

# Australian Institute of Criminology

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## Australian Deaths in Custody & Custody- Related Police Operations, 1996-97

written by Vicki Dalton  
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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 1996 to 30 June 1997. Its central findings can be summarised as follows.

### Total Numbers and Trends

- A total of 97 people were reported to have died during the year ended 30 June 1997. Thirty-four of these deaths occurred in police custody or custody-related police operations and 62 in prison custody. One juvenile died in the custody of a juvenile justice agency.
- The 97 deaths is the highest number ever reported since 1980 for either a financial or calendar year period.
- Seventeen of the 97 deaths were of Aboriginal and Torres Strait Islander people. While this figure is marginally lower than for the previous year, there has been an increasing upward trend emerging over recent years. The upward swing is reflected in the number of deaths in both police and prison custody.
- There has been a substantial reduction in the proportion of both Aboriginal and non-Aboriginal deaths in police 'institutional' settings. During 1996-97 only 16 per cent of all police custody deaths were 'institutional' compared to 62 per cent in 1990-91.
- There has been an upward trend emerging in the number of both Aboriginal and non-Aboriginal deaths occurring while police were in the process of detaining or attempting to detain individuals. In the main these deaths occur in motor vehicle crashes in the course of, or immediately following, a police pursuit, or in siege situations as a result of gunshot wounds either self-inflicted or inflicted by police officers.
- No Aboriginal deaths were recorded during 1996-97 in a police lockup, however 8 Aboriginal people died in other forms of police custody (the highest number recorded since 1990-91).
- Deaths in prison custody have risen steadily over the last 17 years, from 28 deaths in 1980 to 61 deaths in 1997. During the Royal Commission period prison deaths averaged

55 per year and accounted for 61 per cent of all custodial deaths. Between 1990-91 and 1996-97 both the proportion and number of deaths of both Aboriginal and non-Aboriginal people have risen significantly; from 35 deaths (or 67 per cent) in 1990-91 to 61 deaths (or 91 per cent of all institutional custodial deaths) in 1996-97.

- In recent years the number of Aboriginal and Torres Strait Islander people in Australia's prisons has continued to increase, as has their level of over-representation in both police and prison custody. We are now faced with increasing numbers of Indigenous people hanging themselves or dying from heart disease in prison.
- 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 1.4 per cent of the adult population but this year more than 17 per cent of all custodial deaths were of Aboriginal people.

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 (*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 1996-97* (forthcoming), ATSIC, Canberra.)

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, focussing on the increasing numbers of both Aboriginal and non-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 trends 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 97 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.

Table 1 provides details on the 1996-97 custodial deaths.

**TABLE 1**

**Jurisdiction, Aboriginality and Custodial Authority, Deaths in Custody 1996-97**

State	Police			Prison				Juvenile			Total			Overall Total
	Ab'l	Other	Total	Ab'l	TSI	Other	Total	Ab'l	Other	Total	Ab'l	TSI	Other	
<b>NSW</b>	2	14	16	3		27	30				5		41	<b>46</b>
<b>Vic.</b>		2	2			5	5						7	<b>7</b>
<b>Qld</b>		2	2	2	2	9	13				2	2	11	<b>15</b>
<b>WA</b>	3	3	6	1		7	8				4		10	<b>14</b>
<b>SA</b>		2	2	1		4	5				1		6	<b>7</b>
<b>Tas.</b>	1		1			1	1				1		1	<b>2</b>
<b>NT</b>	2	3	5								2		3	<b>5</b>
<b>ACT</b>									1	1			1	<b>1</b>
<b>Aust.</b>	<b>8</b>	<b>26</b>	<b>34</b>	<b>7</b>	<b>2</b>	<b>53</b>	<b>62</b>		<b>1</b>	<b>1</b>	<b>15</b>	<b>2</b>	<b>80</b>	<b>97</b>

## Deaths in Institutional Places of Custody and Other Circumstances

The 97 deaths which occurred during 1996-97 are summarised in Table 2 using three categories:

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

A fourth category recommended by the Royal Commission, deaths which occur while police were in the process of **escorting** those detained under State or Territory mental health legislation to a psychiatric institution, is not relevant here as no such deaths were reported during the year.

**TABLE 2**

### **Australian Deaths in Custody, 1996-97, Circumstances of Death, Aboriginality and Custodial Authority**

Circumstances(*)	Police			Prison			Juvenile			Total		Overall Total
	Ab'l	Non-Ab'l	Total	Ab'l & TSI	Non-Ab'l	Total	Ab'l	Non-Ab'l	Total	Ab'l & TSI	Non-Ab'l	
<b>Institution</b>		5	5	9	52	61		1	1	9	58	<b>67</b>
<b>Detaining</b>	7	21	28							7	21	<b>28</b>
<b>Escaping</b>	1		1		1	1				1	1	<b>2</b>
<b>Total</b>	<b>8</b>	<b>26</b>	<b>34</b>	<b>9</b>	<b>53</b>	<b>62</b>		<b>1</b>	<b>1</b>	<b>17</b>	<b>80</b>	<b>97</b>

\* See text for definitions

Sixty-seven of the 97 deaths occurred in institutional settings. No Aboriginal people died in police institutional custody during the year. There was a relatively low number of deaths (5) of non-Aboriginal people to occur in institutional settings in police custody.

## Cause and Manner of Death

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.

**TABLE 3****Australian Deaths in Custody, 1996-97, Cause of Death, Aboriginality and Custodial Authority**

Cause	Police			Prison			Juvenile			Total		Overall Total
	Ab'l	Non-Ab'l	Total	Ab'l & TSI	Non-Ab'l	Total	Ab'l	Non-Ab'l	Total	Ab'l & TSI	Non-Ab'l	
<b>Hanging</b>		2	2	5	18	23		1	1	5	21	<b>26</b>
<b>Natural causes</b>	1	1	2	3	24	27				4	25	<b>29</b>
<b>Injuries</b>	6	6	12		5	5				6	11	<b>17</b>
<b>Gunshot</b>	1	14	15							1	14	<b>15</b>
<b>Drugs</b>		1	1	1	6	7				1	7	<b>8</b>
<b>Alcohol</b>		1	1								1	<b>1</b>
<b>Other</b>		1	1								1	<b>1</b>
<b>Total</b>	<b>8</b>	<b>26</b>	<b>34</b>	<b>9</b>	<b>53</b>	<b>62</b>		<b>1</b>	<b>1</b>	<b>17</b>	<b>80</b>	<b>97</b>

**Trends 1980-81 to 1996-97**

Table 4 shows the number of deaths in custody in institutional settings only for the period 1 July 1980 to 30 June 1997. 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 1997.

**TABLE 4\***

**Australian Deaths in Custody, 1980-81 to 1996-97, Year of Death, Custodial Authority and Aboriginality**

**Institutional Settings\*\***

Year	Police			Prison				Juvenile			Total			Overall Total
	Ab'l	Other	Total	Ab'l	TSI	Other	Total	Ab'l	Other	Total	Ab'l	TSI	Other	
<b>1980-81</b>	7	5	12	2	-	26	28	1	-	1	10		31	<b>41</b>
<b>1981-82</b>	2	13	15	3	-	26	29	-	-	-	5		39	<b>44</b>
<b>1982-83</b>	5	17	22	4	-	21	25	-	-	-	9		38	<b>47</b>
<b>1983-84</b>	3	11	14	2	-	30	32	-	1	1	5		42	<b>47</b>
<b>1984-85</b>	8	15	23	5	-	22	27	-	-	-	13		37	<b>50</b>
<b>1985-86</b>	5	12	17	4	-	16	20	-	-	-	9		28	<b>37</b>
<b>1986-87</b>	15	24	39	2	-	34	36	1	-	1	18		58	<b>76</b>
<b>1987-88</b>	6	15	21	4	-	40	44	1	1	2	11		56	<b>67</b>
<b>1988-89</b>	10	17	27	5	-	31	36	-	-	-	15		48	<b>63</b>
<b>1989-90</b>	5	14	19	9	-	44	53	-	1	1	14		59	<b>73</b>
<b>1991-92</b>	5	10	15	4	-	27	31	-	-	-	9		37	<b>46</b>
<b>1992-93</b>	1	9	10	5	-	36	41	-	-	-	6		45	<b>51</b>
<b>1993-94</b>	2	5	7	12	-	45	57	-	2	2	14		52	<b>66</b>
<b>1994-95</b>	1	5	6	11	-	44	55	-	-	-	12		49	<b>61</b>
<b>1995-96</b>	1	6	7	13	-	34	47	-	2	2	14		42	<b>56</b>
<b>1996-97</b>	-	5	5	7	2	52	61	-	1	1	7	2	58	<b>67</b>

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

\* The corresponding tables in Annual Reports prior to February 1995 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 lockups or juvenile detention facilities, during transfer to or from them, or in medical facilities following transfer from detention facilities.

- 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.
- The number of people to die in Australian prisons during the 1996-97 year was the highest number recorded for the 17 year period since 1980. In recent years the number of both Aboriginal and Torres Strait Islander people and non-Indigenous people dying in our prisons have risen markedly.

## **Deaths in All Custodial Circumstances**

Table 5 shows deaths that occurred in *all custodial circumstances* for the period 1990-91 to 1996-97. All of these cases are covered by the post-Royal Commission definition of a 'death in custody', which includes both deaths in institutional settings and in police operations in community settings, such as sieges, shootings and pursuits.

**TABLE 5**

**Australian Deaths in custody 1990-91 to 1996-97, Aboriginality and Custodial Authority, Deaths in all custodial circumstances**

Year	Police			Prison			Juvenile detention			Total		Overall Total
	Ab'l	Other	Total	Ab'l & TSI	Other	Total	Ab'l	Other	Total	Ab'l & TSI	Other	
<b>1990-91</b>	3	23	26	5	30	35		1	1	8	54	<b>62</b>
<b>1991-92</b>	7	21	28	4	28	32				11	49	<b>60</b>
<b>1992-93</b>	3	33	36	5	37	42				8	70	<b>78</b>
<b>1993-94</b>	4	26	30	12	45	57		2	2	16	73	<b>89</b>
<b>1994-95</b>	2	19	21	11	44	55				13	63	<b>76</b>
<b>1995-96</b>	6	22	28	13	34	47		2	2	19	58	<b>77</b>
<b>1996-97</b>	<b>8</b>	<b>26</b>	<b>34</b>	<b>9</b>	<b>53</b>	<b>62</b>		<b>1</b>	<b>1</b>	<b>17</b>	<b>80</b>	<b>97</b>

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

- It will be observed from this table that the 97 deaths which were reported for the year covered by this Annual Report is significantly greater than that of any previous year and the highest number recorded to date.

**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 period 1990-91 to 1996-97.

**TABLE 6**

**Australian Deaths in Police Custody and in Custody-Related Police Operations, 1990-91 to 1996-97, by Aboriginality**

Year	Category 1 - Institutional or Close Contact Custody			Category 2 - Other Custody-related Police Operations			Total		Overall Total
	Ab'l	Other	Total	Ab'l	Other	Total	Ab'l	Other	
<b>1990-91</b>	2	22	24	1	1	2	3	23	<b>26</b>
<b>1991-92</b>	6	15	21	1	6	7	7	21	<b>28</b>
<b>1992-93</b>	1	18	19	2	15	17	3	33	<b>36</b>
<b>1993-94</b>	4	15	19	-	11	11	4	26	<b>30</b>
<b>1994-95</b>	2	11	13	-	8	8	2	19	<b>21</b>
<b>1995-96</b>	1	10	11	5	12	17	6	22	<b>28</b>
<b>1996-97</b>	<b>1</b>	<b>12</b>	<b>13</b>	<b>7</b>	<b>14</b>	<b>21</b>	<b>8</b>	<b>26</b>	<b>34</b>

- It can be seen that deaths in Category 1 (i.e. deaths in lockups and other situations where police could exercise a considerable degree of control over the deceased) have continued to decrease noticeably over the last seven years (from 24 to 13). On the other hand, Category 2 deaths (i.e. cases where police had little or no capacity to control the behaviour of the deceased) have increased significantly over the seven year period (from 2 to 21 deaths).

## **Deaths Since the Royal Commission**

In the period between the tabling of the Royal Commission's final National Report on 9 May 1991 and 30 June 1997, a total of 486 people are reported to have died in all forms of police, prison and juvenile justice custody in Australia, including both deaths in institutional and in community settings. Eighty-five of these deaths were of Aboriginal people, two of Torres Strait Islanders and 399 non-Aboriginal people.

It is also notable that, since 31 May 1989, the cut-off date for the deaths investigated by the Royal Commission, 624 custodial deaths have been reported as having occurred throughout Australia. Of these, 108 were Aboriginal people, 2 were Torres Strait Islanders and 514 non-Aboriginal people. These figures cover deaths in both institutional and community settings, the definition recommended by the Royal Commission.

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[webmaster@aic.gov.au](mailto:webmaster@aic.gov.au)