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Closing the Gap Submission - Productivity Commission
October 2026

I make this submission as a Senator who has represented Victoria in the federal parliament since 2020, demanding Land Back, Treaty, the end to removal and incarceration of our children, the killing of our people, the silencing of our voices and an end to the destruction of our Country and waters.

My submission focuses on two aspects of the Productivity Commission's review of Closing the Gap:

- regard to all aspects of the Agreement and consider the progress, implementation efforts and annual reports of all parties, including jurisdictional progress by the Commonwealth and states and territories;
- progress against the four Priority Reform areas and 17 socioeconomic outcomes, including identifying successful approaches, partnerships and delivery models that have demonstrated positive impact, with attention to Priority Reform 3.

Unfortunately, Closing the Gap functions not as a vehicle for justice but as political cover for governments around this country. Governments point to Closing the Gap when asked what they are doing about the harm First Peoples face as it provides a language of progress without requiring any redistribution of power or real accountability.

Closing the Gap is failing. The ever-increasing criminalisation, jailing of First Peoples, including children as young as 10, and record-high child removal rates all clearly demonstrate how governments are actively betraying their stated commitments. The Productivity Commission's recent data shows government spending of over $7 billion annually on prisons—a record[1]. Jailing children costs more than $1 billion a year, and is rising. The national prison population continues to grow[2] and across states and territories, new prisons are being built and expanded. The tightening of bail laws in some jurisdictions has seen remand numbers soaring. Aboriginal women are the fastest-growing prison population in the country, and one of the most incarcerated in the world[3]. 2025 recorded the highest number of black deaths in custody since records began in 1978, and 2026 may exceed this record[4].

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[1] Productivity Commission (2026) *Report on Government Services 2026, Justice (Part C)*, https://assets.pc.gov.au/2026-02/rogs-2026-partc-overview-and-sections.pdf?VersionId=m9KjA4PjvM2x7YMrT2EhW92NpOHZC2PC&_gl=1*43n9k4*_gcl_au*MTAwNzA2Nzg2NC4xNzkyNDYzNTc5*_ga*MjExOTkwODQwMy4xNzc5MDc2MDky*_ga_XNW84J8HF8*czE3OTI3MDc4NTgkbzIyJGcxJHQxNzkyNzA3ODYwJGo1OCRsMCRoMA.
[2] Productivity Commission (2026) *Report on Government Services 2026, Justice (Part C)*
[3] Australian Human Rights Commission (2024) *Statistics about Aboriginal and Torres Strait Islander Women and Girls*, https://humanrights.gov.au/human-rights-education/stats-and-facts-about-discrimination/statistics-about-aboriginal-and-torres-strait-islander-women-and-girls
[4] Australian Institute of Criminology (2026) *Deaths in custody in Australia*, https://www.aic.gov.au/statistics/deaths-custody-australia

This is the result of deliberate choices by governments that have publicly committed to the Closing the Gap framework. This is the system working as colonial governments around this country were designed.

We are told there is limited funding for housing, community-controlled health services, legal services and wrap-around, multi-disciplinary services for our families, for culturally safe mental health care, and for prevention, early intervention and diversion[5]. Yet there is always funding—billions—for more prison beds. If Closing the Gap was truly about reducing incarceration and child removal rates, investment would be directed into keeping families together, into therapeutic bail support, into (real) justice reinvestment, into programs that communities have been calling for over decades. Instead, governments are expanding prisons, abandoning the Aboriginal Child Placement Principle and calling it progress while a pittance is offered to supporting people[6].

Expenditure at the federal level for Closing the Gap initiatives is not tracked, and programs are not properly monitored and evaluated for their effectiveness. This results in a complete lack of transparency and accountability, and beyond the annual lamenting around some of the targets not being on track or even going backwards, no action can be seen.

Our communities have the solutions - we have always had them - and we need to be able to implement them. Governments around the country should stop trying to design piece-meal approaches that don't tackle the underlying causes, and properly fund our communities to self-determine our own solutions.

Governments across the country also need to come clean and admit their own role in enabling and growing the 'gap'. Systemic racism across governments keeps the boot on the neck of our people. If we don't address systemic and institutional racism in the justice, healthcare, education and so-called child protection systems - as a very start - there will be no progress to 'close the gap'.

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[5] See for example, Milligan and Moskos (2026) 'More than 45,000 Indigenous households lack adequate housing. Here's what must change', *The Conversation*, https://theconversation.com/more-than-45-000-indigenous-households-lack-adequate-housing-heres-what-must-change-276626; Jash and Boltke (2026, 13 May) 'What's in the 2026 budget for Aboriginal and Torres Strait Islander people?' *ABC News*, https://www.abc.net.au/news/2026-05-13/whats-in-the-2026-federal-budget-for-first-nations-people/106675724

[6] Collard, (2026, 10 July) 'NT children's commissioner resigns over child protection changes that remove Indigenous placement principle', *The Guardian*, https://www.theguardian.com/australia-news/2026/jul/10/nt-childrens-commissioner-resigns-over-child-protection-changes-that-remove-indigenous-placement-principle

The approach is flawed: Priority Reform 3

The Closing the Gap Agreement does not genuinely respond to the root causes of the purported 'gap' between First Peoples of this continent and the rest of the population. The gap is a result of systemic discrimination across all government and social systems including education, health, housing, infrastructure, social services, corrections, and protection of Country since colonisation. To address this so-called gap, these systemic problems must first be recognised. Any significant change in outcomes depends on this acknowledgement.

This denial is well illustrated by Closing the Gap Priority Reform 3: 'transforming government organisations' that asserts that governments will 'commit to systemic and structural transformation of mainstream government organisations to improve accountability, and to respond to the needs of Aboriginal and Torres Strait Islander people.'

Under this priority reform, governments are expected to take action to transform their own systems using their existing levers and legislative and policy settings such that any inbuilt discrimination, racism and systemic harm are eliminated and culturally safe practices are embedded. It is not clear how this is expected to happen. In fact, this does not seem possible when most government agencies have difficulty recognising that their own policies, systems and ways of working contribute to systemic racism against First Peoples. During the recent parliamentary Inquiry into racism, hate and violence directed at Aboriginal and Torres Strait Islander people, I asked representatives of Commonwealth government departments how their agencies contributed to racism against First Peoples, and many representatives could not understand the question, let alone identify the ways in which their department forms part of and reinforces existing systemic discrimination and racism[7]. Of those that did answer the question, such as the National Indigenous Australians Agency and the Australian Federal Police, there was acknowledgement that their departments do contribute to systemic racism.

Similar problems arise for all other targets, as systemic and transformative change is required for the effects of harmful systems to be reversed and for the 'gap' to start to close. This is evident in the failure over many years of a number of targets to be met, with some measures worsening rather than

[7] Commonwealth of Australia (2026, 26 June) *Proof Committee Hansard*
Joint Standing Committee On Aboriginal And Torres Strait Islander Affairs Inquiry into racism, hate and violence directed at Aboriginal and Torres Strait Islander people,
https://parlinfo.aph.gov.au/parlInfo/download/committees/commjnt/29674/toc_pdf/Aboriginal%20and%20Torres%20Strait%20Islander%20Affairs%20Joint%20Committee_2026_06_26.pdf;fileType=application%2Fpdf#search=%22committees/commjnt/29674/0000%22

improving. The Productivity Commission's review must show not only that government efforts have been insufficient, but that the approach is flawed and must be abandoned in favour of real systemic change with genuine accountability.

In addition to being ill suited to its stated aim, the way Closing the Gap is designed enables governments to shift responsibility while claiming to be taking action, and this in turn contributes to and increases the harms experienced by First Peoples across the country. The Agreement enables the Federal Government to claim it is taking action when in practical terms it is doing little, while state and territory governments can cede responsibility for effecting change or addressing problems on the basis that Closing the Gap is a national venture. Rather than contributing to the solutions, Closing the Gap is part of the problem.

Structural change must in part require legislative change, as legislation forms part of the structure of government and public institutions. However, the Closing the Gap Agreement does not mandate legislative change, or even outline proposed legislative measures required by respective jurisdictions to enable them to meet the targets to which they have agreed. At the same time, governments have consistently been passing legislation that undermines their own ability to meet these targets.

At the August 2025 Standing Council of Attorneys-General meeting, both the Northern Territory and Queensland governments publicly rejected their Closing the Gap commitments, while other states are clearly not complying[8]. Further, governments in Queensland, Victoria and the Northern Territory (among others) have been passing increasingly punitive youth justice legislation, and the Northern Territory is the first jurisdiction to *decrease* the age of criminal responsibility. Most recently, my private senator's bills which would introduce national bans on the barbaric practices of shackling during childbirth and the strip searching of children, were rejected by the federal government on the premise that such issues are "state and territory matters". This means that First Peoples women and children, who bear the brunt of both practices, continue to be disproportionately harmed by them, while states and territories are under no obligation to take any measures to address these harms. Ultimately, while states and territories implement punitive 'justice' and 'child protection' policies, and perpetuate neglect in the areas housing, health and social services, the federal government claims it has no basis on which to intervene[9]. The federal government has effectively divested from both oversight and

[8] Brennan, Declan (2025, 19 August) 'Enough is enough: States and territories have dismissed the Closing the Gap agreement for too', National Indigenous Times, https://nit.com.au/19-08-2025/19727/opinion-states-rolling-their-eyes-at-closing-the-gap-agreement-has-gone-on-long-enough

[9] For examples, see Hansard including: https://www.aph.gov.au/Parliamentary_Business/Hansard/Hansard_Display?bid=chamber/hansards/29246/&sid=0111; https://www.aph.gov.au/Parliamentary_Business/Hansard/Hansard_Display?bid=chamber/hansards/29230/&sid=0135;

action in these areas, while continuing to transfer funding to states and territories, without conditions. This approach highly undermines Priority Reform 3.

Flawed approach in action: 'Justice Reinvestment'

The Federal Government's 'Justice Reinvestment' scheme is an important example of some of the ways the Closing the Gap framework is ill suited to achieving its goals, and the results of attempting to do so within this framework. The idea behind "Justice Reinvestment", originating in the United States in the early 2000s, proposes structural change by moving investment away from punitive systems such as police and prisons and into community-led, holistic supports. This methodology facilitates prevention and early intervention while reducing the need for justice responses (which increase recidivism). Over time, the purported need for criminal responses decreases and any perceived need for increased funding into prisons or police decreases accordingly.

The Federal Government announced its Justice Reinvestment initiative in 2022, committing $81.5 million to fund 30 community-led initiatives, with an additional $20 million annually from 2026-27.[10] Aboriginal and Torres Strait Islander community-controlled organisations can apply for Justice Reinvestment funding that targets a specific location and works to decrease contact with police, courts and prisons[11]. But the government's Justice Reinvestment program does not 'reinvest' - it does not fulfill the structural change of the original Justice Reinvestment initiative according to which funds are divested from justice responses into communities. Doing this would provide the funding that communities need in order to decrease incarceration country-wide. Instead, there is a piecemeal approach with a few scattered programs in different geographical locations and a government that repeatedly points to its "Justice Reinvestment" program as evidence that it is addressing Targets 10 and 11 of the Closing the Gap Agreement. Meanwhile, states and territories continue to increase their investment in prisons and police and pass harmful and punitive 'tough-on-crime' measures that undermine the idea of Justice Reinvestments and its ability to improve outcomes even for those communities that receive funding for programs under it.

Additionally, Justice Reinvestment programs do not effectively enable local communities to self-determine their own solutions. In order to receive funding, organisations must have a program that can demonstrably address the issues identified, alongside the capacity to write funding applications, meet governance requirements and demonstrate monitoring and evaluation measures. Even when they do, programs and organisations compete for what, on a national scale, is an

https://www.aph.gov.au/Parliamentary_Business/Hansard/Hansard_Display?bid=chamber/hansards/29222/&sid=0077

[10] Some related additional funding announcements have been made since for a small number of specific funding allocations.

[11] Several non-Indigenous organisations have received this funding.

extremely small allocation of funding - certainly not an amount that could be expected to make any significant dent in incarceration rates (Targets 10 and 11). Yet the Federal Government points to Justice Reinvestment as its key action in addressing these targets. According to this logic, the Federal Government's attempt to meet or at least achieve progress towards these targets relies on funding programs in less than a few dozen communities in disparate parts of the country, while taking no action (for the most part) in relation to other communities.

Yet areas that have a particular need for programs that support people to prevent or heal from contact with the justice system may not have existing organisations or programs that meet the funding requirements. It is the government's responsibility to address these needs whether there are existing community organisations with adequate capacity to deliver programs or not. First Peoples have said for decades that we have the solutions - but this does not mean that each community has existing governance structures, funding and workforce to implement them. Self-determined solutions and place-based programs should not mean that the government cedes all responsibility for what happens in communities. On the contrary, governments must meet community demands and needs and support us to implement our own solutions.

Recommendation

Closing the Gap must be scrapped. Self-determination through treaties from the grassroots up is the only viable path forward as it will give each language group the ability to negotiate an agreement that works for them. This approach will enable the First Peoples of this country to self-determine our own solutions to fix the ongoing and systemic injustice and inequity our people face.