



**NORTHERN TERRITORY VIEWS ON  
2010 REVIEW DRAFT REPORT  
ATTACHMENT 15**

**JUSTICE SERVICES**

**September 2009**

### **Key Points**

- The proportion of police expenses assessed equal per capita should be significantly less than 50 per cent, consistent with the level of community policing targeted to those most likely to commit crimes.
- The equal per capita attribution is unreasonable in the Territory's circumstances where there is high over-representation of Indigenous people as both offenders and victims of crime.
- Discounting police custody data, particularly when applied in conjunction with the allocation of 50 per cent of police expenses equal per capita, diminishes the effect of the involvement of Indigenous people and other high users of police services in more serious crimes to the point where the additional needs that result are not properly recognised.
- An Indigenous cost weight should be applied to all components of this assessment, reflecting the higher cost of providing Justice Services to Indigenous people.

### **Introduction**

This submission details the Territory's views on issues raised in the Commonwealth Grants Commission's (the Commission's) 2010 Review Draft Report, attachment 15 *Justice Services*.

The Commission proposes to:

- use police, courts and corrective services data to calculate a Justice Service use factor;
- assess half of the police expenses differentially using police custody rates (discounted by 25 per cent) and assess half equal per capita (EPC);
- assess criminal court expenses differentially and assess civil court expenses EPC;
- assess corrective services expenses differentially using prisoner data and juvenile detention data;

- make an adjustment on the basis of higher justice services use for Indigenous people, males aged 15-34 and people from a low Socio-Economic Status (SES) area, as well as for Australian Capital Territory police and criminal court use by New South Wales residents; and
- recognise service delivery scale, location, cross border, administrative scale, national capital, native title and land rights as cost disabilities.

While the Territory has significant concerns regarding the assessment of police expenses and the lack of an Indigenous cost weight, it is broadly supportive of the remainder of this assessment.

### **The Assessment of Police Expenses**

The Territory continues to be concerned that the proposed methodology for the assessment of police expenses does not adequately recognise the drivers of these expenses. There seems to be some confusion in the Draft Report between the outcomes of policing which are of clear benefit to the community and the drivers of the costs of policing that are more clearly related to offenders.

The Territory believes that the selection of 50 per cent as the proportion of police expenses to be assessed EPC is arbitrary and not based on the realities of policing; and that the further discounting of police custody data by 25 per cent results in a significant underestimate of the additional needs that result in higher police expenses. The Territory and Western Australia (WA) have previously argued that 50 per cent is a significant overestimate of the effort that police outlay for the general community, and that a significant component of police work that is described as community safety and support, and road safety and traffic management (as well as crime investigation and services to the judiciary) is explicitly targeted to potential offenders<sup>1</sup>. While the Territory believes that almost all expenses should be differentially assessed, Western Australia's proposal of 25 per cent is more realistic than the current Commission proposal of 50 per cent.

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<sup>1</sup> Supporting evidence for this position was provided by the Territory in its submission on the Commission's Position Paper 2008/23.

There has been a substantial increase in police resources in all jurisdictions in recent years such that the police to population ratio has grown over that time (Table 1).

**Table 1: Growth in national sworn police officer numbers over the preceding twelve months compared to growth in population**

	<b>2005-06</b>	<b>2006-07</b>	<b>2007-08</b>	<b>Total</b>
Growth in sworn officers (%)	2.6	3.0	1.9	5.0
Growth in population (%)	1.5	1.8	1.7	3.5
<b>Ratio</b>	<b>1.7</b>	<b>1.7</b>	<b>1.1</b>	<b>1.4</b>

Source: Productivity Commission, Report on Government Services 2009 and Australian Bureau of Statistics 3101.0 - Australian Demographic Statistics, Mar 2009

This action, taken by all governments, supports the argument that police services are increasingly targeted towards potential offenders rather than being generally in line with population. Table 2 demonstrates that this is clearly the case in the Northern Territory.

**Table 2: Growth in Northern Territory sworn police officer numbers over the preceding twelve months compared to growth in population**

	<b>2005-06</b>	<b>2006-07</b>	<b>2007-08</b>	<b>Total</b>
Growth in sworn officers (%)	10.0	2.8	5.6	8.5
Growth in population (%)	1.2	2.0	2.3	4.4
<b>Ratio</b>	<b>4.9</b>	<b>1.4</b>	<b>2.4</b>	<b>2.0</b>

Source: Productivity Commission, Report on Government Services 2009 and Australian Bureau of Statistics 3101.0 - Australian Demographic Statistics, Mar 2009

Successful targeted community policing and road safety policing results in higher costs associated with the apprehension and processing of offenders. The Territory has previously provided examples of initiatives that it has conducted in both these areas, including a school holiday operation focussing on potential property offenders and random breath testing operations established at times and locations on roads known to be used by drunk drivers. In each instance, there were subsequent costs to the justice system. For example, each recorded random breath testing episode over the legal alcohol limit resulted in considerable time associated with processing the offence, serving of warrants, court time issuing and follow up of fines and so on.

Furthermore, while the Territory acknowledges that there may be a small number of mainstream programs such as counter-terrorism which are provided to the community as a whole, the opposite is true in regional centres and remote communities where there is a high Indigenous population. For example, Alice Springs has more than twice the number of police (around 130) than similar sized towns which do not have high Indigenous populations such as Whyalla (around 65) and Broken Hill (around 60)<sup>2</sup>.

Remote Territory communities are almost entirely Indigenous and the Northern Territory Emergency Response has specifically targeted increased police resources to respond to high levels of child abuse and the effect of alcohol abuse and community violence in the communities. Allocating 50 per cent of police costs EPC has no basis in the reality of regional and remote Indigenous community policing where programs such as neighbourhood watch and school based constables rarely operate, and where police time is predominately spent on increasing the reporting of crimes, alcohol related antisocial behaviour and violence<sup>3</sup>, crime prevention and responding to calls for assistance. This is further supported by the fact that Indigenous people are heavily over-represented as both offenders and victims of crime in the Territory, and in other states<sup>4</sup> and a high proportion of Indigenous crime occurs within the Indigenous community. These activities directly impact on the subsequent justice system costs. For example when an abusive domestic violence situation is identified, this will generate additional police and potentially court and correctional services involvement. These increased costs are evidenced by the recent Australian Institute of Criminology report which

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<sup>2</sup> Data provided by Northern Territory Police, September 2009

<sup>3</sup> The Territory's extraordinarily high per capita alcohol consumption has a significant impact on the demand for police services in regional centres and remote communities, both in terms of antisocial behaviour and more serious crimes. The declaration of remote communities as "dry" (i.e. no alcohol consumption allowed) often exacerbates this demand in regional centres as it compounds the effect of urban drift due to other causes (such as medical care and sporting events).

<sup>4</sup> Fitzgerald, J and Weatherburn, D. Aboriginal Victimization and offending: the picture from police records. Bureau Brief. NSW Bureau of Crime Research and Statistics. 2001  
[http://www.lawlink.nsw.gov.au/lawlink/bocsar/ll\\_bocsar.nsf/vwFiles/bb17.pdf/\\$file/bb17.pdf](http://www.lawlink.nsw.gov.au/lawlink/bocsar/ll_bocsar.nsf/vwFiles/bb17.pdf/$file/bb17.pdf) Accessed 30/09/09

found that Indigenous juveniles are more likely to be arrested, be in court, convicted and imprisoned<sup>5</sup>. The Territory considers that should the Commission persist with a national average split for community policing, it should incorporate a remote Indigenous weight to compensate for the different nature of policing in remote Indigenous communities.

While some states have agreed with the Commission that 50 per cent or more of their police expenses are attributable to community policing activities, and as such should be attributed EPC, this is contradicted by recent announcements which indicate that community safety police resources in these jurisdictions are being targeted to people most likely to commit crimes (attachments 1-4).

Furthermore, no evidence has been provided either by the Commission or other states that an EPC assessment of 50 per cent of police expenses is an accurate apportionment of costs for the assessment period. The Territory believes that the Commission should reconsider the validity of apportioning 50 per cent of police expenses EPC and that this should be significantly reduced.

The other area of concern to the Territory is the proposed discount of police custody expenses. While the Commission's decision to reduce the level of discounting for police custody expenses from 50 per cent to 25 per cent is welcomed, the Territory believes that this level of discounting is still too high. The Commission has indicated that discounting was applied on the basis of differences in complexity of police investigations, concerns about custody data and because some policing activity does not include taking people into custody. These issues were raised with particular reference to Indigenous users of police services. The Territory, Western Australia and Tasmania dispute these concerns as a valid rationale for the level of discounting and have argued that there is evidence that population groups with high custody rates, such as Indigenous males, are not necessarily in custody for simple

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<sup>5</sup> Australian Institute of Criminology. Juveniles contact with the criminal justice system in Australia. Monitoring reports number 7. September 2009

misdemeanours, but are also implicated in crimes requiring complex police involvement, such as violent crimes<sup>6</sup>.

Furthermore, policing activity which is less likely to involve people being taken into custody is more likely to be classified as community policing. If the Commission continues its EPC treatment of 50 per cent of police expenses on the basis that these are community policing activities, then the Commission has already removed the impact of any socio-demographic disabilities on community policing expenses. Any subsequent discount is then applied in effect to crime prevention and services to the judicial process expenses - expenses which the Commission recognises as having socio-demographic disabilities.

### **Low Socio Economic Status Use**

The Territory supports the Commission's proposal to make an adjustment on the basis of higher justice services use for people from low SES backgrounds. The Territory notes that this is to be based on the ABS Socio-Economic Index for Area (SEIFA) disadvantage index. As indicated in other submissions, the Territory has a number of Census Collection Districts (CDs) which have no SEIFA score (due to the paucity of relevant responses to relevant Census questions). The Commission should assess these areas as highly disadvantaged areas and populations encompassed by these CDs should be allocated a SEIFA score that reflects this categorisation.

### **Indigenous Cost Weight**

Indigenous use weights are applied in all three components of the proposed Justice Services assessment; however no Indigenous cost weight is applied. The Commission has indicated that while it believes there is a conceptual case for such a cost weight, the data is not of sufficient quality to incorporate one into the assessment. While the Territory notes that there is an absence of national data in this area, it believes that there is sufficient evidence to enable the Commission to develop an Indigenous cost weight based on judgement.

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<sup>6</sup> K Carrington and J Phillips, E-brief: Domestic Violence in Australia – an overview of the Issues. September 2006. Parliament of Australia. Parliamentary Library  
[http://www.aph.gov.au/library/intguide/SP/Dom\\_violence.htm](http://www.aph.gov.au/library/intguide/SP/Dom_violence.htm) Accessed 29/09/09

The increased costs Indigenous clients impose on Justice Services were recognised in the 2004 Review assessment categories that correspond to the proposed 2010 Review Justice Services category (i.e. Police, Administration of Justice and Corrective Services). The Territory does not believe that there has been any decrease in the costs of providing Justice Services to Indigenous people in the intervening years. In fact, since the 2004 Review there has been increased use of interpreters and an increase in the complexity of cases that have resulted in additional time and cost for courts (Table 3).

The Territory has also previously outlined the additional costs of providing Indigenous specific policing services, such as Aboriginal Community Police Officers, as well as those associated with the contextualisation of mainstream policing (such as child abuse investigation and prosecution) to Indigenous individuals, families and communities<sup>7</sup>. These expenses are material for the Northern Territory.

2007-08 data previously provided by the Territory also indicated that Indigenous Territorians had 1.3 times the number of court appearances per finalisation of criminal matters in the Magistrates Court compared to non-Indigenous Territorians. In 2008-09 this figure has risen to 1.6 times the number of appearances per finalisation (Table 3).

**Table 3: Appearances per Finalisation, Territory Magistrates Court, 2008-09**

Indigenous status	Gender	Appearances	Finalisations	Appearances per finalisation
Indigenous	Male	35,612	4,126	8.6
	Female	7,283	1,224	6.0
	<b>Total</b>	<b>42,895</b>	<b>5,350</b>	<b>8.0</b>
Non-Indigenous	Male	11,513	2,247	5.1
	Female	1,913	469	4.1
	<b>Total</b>	<b>13,426</b>	<b>2,716</b>	<b>4.9</b>
<b>Ratio</b>				<b>1.6</b>

Source: Northern Territory Department of Justice.

<sup>7</sup> Supporting evidence for this position was provided by the Territory in its submissions on the Commission's Discussion Paper 2007-17 and Position Paper 2008/23.

The higher number of appearances per finalisation for Indigenous defendants may arise for a number of reasons including from lack of appearance by the defendant, the need for interpreters and their suitable engagement, appropriate family members or other relevant cultural representatives to be present during the appearance, as well as a lack of familiarity by the accused with mainstream service delivery. The Territory considers appearances per finalisation provides a more meaningful measure of cost than finalisations alone as it measures the length of time a case is before a magistrate. Thus the higher number of appearances equates to a higher cost per finalisation for Indigenous defendants.

The Territory also believes that Indigenous prisoners generate higher per capita correctional services costs than non-Indigenous prisoners. A significant component of these costs are generated by the higher turnover of Indigenous prisoners, each of whom require admission and discharge processing, and in many cases repatriation to community of origin. Table 4 provides an indication of Indigenous and non-Indigenous prisoner turnover in Territory prisons. Indigenous prisoners turn over 1.6 times as frequently as non-Indigenous prisoners.

**Table 4: Turnover of Indigenous and non-Indigenous prisoner in Territory prisons<sup>a</sup>**

<b>Indigenous status</b>	<b>Turnover 2007-08</b>	<b>Turnover 2008-09</b>	<b>2007-09 Average ratio of Indigenous to non-Indigenous turnover</b>
Indigenous	3.54	3.18	1.61
Non-Indigenous	2.11	2.07	1
Total	3.27	2.98	

<sup>a</sup> Derived from Northern Territory Department of Justice data on prisoners received into an NT Adult Correctional Centre during the year by Indigenous Status and prisoners held in NT Adult Correctional Centres on 31 December of that year.

In addition, the Territory believes that the language and cultural issues outlined above for Indigenous defendants and their poorer health status (necessitating more intensive health interventions), is indicative of the greater costs imposed on correctional services by Indigenous people. Similarly Indigenous specific programs such as the Elders prison visiting program also

represent additional costs. These issues have been raised by the Territory in previous submissions<sup>8</sup>.

The Territory considers that on the basis of the strong conceptual case and the available evidence, an Indigenous cost weight in the order of 1.6 should be applied to all components of Justice Services.

### **Location and Service Delivery Scale**

The Territory strongly supports the assessment of location and service delivery scale disabilities in this assessment. It notes that the Commission is currently only proposing to apply a service delivery scale disability for police, and not for criminal courts or correctional services. The Territory notes Western Australia's contention that service delivery scale should apply to all three components of this assessment, and agrees that there is a conceptual case for this.

The Territory's specific concerns about the proposed location and service delivery scale assessment methodology are outlined in its submission on location and service delivery scale.

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<sup>8</sup> Ibid

## **Attachment 1: Premier Announces 120 Additional Police on the Streets and More Police Powers**

**Sunday, 09 August 2009**

Premier John Brumby today announced the Victorian Government would put an additional 120 full-time police officers on the streets to help make the Victorian public safer.

Mr Brumby said the additional 120 police were on top of the 1400 additional police recruited since 1999 and on top of the 350 additional police promised for this term of Government.

“Today I am announcing that our Government will fund \$47 million for a net increase of 120 additional police to give Chief Commissioner, Simon Overland the flexibility he needs to deploy even more police to trouble spots,” Mr Brumby said.

“These extra police will bolster the Chief Commissioner’s ability to mobilise his specialist Operational Response Unit to target public order trouble-spots across the state and liquor licensing policing for officers involved in operation Razon.

“I am pleased that in working with Victoria Police to provide these extra resources, the Chief Commissioner has advised Government that he will be able to deploy 94 of the new 120 police directly to his planned Operational Response Unit to crackdown on trouble-spots and target liquor related crime.

“Simply put, Victoria Police will now have more capabilities to send a specialist squad of trained officers into any trouble area at any time, to restore public order and keep the community and streets safe.

“In addition to extra funding for more police, we are also giving police stronger powers to combat violence and antisocial behaviour.”

Mr Brumby said the new police powers will include:

- The introduction of tougher random search powers for weapons in designated areas;
- Giving police the power to direct people to move-on from a certain area where there is a fear there will be a breach of the peace; and
- There will be a new offence of disorderly conduct;
- For the new offence of disorderly conduct and for existing offences of “drunk and disorderly” and “drunk” there will be on-the-spot penalties with a fine of \$234

“By combining extra police numbers, including an extra 26 for the liquor focussed operation Razon, with extra police powers, Victoria Police will be able to strengthen their work in targeting assaults, the use of weapons and alcohol related crime on the streets,” Mr Brumby said.

“These measures will mean a double-dose of trouble for those who spend the night in a cell for drunk and disorderly conduct, as those offenders will now also go home with a fine.

“Our Government is taking action to make our communities and our entertainment precincts safer for all Victorians.”

Mr Brumby said that while the community would welcome the deployment of 120 additional police officers, tackling a culture of alcohol abuse was an issue for the whole community.

“The 120 additional police will help tackle violence, but we all have a role to play in making our state safe,” he said.

“Venue operators must comply with liquor laws and serve alcohol responsibly, and we all need to respect ourselves and respect others by drinking responsibly and watching out for friends.”

Police Minister Bob Cameron warned the Opposition not to stick to form in voting against measures to improve public safety as they have done in the past.

“This is not a time for the Opposition to play petty politics as they tried to do in the past when we introduced banning notices,” he said.

“This is about putting public safety first and I urge them to support the Brumby Labor Government as we support Victoria Police and the community to create a better society.”

The new officers will start to be recruited in November this year and will first start hitting the streets in the first half of 2010.

The 120 additional police and new powers come on top of a range of actions taken by the Brumby Labor Government, including:

- Stronger powers for Police and the Director of Liquor Licensing, including powers to suspend licences;
- Improved CCTV;
- Police powers to ban troublemakers from venues and entertainment precincts;
- Tough new weapons laws;
- Doubling penalties for licensees caught serving drunks or minors; and

The introduction of the Compliance Directorate, a squad of specialist liquor licensing inspectors to ensure licensees are meeting all of their legal obligations

<http://www.premier.vic.gov.au/premier/premier-announces-120-additional-police-on-the-streets-and-more-police-powers.html>

Accessed 25/09/09

## **Attachment 2: Police target streets of Greater Dandenong**

Release date: Wed 24 September 2008

Last updated: Wed 24 September 2008

As the weather heats up, so too will Victoria Police's response to street crime with the announcement that a new, high-visibility operation has started in Greater Dandenong.

Operation Safe Streets II started on Monday and will run through the summer months until March next year. Daily foot patrols and dedicated vehicles and brawler vans will form a central part of the operation with police targeting known offenders and identified trouble spots such as train stations and shopping strips.

The high-profile initiative follows the success of Operation Sarazan, which saw police target street-level crime in the Noble Park, Springvale and Dandenong area over a five-month period.

Launched in November 2007, the operation has been credited with a 7.5 per cent drop in Greater Dandenong's assault figures last financial year and a 5.3 per cent drop in overall crime.

Operation Sarazan resulted in the arrest of 276 people who were charged with more than 280 offences.

Nearly 50 warrants were executed, with a number resulting in the detection of drug, theft and firearm offences.

Assistant Commissioner Paul Evans said Operation Safe Streets II would build on the success of the previous operation by heavily targeting street level offences and anti-social behaviour.

"We will be heavily targeting assaults, street robberies and alcohol-related crime throughout the operation and local residents should notice the heightened police presence," Mr Evans said.

"The last operation had a strong impact on crime and perceptions of safety amongst the local community. We believe Operation Safe Streets II will continue to see a turn-around in behaviour and a drop in criminal activity."

The operation is being resourced by local police in addition to members from the Victoria Police Bank.

The Police Bank is a flexible pool which has been created to provide temporary police resources for high visibility targeted operations. The

resources for the Bank come from a range of sources including employees who cash in their 76 hours accrued time off and work an additional 10 shifts.

The Cashing out of Accrued Time Off (ATO) is one of a number of initiatives managed by the recently established Police Bank that aim to optimise workforce capacity.

Over the current financial year the Police Bank is providing personnel who have cashed out their ATO for 30 operations across the state.

These operations involve a range of duties that target crime, road safety, public order and liquor licensing and the Police Bank provides an effective means of supplying experienced personnel for operations of this nature.

Mr Evans said the operation is a fantastic example of how the new police bank is enabling us to conduct high visibility, targeted operations,” Mr Evans said.

**[http://www.police.vic.gov.au/content.asp?Document\\_ID=17224](http://www.police.vic.gov.au/content.asp?Document_ID=17224)**  
**Accessed 24/09/09**

### **Attachment 3: Pro-active policing producing positive results in SA**

November 11, 2008

Police are detecting and cracking down on more public order offences, such as disorderly and offensive behaviour, hindering and resisting police as well as drug related crimes.

Police Minister, Michael Wright, said new SAPOL statistics, highlight the positive impact the Government's additional resources are having in enabling the State's police to engage in more proactive policing.

While offences against the person and property generally involve a victim, offences against public order often do not.

"Intuitive police work has resulted in officers honing in on anti-social behaviour, drug and weapons offences in public places, and the initiative and motivation of those police is certainly paying dividends."

"Targeting offensive and disorderly behaviour is necessary, as it works to prevent potentially violent or dangerous situations from spiralling out of control," Minister Wright said.

Since 2002, SAPOL detected more than 8,000 additional public order offences, an increase of over 19%. In 2007 - 08 proactive police detections of offences against public order recorded a rise of 4.8%.

More police and improved policing methods has seen a big increase in the detection of a number of offences against the public order since 2002.

SAPOL statistics show that since 2002, the following offences have had the biggest increases in detection rates:

- Drink Driving Offences: up 56.6%
- Disorderly/ Offensive Behaviour: up 26.5%
- Firearm/ Weapon Offences: up 20.6%
- Hinder/ Resist Police: up 16.9%
- Other Offences: up 27.6%

"It's certainly of great concern that people are continuing to commit drink-driving offences, but it's important to remember that our officers are conducting more random breath tests than ever before."

“There’s also little doubt that these encouraging results are due, in part, to this Government’s commitment to increase police numbers by more than 440 since taking office and I’m pleased to announce that there are many more on the way.”

‘More officers, more police stations, better resources and modern policing practices are making South Australia a safer place to live and work,’ Minister Wright said

<http://www.ministers.sa.gov.au/news.php?id=3927>

Accessed 24/09/09

#### **Attachment 4: Tough new measures to tackle motorcycle gang violence**

23 March 2009

Premier Nathan Rees today announced tough new measures to tackle motorcycle gang related violence.

“The NSW Government will immediately boost the Police Gang Squad with an additional 75 police officers from around the State, building this force to 125 officers.

“A reference will also be made to the NSW Crime Commission on recent outlaw motorcycle gang activity.

“The Crime Commission has significantly increased powers and is in place to deal with serious organised crime.

“We are responding swiftly to these recent brazen acts – I will not stand by while these criminals put innocent people at risk.

“The Government is considering toughening legislation to enable:

- The declaration of prohibited criminal groups and their members;
- The increase of police intelligence networks; and
- The restricting of access of gangs to industries identified as high risk.

“We will also review legislation around the confiscation of the proceeds of gang related crime.”

The Premier made the announcement following a detailed briefing by NSW Police Commissioner Andrew Scipione on outlaw motorcycle gangs and recent gang related violence.

Mr Rees said the Government would provide the Police with the powers they need to tackle these gangs.

“Let me make it absolutely clear – we will not tolerate this type of violent behaviour,” Mr Rees said.

“We will throw every resource into attacking the violent and criminal behaviour being undertaken by these gangs.

“We will not allow these thugs to terrorise our streets and innocent members of the community.”

Mr Rees said these tough new measures come on top of additional Police powers and resources, including:

- Operation Ranmore established in May 2007 to target activity by Outlaw Motorcycle Gangs and has resulted in a total of 902 arrests and laid 2027 charges;
- Anti-gang legislation in 2006 which has resulted in 232 charges for 252 offences including 164 charges for participating in criminal group and 40 for assault person as part of criminal group; and
- New covert search warrants announced earlier this month which will allow police to enter premises and conduct searches without informing the owners.

[http://www.police.nsw.gov.au/about\\_us/?a=152653](http://www.police.nsw.gov.au/about_us/?a=152653) Accessed 27/09/09