Royal Commission into Aboriginal Deaths in Custody (RCIADIC)

- Established October 1987 because of mounting concern over the large number of deaths of Indigenous people in custody
- Investigated deaths of 99 Indigenous people from 1 Jan 1980 to 31 May 1989
- 11 deaths were female, 88 male, and 15 juveniles

Prepared by Victorian Aboriginal Legal Service,
10.12.02
What is a Death in Custody?

- The death, wherever occurring, of a person who is in prison custody, police custody, or detention as a juvenile;
- 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;
- 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;
- The death, wherever occurring, of a person attempting to escape from prison, police custody or juvenile detention;
- Note - deaths which occur in the process of being detained by police or prison staff were not investigated by the Royal Commission, but have been included in official statistics since 1994. The deaths of Asylum seekers in custody are not included in these statistics.

Prepared by Victorian Aboriginal Legal Service, 10.12.02
The RCIADIC Report

- Completed 1991
- Two-thirds of deaths occurred in police custody, one-third in prison custody
- Western Australia had highest no. of deaths (32), followed by Queensland (27) and New South Wales (15)
- Found that a person’s Aboriginality played a big part in their being in custody and dying in custody, and this was linked to the relative social, physical, and economic disadvantage Aboriginal people experience
- Found that Aboriginal people come into custody at a much greater rate than non-Aboriginal people

*The conclusions are clear. Aboriginal people die in custody at a rate relevant to their proportion of the whole population which is totally unacceptable and which would not be tolerated if it occurred in the non-Aboriginal community. But this occurs not because Aboriginal people in custody are more likely to die than others in custody, but because the Aboriginal population is grossly over represented in custody. Too many Aboriginal people are in custody too often.* (National Report, Vol. 1)

- Concluded that the deaths were not a result of deliberate violence of brutality by police or prison officers, however:
- By far the largest number of people in police lock-ups were there because of public drunkenness (either being charged with drunkenness, or in protective custody because of drunkenness)
- Almost half of those who died had been removed from families as a child
- Almost half had been charged with an offence before they were 15
- Over 80% were unemployed
- Generally had repeated contact with criminal justice system

Prepared by Victorian
Aboriginal Legal Service,
10.12.02
The RCIADIC Report cont ...

- Found that some custodial authorities failed to exercise a proper duty of care
  - For example, in the *Atkinson* case, two police officers were negligent in not informing senior police of earlier self-mutilation and threats of suicide by the prisoner.
  - In the *Moffat* case, police did not follow procedures in relation to intoxicated people. Consideration of disciplinary proceedings was recommended.
  - The *Quayle* case involved breaches of duty by a nursing sister and a doctor as well as two police officers. The police unlawfully locked Quayle in a police van and in police cells. After placing him in custody, they failed to take reasonable care of him.
  - In these three cases, as well as numerous others, the Royal Commission recommended consideration of disciplinary proceedings.

Prepared by Victorian Aboriginal Legal Service,
10.12.02
RCIADIC Recommendations &
Implementation of Recommendations

- Almost all of the 339 recommendations were endorsed by Australian State & Territories, and Federal Government in 1992
- Recommendations fell into two main areas
  - Immediate Causes which were issues within the criminal justice system, in particular the management of custodial environments
  - Underlying issues as a broad category of social, cultural and economic factors impacting on the rights and opportunities of Aboriginal people

Main recommendations regarding Immediate Causes
- Decriminalisation of public drunkenness, and adequate provision of sobering up centres
  - Tasmania, Western Australian and Victoria still have not decriminalised public drunkenness
  - There is still a lack of sobering up centres and drying out centres
- Imprisonment should only be used as a last resort
  - The prison population has doubled in the last decade

Prepared by Victorian
Aboriginal Legal Service,
10.12.02
RCIADIC Recommendations & Implementation of Recommendations

• Improving custodial health and safety
  (Findings from *Indigenous Deaths in Custody*, which examined deaths from 1989-1996 - ie the post RCIADIC period)
  – In 9 of the 61 investigated cases concerning deaths in custody in institutional settings, there was evidence that police, prison officers and medical staff were unaware of their duty of care.
  – De-briefing procedures have not been properly utilised to prevent future deaths in the same circumstances. Avoidable deaths occurred in almost identical circumstances in a number of cases.
  – The circumstances of deaths in prisons showed the health services in some prisons were well below standard.
  – In one third of the cases “at risk” information concerning the deceased was not passed on.
  – Medical staff and prison officers were often not aware of cross-cultural health issues, particularly heart disease.
  – Some delay or deficiency in attempting to resuscitate detainees was evident in 17 of the cases investigated by the coroners. Problems were caused by inappropriate security procedures, inadequate training, and faulty resuscitation equipment. The failure to seek medical attention when doubt arose as to the medical condition of prisoners was a serious problem n the deaths under investigation.

Prepared by Victorian Aboriginal Legal Service,
10.12.02
RCIADIC Recommendations

Underlying causes

• Drugs
• Health
• Schooling and education
• Housing and infrastructure
• Increasing economic opportunity
• Portrayal of indigenous people in the media
• Negotiation with Aboriginal communities in the design and implementation of any policy which substantially affects indigenous communities
• Self-determination of funding, accountability, organisational structures, & local government

Prepared by Victorian Aboriginal Legal Service,
10.12.02
Statistics

• In the decade 1990 to 1999, there were 115 Indigenous deaths in custody, compared to 110 in 1980-1989. (The Royal Commission used the cut-off date of May 1989; hence the Report excludes 11 deaths in custody from the latter part of 1989.)

• There were another 30 Indigenous deaths as the result of police officers attempting to detain a person - a category which was added on the recommendation of the Royal Commission.

• As a proportion of all deaths in custody, Indigenous deaths decreased from 21% to 18% in the post-RCIADIC period.

• However, the percentage of Indigenous women's rate of death in custody in 32% - much higher than the death in custody rate of Indigenous males.

• Although the location of all deaths in custody changed from primarily in police custody (two-thirds in RCIADIC period) to primarily in prison (67% post-RCIADIC), Indigenous women are still more likely to die in police custody.

• Increase in Indigenous deaths attributable to suicides and other self-inflicted causes (from 35% to 43%)

Prepared by Victorian Aboriginal Legal Service,
10.12.02
Issues

• More punitive climate has led to giving longer sentences. (The median length of sentence in Australia increased from 3.0 from 1991 years to 3.3 in 2001).

• The prison population has doubled in the last decade. Therefore, even if the rate of death in custody is *decreasing*, the overall number of people dying in custody is *increasing*.

• Studies have shown many deaths in custody (especially suicides) occur in remand or within the first 3 months of imprisonment. Therefore, locking up more people, regardless of the length of sentence, causes more deaths in custody.

• Tasmania, Western Australian and Victoria still have not decriminalised public drunkenness.

• Aboriginal people are still being imprisoned for minor public order offences such as offensive language, and traffic offences. For example, in the last 2 decades, 54% of Indigenous people who died in custody were imprisoned for good order offences at time of death, compared to 28% of non-Indigenous deaths.

• Little effort to establish more sobering up centres.

• Many of the underlying factors which lead to Aboriginal over-representation in prison - such as unemployment, substance misuse, and discrimination have still not been addressed.

• **IMPORTANTLY**, given that about two-thirds of Aboriginal deaths in custody were found to have either committed suicide or died of natural causes, information pertaining to a possible need for medical care or close supervision, as well as the state of health and suicide risk of a detainee should be gathered and recorded. The records should at all times be accessible to every government officer responsible for a detainee’s care, including during the transfer of a detainee.
Deaths in Custody in Victoria

- Victoria has still not decriminalised public drunkenness
- Removed the offence of habitual drunkenness (which can lead to imprisonment)
- Has minimised arrest for offensive language
- Proportionally, as well as in absolute numbers, there were fewer deaths in Victoria (decreased from 5 deaths in 1980-1989 to 4 deaths in 1990-1999)
- The Aboriginal Justice Agreement between the Government, ATSIC, Aboriginal Justice Advisory Committee and the Aboriginal community was implemented in 2000

In accordance with the principles and aims underlying the Final Report of the RCIADIC, the Aboriginal Justice Agreement aims: To minimise Indigenous over-representation in the criminal justice system by improving accessibility, utilisation and effectiveness of justice-related programs and services in partnership with the Aboriginal community.”(Victorian Aboriginal Justice Agreement)

- Since the signing of the agreement, not only has there been a 20% increase in the rate of Indigenous imprisonment; there has been an increase in the ratio of Indigenous prisoners to non-Indigenous prisoners in Victoria.
• As the Indigenous population grows proportionately larger than the non-Indigenous population, deaths of young Indigenous people can only be expected to increase