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Stop mass incarceration to prevent deaths in custody

Aboriginal and Torres Strait Islander Social Justice Commissioner, June Oscar AO said Australia must stop the “mass incarceration” of its Indigenous people or else deaths in custody will continue to occur.

Commissioner Oscar said her thoughts are with all the families who have lost loved ones over recent months, and in the 30 years since the Report of the Royal Commission into Aboriginal Deaths in Custody was handed down.

She said systemic reform is long overdue, and Australian governments must enact every recommendation of the royal commission.

“The fact that imprisonment rates have increased markedly since the royal commission shows Australia has failed to build a just relationship with First Nations peoples. It is a deep national shame,” Commissioner Oscar said.

“For 30 years we have urged Australian governments to implement all the recommendations made by the Royal Commission. We have long held the solutions and countless inquiries and reports have given us the way forward. But time and again we fail to effectively implement them, and as a result we continue to see First Nations men, women and children dying in our so-called justice system.

“The mass incarceration of First Australians is driven by systemic and structural problems within the justice system and beyond it. Until this changes – until we see diversionary programs and justice reinvestment replacing mass incarceration – the grave injustice of Indigenous deaths in custody will continue.

“I know there is genuine desire for change across the justice system. But this change requires courageous leadership from governments to drive systems reform. It is time governments entered into genuine, trusting and just partnerships with our peoples to finally address and overcome this crisis,” Commissioner Oscar said.

First Nations Australians are the most incarcerated people in the world, making up just three percent of our population, but 29 percent of the prison population.

Five Indigenous Australians have died in custody since the beginning of March this year and at least 474 have died in custody since the Royal Commission – however, the lack of national record keeping makes it impossible to be exact.

Commissioner Oscar called for a national database to track Indigenous deaths in custody and for independent nationwide oversight.

She also called for every Australian jurisdiction to implement widespread strategies and reforms to the justice system, including:

- Working with Indigenous peoples to develop early intervention and justice reinvestment programs for communities and individuals who are at risk.

- Wrap-around trauma-informed supports for people who are already in the justice system.
- Independent complaints and investigation mechanisms for police misconduct and use of force.
- Appropriate monitoring of places of detention, in line with the UN Optional Protocol to the Convention against Torture and other Cruel, Degrading Treatment and Punishment (OPCAT) – including monitoring of police holding cells, transport and detention facilities.

Commissioner Oscar said, “Robust, independent oversight and monitoring is critical to ensure accountability and public trust in Australia’s police and justice system.”

“The approach taken by governments to address the over-representation of Indigenous peoples in our justice system stands in stark contrast with the approach and commitments made to closing the gap on health, education and employment.

“The answers are known, and Indigenous people stand ready to work in partnership with governments to prevent this crisis in our communities,” Commissioner Oscar said.

For further information or to arrange an interview, contact the Australian Human Rights Commission via media@humanrights.gov.au or on (02) 9284 9700.