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EDITORIAL ARTICLE

Deaths in custody: A complex problem☆

Muertes en custodia: un problema complejo

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The term death in custody is of English origin and refers to the deaths of people during a direct or indirect interaction with security forces or when they are in a situation of deprivation of liberty, whether criminal or civil).[1] Although, in some cases, this occurs due to natural causes, death can also be unlawful or the result of ill-treatment or inadequate detention conditions (International Committee of the Red Cross, 2020).[2]

Deaths in custody therefore represent a significant challenge for the institutions responsible for the supervision and care of individuals under their jurisdiction. They are not limited only to deaths in prisons but also include deaths in residential centres, detention centres and other similar facilities.[1]

Recognising and addressing this problem is vital to ensure accountability and improve the living conditions of those in custody, because these deaths can violate fundamental rights of the individual, generating great media and social impact. Their circumstances affect both the family of the deceased person and the social perception of justice as well as the dignity and prestige of public officials and institutions.[3]

Particularly relevant are the situations in which elderly and/or disabled people, considered to be particularly vulnerable groups, are in psychiatric or mental health centres, or social-health and residential centres, because they depend on the staff for their care and well-being. There may be situations in which restraint is carried out by mechanical and/or pharmacological means, which may lead to death at that time and, therefore, a death in custody, as highlighted by Instruction 1/2022, of January 19, of the Attorney General's Office.[4,5] The existence of medical care and care control protocols would be necessary to prevent negligence and ensure that people in these situations receive the necessary and appropriate care for their situation.

Of deaths in custody, deaths in prison are a particular area of concern due to their potentially preventable nature. According to data collected by the General Secretariat of Penitentiary Institutions of the Ministry of the Interior, which refer to all penitentiary establishments in Spain, except those located in the Autonomous Communities (AC) of Catalonia and the Basque Country, violent deaths accounted for 41.5% of the total deaths recorded in Spanish penitentiary centres in 2021.[6–8]

Most of these deaths are due to suicide and to adverse reactions to psychoactive substances. Factors that contribute to their occurrence include the lack of access to adequate medical care in a group with mental health problems, with the latter including most frequently substance-related disorders, and also mood disorders and psychotic disorders.[9]

Prison health status plays a crucial role in preventing deaths in custody. Deficiencies in access to medical services,

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adequate treatment for the pathologies described and health resources in general may be behind the high percentage of violent deaths in prisons and may even increase deaths from other types of potentially treatable and preventable diseases. It is essential that prisons have qualified medical personnel and sufficient resources to care for the prison population.[10]

As we have seen, most deaths in custody are deaths subject to forensic investigation, as required by the Criminal Procedure Act, because many are clearly violent deaths, such as deaths by suicide. However, in other cases, the deaths are susceptible to investigation due to the possible responsibility of the institutions or agents involved and become deaths suspected of criminality.[11,12]

Investigation is complex and requires that the forensic doctor be familiar with the standardised, and internationally recognised and accepted procedures so as to meticulously establish the cause and mechanism of death, together with the circumstances in which death occurred. When this has been fulfilled, the correct interpretations and considerations may be made.[1]

Furthermore, for statistical purposes, the Institutes of Legal Medicine and Forensic Sciences (IMLC for its initials in Spanish) record deaths with judicial intervention.[13,14] Despite these records, it is difficult to carry out a general systematic search on deaths that occur in custody, as reflected by the National Institute of Toxicology and Forensic Sciences, and it is therefore advisable to modify the procedure for recording this type of death, in order to have reliable statistical data.[8,15]

In the specific case of deaths in prison, contact should be maintained between the pathology services of the IMLCF and the commissions created in penitentiary centres for the analysis of suicides. Contact should also be maintained for all deaths with judicial intervention that occur in said centres, and forensic doctors should be incorporated into the prison mortality commissions. Knowledge and monitoring of the process means that, on the one hand, medical records may be effectively closed, and, on the other hand, the processes and causes of deaths that occurred in prison may be evaluated in order to carry out preventive actions based on the results.[1]

In conclusion, addressing the problem of deaths in custody requires a comprehensive approach that includes improvements in medical care, the implementation of rehabilitation programmes, and the establishment of strict protocols for care and follow-up. The responsibility of the institutions in charge of the custody of individuals is to ensure their well-being and prevent avoidable deaths. Only through a firm commitment and the adoption of effective measures can the quality of life of those in custody be improved and tragedies minimised.

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