Deaths in German police custody

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Background: According to the ministries of the interior of all German federal states, a total of 128 persons died in police custody between 1993 and 2003. Methods: An inquiry to the forensic university institutes and regional court doctors showed that, within this period, post mortems were conducted in 75 of these cases. We were able to include 60 of these 75 cases in our evaluation and deficiency analysis, which were carried out under assessment of the post mortem records and partly by making use of the subsequent medical expert reports and the results of criminal investigation. Results: The most frequent cause of death was acute alcoholic intoxication, followed by cerebrocranial traumata, internal diseases and fatal poisonings with medical or illegal drugs. In 23 cases, the person taken into custody had been seen by a physician in order to determine the person’s fitness for detention in custody. Of these 23 cases, 15 (65.2%) revealed deficiencies in various areas of medical activity. Police officers had made mistakes in 33 of the 60 cases (55.0%), mainly because they failed to seek medical assistance or did not monitor the person with sufficient frequency. Our retrospective study however showed that in 16 cases (26.6%) death was very probably not preventable even if the person had received all necessary care. Conclusions: Our study gives recommendations on how to improve various measures to increase the quality of medical attention given to persons taken into police custody.

Keywords: deaths, improvement of medical care, police custody, prevention.

Introduction

The treatment of persons held in police custody or in certain prisons is increasingly subject to scrutiny. Apart from allegations of torture, the deprivation of adequate medical care is also of considerable importance. Cases of deaths in police custody frequently cause much public interest. We have systematic and conclusive studies on deaths in police custody from North America, Australia and Europe. However, due to national differences between the respective police and justice systems, deaths in police custody are not always clearly distinguished from deaths that occur in prison. The same can be said of the few existing German publications, which mostly do not differentiate between deaths in police custody cells and prisons.

Methods

This study includes all cases of deaths in police custody that occurred in Germany from 1993 to 2003. We excluded any deaths that were directly related to the making of an arrest and cases where acutely ill persons had been brought to hospital prior to their demise. In order to ascertain the absolute number of deaths, we asked the ministries of the interior of all 16 German federal states to submit the number of any cases they were aware of. According to the information provided, a total of 128 persons died in German police custody in the specified period of 1993–2003. Since conclusive analysis and assessment require concrete post mortem findings we further contacted the German forensic institutions and received 75 post mortem results. Our assessment only includes those cases where the forensic university institutes and regional court physicians had been able to provide the basic details from the post mortem records. We also assessed and evaluated to the possible extent any subsequent medical expert reports and prosecution case files and compared each and every individual case with respective police custody regulations.

Results

The 11-year-period under assessment shows a considerable variation range (figure 1).

Of the 75 post mortem cases, 15 had to be excluded from further evaluation. Basic data from the post mortem records were not available in six cases. Nine cases had to be excluded because the individuals died after having been admitted to hospital and these deaths were not registered at the German states’ ministries of the interior. Their post mortems showed that five of these deaths had been caused by cerebrocranial trauma, three by pneumonia and one by alcoholic intoxication.

Extracts from investigation files had been available in the majority of 60 cases. Subsequent forensic expert reports were available in 21 cases (35%).

The deceased were male in 59 of the remaining 60 deaths covered by our study. Age varied considerably (figure 2). The average age of the deceased persons was 41.1 years.

A medical assessment of fitness for detention in police custody was given in 23 cases (38.3%).

Acute alcoholic intoxication was the most frequent cause of death, followed by fatal poisonings with medical or illegal drugs (tables 1 and 2) and cerebrocranial traumata. The manner of death was clearly dominated by non-natural causes, which amounted to 80% (figure 3) and included eight suicides (hanging in the cell) and one homicide (strangulation by another occupant of the cell).

Deficiency analysis

In some cases, deficiency analysis revealed multiple deficiencies in combination (for example diagnostic errors and inadequate instructions). These cases, in part, are therefore represented in more than one deficiency category.

Of the 23 cases, 15 (65.2%) where the person taken into custody had been seen by a physician in order to determine the person’s fitness for detention in custody revealed deficiencies in various areas of medical activity. The most frequent deficiencies consisted of diagnostic errors or failure to admit...
the person to a hospital (13 cases). Four unconscious or unresponsive persons, for instance, had remained in custody after medical examination (cause of death: alcoholic intoxication) and men with obviously severe head injuries such as laceration to the head and bleeding from the nose (cause of death: subdural haematoma) were quite frequently left in their cell. In three cases, the instructions given by the physician to the police were clearly inadequate (e.g. prolongation of the interval of monitoring, no instructions whatsoever in the case of an unresponsive person). Five cases showed considerable deficiencies in medical documentation as, for instance, findings and directions given to police officers were illegible or mainly in Latin. Totally 33 of the 60 cases (55.0%) revealed failures by police officers, most frequently (14 cases) the failure to seek medical attention despite the fact that the respective legal provisions were clearly satisfied and should have been complied with. Deficiencies in the qualitative mode of monitoring were seen in 12 cases where, for instance, an audible snoring heard via intercom was misinterpreted as ‘quiet and healthy sleep’ (cause of death: epidural haematoma) or a prolonged sleeping-off of an alcoholic intoxication over more than 14 h was regarded as normal (cause of death: subdural haematoma). In at least nine cases, the statutory monitoring interval had not been observed and Forensic examinations even suggested that in one of these cases the man must have lain dead in his cell for 6 h. Police officers provided the attending physician only with insufficient information on the case history in at least five instances. The doctor had not been informed, for instance, of a binge drinking (cause of death: alcoholic intoxication) nor of an intake of 10 tablets (cause of death: clomethiazole/alcohol poisoning).

Further deficiencies shown by the police (five cases) consisted in insufficient body searches which meant, amongst other consequences, that a person who had been taken into police custody had then been able to self-administer a lethal dose of methadone. The man died 14 h after having been taken into police custody and the result of the toxicological analysis suggested that intake of methadone had occurred when in the cell.

Organizational deficiencies in the processes of detainment and medical care as well as in the occupancy and furnishings of cells were observed in 16.6% (10 of 60) cases. In four instances, paramedics declined without consulting a qualified
physician to transport people into hospital although the persons concerned were, for instance, highly intoxicated by alcohol or were unresponsive (cause of death: alcoholic intoxication) or visibly injured (cause of death: cerebrocranial trauma).

In the one case of homicide several occupants had been held in the same custody cell so that one of the detainees was able to strangle his cell mate to death during a conflict. In another case (cause of death: epidural haematoma), police officers monitored the detainee merely by brief switch-ons of the cell’s intercom.

In 16 of the 60 analysed cases (26.6%) our retrospective assessment however showed that death very probably would have been unavoidable despite every necessary care being given. These cases include deaths caused by myocarditis, peritonitis or coronary thrombosis regarding which the persons concerned did not express any typical complaints before or during custody. These persons had mostly not been under medical treatment before and, at their arrest, predominantly appeared to be moderately affected by alcohol or drugs. At the time of their examination, no considerable and obvious health risk was to be presumed. There also were several suicides where persons hung themselves inside their cells but had not displayed any conspicuous behavioural characteristics before.

**Criminal investigation**

The available records show that a total of at least 21 criminal investigations (relating to 17 cases) were instigated. In 10 instances, police officers had been under investigation; one was against paramedics. Investigations against the physicians who had assessed the fitness to be detained in custody were also held in 10 cases. Total 20 of these criminal investigations were discontinued for a variety of reasons. In seven instances, no blame could be attached that would have been causally responsible for the detainee’s death. In three investigations against police officers, the forensic expert reports stated that the life threatening condition in question would not have been perceivable to laymen (in case of fatal pneumonia, for instance). One investigation against a member of the police force was discontinued since the detainee, who had fallen, had suffered cerebrocranial injuries that were so severe that he very probably would still have died even if he had been brought into a neurosurgical ward immediately. Eight of the criminal investigations conducted revealed culpably irregular conduct of doctors (five cases) or police officers (three cases) in cases of fatal cerebrocranial traumata and intoxications. The forensic expert reports however stated that it would not have been certain that death could have been prevented if the detainees would have been admitted to hospital. In another case, proceedings against the physician (cause of death: poisoning caused by alcohol and medical drugs) were dropped against payment of a fine of €1000 because of low culpability.

In one case only, a physician was convicted. Cause of death had been a cerebrocranial trauma with skull fracture and subdural haematoma. When the detainee was examined for his fitness for detention in custody, a contusion on the head had already been visible. The forensic expert report stated that, with surgical intervention, the detainee’s life very probably would have been saved.

**Discussion**

Our study presents the first systematic survey of deaths in German police custody. It is assumed that these 128 cases indeed subsume any such incidents and occurrences from 1993 to 2003. In order to state relative frequency we actually would need to relate these figures to the number of cases where people had been taken into police custody. In Germany however, these figures are not centrally recorded and are rarely to be found in studies from other countries. In order to make an international comparison at all possible, we therefore have no other option than to relate the number of deaths to the population. This however leads to considerable uncertainty since differing legal provisions, regional structures and police practices are not taken into the equation. Some similarly oriented studies occasionally also include deaths that have occurred in direct connection with law enforcement.

Karch and Stephens\(^5\) state that deaths in police custody occur with a frequency of approximately 0.1 per 100,000 citizens. He also emphasizes, however, that the determination of the exact rate of deaths varies considerably. In relation to Germany’s population of 82 million (2003), it can be said that Germany has with its 128 deaths in police custody a relatively low figure when compared with other countries’ similar studies and results (table 3).

In the studied period, post mortems were performed in Germany for at least 75 deaths in police custody. Considering legal practice in Germany, one would expect a post mortem result for any such case of death. Although three forensic university institutes did not provide any information (missing case entries in records) this does not explain the discrepancy between 75 post mortems and 128 cases as reported by the ministries of the interior. It seems that not all such cases underwent a post mortem. One reason could lie in differing legal provisions due to Germany’s federal structure.

The refrain from the performance of post mortems seems hardly comprehensible. The exact identification of the cause of death is a necessary requirement especially in view of later, and frequently made, allegations. Persons who are taken into police custody are often intoxicated by alcohol or narcotics or have suffered a trauma.\(^4,16-18\)\ Even a very thorough inspection of the corpse cannot rule out fatal intoxications by alcohol and medical or illegal drugs which, in our study, were found in studies worldwide.\(^3,4,6,8,19\) In our study, more than half of the cases (55%) concerned persons that were between

**Table 3** Studies on deaths in police custody over a studied period of 10 or 11 years

<table>
<thead>
<tr>
<th>Country [author]</th>
<th>Time period</th>
<th>Average Population (in million)</th>
<th>Deaths in police custody (absolute number)</th>
<th>Death coefficient (per million citizens/per year)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Germany</td>
<td>1993–2003</td>
<td>82.5</td>
<td>128</td>
<td>0.14</td>
</tr>
<tr>
<td>England and Wales(^5)</td>
<td>1970–79</td>
<td>52.4</td>
<td>244</td>
<td>0.46</td>
</tr>
<tr>
<td>Finland(^7)</td>
<td>1975–84</td>
<td>5.2</td>
<td>105</td>
<td>2.02</td>
</tr>
<tr>
<td>Ontario (Canada)(^6)</td>
<td>1980–90</td>
<td>9.7</td>
<td>93</td>
<td>0.87</td>
</tr>
<tr>
<td>Australia(^2)</td>
<td>1980–89</td>
<td>16.0</td>
<td>142</td>
<td>0.89</td>
</tr>
<tr>
<td>Netherlands(^8)</td>
<td>1983–93</td>
<td>16.3</td>
<td>59</td>
<td>0.33</td>
</tr>
<tr>
<td>Ontario (Canada)(^11)</td>
<td>1990–99</td>
<td>9.7</td>
<td>58</td>
<td>0.60</td>
</tr>
</tbody>
</table>
30 and 50 years old. Internationally, the age peak is equivalent to the one we determined, i.e. slightly above 40 years or even marginally below this age. Chan emphasizes that often younger people are affected of whom no clinical history is known. Awareness of this risk is important since these cases clearly deviate from the normal population’s average age at death. Regarding our material, this finding can be at least partially explained by the distribution of the causes of death. In contrast to deaths of convicts in prisons, which are mainly caused by cardiovascular diseases and suicides by hanging, our cases show a high proportion of unnatural causes (80%) such as intoxications and trauma. Alcohol intoxications and cerebrocranial injuries are pre-eminent. Studies from other European countries state a similar spectrum of causes of death whereby acute alcoholic intoxication was the most frequent cause of death in Finland and Denmark, mixed intoxications in the Netherlands, England and Wales also show intoxications by alcohol and medical drugs as the most common cause of death (38.9%). The proportion of cerebrocranial injuries, which in our study amounted to slightly less than one-fifth of all cases, was mostly similar, between 10% and 20%, in the other studies.

We found natural causes in only 20%, which is equivalent to the findings reported from other European countries and Australia. In the study of 229 cases from Florida, natural causes were determined in more than 50% of these cases. Other North American publications also state that approximately half of the deaths in police custody can be attributed to natural illnesses although it should be kept in mind that the material of these studies is not fully comparable to studies from European countries.

We rarely found detailed information on the assessment of the fitness for custody of those persons who had died in a police cell shortly thereafter. In our study, the proportion of cases with prior medical assessment was at 38.3% slightly lower than the number reported from the Netherlands and Denmark. Blaauw et al. states 42% and Segest even 46%. Blaauw et al. also reports that, although medical examinations are conducted quite frequently, the necessary consequences are not implemented. The reasons are mainly that the degree of intoxication is underestimated, that injuries are overlooked or that there are communication difficulties between doctor and police. We too found in two-third of our cases deficiencies in the medical assessment of the fitness for custody. These most frequently involved diagnostic errors or failure to admit the person to hospital. Physicians have naturally only limited diagnostic means available when they have to perform medical examinations at a police station. It is also problematic that medical examination may happen to take place within a symptom-free interval of an epidural or subdural haematoma or shortly after binge drinking. Persons with more than minor head injuries should, if in doubt, always receive CT or X-ray examination. This, however, will not prevent all deaths. In case of bilateral epidural haematoma for instance, even optimal therapy cannot prevent a lethality rate of at least 5%.

Some records showed that police officers had clearly been inadequately advised, for instance in respect to an extension of the legally otherwise prescribed interval of monitoring. It is a dilemma that the custody regulations in Germany differ significantly from state to state. There should be a demand for the physician to be aware of the most important rules and regulations since case-oriented specifications may often be required. In relation to any respective case, the doctor should prescribe the mode of monitoring including intervals and procedures (e.g. checking if a person can be woken) or should impose concrete conditions such as requirements on the place of detention, food intake and administration of medication.

A written certificate of medical examination and its result is not everywhere in Germany statutory. A written documentation should nevertheless always be prepared. The doctor should be required to state his findings and potential instructions legibly and in a manner comprehensible to non-professionals. We found deficiencies in the conduct of police officers in more than half of all our cases. Most frequent was the failure to seek any medical attention at all. The high proportion of fatal intoxications must be reason enough to subject even persons who seem ‘only inebriated’ to medical assessment. Police personnel should not hesitate to call medical assistance again if there is a significant change in the detainee’s condition such as an increasing dullness of consciousness in cerebrocranial trauma or an onset of withdrawal symptoms.

The police even if over-stretched should adhere to the monitoring schedule. Monitoring methods and procedures are also of importance. In at least one-fifth of our 60 cases of death, retrospection revealed that checks of the detainee’s ability to wake up would have been necessary. However, such tests are mostly not statutory. In these respects, proper training of police officers is certainly necessary. If a person shows no or merely an insufficient response when loudly talked to, the assessment of the state of consciousness of a sleeping person is only possible through stronger arousal stimuli (e.g. shaking). There should also be a demand for the examining physician to be fully informed about any details of the case history especially in respect to any observed intake of a large number of tablets or binge drinking. Officers should be obliged to countersign the certificate as confirmation that they have been informed and understand the result of the medical assessment and any conditions imposed.

A thorough body search at arrival is also a necessary requirement to prevent the detainee from taking a lethal dose of tablets or drugs when inside the cell or causing a fire with a pocket lighter.

If, in case of doubts on the person’s fitness for custody, medical examination is required police officers must not let themselves be sent away by paramedics or nurses. Persons with an alcohol or drug-addiction syndrome are naturally not always the most agreeable or the most cooperative of patients. However, both monitoring and responsibility for unconscious or unresponsive persons cannot be assumed by the police alone. A mere demand that unconscious persons should be ‘monitored slightly more frequently’, as is stated in the custody regulations of Bavaria for instance, is hardly sufficient. Here, an amendment of legal regulations is urgently required. Only a few German states, like Hamburg and Bremen, prescribe that medically necessary monitoring of traumatized and clearly inebriated persons has to include checks of a person’s ability to wake up. After a series of deaths in custody, the city of Hamburg established a central drying-out ward in 1974. This improved the medical treatment of inebriated persons and relieved both police and normal hospital wards. However, out of the 66,000 persons admitted to the ward in the 1974–1985 time period 13 persons died.

On the other hand, there is a danger of over-regulating the medical aspects of police custody. The new police custody regulations of Saxony-Anhalt, for instance, urgently suggest admitting persons who show a blood alcohol content of 2% and above to hospital for medical examination and therapy. A strict interpretation of this rule would mean that an emergency doctor would always have to be called in such a case. We, however, think that the matter should be decided dependent on the individual and medically assessable factors such as the presence of disturbed functions.
Preventive measures should also be taken in respect to the equipment of cells and buildings. Beds should have properties that do not carry the risk of fatal falls. A situation where several detainees have to share one and the same cell cannot always be avoided, especially when it comes to large events. However, the introduction of general video surveillance, as is recommended by Norfolk and Stark, offers the chance of early awareness of any conflict between cell mates and can therefore help to reduce the number of injuries to a person’s health or deaths in police custody. One good solution is provided by central facilities specializing in police custody which would mean that police officers working there would not be involved in other duties and could therefore concentrate on the necessary checks. The competent police stations should aim at consulting only experienced and trained physicians for assessment of the fitness for custody.

In the US, deaths of highly excited persons during restraining procedures and transport by the police play in terms of quantity a greater role than in Germany. This evidently ing procedures and transport by the police play in terms of quantity a greater role than in Germany. This evidently

Not every case of death in police custody will be avoidable. It is however possible to reduce the number of such cases by preventive measures. One fourth of all our cases would very probably still have had a fatal outcome even if all necessary care were given.

In the majority of our cases, we partly found blatant deficiencies in the conduct of doctors and policemen and there would have been good chances to prevent a fatal outcome if the persons would have been admitted to hospital early enough. The related criminal investigations were discontinued but for one single case mainly because of the high burden of proof required by German criminal law.

Conflicts of interest: None declared.

Key points

- Our study presents the first systematic survey of deaths in German police custody.
- The study contains also a conclusive deficiency analysis, which was carried out under assessment of the post mortem records and medical expert reports.
- It is the first study of deaths in police custody with a systematic analysis of the results of criminal investigation.
- As conclusion from the deficiency analysis and the results of criminal investigation the study discusses sophisticated measures for the improvement of the medical attention given to persons taken into police custody.

References


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