



COMMONWEALTH GRANTS COMMISSION 2026 UPDATE OF GST REVENUE SHARING RELATIVITIES

OVERVIEW OF THE FINAL DRAFT JUSTICE ASSESSMENT PAPER

ACT Treasury Submission

NOVEMBER 2025

Acknowledgement of Country

The Chief Minister, Treasury and Economic Development Directorate acknowledges the Ngunnawal people as traditional custodians of ACT Treasury and recognise any other people or families with connection to the lands of ACT Treasury and region.

We respect the Aboriginal and Torres Strait Islander people, particularly our Aboriginal and Torres Strait Islander staff, and their continuing culture and contribution they make to the Canberra region and the life of our city.

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INTRODUCTION

ACT Treasury welcomes the opportunity to comment on the Commonwealth Grants Commission (CGC) Discussion Paper, *Overview of the Final Draft Justice Assessment Paper* and the addendum.

Overall, ACT Treasury is supportive of the proposed changes, with the exception of the juvenile cost weight. ACT Treasury would also like to take this opportunity to recommend that further deep dives are conducted as part of the CGC's forward work program to:

- resolve data issues and limitations relating to the prison assessment, including the cost impact of remoteness and economies of scale; and
- explore ways to mitigate the increasingly negative GST impact to the ACT resulting from Canberra's status as a 'major urban area' for the purposes of equalisation, noting that the ACT's practical challenges and cost structures are similar to that of a regional centre.

JUSTICE MODEL AND DATA ISSUES

USE OF 2022-23 AND 2023-24 DATA

ACT Treasury supports using 2022-23 and 2023-24 data to update the Justice assessment except for the prisons assessment.

USE OF 2021 CENSUS BASED POPULATION DATA

ACT Treasury supports the CGC using 2021 Census based First Nations projections, until 2026 Census estimated First Nations populations are available.

To ensure the consistency in population data applied across assessments, ACT Treasury recommends the CGC apply relevant 2026 Census population data across all the components in the Justice assessment where available.

ACT Treasury also recommends the CGC address any issues with 2026 Census data in the New Issues papers released for future annual updates.

POLICE ASSESSMENT

ALLOCATION OF CENTRAL COSTS

ACT Treasury notes that both 2022-23 and 2023-24 data suggested the split between central costs driven by full-time equivalent staff and police district expenses was broadly 75:25. In the case of the ACT, the split between central and district police costs is closer to 75:25. ACT Treasury understands the issues with state-provided central costs data but remains concerned that the 50:50 split proposed by the CGC is not evidence based. ACT Treasury note there is no consistent definition of what constitutes district versus central costs, and considers further

evidence is needed to show that the 50:50 split represents a reasonable estimate of the national average split between central and district expenses.

ACT Treasury recommends that the CGC work with States to improve the consistency of state-provided cost data in its future annual data request processes or via the Data Working Group. Should the CGC decide to use a 50:50 split, ACT Treasury recommends the CGC address relevant data issues, retest the split, and update the assessment as part of the 2027 Update.

POLICE REGRESSION MODEL SPECIFICATION

ACT Treasury supports the CGC's proposed changes to the police regression model.

GLOBAL CITIES DRIVER

ACT Treasury notes that the CGC is proposing to not assess a global cities driver as part of the police assessment at this time due to data limitations and the difficulty in defining the scope of a global cities driver and estimating offence-specific costs.

ACT Treasury recommends that the CGC further investigate data options for assessing counterterrorism and complex crime via the Data Working Group in preparation for the next methodology review.

SOCIO-ECONOMIC GROUP STRUCTURE

ACT Treasury supports the proposed 5-tier structure that will be applied to measure the socio-economic status of First Nations Offenders.

CRIMINAL COURTS ASSESSMENT

EQUAL PER CAPITA ASSESSMENT

ACT Treasury supports the CGC's proposal to not assess the criminal courts component on an equal per capita basis.

ACT Treasury supports the continuation of the assessment based on socio-demographic composition however continues to recommend 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.¹ 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

¹ Victorian response to CGC 2025 Review consultation, page 65.

finalised defendants alone may not fully reflect the complexity in criminal courts' expenditure drivers.

REGIONAL COSTS FOR CRIMINAL AND CIVIL COURTS

ACT Treasury supports the CGC's proposal to discontinue assessing regional costs for criminal and civil courts.

PRISONS ASSESSMENT

JUVENILE DETAINEE AND COMMUNITY CORRECTIONS

ACT Treasury notes the materiality threshold has been reached for one state with respect to the juvenile cost weight. At this stage, however, ACT Treasury does not support the inclusion of this cost weight in the prison assessment, noting that differences in cost structures between States has not been sufficiently investigated.

ACT Treasury notes that the CGC methodology will increase the assessed needs of States with a greater share of the assessed juvenile detainee population, such as the Northern Territory. ACT Treasury note that including a cost weight for juvenile detainees may place an unreasonable emphasis on juvenile detention, whilst many alternative supports (other than detention), are concurrently provided across States to at-risk youth populations to avoid contact with the criminal justice system.

ACT Treasury notes on the other hand the negative impact of this measure on the Territory's GST redistribution, despite ACT bearing the second highest cost per young person across Australia and close to double the national average youth justice service cost. ACT comes only second to the Northern Territory as measured by youth justice expenditure (per young person) in the population. The outcome of applying this cost weight to the assessment appears to demonstrate an inverse relationship between need and GST distribution in the case of the ACT. The ACT also questions to what extent the addition of a cost weight for juvenile detainees conforms with policy neutrality principles.

Table 1: State expenditure on youth justice services, 2023-24, per young person in the population

State	Youth justice costs per young person	Difference from national average	GST Impact (\$m)
NSW	412	(168)	15
VIC	529	(52)	-61
QLD	761	180	35
WA	534	(47)	6
SA	328	(252)	-5
TAS	641	60	1
ACT	1,185	604	-3
NT	5,810	5,228	12

Source: Report on Government Services 2023-24.

ACT Treasury considers that this outcome is due to the current model not exploring the breadth of cost drivers for detention centres (including service delivery scale and human rights adjustments), as well as wraparound supports outside of detention centres which ACT Treasury considers are cost drivers worthy of further investigation.

ACT Treasury looks forward to future collaboration with the CGC on these points and requests that these be included in the Commission's forward work program.

ASSESSMENT OF REGIONAL COSTS FOR PRISONS

ACT Treasury agrees with the CGC that there is a conceptual case for including a service delivery scale cost gradient into the prisons assessment. ACT Treasury, however, maintains its position that the proposed index does not demonstrate it adequately reflects the service delivery constraints of the prison system. ACT Treasury notes that data reliability is a long-standing issue with respect to prisons, with prisons regression results being too weak to utilise in the context of equalisation. (See para 155, 158, 161, 163 of the *Overview of the final draft justice assessment*).

ACT Treasury therefore recommends that the CGC undertake an in-depth investigation and cross-jurisdiction analysis to determine an appropriate service delivery scale for prisons and ensure a better equalisation outcome overall in the long-term. ACT Treasury recommends that this review form part of the CGC forward work program and that each State and Territory have the opportunity to review the data as it is collected.

ACT Treasury also agrees with the conceptual case that the cost of providing services can vary significantly with the location in which the service is delivered. Whilst some service delivery in remote areas can be mitigated with the use of technology (e.g. see the courts example above), the majority of Government services are typically still more expensive to provide in remote

areas, for example due to transport costs, staffing allowances, and a lack of economies of scale. Therefore, the geographic characteristics of a state and territory can significantly influence the expenses needed to service the state population.

ACT Treasury notes that currently under the CGC methodology, its sole adult prison, the Alexander Maconochie Centre (AMC), is considered to face the same cost structures as prisons in major urban areas such as Melbourne and Sydney. In many ways however, the ACT has the expense profile of a regional centre. In most Government areas of service delivery, including health, ACT Treasury faces similar (higher) cost premiums to the Northern Territory and Tasmania. The absence of recognition of these cost pressures significantly disadvantages the Territory across all expense assessments, including the justice assessment.

Western Australia in its submission to the draft justice paper, indicated that *“there was a strong case for prisons to be more expensive in regional areas in that there are higher costs to [...] house both sexes in an appropriate way”*. Interestingly, Western Australia’s submission surmises that an element of regionality lies in the adjustments made to house both men and women on the same premises.

This is the case for the ACT’s sole adult prison, the AMC, and tends to highlight that the ACT does not have the scale to efficiently build and run a women’s only detention centre, or a separate remand centre, highlighting its ‘scale’ disadvantage, currently not recognised in its ‘major urban area’ classification, but also its ‘regionality’.

ACT Treasury notes that in the 2015 Review, an adjustment was made for additional non-wage costs experienced by isolated major cities, such as additional freight costs and costs associated with interstate travel. This adjustment recognised that while the ABS remoteness categories were based on distance to nearest major city, not all major cities have the same access to production, manufacturing and importation. The adjustment was based on the Commission’s judgement, and it increased the fiscal needs of Perth and Canberra. In the 2020 Review however, these adjustments were reversed on the basis that these were not sufficiently robust.

ACT Treasury recommends that the CGC consider appropriate adjustments to reflect Canberra’s particular characteristics, including its limited economies of scale. ACT Treasury looks forward to future collaboration with the CGC to explore the suitability of ACT Treasury’s classification as a major capital city and requests that this item be included in the CGC’s forward work program.

OTHER ISSUES

Over-representation of Aboriginal and Torres Strait Islander People at the Alexander Maconochie Centre

ACT Treasury notes that the outcome of the prisons assessment significantly underestimates the number of Aboriginal and Torres Strait Islander people in the ACT’s sole adult prison. The CGC assessment applies the national average imprisonment rate for State and Territory

Aboriginal and Torres Strait Islander population according to different socio-demographic groups. This method captures the propensity to being detained across all socio-demographic groups but does not capture the actual socio-demographic characteristics of detainees across jurisdictions. In the case of the ACT, the CGC assessment yields a share of First Nations detainees to total detainees which is below the national average rate. The CGC assessment is inconsistent with the real-world scenario where Aboriginal and Torres Strait Islander people in detention represent a higher share of the total prison population.

ACT Treasury recommends that the CGC put in place triangulation methods to ensure that the results of the modelling with respect to number of First Nations detainees are reasonable and consistent with actual detainee population in each State and Territory. ACT Treasury notes that a wide divergence between modelled and actual number of detainees can have a material impact on GST distribution.

OTHER STATE VIEWS

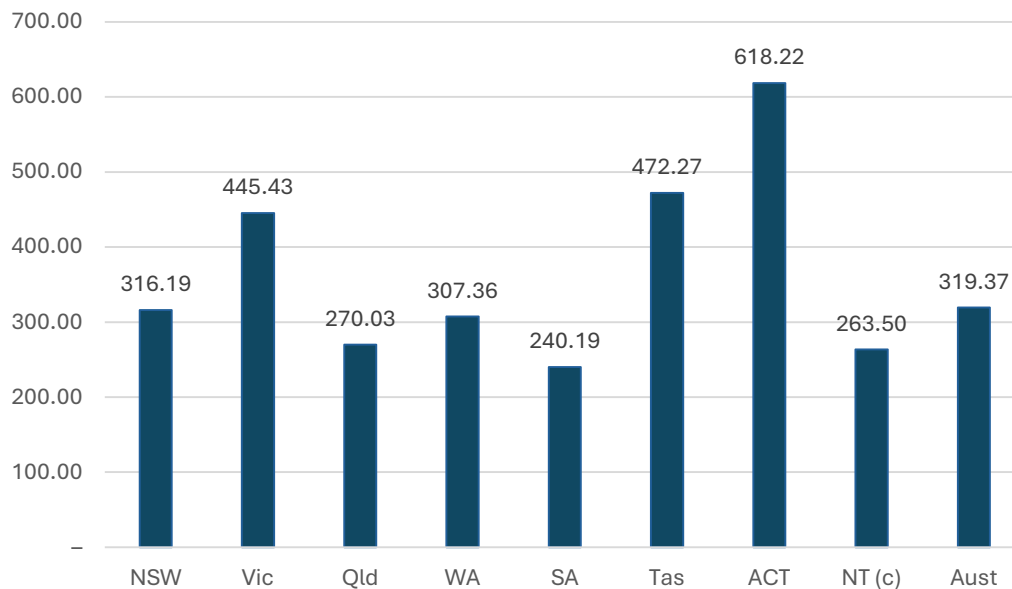
HUMAN RIGHTS

ACT Treasury reiterates the comment made on the Draft Justice Position paper, noting Australia ratified the *Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (OPCAT) in 2017. The ratification of this protocol implies that States are now responsible for establishing and maintaining National Preventative Mechanisms in their own jurisdictions to ensure compliance. ACT Treasury 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.

ACT Treasury 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, and socio-economic status 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 in detainee health, welfare and educational opportunities, which significantly impact 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. However, this figure fluctuates significantly each year due to the impact of varying numbers of people in custody in the one adult 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.

DISCOUNTING

ACT Treasury agrees with the CGC's proposal to not apply any discounts to the updated justice assessment method outside of the already discounted service delivery scale general gradient, noting the reservations made above regarding the service delivery scale general gradient that it doesn't adequately reflect the ACT's actual cost drivers. The ACT faces structural costs that are more akin to a regional centre than a major urban area. The ACT faces higher unit costs, which see additional costs per person of delivering comparable services, for example due to higher maintenance and supply costs. There are also additional fixed costs per person of delivering services because of the ACT's relative isolation and smaller economies of scale.

