
Biles, D and McDonald, D (eds), *Deaths in Custody Australia, 1980–1989*, Australian Institute of Criminology, Canberra (1992).

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DEATHS IN CUSTODY REVISITED

The Australian Institute of Criminology (AIC) has recently released two publications dealing with the issue of deaths in custody. *Deaths in Custody in Australia, 1980–1989* is a compilation of the 22 research papers prepared by the criminological research unit within the Royal Commission into Aboriginal Deaths in Custody. Much of the information prepared in those papers found its way into the various volumes of the Royal Commission’s final report. However the current publication is no doubt useful for anyone requiring access to some of the specific empirical information on a range of related subjects. The research papers deal with a variety of topics including cell design; alcohol consumption and its effects on behaviour; drug testing; public drunkenness legislation; imprisonment rates; and the use of non-custodial corrections.

From my perspective, the more interesting research papers deal with previously uncharted waters. The results of the police custody survey is particularly important as it provides the first detailed and national picture of who goes into police cells. Similarly the report dealing with persons received into prison during April 1989 allows a consideration of the difference between stock and flow data on imprisonment. From prison census figures at the time, on average Aboriginal people made up 13.8 per cent of prisoners. However the consideration of prison receptions over a monthly period showed that Aboriginal over-representation was considerably greater at 20.4 per cent. Another paper considers international comparisons in the rate of deaths in custody. The Australian rate of death in prison was shown to be twice as high as the rate in England and Wales.

The publication “Australian Deaths in Custody 1990 & 1991” is edited by David McDonald and is the first research paper in a series entitled *Deaths in Custody Australia* published by the AIC. David McDonald is the head of the Deaths in Custody Monitoring and Research Program. This unit within the AIC was established as a result of recommendations from the Royal Commission into Aboriginal Deaths in Custody. It has the responsibility of compiling statistical information on the incidence of deaths in custody. It is to be hoped that the Royal Commission recommendation will be interpreted broadly enough to include a strongly analytical bias rather than simply statistical reporting. The promise that future research reports may concentrate on particular issues such as juveniles and gender have raised expectations that analysis will be a key concern.

The first research report indicates that during 1990 and 1991 there have been 114 deaths in custody. Aboriginal people comprised 19 of the 114 deaths which occurred in custody. The majority of the deaths were in prison. In relation to Aboriginal deaths in custody, the change in location of death has been from two thirds occurring in police

custody during the period 1980–1989 to around a quarter in police custody in 1990 and 1991. The report notes that the number of deaths in custody has not fallen since the Royal Commission, and indeed “the trend is generally upward”.

The Monitoring Unit has applied the broad definition of a death in custody as set out in recommendation 41 of the Royal Commission. Such a definition includes deaths which occur “in the process of police or prison officers attempting to detain” persons. The use of such a definition of a death in custody will include, for example, individuals who have been killed in stolen vehicles during police pursuits. The report draws particular attention to New South Wales which had the highest number of custodial deaths during 1990 and 1991. Some 34 individuals died in custody in that State. This figure comprised 30 per cent of the national number. The majority (28) of deaths in New South Wales were in prison custody.

The report notes that when compared to the general Australian population, an Aboriginal person is 16.6 times more likely to die in custody than a non-Aboriginal person. In analysing the death rates specifically within prison, the report notes that the relative risk of custodial death is higher for Aboriginal prisoners. In other words, *once in prison custody*, an Aboriginal prisoner is 1.5 times more likely to die than a non-Aboriginal prisoner. Although only based on two years of current data, this would appear to overturn one of the basic thrusts of the Royal Commission’s findings that Aboriginal people, once they were in custody, were no more likely to die in custody than non-Aboriginal people. Some 44 per cent of deaths were defined as “self-inflicted”. Of this group, hanging accounted for 80 per cent of deaths. In the specific case of remandees, self-inflicted deaths were the most common.

The report discusses the issues of remand and bail. It shows that remandees compared to sentenced prisoners are over-represented in deaths in custody. During 1990 and 1991 some 31 per cent of prison deaths were people on remand. In comparison the remand population during the period was on average 17 per cent of the total prison population. The data in the report emphasises the need for prevention programs aimed at this particular group. In relation to bail it is noted that in 18 of the 44 deaths in police custody, it would have been possible to release the person on bail.

One acknowledged shortcoming of the first research report is its failure to deal with juvenile deaths in custody other than those which occurred in police or prison custody. It is expected that later reports will consider the question of juvenile deaths in juvenile institutions. Assuming the reports remain timely, the series will provide a useful tool in monitoring any impact that the implementation of the Royal Commission’s recommendations have had on the incidence of both Aboriginal and non-Aboriginal deaths in custody.

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