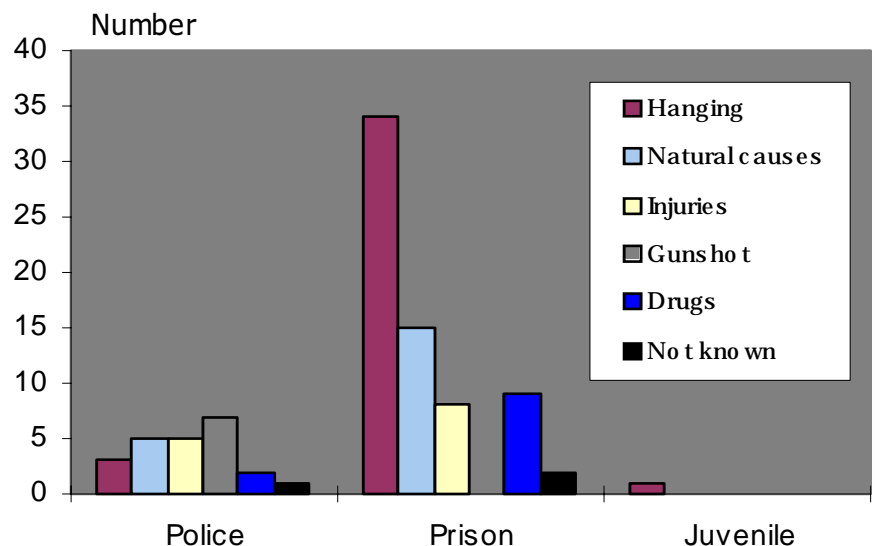


Figure 2: Australian deaths in custody 1998: Cause of death and custodial authority



Custodial authority, Aboriginality and jurisdiction

The number of Indigenous people who died in both prison and police custody during 1998 was the same as that in 1997 (9 in prison, 6 in police custody). On the other hand, 11 fewer deaths of non-Indigenous people were reported during 1998 in both prison and police custody.

New South Wales reported significantly fewer deaths during 1998 than during 1997, most notably in the reduction of the number of non-Indigenous prison deaths (down from 35 to 22). Victoria recorded 20 deaths during 1998, up from 13 in 1997, the most notable change being an increase in the number of non-Indigenous prison deaths. No prison deaths were reported in the Northern Territory in 1998, compared to 3 deaths in 1997.

Age

Those who died in police custody were aged between 15 and 50 years, averaging 32 years. The mean age at death for Indigenous people was 30 years compared to 33 years for non-Indigenous people.

Those who died in prison custody ranged in age from 18 to 78 years, averaging 36 years. The mean age at death for Indigenous people was 27 years, compared to 37 years for non-Indigenous people.

Cause and manner of death

Table 4 and Figure 2 display the causes of death for those who died during 1998.

Table 4: Australian deaths in custody, 1998: Cause of death, Aboriginality and custodial authority

Cause	Police			Prison			Juvenile			Total		Grand Total
	Ind.	Other	Total	Ind.	Other	Total	Ind.	Other	Total	Ind.	Other	
Hanging	1	2	3	5	29	34	1		1	7	31	38
Nat. causes	2	3	5	3	12	15				5	15	20
Injuries	1	4	5	1	7	8				2	11	13
Gunshot	1	6	7							1	6	7
Drugs		2	2		9	9					11	11
Other	1		1							1		1
Not known		1	1		2	2					3	3
Total	6	18	24	9	59	68	1	1	16	77	93	93

Table 3: Australian deaths in custody, 1998: Jurisdiction, Aboriginality and custodial authority

State	Police			Prison			Juvenile			Total		Grand Total
	Ind.	Other	Total	Ind.	Other	Total	Ind.	Other	Total	Ind.	Other	
NSW	2	8	10	3	19	22				5	27	32
Vic.		7	7		13	13					20	20
Qld	1	2	3	2	13	15	1		1	4	15	19
WA	1	1	2	3*	10	13				4	11	15
SA				1	2	3				1	2	3
Tas.					1	1					1	1
NT	2		2							2		2
ACT					1	1					1	1
Aust.	6	18	24	9	59	68	1	1	16	77	93	93

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

Hanging was the most frequent cause of death, accounting for 38 (or 42 per cent) of all deaths during the year under review. Hanging deaths represented only 31 per cent of all custodial deaths during 1997.

The number and proportion of hangings in both police and prison custody increased during 1998 from those reported during 1997. This occurred despite an overall reduction in the total number of both police and prison custody deaths (down from 103 in 1997 to 93 in 1998).

Significantly fewer deaths from natural causes were reported during 1998 in prison custody (27 in 1997 down to 15 in 1998), however the number of such deaths in police custody increased from 2 to 5.

Deaths in police custody/policing operations from external or multiple injuries fell from 10 in 1997 to 5 in 1998, partly explained by the decline in the number of deaths resulting from high speed police pursuits.

A record number of 8 prison inmates died during 1998 as a

result of unlawful homicide where the inmate was either assaulted, stabbed or strangled, or in one case injected with heroin, by another inmate(s). (For more detailed information see Dalton 1999).

Deaths by gunshot (all in police custody/policing operations) fell from 11 in 1997 to 7 in 1998. All but one of the 7 offenders were shot by police, the remaining death self-inflicted.

Eleven deaths resulted from either self-inflicted intentional or accidental drug toxicity. (A Trends and Issues report examining drug-related deaths in custody will be released in late 1999.)

Offences

Table 5 provides information on the most serious offence relating to the final period of custody or policing operation. In some cases, for example policing operations deaths, this would be the offence for which the person would most likely have been charged had he or she not died. In other instances the person may have been held on remand awaiting a court hearing or may have died before being charged (e.g. where held in protective custody for drunkenness in jurisdictions where such behaviour is not an offence).

The highest number of custodial deaths occurred among people whose most serious offence was robbery (16 cases), followed by assault (15 cases), sex offences (12 cases) and homicide (10 cases). Overall, these four

Table 5: Australian deaths in custody, 1998: Most serious offence leading to custody, Aboriginality and custodial authority

Offence	Police			Prison			Juvenile			Total		Grand Total
	Ind.	Other	Total	Ind.	Other	Total	Ind.	Other	Total	Ind.	Other	
Homicide				1	9	10				1	9	10
Assault	1	7	8	2	5	7				3	12	15
Sex offences		1	1		11	11					12	12
Robbery		1	1	2	13	15				2	14	16
Break, enter & steal	2		2	2	1	3				4	1	5
Fraud					1	1					1	1
Motor vehicle theft		1	1		3	3					4	4
Other theft		2	2	1	5	6				1	7	8
Property damage		1	1				1		1	1	1	2
Justice procedures		1	1	1	4	5				1	5	6
Drunkenness												
Other against good order	1		1		1	1				1	1	2
Possess and/or use drugs					1	1					1	1
Deal/traffic drugs					4	4					4	4
Drink driving		1	1								1	1
Other traffic offences		1	1		1	1					2	2
Mental Health legis.		2	2								2	2
Protective cust. intoxication*	2		2							2		2
Total	6	18	24	9	59	68	1	1	16	77	93	

* Refers to a person taken into protective custody for drunkenness where drunkenness is not an offence.

most serious categories of offences accounted for 53 (or 57 per cent) of the 93 cases.

The patterns revealed during 1998 for both police and prison custody were very similar to previous years. The notable exception was a significant reduction in the number of people to die in police custody whose last and most serious offence was the theft of a motor vehicle (down from 5 in 1997 to 1 in 1998). This is consistent with the reduction, in the current year, in the number of deaths occurring during the course of police pursuits.

Legal status and bail

Table 6 shows the legal status of the people who died in custody during 1998. It can be seen that 46 (or just under 50 per cent) of those who died in custody had been sentenced to a period of imprisonment at the time of their death. Another 26 (or 28 per cent) were on remand at the time of their death.

In relation to prison custody deaths, 43 (or 63 per cent) were sentenced prisoners. Another 23 (or 34 per cent) were on remand. This proportion of remandee deaths is high and highlights the trend of over-representation of custodial deaths among remandees compared with sen-

tenced prisoners; remandees comprised 13.4 per cent of the prison population as a whole at 30 June 1997 (ABS 1998).

Police Custody & Custody-related Police Operations

The Australasian Police Ministers' Council (APMC), at its 26 May 1994 meeting, agreed that future deaths in custody reports published by the Australian Institute of Criminology would separate deaths in police custody into two categories to more clearly identify the range of circumstances in which these deaths occur. The two categories are "deaths in police custody", which generally cover deaths in institutional settings and other close-contact situations, and "deaths in custody-related police operations", which cover situations in which police had less control over the person they were seeking to detain, such as sieges and motor vehicle pursuits.

The APMC agreed on the following definitions to categorise a death in police custody.

Category 1: (a) deaths in institutional settings (e.g. police stations/lockups, police vehicles, etc.; or during transfer to or from

Table 6: Australian deaths in custody, 1998: Legal status, Aboriginality and custodial authority

Legal status	Police			Prison			Juvenile			Total		Grand Total
	Ind.	Other	Total	Ind.	Other	Total	Ind.	Other	Total	Ind.	Other	
Sentenced ^(a)		2	2	4	39	43	1		1	5	41	46
Remand ^(b)	1	2	3	4	19	23				5	21	26
Protective custody ^(c)	2		2							2		2
Questioning	1	2	3							1	2	3
Escort ^(d)		2	2								2	2
Other e.g. siege	2	10	12	1	1	2				3	11	14
Total	6	18	24	9	59	68	1	1	16	77	93	

(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" and "convicted, awaiting sentence".

(c) Protective custody for drunkenness where not an offence.

(d) Escorting under Mental Health Legislation.

Table 7: Australian deaths in POLICE CUSTODY and in CUSTODY-RELATED POLICE OPERATIONS, 1990 to 1998, by Aboriginality

Year	Category 1: Institutional or Close Contact Custody			Category 2: Other Custody-related Police Operations			Total		Overall Total
	Ind.	Other	Total	Ind.	Other	Total	Ind.	Other	
1990	2	23	25	3	3	6	5	26	31
1991	4	21	25	1	5	6	5	26	31
1992	4	16	20	3	8	11	7	24	31
1993	3	12	15		16	16	3	28	31
1994	3	18	21		6	6	3	24	27
1995		10	10	4	12	16	4	22	26
1996	1	11	12	5	12	17	6	23	29
1997	3	10	13	3	12	15	6	22	28
1998	5	14	19	1	4	5	6	18	24
Total	25	135	160	20	78	98	45	213	258

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

Category 2: Other deaths during custody-related police operations. This would include most sieges, as described above, and most cases where officers were attempting to detain a person, e.g. pursuits.

Table 7 and Figure 3 display a breakdown of deaths occurring

in these two categories for the period 1990 to 1998.

It can be seen that Category 1 deaths (i.e. in lockups and other situations, such as shootings by police, where police could exercise a considerable degree of control over the deceased) had decreased from 25 in 1990 to 10 in 1995, and increased to 19 in 1998.

Category 2 deaths (for example motor vehicle pursuits and self-inflicted gunshot wounds during sieges) had increased from 6 in 1990 to a peak of 17 in 1996, but dropped to 5 in 1998.

The pronounced shift in this trend for 1998 is explained by a number of factors: a significant reduction in the number of self-inflicted gunshot deaths occurring in siege situations; as well as a noticeable reduction in the

number of persons dying during the course, or as a result, of a motor vehicle pursuit. Both of these events account for the impressive reduction in the number of Category 2 deaths.

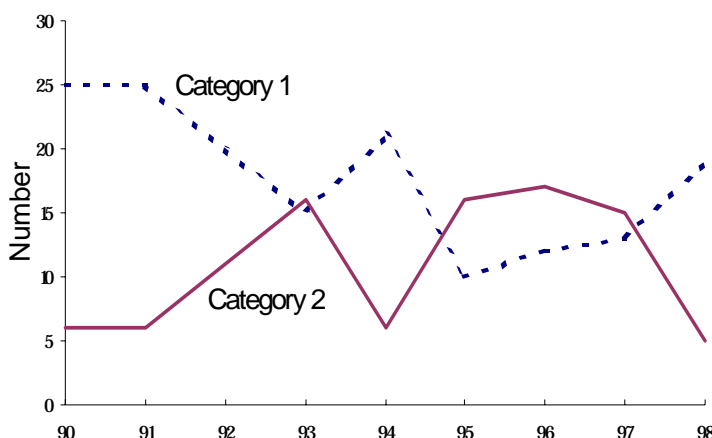
The increase in the number of Category 1 deaths needs to be kept under scrutiny.

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Figure 3: Australian deaths in police custody and in custody-related police operations, 1990 to 1998



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