

# Indigenous or aboriginal deaths in custody in australia



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This paper is focused on indigenous or aboriginal deaths in custody in Australia. This problem is not only in Australia but it is a widespread occurrence since there is overrepresentation of Aboriginal in the justice systems especially the criminal justice systems. The indigenous people are the most marginalized across the world especially when one looks at social, health economic and educational conditions that they are put in. This is why the indigenous people are always criminalized and this can be justified by examples from countries such as United States of America, New Zealand and Canada (Sallybanks, 2005). In Canada aboriginal comprise of just 3% of the whole population but they have the majority criminals in custody since they are seventeen percent of the inmates in the federal prisons. In some penitentiaries in Canada the Aboriginal make up to 60% of the inmates. In a province such as Saskatchewan Aboriginal are incarcerated thirty five more times than the population which is the mainstream.

This paper discusses the criminal justice system in Australia and how there is indigenous overrepresentation in the same system. Furthermore, the paper looks into the findings which have been done by researchers on the indigenous deaths which happen when they are incarcerated in the context of Royal Commission which was done on the Aboriginal deaths in custody (Joudo & Curnow, 2007). Using other articles and research materials, the paper takes into account then deaths of prisoners in prisons and police custodies, which indicate some of the issues which relate to Aboriginal reaction to the system of criminal justice, more particularly in exercise of appropriate duty of care and more specifically in the reduction of the criminalization of the Aboriginal societies and communities.

## **Discussion**

The discussion on indigenous deaths in custody cannot be complete if one does not discuss about the work of the royal Commission which was incorporated to find out the causes of Aboriginal deaths in custody in Australia. This commission was established in 1987 and its findings were presented four years later to the federal parliament. This commission was generated by some organizations which were in support of the indigenous communities in Australia. The organizations included Aboriginal legal service, which was meant to defend the family members of those who had died during their time in prison and also their supporters (Australian Bureau of Statistics, 1996). In the early 1980s there were many deaths which occurred to people who were in prisons and police custody, and this caused serious alarm in all communities especially the Aboriginal society in the country.

The overrepresentation of the Aboriginal people in custody was one of the major causes of deaths in custody according to the report presented by the Royal Commission. However, there was negligence of duty to the part of the authorities thus leading to deaths of the Aboriginal population. The committee found out that the custodial authorities had no understanding of duty of care; there were other defects to the system which were related to care that led to such deaths. Furthermore, there were other failures which related to the exercise of care. In some instances the lack to provide care directly to the inmates also contributed to the deaths of the Aboriginal people in custody. In his findings on New South Wales a commissioner by the name McCall (2004) concluded that,

“ Every one of the (18) deaths was potentially avoidable and in a more enlightened and efficient system ... might not have occurred. Many of those who died should not or need not have been in custody at all.” He found that “ negligence, lack of care, and/or breach of instructions on the part of custodial authorities were found to have played an important role in the circumstances leading to 13 of the 18 deaths investigated” (pg63).

The position of the indigenous people which is disadvantaged one and also unequal has contributed to the difficulty in bringing these people to contact with the criminal justice system. The commission found that in order to do away with these disadvantages and inequality is only through self-determination, empowerment and reconciliation of the indigenous people (Williams, 2001). Through the commissions' findings, it was noted that the Aboriginality of the person was also an important factor and in some specific cases the dominant person in Aboriginality lead to the eventual death in custody and also the placement of the person. In almost 50% of the cases which had been reported the victim had been separated from his/her family since childhood and such a percentage also had been in custody since the age 15 years. It was also noted that over eighty percent of these cases the victims were unemployed. Generally the dead people were reported to have had early contact with the criminal justice system or had repeated cases in the system. The history of the Aboriginal people is also a factor that contributes to the death in custody. This factor was also highlighted in the article by Dalton (1996b) where he says that,

“ The history of Aboriginal relations with the broader community has impacted upon Aboriginal people in many ways. Collectively, Aboriginal  
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people have been denied access to the social and economic power, which is essential to effective participation in mainstream society. The dislocation of Aboriginal people from their land and culture, and the intrusion of Western society into Aboriginal life have rendered many Aboriginal forms of social control ineffective. The dependence, which characterized the confined and controlled way in which most Aboriginal people lived for much of recent history, has left people poorly equipped to deal with the many social problems they experience" (pg 45).

There were e 339 recommendations which were made by the Royal Commission in order to achieve some objectives in reducing the custody levels, assuring self determination and remedying disadvantages which are associated to social life. There have been commitments in all subsequent governments in Australia in achieving and implementing these recommendations. There were also recommendations which were designed to reduce custody deaths m, which included the complete removal of hanging places from cells, increase of training to the judiciary and police in cross culture societies and increase of awareness to the medical and custodial staff in issues concerning the proper handling of indigenous and no-indigenous people who have been incarcerated (Joudo & Veld, 2005).

## **Manner of Death in Custody**

The findings of the manner of death are similar to the causes of death. The manner of death is in many types, it can be self inflicted, justifiable homicide, and natural causes, accidental or unlawful homicide. In the self inflicted death, this is considered to be any form of self harm that may lead to death other than natural death. For instance gunshot wounds which are <https://assignbuster.com/indigenous-or-aboriginal-deaths-in-custody-in-australia/>

self inflicted and most hangings are considered to be self inflicted deaths. There are circumstances that lead to deaths and are authorized by law such deaths are called justifiable homicide e. g. a prisoner shot by a warden who is acting in self-defence.

## **Strategies for Managing Deaths in Custody**

### Response

For any program of intervention appropriate and timely intervention is important to save lives. For one to have effective intervention it is important to treat every aspect of the accident or incident of self harm with the seriousness it deserves and not looking at the behavior as that which is manipulative. In some jurisdictions it is crucial to provide prisoners with proper access of experienced and knowledgeable counseling staff for a quick response. Prisons in Australia have started some of these programs such as the mobilization of teams which are in charge of multi-discipline (Bhatia & Anderson, 1995). There has been a recent procedure in New South Wales where there is deployment of Risk Intervention Team (RIT). In case an incident is reported, a record is made on the inmates case file and individual file, while also a completion of the notification is made to the RIT. In the RIT form there are three categories of risks which are identified, suicide threat, definite risk of suicide and a definite self harm. The team comprises of several members who include a nurse, custodial officer and two other members of the team.

It is a requirement by the Department of Correction in New South Wales, that all occurrences of suicide be investigated and concluded. In such

circumstances, several treatment alternatives are suggested for instance, access to visitors by inmates, special placements, special dormitories or cells and counseling. Prisoners in Australia who are categorized as high risk factors in terms of self harm risk being placed under the watch of crisis care units (Dalton, 1999a). The existence of these units is in areas such as Queensland, Victorian, New South Wales and prison systems in Western Australia.

### Accommodation

In order to manage inmates who are at risk various accommodation strategies have been put in place in Australian prisons. Prisoners are more likely to commit self harm or suicide when they are alone in cell; this has made many correction centers and prisons to come up with shared cells and dormitories in order to avert these risks (Pedersen & Walker, 2000).

In a report compiled from Northern Territory, the findings are that there are positive results in dormitory accommodation, since distress in Aboriginal inmates has declined drastically. In the recent past the method of accommodating inmates who are suicidal in strip cells has been criticized. But in most extreme suicidal risks the use of strip cells, where an inmate is dispossessed all his/her clothing in order to reduce the chances of suicide, is being used in Tasmania. The policy in New South Wales says that not inmate shall be stripped naked and put in a cell alone. If the inmate is in extreme suicidal risk, then he shall remain fully clothed but at 24 hour surveillance by cameras and a guard. A number of cells in Australia for example Australian

Capital Territory, Western Australia cells and Northern Territory, have used cameras to monitor inmates (Biles & Dalton, 2001).

A report that was released by the criminology unit of the Royal Commission into Aboriginal Deaths in Custody (RCIADIC), recommends that all Australian prisons should provide cells which are safe for prisoners who risk to commit suicide or who are a threat to themselves. Through the creation of such cells, hanging points would be eliminated for instance rails, bars and light fittings. Safe cells would also increase surveillance of the prisoners thus making it easy to monitor them (Day and Davison 2004).

### Supports

This is another crucial prevention strategy. This strategy includes regular counseling and continuous assessment of prisoners by members of medical teams which are situated in prisons, such teams comprise of the following members; social workers, psychologists, psychiatrists and psychiatric nurses. Peer support programs are also other means which can be used in prisons to combat self harm or suicide. Such programs involve prisoners being taught important skills in peer support and they have been observed to be essential in combating deaths in custody and also monitoring distressed inmates which occurs during reception of inmates (Chen et al. 2005). A prison such as Mount Gambier which is in Southern Australia has such a program where inmates are on duty 24 hours to support fellow inmates. This program has been enhanced through regular committee meetings between peer members and the prison administration.



Support schemes which involve prisoners have been put in place especially those targeted to Aboriginal inmates and the programs include visit schemes for the Aboriginals, prisoner support services for the Aboriginals and staff who are psychologists basically inclined to the Aboriginal inmates' welfare. Various jurisdictions in Australia have emphasized on the significance of prisoners support visit programs. There has also been an attempt to increase the contact between visitors and the correction staff . This is aimed at increasing communication between prisoners so as the prisoners can effectively communicate their risks and needs and also to seek better services from the staff (Joudo, 2006b).

## Management

This concept of managing prisons has been there for many years. In a number of jurisdictions, they are viewed as vital in monitoring of inmates for indications of difficulty and anguish. In prisons such as New South Wales, individual's management plans are developed and they are continuously assessed by a management team which is established by the administration for discipline measures. Such a program is designed to increase cooperation and interaction between the inmates and the prison staff. In the Victorian model of managing inmates, the prisons are segmented in to small sections or units which are easily manageable (Atkinson & Dagger, 1996). Members of staff are allocated in each unit daily to overlook and monitor the inmates in such units on a permanent basis. There is greater interaction between members of staff and inmates in such units thus reducing tension and distress among prisoners.

In case of a transfer of any inmate in prisons such as New South Wales, the prisoner is accompanied with his/her case management files so as to improve the services. There has been an agreement between various departments in Australia for example Correction Department, Federal police and ACT Youth Justice which has formalized the exchange of important information about an inmate for proper monitoring. Exchange of information about inmates and proper communication within various correctional institutions is recommended in Australia. The new model of suicide prevention in Western Australia has emphasized communication and responsibility of various correctional departments in order to reduce deaths in custody (Collins & Mouzos, 2001). Drills in suicide prevention and training are part and parcel of the newly formed suicide prevention strategy.

### Prison Environment

Within the new frame work of suicide prevention the Department of justice in the Western Australian Correctional centers, has made its priority to reduce prison stressors. The following measures have been proposed by the department:

The extension of programs in peer support and to increase the roles of fellow prisoners in reducing custody deaths,

To increase prisoners recreational activities such as provision of facilities such as radio and television the remanded prisoners and those who are at risk of committing suicide ad,

Reducing overcrowding in prisons through improving the prison facilities.

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The new system in Australian prisons has been put in place to stabilize punishment standards in all prisons and also to put in place new systems for adjudicating grievances and monitoring prisoners' punishments (Joudo, 2006a). There is also an emphasis on programs which involve induction in order to ease a transition of prisoners into prison environment.

## **Conclusion**

Education is an important factor in life and it is one of the social determinants. Education also links other factors of life such as proper housing, unemployment, poverty and access to health care. Therefore, it is important for the federal government of Australia to educate the Aboriginal community in order to reduce their population in prisons. Indigenous people are marginalized thus making them lead a criminal life in such for better services (Commonwealth of Australia, 2002). The federal government should put more emphasis in implementing the recommendations of the Royal Commission in order to reduce deaths of Aboriginal people in custody. There is also need for improvement in the federal police since some of the inmates die in police custody due to harassment and other factors. Finally in order to eradicate deaths in prisons, the prison facilities should be improved as has been discussed in the paper.