



Royal Commission into Aboriginal Deaths in Custody Recommendation

44. National surveys of Aboriginal people in custody

That the Australian Institute of Criminology co-ordinate and implement the recommended series of national surveys. The experience of the first national survey points to the fact that careful planning with all the relevant authorities will be needed to ensure that the maximum amount of useful information is derived from the surveys.¹

Background²	The Royal Commission into Aboriginal Deaths in Custody (RCIADIC) noted a paucity of information at the national level concerning the demographic characteristics of Aboriginal and Torres Strait Islander people in custody. It further noted the importance of data collection in the identification of trends, monitoring of detainees, and prevention of future deaths in custody.
Intent	Implement a series of national surveys to provide useful information about Aboriginal and Torres Strait Islander people in custody.
Responsibility	The Commonwealth Government.
Key contacts	Australian Institute of Criminology (AIC); Australian Bureau of Statistics (ABS).
Key action taken	
2005 Review³	Recommendation 44 was not assessed by Victoria Police as it was deemed to be the sole responsibility of the Commonwealth Government.
2018 Review⁴	Deloitte concluded that the Commonwealth had fully implemented Recommendation 44, noting that while the National Police Custody Survey was suspended, the National Prisoner Census performed a similar function.
Since then	Australian Institute of Criminology⁵ The Australian Institute of Criminology (AIC) conducted national surveys of police custody in August 1992, August 1995 and October 2002 with the cooperation of police in each jurisdiction in Australia. In the report from the 2002 survey, the AIC aimed to continue to monitor patterns

¹ Royal Commission into Aboriginal Deaths in Custody (Final Report, 1991) vol 1, 195 ('RCIADIC').

² Ibid vol 1, 195, [6.1.7].

³ 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) vol 1, 400-401 ('2005 Review').

⁴ 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) 93-94 ('2018 Review').

⁵ David McDonald, Australian Institute of Criminology, *National Police Custody Survey: Preliminary Report* (Research and Public Policy Series No 2, 1 March 1993) ('NPCS 1992'); Carlos Carcach and David McDonald, Australian Institute of Criminology, *National Police Custody Survey August 1995* (Research and public policy series No 9, August 1995) ('NPCS 1995'); Natalie Taylor and Michael Bareja, *2002 National Police Custody Survey* (Technical and Background Paper No 13, 1 February 2005) ('NPCS 2002').

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in police custody through the conduct of future police custody surveys. However, no surveys have been published since 2002. (See further information in response to Recommendation 43.)

Australian Bureau of Statistics

The National Prisoner Census was established in 1983 by the AIC who maintained the collection until June 1993. In September 1995 the ABS took over responsibility for the collection and has undertaken the publication of all national corrective services statistics from June 1994 onwards. The first official ABS release of Prisoner Census statistics was through the 2000 publication, *Prisoners in Australia*. Prior to this, the data were presented as an annual report for the Corrective Services Ministers' Council by the National Corrective Services Statistics Unit.⁶

The National Prisoner Census provides a national view of adults in prison across Australia, comparable data across states and territories and a basis for measuring change over time. Data is updated annually through the 'Prisoners in Australia' release, which provides a collection of information about adults held in custody in Australian prisons on 30 June each year. Statistics are derived from information collected from administrative records held by corrective service agencies in each state and territory. A range of information is presented on the demographic and legal characteristics of prisoners such as age, sex, country of birth, Indigenous status, legal status, prior imprisonment, most serious offence/charge, aggregate sentence and length of sentence being served, as well as time on remand. The latest data is available online.⁷

The quarterly ABS publication, 'Corrective Services, Australia' also contains information on persons in corrective services, including their numbers, gender, demographic information, and Aboriginal and Torres Strait Islander status.⁸

Australian Institute of Health and Welfare⁹

The Australian Institute of Health and Welfare (AIHW) collects information from all states and territories about young people under youth justice supervision for the Youth Justice National Minimum Data Set (YJ NMDS). Annual reports developed from this data set present information about young people in Australia who were under youth justice supervision during the financial year, both in the community and in detention. It looks at the characteristics of these young people, key aspects of their supervision, and recent trends. Numbers in this report include young people of all ages (including those aged 18 and over) unless otherwise specified. All data presented in the reports are available through online supplementary tables.

The latest data was *Youth Justice in Australia 2023-24*.¹⁰

⁶ 'National Prisoner Census', *Australian Bureau of Statistics* (Web Page, 9 June 2015)

<<https://www.abs.gov.au/AUSSTATS/abs@.nsf/DSSbyCollectionid/8724931436CDF784CA256BD00027E909?opendocument>> ('National Prisoner Census').

⁷ 'Prisoners in Australia: Latest Release', *Australian Bureau of Statistics* (Web Page, 25 January 2024)

<<https://www.abs.gov.au/statistics/people/crime-and-justice/prisoners-australia/latest-release>> ('Prisoners in Australia: Latest Release').

⁸ 'Corrective Services Australia', *Australian Bureau of Statistics* (Web Page, September 2023)

<<https://www.abs.gov.au/statistics/people/crime-and-justice/corrective-services-australia/latest-release>> ('Corrective Services Australia').

⁹ 'Youth Justice: Overview', *Australian Institute of Health and Welfare* (Web Page, 7 February 2024) <<https://www.aihw.gov.au/reports-data/health-welfare-services/youth-justice/overview>> ('Youth Justice: Overview').

¹⁰ Ibid.

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Evidence of impact

Authorising documents	None identified.
Outputs	There has not been a report from the National Police Custody Survey since the 2002 publication. In contrast, the Australian Bureau of Statistics continues to release annual Prisoners in Australia reports, which provide a national overview of adults in prison, enabling comparison across states and territories and supporting the analysis of trends over time. Similarly, the Australian Institute of Health and Welfare publishes the Youth Justice in Australia series, offering comparable data on young people in detention and a consistent basis for monitoring changes across jurisdictions.
Outcomes	National data on people held in the custody of corrective and youth justice services is regularly collected and published by the Australian Bureau of Statistics and Australian Institute of Health and Welfare respectively. However, no national police custody survey data has been published by the Australian Institute of Criminology since 2002.
Community views	Aboriginal Justice Caucus There hasn't been a National Police Custody Survey since 2002. Annual publication of information on Prisoners in Australia and Youth Justice in Australia provide data on adults in prison and children and young people in youth detention.

Related recommendations

Overcoming Indigenous Disadvantage¹¹	This report identified the need for information about Aboriginal and Torres Strait Islander involvement with criminal legal systems across states and territories beyond official prison and courts data.
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Assessment summary¹²

The intent of Recommendation 44 was for the coordination and implementation of national surveys to provide 'the maximum amount of useful information' about people in custody.

Actions taken only partially align with the intent of Recommendation 44. There is currently no national survey of police custody, with no data published from the National Police Custody Survey since 2002. Some evidence of outcomes is available through the annual Prisoners in Australia and Youth Justice in Australia publications, managed by the Australian Bureau of Statistics and the Australian Institute of Health and Welfare respectively. These reports provide data on adults in prison and children and young people in youth detention, offering

¹¹ Steering Committee for the Review of Government Service Provision, Cth, *Overcoming Indigenous Disadvantage: Key Indicators 2003* (Report, 13 November 2003).

¹² Meeting with Aboriginal Justice Caucus Working Group (Project Team, In Person, 7 June 2023) ('*Working Group Meeting (7 June 2023)*'); Meeting with Aboriginal Justice Caucus (Project Team, In person, 19 July 2023) ('*Aboriginal Justice Caucus Meeting (19 July 2023)*').

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comparable information across states and territories and enabling analysis of trends in the demographic and legal characteristics of Aboriginal and non-Aboriginal people in custody.

Assessment of Recommendation 44

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

(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

(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

2

(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

1.5

(Score out of 3)

Potential actions for further work

Regular publication of data about people in police custody

That Victoria Police improve collection and publication of information about people held in police custody, that identifies how many people are going in and out of police cells, why people are placed in custody, the types of offences associated with police custody, the length of time that people are in police custody, bail outcomes, rates of self-harm and other serious or medical incidents, and whether these patterns change over time.

Moderate 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)			
	Moderate (3-4)		Rec 44	
	Low (0-2)			

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