The Journal of Forensic Psychiatry & Psychology

ISSN: (Print) (Online) Journal homepage: https://www.tandfonline.com/loi/rjfp20

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To cite this article: Stella Botchway & Seena Fazel (2021): Determining rates of death in custody in England and Wales, The Journal of Forensic Psychiatry & Psychology, DOI: 10.1080/14789949.2021.1991979

To link to this article: https://doi.org/10.1080/14789949.2021.1991979

Published online: 26 Oct 2021.

THE JOURNAL OF FORENSIC PSYCHIATRY & PSYCHOLOGY
https://doi.org/10.1080/14789949.2021.1991979

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Determining rates of death in custody in England and Wales

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ABSTRACT

In England and Wales, there has been considerable work over recent years to reduce the numbers of deaths in custody. Currently, there is no standard, internationally agreed definition of a death in custody, which limits comparisons. In addition, rates of death in custody are often reported per country or region inhabitants, but it would be more useful to report per number of detainees. In this short communication, we present data on deaths in individuals who have been detained in England and Wales between 2016 to 2019. We also present a method to calculate rates of death per custodial population in key settings using routine data, allowing for more consistent comparisons across time and different settings. Most deaths in custody between 2016–2019 occurred in prisons (56% of all deaths in custody over 2016–19; Table 1). However, when rates are considered, those detained under the Mental Health Act had the highest rate of deaths, which ranged from 1103–1334/100,000 persons detained. Around one in five deaths were self-inflicted. The data presented highlights the need to maintain focus on improving the physical health and mental health of all those detained in custody, both whilst in detention and after release.

ARTICLE HISTORY Received 20 May 2021; Accepted 7 October 2021

KEYWORDS Suicide; 'police custody'; detention; mortality; 'Mental Health Act'; prison

Introduction

In England and Wales, there has been considerable work over recent years to reduce the numbers of deaths in custody. Deaths of individuals in the custody of the state (Crown Prosecution Service, 2020) can occur in a number of settings. Here, we consider a death in custody to include deaths occurring in prison, in hospital for those detained under a mental health law, such as the Mental Health Act 1983 (MHA) in England, in or following police custody, and in Immigration Removal Centres (IRCs) or their equivalents. The collection, analysis and dissemination of accurate data on deaths in custody helps to monitor trends, highlight vulnerable sub-populations and assess the impact of preventative measures. In England and Wales, this work is

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supported by the Independent Advisory Panel on Deaths in Custody (IAP), which provides independent advice and expertise to the Ministerial Board on Deaths in Custody. The panel collates and publishes data on deaths in custody and helps to shape policy and share lessons learned.

Numbers of deaths in custody have varied considerably across time, and also across regions and countries. Currently, there is no standard, internationally agreed definition of a death in custody, which limits comparisons (Aasebo et al., 2016). In addition, rates of death in custody are often reported per country or region inhabitants, but it would be more useful to report per number of detainees (Heide & Chan, 2018). Even then, there have been few attempts to determine a method of calculating a population of interest for rates of death whilst detained in custody, as it is difficult to obtain information on the total number of people who are detained each year in various settings.

In this short communication, we present data on deaths in individuals who have been detained in England and Wales between 2016 and 2019. We also present a method to calculate rates of death per custodial population in key settings using routine data, allowing for more consistent comparisons across time and different settings.

Methods

Data on deaths in custody are collated annually by the IAP. These data are either publicly available or available on request from the relevant governmental bodies.

Calculation of mortality rates

To calculate an estimated mortality rate, data on the population at risk was sourced from the relevant governmental departments as detailed below. In addition, we present alternative ways of calculating rates in specific settings and discuss their limitations. The first method estimates the detainee population at a specific time in the relevant year for prisons and hospitals, and for police arrests and in IRCs the total population at the end of the year, based on routinely available data. This approach is further refined, where possible, to estimate the time at risk by considering the average length of stay for each detainee. These rates are compared to the more historical approach of calculating the rate of death per 100,000 persons in the general population.

Deaths in prison

In England and Wales, deaths in prisons are drawn from Her Majesty's Prison and Probation Service Incident Reporting System and are published by the Ministry of Justice.

The Ministry of Justice publishes monthly and annual estimates of the prison population of England and Wales, which provides a snapshot of the number of remand and sentenced prisoners on 31st March, and can be used as an approximation for the population of interest necessary to calculate mortality rates. Whilst this denominator can be compared across years and to some other countries, it may underestimate the annual population if there is a high degree of churn among prisoners, driven by those on remand or with short sentences. Therefore, an alternative approach to calculating the population of prisoners is to account for the high turnover of prisoners on remand. Measuring prison receptions, which count the number of arrivals per year, has been previously proposed as a valid and reliable way of allowing for this turnover of remand prisoners (Hawton et al., 2014). For annual first receptions, each prisoner is only counted once, for the first time in the year they enter. Thus, for this alternative, we suggest that the annual population of prisoners at risk can be worked out using receptions to estimate the number of remand prisoners at risk, and the census to estimate the number of sentenced prisoners; taking into account the proportion that are remand vs sentenced prisoners. This calculation is represented as follows:

$$\text{Prisoner population of interest} = (\text{First receptions x proportion of receptions who are on remand}) + (\text{Census population} \times \text{Proportion of census population who are sentenced})$$

This method may overestimate the person years of risk as each remand prisoner most likely only contributes a small amount of time to the overall risk period. Therefore, we present both methods to calculate the denominator (prison census population only and proportionate census and reception populations) when presenting mortality rates for prisoners. Another approach, which would be the most accurate, would be to have precise dates for when people enter and leave prison, which would allow for calculation of person-years at risk (Chang et al., 2015). This is currently not done in England and Wales, nor in most other countries to our knowledge. Moving towards this more precise timing of arrivals and releases would be an important advance to calculate accurate and comparable mortality rates.

Deaths in hospitals in patients detained under the Mental Health Act

In England, the Care Quality Commission (CQC) mandates each national and independent healthcare provider to report on deaths and the numbers of people detained subject to the MHA. The population of people detained in hospital under the MHA in England is generated from a census taken on the 31st March each year, and published annually. This census is subject to the same limitations as the prison census discussed above. In 2016, the CQC introduced a new method of collating these data based on automatic returns. This made the data more reliable but less comprehensive, especially among independent sector hospitals, and there was a reduction of 23% of detained

persons in 2017–2019 compared with the average over 2016. To account for these missing hospital patients, we added this 23% to the 2017–2019 population of people detained to provide a more accurate denominator.

This reported rate based on annual numbers of people detained does not take into account their length of detention. An alternative is to use average (median) length of detention under the MHA, which was 27 days (NHS Digital, 2021), although this does not account for differential mortality hazards during a period of detention. Using this approach, crude mortality rates are considerably higher and vary between around 14,000 and 18,000 per 100,000. Overall, though, this underscores the importance of having more precise information on time at risk for each person detained in hospital.

Deaths in police custody

A death in police custody is defined as a death that happens while a person is being arrested or taken into detention (Independent Office for Police Conduct, (2018). It includes deaths of people who have been arrested or have been detained by police for up to 36 hours under Section 136 of the Mental Health Act 1983. It excludes deaths from road traffic accidents. Other countries may include road traffic accidents, such as during a pursuit, within their official statistics (Aasebo et al., 2016; Lindon & Roe, 2017). Data on deaths are published by the Independent Office of Police Conduct.

The population of interest can be defined as the arrestee population, or number of people detained by the police per year. This population is comprised of people arrested for notifiable offences and those detained under Section 136 of the MHA, for which there are official statistics, and the people arrested for non-notifiable offences, for which routine data is not collected. Notifiable offences are defined as offences which constitutes a crime under UK law and must be notified to the Home Office for the inclusion in official crime statistics. These data are published by the Home Office. Non-notifiable offences are all other arrests, such as those for civil disobedience and minor driving offences (Office for National Statistics, (2021).

Previous research shows that an estimated 66% of all police detentions in England are due to notifiable offences (Lindon & Roe, 2017), with the remainder being made up of non-notifiable offenses and detentions under the MHA (Bucke et al., (2008). This proportion has proven stable over time, and so we have assigned a fixed proportion of 34% of all arrest as due to non-notifiable offences and detentions under the MHA. We calculated a population of police arrestees and detainees using the following equation:

$$\text{Arrestee population} = \text{notifiable offences} + ((\text{notifiable offences}/100) \times 34)$$

This approach does not lend itself to comparisons with other detained settings as the duration of detention is not accounted for. At the same time, it provides a consistent and reliable way to estimate mortality rates over time in

police custody. To address this, we present estimates for mortality rates based on deaths per day at risk, in addition to rates based on deaths per year at risk, which assumes the average length of detention is one day. Nevertheless, what is needed to calculate an accurate rate is the actual number of person days in police custody in any given year.

Deaths in people detained within Immigration Removal Centres (IRCs)

Deaths in people detained in IRCs are also collated by Her Majesty's Prison and Probation Service Incident Reporting System and are published by the Ministry of Justice. Data are publicly available from 2017 onwards, and data before this date were provided by the IAP. The Migration Observatory based at the University of Oxford publishes the numbers of people detained in UK IRCs based on Home Office Data (Silverman et al., 2020). We used these figures as an estimate for the underlying population. Data on deaths and populations in IRCs are for the UK.

The majority of detainees are held for 28 days or fewer (Silverman et al., 2020), and so person time at risk can be estimated using a conservative estimate of 1 month for the average detention time.

Results

Deaths in custody in England and Wales

Burden of deaths by setting

Most deaths in custody between 2016–2019 occurred in prisons (57% of all deaths in custody over 2016–19; Table 1). However, when rates are considered, those detained under the Mental Health Act had the highest rate of deaths, which ranged from 1103–1334/100,000 persons detained. This was around 3-fold higher than in prisons (range 344–415/100,000 prisoners). When person time at risk was considered, mortality rates under the MHA was higher still. Mortality in police custody and within IRCs was considerably lower in terms of numbers. By comparison, calculating rates per 100,000 inhabitants in the general population leads to mortality rates for prisons, hospitals and the police that are less than 1, and for IRCs less than 0.01.

The rates presented in Table 1 can be compared to the average all-cause mortality rate of 62 over the same the same time period of 2016–2019 for 30–34 year olds in England and Wales, obtained from the UK Office of National Statistics (ONS Crown Copyright (from NOMIS), 2021).

Table 1. Deaths in custody in England and Wales 2016–2019.

Setting	Numbers, (proportion), and rates per 100,000 detainees								
	2016		2017		2018		2019		4 year average
	Numbers (%)	Rate	Numbers (%)	Rate	Numbers (%)	Rate	Numbers (%)	Rate	
Prisons	354 (56)	415	295 (54)	344	325 (58)	390	300 (57)	361	378
Prisons*		298		247		285		267	274
MHA	269 (42)	1334	224 (41)	1223	216 (39)	1103	211 (40)	1109	1192
MHA^{+}		18,021		15,006		14,470		14,135	
Police	12 (2)	1	19 (4)	2	17 (3)	2	20 (4)	2	2
Police^{+}		419		741		723		851	684
IRC	1 (<1)	3	4 (<1)	15	1 (<1)	4	1 (<1)	4	7
IRC^{+}		42		176		48		49	79
Total	636		542		559		522		

*Adjusted for relative proportions of remand (by receptions) and sentenced prisoners (by census).
$^{+}$Adjusted for estimated person time at risk.

Deaths by sex

Some information was available across all settings (Table 2 for numbers) but it was not possible to calculate rates in hospitals due to a lack of data on denominators. Data was not available stratified by sex for people detained in hospital under the MHA, but data was available for repeated detentions (where sex was documented) and was used as a proxy to provide information on the breakdown of sex in this setting. This figure for all detentions includes community treatment orders as well as detentions in hospitals (Table 3). The deaths in prisons by sex broadly reflects the proportions of the underlying population. In hospitals, deaths in custody are slightly overrepresented in men, considering the sex proportions of the underlying population and the corresponding sex-specific mortality rates.

By comparison, the all-cause mortality rate of the general population of England and Wales over the same time period was 80 for men and 44 for women, aged 30–34 (Official Labour Market Statistics, 2021).

Deaths by cause and age

Between 2016–2019, the majority of deaths were due to natural causes (1336, 59% of all deaths in custody), followed by self-inflicted deaths (457, 20% of all deaths) (Table 4). Self-inflicted deaths include deaths by suicide, along with other self-inflicted deaths where the intent may not have been to cause death, or where the intent was not clear.

Over the same period there were 195 deaths (9%) for other natural causes, a category which includes accidental overdoses, and 53 deaths as a result of restraint (2% of all deaths). Deaths due to restraint were recorded by prisons and

Table 2. Number and (%) of deaths in custody, and sex proportions by setting in England and Wales 2016–2019.

Setting	Deaths and (%) by sex, and sex proportion of detainees according to custodial setting							
	2016		2017		2018		2019	
	No. (%)	Sex % in setting population	No. (%)	Sex % in setting population	No. (%)	Sex % in setting population	No. (%)	Sex % in setting population
Prison								
Male	332 (94)	95	287 (97)	95	314 (97)	95	292 (97)	95
Female	22 (6)	5	8 (3)	5	11 (3)	5	8 (3)	5
MHA								
Male	173 (65)	52*	136 (61)	52	137 (64)	52	128 (62)	51
Female	95 (35)	48*	87 (39)	48	77 (36)	48	79 (38)	49
Police								
Male	11 (92)	85	17 (89)	85	14 (82)	85	19 (95)	85
Female	1 (8)	15	2 (11)	15	3 (18)	15	1 (5)	15
IRC								
Male	1 (100)	86	4 (100)	85	1 (100)	85	1 (100)	86
Female	0	14	0	15	0	15	0	14
Total								
Male	517 (81)		444 (82)		466 (84)		426 (83)	
Female	118 (19)		97 (18)		91 (16)		87 (17)	

*All detentions rather than all those subject to the MHA were used to calculate the sex proportions for 2016.

Table 3. Rates of deaths in custody in prisons in England and Wales by sex 2016–2019.

Setting	Rates of death per 100,000 detainees			
	2016	2017	2018	2019
Prison				
Male	407	351	395	369
Female	570	201	256	211
Prison*				
Male	297	256	293	278
Female	313	110	160	121
Police				
Male	1	2	2	3
Female	1	2	2	1
IRC				
Male	4	17	5	5
Female	0	0	0	0

*Rates adjusted for relative proportions of remand and sentenced prisoners.

Table 4. Deaths in custody by cause for all settings, 2016–2019.

Cause	Number and (% of total deaths)				
	2016	2017	2018	2019	Total
Natural	409 (63)	360 (67)	310 (56)	257 (49)	1336 (59)
Self-inflicted	152 (24)	98 (18)	112 (20)	95 (18)	457 (20)
Other natural	48 (7)	55 (10)	72 (13)	20 (4)	195 (9)
Restraint	19 (3)	10 (2)	13 (2)	11 (2)	53 (2)
Homicide	3 (<1)	3 (<1)	4 (<1)	3 (<1)	13 (<1)
Awaiting categorisation	15 (2)	14 (3)	40 (7)	134 (26)	203 (9)

hospitals only. In addition, there were 13 deaths (less than 1%) due to homicide, all occurring in prisons. The remainder of deaths were not categorised, mainly due to insufficient information. In some instances, particularly in the later years, these deaths may be further categorised at a later date following investigation.

Data on deaths in all settings, stratified by age, was available for natural and self-inflicted deaths (Table 5).

More natural deaths occur in older detainees, with an average of 61% occurring in the over 60s over the four years, and almost 80% occurring in the over 50s. For self-inflicted deaths, on average, 63% occur in those 40 and under, and 97% of deaths occurring in those under 60.

Discussion

We have presented routinely collected data on deaths in custody in England and Wales and proposed different methods of determining rates per detained population in each setting, reflecting data availability.

Table 5. Deaths in custody by age and cause for natural and self-inflicted causes, 2016–2019.

Cause of death	Numbers of deaths per year and % by cause							
	2016		2017		2018		2019	
Age group	Number	% of cause of death	Number	% of cause of death	Number	% of cause of death	Number	% of cause of death
Natural								
11–20	0	0	0	0	0	0	1	0
21–30	14	3	7	2	7	2	8	3
31–40	27	7	13	4	17	5	10	4
41–50	37	9	36	10	37	12	21	8
51–60	71	17	70	19	56	18	54	21
61–70	95	23	77	21	65	21	57	22
71–80	101	25	83	23	84	27	60	23
>80	54	13	66	18	42	14	33	13
Not stated	10	2	8	2	2	1	13	5
Total	*409*	*100*	*360*	*100*	*310*	*100*	*257*	*100*
Self-								**inflicted**
11–20	7	5	6	6	4	4	5	5
21–30	49	32	24	24	24	21	23	24
31–40	49	32	34	35	38	34	29	31
41–50	28	18	21	21	22	20	22	23
51–60	15	10	11	11	18	16	14	15
61–70	3	2	2	2	4	4	2	2
71–80	0	0	0	0	1	1	0	0
>80	1	1	0	0	1	1	0	0
Total	*152*	*100*	*98*	*100*	*112*	*100*	*95*	*100*

We report two main findings. First, most deaths occurred in prison, but the highest mortality rate was in hospitals, followed by prisons. Rates in IRCs were considerably lower. Second, around one in five deaths were self-inflicted. Finally, the methods presented here allow for the calculation of rates in custody in four detained settings and provide a way of comparing such deaths within a setting across time.

Previous research into deaths in custody rates have not been recent or used accurate approaches to estimate rates. Heide & Chan (2018) report rates from England and Wales from the period of 1970–1979, using the conventional approach of using deaths per general population persons. Reported rates across international studies were all under 1 per 100,000 general population inhabitants, apart from the USA, which was higher (Heide & Chan, 2018).

Analysing deaths rates by taking into account target populations allows for further interpretation than simply considering number of deaths, or deaths per country inhabitants. Defining both the numerator and denominator allows for more informed comparison of rates across time and internationally.

Using these methods, the high mortality rate for those detained in custody compared with the general population is underscored. Deaths in all custodial settings are much higher than the background all-cause mortality for the general population of similar age and sex. The highest rate was in psychiatric hospitals, and the underlying causes of this have been discussed (De Hert et al. 2011; De Hert, Correll et al. 2011). Explanations may include older average age and poorer health on detention in those detained in hospital under the MHA. The higher rate found in prison (Fazel, Hayes et al., 2016; Fazel, Yoon et al., 2017) and police settings compared with IRCs can also be explained by background risk factors and unhealthy lifestyles in the former groups, including mental illness, and alcohol and substance misuse. We also found differences between sexes and ages. Whilst there were more deaths in men than women in all settings, when the accompanying rates are considered, the difference in deaths between men and women narrowed. As expected, the proportion of deaths due to natural causes increased in the older age groups, and there were relatively more self-inflicted deaths in the younger age groups.

Limitations and recommendations

Some limitations should be noted. Not all sub-categories of deaths had population data, which meant that we were unable to calculate certain rates. Analysis of deaths by ethnicity in particular was limited by the extent of missing data for both deaths and population groups (see Appendix for available data on numbers).

Data from more recent years, particularly 2019, may be less reliable. The most recent data may change as investigations to determine cause of death may be ongoing. Once a death occurs in custody, there is often a lengthy process to investigate and categorise the death. This process involves a coroner review and may include an autopsy and independent inquiry.

There is a need for improved data collection to improve future analyses and interpretation of deaths in custody in England and Wales. This includes improved completion of self-reported ethnicity when people enter settings, such as prisons and hospitals. The exact time spent in detention by each detainee, and aggregating and publishing this information yearly is also necessary. The number of deaths 'awaiting categorization' remains high for recent years.

Current definitions of a death in custody are broadly defined. Some misclassification may occur if a recently released prisoner dies in the community after compassionate release, and so reducing apparent prison mortality rates as compared to other settings such as hospitals. An internationally agreed definition of a death in custody, to aid comparison across custodial settings, countries and regions, is necessary. We would suggest the following: "Deaths of persons who have been arrested or detained in police custody, residing in

prison (remand and sentenced), placed in immigration centres or their equivalents, and detained in hospital for assessment or treatment by law. It includes deaths which occur while a person is being arrested, taken into detention, or on temporary release from detention, and excludes deaths outside the custodial setting on the day of release from detention."

The data presented here highlights the need to maintain focus on improving the physical health and mental health of all those detained in custody, both whilst detained (Fazel, Ramesh et al., 2017; Zhong et al., 2021) and after release. The challenge to reduce mortality will continue throughout patient pathways, including on release from prison (Chang et al., 2015), and on discharge from hospital (Fazel, Fiminska et al. 2016).

Disclosure statement

SF is an expert panel member of the Independent Advisory Panel on Deaths in Custody.

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Appendix. Deaths by ethnicity

Table A1. Number of deaths in custody in England and Wales by ethnicity 2016–2019.

Setting	Numbers of deaths per year			
	2016	2017	2018	2019
Prison (total)	354	295	325	300
White	313	268	283	262
Black	20	9	18	14
Asian	14	10	11	12
Mixed	6	6	3	7
Other	0	2	3	3
Not stated	1	0	7	2
MHA (total)	268	224	216	210
White	192	100	133	106
Black	20	6	9	6
Asian	7	4	3	8
Mixed	2	2	1	1
Other	2	2	2	4
Not stated	45	110	68	85
Police (total)	12	19	17	5
White	9	14	14	5
Black	2	4	3	0
Asian	0	0	0	0
Mixed	1	0	0	0
Other	0	1	0	0
Not stated	0	0	0	0
IRC (total)	1	4	1	1
White	0	2	0	0
Black	0	0	0	1
Asian	0	1	0	0
Mixed	0	0	0	0
Other	1	1	1	0
Not stated	0	0	0	0

Comment: The majority of deaths occurred in people of white ethnicity across all settings, for both males and females. The completeness of ethnicity data varied by setting. There was a large amount of missing data on ethnicity in people detained in hospitals under the MHA. For example, half of females dying in 2019 whilst detained under the MHA did not have their ethnicity recorded. This large proportion of missing data makes it difficult to study any pattern of deaths by ethnicity, particularly if data is not missing at random. In contrast, the data collected by prisons was more complete. The numbers of deaths occurring in or following custody or in IRCs were few, with largely complete ethnicity data.