



Royal Commission into Aboriginal Deaths in Custody Recommendation

41. National monitoring of deaths in custody

*That statistics and other information on Aboriginal and non-Aboriginal deaths in prison, police custody and juvenile detention centres, and related matters, be monitored nationally on an ongoing basis. I suggest that responsibility for this be established within the Australian Institute of Criminology and that all custodial agencies co-operate with the Institute to enable it to carry out the responsibility. The responsibility should include at least the following functions:*

- a) Maintain a statistical data base relating to deaths in custody of Aboriginal and non-Aboriginal persons (distinguishing Aboriginal people from Torres Strait Islanders).*
- b) Report annually to the Commonwealth Parliament; and*
- c) Negotiate with all custodial agencies with a view to formulating a nationally agreed standard form of statistical input and a standard definition of deaths in custody. Such definition 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.<sup>1</sup>*

Background <sup>2</sup>	The Royal Commission into Aboriginal Deaths in Custody (RCIADIC) found that national data collection and reporting were critically important in identifying systemic failures in custodial practices that could be addressed to prevent further deaths in similar circumstances. The Commission emphasised the importance of, and urgent need to collect and maintain accurate information about deaths in custody that distinguished Aboriginal people from Torres Strait Islanders and non-Aboriginal people. Publicly available, accurate information was essential for transparency and accountability of custodial agencies and governments.
Intent	Maintain a database of deaths in custody based on a standard definition of deaths in custody and standard statistical input, with annual reports to the Commonwealth Parliament.
Responsibility	The Commonwealth Government and all state and territory governments.

<sup>1</sup> Royal Commission into Aboriginal Deaths in Custody (Final Report, 1991) 613 ('RCIADIC').

<sup>2</sup> Ibid vol 1, 187-9.

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### Key contacts

Australian Institute of Criminology (AIC); Corrections Victoria, Justice Assurance and Review Office, National Coronial Information System (NCIS), Youth Justice, Department of Justice and Community Safety; Victoria Police

### Key action taken

#### 2005 Review<sup>3</sup>

Recommendation 41 was assessed by Victoria Police, the Department of Human Services and the Department of Justice as **fully implemented** with part b) of the recommendation deemed the sole responsibility of the Commonwealth Government.

#### Victoria Police

Victoria Police advised that it maintained data relating to deaths in custody, and the statistical input definitions aligned with those outlined in this recommendation.

#### Department of Human Services

Child Protection and Juvenile Justice advised that their database, the Juvenile Justice Client Information System, identified young people on custodial and non-custodial supervised dispositions and distinguished Aboriginal young people from Torres Strait Islander young people. At the time of the review, the Department of Human Services were developing an integrated information system across Child Protection, Juvenile Justice, Specialist Children's Services and Disability Services with the aim of enhancing case management within and across these programs. The Juvenile Justice Branch also contributed information to the AIC Deaths in Custody Unit.

#### Department of Justice

Corrections Victoria advised that it provided information to the AIC on all deaths that occurred in Victorian prisons. This included identifying the death as relating to an Aboriginal or Torres Strait Islander person where relevant. Corrections Victoria reported to the AIC according to the established proforma and the definition of deaths in custody as established by the AIC in accordance with the RCIADIC.

#### 2018 Review<sup>4</sup>

#### Commonwealth Government

Deloitte concluded that the Commonwealth Government had **mostly implemented** Recommendation 41 through the work of the AIC. However, annual reporting to the Parliament had ceased and there was no clear indication of monitoring by the Parliament.

As part of the initial response in 1992, the National Deaths in Custody Program (NDICP) started to collect and disseminate data on all deaths that occurred in the custody of police, correctional, and youth justice services – including trends observed in those deaths. Five annual reports were tabled for Commonwealth Parliament. Following the 1996-97 Annual Report, no further reports were tabled for Parliament.

<sup>3</sup> Aboriginal Justice Forum (Vic), Department of Justice (Vic), *Victorian Implementation Review of the Recommendations from the Royal Commission into Aboriginal Deaths in Custody* (Review Report, October 2005) 462 ('2005 Review').

<sup>4</sup> Deloitte Access Economics, Department of Prime Minister and Cabinet, *Review of the Implementation of the Recommendations of the Royal Commission into Aboriginal Deaths in Custody* (Report, August 2018) 88-90 ('2018 Review').

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The AIC and police services agreed to monitor and report on deaths in custody. The Consensus Statement, reached in 1994, supported a collaborative approach to ensure Recommendation 41 was implemented in a manner which enhanced community understanding of deaths in custody, and minimised the scope for misinterpretation of monitoring data. Data from the NDCIP was published on a biennial basis in the AIC's Statistical Report.

### Victorian Government

Deloitte concluded that Recommendation 41 was **fully implemented** in Victoria through cooperation with the AIC in the collection and provision of data, and initiatives by Victoria Police under the third Aboriginal Justice Agreement (AJA3). Deloitte noted that:

- Corrections Victoria and Victoria Police provided data to the AIC on all Victorian deaths in custody.
- Victoria Police were responsible for recording particulars of all deaths in custody.
- The State Coroner developed with Victoria Police a revised 'Report of Death to the Coroner', which included the Aboriginal status of the deceased.
- The Victorian Government would continue to provide information on all deaths in custody to the AIC, which maintained the national database.

Under AJA3, as part of broader data improvement efforts, Victoria Police, Corrections Victoria, the Department of Human Services, and Courts committed to collaborate on development of a detailed database describing Aboriginal over-representation in the justice system.

### Since then

#### National Coronial Information System<sup>5</sup>

The NCIS, established in 2000 in response to recommendations from the RCIADIC, is a secure database of information on over 450,000 cases investigated by coroners in Australia and New Zealand. Data includes demographic information on the deceased, contextual details on the nature of the fatality, and searchable case reports. While jurisdictional differences affect the information available in the NCIS, as far as possible the data is nationally standardised.

Funding for the NCIS is provided by all Australian states and territories, New Zealand and select Commonwealth Government agencies including the AIC. Administration of the NCIS is carried out by a team in the Victorian Department of Justice and Community Safety.

Coroners have access to the NCIS to assist investigations, and appropriate access is available on application for research or monitoring projects. NCIS data also supports AIC monitoring.

#### National Deaths in Custody Program – Real-time reporting<sup>6</sup>

The NDCIP database is maintained by the AIC as a direct outcome of the RCIADIC. The AIC produce regular reports to track trends in relation to Aboriginal deaths in custody and make comparisons between jurisdictions.

<sup>5</sup> 'About NCIS', *National Coronial Information System* (Web Page, 27 June 2023) <<https://www.ncis.org.au/about-us/>> ('About NCIS').

<sup>6</sup> Australian Institute of Criminology, 'Explanatory Notes', *Australian Institute of Criminology*, 21 June 2023) <<https://www.aic.gov.au/explanatory-notes>> ('Explanatory Notes'). Australian Institute of Criminology, 'Deaths in custody real-time reporting', *Australian Institute of Criminology* (Web page, 21 June 2023) <<https://www.aic.gov.au/media-centre/news/deaths-custody-real-time-reporting>> ('Deaths in custody real-time reporting').

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In June 2023, the AIC introduced real-time reporting of deaths in custody. Data published on the real-time dashboard are drawn from NDICP data collection forms provided by state and territory police services, correctional departments and youth justice agencies. This data includes deaths that fall clearly within the scope of the NDICP and accord with the definition outlined in part c) of this recommendation.

When real-time reporting was introduced the Attorney-General noted it was part of a broader \$99 million Commonwealth Government investment in Aboriginal justice initiatives:

*We want to end deaths in custody. We want to grapple with systemic problems that are there in the system . . . This is only part of the solution but it's an important part.*<sup>7</sup>

Data provided by state and territory police services, correctional departments and youth justice agencies are cross-referenced with coronial records sourced from the NCIS.

The AIC confirms deaths in custody data with data providers at the end of each quarter, prior to preparation of the Deaths in custody in Australia quarterly dashboard, and again prior to preparation of the Deaths in custody in Australia annual report. Following the quarterly and annual verification processes, data may be revised on the real-time dashboard.

### Evidence of impact

#### Authorising documents

##### **National Deaths in Custody Program Steering Group<sup>8</sup>**

This Steering Group, formed in 2021, provides advice on matters associated with ongoing program implementation including program design, definitions, data collection, analysis and reporting. The Steering Group helps to ensure that the NDICP is responsive to emerging issues associated with the monitoring of deaths in custody in Australia.

Most jurisdictions have two representatives on the Steering Group drawn from agencies responsible for police, corrections, youth justice or coronial services. Victoria is represented by Victoria Police and Corrections Victoria. The National Aboriginal and Torres Strait Islander Legal Services is the only group representing the Aboriginal community invited to be on the Steering Group.

##### **National Coronial Information System<sup>9</sup>**

The provision and use of coronial data is governed by a licence agreement held between the NCIS and each coronial jurisdiction in Australia and New Zealand and a memorandum of understanding between the NCIS and Victoria.

#### Outputs

##### **National Coronial Information System<sup>10</sup>**

<sup>7</sup> Attorney-General quoted in Nicole Hegarty, 'Real-Time Deaths in Custody Reporting to Address 'National Shame' of Indigenous Incarceration', *Indigenous Policy*, ABC News (online, 21 June 2023) <<https://www.abc.net.au/news/2023-06-21/federal-gov-introduces-real-time-reporting-of-deaths-in-custody/102503106>>.

<sup>8</sup> Australian Institute of Criminology, 'National Deaths in Custody Program Steering Group Terms of Reference', *Australian Institute of Criminology* (Terms of Reference, 21 June 2023) <<https://www.aic.gov.au/national-deaths-custody-program-steering-group>> ('National Deaths in Custody Program Steering Group Terms of Reference').

<sup>9</sup> 'About NCIS'.

<sup>10</sup> Ibid.

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	<p>The NCIS core data set was agreed upon by all participating jurisdictions upon its establishment in 2000. The NCIS Unit monitors the provision of information from coroners courts against the core data set.</p> <p><b>Aboriginal and/or Torres Strait Islander identification<sup>11</sup></b></p> <p>The NCIS contains two fields which indicate whether an individual identified as an Aboriginal or Torres Strait Islander person. Coronial information is supplemented with Indigenous status information from each state/territory Births, Deaths and Marriages registry. The latter data originates from the death registration process and/or medical certificate cause of death.</p> <p>Collecting two data sources for Aboriginal and Torres Strait Islander identification in the NCIS recognises the importance of this information for death and injury prevention work. It acknowledges the difficulty of collecting comprehensive and accurate data about Aboriginal and Torres Strait Islander identification in administrative data sets. Two data sources provide greater coverage and a reduced reliance on one administrative process to capture this characteristic. It supplements Australian coronial data for these variables which are not always consistently collected.</p>
<b>Outcomes</b>	<p><b>National Deaths in Custody Program<sup>12</sup></b></p> <p>The NDICP has monitored the extent and nature of deaths occurring in prison, police custody and youth detention since 1980. The NDICP was established at the AIC in 1992 in response to this recommendation.</p> <p>The NDICP provides real-time and quarterly data dashboards on deaths in custody in Australia and annual reports of the same name. On 1 July 2025, the real-time dashboard indicated there had been 598 Aboriginal deaths in custody since the RCIADIC.</p>
<b>Community views</b>	<p><b>Hannah McGlade, Associate Professor, Curtin Law School</b></p> <p><i>We've been calling for real-time reporting because otherwise people really aren't aware there's been another death in custody and the circumstances of that death.<sup>13</sup></i></p> <p><b>Apryl Day, Executive Officer, Dhadjowa Foundation</b></p> <p><i>For myself as a family member I haven't been asked to contribute to this and I know as the executive officer of the Dhadjowa Foundation, which is a national grassroots organisation that supports Aboriginal deaths in custody families, we also have not been consulted on this...</i></p>

<sup>11</sup> National Coronial Information System, *Identification of Aboriginal and Torres Strait Islander people in the NCIS* (Data Quality Statement, October 2021) ('Aboriginal People in the NCIS').

<sup>12</sup> Australian Institute of Criminology, 'Deaths in custody in Australia', *Australian Institute of Criminology* (Web page, 21 June 2023) <<https://www.aic.gov.au/statistics/deaths-custody-australia>> ('Deaths in custody in Australia'). Last accessed 1 July 2025.

<sup>13</sup> Hannah McGlade quoted in Hegarty, 'Real-Time Deaths in Custody Reporting to Address 'National Shame' of Indigenous Incarceration'.

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*As an individual tool, I don't think it's going to achieve a lot on its own. If this was to come alongside preventative and accountability measures, I think that could make a difference.*

*It's long overdue but for me I do actually find this quite confusing and problematic in that this is the first I've heard of it.*

*It's the things that are causing these deaths that need to actually be addressed.<sup>14</sup>*

### Related recommendations

#### 2005 Review<sup>15</sup>

#### Recommendation 67

That the Victorian Government continue to implement and monitor Recommendation 41 through any monitoring process established as a consequence of this Review.

#### Recommendation 149

That the Department of Justice (Corrections Victoria) provide a report to the Aboriginal Justice Forum on progress of the implementation of recommendations from the National Corrective Services Statistics Unit of the Australian Bureau of Statistics and the AIC.

### Assessment summary

The intent of Recommendation 41 was for the Australian Institute of Criminology (AIC) to maintain a database based on a standard definition of deaths in custody and standard form of statistical input, with annual reports to the Commonwealth Parliament.

The Aboriginal Justice Caucus (AJC) determined that several actions had been taken in line with the intent of this recommendation, but some actions, like reporting annually to Parliament had not continued over time. The AJC continue to be concerned about the definition of a death in custody and fatalities that may be missed based on the current definition. This was discussed further in relation to Recommendation 6.

The AJC noted the importance of states and territories maintaining consistent records of Aboriginal deaths in custody to support identification of systemic issues and failures that contribute to such passings. The AJC found that Recommendation 41 remains relevant, with the data produced crucial to supporting Aboriginal self-determination and advocacy for reforms to prevent further deaths.

The AJC found a clear link between the establishment of the National Deaths in Custody Program by the AIC, the National Coronial Information System and the changes intended by Recommendation 41. However, they considered that greater Aboriginal involvement in their oversight, would be beneficial.

<sup>14</sup> Apryl Day quoted in *ibid*.

<sup>15</sup> 2005 Review, vol 1, 52, 72-73.

## Assessment of Recommendation 41

**Is the intent of the recommendation accurately described?**

Yes ☒ No ☐

**Does the action taken align with the intent of the recommendation?**

0 – No action taken

1 – Action taken is of little relevance to the intent of the recommendation

2 – Action taken partially aligns with the intent of the recommendation

3 – Action taken fully aligns with the intent of the recommendation

**2.5**

(Score out of 3)

**Is there evidence of the desired impact or outcome/s?**

0 – No evidence

1 – Evidence of output rather than outcome

2 – Some evidence action contributed to outcome/s

3 – Clear link between action and impact or outcome/s

**2.5**

(Score out of 3)

**How relevant is the recommendation in the current context?**

0 – No relevance – refers to practices, agencies or laws that no longer exist

1 – Low – some relevance, but most aspects of the recommendation no longer apply

2 – Moderate – remains relevant, but some aspects of recommendation no longer apply

3 – High – entirely relevant to current context

**3**

(Score out of 3)

**Does full implementation have the potential to reduce incarceration, increase safety in custody and/or progress Aboriginal self-determination?**

0 – No potential to improve Aboriginal justice outcomes

1 – Low – potential to improve Aboriginal justice outcomes, but none of the three identified

2 – Moderate – potential to progress one or two of the outcomes identified

3 – High – potential to reduce incarceration AND increase safety in custody AND self-determination

**1**

(Score out of 3)

### Potential actions for further work

#### Increase Aboriginal involvement in the oversight of coronial databases

Increase Aboriginal community representation on the National Deaths in Custody Program Steering Group and oversight of the National Coronial Information System.

### Low priority for further work

#### Relevance and potential impact

		Low (0–2)	Moderate (3–4)	High (5–6)
Extent of action taken and evidence of outcomes	High (5–6)		Rec 41	
	Moderate (3–4)			
	Low (0–2)			



## Bibliography

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