

Justice - Addendum

Review outcomes

- During the 2025 Review, the Commission delayed finalising the review and implementation of method changes to the justice assessment until the 2026 Update to allow the use of data that were not unduly affected by the COVID-19 pandemic and appropriate consultation with stakeholders.
- The following changes were made to the assessment.
 - The police regression will use a combined remote and very remote variable. This change reflects that state data show remote areas cost more to police than very remote areas. The Commission considers it appropriate to combine remote and very remote cost weights as it is too early to determine whether this relationship reflects a permanent change in what states do.
 - Prior to running the police regression, central costs will be allocated on the basis of 50% proportion of full-time equivalent staff and 50% police district expenses. This change recognises the cost of police support services where expenses are driven by staffing rather than remoteness.
 - A 5-tier socio-economic status structure will be used to assess the socio-demographic composition of First Nations offenders. This reflects a linear relationship between socio-economic status and offender rates being observed in state data.
 - Regional costs will not be assessed in criminal courts and other legal services. State data did not show a relationship between remoteness and criminal court expenses. This likely reflects the increasing uptake of audio-visual technology in courts.
 - Defendants with non-stated Indigenous status will be attributed an Indigenous status based on the proportions of stated responses. New data suggested the 2020 Review method was understating the proportion of First Nations offenders. This change also affects the prisoner socio-economic status proxy used in prisons.
 - The general service delivery scale costs gradient will be used in the prisons assessment. The 2020 Review regression used to calculate regional costs was found to be too weak when updated with new data. While the conceptual case for regional and service delivery scale costs in prisons remains strong, applying the combined general regional and service delivery scale costs gradient would overstate the costs of operating remote prisons.
 - A juvenile cost weight will be used in prisons as its inclusion was material.
 - To facilitate the introduction of the juvenile detainee cost weight, the age groups used across the justice assessment will be adjusted. The new age groups will be 0–17, 18–24, 25–44, 45–64 and 65+.
- The Commission considered other changes but did not adopt them.
 - Use rates in police and courts will be based on 2022–23 and 2023–24 data rather than data being requested each year.

- Additional discounts or equal per capita assessments will not be applied in response to policy neutrality or policy barrier concerns in police.
- The police regression model, which recognises reactive and preventative policing activities and accounts for different police district size and population, will be broadly retained.
- Adding a remote offender variable in the police regression did not sufficiently improve the regression to warrant its inclusion given the added complexity.
- Proceedings counts will continue to be used for the Commission’s measure of offenders as it is the best measure to capture people that offend more than once in a single year.
- Traffic and breach of bail offence data will continue to be excluded from police as there are data quality concerns with their use.
- A suitable definition and data could not be identified for introducing a global cities driver in police.
- Finalised defendants (rather than population) will continue to be used as a measure of need in criminal courts as there is a strong conceptual case that defendants drive criminal court expenses.
- Data from all states will continue to be used to determine the socio-demographic composition of defendants. These will continue to be disaggregated by Indigenous status, age, socio-economic status and remoteness.
- State data will continue to be used to split the criminal courts and other legal services budgets as they are the best source of expense data for all court and legal services.
- A separate assessment of community corrections will not be included in prisons as such an assessment is not material.
- No changes will be made to the conceptual framework of the assessed prisoner model to reflect state objectives relating to prisoner welfare, health or reintegration as there is no conceptual case or data that suggest this impacts some states more than others.
- No additional discounts will be applied outside of the already discounted general service delivery scale costs gradient.
- Changes made to the justice assessment method have implications for the Commission’s geography assessment (see Attachment B).
 - A new general service delivery scale costs gradient will be developed for assessing service delivery scale in prisons.
 - Justice data will not be used to inform the general gradients.

Introduction

- 1 As part of the 2025 Methodology Review, the Commission postponed reviewing and implementing changes to the justice assessment until the 2026 Update. This allowed for the collection of 2022–23 and 2023–24 data, which better reflected service delivery post the COVID-19 pandemic. It also enabled substantive consultation on

potential method changes and for the Commission to process the new justice data for application into the model.

- 2 As a result, the 2024 Update method was used for recommending GST distribution in 2025–26.
- 3 On 15 October 2025, the Commission published the [Overview of the final draft justice assessment](#) for the 2025 Methodology Review.
- 4 The Overview of the final draft justice assessment included a detailed analysis and response to issues raised by states and territories (states) in their [submissions](#) on the Commission’s [justice draft position paper](#). The Overview also considered issues raised in state submissions to the [Draft Report](#) and [consultation paper](#).
- 5 State submissions on the Overview of the final justice assessment can be viewed [here](#).
- 6 This chapter includes:
 - an overview of the issues considered throughout the review
 - the Commission’s response and decisions on each issue
 - GST impacts of method changes.
- 7 State views on the Overview of the final draft justice assessment are included in this chapter.
- 8 A description of the assessment method, incorporating the changes made from the 2025 Review and implemented in the 2026 Update, can be found in the justice chapter of the *Commission’s Assessment Methodology*.

Issues considered

Justice model and data issues

- 9 The Commission sought state views on the appropriateness of the 2020 Review justice model if updated with fit-for-purpose data.
- 10 Given the change in justice services during the COVID-19 pandemic, the Commission noted the likelihood that 2019–20, 2020–21 and 2021–22 did not reflect long-term patterns of justice service provision, particularly for police and criminal courts. During this time, resources were reallocated to enforce public health directives and lockdowns, crime patterns changed and some court proceedings were moved online or suspended.
- 11 The Commission raised the issue of whether 2022–23 data should be used to update the justice assessment if they are fit for purpose. It also proposed updating the assessment in the 2026 Update to allow the Commission to collect and process 2023–24 data and consult on potential method changes.

State views

Justice model

- 12 Most states broadly agreed that the 2020 Review justice model remained appropriate, although some states raised issues with elements of the model.
- 13 Victoria did not support the model. It said there were weaknesses in the conceptual case for some aspects and that the model was open to policy influence and could be a barrier for reform. Victoria engaged a consultant to review the model and support its submission.¹ Queensland did not support retaining the model without changes to the police assessment.

Data quality concerns

- 14 Victoria expressed broad concerns regarding the data, saying they were not fit for purpose. It said the assessment was unable to adequately capture the drivers of justice expense needs because of data comparability issues. Victoria recommended the Commission discount, or assess components equal per capita, until the data had reached a sufficient level of maturity.
- 15 Queensland supported not applying any new equal per capita assessments or discounts due to data concerns, and supported the data used in the assessment.

Updating data used in the assessment

- 16 All states agreed that data from 2019–20 to 2021–22 did not reflect normal justice services and costs. Other than South Australia, all states supported using 2022–23 data in the assessment. South Australia proposed 2022–23 data be analysed for potential COVID-19 influence prior to use.
- 17 Some states raised concerns over using only one year of data.
- 18 The Northern Territory raised the possibility of using annual data to update the assessment. It considered that annual data would better capture short-term and medium-term trends in justice service use, particularly in remote areas.
- 19 Western Australia said it would be prudent to include 2023–24 and 2024–25 data, particularly if 2022–23 data were COVID-19 affected but thought an annual data request could be burdensome. Queensland did not support requesting data from states on an ongoing annual basis.
- 20 There was broad support from all states for delaying the incorporation of changes to the assessment method until the 2026 Update and to include 2023–24 data in addition to 2022–23 data.

¹ The views of the Victorian consultant have been attributed to Victoria in this document.

Commission response

Justice model

- 21 The Commission notes the broad support for the 2020 Review model and considers the overall approach remains appropriate. Although there was broad support for the 2020 Review model, states raised several concerns and made suggestions for improving the model.

Data quality concerns

- 22 Where possible, the Commission uses data from organisations with nationally consistent frameworks as this increases data comparability and consistency. In the assessment, some data are sourced from the ABS, the Australian Institute of Health and Welfare and the Productivity Commission.² However, most data are sourced directly from states.
- 23 The Commission considers variability in costs across states does not necessarily mean uncertainties in the data that would warrant discounting. This variability is likely due partly to states' different policy choices. Using national average data smooths policy differences across states and provides a benchmark to assess needs in the context of diverse approaches to justice administration.
- 24 The Commission considers the data used in the justice assessment are the best currently available and fit for purpose. The Commission has not identified sufficient concerns with the data to support a discount or to pursue an equal per capita assessment.

Updating data used in the assessment

- 25 The Commission considers that an annual request for state data would be a significant imposition on states given the size and complexity of the request. Furthermore, the time between receiving the data from all states and processing them would be insufficient to meet update requirements.
- 26 Commission analysis of national totals in ABS data on proceedings, defendants and prisoners showed that these measures are relatively stable over a 5-year period. The Commission therefore considers updating data annually would increase the burden on states for little benefit.
- 27 The Commission's analysis indicated ABS data for 2022–23 and 2023–24 are not unduly affected by COVID-19. Analysis of state data indicates that they are also largely unaffected. The similarities between the 2 years of data suggest that both represent the 'normalisation' of justice services following the COVID-19 pandemic.

² Prisoner data are sourced from the ABS. Juvenile detainee data are sourced from the Productivity Commission and the Australian Institute of Health and Welfare. In determining the fixed use rate proportions, ABS data are used in scaling offenders and defendants. In the police regression, ABS Government Finance Statistics data are used to scale state expense data.

- 28 The Commission considers incorporating a second year of data (2023–24) would better reflect current and future state justice needs. The average of 2022–23 and 2023–24 data will be incorporated into the new assessment for the 2026 Update.

Commission decision

- 29 The Commission will:
- broadly retain the 2020 Review model
 - implement 2025 Review method changes in the 2026 Update with data from 2022–23 and 2023–24
 - not apply discounts or equal per capita assessments in response to policy neutrality concerns
 - not request data from states on an annual basis.

Police assessment – policy neutrality

- 30 In response to state comments, the Commission considered whether its police assessment could present barriers to policy reform. It also explored the possibility of weighting offences by seriousness.

State views

- 31 Victoria said a state that implemented policies that reduce offender rates, court attendance and incarceration would have its GST needs negatively impacted because these are the measures the Commission uses to determine assessed expenses. Victoria said it was important not to disincentivise investments in evidence-based measures that cut costs and crime. It suggested that if offence numbers are incorporated into the police assessment method, these should be weighted by seriousness or discounted to account for the impact of state policy on offender numbers.
- 32 Queensland did not support changing the police assessment to account for potential barriers to policy reform.

Commission response

- 33 The Commission’s assessments are based on national average policies. If one or more states experience a reduction in offenders from one of the sub-population groups, the assessment will capture the change relative to the national average. However, a change in one state is unlikely to materially affect the national average rates.
- 34 The Commission’s 2024 Update police assessment method considers all policing costs, not only costs related to offender rates.³ If a state chooses to increase spending on diversionary programs to reduce offending, these costs will be captured

³ The 2020 Review method was revised in the 2024 Update to account for the suspension of the national capital assessment and the continued use of 2016 Census-based First Nations populations.

as part of policing costs and inform the national average per capita costs for policing in each region.

- 35 In relation to weighting offences by seriousness, the Commission acknowledges there is a conceptual case that the cost of investigating some crimes is more expensive than other crimes. A state may face higher costs beyond its control if these offences are committed more often within its borders than in other states.
- 36 However, the Commission is not aware of any national data that would allow it to determine whether, or by how much, more serious crimes cost more than less serious crimes. It is also likely that the costs associated with 2 crimes of the same seriousness may differ significantly. The Commission therefore considers the weighting of offences by seriousness to be unfeasible given current data availability.⁴
- 37 The Commission does not consider having an equal weight for offences conflicts with the principle of policy neutrality. With an equal weighting of offences, states may choose where they focus police activities.⁵ These policy choices form part of the national average policy on what states spend per offender. This cost weight is then applied to each state's assessed offenders rather than its actual offenders. In this way, individual states are only able to influence their assessed GST needs in proportion to how much they affect national average policies.
- 38 Given the impact of individual state policies is mitigated by using national averages, the Commission does not consider a discount to be warranted.

Commission decision

- 39 The Commission will not make changes to the police assessment in response to concerns regarding potential barriers to policy reform.

Police assessment – regression specification

- 40 In response to state comments, the Commission considered if the regression used in the police assessment reflects what states do.
- 41 Following analysis of 2022–23 and 2023–24 data, the Commission proposed combining the remote and very remote variables. It noted that changes to expense patterns in the Northern Territory were influenced by the greater costs in remote areas compared with very remote areas.
- 42 The Commission also proposed to not include a remote offender variable in the regression.

⁴ The Commission will continue to explore whether suitable data can be identified for use in weighting offences for the next review.

⁵ The Commission does not make judgements on what states could or should do.

State views

Reactive and preventative policing

- 43 Victoria said the 2020 Review police assessment was based on reactive police measures, such as offender numbers, which were a poor indicator of need. It recommended that, in the absence of robust preventative policing measures, the Commission should adopt a conservative approach and assess police expenses equal per capita or discount the assessment.
- 44 Victoria also recommended using a simplified model based only on police district population and remoteness since it found the offender variable to be ineffective at capturing cost drivers.
- 45 Victoria requested that the Commission further investigate the feasibility of an alternative regression specification that excludes offender-related variables and instead estimates police district costs using the socio-demographic characteristics of each area. Victoria also recommended that variables found to be statistically insignificant be omitted from the model.
- 46 Queensland said that the cost and time attributed to criminal activity within Queensland police services is significantly higher than the approximately 31% of policing costs attributed to criminal policing in the police regression.
- 47 Queensland proposed altering the police assessment to recognise expense needs through a socio-demographic composition assessment of assessed offenders that is weighted by regional costs (instead of applying the cost weights to regional populations).⁶ It said that spending on preventative policing is driven by crime propensity rather than population.

District size and population

- 48 Victoria said that, unless the police regression could be adjusted to account for state policy influences on the size, population and composition of police districts, the regression should not be used, or a discount applied.
- 49 Victoria also recommended that a population variable be added to the regression model to fully account for differences in police district size. It found that adding a population variable to the model produced different cost weights, meaning that weighting by population was not fully mitigating potential biases.

Combining remoteness areas

- 50 Queensland, Tasmania and the ACT supported combining the remote and very remote variables in the police regression. Tasmania noted its experience was that demand for police services and their related costs is greater in remote areas than in very remote areas.

⁶ In the 2020 Review method, police regional cost weights are applied to regional populations instead of assessed offender numbers.

51 While Queensland supported combining the variables, it said that very remote regions incur significantly higher costs than remote regions.

52 Western Australia was not opposed to combining the remote and very remote variables.

Additional remote offender variable

53 Most states supported not including a remote offender variable.

54 New South Wales said that the assessment already accounts for remoteness costs in the police regression and the inclusion of the variable has little explanatory value. It considered that incorporating a measure for the severity of crime would be useful but acknowledged that this is not possible due to data limitations.

55 The ACT supported not including the remote offender variable because it was statistically insignificant when incorporated into the regression model.

56 Western Australia was not opposed to the exclusion of the remote offender variable. Western Australia said that while the conceptual case for remote offenders was strong, the relationship was not supported by data.

57 Queensland initially suggested including a remote offender variable in the regression and testing for any interactive effects on cost not already captured by the remote population or the offender variable. However, it supported not including an additional cost weight for remote offenders after Commission analysis found that expenses were largely already captured by the remote populations variable. Queensland maintained that costs incurred in policing the most remote regions are not adequately captured by the assessment and suggested that the issue be further explored by the Data Working Group.

Commission response

Reactive and preventative policing

58 The police regression captures all recurrent expenses in the policing task and estimates a national average policing cost per offender and a policing cost for each regional area. It does not assign costs to a specific policing task.⁷ This should not be interpreted as a split between the costs associated with policing offenders and the cost of general community policing.

59 Assessing all police expenses by only using national average offender numbers or only using police district population characteristics would not adequately recognise all the drivers of police costs. The Commission tested alternative regression models, including one that replaced offenders per capita with variables for the underlying socio-demographic drivers of crime. However, it found these were less accurate at predicting police district costs and would fail to address the costs faced by areas

⁷ Accordingly, these proportions are not comparable to the 2015 Review method which split costs between 'specialised' and 'community' policing.

with higher crime propensity. This continued to be the case after insignificant variables were excluded (see Attachment A).

- 60 The Commission acknowledges that states have different policies for funding police activities and that the difference between offender driven costs and other policing costs will vary. The Commission considers the 2025 Review regression model to be suitable for accounting for such policy differences.

District size and population

- 61 In the police regression, each of the police district's costs are weighted by the population in the police district. The regression uses the cost per capita to estimate the national average policing cost in each region and national average cost per offender. Using this type of population weighting negates the bias resulting from states having different numbers and population sizes of police districts.
- 62 The Commission considers the difference in cost weights produced by adding a population variable to the model is caused by the strong correlation between population and population-weighted police districts.

Combining remoteness areas

- 63 The very remote coefficient was lower than the remote coefficient when 2022–23 and 2023–24 data were incorporated into the regression model. The Commission considers the conceptual case for higher costs in very remote areas is strong and that it is too early to determine whether this relationship reflects a permanent change in what states do. Until a long-term trend can be established, the Commission considers it appropriate to combine remote and very remote cost weights. It will revisit this issue with updated data in the next review.

Additional remote offender variable

- 64 Regression analysis using 2022–23 and 2023–24 data suggested that the costs of running police districts would be estimated more accurately overall through the inclusion of a remote offender variable. The Commission notes that the remote offender variable produced a positive and significant coefficient, but its inclusion resulted in the coefficient for remote areas decreasing substantially and losing significance.
- 65 Instead of assessed spending being attributed to remote populations, a regression with the additional variable would attribute the additional spending to remote offenders. This means that some aspects of regional costs would be applied to offenders and some to population. There would be very low confidence in whether this reallocation of costs was appropriate. The Commission notes that within the total sample of 152 police districts, only a small number serviced remote areas. Such a small sample size makes it difficult to reliably quantify the cost of remote offenders separately from the cost of remote populations. The collinearity between these 2 variables would significantly compromise the precision of the derived cost

weights. The Commission considers the added complexity of including remote offenders is not warranted.

Commission decision

- 66 The Commission will retain the regression model with a combined remote and very remote variable.
- 67 The Commission will not include a remote offender variable in the regression.

Police assessment – central costs

- 68 Following analysis of 2022–23 and 2023–24 data, the Commission proposed allocating police central costs using a 50:50 blend of proportion of police district full-time equivalent staff and police district expenses prior to running the police regression. It noted that determining a precise split of central costs was not possible due to the nature of the central costs data.

State views

- 69 States had differing views, with some advocating for retaining the 2020 Review method (costs attributed on the basis of district expenses) and others supporting a move to recognise and allocate more to full-time equivalent staff.
- 70 Queensland, Western Australia, Tasmania and the Northern Territory supported retaining the 2020 Review assessment, which allocated central costs entirely on the proportion of expenses in police districts. These states suggested that allocating central costs on a 50:50 basis between district costs and full-time equivalent staff would understate regional costs.
- 71 Queensland said that better data on central costs, especially data from states with large remote areas, were required to make an informed decision on the distribution of central costs.
- 72 Given the number and variety of cost centres, the Northern Territory considered it not feasible to investigate all the possible drivers of central costs and considered a broad apportionment approach to be appropriate. Further to this, it noted that there is no clear definition of central costs and that central cost centre structures differ between states. For this reason, the Northern Territory suggested reframing the discussion from apportionment of ‘central costs’ to either ‘statewide services’ or ‘dispersed services’.
- 73 Western Australia conducted analysis on state centrally controlled services data provided by its police force for 2023–24. Western Australia said that these data showed that the majority of its expenses are from specialist policing services with 19% of expenses being attributable to corporate overheads.
- 74 While supporting a retention of the current method, Western Australia and the Northern Territory noted that a 25:75 distribution, with 25% based on full-time

equivalent staff and 75% based on district expenses, could be used as an alternative to retaining the 2020 Review assessment.

- 75 Tasmania said that the 2020 Review method should be retained until more nationally comparable data on central costs became available. Tasmania acknowledged the Commission's need to exercise judgement on this issue.
- 76 New South Wales, Victoria and the ACT supported the Commission allocating central costs on the basis of 75:25, with 75% based on full-time equivalent staff and 25% based on district expenses.
- 77 New South Wales said that specialist or central service costs are driven mostly by service use in metropolitan areas and that regional costs would be overstated in a 50:50 allocation of central costs. It considered that central costs should be apportioned to regions according to service use and that this apportionment should be based, wherever possible, on individual states' data.
- 78 New South Wales disagreed with taking an unweighted average of states' central cost allocation methods. It said that doing so would overstate the allocation methods of less-populous states and a population-weighted approach would be more appropriate as the resulting coefficients would be applied to state populations.
- 79 Victoria said that population size alone is the most appropriate driver of policing costs and full-time equivalent staff is a better representation of population than district expenses. Given the size of central costs expenses and the large impact this adjustment has on distribution, Victoria did not consider the use of judgement to be justified. It recommended that if a 75:25 split was not adopted, that central costs should be excluded from the regression and allocated on an equal per capita basis.
- 80 The ACT said that its central costs split was closer to the 75:25 split suggested by the available data. It recommended that if the Commission chooses to use a 50:50 split, it should address relevant data issues, retest the split, and update the assessment as part of the 2027 Update.
- 81 New South Wales, Queensland and the ACT also suggested that this issue should be referred to the Data Working Group.

Commission response

- 82 The Commission considers that allocating central costs entirely on the basis of police district expenses is no longer appropriate as all states have police support services where expenses are driven by the number of staff. Therefore, allocating some central cost expenses by full-time equivalent staff is supported by a strong conceptual case.
- 83 The Commission considers it appropriate to use an allocation method that includes both district expenses and full-time equivalent staff to recognise that staff use of support services and remoteness drives expenses. It does not consider retaining the 2020 Review model until better data are available to be appropriate because staff

use of support services drives a significant proportion of central costs. The Commission does not consider allocating central costs on an equal per capita basis outside of the regression appropriate. This approach would overlook the drivers of these expenses and undermine the regression's specification, which is designed to capture all costs associated with policing.

84 The Commission retains concerns with using an exact split of central cost allocation based on available data. The concerns stem from several issues identified within the state data, including:

- differing levels of central cost function aggregation
- some central cost functions being plausibly influenced by multiple drivers
- not all states being able to provide disaggregated central cost data
- ambiguity on the tasks or functions completed by some state-identified central costs.

85 For example, some states have a police command that is responsible for ICT and/or technology and their expenses are recorded as a single central cost. While the management of technology support staff may be driven by full-time equivalent staff, an unknown proportion of the command's costs may be expenses associated with maintaining equipment. These expenses are likely to be higher per capita in remote areas as different forms of equipment are required to conduct police activities, such as satellite-based technology systems. If these police commands include the cost of providing ICT and technology equipment, allocating all costs using a single method would likely misallocate expenses to a single driver. However, the Commission is unable to identify how much of these expenses are included under these commands, if any, and to what degree they differ between states.

86 Similarly, some states have a significant proportion of their costs recorded under a miscellaneous budget line item. In some cases, this makes up over 20% of a state's central costs. Allocating these and other large central costs budget items has a significant impact on any split using the available data. Most states were able to provide central costs data by police commands, however the Commission considers more disaggregated data would be required to inform an appropriate treatment of central costs.

87 The Commission considers there is strong conceptual case to allocate central costs data on the basis of both full-time equivalent staff and district expenses. However, given the issues with the data, it acknowledges that judgement is required to determine the split. In the absence of better data to calculate a more precise split, the Commission considers a 50:50 split between full-time equivalent staff and police district expenses appropriate. The Commission notes that this is a broad estimate of the national average split, which may not reflect states' individual circumstances. The Commission considers that the same split should be applied across states to ensure consistent treatment.

- 88 The Commission considers that concerns with the clarity and consistency of state data could be addressed as part of future data request processes in consultation with states in preparation for the next review.
- 89 Regarding the use of an unweighted average in its analysis of a potential spilt, the Commission sought to estimate the average experience of all states. Using a population-weighted approach would have weighted the average towards the more populated-states and their geographical and policy settings. This approach would understate the experience of states with larger remote areas and dispersed populations. Given that the regression produces coefficients to estimate the state average costs associated with offenders and policing different remoteness areas, this approach would be inappropriate.

Commission decision

- 90 The Commission will allocate central costs based on a split of 50% full-time equivalent staff and 50% police district expenses.

Police assessment – global cities

- 91 In response to state comments, the Commission explored the possibility of a global city assessment. It proposed not to include a global cities driver in the assessment of police expenses.

State views

- 92 Queensland, Western Australia, Tasmania, the ACT and the Northern Territory supported not including a global cities driver in the police assessment.
- 93 Queensland and Western Australia said that the influence of Commonwealth spending on complex crimes, such as terrorism, financial crimes and cybercrimes, makes the relationship between global cities and policing costs unclear.
- 94 Tasmania said that there was no conceptual case for a global cities driver and that costs for providing police services for counterterrorism and complex crime were not unique to major cities.
- 95 The ACT said that exploring data options for assessing counterterrorism and complex crime could be undertaken in the Data Working Group or by adding it to the forward work program. The ACT said that counterterrorism activities occur across all regions and cannot be linked with geographic factors such as globalised or major cities.
- 96 The Northern Territory did not believe that there was sufficient evidence or a conceptual case to support a global cities driver.
- 97 New South Wales said that a global cities driver was required to account for the extra costs associated with providing police services in densely populated areas and central business districts. It considered that while terrorism, organised and drug

related crimes are not unique to major cities, they are more likely to occur in major cities than in regional areas.

- 98 Victoria supported further investigation into whether certain police costs are unique to major cities and the Data Working Group looking at data on complex crimes and Australian Federal Police assistance.

Commission response

- 99 The Commission notes that data on global cities expenses are limited. This is partly due to the absence of a clear definition of what constitutes a global city expense or crime. While certain crimes like terrorism and complex crimes may occur more often in major global-type cities, the Commission does not have data to determine the offence rates of these crimes in different regions even if it had a global city definition. The Commission does not have offender data for all states disaggregated by offence-type and location, nor data on the costs associated with policing these specific types of crime.
- 100 As some states raised in their submissions, Commonwealth assistance in matters relating to more serious crimes that might come under the definition of a global city crime complicates the issue. The Commission would need to determine the impact of this assistance on the offence rates for these crimes and their associated expenses.
- 101 Given the difficulty in defining the scope of a global cities driver and estimating offence-specific costs due to data limitations, the Commission is currently unable to introduce a global cities driver into the police assessment.

Commission decision

- 102 The Commission will not introduce a global cities driver in the police assessment.

Police data

- 103 In response to state comments, the Commission considered the following issues with data, or the treatment of data, used to inform the police assessment:
- the socio-economic status classifications applied to First Nations people
 - the exclusion of traffic and breach of bail offences
 - the use of proceedings data for assessed offenders.
- 104 Following analysis of 2022–23 and 2023–24 data, the Commission proposed using a 5-tier socio-economic status structure for First Nations people.

State views

Socio-economic status classifications applied to First Nations people

- 105 Most states supported moving to a 5-tier structure to measure the socio-economic status of First Nations offenders. Queensland supported continuing to apply the

socio-economic status approach for First Nations people that best reflects a linear relationship with offence rates.

- 106 Victoria said that the Commission should adopt a 5-tier relationship regardless of the relationship. This would account for the evolving relationship between First Nations interactions with the justice system and socio-economic status. It said the non-linear relationship between socio-economic status and offences did not warrant merging the standard 5-tier socio-economic groups into 3 in the 2020 Review.

Exclusion of traffic and breach of bail offences

- 107 Western Australia said the Commission should determine whether traffic and breach of bail offence data are robust enough to include in the police assessment. It said their inclusion would provide a more accurate representation of police expenses.
- 108 Queensland supported excluding traffic and breach of bail offence data from the police assessment.

Use of proceedings data for assessed offenders

- 109 Victoria recommended the Commission use the ABS' offender counts rather than its proceedings count to calculate assessed offenders.⁸ It considered proceedings to be an inappropriate measure of cost allocation.
- 110 Queensland supported continuing to use proceedings data in the calculation of assessed offenders.

Commission response

Socio-economic status classifications applied to First Nations people

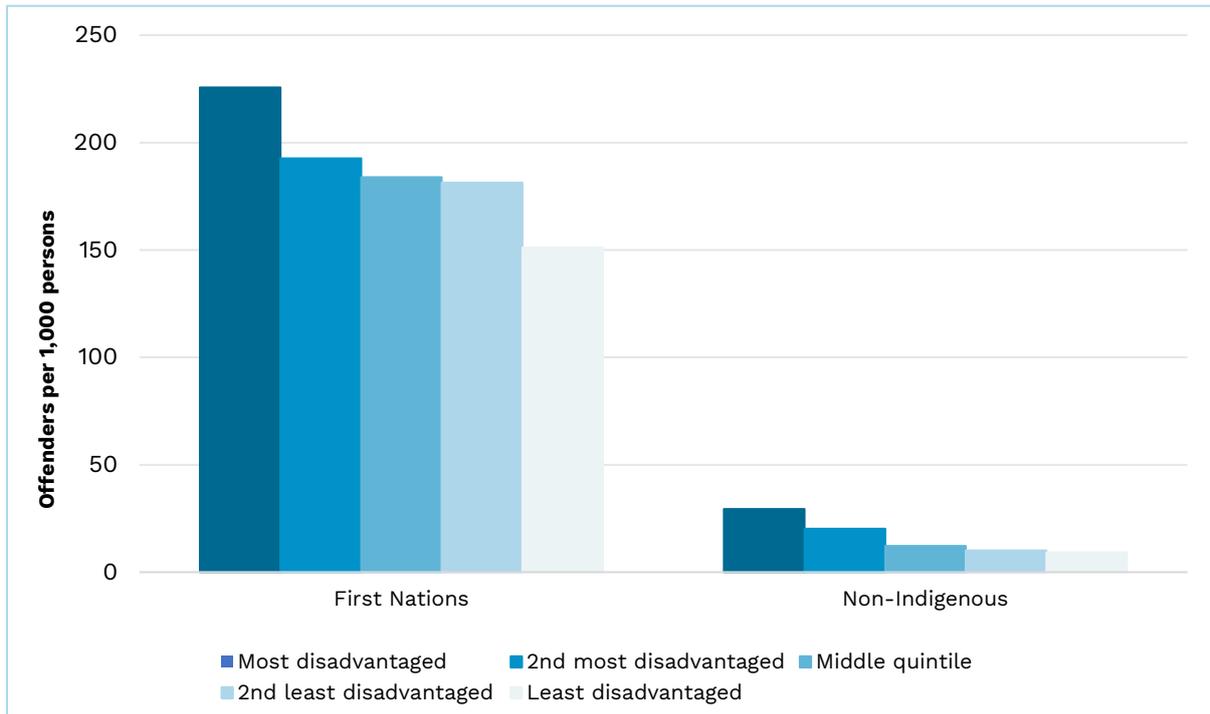
- 111 Criminologists have identified a relationship between socio-economic status and offence rates.⁹ If a socio-economic status structure does not show this relationship, it may mean that the measure is capturing the effects of factors unrelated to socio-economic status, which the Commission cannot control for because of data limitations. This may include the effects of structural inequalities or being removed from culture and/or family.¹⁰
- 112 Following analysis of 2022–23 and 2023–24 data, the Commission determined that using a 5-tier socio-economic status structure for First Nations people was appropriate. Figure 1 shows that a uniform relationship exists between decreased offence rates and First Nations people living in less disadvantaged areas.

⁸ The Commission scales state-provided data to ABS totals to calculate the Commission's number of assessed offenders.

⁹ L Ellis, DP Farrington and AW Hoskins, *Handbook of Crime Correlates*, 2nd Edition, Academic Press, London, 2019, pp 92–102.

¹⁰ Australian Law Reform Commission (ALRC), [Pathways to Justice—Inquiry Into The Incarceration Rate Of Aboriginal And Torres Strait Islander Peoples](#), ALRC, Australian Government, 2018, accessed 6 February 2024.

Figure 1 Offenders by Indigenous status and socio-economic status, 2022–23 and 2023–24 data



Exclusion of traffic and breach of bail offences

113 The Commission sought advice from the ABS about whether the quality and comparability of states’ traffic and breach of bail offence data still raised concerns. The ABS indicated that it had not recently reviewed the quality and comparability of traffic and breach of bail offence data across states. In the absence of evidence of improvements in the quality and comparability of the data, the Commission considers that these data are not fit for purpose. The Commission will continue to liaise with the ABS on the quality of the data.

114 The Commission does not consider the exclusion of these offences to raise significant issues with the model since they tend to require fewer resources than other types of crime. Furthermore, it is likely the model used in the police assessment would partially capture the effects of these types of offences.

Use of proceedings data for assessed offenders

115 The Commission uses proceedings data in the police assessment to ensure it captures costs associated with investigating and charging a single offender on multiple occasions within a single year.¹¹ Using the ABS’ offenders count would not recognise the costs associated with a second (or more) separate instance of offending and the impact on policing costs.

¹¹ Each instance of offending would be counted as a separate proceeding regardless of the number of offences an individual is charged with.

Commission decision

- 116 The Commission will use a 5-tier socio-economic status structure for First Nations people for assessing offenders.
- 117 The Commission will continue to use proceedings counts for its measure of assessed offenders and exclude traffic and breach of bail offence data from the assessment.

Criminal courts assessment – use of finalised defendants

- 118 In response to state comments, the Commission considered concerns with the use of finalised defendants as a measure of criminal court expense needs.

State views

Use of finalised defendants

- 119 Victoria said finalisations was not an adequate measure of spending needs given the highly variable relationship between criminal court expenses and volume of finalised defendants. Victoria also noted that the 2020 Review state-reported data on court expenses showed a wide variance in the proportion of criminal court expenditure across states. This raised doubts about reliability for making accurate comparative assessments or for drawing broad conclusions about state-level spending practices.
- 120 Victoria recommended the Commission use population as a measure of spending needs. It provided analyses based on data from the *Report on Government Services*, which indicated that population was a better predictor of costs than finalisations. New South Wales supported this proposal.
- 121 Queensland, Western Australia, Tasmania, the ACT and the Northern Territory supported not assessing criminal court expenses in a deliberative equal per capita assessment.
- 122 Queensland said that population explains far less of the variation in court expenses compared to the numbers of finalised defendants or court lodgements. Queensland considered that an equal per capita driver would incorrectly assume that all individuals have the same need for court services, disregarding the influence of socio-economic status, which affect the likelihood of individuals interacting with the criminal court system.
- 123 Tasmania said that the socio-demographic drivers affecting the number of assessed offenders should similarly apply to the criminal courts assessment.
- 124 The ACT supported the continued use of socio-demographic drivers in the assessment. However, the ACT recommended exploring other drivers because finalised defendants alone may not fully reflect the complexity of criminal court costs.

125 The Northern Territory said that defendant rates are highly correlated with demographics and that it is not credible to suggest defendant rates have no bearing on court costs.

Specialist courts and diversions programs

126 Victoria also suggested that programs that were used to divert people from the court system, including several of its specialist courts, were not captured in national data.

Commission response

Use of finalised defendants

127 The Commission acknowledges there are policy differences in how states provide their criminal court services that may affect the number of finalised defendants or court costs. These differences include the number of court levels in state systems, the types of cases held at each level (and the method used to finalise them) and the number of staff employed. The Commission considers such differences are responsible for the variation between the cost per finalisation in each state.

128 As only a proportion of the population become defendants and the use of criminal court services is driven by the number of defendants, a socio-demographic composition approach to assessing expenses is supported by a strong conceptual case. This is consistent with the police and prisons components that recognise only a proportion of the population become offenders and prisoners. For this reason, the Commission does not consider it appropriate to assess criminal courts using an equal per capita method.

Specialist courts and diversions programs

129 The assessment method includes states' spending for all court-related expenses as defined by Government Finance Statistics data. This enables the Commission to include all criminal court expenses in its assessment, including the costs of running specialist courts and court-based diversion programs.

130 While the number of assessed finalised defendants currently excludes finalised defendants in specialist courts and diversion programs, excluding these data produces a more nationally comparable cost per assessed defendant.¹² Given these defendants are finalised in the court that first heard their case, including any additional finalisations would lead to double counting.

Commission decision

131 The Commission will continue to use finalised defendants as a measure of criminal court expense needs. It will assess the number of finalised defendants in each state using a socio-demographic composition calculation.

¹² This exclusion is consistent with the ABS' practice of counting defendants.

Criminal courts and other legal services assessments – regional costs

132 Following analysis of 2022–23 and 2023–24 data, the Commission proposed removing the regional costs driver from the criminal courts and other legal services assessments. It noted that it could no longer identify a relationship between regional costs and remoteness in state data. The change in the relationship appears to be the result of an increase in the uptake of audio-visual technology in court case hearings.

State views

- 133 New South Wales, Victoria, Tasmania and the ACT supported the Commission’s proposal to remove the regional costs gradient from the criminal courts and other legal services assessment.
- 134 New South Wales said that the inclusion of technology in courts has eliminated any additional costs driven by remoteness.
- 135 Queensland, Western Australia and the Northern Territory said that the Commission should retain the regional costs gradient applied to criminal courts and other legal services.
- 136 Queensland said that the Commission should retain the 2020 Review gradient, noting that while structural changes have occurred in courts, implementation challenges remain. The capital works costs for installing audio-visual technology in older courts and prisons, particularly those in remote and regional areas, justify the need to retain a regional costs gradient.
- 137 Western Australia noted that the Perth Magistrates Court served a unique function in that its expenses include substantial overheads that are similar to central costs. It indicated that the Perth Magistrates Court and other states’ metropolitan courts had unique circumstances that significantly impacted the cost per defendant in non-regional areas. Western Australia suggested that further analysis be undertaken on centrally located courts and the function they serve across the states as part of the next review. Due to uncertainty in the cost data, it said that the general regional costs gradient should be applied to the criminal courts and other legal services.
- 138 The Northern Territory said there is a strong conceptual case that remoteness costs exist. The Northern Territory said that the Commission should retain the 2020 Review gradient, apply the general regional and service delivery scale costs gradient or apply just the general service delivery scale costs gradient. The Northern Territory argued that case complexity contributes to costs and obscures the observable relationship between region and costs.

Commission response

139 While case complexity and some centralised expenses likely affect the cost per defendant and measurable gradient, data limitations prevent the Commission from

quantifying their impact. However, the Commission does not consider that these factors significantly impact the assessment of criminal court expense needs. Data from most states do not indicate substantial overhead expenses are being captured in metropolitan courts. This appears to be unique to the Perth Magistrates Court.

- 140 The Commission tested removing the Perth Magistrates Court from analysis for the purpose of determining its impact. This reduced the cost per defendant in major cities but produced a near-zero regional costs gradient.
- 141 The Commission does not have data to determine how case complexity affects criminal court expenses and so weights all cases equally. Even if an adjustment for case complexity could be applied, the Commission considers it likely that any adjustment would offset any regional costs gradient, leading to a similar outcome as the proposed assessment. For this reason, the Commission does not consider that, in combination, case complexity and regional costs significantly affect the estimated criminal court expense needs.
- 142 Retaining the 2020 Review gradient would not be appropriate as it would be based on non-contemporaneous data that no longer reflect what states do in providing court services. It would also be inappropriate to maintain the gradient in the recurrent assessment to recognise capital works costs as these are covered in the Commission's investment category.
- 143 The conceptual case for regional costs in courts has been weakened by the adoption of audio-visual technology. The increasing use of this technology means that states have reduced court expenses in remote areas, particularly in regard to travel. The Commission considers there to be insufficient grounds for using the general regional costs gradient.
- 144 The Commission will consider criminal court functions and the drivers of criminal court expenses as part of the next review.

Commission decision

- 145 The Commission will no longer include the regional costs driver for criminal courts and other legal services.

Criminal courts data

- 146 In response to state comments, the Commission considered concerns that the criminal courts assessment used data from a limited number of states to determine the socio-demographic profile of defendants and the regional costs gradient. It also proposed attributing Indigenous status to defendants who had not provided their Indigenous status using the proportion of those who did.

State views

Data quality and averaging

147 Victoria said that using data from only 5 states in the socio-demographic composition calculation and 4 states in the criminal courts regional costs gradient for the 2020 Review failed to accurately capture the average of state policy. It noted that this likely biased the results in the prisons component, which also uses defendants' socio-economic status as a proxy for prisoners' socio-economic status. For this reason, it recommended that socio-economic status not be used in prisons. Victoria noted that if defendant socio-economic status was used as a proxy it should be discounted. Alternatively, it considered modelling should be limited to data available for every state (age and socio-economic status) or data should be imputed for any missing states rather than excluding them from the national average.

Treatment of non-stated Indigenous status

148 Queensland and Western Australia supported attributing Indigenous status to non-stated defendants using the proportion of the stated defendants. Queensland said that this approach would ensure a reasonable and equitable approach to addressing data gaps and maintain the integrity of the assessment.

149 The Northern Territory did not support this proposal. It said that the demographic characteristics of non-stated defendants are different to those of stated defendants. The Northern Territory suggested that either the non-stated responses for Indigenous status not be allocated or that socio-economic status proxy used in prisons should exclude the influence of non-stated defendants.

Commission response

Data quality and averaging

150 In the 2020 Review, the Commission used all fit-for-purpose data available to inform the socio-demographic composition calculation and regional cost gradient in courts. The Commission agrees that, where possible, the assessment should be based on data from all states. However, given the importance of Indigenous status and regional costs, limiting modelling to where data are available for every state would limit the assessments that can be undertaken and would be contrary to the objective of horizontal fiscal equalisation.

151 The Commission considers using data from those states able to provide fit-for-purpose data provides a reasonable estimate of the national average if these states form a representative cross-section of all states. For example, this would be the case if the cross-section included states with large remote regions, diverse socio-demographic profiles and highly populated major cities.

152 For the 2025 Review, the Commission notes that data from all states were used in the analysis of the socio-demographic composition of defendants and data from 6 states in the analysis of regional costs. This also means that data from all states are used in calculating the proxy for prisoner socio-economic status.

Treatment of non-stated Indigenous status

- 153 In the 2020 Review, the Commission was concerned that attributing Indigenous status to non-stated finalised defendants by shares of stated defendant responses would overestimate the number of First Nations finalised defendants. After analysing Western Australian traffic offence data, it considered most First Nations offenders may have already been identified in the data.
- 154 Data provided by Western Australia for the 2020 Review showed a large proportion of the state's non-stated defendant responses for traffic offences came from areas where First Nations people make up a smaller proportion of the population.
- 155 Western Australia's 2022–23 data show 24% of finalised defendants (before attributing Indigenous status to non-stated responses) identified as First Nations.¹³ This proportion of First Nations responses more closely aligns with 2020 Review data when non-stated responses are attributed by shares of stated defendant responses (23% First Nations) rather than population shares (16% First Nations).
- 156 The Commission also noted that the proportion of non-stated defendant responses has fallen to 7% in the 2022–23 data down from 41% in the 2020 Review data.
- 157 The Commission considers that attributing Indigenous status to non-stated finalised defendants by shares of stated defendant responses would not overestimate the number of First Nations finalised defendants.
- 158 The Commission does not consider the Northern Territory's proposal to not allocate non-stated defendants to be an improvement to the method. As part of creating the defendant socio-demographic composition profiles, state data are scaled to ABS totals to improve the comparability of data. Scaling data with non-stated responses removed would effectively add the influence of non-stated responses in a less precise manner. The Commission's proposed attribution method accounts for different age, socio-economic status and remoteness profiles of defendants.
- 159 The simplest option for removing the influence of non-stated responses would be to not scale to the ABS totals. However, this would have implications for data comparability. The Commission considers the scaling of defendant data an important step in improving data comparability and the robustness of the assessment.

Commission decision

- 160 The Commission will:
- use data from all states in the socio-demographic composition calculation for the criminal courts component
 - attribute Indigenous status to non-stated finalised defendants by the proportion of the stated defendant responses.

¹³ Western Australia said it made the reasonable assumption that the composition of offenders has not changed structurally from 2016–17 to 2022–23 for traffic offences.

Other legal services data

161 In response to state comments, the Commission considered whether the method used to split criminal courts and other legal services was appropriate.

State views

162 Victoria said the expense split between criminal courts and other legal services was unreliable because it relied heavily on state data that were not comparable. It said the data had high levels of variability, likely due to classification inconsistencies between states.

163 Victoria recommended the Commission use the *Report on Government Services* criminal court expenditure data for criminal and civil courts and place any remaining difference between expense totals in *Report on Government Services* data and Government Finance Statistics data into the other legal services component.

Commission response

164 The Commission has previously explored using *Report on Government Services* data for splitting criminal courts and other legal services but found the data unsuitable. There are some legal services related to both criminal courts and other legal services that are excluded from these data. The Commission considers splitting court expenses in this manner does not provide the best estimate of costs incurred by states' criminal courts and other legal services.

Commission decision

165 The Commission will continue to use data provided by states for the 2025 Review to split other legal services expenses from criminal court expenses.

Prisons assessment – regional and service delivery scale costs

166 Following analysis of 2022–23 and 2023–24 data, the Commission considered its approach to assessing regional and service delivery scale costs in the prisons assessment. The Commission proposed to use the general service delivery scale costs gradient (discounted by 25%) to assess service delivery scale costs in prisons and not assess regional costs.

State views

167 Tasmania and the Northern Territory supported the Commission's proposal to use the general service delivery scale costs gradient in the prisons assessment.

168 Tasmania said that it supported the conceptual case for service delivery scale costs in prisons and acknowledged that data limitations precluded the option of calculating a prisons-specific service delivery scale costs gradient.

169 The Northern Territory said that the lack of observable relationships in prisons was due to data limitations. The Northern Territory supported removing the 2020 Review

prisons regional costs gradient and applying the general service delivery scale costs gradient instead. As an alternative, the Northern Territory suggested the Commission could apply the general regional and service delivery scale costs gradient. The Northern Territory also said that if the service delivery scale costs gradient is adjusted to group together remote and non-remote regions, then the 25% discount should be removed.

- 170 The ACT supported assessing service delivery scale costs in prisons but did not support the use of the general service delivery scale costs gradient in the assessment. The ACT said that there was a lack of evidence that service delivery scale in schools and health are similar to those in prisons. The ACT said that if a gradient were applied, it should be discounted further and the cost weight applied to remote and non-remote areas should be combined.
- 171 The ACT also noted it would be treated as a major city, thereby excluding it from being assessed to incur service delivery scale costs in delivering prison services. The ACT said that it faced cost challenges, such as service delivery scale costs, similar to Tasmania and the Northern Territory due to the fixed costs in providing prison services being allocated across a smaller population. The ACT does not have the scale to efficiently operate a separate remand centre or women's only facility, which is a cost driver that is not recognised in the proposed assessment.
- 172 The ACT recommended that as an alternative to further discounting the general service delivery scale costs gradient, the ACT should be treated as a regional area to address its isolation and small economies of scale.
- 173 Queensland and Western Australia said that the Commission should recognise regional and service delivery scale costs in the prisons assessment.
- 174 Queensland said that there was a strong conceptual case for regional costs in prisons and that it is average policy for states with remote populations to have remote prisons. It said that the 2020 Review model should be retained until a new suitable approach is developed but argued against its use as a benchmark for validating the discounted general service delivery scale costs gradient.
- 175 Western Australia said that the Commission should apply the general regional and service delivery scale costs gradient to the prisons assessment. Western Australia considered that circumstances in prisons had not changed significantly since the last review. It said that limitations in prisons data and the poor explanatory power of the prisons regression do not infer a lack of a relationship between remoteness and increased costs.
- 176 New South Wales argued that the relationship between costs and prison size does not hold across remoteness areas. New South Wales said that prison costs are driven by security classification and prison function as opposed to service delivery scale. New South Wales argued that there should be no general service delivery scale costs gradient applied to prisons but, if it is applied, it should be discounted by 50%.

It said that further discounting was warranted due to uncertainty around relevance of the proxy gradient. This would acknowledge that the estimated economies of scale in the health and education sectors do not apply to justice services.

- 177 Victoria said that the conceptual and empirical evidence to support a remoteness cost weight was weak. Victoria said that many states, including Victoria, do not locate prisoners based on their place of residence nor do they place prisons based on the proximity of the population they will serve.
- 178 Victoria considered that differences in prison size are policy driven and that differences between states in costs per prisoner can be influenced by the types of programs provided, staffing levels and the number and type of facilities available in prisons. It also argued that a gradient with higher cost weights for regional areas was inappropriate given regional prisons were not smaller than those in major cities. Victoria said that the general service delivery scale costs gradient, which is largely based on health and schools data, would not capture a universal cost-relationship between service delivery scale costs and remoteness.

Commission response

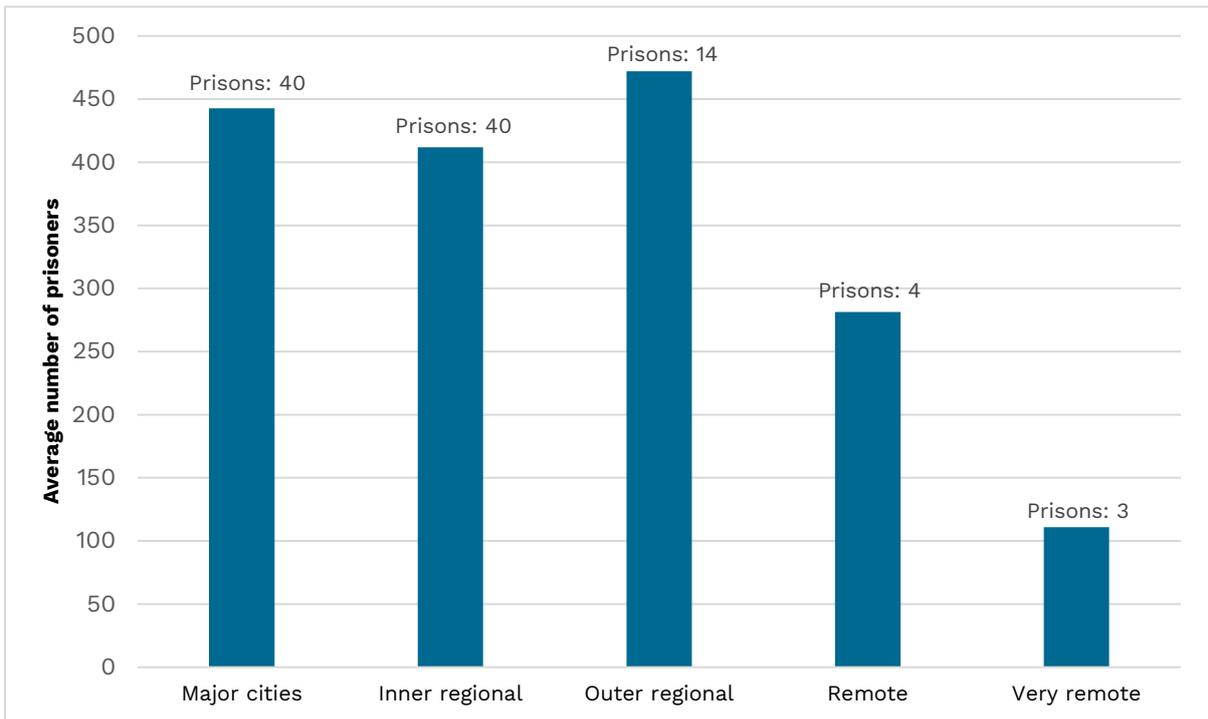
Prisons regression

- 179 The Commission retested the 2020 Review prisons regression using 2022–23 and 2023–24 state data and found that the results produced were not strong enough to incorporate into the justice assessment.
- 180 The Commission explored using other regression models but found the data did not support the use of a regression. This was due to insignificant results and low explanatory power, making it unsuitable for assessing regional and service delivery scale costs.

Regional and service delivery scale costs

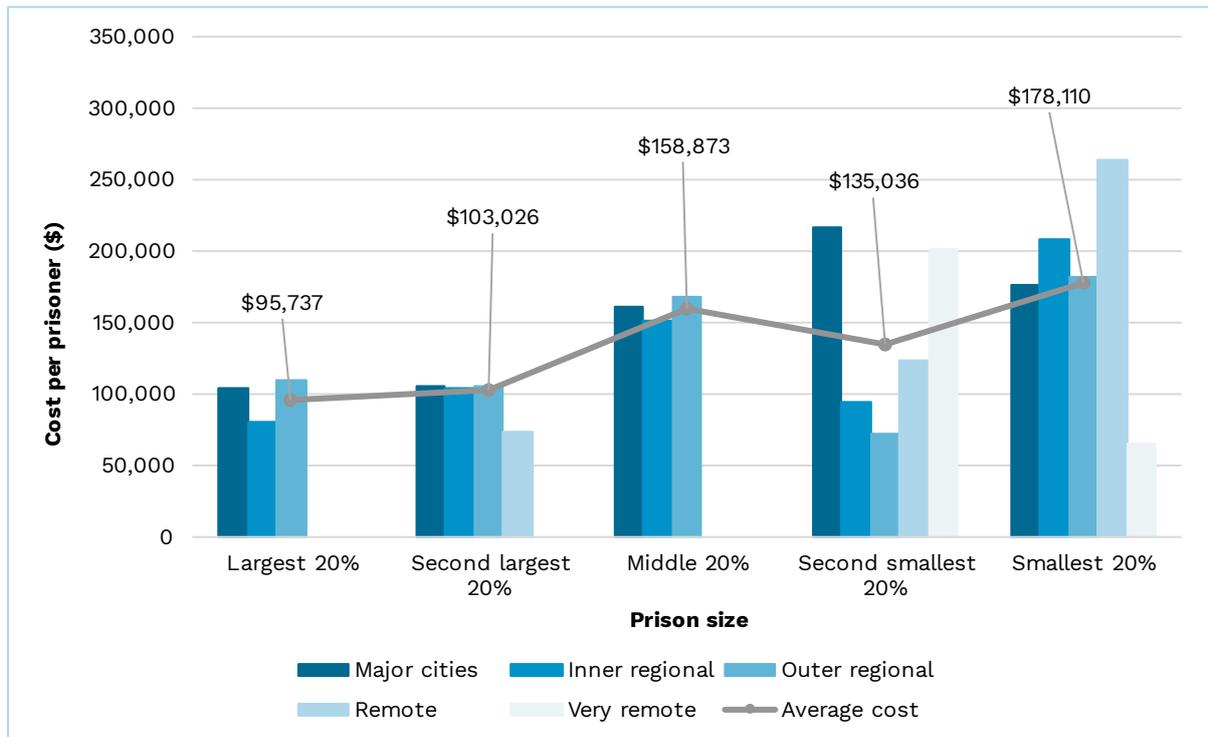
- 181 The Commission considers there is a strong conceptual case for service delivery scale and regional costs in prisons. State-provided data and submissions clearly indicate that it is average policy for states with large remote areas to have remote prisons or workcamps, and that those prisons are generally smaller than prisons in regional and major city areas (see Figure 2).

Figure 2 Average prison size by remoteness area, 2022–23 and 2023–24 data



182 Figure 3 shows that broadly, smaller prisons continue to be costlier on a per prisoner basis than larger prisons. 2022–23 and 2023–24 data showed no consistent relationship between remoteness and per prisoner costs.

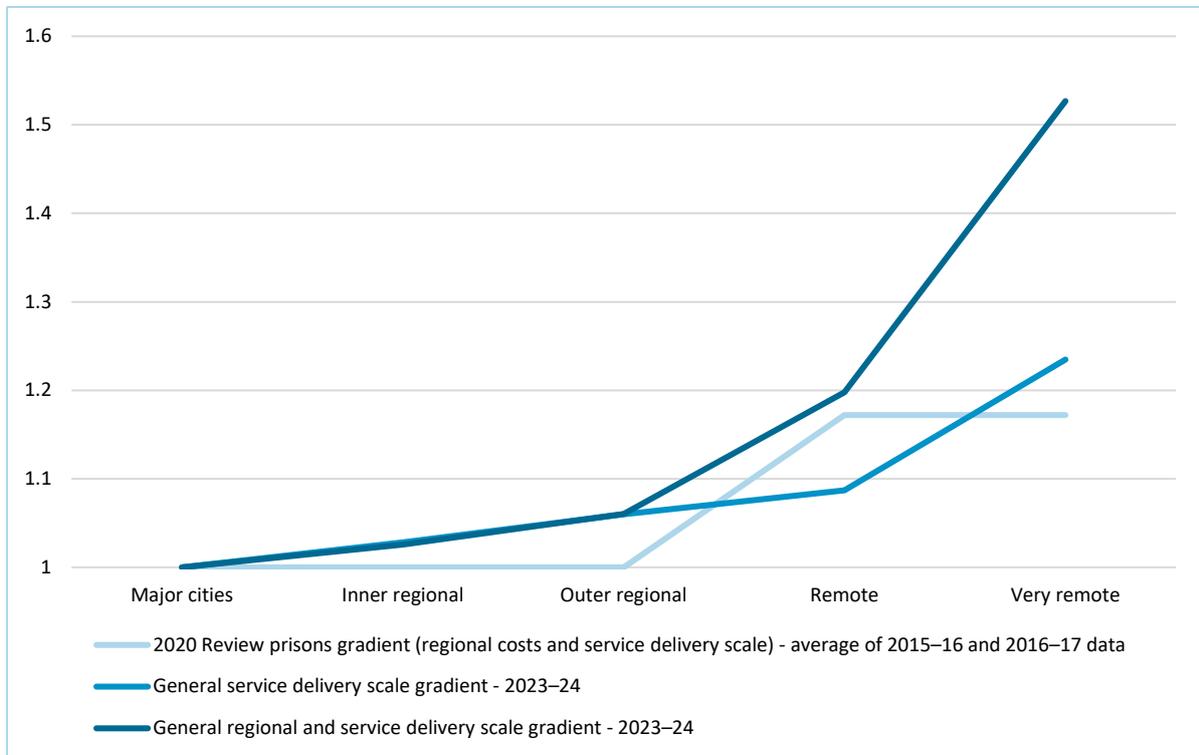
Figure 3 Cost per prisoner by remoteness area and prison size, 2022–23 and 2023–24 data



- 183 The Commission acknowledges that economies of scale are not entirely uniform across the data. Data showed that the smallest very remote prisons were the least expensive of all prisons while the second smallest prisons cost less, on average, than prisons in the middle 20%. Given the small number of prisons in Australia and data quality concerns, a clear linear relationship is not necessarily expected. However, an observable trend is present.
- 184 The Commission acknowledges that several factors influence where a prisoner is imprisoned, but for remote prisoners there is a reasonable link between their usual address and their placement in a remote prison. This view is supported by several state submissions, which refer to prisoner placement policies and legislative requirements.
- 185 The Commission considers that other prison or prisoner characteristics, such as security classification, can significantly influence costs and that prison sizes can be policy influenced. It also acknowledges that issues of data comparability can undermine the reliability of measures and assumptions derived from them.
- 186 However, the Commission considers that if data were more comparable and other drivers of cost could be accurately controlled for, that evidence of economies of scale in prisons would exist because the conceptual case is strong. It also notes that under the proposed assessment, states building more smaller prisons than required under average policy would not increase their GST distribution through such policy choices.
- 187 In response to concerns raised by the ACT, the Commission acknowledges a conceptual case that smaller states may face higher per capita costs due to system-level rather than prison-level factors. The Commission's analysis of state prison data indicates the presence of economies of scale at the prison level. However, it has not explored whether economies of scale also exist at the system level. The Commission notes that states with larger populations often have prisons that serve specialised functions, such as holding remand prisoners. Smaller states may not be able develop their prison systems in the same way. In a small state, a prison may need to serve multiple functions that would be performed by several prisons in a larger state. This may increase the per prisoner costs in smaller states. This may be an area warranting consideration the next review.
- 188 While the Commission acknowledges that there is a conceptual case for regional and service delivery scale costs, it is concerned that applying the combined general regional and service delivery scale costs gradient will overstate the need of states with more remote areas and produce an inferior horizontal fiscal equalisation outcome.
- 189 Figure 4 below shows that the 2025 Review general service delivery scale costs gradient is more consistent with the 2020 Review gradient, which was derived using prison specific data. Combined with the inability to identify the presence of regional

costs separate from service delivery scale in the available data, the Commission proposes to apply the service delivery scale general gradient only.

Figure 4 Comparison of regional and service delivery scale costs gradients in the prisons assessment



Note: The general service delivery scale costs gradient and the general regional and service delivery scale costs gradient are updated annually with new data. General gradients are unique for each assessment year and would be applied to the assessed prisoners calculated for the corresponding assessment year (for example, the 2023–24 service delivery scale general gradient would be applied to assessed prisoners and juvenile detainees for 2023–24).

190 Regarding Victoria’s concerns on the appropriateness of the gradient, the Commission accepts that regional prisons are not always smaller than those in major cities and that this is inconsistent with the assumption that costs always increase by remoteness. However, the general service delivery scale costs gradient is already discounted by 25% to account for the use of proxy data. The degree of additional uncertainty in the data cannot be quantified. As such, the Commission proposes to not add an additional discount to the general service delivery scale costs gradient.

Commission decision

191 The Commission will apply the general service delivery scale costs gradient for prisons and not assess regional costs in prisons.

Prisons assessment – juvenile detainees and community corrections

192 The Commission asked states whether it would be appropriate to apply a juvenile detainee cost weight if it is material. It considered that changes to the age of criminal responsibility did not warrant a change in the age groups used in prisons.

193 In response to state comments, the Commission proposed a separate assessment for non-custodial services.

State views

Juvenile cost weight and age group

194 Most states supported applying a juvenile detainee cost weight if it is material. Queensland proposed an alternative method for calculating cost weights, based on cost per bed night in youth detention.

195 Victoria said it did not support the application of a cost weight because the *Report on Government Services* juvenile detention expenditure data were not comparable across states.

196 The ACT said it did not support the proposed assessment of juvenile detainees because the application of a cost weight would not recognise other relevant cost drivers other than population characteristics of young people. The ACT had the second highest expenditure (approximately double the national average) on youth justice services per young person in the population in 2023–24. It said this was due to other cost drivers relevant to providing youth justice services that are not accounted for, such as alternative supports, service delivery scale and human rights adjustments.

197 All states that responded supported not changing the juvenile detainee age groups in response to changes to the minimum age of criminal responsibility across states.

Community corrections

198 New South Wales, Western Australia and the ACT supported the inclusion of a community corrections assessment, if material, in the justice method.

199 New South Wales said the use of weighted average service levels across all states ensures that the assessment will be policy neutral.

200 Queensland did not support the incorporation of a community corrections assessment into the justice method. It said that materiality in this assessment is driven by New South Wales' policy to use community corrections orders at a much higher rate than other states. It suggested there needs to be a consideration of the complexity and policy neutrality of data.

201 Victoria argued that data on community corrections are not comparable between states due to differences in state classifications of community corrections orders, particularly with New South Wales' policy choices. It said if an assessment is material, an adjustment to account for differences in state classifications should be considered and the method be consulted on further with states.

Commission response

Juvenile cost weight and age group

- 202 The Commission notes the Productivity Commission's *Report on Government Services 2024* juvenile detention expenditure data are published with a qualifier saying the data are not comparable across states.¹⁴ The Productivity Commission advised that data are not comparable because states have different funding structures for their youth justice services.
- 203 Despite the Productivity Commission's caveat, the *Report on Government Services* juvenile detention expenditure data are currently the best available for determining the cost differences between adult prisoners and juvenile detainees. The Commission considers that using national average data from the *Report on Government Services* to calculate juvenile detainee cost weights is appropriate and will reduce the impact of state policy influences.
- 204 The Commission tested the impact of adding a juvenile detainee cost weight and found it to be material, moving \$47 per capita for the Northern Territory. It will therefore introduce the cost weight in the assessment.
- 205 The Commission considered Queensland's proposed method of using cost per bed night but found that this method would overstate juvenile detainee costs when applied to the daily average number of juvenile detainees. The cost weight used in the assessment will be calculated using the difference in average daily costs between juvenile detainees and adult prisoners.
- 206 The Commission accepts that, in addition to the population characteristics of young people, factors such as geographic characteristics and service delivery scale may influence the cost of providing youth justice services. However, the Commission considers age to be the primary policy-neutral driver of costs in this area. As the assessment of this driver results in only a small effect on the GST distribution, the Commission considers that any additional cost drivers, if present, are unlikely to be material.
- 207 To facilitate the introduction of the juvenile detainee cost weight, the Commission will use new age groups across the justice assessment. The new age groups will be 0–17, 18–24, 25–44, 45–64 and 65+. The juvenile detainee cost weight will be applied to all assessed prisoners in the 0–17 age group.

Community corrections

- 208 The Commission considers there is a conceptual case for community corrections orders to be assessed in the prisons assessment. However, the Commission found an

¹⁴ This refers to the Steering Committee for the Review of Government Service Provision 2024, *Report on Government Services 2024*, Productivity Commission, Australian Government, 2024, Part F Community services, youth justice data on 'Cost per young person subject to detention-based supervision, 2022-23', table 17A.21. The table notes include the qualifier that data 'are not comparable across jurisdictions but are comparable (subject to caveats) within jurisdictions over time'.

assessment of community correction orders using 2022–23 and 2023–24 data was not material, moving \$21 per capita for one state.

Commission decision

209 The Commission will apply a juvenile detainee cost weight in the prisons assessment and adjust the age groups used in the justice assessment. It will not include a separate assessment for community corrections.

Prisons assessment – other issues

210 In response to state comments, the Commission considered the appropriateness of its assessed prisoners model and other potential drivers of costs in prisons.

State views

Assessed prisoners model

211 The ACT stated that the Commission’s assessed prisoners model substantially underestimates the number of First Nations people held in its custody. It noted that the model produces a share of First Nations detainees, relative to total detainees in the ACT, that is lower than the national average. The ACT said this is inconsistent with actual data and indicates that the model may not be appropriate.

Prisoner welfare

212 The ACT also said the Commission should explore other relevant cost drivers beyond remoteness and service delivery scale. It identified detainee health, welfare and educational opportunities as areas that significantly impact the cost of prison services. The ACT had the highest cost per prisoner per day in 2023–24, at close to twice the national average. It said that diseconomies of scale, alongside investments made over time to ensure a human-rights compliant prison, contributed to its relatively high cost.

213 The ACT also said that these factors impacted the cost of providing youth justice services and recommended that the Commission update the conceptual framework for the prisons assessment to reflect the implications of the ratification of the *Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 2017.

Commission response

Assessed prisoners model

214 The Commission assesses the ACT to have a ratio of First Nations prisoners to total prisoners of 27%. This is below the national average of 36%. ABS data reported the actual ratio of First Nations prisoners to total prisoners in the ACT in 2023–24 to be about 32%. Differences between actual and assessed prisoners are expected. This is because assessed prisoners are derived in a way that removes the influence of individual state policies such as incarceration rates, sentencing and remedial

programs in prisons. This is not an indication that the model is inappropriate. The Commission will continue to apply national average incarceration rates to maintain policy neutrality in the assessment.

Prisoner welfare

215 The Commission notes that complying with human-rights requirements, providing educational services and attending to prisoner welfare and health would contribute to the costs of operating prisons. It also notes that all states undertake activities within their provision of correctional services that promote prisoner welfare, health and reintegration. Currently, the Commission considers there are no available data to quantify state needs in meeting such obligations, nor a conceptual basis for why a particular state's need to meet them would differ from the national average.

Commission decision

216 The Commission will continue to use national average imprisonment rates, disaggregated by First Nations status, age and socio-economic status, to assess numbers of prisoners. It will not change the conceptual framework for the assessment to reflect state objectives relating to prisoner welfare, health or reintegration.

Discounting

217 States proposed a number of discounts throughout the 2025 Review process. A full list of state-proposed discounts and Commission responses can be seen in the Overview of the final draft justice assessment.

218 The Commission does not consider that further discounting the justice assessment is warranted, except for the discount applied to the general service delivery scale costs gradient.

Commission decision

219 The Commission will not apply any discounts to the updated justice assessment method outside of the already discounted general service delivery scale costs gradient.

GST impacts of method changes

220 The impact on the GST distribution from method and data changes is shown in Table 1.

Table 1 Impact on GST distribution of data and method changes to the recurrent justice assessment, 2025–26 to 2026–27

	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Total effect
\$m	218	-232	97	-68	-40	55	-15	-15	370
\$pc	25	-32	17	-22	-21	95	-31	-55	13

Note: The sum of the total impact of data and method changes shown in Tables 2 and 3 differ slightly from the total in this table due to rounding.

Data changes

221 The impact of updates to data on GST distribution in 2025–26 is shown in Table 2.

Table 2 Impact on GST distribution of data changes, justice, 2025–26 to 2026–27

	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Total
	\$m	\$m	\$m	\$m	\$m	\$m	\$m	\$m	\$m
Police (a)	59	-141	71	-21	-21	29	-11	35	195
Criminal courts (b)	19	-68	17	12	-9	4	-3	28	80
Prisons (c)	88	36	-25	-42	2	13	2	-75	142
Total	166	-173	63	-52	-28	47	-12	-11	276
	\$pc	\$pc	\$pc	\$pc	\$pc	\$pc	\$pc	\$pc	\$pc
Police	7	-19	12	-7	-11	50	-23	132	7
Criminal courts	2	-9	3	4	-5	7	-6	105	3
Prisons	10	5	-4	-13	1	23	5	-277	5
Total	19	-24	11	-17	-15	81	-24	-41	10

(a) Updated ERP based on 2021 Census, state police district expense and offender data.

(b) Updated ERP based on 2021 Census, state criminal cost and other legal services expense data, and defendant data.

(c) Updated ERP based on 2021 Census, ABS prisoner data and state defendant socio-economic status data.

222 Most of the change from data updates can be explained by a combination of the following.

- Updating state police costs and offender data in the police regression increased the cost weight for offenders, increasing the assessed GST needs of states with greater shares of assessed offenders, such as Tasmania and the Northern Territory. It also increased the regional cost weight applied to inner and outer regional populations and decreased the cost weight applied to very remote areas. This increased the assessed GST needs of states with a greater share of regional populations such as Tasmania and decreased the needs of states with greater shares of very remote populations such as the Northern Territory.
- Updated offender and defendant data in the police and criminal courts assessment indicates that First Nations people are coming into contact with the justice system at higher rates than was reported in 2016. This increases the

relative use rates of First Nations populations and increases the assessed GST needs of states with larger First Nations populations, such as the Northern Territory.

- Updated defendant data also indicates an increase in First Nations defendants experiencing lower levels of socio-economic disadvantage relative to First Nations defendants experiencing higher levels of socio-economic disadvantage. This reduces the use rates of First Nations populations experiencing the most socio-economic disadvantage and decreases the assessed GST needs of states with large First Nations populations experiencing high levels of disadvantage, such as the Northern Territory. For the Northern Territory, this impact is fully offset by the increase in the First Nations use rates in criminal courts.
- Updated data on defendant socio-economic status are used to determine prisoner socio-economic status in the prisons assessment. Table 2 reflects the impact of changes in use rates of the First Nations socio-economic populations.
- The proportion of the population that identifies as First Nations is greater in the 2021 Census than in the 2016 Census. This has the effect of reducing the relative use rate of offenders, defendants and prisoners that identify as First Nations. It reduces the assessed GST needs of states with larger First Nations populations, such as the Northern Territory. For the Northern Territory, the increase in use rates of First Nations offenders and defendants due to updating offender and defendant data offsets this impact. However, in the prisons assessment the impact of updating First Nations defendant socio-economic status further compounds the reduction in assessed GST needs.

Method changes

223 The impact on the GST distribution from the method changes is shown in Table 3.

Table 3 Impact on GST distribution of method changes, justice, 2025–26 to 2026–27

	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Total effect
	\$m	\$m	\$m	\$m	\$m	\$m	\$m	\$m	\$m
Police	15	8	-18	-3	-1	1	-1	-2	24
New allocation of central costs method	16	16	-4	-14	-1	-2	2	-14	34
Combining remote and very remote	-2	0	1	0	-3	0	0	3	5
Changing socio-economic status structure	0	-8	-16	10	4	3	-3	10	26
Criminal courts and OLS (a)	18	1	5	-9	-1	2	0	-15	26
New non-stated method	4	-11	6	0	-2	1	0	3	13
Removing regional costs in criminal courts	13	11	-1	-8	0	1	1	-17	26
Removing regional costs in OLS (a)	1	1	0	-1	0	0	0	-1	2
Prisons	16	-68	50	-4	-9	8	-4	10	84
New non-stated method	12	10	3	-10	-2	1	1	-15	27
Replacing regional costs with the general service delivery scale costs gradient	-12	-13	10	0	-1	6	-2	12	27
Adding juvenile detainee cost weight	16	-65	37	7	-6	1	-3	14	74
Changing age groups (b)	3	-1	-3	0	-1	-2	1	3	7
Total	52	-59	33	-16	-12	8	-3	-4	94
	\$pc	\$pc	\$pc	\$pc	\$pc	\$pc	\$pc	\$pc	\$pc
Police	2	1	-3	-1	0	1	-1	-6	1
New allocation of central costs method	2	2	-1	-4	0	-3	4	-53	1
Combining remote and very remote	0	0	0	0	-2	-1	0	11	0
Changing socio-economic status structure	0	-1	-3	3	2	5	-5	36	1
Criminal courts and OLS (a)	2	0	1	-3	-1	3	1	-56	1
New non-stated method	0	-2	1	0	-1	2	-1	10	0
Removing regional costs in criminal courts	2	1	0	-3	0	1	1	-63	1
Removing regional costs in OLS (a)	0	0	0	0	0	0	0	-3	0
Prisons	2	-9	9	-1	-4	14	-8	38	3
New non-stated method	1	1	0	-3	-1	2	2	-56	1
Replacing regional costs with the general service delivery scale costs gradient	-1	-2	2	0	0	10	-4	43	1
Adding juvenile detainee cost weight	2	-9	6	2	-3	2	-7	50	3
Changing age groups (b)	0	0	-1	0	-1	-4	2	11	0
Total	6	-8	6	-5	-6	14	-7	-14	3

(a) OLS refers to the other legal services component.

(b) Introducing the juvenile detainee cost weight required a change to the age groups across components. This line represents the combined impact of this change.

Police

- 224 Allocating police central costs on the basis of a 50% proportion of police district expenses and 50% proportion of full-time equivalent staff increased the relative expenses allocated to major cities and outer regional areas, and lowered expenses allocated to remote areas. This reduced the assessed GST needs of states with larger remote populations, such as Western Australia and the Northern Territory. It increased the needs of states with larger non-remote populations, such as the ACT.
- 225 Combining remote and very remote costs increased the assessed expense needs of very remote populations and decreased the needs of remote populations. This change increased the assessed GST needs of the Northern Territory and decreased the needs of South Australia.
- 226 Increasing the socio-economic status structure of First Nations offenders from a 3-tier system to a 5-tier system increased the use weights applied to First Nations populations experiencing the highest level of socio-economic disadvantage and decreased the use weights applied to First Nations populations experiencing the lowest levels of socio-economic disadvantage. This change increased the assessed GST need of states with a greater proportion of First Nations populations experiencing the highest levels of socio-economic disadvantage, such as the Northern Territory. It reduced needs for states with a below-average proportion of this population, such as the ACT.

Criminal courts and other legal services

- 227 Under the new method of allocating non-stated Indigenous status responses by proportions of stated responses, states with a higher proportion of First Nations people tended to have increased assessed GST needs (such as Queensland, Tasmania and the Northern Territory).
- 228 Determining whether non-stated responses are allocated to First Nations defendants or non-Indigenous defendants under the method depends on the composition of each individual socio-demographic sub-group. The largest increases in numbers of defendants that identify as First Nations are in major cities and inner regional areas. These areas also experienced the largest decrease in non-Indigenous defendants. In some states, such as New South Wales and Queensland, the combination of changes increased the assessed GST needs, but in others, such as Victoria, needs were reduced.
- 229 Removing the regional costs gradient from the assessments of criminal courts and other legal services decreased the assessed GST needs of states with larger remote populations, such as Western Australia and the Northern Territory, and increased the needs for states with a smaller proportion of remote populations, such as New South Wales and Victoria.

Prisons

- 230 Introducing an assessment of the additional costs of juvenile detainees increased the assessed GST needs of states with a greater share of the assessed juvenile detainee population, such as the Northern Territory. This was largely driven by states' relative shares of the 0–17 aged population, predominately those who experience disadvantage and/or who identify as First Nations.
- 231 The new method of allocating non-stated Indigenous status of defendants in the criminal courts assessment impacts the prisons assessment because defendant data are used to impute the socio-economic profile of prisoners. The change reduced the share of prisoners who identify as First Nations who experience the highest level of socio-economic disadvantage. This reduced the assessed GST needs of states with a greater proportion of First Nations populations experiencing the highest level of socio-economic disadvantage, particularly the Northern Territory. It increased needs for states with a below-average proportion of this population, such as the ACT.
- 232 Replacing the regional costs gradient with the general service delivery scale costs gradient increased the assessed cost per prisoner in regional areas and very remote areas and reduced the assessed cost per prisoner in remote areas. This increased the assessed GST needs of states with greater shares of regional populations, such as Tasmania, and/or very remote populations, such as the Northern Territory.

Investment in justice

- 233 There are no method changes to the investment assessment. However, changes to the recurrent justice assessment flow through to the investment assessment. States that receive an increase in GST due to the recurrent method changes receive an increase in GST due to the resultant change in the investment. This is shown in Table 4.

Table 4 Impact on GST distribution from justice method changes on investment, 2025–26 to 2026–27

	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Total effect
\$m	32	-19	3	-15	-2	6	-1	-4	41
\$pc	4	-3	1	-5	-1	11	-1	-14	1

Attachment A

Table A-1 Alternative police regression model, 2022–23 and 2023–24

	Estimate	Standard error	Significance
Intercept	451	20	***
Inner regional	176	54	**
Outer regional	428	77	***
All remote	1,875	160	***
Adjusted R squared	0.571		
Sample size	152		

Note: *** represents statistically significant coefficients at a 0.001 confidence, ** at a 0.01 confidence.

Attachment B: Implications for geography

Geography

234 The Commission uses general costs gradients to capture regional costs and service delivery scale costs in assessments where there is a conceptual case that these costs exist, but data do not allow these costs to be directly measured. The general gradients take a weighted average of the cost gradients from assessments where specific gradients can be measured. In the 2025 Review, the criminal courts and prisons components of justice contributed to the general gradients.

Data used in the calculation of the general gradient

235 The changes to the justice assessment method result in specific regional costs and service delivery scale costs no longer being calculated within the criminal courts or prisons assessments. Therefore, these components will no longer contribute to the general gradient calculation. This is consistent with the Commission's decision in the 2025 Review to remove justice from the general gradients if regional costs or service delivery scale costs are no longer calculated in the justice assessments.

236 The following assessments will continue to be used in the general gradients:

- schools
- admitted patients
- emergency departments
- non-admitted patients
- post-secondary education
- investment (Rawlinsons).

General service delivery scale costs gradient

237 In the prisons component of the justice assessment, there is a conceptual case for service delivery scale costs. However, available data are not able to directly capture such costs. Therefore, the Commission will apply a general service delivery scale costs gradient to the prisons component.

238 The Commission will have 3 general gradients:

- regional costs gradient
- service delivery scale costs gradient (new)
- regional and service delivery scale (combined) gradient.

239 The components that contribute to the service delivery scale costs gradient are:

- schools
- admitted patients
- emergency departments

- non-admitted patients.

GST impacts

240 The impact on the GST distribution related to geography as a result of the method changes in the justice assessment is shown in Table B-1.

Table B-1 Impact on GST distribution from removing justice from the general gradient, 2025–26 to 2026–27

	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Total effect
\$m	-8	-6	2	3	0	1	-1	8	14
\$pc	-1	-1	0	1	0	2	-1	30	1

Note: The impact of replacing regional costs with the general service delivery scale costs gradient in prisons and removing the regional gradient in criminal courts is captured in the GST impacts for the justice assessment.