

Australian Deaths In Custody & Custody-Related Police Operations, 1995-96

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Summary

This paper presents information on deaths which occurred in police, prison and juvenile justice custody throughout Australia during the twelve-month period 1 July 1995 to 30 June 1996. Its central findings can be summarised as follows.

Total Numbers and Trends

- A total of 75 people were reported to have died during the year ended 30 June 1996. Twenty-seven of these deaths occurred in police custody or custody-related police operations and 46 in prison custody. Two juveniles died in the custody of juvenile justice agencies.
- Nineteen of the 75 deaths were of Aboriginal people. This is 46 per cent greater than the 13 deaths reported in the previous year and the highest figure recorded since 1990-91 when eight Aboriginal people died in all forms of custody. The sharp increase is reflected in both police and prison custody.
- While the total number of prison deaths has fallen for the second consecutive year from 57 in 1993-94 to 46 in the current year, and the number of non-Aboriginal people dying in Australian prisons has decreased markedly, deaths of Aboriginal people in prison have continued to increase, reaching the highest figure recorded for the 16 year period from 1980. Thirteen Aboriginal people died in prison custody in 1995-96 compared with previous lows of just two deaths in some of the previous 16 years.
- The six Aboriginal deaths in all forms of police custody is, except for one year, the highest number recorded since 1990-91. One of the six Aboriginal deaths in police custody occurred in a police lock-up. While there has been a notable reduction in the number of Aboriginal people dying in police lock-ups, the high number of Aboriginal deaths occurring in the course of custody-related police operations is of serious concern. In particular, a high number of Aboriginal deaths (5) occurred in situations where police were in the process of detaining, or attempting to detain, the individuals who died. All five Aboriginal deaths were the result of injuries received in motor cycle or motor vehicle crashes in the course of, or immediately following, police pursuits.
- There has been a doubling in the number of deaths in custody-related police operations, from eight deaths the previous year to 16 in the year under review.
- It needs to be emphasised, yet again, that Aboriginal people are heavily over-represented in the number of custodial deaths compared with their number in the community. Nationally, Aboriginal adults represent only 1.3 per cent of the adult population but this year more than 25 per cent of all custodial deaths were of Aboriginal people. This is a significant increase from the previous year when they accounted for 17 per cent of all custodial deaths and from 1992-93 when they accounted for only 10 per cent.

The Royal Commission into Aboriginal Deaths in Custody (Royal Commission) stressed, throughout its work, the central need for action to stem the number of deaths in custody and to substantially reduce the gross over-representation of Aboriginal and Torres Strait Islander people in all forms of custody. It recommended that the Australian Institute of Criminology (AIC) monitor deaths in custody nationally, on an ongoing basis. It went on to recommend that the results of this monitoring be reported upon annually to the Commonwealth Parliament.¹

Regular reports have been prepared and disseminated by the National Deaths in Custody Monitoring and Research Program at the AIC since the program's inception in 1992. These reports have covered deaths across both calendar and financial years, thus responding to the need to provide policy makers, the managers of custodial facilities and the public with timely and up-to-date information which will enable them to remain aware of trends in custodial deaths, both nationally and at the State and Territory level.

This report highlights the continuing crisis occurring in Australian prisons for Aboriginal people, focussing on the sharp increase in the numbers of Aboriginal deaths in custody. This suggests that key recommendations of the Royal Commission concerned with minimising the number of people held in prison and providing a high quality of care for those in prison are either not being fully implemented or are not operating effectively. It also highlights the significant increase in the number of deaths in custody-related police operations and, more specifically, the number of Aboriginal people dying as a result of injuries received in the course of, or immediately following, police pursuits.

What is a Death in Custody?

The 75 deaths occurred in a range of circumstances, reflecting the breadth of the definition of a death in custody as recommended by the Royal Commission and agreed to by all governments. At Recommendation 41, the Royal Commission 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.

The AIC's National Deaths in Custody Monitoring and Research Program has applied this definition in compiling information about all custodial deaths which have occurred since 1 January 1990.

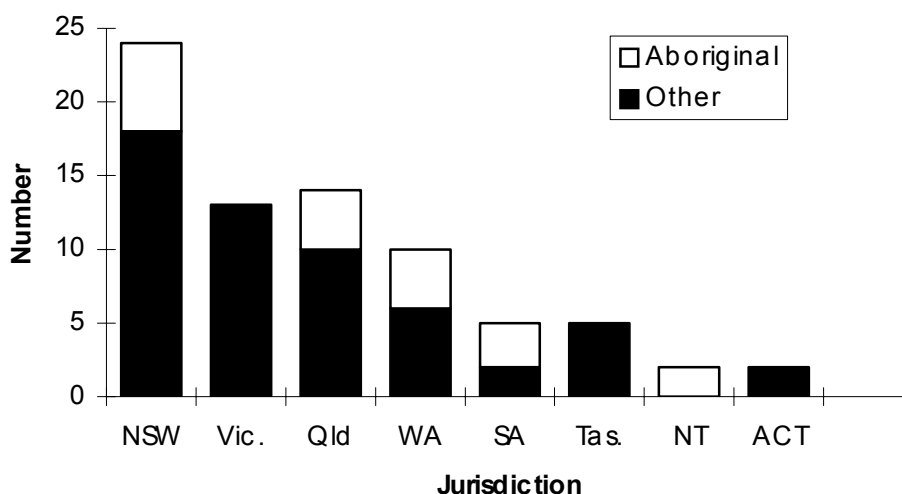
¹ See the AIC's contribution to Royal Commission Government Response Monitoring Unit, Aboriginal and Torres Strait Islander Commission, *Implementation of Commonwealth Government Responses to the Recommendations of the Royal Commission into Aboriginal Deaths in Custody 1995-96* (forthcoming), ATSIC, Canberra.

Table 1 and Figure 1 provide details on the 1995-96 custodial deaths.

TABLE 1
Jurisdiction, Aboriginality and Custodial Authority,
Deaths in Custody 1995-96

State	Police			Prison			Juvenile			Total		Grand
	Ab'l	Other	Total	Ab'l	Other	Total	Ab'l	Other	Total	Ab'l	Other	Total
NSW	2	4	6	4	14	18	-	-	-	6	18	24
Vic.	-	7	7	-	5	5	-	1	1	-	13	13
Qld	1	4	5	3	5	8	-	1	1	4	10	14
WA	2	2	4	2	4	6	-	-	-	4	6	10
SA	-	-	-	3	2	5	-	-	-	3	2	5
Tas.	-	3	3	-	2	2	-	-	-	-	5	5
NT	1	-	1	1	-	1	-	-	-	2	-	2
ACT	-	1	1	-	1	1	-	-	-	-	2	2
Aust.	6	21	27	13	33	46	-	2	2	19	56	75

FIGURE 1
Deaths in Custody 1995-96
Jurisdiction and Aboriginality



Deaths in Institutional Places of Custody and Other Circumstances

The 75 deaths which occurred during 1995-96 are summarised in Table 2 using three categories: deaths in institutions (for example prisons, police lock-ups, juvenile detention centres or police vehicles) or in hospital following transfer to or from such settings; and deaths which occur while police or prison officers are in the process of attempting to detain a person (for example sieges and pursuits).

TABLE 2
Australian Deaths in Custody, 1995-96
Circumstances of Death, Aboriginality and Custodial Authority

Circumstances(*)	Police			Prison			Juvenile			Total		Grand
	Ab'l	Other	Total	Ab'l	Other	Total	Ab'l	Other	Total	Ab'l	Other	Total
Institution	1	6	7	13	33	46	-	2	2	14	41	55
Detaining	5	15	20	-	-	-	-	-	-	5	15	20
Total	6	21	27	13	33	46	-	2	2	19	56	75

* See text for definitions

Fifty-five of the 75 deaths occurred in institutional settings. Significantly, just over one-quarter of the police custody deaths (seven out of 27) occurred in this category; all the

other police custody deaths took place while police officers were in the process of detaining, or attempting to detain, the individuals concerned. They occurred in circumstances such as sieges (in which the deaths were either self-inflicted or inflicted by police), or motor vehicle pursuits which ended in a fatal crash, etc.

Age, Cause and Manner of Death

The ages of those who died ranged from 13 to 71 years, averaging 33 years. Table 3 displays the cause and manner of death for those people who died in custody during the year under review. The information provided here on the cause and manner of death was provided, in most cases, by the custodial authorities. The most frequent cause of death for both non-Aboriginal and Aboriginal people was hanging, followed in frequency by death from injuries and death from illness. For Aboriginal people, this pattern over the last two years is contrary to earlier years when disease accounted for a larger proportion of their deaths.

TABLE 3
Cause and Manner of Death, Aboriginality and Custodial Authority,
Deaths in Custody, 1995-96

Cause	Police			Prison			Juvenile			Total		Grand
	Ab'l	Other	Total	Ab'l	Other	Total	Ab'l	Other	Total	Ab'l	Other	Total
Hanging	1	1	2	5	13	18	-	1	1	6	15	21
Natural causes	-	3	3	5	9	14	-	-	-	5	12	17
Gunshot	-	8	8	-	-	-	-	-	-	-	8	8
Other external trauma	5	7	12	3	2	5	-	-	-	8	9	17
Drugs/alcohol	-	1	1	-	6	6	-	-	-	-	7	7
Other	-	1	1	-	-	-	-	1	1	-	2	2
Not known	-	-	-	-	3	3	-	-	-	-	3	3
Total	6	21	27	13	33	46	-	2	2	19	56	75

TRENDS 1980 TO 1996

Table 4 and Figure 2 show the number of deaths in custody in institutional settings only for the period 1 July 1980 to 30 June 1996. They do not include deaths in police operations, such as attempting to detain a person. Omitting these deaths enables direct and accurate temporal comparisons to be made over the full period 1980 to 1996.

Deaths were relatively low in institutional settings in the period 1980-81 to 1985-86, increasing substantially in 1987. This provided the stimulus for the demands of Aboriginal people and others for the appointment of the Royal Commission into Aboriginal Deaths in Custody. Following this extreme year, the number of custodial deaths over the following three years (1987-88 to 1989-90) remained high, with an average of 68 deaths per year. The number was lower during the 1990-91, 1991-92 and 1992-93 financial years but rose again to 66 deaths in 1993-94. Over the last two years the number of deaths has decreased with 55 occurring in the year under review. This decrease is a result of a marked reduction in non-Aboriginal prison deaths; at the same time, Aboriginal prison deaths increased from 11 to 13.

FIGURE 2
Year of Death and Aboriginality, 1980-81 to 1995-96
Institutional Settings

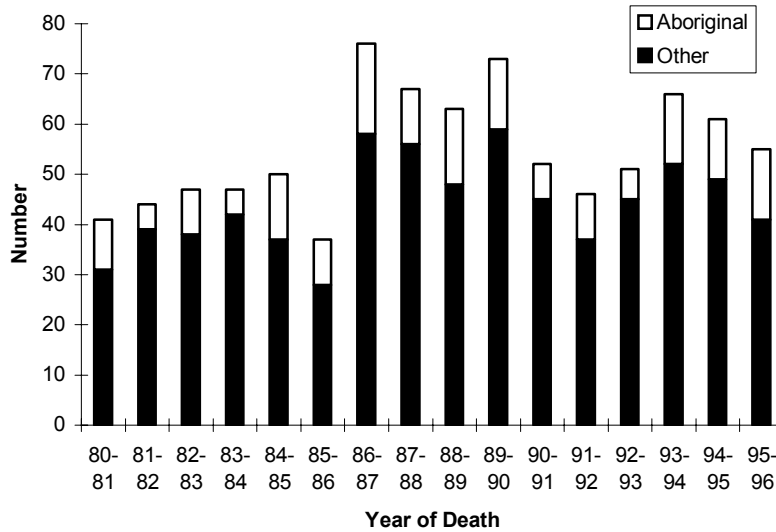


TABLE 4*
Year of Death, Custodial Authority and Aboriginality, 1980-81 to 1995-96
Institutional Settings**

Year	<u>Police</u>			<u>Prison</u>			<u>Juvenile Detention</u>			<u>Total</u>		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	18	58	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	5	14	19	9	44	53	-	1	1	14	59	73
1990-91	2	13	15	5	31	36	-	1	1	7	45	52
1991-92	5	10	15	4	27	31	-	-	-	9	37	46
1992-93	1	9	10	5	36	41	-	-	-	6	45	51
1993-94	2	5	7	12	45	57	-	2	2	14	52	66
1994-95	1	5	6	11	44	55	-	-	-	12	49	61
1995-96	1	6	7	13	33	46	-	2	2	14	41	55
Total	78	191	269	90	506	596	3	8	11	171	705	876

Note: Some of the figures in this table differ from those published in previous reports. This reflects information which subsequently became available on deaths in custody which were not previously identified as such.

* The corresponding tables in previous reports are not directly comparable with this table as they covered deaths in all settings, whereas (for consistency in the time series) this table covers only deaths in institutional settings.

** Deaths in prisons, police lock-ups or juvenile detention facilities, during transfer to or from them, or in medical facilities following transfer from detention facilities.

Table 5 shows deaths that occurred in *all custodial circumstances* from 1990-91 to 1995-96. It is significant that the total number of Aboriginal deaths has increased substantially (with an increase being seen in both police and prison custody) while the total number of non-Aboriginal deaths has continued to decrease, due to a large reduction in the number of non-Aboriginal people dying in prison custody.

It needs to be highlighted that deaths in all forms of police custody rose from the previous year by 29 per cent (from 21 to 27 cases). This is in contrast to the period 1993-94 to 1994-95 when deaths in all forms of police custody fell by 30 per cent (from 30 to 21 cases). Deaths in prison custody fell noticeably by 16 per cent (from 55 to 46 cases), reversing the trend of earlier years when they rose from 32 deaths in 1991-92 to peak at 57 deaths in 1993-94.

Deaths of Aboriginal people in all forms of custody combined has risen 46 per cent (from 13 to 19), while the total number of non-Aboriginal deaths reported has fallen 11 per cent (from 63 in 1994-95 to 56 in the current year), continuing the trend from the previous year.

TABLE 5
Australian deaths in custody 1990-91 to 1995-96,
Aboriginality and Custodial Authority
Deaths in all custodial circumstances

Year	Police			Prison			Juvenile detention			Total		Grand Total
	Ab'l	Other	Total	Ab'l	Other	Total	Ab'l	Other	Total	Ab'l	Other	
1990-91	3	22	25	5	31	36	-	1	1	8	54	62
1991-92	7	21	28	4	28	32	-	-	-	11	49	60
1992-93	3	33	36	5	37	42	-	-	-	8	70	78
1993-94	4	26	30	12	45	57	-	2	2	16	73	89
1994-95	2	19	21	11	44	55	-	-	-	13	63	76
1995-96	6	21	27	13	33	46	-	2	2	19	56	75

Note: Some of the figures in this table differ from those published in previous reports. This reflects information which subsequently became available on deaths in custody which were not previously identified as such.

TRENDS IN POLICE CUSTODY & CUSTODY-RELATED DEATHS

As agreed by the Australasian Police Ministers' Council (APMC), the following definitions are used to determine into which of the two categories a death in police custody will be included:

Category 1: (a) deaths in institutional settings (e.g. police stations/lockups, police vehicles, etc.; or during transfer to or from 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 a 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 cover situations where officers did not have such close contact with the person as to be able to significantly influence or control the person's behaviour. It would include most sieges, as described above, and most cases where officers were attempting to detain a person, e.g. pursuits.

Table 6 displays a breakdown of deaths occurring in these two categories for the year under review.

TABLE 6
Australian Deaths in Police Custody and Custody-related Police Operations, 1995-96
Jurisdiction and Aboriginality

Jurisdiction	Category 1 - Institutional or Close Contact Custody			Category 2 - Other Custody-related Police Operations			Total		Grand Total
	Ab'l	Non-Ab'l	Total	Ab'l	Non-Ab'l	Total	Ab'l	Non-Ab'l	
NSW	-	1	1	2	3	5	2	4	6
Vic.	-	6	6	-	1	1	-	7	7
Qld	-	1	1	1	3	4	1	4	5
WA	-	-	-	2	2	4	2	2	4
SA	-	-	-	-	-	-	-	-	-
Tas.	-	1	1	-	2	2	-	3	3
NT	1	-	1	-	-	-	1	-	1
ACT	-	1	1	-	-	-	-	1	1
Aust.	1	10	11	5	11	16	6	21	27

Category 1: Deaths in institutions and other forms of close custody

Seven of the 11 Category One deaths occurred in an institutional setting and four in community settings. Of the *institution-related deaths*, three occurred in police lock-ups, three in hospital following transfer from a police lock-up and one immediately after the person concerned alighted from a police van. One of the seven deaths was of an Aboriginal person.

The remaining four deaths that occurred in the first category, i.e. situations where police were able to exert a substantial degree of influence over the behaviour of the person who died, were *deaths in non-institutional settings* rather than in lock-ups, police vehicles or hospitals following transfer from a police lock-up. All four deaths were caused by gunshot wounds inflicted by police while they were in the process of detaining, or attempting to detain, the individuals who died.

Category 2: Deaths in other custody-related police operations

Sixteen cases fell into the second category of deaths in custody-related police operations. This figure is twice that for the previous year (8). Five of this year's deaths were of Aboriginal people compared to one the previous year. As agreed by APMC, this category covers cases where police had little capacity to significantly influence or control the person's behaviour. Ten of the 16 deaths resulted from injuries received in a motor cycle or motor vehicle crash in the course of a police pursuit. Four deaths were the result of self-inflicted gunshot wounds and one resulted from self-inflicted stab wounds. In the remaining case a man died after falling from the eighth floor of a building while police were attempting to detain him.

Table 7 provides information on deaths in police custody and in custody-related police operations for the period 1990 to 1996, based on the two categories referred to earlier.

While deaths in Category 1 (i.e. deaths in lock-ups and other situations where police could exercise a considerable degree of control over the deceased) have continued to decrease noticeably over the last six years, deaths in Category 2 (i.e. cases where police had little or no capacity to control the behaviour of the deceased) have doubled over the last year (from 8 to 16 cases). It is of concern that five Aboriginal people died in this category, the highest number to date. All five deaths were the result of injuries sustained during the course of a police pursuit.

TABLE 7
Australian Deaths in Police Custody and in Custody-Related Police Operations,
1990-91 to 1995-96, by Aboriginality

Year	<u>Category 1 - Institutional or Close Contact Custody</u>			<u>Category 2 - Other Custody-related Police Operations</u>			<u>Total</u>		Grand Total
	Ab'l	Other	Total	Ab'l	Other	Total	Ab'l	Other	
1990-91	2	21	23	1	1	2	3	22	25
1991-92	6	15	21	1	6	7	7	21	28
1992-93	1	18	19	2	15	17	3	33	36
1993-94	4	15	19	-	11	11	4	26	30
1994-95	2	11	13	-	8	8	2	19	21
1995-96	1	10	11	5	11	16	6	21	27

Deaths since the Royal Commission

In the period between the 9 May 1991 tabling of the Royal Commission's final National Report and 30 June 1996, a total of 388 people were reported to have died in all forms of police, prison and juvenile justice custody in Australia, including deaths both in institutional and in community settings. Seventy of these deaths were of Aboriginal people and 318 were of non-Aboriginal people. This represents an average of 13.6 Aboriginal deaths each year since the date of tabling.

When comparing figures for the period of time covered by the Royal Commission's investigations, those figures need to be compared with the figures for subsequent years which cover institutional deaths only. It should be noted that the yearly average number of Aboriginal deaths in institutional settings since the tabling of the Royal Commission Report in 1991 has been 11.2. During the period covered by the Royal Commission this figure was 10.5.

It is also notable that, since 31 May 1989, the cut-off date for the deaths investigated by the Royal Commission, 93 Aboriginal and 432 non-Aboriginal custodial deaths have been reported as having occurred throughout Australia. This is an average of 13.1 Aboriginal deaths annually and covers deaths in both institutional and community settings, the definition recommended by the Royal Commission.

REFERENCES

Royal Commission Government Response Monitoring Unit, Aboriginal and Torres Strait Islander Commission, *Implementation of Commonwealth Government Responses to the Recommendations of the Royal Commission into Aboriginal Deaths in Custody 1995-96* (forthcoming), ATSIC, Canberra.

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