

AUSTRALIAN DEATHS IN CUSTODY

No. 8 Australian Deaths in Custody & Custody-related Police Operations, 1993-94

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The Australian Institute of Criminology has been monitoring the deaths of Aboriginal and non-Aboriginal people in custody throughout Australia for almost three years. We cover both deaths in institutional settings (such as prisons and police lockups) and in community settings (primarily deaths in custody-related police operations). This is the approach recommended by the Royal Commission into Aboriginal Deaths in Custody and agreed to by all governments.

With the release of the landmark report, *Justice Under Scrutiny*, by the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs, the community is again focussing on trends in Aboriginal deaths in custody and on government and community action to implement effectively the recommendations of the Royal Commission. Unfortunately, a key finding of this issue of Deaths in Custody Australia is that the number of deaths of Indigenous Australians in prison during the 1993-94 year is far higher than the previous year. Illness, predominantly heart disease, accounted for most of the deaths of Aboriginal people in custody in 1993-94. This reflects a pattern occurring since 1980 in which natural causes were responsible for almost half of Aboriginal deaths overall, whereas for non-Aboriginal people, natural causes account for less than one-third of deaths in custody.

Two factors can be highlighted. First, the health status of Aboriginal people is very poor, and the incidence of deaths resulting from heart disease is a reflection of this broader problem. Second, while the Aboriginal population is less than 2 per cent of the total population, it comprises 16 per cent of the prison population and Aboriginal people account for 19 per cent of deaths in prison custody. This unacceptably high incarceration rate of Aboriginal people, combined with health status, presents a truly regrettable and preventable situation. As the House of Representatives Standing Committee concluded, far more action is required by governments to reduce the number of Aboriginal people being sent to prison. The importance of health services in prison and health promotion within the Aboriginal community generally is also highlighted by this finding.

One notable feature of the current data is that in the period under review there were no Aboriginal and Torres Strait Islander deaths in police lockups. For many years the police lockup was indeed a dangerous place for Aboriginal people, and the current situation shows that police and community organisations have worked well together to bring about change. The police in particular should be congratulated for implementing policy change in an effective manner. (There were, however, three Aboriginal deaths in other forms of police custody.)

The *Justice Under Scrutiny* report recommends the strengthening of monitoring and accountability mechanisms regarding the implementation of the recommendations of the Royal Commission, including the establishment of a well-resourced National Aboriginal Justice Advisory Committee and an effective monitoring and evaluation unit within the Office of the Aboriginal and Torres Strait Islander Social Justice Commissioner. The Institute supports these recommendations and remains committed to working collaboratively with such bodies with the aim of reducing to the minimum the incidence of deaths in custody.

**Adam Graycar
Director**

INTRODUCTION

This paper presents information on the deaths which occurred in police and prison custody throughout Australia during the twelve months to 30 June 1994, as well as summary data on the whole period since 1980. The purpose of this paper is to provide policy makers, the managers of custodial facilities and the public with information which will enable them to remain aware of trends in custodial deaths, both nationally and at the State/Territory level. In doing so, the Australian Institute of Criminology (AIC) is implementing Recommendation 41 of the Royal Commission into Aboriginal Deaths in Custody which addressed the need for the monitoring, on an ongoing basis, of Australian deaths in custody.

Details on the methodology used in this project were included in the first paper in this series and will not be repeated here. In brief, however, each of Australia's eight police services, corrections authorities and juvenile justice or juvenile welfare authorities was asked to provide information, in a standard format, on all deaths in custody which occurred within their area of responsibility during the year to 30 June 1994. Information on deaths was also obtained from other sources, including media reports and community organisations; these were checked against the custodial authorities' lists. In addition, each State Coroner or equivalent was asked to review custodial authorities' lists and check them for completeness. At the time of writing, the results of coronial inquests had been received on twelve of the 83 cases for the year to 30 June 1994; 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.

Although the present report covers the 1993-94 financial year, the Australian Institute of Criminology will continue to publish reports covering both the calendar and the financial years. The usefulness of having reports covering both periods is illustrated by the AIC's contribution to the report, *Implementation of Commonwealth Government Responses to the Recommendations of the Royal Commission into Aboriginal Deaths in Custody: Second Annual Report 1993-94*. That report, prepared by the Commonwealth Government for tabling in the Commonwealth and the State/Territory parliaments, incorporates a summary of the information published in this issue of Deaths in Custody Australia.

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 AIC's 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:

Summary

During the twelve months to 30 June 1994, 83 deaths in custody were reported to have occurred in Australia. Fifty-seven of these deaths, or 69 per cent, occurred in prison custody, while 24 deaths or 29 per cent of all cases, occurred in police custody. Two deaths were reported to have occurred in the custody of juvenile justice authorities during 1993-94. All but 10 of those who died were males. As in previous years, Aboriginal people were over-represented in the numbers of custodial deaths compared with the number of Aboriginal people in the community. Fourteen Indigenous people (all of whom were Aboriginal) died in custody in 1993-94. This represents 17 per cent of the deaths, although Aboriginal people make up less than 2 per cent of the Australian population.

The ages of those who died ranged from 16 to 73 years, averaging 35 years. Thirty-four (or 43 per cent) of the deaths for which this information was available were reported to have been self-inflicted. Information on the cause and manner of death was available at the time of writing for all but three cases. The most frequent manner of death for non-Aboriginal people was hanging, followed in frequency by deaths from illness and by gunshot, with smaller numbers accounted for by other causes. By contrast, illness was the dominant cause of death among Aboriginal people in custody, accounting for 10 of the 14 Aboriginal deaths.

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 forty-six (or 55 per cent) of the cases.

Thirty-eight (46 per cent) of the people who died were serving a sentence of imprisonment at the time of death and 26 (29 per cent) were being held on remand. The 19 remaining cases (23 per cent) had also not been convicted of any offence but died either while police were attempting to detain them, while in police custody under the provisions of mental health legislation or while in protective custody for drunkenness where drunkenness is not an offence.

Applying a consistent definition of deaths in custody (i.e. deaths in institutional settings), the number of deaths during the 1993-94 financial year was substantially higher than the number reported in any of the previous three financial years. The increase over the previous year's deaths has occurred entirely among Aboriginal people, primarily in prison custody. The total number of deaths of non-Aboriginal people has remained at the same high level this year as the previous year. The number of prison deaths of non-Aboriginal people increased whereas the number of police custody deaths decreased over the same period. Eleven Aboriginal people died in prison custody (compared with four the previous year), more than two and a half times the number which occurred during the previous year. No Aboriginal people were reported to have died in police lockups during the year, although three died in other forms of police 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 fourth paper in this series (McDonald & Howlett 1993) discussed the complexities involved in defining a custodial death for the purposes of this monitoring program and post-death investigations. In summary, it was pointed out that the definition quoted above is broader than that used in the past by some custodial authorities. 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 have been reporting the deaths which meet this definition, except for the Queensland Police Service, which has apparently been applying a narrower definition. On the initiative of the Queensland Minister for Police and Emergency Services, the Australasian Police Ministers' Council directed that the Queensland and the New South Wales Police Services, representative Aboriginal organisations and the AIC meet to discuss the application of the Royal Commission's definition of a "death in custody" for the purposes of national monitoring. The Australasian Police Ministers' Council discussed this matter and an agreement was reached that all police services would continue to use the Royal Commission's definition of a "death in custody". It was also agreed that the AIC would present data in the next six-monthly monitoring report in this series, in a form which will more clearly differentiate deaths in institutional settings from deaths in community settings.

To assist readers in understanding trends in custodial deaths, we have differentiated the lockup/prison/hospital deaths which have always been considered to be deaths in custody (see Table 11(B)) from those which now fall within the definition recommended by the Royal Commission but which may not have done so prior to 1990 (see Table 11(C)). The total number of deaths covered in this report, taking into account the post-Royal Commission definition of a "death in custody", are detailed in Table 11(A). This differentiation is particularly significant in interpreting police custody deaths. Tables 11(A), (B) and (C) are discussed more fully towards the end of this report.

THE INCIDENCE OF DEATHS IN CUSTODY

Deaths in Custody Reported to the AIC

Eighty-three people are reported to have died in all forms of custody in Australia between 1 July 1993 and 30 June 1994: 24 (29 per cent) died in police custody; 57 (69 per cent) were in prison custody; and two individuals died while in the custody of juvenile justice authorities. As in previous years, Aboriginal people are over-represented in the number of custodial deaths. Fourteen Aboriginal people died in custody during 1993-94. This represents 17 per cent of all custodial deaths during this time period whereas Aboriginal people comprise less than 2 per cent of the Australian population. The distribution of Aboriginal and non-Aboriginal deaths, respectively, was similar between police and prison custody: three of the 14 Aboriginal deaths occurred in police custody and 11 of the 14 occurred in prison custody, compared with 30 per cent of the non-Aboriginal deaths (21 of 69) having occurred in police custody and 67 per cent (46 of 69) of them in prison. Table 1 provides details on the number of custodial deaths by State/Territory and Aboriginality for the 1993-94 period.

It will be observed from Table 1 that New South Wales, Australia's most populous State, experienced the largest portion of the 1993-94 deaths in custody, 36 (43 per cent) out of the total of 83. Twenty-nine of the deaths in this State occurred in prison custody with the remaining seven occurring in police custody. Four of the 14 Aboriginal deaths occurred in New South Wales. Although Victoria is the second most populous State, it has one of the lowest imprisonment rates. Victoria recorded 16 (19 per cent) out of the total of 83 deaths in custody in 1993-94. Ten of the Victorian deaths occurred in police custody and one of the two deaths to occur in juvenile justice custody was in this jurisdiction. Of the five deaths which occurred in prison custody in Victoria, one was of an Aboriginal person.

TABLE 1
Australian Deaths in Custody, 1993-94
Jurisdiction, Aboriginality and Custodial Authority

| <i>Juris- diction</i> | <i>Police</i> | | | <i>Prison</i> | | | <i>Juvenile</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> | <i>Total</i> | <i>Ab'l</i> | <i>Non- Ab'l</i> | |
| NSW | - | 7 | 7 | 4 | 25 | 2 | - | - | - | 4 | 32 | 36 |
| Vic. | - | 10 | 10 | 1 | 4 | 5 | - | 1 | 1 | 1 | 15 | 16 |
| Qld | 1 | 1 | 2 | 3 | 8 | 1 | - | - | - | 4 | 9 | 13 |
| WA | - | - | - | 2 | - | 2 | - | - | - | 2 | - | 2 |
| SA | - | 1 | 1 | - | 6 | 6 | - | 1 | 1 | - | 8 | 8 |
| Tas. | 1 | 1 | 2 | - | 3 | 3 | - | - | - | 1 | 4 | 5 |
| NT | 1 | - | 1 | 1 | - | 1 | - | - | - | 2 | - | 2 |
| ACT | - | 1 | 1 | - | - | - | - | - | - | - | 1 | 1 |
| Aust. | 3 | 21 | 24 | 11 | 46 | 57 | - | 2 | 2 | 14 | 69 | 83 |

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 13 deaths, 11 of which occurred in prison custody. Four of the deaths in Queensland that were reported to the Australian Institute of Criminology were of Aboriginal people. In South Australia, eight people were reported to have died, six in prison custody and one each in police and juvenile justice custody. All of these deaths were of non-Aboriginal people. Of the five people who died in custody in Tasmania, one was an Aboriginal person. Of these deaths, three occurred in prison, and two in police custody. The two deaths which occurred in Western Australia were in prison custody and both were of Aboriginal people. In the Northern Territory, two deaths were recorded: both were of Aboriginal people, one in prison custody and one in police custody. The Northern Territory has the lowest population and the highest imprisonment rate. During 1993-94, one death of a non-Aboriginal person occurred in police custody in the Australian Capital Territory.

Deaths not yet Reported to the AIC

While the majority of the police and prison authorities report deaths in custody to the Australian Institute of Criminology very quickly, there is sometimes a delay in the time between the death occurring and the Institute receiving the information. In 1993-94, four additional deaths came to the attention of the Institute that might fall within the definition of a "death in custody" as described above, but for which information has not been received from the appropriate authorities. In just one of these instances the delay was due to the decision of the Institute to await the results of a coronial inquest before deciding whether or not to include the case in the 1993-94 data set. In the remaining three cases, information concerning the circumstance of the deaths has not yet been provided by the police services. This report, therefore, does not include any of the four cases. Thus, brief descriptions of these deaths are provided below.

- n In Queensland, a man is reported to have died of multiple injuries after a police pursuit ended in a car crash. Police were apparently attempting to detain the man who died. He was a passenger in the car.
- n In Queensland, a motorcyclist is reported to have died after crashing his motorbike when fleeing from police who had attempted to detain him for a breath test.
- n In Queensland, a man died after apparently shooting himself in a siege with police.
- n In the Northern Territory, a man died apparently from head injuries after being released from protective custody for drunkenness.

In summary, three of these four cases took place in Queensland, and one in the Northern Territory. All of the deaths occurred in police custody. All of the deaths involved males.

Reference to these cases is important. While this paper covers the 83 deaths reported to the AIC and which fall within the definition of a death in custody, there may have been as many as 87 deaths in custody during 1993-94. While further information on deaths in custody during the period covered by this report will be up-dated in subsequent reports in the series, detailed analyses of the circumstances of the deaths will not be repeated. While the omission of these deaths from the report is in part a result of the

TABLE 2
Australian Deaths in Custody, 1993-94
Circumstances of Death, Aboriginality and Custodial Authority

| <i>Circumstances^(a)</i> | <i>Police</i> | | | <i>Prison</i> | | | <i>Juvenile</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> | <i>Total</i> | <i>Ab'l</i> | <i>Non-Ab'l</i> | |
| Institution | 2 | 5 | 7 | 11 | 46 | 57 | - | 2 | 2 | 13 | 53 | 66 |
| Detaining | 1 | 15 | 16 | - | - | - | - | - | - | 1 | 15 | 16 |
| Escorting | - | 1 | 1 | - | - | - | - | - | - | - | 1 | 1 |
| Total | 3 | 21 | 24 | 11 | 46 | 57 | - | 2 | 2 | 14 | 69 | 83 |

(a) See text for definitions

Queensland Police Service failing to implement the definition of a "death in custody" in the same manner as other police services, the importance of providing information as quickly as possible to the AIC cannot be overstated if under-reporting of the incidence of deaths in custody is to be avoided and dissemination of the circumstances in which they occur is to be achieved.

THE CIRCUMSTANCES OF DEATHS IN CUSTODY

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 83 deaths which occurred during 1993-94 are summarised in Table 2 using the following three categories:

- n deaths in **institutions** (for example 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;
- n deaths which occurred while police or prison officers were in the process of **detaining** or attempting to detain the person; and,
- n deaths which occurred while police were in the process of **escorting** those detained under State or Territory mental health legislation to a psychiatric institution.

Sixty-six of the 83 deaths (80 per cent) occurred in an institutional place of custody as defined above. (It is of special significance that only seven out of the 24 deaths occurring in police custody took place in an institutional setting.) A further 16 of the 83 deaths (19 per cent) took place while police were in the process of detaining, or attempting to detain, the individuals concerned. In addition, one person died while police were in the process of conveying him to a mental health facility.

Of the 16 police custody deaths that took place while police officers were in the process of detaining, or attempting to detain, the individuals concerned, nine individuals were shot by the police and a further five of the deaths were self-inflicted (all five individuals shot themselves). One person died as a result of a motor vehicle crash during a police pursuit compared with five such deaths in 1992-93. In the remaining case, the person drowned in a river after a motor vehicle accident which occurred while police were attempting to detain the occupants of the vehicle. This breakdown of police custody deaths should be borne in mind in interpreting the information set out in this paper.

Of the 14 Aboriginal deaths, 11 occurred in prison and one was shot by police while they were attempting to detain him. One person died in the rear of a police vehicle en route to a police watchhouse. He died from a heart condition which may have been exacerbated by stress. An Aboriginal woman also died in the rear of a police vehicle en route to a sobering up shelter, apparently as a result of a blood clot in the lungs. No Aboriginal deaths occurred in police lockups anywhere in Australia during the financial 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.¹ Commencing with the first of these approaches, it is observed that the 1993-94 crude death rate for police, prison and juvenile justice custody combined was 0.49 per 100,000 of the total Australian population as enumerated in the 1991 Census. 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 0.63 per 100,000.

TABLE 3(A)

Police and Prison Custody and Juvenile Detention Death Rates, 1993-94
Denominator: Aboriginal, Non-Aboriginal and Total 15 yrs+ Populations Respectively

| <i>Aboriginality</i> | <i>Population 1991 census^(a)</i> | <i>Persons 15 yrs⁺(a)</i> | <i>Deaths in custody 1993-94</i> | <i>Deaths per 100,000 population 15 years⁺</i> |
|-------------------------------|---|--------------------------------------|----------------------------------|---|
| Aboriginal ^(b) | 265,465 | 159,710 | 14 | 8.77 |
| Non-Aboriginal ^(c) | 16,584,875 | 12,925,947 | 69 | 0.53 |
| Total | 16,850,340 | 13,085,657 | 83 | 0.63 |

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

(b) Includes Torres Strait Islanders.

(c) Includes "not stated".

TABLE 3(B)

Prison Custody Death Rates, 1993-94
Denominator: Aboriginal, Non-Aboriginal and Total 15 yrs+ Populations Respectively

| <i>Aboriginality</i> | <i>Population 1991 census^(a)</i> | <i>Persons 15 yrs⁺(a)</i> | <i>Deaths in custody 1993-94</i> | <i>Deaths per 100,000 population 15 years⁺</i> |
|-------------------------------|---|--------------------------------------|----------------------------------|---|
| Aboriginal ^(b) | 265,465 | 159,710 | 11 | 6.89 |
| Non-Aboriginal ^(c) | 16,584,875 | 12,925,947 | 46 | 0.36 |
| Total | 16,850,340 | 13,085,657 | 57 | 0.44 |

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

(b) Includes Torres Strait Islanders.

(c) Includes "not stated".

¹ See the Technical Note in the previous issue in this series (*Australian Deaths in Custody 1993*, Deaths in Custody Australia, No. 7) for details on the calculation of death rates.

TABLE 3(C)

Police Custody Death Rates, 1993-94
Denominator: Aboriginal, Non-Aboriginal and Total 15 yrs+ Populations Respectively

| <i>Aboriginality</i> | <i>Population 1991 census^(a)</i> | <i>Persons 15 yrs⁺(a)</i> | <i>Deaths in custody 1993-94</i> | <i>Deaths per 100,000 population 15 years⁺</i> |
|-------------------------------|---|--------------------------------------|----------------------------------|---|
| Aboriginal ^(b) | 265,465 | 159,710 | 3 | 1.88 |
| Non-Aboriginal ^(c) | 16,584,875 | 12,925,947 | 21 | 0.16 |
| Total | 16,850,340 | 13,085,657 | 24 | 0.18 |

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

(b) Includes Torres Strait Islanders.

(c) Includes "not stated".

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 non-Aboriginal people. Details are presented in Table 3(A). Although only 17 per cent of the deaths were among Aboriginal people, the fact that they comprise only 1.2 per cent of the adult population means that their adult (15 years and above) crude death rate was more than 16 times that of non-Aboriginal people.²

TABLE 4(A)

Prison Custody Death Rates, 1993-94
Denominator: Aboriginal, Non-Aboriginal and Total Prison Populations Respectively

| <i>Aboriginality</i> | <i>Prison population^(a)</i> | <i>Deaths in prison custody 1993-94</i> | <i>Deaths per 1,000 prison population</i> |
|-------------------------------|--|---|---|
| Aboriginal ^(b) | 2,476 | 11 | 4.44 |
| Non-Aboriginal ^(c) | 12,594 | 46 | 3.65 |
| Total | 15,070 | 57 | 3.78 |

(a) Estimate pending data from 1993 National Prison Census.

(b) Includes Torres Strait Islanders.

(c) Includes "not stated".

TABLE 4(B)

Police Lockup Death Rates, 1993-94
Denominator: Aboriginal, Non-Aboriginal and Total Police Lockup Populations Respectively

| <i>Aboriginality</i> | <i>Police lockup population^(a)</i> | <i>Deaths in police lockups 1993-94</i> | <i>Deaths per 1,000 police lockup population</i> |
|-------------------------------|---|---|--|
| Aboriginal ^(b) | 217 | - | - |
| Non-Aboriginal ^(c) | 438 | 5 | 11.42 |
| Total | 655 | 5 | 7.63 |

(a) Estimate of person/years of custody in a twelve-month period.
 Source: National Police Custody Survey 1992 (unpub. data), Australian Institute of Criminology.

(b) Includes Torres Strait Islanders.

(c) Includes "not stated".

² This is the odds ratio.

In relation to the different forms of custody, for the 1993-94 period the adult (15 years and above) crude death rate for *prison custody* was 0.44 per 100,000 of the Australian population.³ The adult crude death rate for Aboriginal people in prison was 6.89 per 100,000 of the Australian population, whereas the adult death rate for non-Aboriginal people in prison was 0.36 per 100,000 of the Australian population. Therefore, during the period covered by this Deaths in Custody Australia report, the relative risk of prison custody death for Aboriginal prisoners (compared with non-Aboriginal prisoners) was 19.14 (that is 6.89 divided by 0.36). In other words, the risk of death occurring in prison experienced by all Aboriginal and Torres Strait Islander people during this time was more than 19 times that experienced by non-Aboriginal prisoners.

Turning now to *police custody* death rates, a similar pattern is observed. The adult crude death rate for all types of police custody (including police operations in community settings) for 1993-94 was 0.18 per 100,000 of the Australian population. The adult crude death rate for Aboriginal people in all circumstances of police custody was 1.88 per 100,000 of the adult national Aboriginal population, whereas the corresponding death rate for non-Aboriginal people was 0.16 per 100,000 of the Australian population. This means that the relative risk of death for an adult Aboriginal person (compared with a non-Aboriginal person) in police custody was 11.75 (that is 1.88 divided by 0.16). In other words, the risk of death in all forms of police custody for adult Aboriginal people during this time was almost 12 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 1993-94 was 3.78 per 1,000 of the prison

custody during 1993-94 was 3.78 per 1,000 of the prison population.⁴ In terms of Aboriginality, the crude death rate for Aboriginal prisoners was 4.44 per 1,000 prisoners, whereas the death rate for non-Aboriginal prisoners was 3.65 per 1,000 of the prison population. Therefore the relative risk of death in prison custody for Aboriginal prisoners (compared with non-Aboriginal prisoners) was 1.22 (that is 4.44 divided by 3.65). This means that the risk of death experienced by Aboriginal prisoners was approximately 1.2 times greater than that experienced by non-Aboriginal prisoners when their death rates are expressed in this manner. (This difference is not statistically significant.) It should be recalled, however, that this low relative risk of Aboriginal prison deaths is in contrast to the corresponding relative risk of 19.14 where the numbers of Aboriginal and non-Aboriginal prison deaths are compared with the relative sizes of the Aboriginal and non-Aboriginal populations in the community at large. The difference between these two estimates of relative risk is explained by the continuing and increasing level of over-representation of Aboriginal people in the prison population.

The crude death rate for *police custody* was 7.63 per 1,000 of the police custody population.⁵ For non-Aboriginal detainees it was 11.42 per 1,000. Since no Aboriginal people died in police lockups during the year, an estimate of relative risk is not relevant.

³ Both crude rates and age standardised rates show similar patterns. Because this applies throughout this section, only crude rates are presented here.

⁴ The prison populations used as the denominators of these rates are estimated from data published in *Australian Prison Trends*, Australian Institute of Criminology, Canberra, monthly.

⁵ These rates are calculated using only deaths in police lockups as the numerators and person/days in custody as the denominators. Deaths in non-institutional forms of police custody (e.g. raids) or in other police operations (e.g. pursuits) are excluded.

DEMOGRAPHIC CHARACTERISTICS

Gender

The majority (73 or 88 per cent) of people who died in custody during the 1993-94 financial year were male. Of the ten women who died, eight were non-Aboriginal people. Three of these individuals died as a result of hanging in prison custody, two died from natural causes, one died from a possible accidental drug overdose in prison, and one was shot by police. The cause of death of another non-Aboriginal woman in prison is not yet known. Both Aboriginal women died from natural causes: one woman died while travelling in the rear of a police van and the other died while in prison.

Age

As in previous years, the people who died in custody during 1993-94 were young. Their ages ranged from 16 to 73 years, with a mean age of 35 years and a median (the point above and below which half of the cases fell) of 32 years. There were no significant age differences between the Aboriginal people who died in custody and the non-Aboriginal people, although the former had a mean age of 31 years compared to the mean age of 35 years of the latter.⁶

TABLE 5
Australian Deaths in Custody, 1993-94
Age Group, Aboriginality and Custodial Authority

| Age group | Police | | | Prison | | | Juvenile | | | 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 | |
| <15 | - | - | - | - | - | - | - | - | - | - | - | - |
| 15-19 | 2 | 2 | 4 | 1 | 2 | 3 | - | 2 | 2 | 3 | 6 | 9 |
| 20-24 | - | 2 | 2 | 2 | 7 | 9 | - | - | - | 2 | 9 | 11 |
| 25-29 | - | 6 | 6 | 1 | 10 | 11 | - | - | - | 1 | 16 | 17 |
| 30-34 | - | 3 | 3 | 5 | 8 | 13 | - | - | - | 5 | 11 | 16 |
| 35-39 | - | 3 | 3 | - | 4 | 4 | - | - | - | - | 7 | 7 |
| 40-44 | 1 | 1 | 2 | - | 2 | 2 | - | - | - | 1 | 3 | 4 |
| 45-49 | - | 3 | 3 | 1 | 3 | 4 | - | - | - | 1 | 6 | 7 |
| 50-54 | - | - | - | - | 4 | 4 | - | - | - | - | 4 | 4 |
| 55-59 | - | - | - | 1 | 1 | 2 | - | - | - | 1 | 1 | 2 |
| 60-64 | - | 1 | 1 | - | - | - | - | - | - | - | 1 | 1 |
| 65+ | - | - | - | - | 5 | 5 | - | - | - | - | 5 | 5 |
| Total | 3 | 21 | 24 | 11 | 46 | 57 | - | 2 | 2 | 14 | 69 | 83 |

Table 5 shows the age distributions of the Indigenous and non-Indigenous people who died in police and prison custody during 1993-94. The age distributions of the people who died in the two different custodial environments are similar. The mean age at death of the people who died in prison custody was not significantly different from the mean age at death of those who died in police custody (36 years compared with 32 years respectively). There was also no significant difference between the mean age at death of Aboriginal people in police custody compared with non-Aboriginal people (25 years compared with 33 years respectively) nor was there a significant difference in prison custody, (32 years for Aboriginal people compared with 37 years for non-Aboriginal people).

⁶ There are differing age distributions of these two groups in the community but not in the custodial populations. Thus, the mean ages at death of Aboriginal and non-Aboriginal people, as we might expect, reflected the age distributions of their respective custodial populations but not their total populations in the community.

Nine of the deaths in custody that occurred during 1993-94 were of people aged 19 years or younger. One was a 19-year-old who died as a result of hanging in prison and another 19-year-old died from gunshot wounds in police custody. Five of the young people who died were 18-year-olds; two died as a result of hanging in prison; two died in police custody (one from natural causes and one from gunshot wounds); and one 18-year-old died in juvenile justice custody as a result of hanging. Two of the nine were 16-year-olds; one died as a result of gunshot wounds received in police custody and one died from hanging in juvenile justice custody.

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 by the coroner, the data presented in this section are based on coroners' findings in just twelve of the 83 cases. Subsequent reports in this series will update this information if coroners' findings on the cause and manner of particular deaths differ from those reported by the custodial authorities. The manner of death for those who died in custody in Australia during 1993-94 is summarised in Table 6.

Hanging was the most frequent manner of death, accounting for 28 (or 35 per cent) of the deaths for which information on the manner of death is available. At the time of writing, the manner of death had not been determined in three cases. Almost half of the prison deaths were by hanging (24 or 44 per cent), as were two of the police custody deaths for which the manner of death is known. The two juvenile detention deaths were also caused by hanging. Natural causes was the next most frequent category, with 23 deaths, the majority of which occurred in prison custody (87 per cent). These categories were followed in frequency by deaths caused by gunshot (14), drug and alcohol-related deaths (9), and deaths from injuries (5); and a drowning following a motor vehicle accident which occurred during a police pursuit.

Of the 23 deaths from natural causes (that is illness), 10 resulted from heart disease, four from respiratory problems, three from cancer, one from complications associated with epilepsy, one from Hepatitis "B" and one from multiple causes. The type of illness resulting in death is undetermined as yet in the three remaining cases.

TABLE 6
Australian Deaths in Custody, 1993-94
Manner of Death, Aboriginality and Custodial Authority

| <i>Manner</i> | <i>Police Non-</i> | | | <i>Prison Non-</i> | | | <i>Juvenile Non-</i> | | | <i>Total Non-</i> | | <i>Grand Total</i> |
|----------------|--------------------|-------------|--------------|--------------------|-------------|--------------|----------------------|-------------|--------------|-------------------|-------------|--------------------|
| | <i>Ab'l</i> | <i>Ab'l</i> | <i>Total</i> | <i>Ab'l</i> | <i>Ab'l</i> | <i>Total</i> | <i>Ab'l</i> | <i>Ab'l</i> | <i>Total</i> | <i>Ab'l</i> | <i>Ab'l</i> | |
| Hanging | - | 2 | 2 | 2 | 22 | 24 | - | 2 | 2 | 2 | 26 | 28 |
| Natural causes | 2 | 1 | 3 | 8 | 12 | 20 | - | - | - | 10 | 13 | 23 |
| Gunshot | 1 | 13 | 14 | - | - | - | - | - | - | 1 | 13 | 14 |
| Injuries | - | 2 | 2 | - | 3 | 3 | - | - | - | - | 5 | 5 |
| Drugs/alcohol | - | 1 | 1 | 1 | 7 | 8 | - | - | - | 1 | 8 | 9 |
| Other | - | 1 | 1 | - | - | - | - | - | - | - | 1 | 1 |
| Not known | - | 1 | 1 | - | 2 | 2 | - | - | - | - | 3 | 3 |
| Total | 3 | 21 | 24 | 11 | 46 | 57 | - | 2 | 2 | 14 | 69 | 83 |

Most Aboriginal deaths in custody were due to natural causes. It is noteworthy that seven of the 10 who died from heart disease were Aboriginal people, and six of these seven deaths occurred in prison custody. Heart disease accounted for half of the total number of Aboriginal deaths in custody.

Finally, it is noted that 34 (or 43 per cent) of the deaths for which information on the manner of death is available were self-inflicted. The majority of these deaths (28) were by hanging, as discussed above. In terms of custodial authority, eight of the self-inflicted deaths occurred in police custody, 24 occurred in prison, and two occurred in juvenile justice custody. The eight self-inflicted police custody deaths comprised five by gunshot, two by hanging, and one from a drug overdose that was regarded by the police authorities concerned to have been non-accidental. All of the 24 self-inflicted prison custody deaths were hangings. In relation to Aboriginality, 32 of the 34 self-inflicted custodial deaths were of non-Indigenous people. Two Aboriginal people died in prison custody by means of self-inflicted hanging.

TABLE 7
Australian Deaths in Custody, 1993-94
Most Serious Offence Leading to Custody, Aboriginality and Custodial Authority

| Offence | Police | | | Prison | | | Juvenile | | | 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 | |
| Homicide | - | 1 | 1 | 2 | 9 | 11 | - | - | - | 2 | 10 | 12 |
| Assault | 1 | 7 | 8 | 3 | 2 | 5 | - | - | - | 4 | 9 | 13 |
| Sex offences | - | 1 | 1 | 1 | 8 | 9 | - | - | - | 1 | 9 | 10 |
| Robbery | - | 3 | 3 | - | 7 | 7 | - | - | - | - | 10 | 10 |
| Other offences | | | | | | | | | | | | |
| against the person | - | 1 | 1 | - | - | - | - | - | - | - | 1 | 1 |
| Break, enter & steal | - | 2 | 2 | 4 | 7 | 11 | - | 1 | 1 | 4 | 10 | 14 |
| Fraud | - | 1 | 1 | 1 | 1 | 2 | - | - | - | 1 | 2 | 3 |
| Motor vehicle theft | - | - | - | - | - | - | - | 1 | 1 | - | 1 | 1 |
| Other theft | - | 1 | 1 | - | 2 | 2 | - | - | - | - | 3 | 3 |
| Property damage | - | - | - | - | 1 | 1 | - | - | - | - | 1 | 1 |
| Justice procedures | - | - | - | - | 3 | 3 | - | - | - | - | 3 | 3 |
| Drunkenness | - | 1 | 1 | - | - | - | - | - | - | - | 1 | 1 |
| Other against good order | 1 | - | 1 | - | 2 | 2 | - | - | - | 1 | 2 | 3 |
| Deal or traffic in drugs | - | - | - | - | 2 | 2 | - | - | - | - | 2 | 2 |
| Other traffic offences | - | 1 | 1 | - | 2 | 2 | - | - | - | - | 3 | 3 |
| No offence involved ^(a) | 1 | 2 | 3 | - | - | - | - | - | - | 1 | 2 | 3 |
| Total | 3 | 21 | 24 | 11 | 46 | 57 | - | 2 | 2 | 14 | 69 | 83 |

(a) Includes protective custody and mental health legislation cases.

CUSTODY

This section provides information on the custodial status of people who died in custody in Australia during the 1993-94 financial year. 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 reasons for people being held in police custody rather than released on bail are 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 7 it will be observed that the highest number of custodial deaths occurred among people who were in custody associated with the offence of break, enter and steal. Fourteen (17 per cent) of the 83 deaths were in this category: two occurred in police custody; 11 in prison; and one of these deaths occurred in juvenile justice custody. After break, enter and steal, the most common offence type was assault, with 13 deaths (16 per cent), followed by homicide with 12 deaths (14 per cent). Overall, the five most serious categories of offences, namely homicide, assault, sex offences, robbery and other offences against the person, accounted for 55 per cent (46) of the cases. (All but seven of these were non-Aboriginal cases.) As expected, most of the people held in relation to such serious offences were in prison (32). Also, many of the deaths (15) of people in custody for these serious offences were self-inflicted.

A total of 21 (or 25 per cent) of the people who died in custody during 1993-94 were detained for the property offences of break, enter and steal, fraud, motor vehicle theft and other theft. Two deaths occurred of people held in relation to drug offences and three occurred of people who were in custody due to offences against justice procedures (namely, failing to appear on a bail undertaking, contravening a domestic violence order and breach of parole). Three further deaths occurred among people who were held for offences against good order other than drunkenness, while three were detained for traffic offences, one was held for property damage and one was being held on a charge of drunkenness in the State of Queensland where this is still an offence. In three cases, the individuals concerned were detained although they had not committed any crime. One of these was being held by police in protective custody for drunkenness in the Northern Territory, where drunkenness is no longer an offence; the other two were being detained under mental health legislation. One of these two people shot himself in a seige in New South Wales while police were seeking to apprehend him. The other died from a self-inflicted drug overdose while being transported to hospital in the rear of a police van in South Australia.

Legal Status

TABLE 8
Australian Deaths in Custody, 1993-94
Legal Status, Aboriginality and Custodial Authority

| Legal status | Police | | | Prison | | | Juvenile | | | 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 | |
| Sentenced ^(a) | - | - | - | 8 | 30 | 38 | - | - | - | 8 | 30 | 38 |
| Remand ^(b) | - | 5 | 5 | 3 | 16 | 19 | - | 2 | 2 | 3 | 23 | 26 |
| Escorting | - | 1 | 1 | - | - | - | - | - | - | - | 1 | 1 |
| Protective custody ^(c) | 1 | - | 1 | - | - | - | - | - | - | 1 | - | 1 |
| Other ^(d) | 2 | 15 | 17 | - | - | - | - | - | - | 2 | 15 | 17 |
| Total | 3 | 21 | 24 | 11 | 46 | 57 | - | 2 | 2 | 14 | 69 | 83 |

(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) "Other" includes held for questioning and those who died while police were attempting to detain them.

Table 8 shows the legal status of the people who died in custody during 1993-94. It will be observed that a substantial number of the cases (38 or 46 per cent) had been sentenced to a period of imprisonment at the time of their death: all were held in prison. Another 26 people (or 31 per cent) were on remand at the time of their death: 24 of these people were unconvicted, being held in custody awaiting trial and two were convicted awaiting sentence. The 17 deaths in the legal status category "other" (two of whom were Aboriginal) comprised those who died during the process of police attempting to detain them and those who were being held for questioning.

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). During 1993-94, 19 (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, as at 30 June 1992 (the most recent Prison Census for which data have been published), 12 per cent of the prison population was held on remand (Walker 1993). This produces a measure of relative risk (an odds ratio) of 3.7. In other words, the proportion of deaths among remand prisoners was more than three-and-a-half times what one would expect from their proportion in the prison population.

Bail

Of the 24 deaths in police custody during 1993-94, there were only five cases where it would have been possible for police officers to have considered releasing the person on bail. Bail was not applicable in the other cases. They covered a variety of circumstances, such as people in custody who were already on bail at the time of the offence or likely to reoffend, or who were intoxicated and were in the process of being taken by police to a sobering-up shelter.

In two of the five cases where bail could have been considered, the police did not have power to release the people on bail as they were in police custody by order of a court: in one of these two cases bail had been revoked by a judge, and in the other the person had pleaded guilty to charges of deception and was also in breach of parole. A range of reasons for not granting bail in the other three cases were specified. One person was already on bail for a previous offence when arrested. Another detainee was reported by police to have been too intoxicated to be released. He subsequently died from head injuries suffered prior to being detained. This death occurred in Queensland where public drunkenness remains an offence. In the fifth case, determination of bail was incomplete when the person took his own life through hanging.

TRENDS 1980 TO 30 JUNE 1994

TABLE 9(a)
Australian Deaths in Custody, 1980-1993
Year of Death, Custodial Authority and Aboriginality,
Institutional Settings Only

| Year | Police | | | Prison | | | Juvenile Detention ^(b) | | | 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 | 1 | 17 | 18 | 6 | 27 | 33 | - | 1 | 1 | 7 | 45 | 52 |
| 1991 | 3 | 12 | 15 | 8 | 31 | 39 | - | - | - | 11 | 43 | 54 |
| 1992 | 4 | 9 | 13 | 2 | 32 | 34 | - | - | - | 6 | 41 | 47 |
| 1993 | 2 | 7 | 9 | 6 | 43 | 49 | - | 1 | 1 | 8 | 51 | 59 |
| Total | 77 | 181 | 258 | 60 | 418 | 478 | 3 | 6 | 9 | 140 | 605 | 745 |

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

(b) Deaths in police lockups or juvenile detention centres, during transfer to or from them or in medical facilities following transfer from detention facilities.

This section presents information on the trends in custodial deaths during the period 1 January 1980 to 30 June 1994. 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 directly from the custodial authorities.⁷ 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.

Table 9 sets out details on the number of custodial deaths reported for each calendar year from 1980 to 1993, using a consistent definition of a "death in custody" throughout. Table 10 shows the number of deaths in custody reported for each financial year from 1980-81 to 1993-94. Since this report covers the financial year to 30 June 1994, the following discussion focuses on financial years. Calendar year information will be updated in the next monitoring report in this series.

These tables and figures show the number of prison custody deaths over the full period 1980 to June 1994. In the case of police and juvenile justice custody deaths they cover only deaths in detention facilities (e.g. police lockups and juvenile detention centres) and deaths which occurred while people were being transported to or from such facilities, or in hospitals etc. following transfer from lockups and other detention facilities.

The tables and figures do not include deaths in police operations such as attempting to detain a person, even though such deaths have fallen within the definition of a "death in custody" with effect from 1990. Omitting these deaths enables direct and accurate comparisons to be made between years over the full period 1980 to 1994. Trends in deaths in police operations in non-institutional community settings are discussed below.

It will be noted that the number of deaths each year was relatively low in the period 1980 to 1985-86. The substantial increase in Aboriginal deaths in 1986-87 (which was accompanied by an increase of similar magnitude in non-Aboriginal deaths) was a key factor in precipitating the appointment of the Royal Commission into Aboriginal Deaths in Custody. Following this extreme year, the number of custodial deaths remained high relative to pre-1987 figures, for three years, with an average of 68 deaths per year. The number dropped to 50 the following year (1990-91) and remained relatively low (at levels similar to the early 1980s) until the year under review. Sixty-six deaths occurred in institutional settings (prisons, police lockups, etc.) during 1993-94, a 29 per cent increase on the number reported for the previous year (51).

⁷ While the data set from which these figures were derived contains all the cases reported to the Royal Commission's Criminology Unit, it is possible that it is not a *complete* list of all 1980 to 1989 deaths in custody. Thus, the figures presented here may slightly underestimate the number of deaths to have occurred during that period.

TABLE 10(a)

Australian Deaths in Custody 1980-81 to 1993-94
Year of Death, Custodial Authority and Aboriginality
Institutional Settings 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 | |
| 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 | 5 | 14 | 19 | 9 | 44 | 53 | - | 1 | 1 | 14 | 59 | 73 |
| 1990-91 | 2 | 12 | 14 | 5 | 30 | 35 | - | 1 | 1 | 7 | 43 | 50 |
| 1991-92 | 5 | 10 | 15 | 4 | 27 | 31 | - | - | - | 9 | 37 | 46 |
| 1992-93 | 1 | 9 | 10 | 4 | 37 | 41 | - | - | - | 5 | 46 | 51 |
| 1993-94 | 2 | 5 | 7 | 11 | 46 | 57 | - | 2 | 2 | 13 | 53 | 66 |
| Total | 76 | 179 | 255 | 64 | 430 | 494 | 2 | 7 | 9 | 142 | 616 | 758 |

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

TABLE 11(A)

Australian Deaths in Custody 1990-91 to 1993-94
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 | 30 | 35 | - | 1 | 1 | 8 | 51 | 59 |
| 1991-92 | 7 | 21 | 28 | 4 | 28 | 32 | - | - | - | 11 | 49 | 60 |
| 1992-93 | 2 | 31 | 33 | 4 | 38 | 42 | - | - | - | 6 | 69 | 75 |
| 1993-94 | 3 | 21 | 24 | 11 | 46 | 57 | - | 2 | 2 | 14 | 69 | 83 |

TABLE 11(B)

Australian Deaths in Custody 1990-91 to 1993-94
Aboriginality and Custodial Authority
Deaths in institutional settings only (a)

| 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 | 12 | 14 | 5 | 30 | 35 | - | 1 | 1 | 7 | 43 | 50 |
| 1991-92 | 5 | 10 | 15 | 4 | 27 | 31 | - | - | - | 9 | 37 | 46 |
| 1992-93 | 1 | 9 | 10 | 4 | 37 | 41 | - | - | - | 5 | 46 | 51 |
| 1993-94 | 2 | 5 | 7 | 11 | 46 | 57 | - | 2 | 2 | 13 | 53 | 66 |

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

TABLE 11(C)

Australian Deaths in Custody 1990-91 to 1993-94
Aboriginality and Custodial Authority
Deaths in non-institutional settings only (b)

| 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 | 1 | 8 | 9 | - | - | - | - | - | - | 1 | 8 | 9 |
| 1991-92 | 2 | 11 | 13 | - | 1 | 1 | - | - | - | 2 | 12 | 14 |
| 1992-93 | 1 | 22 | 23 | - | 1 | 1 | - | - | - | 1 | 23 | 24 |
| 1993-94 | 1 | 16 | 17 | - | - | - | - | - | - | 1 | 16 | 17 |

(b) Deaths other than those in police lockups, prisons, juvenile detention centres, or during transfer to or from such institutions and in hospitals following transfer from such facilities (e.g. in a community setting while police or prison authorities were attempting to detain a person).

Table 11(A) shows the deaths that occurred in *all custodial circumstances* from 1990-91 to 1993-94. 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 community settings, such as police seizures, shootings and pursuits. It will be observed from this table that the 83 deaths which were reported for the year covered by this report is an 11 per cent increase on the previous financial year when 75 custodial deaths occurred.⁸ The number of Aboriginal people who died in all forms of custody over the last financial year (14) is more than twice the number for the 1992-93 financial year (6). The number of non-Aboriginal people who died in custody remained the same during this time (69 in both 1992-93 and 1993-94).

Table 11(B) provides information on custodial deaths that occurred in *institutions only* (police lockups, prisons, juvenile detention centres, or during transfer to or from such institutions and in hospitals following transfer from such facilities) for the financial years from 1990-91 to 1993-94. Thus, this table incorporates only those cases that would have been covered by the earlier definition of a "death in custody". As observed above, this table shows an increase of 29 per cent in the number of deaths reported in 1993-94 (66) over the number of deaths reported for 1992-93 (51). The greatest numerical increase occurred in non-Aboriginal deaths in prison custody, an increase from 37 in 1992-93 to 46 in the following financial year. The greatest percentage increase, however, occurred among Aboriginal people in prison custody. These deaths almost tripled in number, from four to 11. During this time, the overall number of deaths in or on transfer to or from police lockups has actually declined from 10 in 1992-93 to seven in 1993-94. The number of deaths of Aboriginal people reported as occurring in institutional police custody during the 1993-94 year (2) was twice the number for the preceding financial year (1), which was the lowest number for the period 1990-91 to 1993-94. The two Aboriginal deaths occurred in police vans. No Aboriginal people died in police lockups during 1993-94. The number of non-Aboriginal deaths in police lockups over the same period has steadily declined.

Table 11(C) provides information on custodial deaths that occurred in *non-institutional settings* (places *other than* police lockups, prisons, juvenile detention centres, not during transfer to or from such institutions nor in hospitals following transfer from such facilities) from 1990-91 to 1993-94. Thus, this table incorporates those cases that have been included in the definition of a "death in custody" since the post-Royal Commission definition came into effect from 1990 but not prior to that year. Most of these deaths occurred in pursuits, raids, seizures and police shootings. This table shows a large *decrease* of 29 per cent between the 24 deaths reported in 1992-93 and the 17 deaths reported in 1993-94. The decrease occurred almost entirely among non-Aboriginal people who died in police operations in community settings.

⁸ It should be noted that a further four deaths were known to have occurred in 1993-94 which are believed to fall within the definition of a "death in custody" as described at the beginning of this report. However, as the Australian Institute of Criminology has not received the relevant information on these deaths at the time of writing, it is not possible to include them in this report.

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 9 May 1991, the date on which the Royal Commission's final *National Report* was tabled. Between that date and 30 June 1994, 34 Aboriginal people and 193 non-Aboriginal people, a total of 227, are reported to have died in police and prison custody and juvenile justice custody in Australia. This represents an average of 10.8 Aboriginal deaths each year since the date of tabling.

This average of 10.8 Aboriginal deaths per annum covers deaths in all forms of custody for the period since the tabling of the *Report*, including both deaths in institutional settings and in the community (for example, where police and others were attempting to take a person into custody). As previously discussed, the definition of a "death in custody" has been modified since 1990, compared with the definition employed by the Royal Commission (1980-1989). For the purposes of making comparisons with figures for the period of time covered by the Royal Commission's investigations, the figure relating to the period of the Royal Commission needs to be compared with the figures for subsequent years which cover institutional deaths only. The average number of Aboriginal deaths each year for the period covered by the Royal Commission was 10.5, whereas the average annual number of Aboriginal deaths in institutional settings since the tabling of the Royal Commission Report in 1991 was 9.5.

It is also notable that, since 31 May 1989, the cut-off date for the deaths investigated by the Royal Commission, 59 Aboriginal and 304 non-Aboriginal custodial deaths have been reported throughout Australia. With regard to Aboriginal people, this is an average of 11.6 deaths annually. These figures cover deaths in both institutional and community settings as recommended by the Royal Commission.

It is important to note that the total number of Indigenous and non-Indigenous people who died in prison custody during 1993-94 is the highest figure recorded in Australia since data were first collected in 1980-81. This would appear to suggest that key recommendations of the Royal Commission are either not being fully implemented or, when they are, are not operating effectively. 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 and to evaluate their effects on the frequency of Aboriginal and non-Aboriginal people alike who die while in custody.

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