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Deaths in custody shaped new policies for Indigenous people; CABINET PAPERS 1990-91

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Ninety years after federation the Royal Commission into Aboriginal Deaths in Custody changed the way that government shaped policies affecting Indigenous Australians.

Aboriginal Affairs Minister Robert Tickner told the cabinet in early April 1991 that it faced a "critical" moment in the development of Aboriginal affairs policy - one in which "some action, albeit minimal" might be sufficient to "reassure the community that the government is serious" about these matters. "Aborigines and Torres Strait Islanders," he said, "are experiencing for the first time the opportunity to determine funding and policy directions."

More pointedly, he cautioned that "a new generation of Aboriginal and Torres Strait Islander people (70 per cent are under 30 years of age)" was looking for "a continuing government commitment to deliver social justice".

Four months earlier, the cabinet was advised, for example, that there was a chronic "deficiency in information on the efficiency and effectiveness" of 64 health centres after ministers agreed to establish them to better address infant mortality, tuberculosis and leprosy.

Treasury and Finance pointed out that until the priorities for such programs was established, their performance could not be assessed.

The royal commission report, released in April 1991, found that "the immediate causes of the deaths do not include foul play, in the sense of unlawful, deliberate killing of Aboriginal prisoners by police and prison officers" but its 339 recommendations helped drive planning and policy and addressed the impasse suggested by the Treasury and Finance criticisms.

The royal commission hearings had highlighted the shameful treatment of Indigenous Australians and the cabinet had moved to head off the growing furore by 1990, establishing the Aboriginal and Torres Strait Islander Commission.

As the royal commission report release date neared a Council for Aboriginal Reconciliation was announced.

The council of 25 prominent Australians, half of whom would be Indigenous, also had a role in advising ATSIC on the "development or delivery of socioeconomic development programs" which would dispel, rise above or bypass entrenched racism in Australia.

In August 1991 the cabinet agreed on first priorities in "law and justice, health worker training, [and] Aboriginal participation in developing, interpreting and using health indicators".

Symbolically, the cabinet also agreed to "move quickly on legislation against racial vilification and to the proposed accession to the Optional Protocol to the International Convention on Civil and Political Rights".

It was to be another four years before the racial hatred provisions were added to the Racial Discrimination Act, but the protocol was ratified in September 1991. In May 1991 the cabinet was briefed on the progress of the case that Torres Strait Islander Eddie Mabo had brought before the High Court.

The justices, the cabinet was advised, were "likely to be sympathetic to arguments in support of recognition of some form of land rights" in the form of native title, but the nature of those rights, and the "fiduciary relationship" they might establish between the government and Indigenous peoples, was unclear.

On that basis, the cabinet agreed that the Commonwealth should not participate in the case: to do so would send unhelpful signals. Judgment in *Mabo v Queensland (No. 2)* was not delivered until June 1992.