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# Victoria's response to the CGC final draft Justice assessment

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# Contents

1. Introduction	1
2. Summary of Victoria's recommendations	1
3. Data issues	2
3.1 Using 2021 Census based estimated resident population and First Nations proportions	3
4. Police	3
4.1 Allocation of central costs to regions	3
4.2 The police regression model	4
4.3 The socio-economic group structure for First Nations people	4
4.4 Additional variables and drivers	4
5. Courts	5
5.1 The split between criminal courts and other legal expenses	5
5.2 Assessing criminal courts equal per capita	5
5.3 Regional court costs	6
6. Prisons	6
6.1 Juvenile detainee cost weight	6
6.2 Regional costs and service delivery scale	6



# 1. Introduction

The CGC consulted states and territories (states) on the Justice assessment methodology during its 2025 Review and proposed a number of small changes to the 2020 methodology, subject to further data collection and analysis. Victoria supported the CGC's decision to postpone changes to the Justice assessment methodology to gather more data and enable more time for a thorough review of the assessment.

As noted in its submission to the CGC's justice draft position paper (the draft position paper), Victoria was hopeful that the additional time and data would facilitate an in-depth review of the methodology to adapt it to reflect modern justice expenditure needs.

However, in its 2025 Justice draft position paper the CGC found that the majority of "the 2020 Review drivers in the justice assessment remain conceptually sound".

The CGC has not made any further proposed changes in the latest final draft justice assessment paper (the final position paper).

In its submissions to the 2025 Review and the draft position paper, Victoria raised several concerns about the Justice assessment. Victoria does not consider that the data chosen adequately captured state and territory justice expenditure needs. In particular, the data reflect only reactive rather than preventative measures of justice expenditure needs. In a number of cases, reiterated in this response, the data do not meet the CGC's own stated standards of quality and comparability, and in Victoria's view should not be used.

Victoria continues to recommend that the CGC conduct a fulsome review of the Justice assessment for the 2030 review, including consultation with justice experts and states and territories.

In the meantime, Victoria again recommends that the CGC discount the Justice assessment to account for the lack of preventative justice data.

## 2. Summary of Victoria's recommendations

<b>Overall</b>	<ul style="list-style-type: none"><li>• Conduct a fulsome review of the justice assessment for the 2030 review</li><li>• Discount the assessment</li></ul>
<b>Data issues</b>	<ul style="list-style-type: none"><li>• Agree 2022-23 and 2023-24 data show a return to pre-COVID trends</li><li>• Use the most up-to-date Census population data available</li></ul>
<b>Police</b>	<ul style="list-style-type: none"><li>• Allocate central costs on a 75:25 district FTE vs expenditure split</li><li>• Include the 5-tier First Nations socio-economic groups regardless of results</li><li>• Do not include a cost weighting for remote offenders</li><li>• Continue to test the regression with underlying variables</li></ul>

<b>Courts</b>	<ul style="list-style-type: none"> <li>• Use RoGS data to split criminal court expenditure from other legal expenses</li> <li>• Assess criminal courts EPC</li> <li>• Do not apply a remoteness cost gradient</li> </ul>
<b>Prisons</b>	<ul style="list-style-type: none"> <li>• Do not apply a juvenile detainees cost weighting</li> <li>• Consider data comparability for a separate community corrections assessment as part of Forward Work Program</li> <li>• Do not apply a remoteness cost weighting</li> <li>• Do not apply a service delivery scale cost weighting</li> <li>• Do not support the use of the discounted general service delivery scale gradient</li> </ul>

### 3. Data issues

Victoria supported the CGC's decision to postpone the Justice assessment to collect data from 2022-23 and 2023-24.

Victoria considers that data from 2022-23 and 2023-24 are likely the best available.

However, as outlined in its submission to the 2025 Review tranche 1 consultation papers, Victoria maintains that the range of data included in the Justice assessment is not fit for purpose and that a discount should therefore be applied.<sup>1</sup>

An assessment built on robust data with a transparent, logical and evidenced methodology is essential for public trust in the GST distribution system.

CGC methodology decisions can have significant impacts on states' abilities to deliver services. A minor change in an uncertain variable or statistical model can redistribute hundreds of millions of dollars between states, often at short notice given the timing of annual relativity decisions. This has a real effect on services and impacts states' ability to plan into the future.

In this context, and across all assessment components, Victoria strongly recommends the CGC favour caution where there is uncertainty or judgement required. This is particularly the case where data has not yet matured or is not available to measure the concepts required. The default view of the CGC should be an EPC (equal per capita) distribution in these instances, with the burden of evidence on the CGC and states to justify variations from this.

Where there are not robust data available to make an assessment, Victoria recommends the CGC reduce volatility and the risk of misattribution of needs. In these instances, there is no certainty that equalisation is being achieved, and the assessments could result in over or under equalisation.

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<sup>1</sup> <https://www.cgc.gov.au/sites/default/files/2023-11/Victorian%20response%20to%202025%20Review%20Tranche%201%20papers.pdf>

Robust assessments require strong and transparent conceptual cases and high-quality supporting data, having regard for the magnitude of associated impacts on the distribution. The fact that certain data may be the 'best available' does not necessarily mean the data are of an acceptable quality to meet the robustness requirements of the Review Terms of Reference or the CGC's own assessment principles.

Victoria accepts and supports the CGC's need to use judgement to recommend the GST distribution. However, in cases where poor data are used to implement conceptual cases, judgement cannot be used to make these assessments robust. Victoria's view is the CGC should take a conservative approach and limit or not make some assessments where data are not of a sufficient standard.

### **3.1 Using 2021 Census based estimated resident population and First Nations proportions**

The CGC proposes to continue using 2021 Census projections of First Nations populations until new state police and courts data are obtained at the next review.

Victoria supports using the most up-to-date population data available, including First Nations Census population estimates. Population is a major driver of GST redistribution, and it is important the assessment reflects the most contemporary state of the population.

Victoria therefore recommends that 2026 Census population data, including for First Nations, are applied as soon as available.

#### **Victoria's recommendations**

- Victoria supports the CGC's decision to use 2022-23 and 2023-24 data.
- Victoria recommends using the most up-to-date Census population data available.

## **4. Police**

### **4.1 Allocation of central costs to regions**

The CGC proposes to allocate central police costs using a 50:50 blend of 'proportion of police district full-time equivalent (FTE) staff' and 'police district expenses'.

In the final position paper, the CGC indicated that state data suggest the split was broadly 75:25 of the proportion of district FTE to expenses. However, the CGC noted concerns with using the best available data.

Victoria agrees that the 'best available data' are not always adequate. In such cases, Victoria recommends a conservative approach, with the data or relevant driver excluded, and an equal per capita approach as the baseline. Any judgement to use a different approach needs to be logical and transparent.

Victoria considers the CGC's decision to use a 50:50 split is arbitrary and not justified. If the data are considered suitable, a 75:25 split should be applied. If not, central police costs should be excluded from the regression and allocated on an equal per capita basis.

## 4.2 The police regression model

Victoria appreciates the CGC's consideration of Victoria's recommendation to include underlying drivers in the regression model without the intermediate step of calculating assessed offenders.

During the 2025 Review, consultants from The Australian National University (the ANU consultants) recommended such an approach after testing a range of model specifications.<sup>2</sup> The ANU consultants concluded that the offence variable was not picking up the effect of costs disabilities, but rather other factors, some of which might represent policy choices that should not be included in the model.

Victoria notes that the CGC's alternative police regression model without offenders produces worse statistical results than the standard regression. However, the Indigenous status and socioeconomic status variables were statistically insignificant. The ANU consultants had similar findings, and suggested that the socioeconomic status categories may not be informative, or the police district variable may be too broad to capture the variability in policing costs from the socioeconomic status categories (some police districts are very large, commonly covering areas with three or even four distinct remoteness classifications).

Victoria therefore recommends that the CGC test the alternative regression specification without offenders, removing statistically insignificant variables.

## 4.3 The socio-economic group structure for First Nations people

Victoria supports the CGC's decision to include the standard 5 tiers of the Indigenous Relative Socioeconomic Outcomes index (IRSEO) in the assessment. As noted in its response to the draft position paper, Victoria recommends this approach apply regardless of whether the results match preconceived ideas about the evolving relationship between First Nations socioeconomic status and measures of justice system interaction.

## 4.4 Additional variables and drivers

Victoria supports the CGC's decision to not include an additional cost weight for remote offenders.

Victoria supports the CGC's proposal to consider culturally and linguistically diverse populations as part of the forward work program.

Victoria notes the CGC's decision not to assess a global cities driver due to a lack of suitable data. Victoria recommends the CGC include this as part of a broader assessment of justice data as part of its data working group forward work program.

### Victoria's recommendations

- Victoria recommends the CGC allocate central costs on a 75:25 district FTE vs expenditure split, aligned with CGC data analysis. Failing that, central costs should be excluded from the regression and allocated on an equal per capita basis.
- Victoria recommends the CGC test the alternative police regression model without offenders and with statistically significant variables removed.

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<sup>2</sup> <https://www.cgc.gov.au/sites/default/files/2024-02/Consultants%20report%20-%20ANU%20-%20CGC%20Justice%20assessment.pdf>



- Victoria supports the decision to include the 5-tier First Nations socio-economic groups and recommends this apply regardless of results.
- Victoria supports the decision not to include a cost weighting for remote offenders.

## 5. Courts

### 5.1 The split between criminal courts and other legal expenses

In its response to the draft position paper, Victoria reiterated its concerns with the use of state data to split expenditure by criminal courts and other legal expenses. The high variability in the data between states suggest a lack of comparability.

In its 2025 Review draft report, the CGC stated that splitting court expenses using Productivity Commission Report on Government Services (RoGS) data (as recommended by Victoria) would not provide the best estimate of costs incurred by states' criminal courts and other legal services because some criminal court related expenditure would be attributed to other legal expenses.

Victoria considers that neither data set is ideal. However, the large variability in state data indicates a clear data problem.

Victoria therefore continues to recommend that the CGC use RoGS real recurrent expenditure dollar values for both criminal courts and civil courts and allocate the remainder of GFS court expenditure to other legal services.

Victoria also recommends the CGC consider the issues of state data comparability as part of its Data Working Group under the Forward Work Program.

### 5.2 Assessing criminal courts equal per capita

In its final position paper, the CGC stated that "As only a proportion of the population become defendants and the use of criminal courts services is driven by the number of defendants, a socio-demographic composition approach to assessing expenses is supported by a strong conceptual case".

Victoria does not dispute that the *use* of criminal courts services in each individual state is related to the number of defendants or that the number of defendants is affected by sociodemographic composition. However, as noted in Victoria's response to the draft position paper, the large variability in state expenditure per finalisation means that at a national average level, the *cost* of criminal court services is not best explained by national sociodemographic composition data.

Some states with high numbers of finalisations spend low amounts per finalisation (e.g. Queensland), and some states with low numbers of finalisations spend high amounts per finalisation (e.g. ACT). This suggests that, at a national average level, the number of finalisations is not strongly correlated with expenditure, even if it is correlated with use.

The large variability between states means that at a national level, criminal court expenditure is best explained by population alone.

Victoria therefore continues to recommend the CGC assess criminal courts on an equal per capita basis.

## 5.3 Regional court costs

Victoria supports the CGC's decision to discontinue assessing regional costs for criminal and civil courts. Regardless of the underlying reason, the available data do not support applying a regional cost weighting.

### Victoria's recommendations

- Victoria recommends the CGC use RoGS data to determine both criminal court expenditure and civil court expenditure and attribute the remainder of GFS court expenditure to other legal services.
- Victoria recommends criminal court expenditure be assessed EPC because population is the best driver of cost at a national average level.
- Victoria supports not applying a regional cost weighting to the courts assessment

## 6. Prisons

### 6.1 Juvenile detainee cost weight

In previous submissions, Victoria has opposed the calculation of a juvenile detainee cost weight because the RoGS data have a clear caveat explaining that the data are not comparable between states.

Victoria does not dispute that the RoGS data are the 'best available' data for determining adult prisoner versus juvenile detainee cost differences. However, Victoria continues to argue that 'best available' does not mean it constitutes usable data. When data have a clear caveat explaining that they are not comparable, using those data is not appropriate and will not produce a robust assessment.

Victoria therefore continues to recommend that the CGC not apply a juvenile detainee cost weighting.

### 6.2 Regional costs and service delivery scale

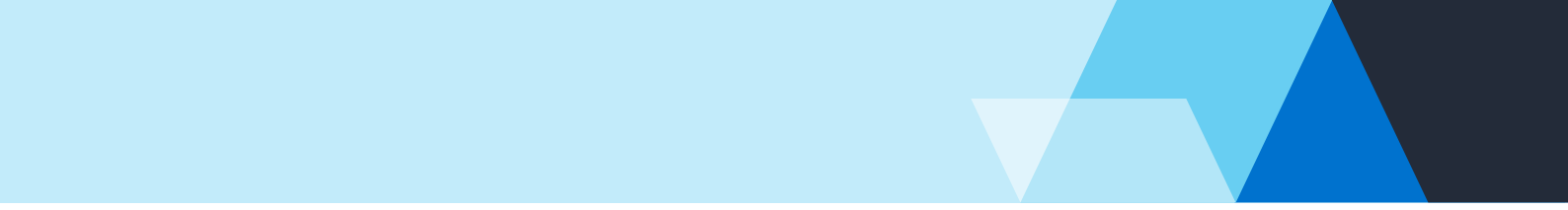
As noted in earlier submissions, Victoria disputes both the conceptual and empirical cases for regional costs and service delivery scale assessments for prisons.

It is not national average policy to locate prisons based on the location of origin of prisoners. Nor is it national average policy to imprison prisoners near their place of residence. While it may be a consideration in some cases, it is vastly outweighed by other factors.

State data support this argument, as regional costs cannot be substantiated. Victoria therefore supports the CGC's proposal to not assess regional costs for prisons.

The CGC's application of a service delivery scale weighting is contingent on the applicability of regional costs. The chain of reasoning needed to apply a service delivery scale weighting is that prisons need to be located near prisoners, that regional and remote prisons need to be smaller, and that smaller prisons are more costly.

That chain of reasoning does not hold because prisons are not located based on proximity to prisoners and regional prisons are not on average smaller than prisons in major cities, with only remote and very remote prisons being smaller on average.



Victoria does not support applying the general service delivery scale gradient, based on schools and health data – services with a wholly different profile to prisons, which implies that states with a greater proportion of residents in inner and outer regional areas face greater service delivery scale costs than those with residents in major cities. This results in an assessment that contradicts the evidence provided by the CGC in its discussion papers and is not robust. Victoria considers that such decisions weaken the credibility of the CGC’s methodology and the system of Horizontal Fiscal Equalisation generally. Victoria has noted its broader concerns with the general regional cost and service delivery scale gradients in its responses to those aspects of the 2025 Review and considers it is especially poorly suited to the prisons assessment given the conceptual case and data contradict it.

Victoria recommends the CGC does not progress its proposal to apply a service delivery scale assessment for prisons.

### **Victoria’s recommendations**

- Victoria does not support the proposal to apply a cost weight for juvenile detainees.
- Victoria supports the CGC’s proposal to not apply a regional cost weighting to the prisons assessment.
- Victoria does not support the CGC’s proposal to apply a service delivery scale cost weighting to the prisons assessment.



