The report into Black deaths in custody is four months old, but most responses have been either apathetic or dismissive. Liz Jackson asked ex-commissioner Pat Dodson why the report has been so little feted.

Pat Dodson was one of five commissioners of the Royal Commission into Black Deaths in Custody, which reported in April. He is a longtime Aboriginal activist and a leading figure in the push for national land rights legislation. He is now director of the Kimberley Land Council in WA. He was interviewed by Liz Jackson.

It's now been almost four months since the release of the report of the Royal Commission. What do you think of the response to the issues raised by the report over that time?

The response has been disappointing in my view, given the considerable effort and money that was put in to deal with the complex and far-ranging underlying issues which give rise to the high levels of custody. Unfortunately the media, and the governments to some degree, have concentrated on the same matters that give rise to the Royal Commission — the allegations of foul play and even murder. These were the matters that people were expecting to find solutions to and rightly so, I suppose. But the Commission attempted not only to address the criminal justice system and the investigation of complaints but also to look at how services to Aboriginal people could be better co-ordinated and delivered, and at how a better understanding between Aboriginal and non-Aboriginal people could be established. It is disappointing that that side of the Commission's report hasn't taken off. Most people seem to be simply seeking a quick answer to what has been a tragic experience in the lives of many Aboriginal people.

Do you have a concern that people will say that because there was no finding of foul play by the Royal Commission, there were no recommendations of charges, that therefore there is nothing wrong with the system, we don't have to worry about it?

I'm very concerned about that. The fact is that the Commissioners who enquired into those individual cases came
to those conclusions, but if we leave that as the solution we will not have learnt anything. If we as a nation simply drop what the Commission has said to be the underlying issues, we have been derelict in our responses, it seems to me.

Do you think that part of the problem is that people feel that the social disadvantage of Aboriginal people has already been extensively researched and so they don't expect the Royal Commission to tell them anything new?

I think there may be a fair bit of truth in that. The Royal Commission is all about providing a mirror for non-Aboriginal people to see the history of their contact with Aboriginal people – that is, to understand how things have come to be as they are today. So there is no excuse for the Australian people or for governments to say they are unsure what it is that needs to be done or how to proceed, because the recommendations clearly indicate how those problems might be addressed.

I recently conducted a three day bush meeting at Mary River, between Fitzroy Creek and Hall’s River out in the Kimberley, which was attended by some three or four hundred people from the various Aboriginal communities in the Kimberley. The majority of police stations in the Kimberley region were represented, as well as the superintendent in charge of the area and the police union representative. So we sat down for three days out in the sticks, they presented to me a range of their concerns, and it also gave them the chance to see that there are many Aboriginal people who do take a responsible attitude to their community and the problems of the impact of Western law as well as the impact of their own customary law. In these sorts of situations I have been impressed by the concern of West Australian people, across all sectors, to try to find ways of addressing the levels of custody that Aboriginal people are exposed to. But what surprises me most and concerns me most is the lack of follow-through on the part of the government.

There is a view that since 1967 federal governments have been giving out money to Aboriginal groups and we don't seem to have anything to show for it. Television programs can still be made that show appalling health statistics, appalling incarceration rates, appalling housing conditions. Do you think that some people in the community just feel like throwing up their hands and giving up?

I think that is right. Many people came to my conferences and put the view that Aboriginal people simply have to put together the figures and then collect a pile of money from Canberra or some other place that they had total and unfettered control over. Very few people realise that the decision-making process is somewhat removed from Aboriginal people. They have very little say over the way...
problems should be addressed, because programs are devised by government departments and then applied to Aboriginal people. There are some communities where up to 40 agencies in the course of one week have met the same Aboriginal group, offering a range of programs, all aimed at benefiting that group, without any real co-ordination or an integrated approach to what the impact was going to be. In that situation people feel fairly powerless over their own affairs, and the response to that sense of powerlessness is simply to let the bureaucrats do what the bureaucrats want to do. The lack of control over their own affairs underlies the excess drinking of many Aboriginal people, and it is understandable to me that ordinary Australians watching the news throw their hands up in horror at finding that Aboriginal people are still experiencing all these tremendous social problems. But the other side to that coin, is the efforts that are being made by Aboriginal people to put positive proposals about how some of those things should be addressed. It's the interaction between those efforts and the bureaucratic reality which is the area that most Australians don't understand, because it doesn't affect their lives to the same degree. The Commissioners have pointed this out as one area that really needs to change.

The Commission certainly recognised that Aboriginal-controlled organisations should be given a greater level of acknowledgement for the things they do, and that, given resources, those things will only enhance the relationship between Aboriginal and non-Aboriginal people. They are also important in breaking down the stereotypes about Aboriginal people being incapable of running their own affairs.

Non-Aboriginal people tend to think that these organisations arise because people want to have some form of apartheid. That's not the case. The experience of these organisations is that people feel better able to utilise their services because in most cases the people who are employed in them tend to be more responsive and understanding of the broader and social and cultural problems of Aboriginal people.

The Royal Commission saw an inverse relationship between the strength of Aboriginal organisation and the kind of underlying causes that cause deaths in custody. What about land rights? How much of a causal link are you prepared to say there is? If there is a lack of security to land for Aboriginal people, that gives rise to a myriad of social problems for Aboriginal as well as non-Aboriginal people. If you have people who live around the fringes of towns because they have no access to land that they are able to establish proper houses upon, then you are always going to have fertile ground for prejudice arising in the community. Land is important from that point of view, but it is also important to the very identity of Aboriginal people, as it centres around the religious beliefs and practices that are essential to people's concept of who they are as a people. One of the responses the Premier of this state made to the Royal Commission report when it first came out was that land rights was back on the agenda. Within two days of making that statement, however, she claimed that was not what she really said.

The Report comes down with a strong statement in favour of reconciliation as a way forward for Aboriginal people. Does that mean that your Commission is endorsing the 10-year reconciliation process that the Minister for Aboriginal Affairs has proposed?

No, it doesn't mean that; the concept of reconciliation that the Commissioners were talking about is not necessarily to be identified with a particular political thrust that the current Minister for Aboriginal Affairs may have. Obviously, there are some tangential connections, in terms of the idea that what is required in Australia to heal the rift between Aboriginal and non-Aboriginal people is to break down the barriers that exist, to get rid of the stereotypes, to reduce the fears and apprehensions that people have about each other, to build up and strengthen where there are weaknesses on both sides of the fence. So, to reconcile people is a noble type of thing to do, but it is also a practical and essential thing to do, if we are going to reduce the levels of expenditure that we currently have for police, health and special types of programmes to tackle the backlog of needs that exist in Aboriginal communities. No doubt it will fall short first up, because it is the first attempt, but that doesn't mean that the ideal of reconciling people and provide a greater sense of freedom and respect should be done away with.

Do you think there is a problem, though, in the confidence that Aboriginal people will have in the process of reconciliation, precisely because it does fall short of previous goals that Aboriginal people have put forward? Each of these policies has fallen short of the previous one.
National land rights was the most ambitious and then the Treaty was a fallback option from that, and now reconciliation is being described as a further fallback. Is that all that people are going to have to settle for now?

Well, I think they are immediate reactions that are valid for people to make. But I would think that any initiative that tries to be positive about terrifyingly difficult and complex issues needs to have some support given to it to make it work. Australians are great knockers of things. I think you have got to be positive about the future of Aboriginal/non-Aboriginal relationships in this country, otherwise the whole thing degenerates. This perception that governments never do anything to address legitimate concerns is not entirely true, and it would be wrong to continue to maintain this as the status quo situation, because governments do respond in a lot of positive ways, even if not always with the best thought-out strategy. But they do respond; at least there is a concern. And as I have said in the report, it’s a concern that I have found clearly in this state among a wide cross-section of the community, for an improvement in the conditions of Aboriginal people not just through acts of largesse or the welfare system, but to improve the standing Aboriginal people have before the law and the rights they might have in order to assert their positions.

So, I think there is a lot of goodwill there. There are lots of simple efforts being made by many different people, not all of them are world-shattering events or activities but they are terribly important to the people in those areas and in a cumulative way they are important for the country the state and the nation.

Are you concerned that we are heading into a decade that looks like it will be dominated by conservative politics? Although things may be bad in a lot of areas now, people could say, politically speaking, that you’ve never had so good?

I really don’t know if we are heading towards a conservative reign of politics or not. I can only say that conservative politics in a lot of cases have produced the best results for Aboriginal people and those that have promised things of a radical nature have often wafted away in the wind. Australia has projected itself internationally as a country with some concern for justice in the broader arena, and in relation to South Africa in particular. And as we have seen very recently with the visit of our Foreign Affairs minister, it is not immune to the perception of foreign journalists of the relationships of any government with the indigenous people in this country. So I’m not entirely pessimistic about the way in which Aboriginal rights would be dealt with under any other government. The United Nations have declared 1993 as the Year of Indigenous Peoples. If Aboriginal people remain the most over-represented group in the social requirement areas, whatever government is in power will be held accountable for that.

In summing up the work of the Royal Commission, you talked about those things that may take a decade but there are things that are more pressing such as the immediate causes of those deaths. What do you think are the most important things for governments to focus on immediately?

I think they have got to focus on those recommendations that impact on the criminal justice matters. Really, you have got to look at those seriously, to see how Aboriginal people can play a greater part in that area. It’s not just having liaison committees but having Aboriginal people in the police department, and the Attorney-Generals department, having an Aboriginal panel of some type that is capable of looking at justice matters for Aboriginal people. I think that governments have also got to seriously look at providing alternative places for custody for those people who are not criminal but happen to be intoxicated or people who need to be taken into protective custody, so that the police are not the ones who have to shoulder that responsibility. They need to look at the nature of alternatives to custody for certain types of offences, and at ways in which Aboriginal people can participate in the discipline of their own people in a creative way. Those things appear to me to be commonsense things to do.

What do you think it says about the relationship between police and Aboriginal people that the families of people who died in custody still feel, angry, bitter and dissatisfied after the Royal Commission report?

It’s a terribly tragic situation, and hard for Aboriginal people to accept, that someone of their family has died while in custody of the police. The Royal Commission, while it has not recommended that charges be laid, clearly highlighted the concept of duty of care. If you take someone’s freedom away from them, and place them in custody, then you have a clear duty to look after that person and to ensure their safety, and there should be no complacency about that. That way of understanding the duty of care has not been the norm. That is what the Commission has said; that there was a fairly indifferent standard of care, in a number of places. Now certainly the excuse for not having a proper duty of care is no longer available, but the deaths are still a matter of concern. I would hope that the history of this tragic relationship over the last ten years that the Commission has looked at, is never repeated. And if the recommendations are adopted, it will go a large way to addressing that.

On a more hopeful note, I am more confident that the general goodwill in the community is such that people are no longer prepared to tolerate the appalling statistics of Aboriginal people are taken into custody in this state — 43 times more likely than non-Aboriginal people. That is an appalling record.

This is an edited version of an interview conducted for ABC Radio’s Background Briefing in August. Tapes of the program are available from ABC Radio Tapes, GPO Box 9994 in each capital city.