

Police custody deaths in Mauritius

A.K. Agnihotri, MD* & S.K. Gangadin, MD**

Abstract

People in police custody are more likely to die prematurely, especially from violent causes. This article presents data of a total of 28 police custody deaths in Mauritius from 1991 to April 2002. Twenty-two deaths were caused by suicide, three by natural causes, two by alcohol/drugs and one by unknown cause. Hanging was the most common means of committing suicide. Items of clothing were the most commonly used objects. Based on the findings, several measures for the prevention of deaths in police custody are discussed.

Key words: police, custody deaths, autopsy

Introduction

Any death in police custody is a serious matter causing public disquiet. People in custody are more likely to die prematurely, especially from violent causes, than similar people not in custody. Therefore, it is not only the lawful duty, but also the moral responsibility, of police to keep a person in their custody with necessary care and con-

cern for his safety. This has become a major human rights issue worldwide.

We undertook this study to analyse causes of deaths in police custody in Mauritius and to compare these with the published reports from other countries, with the objective of identifying preventive measures.

Scenario in Mauritius

Mauritius is a small, pleasant island which serves as a popular tourist destination for wealthy Europeans. This island of volcanic origin covers an area of 1,865 square kilometers (720 square miles). The estimated residential population of the island of Mauritius on December 31, 2000 was 1,157,789, showing an average population growth rate (2000-2005) of about 0.8%. The nation claims to be prosperous and tranquil, offering stability and harmony for a racially mixed population.

From January 1991 to April 2002, a total of 28 deaths have occurred in police custody as shown in table 1.¹

Analysis of the above mentioned data shows that the great majority of deaths in police custody are due to suicide – 22 (79%) – followed by deaths due to natural causes – 3 (11%) – and then two cases of poisoning (7%). In so far as suicides are concerned, the majority of deaths occurred due to hanging. Among all of these cases of custody

*)

Department of Forensic Medicine & Toxicology,
Medical College,
Mauritius
agnihotri_arun@hotmail.com

**)

Police Medical Officer, Port Louis,
Mauritius

Table 1. *Deaths in Police Custody.*

Causes of death	Number
Suicide	
Hanging	17
Self-inflicted injuries	2
Burns	3
Poisoning (alcohol/drugs)	2
Natural	3
Unknown	1
Total	28

deaths, Kaya's death brought into sharp focus an ongoing problem of police brutality, which included the use of torture to extract confessions and the use of excessive force during arrest. It has become very famous as described below.²

On 21 February 1999, the popular singer known as Kaya (Joseph Reginald Topize) died while in police custody, after being arrested for smoking marijuana during a protest for drug legalization. An autopsy obtained by his family revealed signs of beating, contradicting police claims that his injuries had been selfinflicted. Kaya's death provoked several days of rioting and protests such as the fire bombing of police stations, the closing of schools and stores, road-blocking and car-burning. The public accusations have suggested that Kaya's death resulted from skull fracture inflicted by police. Amnesty International wrote to the government expressing its concern about continuing police brutality and calling for the find-



ings of inquiries into the death of Kaya to be made public.

According to the 2002 Amnesty International Report,³ there were at least four deaths in police custody as a result of torture or other cruel, inhumane or degrading treatment in the year 2001. Neither these cases nor the cases from previous years were investigated under open and thorough procedures. For example:

Josian Kersley Bayaram died on 21 July in prison in Pointe aux Cannoniers after his arrest for alleged drunkenness. An official autopsy concluded death by asphyxiation. His family disagreed with police statement that he had committed suicide by hanging, objecting that there was no trace of strangulation on his neck but there were deep wounds under his left eye and on his forearm. They filed a complaint to the Police Complaints Bureau and National Human Rights Commission but were not informed of any progress about the investigation. They had the body exhumed two months after burial for private autopsy.

In both of the cases, no evidence of foul play was suspected and the report was submitted to the Minister of Human Rights.

Discussion

Premature deaths of people in police custody are always tragic. At a moral level, it undoubtedly causes trauma among family members of the victim and at the same time sometimes gives rise to unfounded suspicion and rumours as to the conduct of police. Therefore, any such death needs to be explained in the first instance before the law, and then to the public and family members of the victim.

In South Africa, the Independent Complaints Directorate had recorded 2,174 custody related deaths in April 2000 since their inspections in 1994.⁴ In Ontario, Canada, a

total of 308 people died in custody during the period of 1990-1999.⁵ In the Netherlands, 59 deaths were reported in Dutch police station in the period of 1983-1993.⁶ The Institute of Legal Medicine in Bonn, Germany, reported 86 deaths in middle Rhine detention centers and custody from 1949 to 1990.⁷ In Australia, 527 deaths are known to have occurred in police or prison custody in the period of 1980-1989.⁸ In Denmark, 20 deaths (one homicide and 19 others) occurred in police custody during the period of 1981-1985⁹. In India, according to the NHRC report, the number of custodial deaths has doubled from 444 in 1995-1996 to 888 in 1996-1997, and this figure went to 1,012 in 1997-1998.¹⁰ In India, as per NHRC, the facilities for the conduction of an autopsy in custodial deaths are inadequate and the procedure followed is unsatisfactory at most of the places.¹¹

Case studies from other parts of the world show significant findings according to the suicidal behaviour of prisoners.¹²

These figures themselves speak of the magnitude of the problem in most of the countries. The United Nations has given guidelines on effective prevention and investigation of extra-legal, arbitrary and summary execution.¹³

The constitution of Mauritius contains human rights guarantees that prohibit arbitrary arrest and detention, torture and inhumane treatment. In 1999, the police established a Complaints Investigation Bureau that investigates allegations of abuses by officers. The National Human Rights Commission (NHRC) was set up in 2001 under the Protection of Human Rights Act 1998 enacted in December 1998. Under section 4(1) (b) of the act,¹⁴ the NHRC may receive any complaint against police brutality either from physical violence or foul language. The Commission (NHRC) also recommended

the following views to the commissioner of police to be made known to each member of the police force:¹⁵

- The police officers are reminded that they are public servants paid for with public funds to provide a multitude of services to the public and they are expected to treat members of the public with patience, fairness and courtesy.
- The use of unnecessary violence and uncivil or improper language by police officers not only constitutes an offence against the discipline of the police force but can also entail criminal proceedings against the offender.

In this country, any reported case of death in police custody is automatically taken over by the NHRC. They enquire into the allegation, and if a crime is disclosed they refer the case to the Director of Public Prosecutions with their recommendation. They also visit police cells with a strict observance of the laws, rules and standing orders by the police in matters of care and custody of detainees in cells.

According to Amnesty International's recommendations to the Mauritius government¹⁶ to ensure that investigations into allegations of torture or other human rights violations by the police are independent and impartial, the accused officers are to be suspended pending the result of investigations, and those responsible are to be subjected to disciplinary action or prosecution before the courts.

Studies conducted outside Mauritius¹⁻⁵ have shown that the majority of deaths in police custody have occurred as a result of suicide. Our analysis also supports this evidence. But in contrast to our study, Copeland,¹⁷ in his study conducted in Metropolitan Date County (1956-1982), indi-

cates that natural disease (predominantly cardio-cerebral vascular and alcohol-related) was most common, followed by suicides. Analysis of our data shows that most of these deaths may be preventable. Many of the deaths from natural causes seem to be unavoidable. Deaths due to poisoning appeared to be accidental and related to an overdose of drugs.

The deaths due to torture in custody are some of the most difficult cases for the forensic experts, which may sometimes require expertise and integrity of the highest order. The investigating agencies mostly try to conceal the circumstances surrounding the death. Keeping in view these shortcomings, the NHRC has suggested certain measures to improve the system, stressing mainly the examination of the body soon after death, before decomposition sets in, and early release of a postmortem report.¹⁵ The relatives of a detainee found dead in police detention are entitled to know the cause of death and to require a counter autopsy if they wish to dispel any doubt they may have. Under section 110 (1) District and Intermediate Courts (Criminal Jurisdiction) Act,¹⁸ the District Magistrate should be informed when a person has died in prison or while in police custody. They shall proceed, or order an officer to proceed, with the examination of the body and an investigation of the matter with the assistance of a medical practitioner. The investigating officer should be at least in the rank of Assistant Superintendent of police and the postmortem examination is to be carried out by the police medical officer. In our view, if the Magistrate would supervise the enquiry from the very start, there would be less suspicion. According to Hiss Jehuda and Kahana Tzipi,¹⁹ the dorsal surface of the body should be examined by a modified elongated X-incision.

Recommendations & conclusion

To conclude, there should be responsibility on the part of the custodial authorities and the public to regularly review causes and rates of death among people in police custody and to look for ways to prevent such deaths. The following are some recommendations that can help in the prevention of such deaths:

- Since the majority of deaths in police custody were caused by the use of some kind of ligature made up of items of clothing, police officers should be authorized to withhold items of clothing and personal effects that may be likely to harm.
- Similarly, the presence of electrical fitting, door hinges, bolt holes, window bars, cell hatches, security grills, etc., all important parts of any building, constitute a source of danger to a determined detainee. The main aim should be to set up an ideal infrastructure for custody (suicide-proof cell). Most importantly, a metallic screen should be placed on all openings in police cells so that the bars are inaccessible to a detainee to hang himself. At the same time such a measure should not reduce the ventilation or penetration of light into the cell. The authorities also intended to set up special detention centers for suspects on remand with closed-circuit television to prevent any occurrence of death in police custody.¹⁵
- As far as alcohol-related deaths are concerned, promoting use and further development of simple tests to estimate blood alcohol concentration, chronic alcohol problems and suicide risks, before incarceration takes place, may save the lives of people in custody.²⁰ Some of these deaths could possibly be prevented by the timely

application of drug rehabilitation and methadone programs.

- Deaths from natural causes appear to be non-preventable. However, the detainees of this group should have routine physical and medical check-ups with medical officers.
- According to McDonald and Thomson,⁸ minimization of the number of people held in police and prison custody is an important measure to prevent such deaths. In our opinion, the legal authorities have to reduce the number of temporary detainees (temporary detainees means prior to the Director of public prosecution's decision), instead releasing them on heavy bail.

Considering the above mentioned points, it is concluded that custodial authorities should have clear responsibility to provide quality preventive and clinical health services to all people in custody. Close attention needs to be paid to ensure the safety of lock-ups and to the screening of people likely to have a suicidal tendency.

References

1. Mauritius police magazine 2002:5-6.
2. African reggae singer killed in custody. Port Louis Mauritius, March 2001. <http://www.hartford-hwp.com/archives/36/312.html>
3. Amnesty International Report Africa – Mauritius. Amnesty International, 2002.
4. Bhana BD. Custody-related deaths in Durban, South Africa 1998-2000. *Am J Forensic Med Pathol* 2003;24:202-7.
5. Wobeser WL, Datema J, Bechard B, Ford P. Causes of death among people in custody in Ontario 1990-1999. *CMAJ* 2002;167:1109-13.
6. Blaauw E, Vermunt R, Kerkhof A. Deaths and medical attention in police custody. *Med Law* 1997;16:593-606.
7. Steinhäuser A. Analysis of cause of death in Central Rhine prisons and in police detention centers 1949 to 1990. *Arch Kriminol* 1997;199:88-96.
8. McDonald D, Thomson NJ. Australian deaths in

- custody 1980-1989. 2. Causes. *Med J Aust* 1993;159:581-5.
9. Segest E. Police custody: deaths and medical attention. *J Forensic Sci* 1987;32:1694-703.
 10. National Human Right Commission Reports. India, 1999.
 11. Malimath VS. Note on model autopsy forum and inquest procedure. New Delhi, India: NHRC, 1999.
 12. Fruehwald S, Matschnig T, Koenig F, Bauer P. Suicide in custody. *Br J Psychiatry* 2004;185: 494-8.
 13. Principles on the effective prevention and investigation of extra-legal, arbitrary and summary executions. United Nations, 1989.
http://www.coe.int/T/E/Human_rights/Police/5_Reference_Documents/q_Principles_Effective_Prevent_Investig_Extra-legal_Executions.asp
 14. The Protection of Human Rights Act 1998. Act No. 19 of 1998.
 15. The 2001 Annual Report of the National Human Rights Commission. Mauritius, 2002.
 16. CANADA Action: policing and human rights in Mauritius.
http://www.amnesty.ca/take_action/actMpolice.php
 17. Copeland AR. Deaths in custody revisited. *Am J Forensic Med Pathol* 1984;5:121-4.
 18. District and Intermediate Courts (Criminal Jurisdiction). Act RL 2/551-5 November 1888. *The Mauritius Law* 1990;2:283.
 19. Jehuda H, Tzipi K. Medico-legal investigation of death in custody: a postmortem procedure of detection of blunt force injuries. *Am J Forensic Med Pathol* 1996;17:312-4.
 20. Giles HG, Sandrin S. Alcohol and deaths in police custody. *Alcohol Clin Exp Res* 1992;16:670-2. □