



**ACT**  
Government

# COMMONWELTH GRANTS COMMISSION 2025 Methodology Review

*Justice Draft Position Paper*

ACT Treasury Submission

August 2025

# CONTENTS

<b>CONTENTS .....</b>	<b>2</b>
<b>ABBREVIATIONS.....</b>	<b>3</b>
<b>INTRODUCTION.....</b>	<b>4</b>
<b>RESPONSES TO DRAFT POSITIONS.....</b>	<b>4</b>
<b>Reference Years .....</b>	<b>4</b>
<b>Police Assessment .....</b>	<b>5</b>
Allocation of Central Costs to Regions .....	5
Combining Remote and Very Remote Variables in Police Model .....	5
Additional Variable for Remote Offenders.....	5
Global Cities Driver .....	5
Socio-economic Group Structure for First Nations people .....	6
<b>Courts Assessment .....</b>	<b>6</b>
Should criminal courts be assessed per capita? .....	6
Do data support an assessment of regional costs for criminal and civil courts? .....	8
<b>Prisons Assessment .....</b>	<b>9</b>
Separate Assessments of Community Corrections and Juvenile Detainees .....	9
Regional Costs for Prisons .....	9

# ABBREVIATIONS

Term	Definition
ACT	Australian Capital Territory
CGC	Commonwealth Grants Commission
Commission	Commonwealth Grants Commission
GST	Goods and Services Tax
ROGS	Report on Government Services
2020 Review	2020 Methodology Review
2025 Review	2025 Methodology Review

# INTRODUCTION

The Commonwealth Grants Commission (CGC, the Commission) released a Discussion Paper, the Justice Draft Position Paper (the Paper), to the states and territories (States) for comment, in advance of the 2026 Update. The paper sets out the CGC's draft positions on Justice assessment issues and proposed methodology changes.

On 25 July 2025, the CGC provided an addendum to the original Justice Draft Position Paper (the Addendum), correcting calculation estimates originally provided with respect to the police assessment. The CGC further extended the deadline for States to provide their Submissions to 22 August 2025.

The Addendum was issued to apply a scaling factor to state-provided Police costs to better align state provided data with ABS data, a process which reportedly mitigates the impact of differences in state reporting practices. The Addendum also applies incremental updates to other parts of the analysis relative to the original Paper, including updates to census data, state-provided cost, proceedings and offender SDC data. These combined updates have material impacts on GST distribution across states and territories.

The ACT welcomes the opportunity to comment on the CGC's proposed changes as outlined in the Paper and the Addendum. Overall, the ACT is broadly supportive of the CGC's proposed changes. One exception to the ACT's endorsement of the CGC's proposed changes relates to the application of the general cost gradient to assess service delivery scale in prisons assessment. Additionally, in two instances, the ACT recommends that further data-gathering and analysis is conducted prior to making any definitive changes to underlying methodologies.

The ACT notes that certain data was not made available for further analysis, due to restrictions placed by States around confidentiality of data sharing. As a result, should additional data be made available at a later stage, the ACT reserves the right to modify its positions from those outlined within this submission.

## RESPONSES TO DRAFT POSITIONS

### Reference Years

The CGC considers that 2022-23 data from States are fit for use in developing the Justice assessment because justice and use services are likely back to their pre-COVID levels.

The CGC considers 2022–23 and 2023–24 ABS and Australian Institute of Health and Welfare data to be the best available and fit for purpose for use in the prisons assessment.

### ACT Position

The ACT supports the CGC's proposal to use 2022-23 and 2023-24 as the reference years in the assessment.

In addition, the ACT notes that the Addendum applies updated data relative to the Paper, which leads to a downward impact of \$13 million in the police assessment. Whilst the Addendum indicates that the *"data [...] is still subject to quality assurance processes, and as such, should be treated as indicative only."*, the ACT suggests the CGC provide states and territories with detailed supporting information on the data inputs

used to derive the relative impacts stated in Table 3 of the Addendum, prior to the release of the final position paper.

## **Police Assessment**

### **Allocation of Central Costs to Regions**

The CGC proposes to allocate central costs using a 50:50 split between police district full-time equivalent staff expenses and police district expenses.

#### **ACT Position**

The ACT supports the conceptual basis for the CGC's proposal to assign different cost weights to central costs versus police district expenses.

However, the ACT considers a 50:50 split between police central and district costs is not grounded in solid evidence and recommends that the 75:25 split be retained until further evidence can be gathered to support a different distribution. At face value, a 75:25 split also more closely reflects the demographic distribution of Australian urban population relative to its total population. Also, the ACT specifically recommends that the CGC provide further evidence around the assumption that current data underestimates the proportion of police district expenses in large remote areas.

### **Combining Remote and Very Remote Variables in Police Model**

The CGC proposes to combine the remote and very remote variables in the police regression model, if this is supported with the inclusion of 2023-24 data.

#### **ACT Position**

The ACT supports the CGC's proposal to combine these two variables in the police regression model subject to confirming the 2023-24 cost weights for remote and very remote areas lend to similar conclusions.

The ACT notes that the cost weights applied to remote area and very remote area are identical using 2022-23 data. The ACT agrees with the CGC that should 2023-24 data show similar trends to 2022-23 data, then remote and very remote variables are combined in its police regression model going forward.

### **Additional Variable for Remote Offenders**

Under the current methodology on the Justice assessment, an estimated national average policing cost weight per offender is applied to offenders across all regions. During the 2025 Review, the Commission considered whether an additional cost weight should be added for remote offenders. The Commission proposes not to include an additional cost weight for remote offenders on the basis that there is no evidence that remote offenders cost more than non-remote offenders.

#### **ACT Position**

The ACT supports not adding a cost weight for remote offenders as an additional remote offender variable is not statistically significant when it is incorporated in the regression model.

### **Global Cities Driver**

The CGC explored the possibility of a global city assessment, which included analysing police expenses related to counterterrorism and complex crime. The Commission proposes not to include a global cities

driver in the assessment of police expenses, quoting research which suggests that counterterrorism activities occur across all regions not only ‘globalised’ or major cities.

CGC proposes not to include a global cities driver in the assessment of police expenses as the CGC is not able to define the scope of a global cities driver and estimate relevant costs using current available data at this time.

### **ACT Position**

The ACT agrees with the CGC that counterterrorism activities occur across all regions and cannot be linked with geographic factors such as ‘globalised’ or major cities. However, the ACT considers that police expenses related to counterterrorism and complex crime form a significant part of total policing expenses incurred by States. The ACT recommends the CGC further explore possible data across States within its data working group to see if relevant costs can be reliably measured and suitable drivers can be found. The ACT also suggests the CGC undertake additional works to explore the possibility of introducing an assessment on counterterrorism and complex crime within the police component of Justice assessment in its forward work program.

### **Socio-economic Group Structure for First Nations people**

The Commission investigated the appropriate number of First Nations socio-economic groups to use in the Prison assessment. In the 2020 Review, the standard 5-tier structure of socio-economic groups was simplified to 3. Subject to 2023–24 data, the Commission proposes to use a 5-tier structure to measure the socio-economic status of First Nations offenders.

### **ACT Position**

The ACT suggests the CGC consider 2023-24 data and re-test whether a uniform relationship still exists between decreased offence rates and First Nations people living in less disadvantaged areas. The ACT recommends that the CGC present its analysis with 2023-24 data to States and Territories before any methodology change is agreed.

## **Courts Assessment**

### **Should criminal courts be assessed per capita?**

The Commission investigated the validity of using population as a driver of criminal courts’ spending, as proposed by Victoria. In the 2020 Review, finalised defendants were the measure of use in criminal courts. The Commission proposes not to assess the criminal courts component on an equal per capita basis, and to retain finalised defendants as the main metric in the assessment. The Commission considers that removing the socio-demographic composition driver from the assessment would negatively affect its rigour.

### **ACT Position**

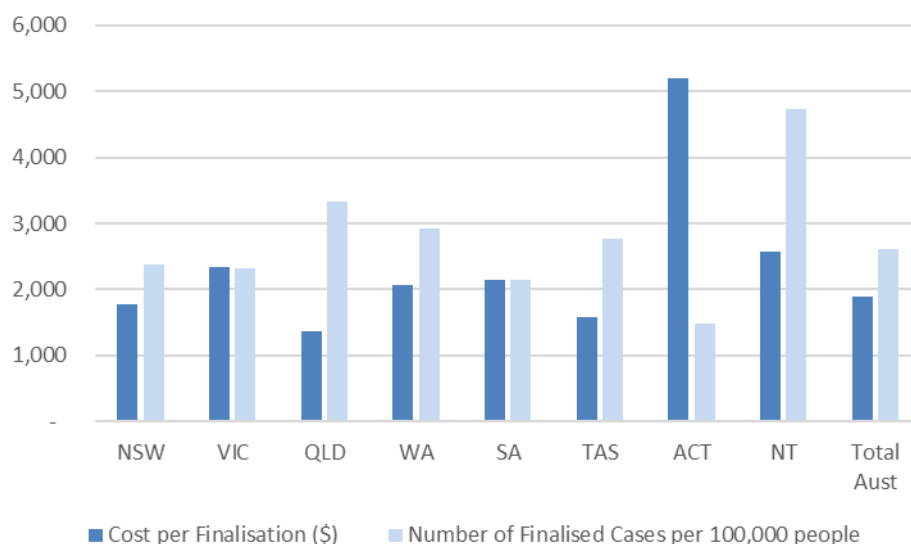
The ACT supports the continuation of the assessment based on socio-demographic composition. The ACT however recommends that the CGC further explore whether other drivers, other than socio-demographic composition, explain criminal court expenditures across States.

Victoria, in its submission dated October 2023, recommended a discount of the assessment to account for the lack of adequately descriptive data.<sup>1</sup> The ACT would similarly propose a discount of 25 per cent of the assessment (though does not support an EPC assessment of criminal courts) and recommends that CGC consider other data sources to better reflect expenditure drivers across States. The ACT agrees with Victoria that there are unexplained variations in the data used by the CGC that merit further investigation, and that relying on finalised defendants alone may not fully reflect the complexity in criminal courts' expenditure drivers.

In terms of the number of criminal finalisations per 100,000 people, the ACT is at 56 per cent of the Australian average, whilst the Northern Territory is at 181 per cent, showing a large variation across States. Whilst the socio-demographic composition of a population may have an incidence on crime rates and by extension – the number of defendants finalised in a particular criminal justice system, this metric in isolation would fail to capture the relative impacts of differing regulatory and legislative frameworks for prosecuting crime across States. For instance, the number of defendants alone would not capture the significant resources allocated by States to divert offenders before they even enter the criminal justice system. Similarly, this metric would not reflect relative differences in the allocation of justice system resources according to offense type. This limitation could lead to significant distortions in the adopted model.

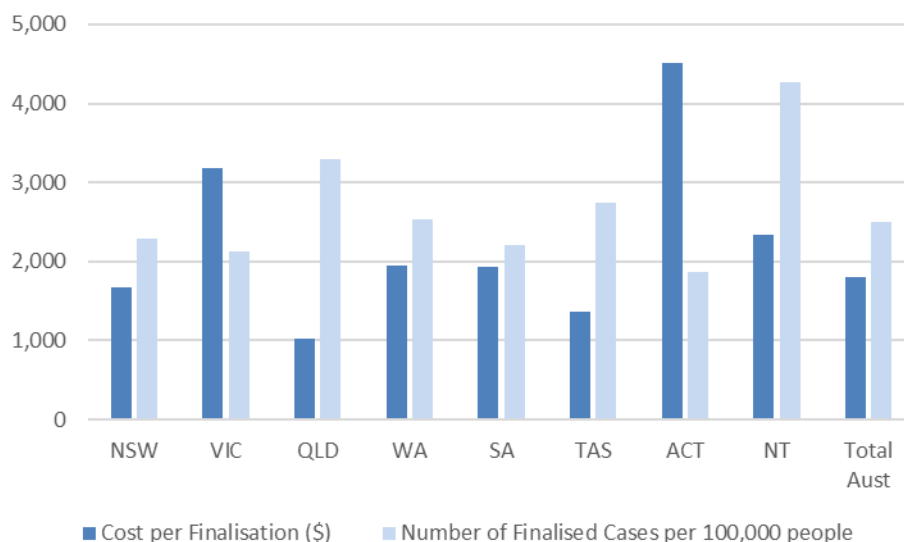
The chart below provides a comparison of the number of finalisations per 100,000 people and the expenditure per finalisation across Australian states and territories in 2023-24. The variations observed are similar in scope to the ones noted in Victoria's submission using 2021-22 ROGS data, reflecting structural unexplained differences.

**Figure 1: Cost per finalised criminal case and number of finalised cases across States and Territories, 2023-24**



<sup>1</sup> Victorian response to CGC 2025 Review consultation, page 65.

**Figure 2: Cost per finalised criminal case and number of finalised cases across States and Territories, 2021-22**



Source: 2025 ROGS data, Justice, Part C. ACT Treasury Analysis.

### Do data support an assessment of regional costs for criminal and civil courts?

Subject to 2023–24 data, the Commission proposes to discontinue assessing regional costs for criminal and civil courts.

The Commission notes that it did not receive useable data from all States. Victoria, Queensland and South Australia data were not considered fit for purpose because they did not allow measurement of cost per defendant in different remoteness areas. For States with useable data, the Commission found that there was no clear relationship between remoteness and magistrate’s court expenses.

### ACT Position

The ACT agrees that in principle, the increased use of technology for court hearings reduces the weight of remoteness in the courts assessment. The ACT supports the CGC’s position subject to confirming the reversal of the historical trend with 2023-24 data and an expanded literature review to confirm this shift is structural and long-term.

The data provided by the CGC in Figure 11 of the *Justice Draft Position Paper* demonstrates a reversal of the relationship between remoteness and cost between the 2020 Review and 2022-23, with the cost per defendant in major cities in Australia in 2022-23 now being approximately 60 per cent higher than in remote Australia, and 11 per cent higher than in very remote areas. The CGC however proposes a fundamental change in methodology based on one single data point, which the ACT considers does not constitute a sound basis for a long-term adjustment. In addition, due to limitations in data sharing, the ACT is not able to ascertain whether costs reflected in 2022-23 also include one-off initial capital expenditures incurred by Government agencies centrally and which may distort the cost allocation between urban and remote areas.



## Prisons Assessment

### Separate Assessments of Community Corrections and Juvenile Detainees

The CGC decided to include a cost weight for juvenile detainees and an assessment of community corrections orders if they have a material impact on GST distribution. As the materiality threshold cannot be met with the existing data, the CGC proposes to retest the materiality of a juvenile detainee cost weight and an assessment of community corrections when 2023–24 data becomes available.

#### ACT Position

The ACT supports the CGC retesting the materiality of a juvenile detainee cost weight and an assessment of community corrections using 2023-24 data. If the materiality threshold is met after analysis of 2023-24 data, the ACT recommends that the impact of these proposed assessment changes on GST distribution be provided to States and Territories and that further consultation is sought at that stage.

### Regional Costs for Prisons

The CGC proposes an assessment of service delivery scale costs for prisons to recognise the additional costs incurred by small, dispersed prisons. Specifically, the Commission proposes to use the general service delivery scale cost gradient (discounted by 25 per cent) to assess service delivery scale in prisons. The ACT notes that the CGC will not assess regional costs for prisons.

#### ACT Position

The ACT agrees with the conceptual premise of an assessment of service delivery scale costs for prisons, according to which the cost per prisoner increases as the size of prisons decreases. However, the ACT questions the appropriateness of applying the general cost gradient to assess service delivery scale.

The general cost gradient calculation provided by the CGC does not consider any justice-specific components. Admitted patients as per the Health assessment and School assessment are the two most significant weighted components in the CGC's calculation. The exclusion of prisons or any justice components in the calculation of the general cost gradient diminishes the appropriateness of using this gradient to measure the service delivery scales costs across differently sized prisons. The CGC shows no empirical evidence demonstrating that service delivery scales costs for prisons share similar characteristics to those of health and school services.

The ACT recommends the CGC undertake further investigation and provide States with empirical evidence supporting the use of the general cost gradient, which is a cross-sector rather than a justice-specific benchmark, to measure the service delivery scale for prisons specifically. The ACT also suggests the CGC further exploring possible data via its data working group to see if a reliable prisons-specific cost gradient can be constructed.

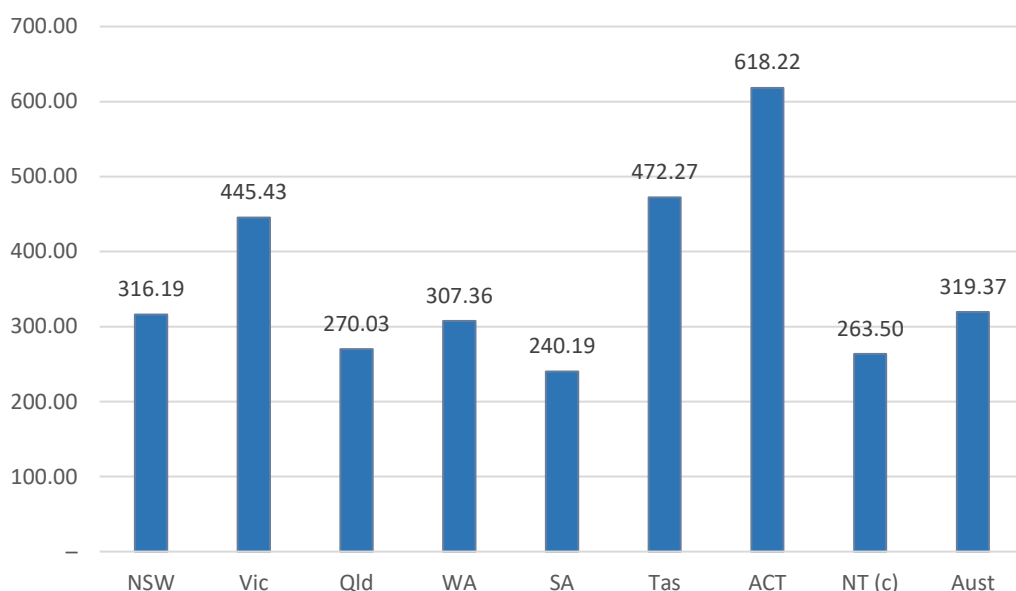
Should the CGC prefer using the general cost gradient, the ACT suggests a discount rate higher than 25 per cent, given the limitations on the general cost gradient. The ACT also suggests the CGC adjusting the general cost gradient to combine non-remote regions as well as the remote and very remote areas. Figure 13 of the *Justice Draft Position Paper* shows that average prison size is not significantly different between

major cities and inner regional and between remote and very remote areas. Therefore, it is reasonable for the CGC to make such an adjustment.

The ACT also encourages the CGC to explore and test other relevant cost drivers in the prisons assessment. CGC's current assessment method recognises that the age, indigenous status, remoteness, socio-economic status and remoteness all affect the use and cost of services. The ACT considers that whilst explaining part of the prison cost profile, the method ignores other investments made by States and Territories in detainee health, welfare and educational opportunities, and which significantly impact on the cost of services.

In the ACT, the average cost per offender per day far outweighs average costs in other jurisdictions, in part due to limited economies of scale but also due to investments made over time to provide a framework for a human-rights compliant prison. The figure below provides a comparison of costs per detainee across all States and Territories in 2023-24.

**Figure 3: Recurrent expenses per prisoner per day, 2023-24**



Source: Report on Government Services, 2023-24.

Australia ratified the *Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (OPCAT) in 2017, with States now responsible for establishing and maintaining National Preventative Mechanisms in their own jurisdictions to ensure compliance. The ACT considers that the conceptual framework for the CGC assessment should be updated to reflect current and future costs in achieving this evolution in prison management and detainee welfare.