

REPORTAGE

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Media Bulletin

Reporting Deaths in Custody

**Noam Chomsky
on journalism**

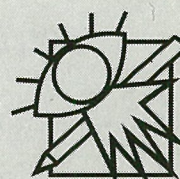
**Framing the forests
debate**

**Journalists and
human rights**

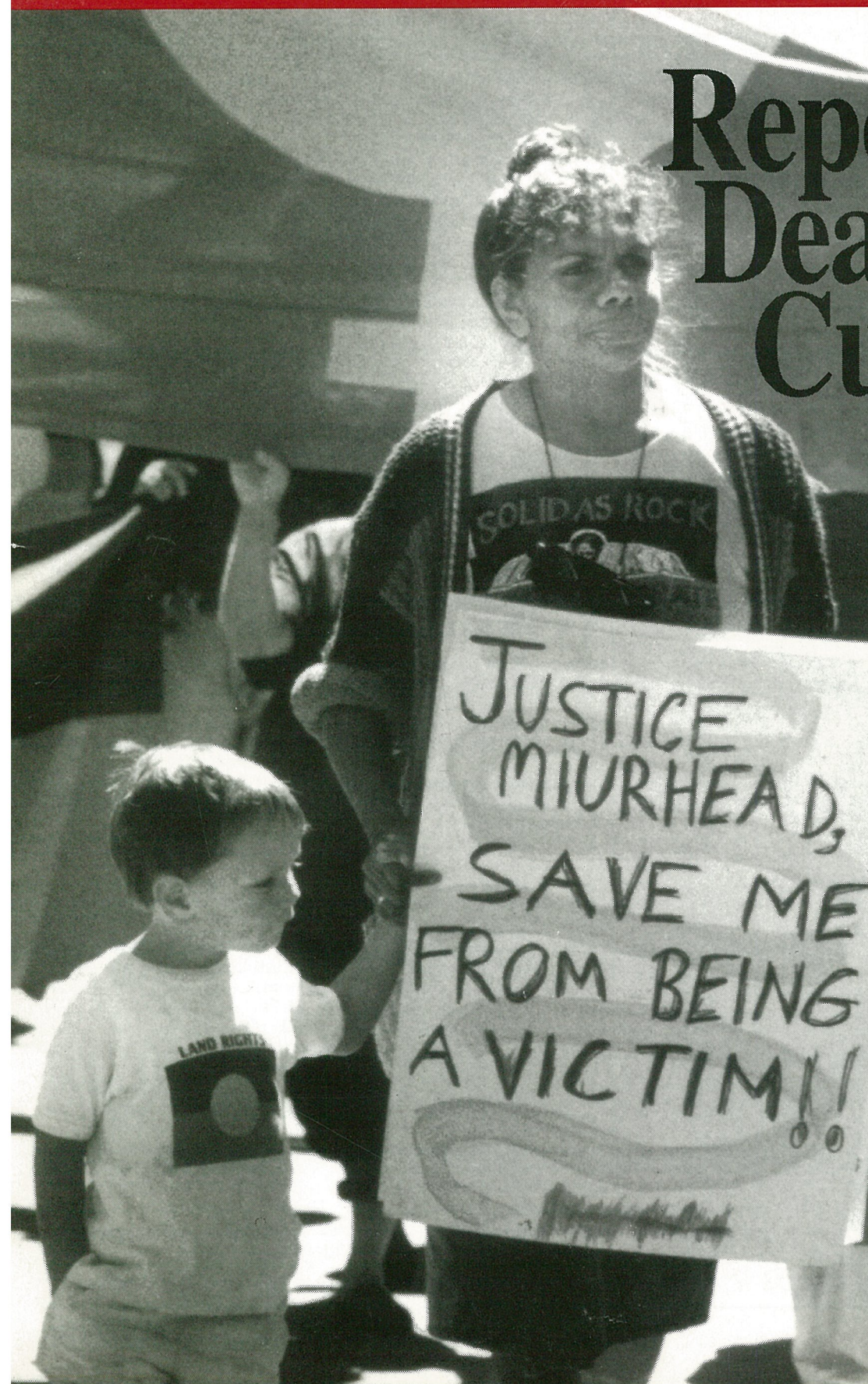
**Sharon Davis on
reporting on Africa**

**Brian Toohey on
business reporting**

**Sex, drugs and
journalism**



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Aboriginal deaths in custody

A dead issue?

Reporting of Aboriginal and Torres Strait Islander issues has shown some signs of improvement. But mainstream media reporting of the failure of governments to implement recommendations of the Royal Commission Aboriginal Deaths in Custody has been virtually non-existent.

Wendy Bacon and Bonita Mason report how the media have failed to analyse why the deaths are continuing.

The Royal Commission into Aboriginal Deaths in Custody is in danger of becoming a tragic farce. A fundamental objective of the Commission was that the number of Aboriginal people imprisoned be rapidly reduced. Instead, more Aboriginal



Aboriginal kids and WA police. Photo: Brian Rapsey

people are being locked up and more are dying in Australian prisons.

Key Aboriginal spokespersons have been warning for three years that there has been little real change. Although politicians all claim to be doing everything possible to reduce deaths in custody, many recommendations of the Commission have not been implemented.

Investigative media reports into deaths in custody, spurred by sustained Aboriginal activism, played a role in bringing about the Royal Commission. And in their report, the Royal Commissioners commented on the importance of the media's role and made recommendations on how overall reporting of Indigenous affairs might be improved. So it is timely to look at what role the media has played in reporting on deaths in custody since the Commission.

There has been passing media interest in the issue. But the coverage has been based on isolated news events, such as the publication of official reports. The full impact of what is happening remains hidden. There has been little in-depth analysis or reporting of what is happening on the ground. The media has lapsed into a passive, rather than an active role.

A recent example of this is the media coverage of the Australian Institute of Criminology (AIC) report – *Deaths in Custody Australia, Australian Deaths in Custody & Custody-related Police Operations, 1993-94* released in March. The report has become an annual event since been the Royal Commission gave the AIC the task of monitoring, and regularly reporting on, Aboriginal and Torres Strait Islander deaths in custody.

Reportage has analysed the media coverage of the report's release. [See box on page 21: *The Coverage*.] The Institute distributed a press release, along with the report on which it was based, to the entire Canberra press gallery. On the same day, the Minister for Aboriginal and Torres Strait Islander Affairs

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also released a press release drawing attention to the issue.

The story was widely reported around Australia on March 2 and 3 most of the major metropolitan newspapers and on ABC Radio. In some areas there was no coverage. As far as *Reportage* has been able to determine, there was also no coverage on any television station or on commercial radio.

The report's release was picked up by

"We're arguing that [the recommendations] have to be utilised by the front line troops – the police on the street and in their cars, and custody officers. They are not."

major metropolitan print and ABC radio outlets around Australia but, overall, the coverage was brief, even cursory, and often buried late in the paper. Reports were focussed on details; some taking on the quality of a well-written list.

The report contained devastating news for those concerned about the implementation of the Royal Commission's recommendations. It said that 14 Aboriginal people died in custody during 1993-94 – this is the highest figure in the past four years and more than double the previous year's figure of six. The report also said that deaths in police custody have gone down but that all deaths in prison custody are at their highest level since figures were first collected in 1980-81.

According to the AIC "The central reason appears to lie in the increasing rates of imprisonment of Australians in recent years. The more people are locked up, the more people die in custody." The number of Aboriginal

people imprisoned has increased by 50 per cent since 1988 and in some states it has more than doubled.

Adam Graycar, Director of the AIC, said in the report, "While the Aboriginal population is less than two per cent of the total population, it comprises 16 per cent of the prison population and Aboriginal people account for 19 per cent of deaths in prison custody. This unacceptably high incarceration rate of Aboriginal people, combined with [a poor] health status, presents a truly regrettable and preventable situation."

The report concluded, "Key recommendations of the Royal Commission are either not being fully implemented or, when they are, are not operating effectively. In order to significantly reduce the number of deaths in custody, there is clearly a need for strong action by all governments to implement the recommendations of the Royal Commission into Aboriginal Deaths in Custody and to evaluate their effects on the frequency of Aboriginal and non-Aboriginal people alike who die in custody."

The Federal Minister for Aboriginal Affairs, Robert Tickner, made a media statement on the same day as the AIC report. In the release he said he found the "gross over-representation" of Aboriginal people in custody disturbing and that "State and Territory governments need to ensure reforms were enacted in their area of direct responsibility for the criminal justice, police and prison systems".

While nearly all major metropolitan papers covered the release of the AIC report, only four made a clear and direct link between the report of the deaths and the failure to effectively implement the Royal Commission recommendations. Six of the ten ignored Tickner's media release. As far as *Reportage* is aware, no papers have followed up the story.

The *Cairns Post*, the major daily newspaper servicing people in north-eastern Australia, did not cover the story at all. [For more on the *Cairns Post*'s coverage of Aboriginal affairs, see *Reportage* issues Summer 93/94 and Winter '94.]

The AIC figures themselves were not fresh news. The 1993-94 figures had been

DEATHS IN CUSTODY A TIMELINE

Eight years after the Royal Commission into Aboriginal Deaths in Custody was announced, and four years after it made its report, deaths in custody are rising. Governments around the nation are failing to implement key recommendations despite ongoing warnings and protests from Aboriginal organisations and their supporters.

1983

- The high number of Aboriginal deaths in police and prison custody is highlighted by the brutal death of 16 year old John Pat, killed by police in Western Australia. After five police are acquitted of manslaughter, the Committee to Defend Black Rights (CDBR) is established and a campaign to stop the Aboriginal deaths in custody commences.

1986

- The Aboriginal-led CDBR builds a national campaign through lobbying, protesting, and networking with Aboriginal and other organisations. As the campaign gathers strength, a national tour by families of Aboriginal people who have died in custody, calls on the Federal Government to hold a Royal Commission.
- Mainstream media attention is negligible with Aboriginal deaths in custody rarely reported by more than a one sentence item in



A Deaths In Custody Rally outside old Parliament House in Canberra. Photo: NSWDCWC

published in July last year in Jennifer Searcy's *Deaths in Custody Newsletter*. The newsletter comprehensively and accurately monitors events relating to deaths in custody and is widely distributed to news outlets who usually ignore its contents. On that occasion the Searcy newsletter was only picked up by the *Sydney Morning Herald*.

"While the Aboriginal population is less than two per cent of the total population, it comprises 16 per cent of the prison population and Aboriginal people account for 19 per cent of deaths in prison custody."

some newspapers. There is however extensive reporting in alternative newspapers and community radio.

1987

- Reports on the continuing deaths in custody finally begin to attract attention of mainstream media outlets, like the *Sydney Morning Herald*, *The Age* and ABC's *Four Corners*.
- Following the deaths of seven young Aboriginal men in custody in a period of six weeks, the Federal Minister for Aboriginal Affairs, Clyde Holding, announces a Parliamentary Inquiry into Aboriginal deaths in custody.
- A packed Sydney Town Hall meeting hears from relatives of Aborigines who have died in custody. Helen Corbett, chairperson of CDBR, says, "A Federal Inquiry ... will not work towards a solution on a national level, as deaths in police and prison custody are

happening around Australia." The meeting supports the establishment of a network of local Watch Committees to monitor the problem, and calls for a Royal Commission to inquire into causes and solutions.

- Aboriginal groups and their supporters draw up plans to use media attention to Bicentennial celebrations in 1988 as a platform for showing Australia's human rights record to the world. With CDBR's Helen Corbett in Geneva speaking on Aboriginal deaths in custody to a UN meeting on human rights, the Federal Government in October announces it would open a Royal Commission into Aboriginal deaths in custody.

1988

- The Royal Commission's interim report is released in December.

1991

- The Royal Commission's final report is

released in April.

- The Royal Commission after examining 99 deaths of Aboriginal people between 1980 and 1989 makes 339 recommendations. A central objective of these recommendations was to reduce the rate of aboriginal imprisonment. The Commonwealth says it will spend \$400 million over five years to implement the report.

1992

July

- Amnesty International releases a report criticising the State and Federal governments over lack of action in implementing the recommendations of the Royal Commission.

September

- Australian Institute of Criminology (AIC) reports that Aboriginal people are jailed at 18 times the rate of non-Aboriginal people, with NSW and the NT actually increasing their rate over the 12 months since the Royal

Apart from reporting the official press release, there seems to be little impetus within the media itself to independently follow up the numbers of people dying in custody. The figures provided in the AIC report cover the year to the end of June 1994 – nearly twelve months ago. At the time of going to press, no media outlet has asked – what has happened since then? A quick phone call to the AIC establishes that deaths in custody are continuing at the same high rate this year.

Another step, which journalists might have taken, is to have included a response from an Indigenous spokesperson. The Royal Commission recommended more contact between media and Aboriginal organisations and certainly there is no shortage of organisations on the ground which could have been easily interviewed: state-based deaths in custody watch committees, the Aboriginal Legal Service, Aboriginal lands councils, or the Aboriginal and Torres Strait Islander Social Justice Commissioner at the Human Rights and Equal Opportunity Commission, Mick Dodson.

Dodson has recently taken up a number of public opportunities to criticise the failure of governments in this area. He sees one of his most important roles as independently scrutinising the implementation of the Royal Commission recommendations in the Commonwealth area.

In a speech to the Evatt Foundation in November last year, he said of the Commonwealth's annual progress report on implementation: "It is virtually unreadable, full of bureaucratic humbug, padding, self-justification and empire defending. It is simply an account of bureaucratic activity which tells us almost nothing about what impact, if any, bureaucratic activity is having on the ground. In this account, the main point of many of the recommendations is entirely missed. *While not actually having the guts to say so, the Commonwealth has clearly rejected many of the recommendations or regards them as 'too hard'.*" [our emphasis]

Dodson, doesn't say the Royal Commission was a waste of time. "The broad bi-partisan support for pursuing the recommendations of the Royal Commissions was a

Commission.

Helen Corbett, interviewed in alternative newspaper *Broadside*, says about the implementation of the Royal Commission recommendations, "The political will is not there. It's a question of state and federal governments showing to the international community it is taking steps to rectify the situation. Their interest is to promote themselves as doing something on the issue."

1993 March

- Amnesty International reports that imprisonment conditions for many Indigenous people are "cruel and inhumane". The report condemns governments for failing to implement the Royal Commission recommendations.

April

- The office of Aboriginal and Torres Strait Islander Social Justice Commissioner is created within the Human Rights Commission



Photo: Braunstein NSWICWC

partly as a response to the Royal Commission into Deaths in Custody. Mick Dodson is appointed Commissioner.

November

- Daniel Yock, an 18 year old Aboriginal man is arrested and carried by paddy wagon to the Brisbane watchhouse. He dies on the way. Demonstrations by Indigenous people bring deaths in custody back into the headlines for the first time since the Royal Commission.

December

- A number of leading Aboriginal spokespeople are dissatisfied with the implementation of recommendations of Royal Commission, reports the ACIJ's multicultural newspaper, *Voices*.

Particularly critical is the NSW Watch Committee's Ray Jackson who says "The sum of \$430 million has been spent and yet deaths in custody are still continuing. In fact, there have been 52 deaths since May 31, 1989 and nothing's changed".

- In WA, the Aboriginal Legal Service in Perth reports that WA Government is ignoring key recommendations of the Royal Commission. The study says that 43 per cent of the people sent to prison in Western Australia this year were Aboriginal, although Aboriginal people comprised only about 2.5 per cent of the state's population.

1994 February

- Australian Institute of Criminology reports a 40 per cent increase in deaths in custody in 1992/93. Its report says that since the Royal Commission cut off date in May 1989, 43 Aborigines and 225 non-Aborigines have died in custody. "There is clearly a need for strong action by all governments to implement the recommendations of the royal commission," it says. A total of 72 people died in custody in 1992/93, compared with 57 and 58 in the two previous years.

- The Federal Minister for Aboriginal

watershed in Indigenous Affairs." But he also said: "There is a real danger of it all being lost."

Only four weeks after the AIC released their annual figures, Dodson's annual report, devoting a whole chapter to the short comings of the Commonwealth's annual report on the implementation of the Royal Commission, was released.

"It is essential that all the vision, passion, urgency and the statesmanship which he [Keating in his initial June 1992 response] should not degenerate into the bureaucratic mishmash which marks this report. ... One is irresistibly reminded of the sex life of elephants: much trumpeting, a lot of activity at a high level and no outcome in three years." His scathing and again newsworthy comments were highlighted in a press release but were not reported.

Dodson's comments reflect the feeling on

"Generally, there appeared to be little appreciation of and less dedication to the duty of care owed by custodial officers to persons in custody."

the ground. Ray Jackson of the New South Wales Aboriginal Deaths in Custody Watch Committee says, "That they [the Royal Commission's recommendations] have been implemented comes down to semantics. What does implemented mean: the royal nod or day to day checking that it's being done. We're arguing that they have to be utilised by the front line troops – the police on the street, and in their cars, and custody officers. They are not.

"They have produced all these wonderful reports that float around at the bureaucratic level but they're not getting down to the coal

Affairs, Robert Tickner, releases the first of the Government's annual reports into progress on reform. The report, which examines 1992/93, finds that "the picture is not positive" on imprisonment rates of Indigenous people.

"The number of Aboriginal people and Torres Strait Islanders in prison and their imprisonment rates are increasing," it says. "Aborigines are still 14 times more likely to be imprisoned than non-Indigenous Australians."

The report finds that NSW, WA and SA have higher indigenous imprisonment rates than the national average. It fails to mention that the number of people dying in custody is not falling.

Tickner refers the report to the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs who begin an inquiry.

April

• The Criminal Justice Commission in

The coverage of the report

Reportage examined the 10 newspaper articles appearing in each of the capital city newspapers on March 2 and 3 following the release of the latest Australian Institute of Criminology report on deaths in custody.

Six out of ten of the articles failed to emphasize the key point of the AIC release which was: "The central reason [for the increase in Aboriginal deaths in custody] appears to lie in the increasing rates of imprisonment of Australians in recent years. The more people are locked up, the more die in custody."

Reports tended to mention the fact that imprisonment rates were increasing but did not link this with the increasing number of deaths, instead focussing on the detail of *how* people died – whether by hanging or heart disease, for example – rather than *why* they died.

Only four of the ten articles reported that both the Institute and the Minister for Aboriginal and Torres Strait Islander Affairs expressed concern at the failure to implement the key recommendation of the Royal Commission which was to reduce the number of Indigenous people in prison.

This point was completely missed by the report in the *Australian* which did place the story prominently on page three with a photograph. Its second paragraph gave the opposite impression by stating, "Despite the implementation of the recommendations of the Royal Commission into Aboriginal Deaths in Custody, indigenous Australians are still dying in custody, the report found." [our emphasis]

The *Canberra Times* and the *Age* were the only two papers to strongly emphasise the link between the numbers of people in prison and the number of deaths and Tickner's concern at lack of implementation of the Royal Commission recommendations.

A possible reason why the AIC report got little attention could be because there was another major Aboriginal affairs story, the Land Fund Bill, running at the same time. This was linked to the political drama of a possible parliamentary dissolution.

Does this suggest that while the overall coverage of Aboriginal and Torres Strait Islander issues has increased, the press is unlikely to cover more than one issue at the same time?

face – to the people who should be putting them in place. Racism and lax attitudes are still there – it's the whole culture. There needs to be a sea change, as they say."

At the time of going to press, as far as *Reportage* is aware, there has been no follow-up reporting of any of the many issues raised by the AIC report. One of these is remand rates. According to the AIC, remand prisoners die at three and a half times the rate that would be expected from their proportion of the prison population.

During 1993-94, one-third of custodial deaths were people on remand. Twelve per cent of the prison population was on remand as at June 30, 1992 (the latest available figures). These are people who have not been

found guilty of any crime. The Royal Commission made many recommendations designed to bring down the number of people held on remand – to make arrest the "sanction of last resort".

The media could also ask questions about: the continuing rise in imprisonment rates and the over-representation of Indigenous people in custody; why deaths in police lock-ups have gone down while deaths in prison have gone up; why some state governments agreed with but refuse to act on Royal Commission recommendations to strike offences such as public drunkenness, offensive language and vagrancy off the books.

No media outlet has investigated why the number of Indigenous people dying through illness in custody seems to be increasing. Most of the 1993-94 Indigenous deaths in

Queensland finds the six police officers who arrested Daniel Yock are not responsible for his death.

June

• Lawyer Chris Cunneen completes a report for the National Committee to Defend Black Rights on 55 Indigenous deaths between 1989 and 1994. The report concludes that many deaths would have been avoided if governments had acted on Royal Commission recommendations. It finds 169 breaches of recommendations – the most common is the recommendation that police services move immediately to examine the delivery of medical services to people in police custody.

• Australian Institute of Criminology reports that the number of deaths in custody has risen to its highest level since the 1991 Royal Commission report. The number of deaths in police, prison and juvenile custody rose from 64 in 1991 and 65 in 1992, to 74 in 1993.

Indigenous people who make up only one per

cent of the population accounted for 11 per cent of the deaths. "This would appear to suggest that the recommendations of the royal commission are either not being fully implemented or, when they are, are not operating effectively," the report said. The report notes that none of the deaths were in a police lock-up.

• A new Deaths in Custody Watch Committee is formed in Western Australia. Committee member and chairperson of the Human Rights Commission Ronald Wilson says that in 1988 Aboriginal people were 43 times more likely than other people to be in police custody. By 1992 the level has jumped to 60 times. He says only 30 of the 339 recommendations have been implemented in WA. In reply, the WA Attorney General Cheryl Edwardes says the state's response has been "second to none." The committee attacks her claim as a "gross misrepresentation of the facts".

custody were due to illness (10 out of 14) and half of the deaths were caused by heart disease.

Thirty-seven of the 99 deaths investigated by the Royal Commission were due to illness, just over one-third compared with over two-thirds in 1993-94.

Part of the explanation for the lack of media follow-up of Aboriginal deaths in custody must lie with management and editorial decisions which leave reporters inadequate resources, time and space to report on issues.

The Royal Commissioners found, "Generally, there appeared to be little appreciation of and less dedication to the duty of care owed by custodial officers to persons in custody. We found many system defects in relation to care, many failures to exercise proper care and in general a poor standard of care." Has anything changed?

A reading of Searcy's *Death in Custody Newsletter*, which is the only publication of its kind, suggests that poor medical care remains a crucial issue. In her July 1994 edition, Searcy reported on the death of Janet Beetson, an Aboriginal remand prisoner at Mulawa in New South Wales. Janet Beetson, who died in June 1994, had cardio-vascular disease and a serious drug problem.

According to Searcy, she arrived at the prison, "in an extremely poor condition [and] was initially placed in the prison clinic but unfortunately was then transferred to the Conlon [main prison] wing. She continued to deteriorate and was taken back to the clinic where she died the next day."

Searcy said in the newsletter that "sharp

questions" should be asked about why she was not taken to hospital immediately and treated for her serious illness. (An inquest into this death will be held later this year.)

She also told *Reportage* of the death of 37 year old Kim Nixon who died in a Western Australian police cell in September last year. According to Searcy he should not have been there. The court gave him a non-custodial sentence but he was put back in the cells. Nixon had high blood pressure. After seeing him in his cell, the Aboriginal Visitors Scheme appealed to the police to provide him with proper medical attention.

It is unfair to blame failures of the media to follow-up deaths in custody on individual journalists. Part of the explanation for the lack of follow-up must lie with management and editorial decisions which leave reporters inadequate resources, time and space to report on issues.

Following Royal Commission recommendations for improving media coverage, a conference on reporting Indigenous affairs was organised in Brisbane last year. The conference which was attended by editors and other senior members of media organisations devel-

oped guidelines for reporting.

But as Dodson says "the national summit" created a "warm inner glow which was then forgotten". He says he noticed a definite improvement in the coverage of Indigenous affairs during the Native Title debate. "I thought the media was pretty good but now they have slipped back."

Concern is shared by some journalists. Jan Mayman is an experienced Western Australian journalist who won a Gold Walkley award for her coverage of the John Pat case. (John Pat was a 16 year old Aboriginal who died in a police cell in Roebourne, Western Australia.)

"As a journalist who worked hard to expose the issue of black cell deaths I am profoundly disappointed that the media has not campaigned harder for implementation of the Royal Commission's recommendations.

"I have covered many Royal Commissions and they seem to me to be simply a way of defusing public anger and concern and exhausting critics of the government by a process of legal attrition.

"Sometimes they even conceal the truth by creating an illusion of action, when the bureaucracies move along behind the scenes at their usual glacial pace."

More information

The *Death in Custody Newsletter* is produced six times a year by Jennifer Searcy. It is available from her at the Campaign for Prevention of Custodial Death, PO Box 847, Nedlands WA 6009, phone/fax (09) 386 4783. It is free but payment of \$10 or \$15 pa would help to offset printing and postage costs.

Justice Under Scrutiny, the report of the Inquiry into the implementation by governments of the recommendations of the Royal Commission into Aboriginal Deaths in Custody, is available from the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs, Parliament House, Canberra, phone (06) 277 2321.

The Human Rights and Equal Opportunity Commission's *Second Report, 1994*, prepared by Michael Dodson, Aboriginal and Torres Strait Islander Social Justice Commissioner is available from HR&EOC, Level 8 Piccadilly Tower, 133 Castlereagh Street, Sydney 2000, phone (02) 284 9600 fax (02) 284 9715.

Note to journalists: The ACIJ is continuing its research on Aboriginal deaths in custody. Journalists or others needing advice or able to assist the Centre in its work should make contact.

September

- Four people die in custody in Western Australia in 11 days.

December

- The Parliamentary Standing Committee on Aboriginal and Torres Strait Islander affairs report *Justice Under Scrutiny* is critical of governments' failure to involve Aboriginal people more in the implementing Royal Commission recommendations and of government reports which have "glossed over deficiencies and not accurately portrayed the implementation process." It notes that there has been "no substantial change" for Indigenous people as a result of extra funds supplied by the Commonwealth. It warns that annual reporting by government is in danger of becoming an "exercise in bureaucratic activity" and that "without reforms being implemented, further deaths are inevitable".

The Department of Prime Minister and Cabinet has three months to coordinate a

government response to the *Justice Under Scrutiny* report.

- A few weeks later, and a year late, the Victorian Kennett government tables its 1993 Implementation Report. The State Aboriginal Affairs Minister, John, said the report was "an indication of the depth and breadth of action taken by the State Government and Aboriginal community" in dealing with the recommendations of the royal commission.

But the Victorian Aboriginal Justice Advisory Committee's Wanda Braybrook says the committee is very concerned by the increasing prison rate. "Aboriginal people continue to be disadvantaged by their contact with the criminal justice system, and ... to suffer at a greater rate than any other section of the Victorian community," she said.

1995 February

- The Australian Institute of Criminology

issues its report for 1993/4 which shows deaths in custody are rising along with rates of imprisonment.

- The deadline passes for Federal government to respond to the *Justice under Scrutiny* report. According to the Minister for Aboriginal and Torres Strait Islander affairs it requires a detailed response which will not be available until later in the year.

March

- Aboriginal and Torres Strait Islander Social Justice Commissioner, Mick Dodson releases his annual report. He describes the first Commonwealth Annual report coordinated by the unit as a "self serving account of bureaucratic activity designed to bury failure in a sea of words, reports and committee meetings rather than expose it to public scrutiny and discussion. The report is a monument to the worst tendencies of bureaucracy run wild."

WENDY BACON, BONITA MASON, PETER CRONAU