



Australian Government

Commonwealth Grants Commission

2010 REVIEW

JUSTICE SERVICES

**COMMISSION POSITION PAPER
CGC 2008/23**

SEPTEMBER 2008

Paper issued:	9 September 2008
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State submissions sought by:	30 January 2009, submitted in Word format to secretary@cgc.gov.au

CONTENTS

BACKGROUND	1
PROPOSED ASSESSMENT	1
SHOULD A PORTION OF POLICE EXPENSES BE ASSESSED EQUAL PER CAPITA?	3
ARE CUSTODY RATES AN APPROPRIATE INDICATOR OF POLICE EXPENSES?	6
CIVIL COURT EXPENSES AND USER CHARGES	8
SERVICE USE	11
SERVICE USE — LOW SOCIO ECONOMIC STATUS (SES)	12
SERVICE DELIVERY SCALE	15
URBAN COMPLEXITY	16
CULTURALLY AND LINGUISTICALLY DIVERSE (CALD) BACKGROUND	19
SERVICE USE — SUMMARY	21
CROSS-BORDER	22
LOCATION	23
ADMINISTRATIVE SCALE	23
OTHER EXPENSES	23
National capital	23
Native title and land rights	24
PRELIMINARY ASSESSMENT	24
CONCLUSION	27
ATTACHMENT A: CALCULATION OF THE SERVICE USE FACTOR	29

BACKGROUND

- 1 In 2005, the Heads of Treasury undertook a review of horizontal fiscal equalisation. A conclusion of that review was that Commission processes could be simplified. The 2010 Review terms of reference ask the Commission to simplify its assessments, provided to do so is consistent with the principle of equalisation.
- 2 We consider that simplification and equalisation can both be achieved and that simplification will improve the reliability and robustness of the processes and the acceptability of the outcomes. Both objectives can best be achieved through a rigorous application of the assessment guidelines. These guidelines require the 2010 Review assessment methods to:
 - establish a conceptual case for the assessment;
 - support the conceptual case with evidence, which is both comparable and reliable;
 - develop a reliable assessment method; and
 - demonstrate such an assessment would be material¹.
- 3 Our intention is to develop these methods jointly with States. For that reason, we have chosen an iterative process. This approach provides States with opportunities to contribute to the development of the final assessments.
- 4 The first iteration of the Justice services assessment was presented in staff discussion paper *2007/17-S Assessing Law and Order for the 2010 Review*. That paper concluded that law and order expenses should be dissected into Justice services and Public safety because the disabilities that affected each were markedly different and were expected to be materially different.
- 5 This Commission position paper represents the second iteration of the Justice services assessment. It sets out our preliminary decisions on the assessment, taking into account comments provided by the States during State visits and in State submissions received up until 15 August 2008². It also uses the data States have provided to assist in assessing whether a case could be made for the assessment of a number of disabilities. The decisions provide the basis on which the Justice services assessment will be taken forward in consultation with States.

PROPOSED ASSESSMENT

Overview

- 6 In Discussion Paper CGC 2007/17-S, staff proposed that the equalisation budget contain a Justice services category comprising expenses classified to the ABS Government Finance Statistics (GFS) Government Purpose Classifications (GPCs) of police services, law courts and

¹ For a category to be deemed material, the average expense or revenue is greater than \$50 per capita, or the assessment is likely to redistribute more than \$30 per capita for any State.

² Comments received after this date will be considered alongside comments received from States in response to this paper.

legal services, and prisons and corrective services. While there was originally some debate over whether all police expenses and civil court expenses should be included because an equal per capita assessment was appropriate, we decided to include them in justice services to avoid splitting GPCs. EPC assessments remain possible. Table 1 shows the actual expenses by State for 2006-07.

Table 1 Justice services expenses, 2006-07

	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Total
	\$m	\$m	\$m	\$m	\$m	\$m	\$m	\$m	\$m
Police services	2 098.3	1 656.5	1 362.2	752.2	448.2	144.5	108.4	153.9	6 722.1
Law courts and legal services	909.2	792.3	561.9	336.1	271.1	44.1	50.9	95.6	3 067.0
Prisons and corrective services	911.5	474.6	450.0	462.7	176.2	66.1	40.5	76.6	2 654.5
Total	3 919.0	2 923.4	2 374.1	1 551.0	895.5	254.6	199.9	326.2	12 443.5
Proportion of State expenses (%)	10.1	10.7	10.6	11.8	9.5	7.9	9.0	11.3	10.4

Note: Superannuation and depreciation expenses have been allocated to each service based on the proportion of each service to the category total.

Source: ABS GFS data.

7 The assessment proposed in Discussion Paper CGC 2007/17-S was:

- to use State population as the broad indicator of State service requirements because population is the main driver of all expenses and is comparable and policy-neutral;
- to adjust total population to reflect higher Indigenous use and use by males aged 15-34; and
- to apply the use factor so constructed to all police expenses, court expenses net of all law and order fees and fines, and corrective services expenses.

8 The use disability factor was to be calculated using custody data to derive police use weights, court defendant data for court use and prisoner data for corrective services use. Adjustments for low SES population groups, urban complexity or service delivery scale were not proposed because of a lack of reliable and comparable data. Common factors such as administrative scale, location, cross border, national capital, and native title and land rights were to be assessed.

State views

9 All States agreed that total State population, adjusted for greater use, was the appropriate broad indicator for the assessment. However, different views were presented on other aspects of the assessment.

10 States were divided on the issue of whether a portion of police expense should be assessed equal per capita. Some States argued that all police activities were influenced, either directly or

indirectly, by those groups with high risks of offending. Other States argued that a large proportion of police activities were not influenced by the existence of these groups at all.

- 11 Most States preferred to separate civil court expenses from criminal court expenses and to assess civil court expenses on an equal per capita basis if civil court expenses could be identified. They agreed that the users of both courts differed and that staff should attempt to collect the data from States to facilitate different assessments.
- 12 South Australia and Tasmania argued that people with low SES backgrounds had a greater propensity to commit crime. Other States said that there were not enough data to support this case.
- 13 New South Wales and Victoria argued that they faced additional costs due to urban complexity issues and higher costs due to larger numbers of people from a CALD background. Again, other States said that there were not enough data to support these cases.

Commission view

- 14 We note that States largely support the following proposals outlined in Discussion Paper 2007/17-S, and that these can now be finalised. They are:
 - the use of population, appropriately weighted, as the broad indicator for the Justice services category; and
 - including common factors such as administrative scale, location, cross border, national capital, and native title and land rights.
- 15 We note that there are some issues relating to the implementation of the assessment that need to be resolved. In addition, there were differing views expressed by States on a number of other issues. The outstanding issues include the following.
 - Should a portion of police expenses be assessed equal per capita?
 - Does it make a material difference to net law and order fees and fines off civil court expenses and assess a disability or assess both equal per capita?
 - Do States spend more on police services in areas with more Indigenous people?
 - Are custody rates an appropriate indicator of police expenses?
 - Do we have enough evidence to make an assessment for the impact of people with low SES, people from a CALD background, service delivery scale or urban complexity?
- 16 These outstanding issues will now be considered.

SHOULD A PORTION OF POLICE EXPENSES BE ASSESSED EQUAL PER CAPITA?

Proposal

- 17 Discussion Paper 2007/17-S proposed including all police expenses in the Justice services category and applying justice service disabilities to all police expenses. The paper said that,

even if there were a conceptual case for a portion of police expenses to be assessed equal per capita, it would be difficult to decide how much.

State views

- 18 States were divided on this issue. New South Wales, Queensland, Western Australia and the Northern Territory stated that all police expenses should be assessed differentially. They argued that, although police services were aimed at providing law and order for the whole community, programs and policies were influenced, either directly or indirectly, by those groups with high risks of offending. These groups required more police resources and this should be recognised in the assessment.
- 19 Victoria, South Australia, Tasmania and the ACT disagreed with this view. They said that this approach failed to take into consideration the material amount of police expenses on services provided for the general community. They argued that to apply category disability factors to all police expenses would result in a poor HFE outcome. Such an approach suggested a bias towards data reliability over HFE and would undermine the credibility of the assessment. Victoria believed that data on police expenses could be readily obtained from most States and an allocation made between targeted and general community expenses. Tasmania said States should be asked to demonstrate the types of police services that were clearly not driven by offender population groups.

Analysis

- 20 The evidence shows that the issue is not whether there should be an equal per capita component, but what the size of the component should be.
- 21 There are some police activities that are not influenced by particular population groups with a high risk of offending. These include emergencies and major incidents, expenses on terrorism squads and attendance at major events such as sporting, festivals and State summits. There are also police activities that are influenced by those more likely to commit crimes, such as domestic violence calls, arresting/apprehending criminals and attending and preparing for court hearings.
- 22 Then there are some police activities on which States cannot agree. These include:
- crime prevention and community programs such as neighbourhood watch and school visits;
 - provision of highly visible police presence in the community through general and targeted patrols;
 - speed cameras and random breath testing;
 - accidents/crash investigation; and
 - driver education programs.
- 23 The data request sent to States in November 2007 asked for estimates of expenses on a wide range of policing activities. States were able to provide only a limited range of data.

- 24 Five States were able to provide a split of police expenses into four distinct service delivery areas (SDAs). For the other States, we were able to obtain information from police annual reports that provided us with an approximate split. The State provided data and the data obtained from the annual reports are not totally comparable across States, but it is the best information we have. Using this data is better than the alternative of doing nothing.
- 25 The approximate split of police expenses by the four SDAs was:
- Crime investigation — 30 per cent;
 - Services to the judicial process — 10 per cent.
 - Community safety & support — 50 per cent; and
 - Road safety and traffic management — 10 per cent.
- 26 This split is consistent with information provided in the *Report on Government Services 2006* for the years 2001-02 to 2004-05.
- 27 We can conclude that expenses on crime investigation and services to the judicial process (40 per cent of police expenses) are influenced by the proportion of the population more likely to commit crime. Those expenses should be differentially assessed. Whether community safety and support and road safety and traffic management activities are influenced by particular populations groups is not as clear cut.
- 28 *Community safety and support.* There are some community safety activities that are not influenced by the various population groups in a State that have a greater propensity to commit crime. These range from search and rescue assistance to expenses on water police. There are also some community safety activities that are influenced by people that are more likely to commit crime. For example, domestic violence calls. The data request was unable to assist in the disaggregation of these activities. The remaining community safety activities generally relate to providing a visible police presence in the community through general and targeted patrols.
- 29 During State visits, the Commission gleaned that a large proportion of community safety activities were not influenced by different population groups. A base level of resources was provided to service the population living in each area. We were consistently told that police staffing levels were not influenced by crime rates alone and that State police staffing allocation models were driven by a large number of factors, including State policy decisions. A State government's decision to increase its police force by 100 officers was not necessarily driven by the level of crime in the State because the level of crime in most States has been declining over the last 10 years.
- 30 Based on State submissions and information gathered from State visits, we conclude that the majority of expenses on community safety and support programs are provided for the whole community and are not influenced by particular population groups.
- 31 *Road safety and traffic management.* There are contrasting views from States on whether road safety expenses are influenced by specific population groups. Broadly, road safety and traffic

management could be described as enforcing traffic laws and promoting safer behaviour on the road with the objectives of reducing the number of crash fatalities and injuries to members of the community.

- 32 These services are provided for the benefit of the whole community. The drivers of expenses are both the size of the community and some population groups that ‘use’ the services more. This is the same for courts and prisons. While they are provided for the benefit of the whole community, we see an overrepresentation of some population groups in use rates.
- 33 Statistics obtained from the Department of Infrastructure, Transport, Regional Development and Local Government fatal road crash database show that males made up 80 per cent of driver fatalities in 2007. 45 per cent of those drivers were under the age of 35. This equates to males under the age of 35 being 2.7 times more likely to be fatally injured in a car crash than the rest of the population.
- 34 The Australian Transport Safety Bureau published a report in 2006 *Road Safety Among Indigenous Australians: A statistical profile*. The results showed that the national Indigenous per-capita road fatality rate is 1.8 times that of the non-Indigenous population. However, the report says that based on the level of under-identification estimated to exist nationally in ABS Indigenous mortality statistics for all causes of death, the national Indigenous road fatality rate may be closer to three times the national rate for the non-Indigenous population.
- 35 The above statistics show that Indigenous people and young males are overrepresented in driver fatality statistics but they do not, however, have the same level of overrepresentation as they do in police custody rates. During State visits, we were told that resource allocation decisions were influenced by speeding and drink driving trends, but were more heavily influenced by State policy decisions.
- 36 Based on State submissions and information gathered from State visits, we conclude that while some population groups are overrepresented in driver fatalities statistics, the majority of expenses on road safety and traffic management programs are provided for the safety of the whole community and are not influenced by particular population groups.

Commission view

- 37 This is a very difficult issue and there are contradictory views from States. Our inclination based on State submissions and information gathered from State visits is to assess 50 per cent of police expenses equal per capita and 50 per cent differentially using police custody rates.

ARE CUSTODY RATES AN APPROPRIATE INDICATOR OF POLICE EXPENSES?

Proposal

- 38 The proposal in Discussion Paper 2007/17-S was to assess police expenses using custody rates obtained from the Australian Institute of Criminology’s 2002 *National Police Custody Survey*.

State views

- 39 Victoria raised a number of issues regarding the limitations of using police custody rates to assess police expenses. They included the following.
- Police custody incidents do not reflect the relative complexity of different crimes. For instance, it takes less time and resources to manage a drunk and disorderly offence than it would to investigate major organised crime.
 - Police custody incidents are not policy neutral or comparable between States.
 - The *2002 National Police Custody Survey* will also be quite dated by the time the new assessment is implemented in 2010.
- 40 For these reasons, Victoria strongly urged the Commission to consider alternative data or consider discounting the police use factors if they were based on police custody incidents.
- 41 New South Wales was concerned that the proposed method would overstate the effect of those placed in custody and did not sufficiently capture the other users of police services who are not taken into custody.
- 42 Furthermore, New South Wales argued that police custody rates are policy influenced through crime prevention strategies, zero tolerance, cultural awareness and recognition of traditional law, and enforcement of the law. It urged the Commission to examine alternative data sets to measure the use of police services.

Analysis

- 43 We agree that it would take less time and resources to manage a drunk and disorderly offence than it would to investigate major organised crime or a murder investigation. Police custody data show that among Indigenous persons, 19 per cent of all custody incidents were for public drunkenness. Only 8 per cent of custody incidents were for public drunkenness among non-Indigenous persons. Assessing police expenses based purely on the number of custody incidents, without regard to the time taken or police resources spent on the apprehension of the person does not appear to be appropriate. The investigation of major fraud cases would take a lot more time and resources than the investigation of break and enter or motor vehicle theft cases. Commission staff and States, however, have been unable to provide an estimate of the time or resources that are spent on each type of crime.
- 44 In Discussion Paper 2007/17-S, staff acknowledged that there are State policy differences associated with police custody rates. However, this is the reason we use the national average from each data source to limit the impact of the policy influence. This way we capture the average of what States do.

Commission view

- 45 We agree with New South Wales and Victoria that police custody rates fail to acknowledge the complexity of criminal investigation. However, we have been unable to find a suitable alternate

data source. The Commission's inclination is to use police custody rates but discount them by 50 per cent.

- 46 This is consistent with the views of the data working party on the suitability of data as outlined in the *2010 Review of State Revenue Sharing Relativities: Progress Report to Ministerial Council for Commonwealth-State Financial Relations, 2006*. The report states that where an alternative data source is not available, an assessment could be made using the original data in a way consistent with their quality (for example, a conservative estimate could be made or an adjustment to the data made to compensate for their deficiencies).
- 47 The Australian Institute of Criminology's *2007 National Police Custody Survey* is due for release in September 2008. These updated use rates will be used in the assessment of 50 per cent of police expenses.

CIVIL COURT EXPENSES AND USER CHARGES

Proposal

- 48 Users of civil courts differ from users of criminal courts. Business and the general public are the 'users' of civil court services, while alleged criminals are the 'users' of criminal court services.
- 49 Fees and fines are collected from a range of groups. Fees associated with civil courts would be collected from businesses and the general public. Fines would be collected from the population groups at high risk of offending.
- 50 Unfortunately, ABS GFS data do not distinguish between civil and criminal court expenses or between fees and fines.
- 51 For this reason, staff proposed to include expenses on all courts in the Justice services category. However, to lessen the impact of applying the wrong disabilities to civil court expenses, staff also proposed to net off fees and fines.

State views

- 52 Most States preferred to separate civil court expenses from criminal court expenses and to assess them on an equal per capita basis if this could be done reliably. They agreed that the users of both courts differ and that the Commission should attempt to collect the data from States.
- 53 Queensland, Western Australia, South Australia, Tasmania and the Northern Territory preferred to offset only fees from civil courts. They argued that the drivers of justice service expenses were not the same as for fines. They said that Indigenous people tended to default on paying their fines.
- 54 Victoria did not want to net off any revenues.

Analysis

- 55 As civil court expenses relate to a service provided to the general population and we have no evidence of differential use rates by different groups, they should be assessed on an equal per capita basis. In addition, given that fees and fines are generally collected from the general public and no information is available on different collection or default rates, this revenue can also be assessed equal per capita.
- 56 The revenue from fees and fines could be netted off the civil court expenses. However, this should only be done if there is no material difference between doing that and assessing civil court expenses and fees and fines equal per capita.
- 57 We tested the materiality of the two approaches using State data on criminal and civil court expenses. All States were able to reliably split these court expenses. Most States based their calculations on the data they provided to the Productivity Commission for publication in the *Report on Government Services (ROGS)*. While some States acknowledged that they experience some difficulties in apportioning expenses between criminal and civil courts for use in the publication, they all stated that this was the best data available.
- 58 Table 2 shows the *ROGS* split of criminal and civil court expenses. For 2006-07, the split from *ROGS* 2008 was 58.6 per cent criminal courts and 41.4 per cent civil courts.
- 59 Table 3 details total expenses in the Justice services category with depreciation and superannuation apportioned to the relevant services. ABS GFS law courts and legal services expenses for 2006-07 have been split based on the *ROGS* data split in Table 2. The results show that civil court expenses are roughly the same size as the revenue collected from law and order fees and fines. There are, however, issues with the reliability of the fees and fines data.
- 60 In the ABS GFS data, States report fees and fines separately. Fines are allocated to ETF 1146 and include traffic fines imposed by the police. Fees are allocated to ETF 1120 and include fees collected by the courts. Fees also include property titles which relate to the registration of titles of property. In the 2008 Update, property titles were assessed in the Property titles user charges category. As GFS data do not provide a breakdown of revenue collected from property titles, Commission staff asked States to identify that revenue. For some States in some years, this revenue is greater than the total fees in GFS.
- 61 For the 2010 Review, the Commission's intention is to assess property titles equal per capita in the Miscellaneous revenue category. If some States are unable to reliably split the revenue from fees into court fees and property titles, then it may be more appropriate to not split fees and assess all revenue from fees and fines in the Miscellaneous revenue category.

Table 2 Criminal and civil court expenses split

	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Total
	%	%	%	%	%	%	%	%	%
Criminal courts ^(a)									
2002-03	56.7	55.8	66.7	56.5	56.9	69.0	51.9	53.2	58.1
2003-04	53.4	54.7	63.3	58.5	57.4	72.6	45.4	47.3	56.2
2004-05	52.6	54.5	65.2	56.4	58.8	71.6	48.8	59.6	56.4
2005-06	53.6	54.2	64.2	60.8	59.8	73.3	48.9	60.0	57.3
2006-07	54.0	58.1	64.5	61.6	60.2	73.6	48.2	64.4	58.6
Civil courts ^(b)									
2002-03	43.3	44.2	33.3	43.5	43.1	31.0	48.1	46.8	41.9
2003-04	46.6	45.3	36.7	41.5	42.6	27.4	54.6	52.7	43.8
2004-05	47.4	45.5	34.8	43.6	41.2	28.4	51.2	40.4	43.6
2005-06	46.4	45.8	35.8	39.2	40.2	26.7	51.1	40.0	42.7
2006-07	46.0	41.9	35.5	38.4	39.8	26.4	51.8	35.6	41.4

(a) Criminal court expenses exclude electronic infringement and enforcement systems.

(b) Civil court expenses exclude the family courts, the Federal Court and Federal Magistrates Court and the coroners' courts.
Source: Report on Government Services 2008 Chapter 7 attachment – Tables 7A.9 and 7A.10 excluding payroll tax.

Table 3 Comparison between civil court expenses and fees and fines, 2006-07

	Expenses
	\$m
Police services	6 722.1
Law courts and legal services	
criminal courts (58.6 per cent)	1 797.2
civil courts (41.4 per cent)	1 269.7
Prisons and corrective services	2 654.5
Total	12 443.5
Fees and fines	-1 254.1

Note: Superannuation and depreciation expenses for justice services have been apportioned.

Source: ABS GFS data 2006-07.

Commission view

62 Due to the unreliability of the fees and fines data, the Commission intends to assess the revenue from fees and fines, including property titles, on an equal per capita basis in the Miscellaneous revenue category. Civil court expenses will then be assessed on an equal per capita basis in the Justice services category.

SERVICE USE

Proposal

63 In Discussion Paper CGC 2007/17-S, evidence was provided that showed Indigenous people and young males aged 15-34 use justice services proportionally more than other population groups.

State views

64 Most States agreed that Indigenous people and young males aged 15-34 use justice services proportionally more than other population groups and an adjustment should be made to reflect this.

65 However, the ACT said that data on the police to population ratios for each State showed that, apart from the Northern Territory, those States with higher Indigenous populations only had marginally higher police to population ratios than States with lower Indigenous populations. It concluded that even though Indigenous people are arrested proportionally more than non-Indigenous people, this did not affect the level of policing resources provided by a State.

Analysis

66 Table 4 shows that police to population ratios and staff to population ratios differ across States, and more than marginally. They tend to be higher in States with larger Indigenous proportions in their population, although this pattern could be due to other influences, such as population dispersion. We do not consider that this information alone can be used to support the conclusion reached by the ACT.

Table 4 Police to population ratio and Indigenous population

	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Aust
Police per 10000 population ^(a)	21.4	20.6	20.5	22.1	24.4	23.1	18.4	40.2	21.5
Staff per 10000 population ^(b)	23.4	21.5	24.8	26.1	29.2	28.0	21.1	57.3	24.3
Percentage Indigenous population (%)	2.2	0.6	3.6	3.8	1.7	3.4	1.2	31.6	2.5

(a) Only includes sworn operational police officers.

(b) Includes all operational staff. In Queensland and Northern Territory, Aboriginal liaison officers are not included in the sworn police officer numbers but are included in the staff numbers.

Source: Productivity Commission, *Report on Government Services 2008* Chapter 6 Attachment. Population figures from 2006 Census.

67 Data collected as part of the data request on police numbers by police station showed that regions of Western Australia where Indigenous populations are greater, such as the Kimberley or the Pilbara, police to population ratios are three or four times greater than those regions with smaller Indigenous populations. In Queensland, police to population ratios are greater in the northern and far northern regions where there are greater Indigenous populations compared with the south eastern regions of Queensland. These results are shown in Table 5.

Table 5 Police to population ratios and Indigenous population – selected regions

	Indigenous population (approx)	Staff per 10 000 population
	%	no
Queensland		
North and far North Regions	10	36-37
South Eastern Region	1	20
Western Australia		
Kimberly District	30	49
Pilbara, Goldfields and Mid West Districts	10	30-38
South West, Peel Districts	2	10-13
South Australia		
Far North Region	20	40
South Coast and South East Regions	1	20

Source: Queensland, Western Australia and South Australia police departments — special law and order data request.

Commission view

68 The data provided in Discussion Paper 2007/17-S show that Indigenous people and young males aged 15-34 use justice services proportionally more than other population groups. This has been supported by more detailed police staffing data provided by States. We consider that an adjustment is appropriate to reflect the higher use of these groups.

SERVICE USE — LOW SOCIO ECONOMIC STATUS (SES)

Proposal

69 Discussion Paper CGC 2007/17-S concluded that while people with low SES may use justice services more frequently, the evidence we had to substantiate this was mixed. Therefore, no adjustment for low SES population groups was proposed unless data requested from the States supported it. The data request sent to States in November 2007 was intended to assist in assessing whether a case could be made for an adjustment for low SES.

State views

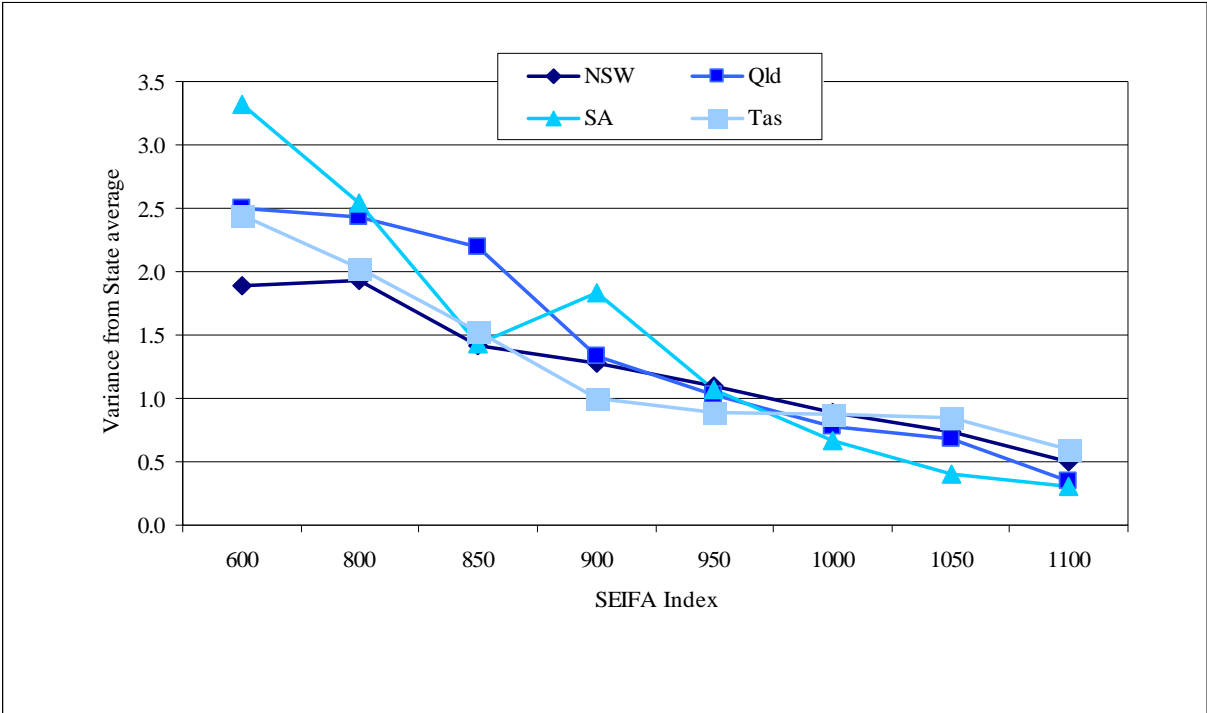
70 South Australia and Tasmania argued that people with lower socio-economic status have a greater propensity to commit crime than those of higher SES. They said this led to higher use rates and higher costs of providing justice services in low SES areas. These States wanted an SES factor to be included in the Justice services category to recognise the additional costs incurred.

71 Other States argued that an assessment for low SES should not be made due to lack of reliable data.

Analysis

- 72 States were asked to provide information on the number of offenders charged by police by the location in which they lived. If police data were not available, then the number of court defendants by the location in which they lived was requested.
- 73 New South Wales, Queensland and Tasmania were able to provide the required data by postcode while South Australia was able to provide them by collection district (CD). Staff were then able to allocate population numbers, Indigenous population numbers, a population weighted SEIFA score and population weighted SARIA region to each location.
- 74 Western Australia was able to provide the data by suburb. However, staff were not able to allocate the other variables to the offender data and they were excluded from the analysis.
- 75 Staff then calculated the number of offenders per capita for each location. To obtain an average across the relevant States, staff were only able to calculate the variation from the State average because the data were not comparable across States due to different collection methods (using police or court data). The results in Figure 1 show that more offences per capita are committed by people who live in areas of lower SES than people from higher SES.

Figure 1 Offences per capita by SES location



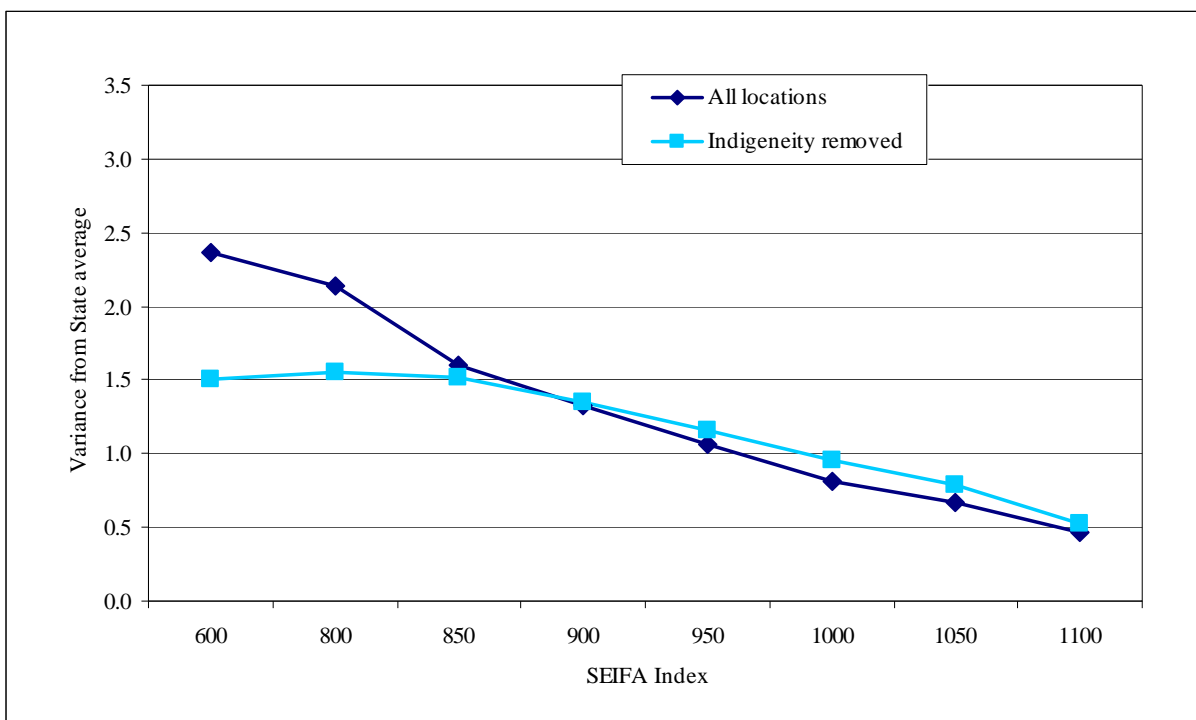
Source: State provided data.

- 76 As the data provided in Discussion Paper CGC 2007/17-S show that Indigenous people use justice services proportionally more than non-Indigenous people, we need to ensure that we do not double count Indigeneity influences in the assessment of SES. Therefore, all locations that had an Indigenous population of more than 2 per cent were removed from the analysis. The

results with Indigeneity removed are shown in Figure 2 and indicate that even when we exclude locations with more than 2 per cent Indigeneity, offences per capita in lower SES areas are still greater than in regions of higher SES.

77 Figure 2 shows that people that live in areas with a SEIFA index of lower than 900, commit on average, 1.6 times more offences per capita than people who live in areas with a SEIFA index greater than 900. The same relationship holds for postcodes with Indigenous populations greater than 2 per cent. The data show that there are 1.6 times more offences committed by people who live in areas with a SEIFA index of below 900 than in areas with a SEIFA index of greater than 900.

Figure 2 Offences per capita by SES location – with Indigeneity removed



Source: State provided data.

78 The question arises, however, of whether States allocate more resources to areas of low SES. We were told that low SES is often a variable included in staffing allocation formulas but States were unable to estimate how much more police resources they allocate to areas of low SES compared with areas of high SES. States do not necessarily build their police stations in areas with greater crime rates. Historical and policy influences are an important determinant of police station location. They also tend to be centrally located in suburbs or towns where the patrolling area is maximised. This may mean that a station is located in an area that has a high SES but the neighbouring suburbs, where more patrols are performed, are of lower SES.

Commission view

- 79 The Commission intends to assess a low SES disability for the Justice services category because more crimes per capita are committed by people from a low SES area. While we see a gradient across all SEIFA indexes, for simplicity, the Commission intends to assess only two groups, those in a region with a SEIFA index above 900 and those with an index below 900. Those above 900 will be given a weight of one, while those below will be given a weight of 1.6 (including Indigenous people).
- 80 A placeholder based on the number of people on low income has been used in the assessment until we receive the data from the ABS on the appropriate population disaggregated by SEIFA.

SERVICE DELIVERY SCALE

Proposal

- 81 Service delivery scale measures the additional costs of providing a service where it needs to be delivered but where the delivery is of less than economic size because the population served is small and remote from other points of service delivery.
- 82 Discussion paper CGC 2007/17-S concluded that while there may be a conceptual case based on diseconomies of small scale, there is insufficient evidence to conclude that service delivery scale exist in police services. Unless States could provide reliable evidence of the existence of service delivery scale and a reliable way of measuring it, the paper said that a service delivery scale disability would not be included in the assessment. The November 2007 law and order special data request sought information on the additional costs faced by States regarding service delivery scale.

State views

- 83 Western Australia and Tasmania argued that there were cost disadvantages for regional and small police stations requiring a service delivery disability assessment. The Northern Territory said that varying densities and clustering of populations create the need to have small police stations. Service delivery is further complicated by the large distances and limited accessibility. Usually, small police stations cover large areas and typically skew the distribution of staffing levels to population.
- 84 New South Wales argued that there was no conceptual case for a service delivery scale disability in justice services. It further argued that the draft law and order data request included many policy influenced measures and therefore doubted that any conclusive results could be obtained from an analysis of the data provided.
- 85 Victoria, Queensland, South Australia and the ACT did not explicitly argue for service delivery scale in their justice service submissions but said they would provide comments on the location assessment paper when it became available.

Analysis

- 86 For the location assessment, police data obtained from the law and order data request were analysed to assess the regional differences in staffing levels. The results showed a pattern of higher police staffing levels in remote areas for most States.
- 87 However, when areas with populations which were more than 10 per cent Indigenous were removed, there were only small differences in staffing to population ratios across regions. This suggests that the higher staff to population ratios in remote areas are driven by Indigeneity rather than diseconomies of small scale.
- 88 States should refer to position paper *2008/14 Location-wage costs* for the results.

Commission view

- 89 Based on the analysis done for the location assessment, we conclude that there is no evidence of existence of service delivery scale in the provision of police services. Consequently, we do not intend to assess a service delivery scale assessment for justice services.

URBAN COMPLEXITY

Proposal

- 90 Urban complexity measures differences in costs arising from differences between States in some or all of the characteristics of urban areas such as population density, centre size, urban form, population growth and congestion. Urban complexity refers to the particular influences arising from interactions between different characteristics of an urban area, resulting in the need for a particularly complex service delivery arrangement.
- 91 Discussion paper 2007/17-S concluded that while there may be a conceptual case that large cities face greater costs in the provision of justice services than smaller cities, the data available were insufficient to support an urban complexity disability. The November 2007 data request sought information on the additional costs faced by States regarding urban complexity.

State views

- 92 New South Wales argued that the higher rate of criminal activities, such as terrorism, drug related activities, organised crime, and more crime per capita because of the greater population concentration, influence the higher law and order costs in Sydney. It said that Sydney was the major financial centre of Australia and had more pieces of vital infrastructure and significant cultural buildings and national icons, which made it a greater target for terrorist activities compared to other capital cities. In addition, Sydney was a major point of entry for illicit drugs into Australia. This drug-related activity was reflected in higher border detections, evidence of drug use and recorded drug seizures compared to other capital cities. New South Wales was also required to establish specialist squads owing to the complexity of organised crime in New South Wales, and particularly in Sydney.

- 93 Victoria argued that law and order needs are higher in major cities largely due to the greater opportunity to commit crime and the difficulty in detecting crime. It said that it was not sufficient to look at crime rates or offence data to assess the additional need because crime data was a reflection of policy choice. Victoria suggested that the Australian Crime Commission's (ACC) staffing levels by location would be a good indicator of the additional policing needs of Sydney and Melbourne. The data show that over 70 per cent of the staffing resources of the ACC are deployed to Sydney and Melbourne. Canberra was excluded from the analysis because head office staff are located there.
- 94 Queensland, Western Australia, Tasmania, the ACT and the Northern Territory said that they faced similar costs and required the same policing capabilities as Sydney and Melbourne. Those States questioned both the conceptual case and the evidence in favour of an urban complexity disability.

Analysis

- 95 The urban complexity disability recognises the higher cost of providing police services in very large urban areas. The arguments provided by New South Wales and Victoria can be broadly categorised into the following:
- more crimes per capita, although that can be policy influenced;
 - those cities require higher staffing levels as a result; and
 - Sydney and Melbourne require specialist squads and more highly trained officers to deal with more drug related activities and organised crime than other cities.
- 96 *More crimes per capita.* New South Wales and Victoria argued that Sydney and Melbourne experience more crimes per capita because of the greater population concentration. Table 6 shows selected crime victimisation rates as published by the ABS in the *National Crime and Safety Survey (CSS)* for each capital city except Darwin. These data are obtained from a survey of victims and do not represent crimes reported to police. They do, however, provide a national, comparable dataset that show crimes per capita in capital cities.

Table 6 Household and personal crime victimisation rates by capital city

	Break-in	Total household crime	Assault	Total personal crime
	%	%	%	%
Sydney	3.6	6.9	4.8	5.5
Melbourne	2.8	5.1	3.9	4.3
Brisbane	4.0	7.5	5.5	6.1
Perth	5.4	8.3	5.0	5.3
Adelaide	3.0	7.4	5.0	5.3
Hobart	2.8	6.9	4.5	4.9
ACT	4.0	7.6	5.5	5.8

Note: ACT rather than Canberra is included since it is primarily urban. Household crime includes break-in, attempted break-in and motor vehicle theft. Personal crime includes robbery and assault.

Source: National crime and safety Survey, ABS, 2005 and ABS special data request.

97 The data show that Sydney and Melbourne have the lowest household crime victimisation rates of all the capital cities and Melbourne has the lowest personal crime per capita.

98 *Higher staffing levels.* New South Wales and Victoria argued that higher police staffing levels are required in Sydney and Melbourne compared to other cities. These higher staffing levels may be due to greater demand for police services due to higher crime rates, more complex crimes and more time required to investigate crime. Table 7 shows police staffing levels by SARIA region based on State provided data from the law and order data request. While actual staffing levels are policy influenced, these data do not support the view that large cities have higher police staffing levels compared to smaller cities.

Table 7 Police staffing by SARIA region, per 1 000 population

	NSW	Vic	Qld	WA	SA	Tas	NT
Highly accessible	1.8	1.4	1.8	1.0	2.1	1.4	1.9
Accessible	2.0	2.0	1.8	1.4	1.8	1.3	0.5
Moderately accessible	2.4	2.8	2.3	2.3	2.5	2.1	5.1
Remote	3.5		3.0	3.5	1.8		3.6
Very remote			5.1	5.3	4.7	1.8	3.0

Note: The ACT data are incomplete or have insufficient data points for some of the SARIA regions and are therefore excluded.
Source: State data returns from Law and Order special data request, March 2008.

99 In response to Victoria's view that the ACC staffing levels by location would be a good indicator of the additional policing needs of Sydney and Melbourne, we believe that the ACC staffing levels are a poor indicator of what States do. They are more likely to better reflect the Australian Government's priorities to tackle serious and organised crime.

- 100 *Specialist squads.* New South Wales and Victoria argued that Sydney and Melbourne require more specialist squads and more highly trained officers because they face a greater terrorism threat, more drug related activities and more organised crime than other cities.
- 101 All States have indicated that they incur expenses on terrorism related activities and other specialist related squads. New South Wales said that in 2006-07, it spent \$23m on its terrorism squad. However, this was a conservative figure as it did not include the additional costs incurred by local area commands. It also indicated it spent \$18.3m on various specialist squads including the gangs squad, Asian crime squad and middle eastern crime squad.
- 102 Victoria spent \$4.5m on its counter terrorism coordination and emergency management department.
- 103 Western Australia spent \$19.6m on its terrorism squad and \$11.8m on its organised crime and gang crime squads. The ACT spent \$3.6m on its tactical response group. The Northern Territory spent \$1.2m on counter terrorism activities and \$5.9m on its major and organised crime division.
- 104 On a per capita basis, these data do not support the view that New South Wales and Victoria incur greater costs on specialist squads than other States.

Commission view

- 105 Based on the evidence provided on the number of crimes per capita, staffing levels per capita and expenses incurred on specialist squads, we do not intend to assess an urban complexity disability in the Justice services category.

CULTURALLY AND LINGUISTICALLY DIVERSE (CALD) BACKGROUND

Proposal

- 106 Some States have argued that there is a differential cost in providing services to people with a culturally and linguistically diverse (CALD) background. This is due to differences in the use of State government services by people with a CALD background and/or the additional per unit costs of providing services to them.
- 107 While States provided evidence on the size and diversity of CALD populations, they found it difficult to provide evidence on how service delivery costs were affected by CALD.
- 108 Discussion paper 2007/15-S *Assessing Socio-demographic Composition in the 2010 Review* concluded that States were unable to provide reliable data on the additional costs of people with a CALD background that would satisfy the more stringent 2010 Review guidelines. Therefore, it proposed not to make adjustments for CALD disabilities unless more definitive data were received from the States.

State views

- 109 New South Wales argued that the mix of different cultures and religions in the State placed extra costs on the delivery of justice services. Police and correctional officers are required to understand the cultural diversity in the community and how to manage tensions between particular groups. They experience violence targeted at particular cultural and ethnic groups which are highly represented in the Sydney area.
- 110 Victoria argued, in its submission and during the State visit, that it faced additional costs because more time is required when dealing with people from non-English speaking backgrounds due to language and cultural barriers. Victoria said information gathered from Centrelink suggested that it costs 30 per cent more to deal with a non-English speaking customer and 40 per cent more to deal with a refugee than English speaking customers.
- 111 Victoria said that it had invested in additional interpreters, ensured printed material was available in a variety of languages, employed additional mediators from CALD backgrounds and required government departments and agencies to develop strategies to engage people from non-English speaking backgrounds.
- 112 The Northern Territory said additional costs due to people from a CALD background arose because of the range of languages spoken by Indigenous people, and because a much greater proportion of them also have low fluency in English. This increase the time taken to deal with offenders, to take evidence from witnesses and to conclude a trial.
- 113 Queensland, Tasmania and the ACT did not support assessing disabilities for CALD unless States could provide reliable evidence on additional costs.

Analysis

- 114 The ABS publication 4517.0 *Prisoners in Australia 2007* show that prisoners born in a non-English speaking country (BNESC) make up 8.2 per cent of the total prisoner population. However, they make up 18.2 per cent of the population aged 17 and over. Table 8 suggests that people BNESC are not overrepresented in prisoner numbers. It suggests lower rather than higher use.
- 115 States have argued that there is a differential cost of providing justice services to people with a CALD background but have been unable to provide reliable data on those additional costs. During States visits, States provided anecdotal information on the additional costs associated with the use of interpreting services. We have not been able to use this information to estimate a cost weight.
- 116 In addition, we were provided with some aggregate information. For example, New South Wales said that costs of the Community Relations Commission were \$17.1m, of which \$10.9m was for language services. That equates to between \$2 and \$3 per capita.

Table 8 Prisoners by country of birth, 2007

	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Aust
Prisoners									
BESC ^(a)	9 045	3 632	5 310	3 681	1 691	524	222	878	24 983
BNESC ^(b)	1 140	552	257	167	72	3	12	26	2 229
Population aged 17 and over (m)									
BESC	4.097	3.086	2.806	1.336	1.068	0.359	0.215	0.135	13.101
BNESC	1.182	0.915	0.323	0.247	0.170	0.021	0.047	0.017	2.922
Prisoners per 10 000 population									
BESC	22.1	11.8	18.9	27.5	15.8	14.6	10.3	65.1	19.1
BNESC	9.6	6.0	7.9	6.8	4.2	1.4	2.5	15.8	7.6

(a) Born in an English speaking country.

(b) Born in a non-English speaking country.

Note: Totals do not include prisoners who have not stated their country of birth.

Source: *Prisoners in Australia 2007* (ABS 4517.0).

ABS Census 2006.

Commission view

117 States have not provided the necessary data to support their claim that people from a CALD background use justice services more than other population groups. The available data have been suggestive of lower use and higher unit costs. However, they are not comprehensive enough for the case to be fully established. We do not intend to assess a CALD disability in the Justice services category.

SERVICE USE — SUMMARY

118 In summary, we propose to calculate a justice service use factor in the following way. It will apply to 98.3 per cent of the category. We will use data on police, courts and corrective services to construct an aggregate factor.

- Police expenses, comprising 54 per cent of category expenses:
 - 50 per cent will be assessed differentially using police custody rates (discounted by 50 per cent); and
 - 50 per cent will be assessed EPC.
- Court expenses, comprising 24.6 per cent of category expenses:
 - will be split into criminal courts (58.6 per cent) and civil courts (41.4 per cent);
 - criminal courts expenses will be assessed differentially using the number of court defendants;
 - civil courts expenses will be assessed EPC; and
 - fees and fines will be assessed EPC in the Miscellaneous revenue category.

- Corrective services expenses, comprising 21.3 per cent of category expenses will all be assessed differentially using prisoner data.

119 Disabilities will be recognised for the higher use rates of:

- Indigenous residents;
- males aged 15-34; and
- people from a low SES area.

120 The weights for each disability will be calculated using data sourced from different publications. They will then be combined to form the justice service use factor. Table 9 summarises the results. For example, for police, Indigenous males aged 15 to 34 use services 34 times the rate of non-Indigenous others; for community policing activities, no differential weight applies. These weights are multiplied by the relative proportion of the category (27.0 per cent and 27.0 per cent respectively) and added to the other expense weighted use weights to derive aggregate weights.

121 A weight of 1.6 will then be applied to the populations that live in areas with a SEIFA index of below 900.

122 Attachment A provides details of the calculations.

Table 9 Justice service use weights

	Police	Community police	Criminal courts	Civil courts	Prisons	Aggregate weights ^(a)
Indigenous males 15-34	34	1	46	1	77	32.6
Non-Indigenous males 15-34	3	1	6	1	6	3.4
Indigenous other	10	1	15	1	15	8.4
Non-Indigenous other	1	1	1	1	1	1.0
Percentage of category	27.0%	27.0%	14.4%	10.2%	21.3%	100.0%

(a) The aggregate weights have been calculated as the sum of the expense proportion weighted use weights for the group derived for the different functions.

Note: Police custody rates have been discounted by 50 per cent.

People from a low SES area will have a use weight of 1.6.

Source: CGC analysis.

CROSS-BORDER

123 The Commission intends to assess a cross-border disability for the Justice services category to recognise the costs to the ACT of providing justice services to people who are New South Wales residents. Position paper 2008/13 *Disabilities Mainly Affecting the ACT – Cross-border and National Capital* sets out the State views, the Commission’s response to them and the Commission’s decisions in relation to a cross-border disability. This paper carries forward the decisions made in that paper in relation to Justice services.

LOCATION

124 The Commission intends to assess a location factor for the Justice services category to recognise:

- the differences between States in the cost of providing wage and non-wage related inputs;
- the differences between regions within a State on wage and non-wage costs, and the impact that this has on average costs for each State.

We intend to recognise only disabilities which can be reliably estimated.

125 Position paper *2008/14 Location-wage costs*, and discussion paper *2008/15-S Location non-wage costs* describe these assessments in detail. This paper carries forward the proposed assessments for location disabilities as outlined in those papers.

126 The location disabilities only measure the difference in the unit cost of delivering services in different regions, or States. Any difference in the quantity delivered, for example, because use rates differ in different regions are accounted for in the category assessments. In the Justice services category, no adjustment is made for differential use rates in different regions.

ADMINISTRATIVE SCALE

127 The administrative scale assessment recognises that the minimum functions needed to run a State government have a greater per capita impact in the smaller States. We achieve this by assessing a minimum quantum of services a State provides irrespective of the size of that State. This quantum is adjusted for particular needs of the ACT and the Northern Territory, and the dollar amounts indexed to reflect price changes to each State. Position paper *2008/12 Administrative scale* sets out State views, our response to them and the Commission's decisions in relation to an administrative scale assessment. As part of the administrative scale assessments, an administrative scale component is assessed within this category.

128 The standard amounts in the administrative scale assessment are also adjusted for the relative differences in prices in the different States through the location assessment. This is achieved by applying a location factor to the allocated administrative scale amounts in all categories.

OTHER EXPENSES

National capital

129 The Commission intends to assess national capital expenses for the Justice services category to recognise the above average salaries paid to Australian Federal Police by the ACT. Position paper *2008/13 Disabilities Mainly Affecting the ACT — Cross-border and National capital* sets out the State views, the Commission's response to them and the Commission's decisions in relation to a national capital assessment. This paper carries forward the decisions made in that paper in relation to Justice services.

Native title and land rights

- 130 The Commission intends to assess Native title and land rights expenses for the Justice services category because they are due to the operation of Commonwealth Acts that recognise the rights of Indigenous people over their traditional land. Both Acts impose unavoidable costs on the States and /or the Northern Territory and the amount incurred by each State varies. While native title and land rights expenses for the category are very small, across all categories they are collectively of significance. This assessment will not be finalised until more information is available on the impact of changes the Australian Government has made to the operation of these Acts.

PRELIMINARY ASSESSMENT

Commission proposal

- 131 The Commission proposes to assess Justice services expenses as a single category with three components:
- the administrative scale component will comprise administrative scale and location factors;
 - the service expenses component will comprise factors for use, location and cross-border; and
 - the other services component will comprise national capital and native title and land rights expenses.
- 132 Table 10 sets out the category structure, the disabilities that are to be assessed and the relative size of each component for 2006-07.

Table 10 Category structure, Justice services, 2006-07

Component	Component weight	Disability %	Influence measured by disability
Administrative scale expenses	1.32	Administrative scale	Recognises the unavoidable costs each State incurred to provide the policy and administrative infrastructure necessary to provide the minimum unavoidable service, regardless of the size of the task.
		Location	Recognises the differences in the cost of providing labour and non-labour resources between States and to different areas within a State
Service expenses	98.31	Justice use	Recognises that certain population characteristics affect the use and cost of providing justice services, for example Indigeneity, males aged 15-34 and people from low SES areas.
		Location	Recognises the differences in the cost of providing labour and non-labour resources between States and to different areas within a State
		Cross border	Recognises the cost to the ACT of providing justice services to people who are NSW residents.
Other expenses	0.36	National capital	Recognises the costs to the ACT arising because of Canberra's status as the national capital and seat of government.
		Native title and Land rights	Recognises State costs of settling native title and land rights claims made under Australian Government legislation.

Source: CGC analysis.

Administrative scale

133 Table 11 illustrates the calculation of the assessed expenses for the administrative scale component.

Table 11 Administrative scale component, Justice services, 2006-07

	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Total
	\$m	\$m	\$m	\$m	\$m	\$m	\$m	\$m	\$m
Administrative scale expenses	20.6	20.6	20.6	20.6	20.6	20.6	20.6	20.6	164.7
Location factor	1.02625	0.99312	0.97665	0.99646	0.97464	0.96794	1.02724	1.02879	
Raw expenses	21.1	20.4	20.1	20.5	20.1	19.9	21.1	21.2	164.5
Assessed expenses	21.1	20.5	20.1	20.5	20.1	19.9	21.2	21.2	164.7

Source: CGC analysis.

Service expenses

134 Table 12 illustrates the calculation of the assessed expenses for the service expenses component. Attachment A shows the calculation of the justice use factor which recognises the greater use by Indigenous people, males aged 15-34 and people living in low SES areas.

Table 12 Service expenses component, Justice services, 2006-07

	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Total
	\$m	\$m	\$m	\$m	\$m	\$m	\$m	\$m	\$m
Service expenses	4 020.9	3 030.7	2 425.5	1 221.1	924.7	288.3	197.5	124.8	12 233.5
Justice use factor	0.97523	0.86717	1.06377	1.09053	0.94251	1.05157	0.89525	3.37095	
Location factor	1.02262	0.99344	0.98029	0.99751	0.97782	0.97272	1.02205	1.03036	
Cross border factor	0.99547	1.00000	1.00000	1.00000	1.00000	1.00000	1.09229	1.00000	
Raw expenses	3 991.8	2 610.9	2 529.3	1 328.3	852.2	294.9	197.4	433.5	12 238.4
Assessed expenses	3 990.2	2 609.9	2 528.3	1 327.8	851.9	294.8	197.3	433.3	12 233.5

Source: CGC analysis.

Other expenses

135 This component comprises national capital and native title and land rights expenses. Table 13 illustrates the calculation of the assessed expenses for the other expenses component.

Table 13 Other expenses component, Justice services, 2006-07

	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Total
	\$m	\$m	\$m	\$m	\$m	\$m	\$m	\$m	\$m
National capital	0.0	0.0	0.0	0.0	0.0	0.0	10.3	0.0	10.3
Native title	1.0	3.3	0.0	21.4	6.8	0.0	0.0	2.7	35.1
Assessed expenses	1.0	3.3	0.0	21.4	6.8	0.0	10.3	2.7	45.3

Source: CGC analysis.

Category summary

136 Table 14 presents the assessed expenses for the category and Table 15 summaries the category factor.

Table 14 Category assessment, Justice services, 2006-07

	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Total
	\$m	\$m	\$m	\$m	\$m	\$m	\$m	\$m	\$m
Administrative scale expenses	21.1	20.5	20.1	20.5	20.1	19.9	21.2	21.2	164.7
Service expenses	3 990.2	2 609.9	2 528.3	1 327.8	851.9	294.8	197.3	433.3	12 233.5
Other expenses	1.0	3.3	0.0	21.4	6.8	0.0	10.3	2.7	45.3
Total	4 012.3	2 633.6	2 548.4	1 369.7	878.7	314.8	228.7	457.2	12 443.5

Source: CGC analysis.

Table 15 Category factor, Justice services, 2006-07

	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Ave
Administrative scale expenses (component weight = 1.32 %)									
Administrative scale	0.38031	0.50456	0.63046	1.25230	1.65373	5.30328	7.74403	12.25245	1.00000
Location	1.02625	0.99312	0.97665	0.99646	0.97464	0.96794	1.02724	1.02879	1.00000
Component factor	0.39073	0.50165	0.61643	1.24926	1.61359	5.13898	7.96389	12.61922	1.00000
A. Wgted comp factor	0.00517	0.00664	0.00816	0.01653	0.02136	0.06801	0.10540	0.16701	0.01323
Service expenses (component weight = 98.31 %)									
Justice use	0.97523	0.86717	1.06377	1.09053	0.94251	1.05157	0.89525	3.37095	1.00000
Location	1.02262	0.99344	0.98029	0.99751	0.97782	0.97272	1.02205	1.03036	1.00000
Cross border	0.99547	1.00000	1.00000	1.00000	1.00000	1.00000	1.09229	1.00000	1.00000
Component factor	0.99237	0.86114	1.04239	1.08739	0.92124	1.02248	0.99903	3.47190	1.00000
B. Wgted comp factor	0.97562	0.84661	1.02479	1.06904	0.90569	1.00522	0.98217	3.41330	0.98312
Other expenses (component weight = 0.36 %)									
National capital	0.00000	0.00000	0.00000	0.00000	0.00000	0.00000	61.95227	0.00000	1.00000
Native title	0.08331	0.37987	0.00000	6.11045	2.54835	0.00000	0.00000	7.44635	1.00000
Component factor	0.06442	0.29374	0.00000	4.72499	1.97055	0.00000	14.04679	5.75800	1.00000
C. Wgted comp factor	0.00023	0.00107	0.00000	0.01722	0.00718	0.00000	0.05119	0.02098	0.00364
Category factor									
[A+B+C]	0.98103	0.85432	1.03295	1.10279	0.93422	1.07323	1.13876	3.60129	1.00000

Source: CGC analysis.

137 Table 16 provides a comparison of actual and assessed expenses.

Table 16 Comparison of actual and assessed expenses, Justice services, 2006-07

	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Ave
	\$pc	\$pc	\$pc	\$pc	\$pc	\$pc	\$pc	\$pc	\$pc
Actual expenses	571.63	565.73	574.05	744.92	567.99	517.89	593.60	1 532.68	596.56
Assessed expenses	585.24	509.65	616.22	657.88	557.32	640.25	679.34	2 148.39	596.56
Level of service provision ratio	97.67	111.00	93.16	113.23	101.91	80.89	87.38	71.34	100.00

Source:CGC analysis.

CONCLUSION

138 The Commission intends to assess expenses in the Justice services category in the following way:

- administrative scale expenses— administrative scale as well as location disabilities;
- service expenses — comprising:

- service use — a broad indicator approach, based on greater use by Indigenous people, males aged 15-34 and people living in low SES areas;
- location disabilities — a general location factor will be applied; and
- a cross-border disability for the ACT; and
- other expenses — national capital and native title and land rights (both assessed APC).

139 At this stage, the Commission has included two important judgments in the assessment — that 50 per cent of police expenses should be assessed EPC and that the weights derived from police custody rates should be discounted by 50 per cent. States will need to provide evidence to show these are incorrect if a change is to be made.

140 In addition, no cost weights have been included in the assessment because data are not available to support them or evidence of higher costs is offset by lower use. States may be able to assist us further in these areas.

ATTACHMENT A

CALCULATION OF THE SERVICE USE FACTOR

- 1 This attachment provides more details of the calculation of the justice services use factor.
- 2 As stated in discussion paper 2007/17-S, there is no single data source that provides evidence of greater intensity of use by certain population groups for the entire justice system. Data are available from the three distinct components of the justice system:
 - the 2002 National Police Custody Survey (AIC);
 - *Criminal Courts 2006-07* (ABS 4513.0), supplemented by State provided data on criminal court appearances; and
 - *Prisoners in Australia 2007* (ABS 4517.0).
- 3 Population data disaggregated by Indigeneity, age and sex was obtained from the 2006 Census.
- 4 Table A-1 details use rates per 100 000 population from each data source by State.

Table A-1 Use rates per 100 000 population by State

	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Aus
Custody incidents	193.0	54.7	176.6	230.3	199.8	41.4	68.6	957.3	161.2
Court defendants	2 688.9	2 129.6	4 234.7	4 752.6	3 121.5	4 261.5	1 228.1	5 657.7	3 334.7
Prisoners	194.1	105.3	178.1	244.7	144.5	140.6	91.6	603.7	170.9

Note: Tasmania court defendants have been reduced by 66 per cent to exclude minor matters that are not dealt with in the courts in other States to ensure consistency.

Queensland prisoners aged 17 have been removed to ensure consistency with other States.

Source: 2006 Census.

2002 National Police Custody Survey (AIC). Population 10 and over.

Criminal Courts 2006-07 (ABS 4513.0). Population 17 and over.

Prisoners in Australia 2007 (ABS 4517.0). Population 18 and over.

- 5 Table A-2, Table A-3 and Table A-4 detail the calculated ratios for police, criminal courts and prisons.

Table A-2 Police custody incidents, 2002

	Custody incidents	Population	Rates	Ratios
Indigenous males 15-34	4 162	117 282	3 549	68
Non-Indigenous males 15-34	12 424	3 430 108	362	7
Indigenous other	2 949	277 958	1 061	20
Non-Indigenous other	7 513	14 301 621	53	1

Note: Population includes persons aged 10 and above.

Source: 2002 National Police Custody Survey (AIC), 2006 Census.

Table A-3 Criminal court defendants, 2006-07

	Court defendants	Population	Rates	Ratios
Indigenous males 15-34	49 595	73 661	67 329	46
Non-Indigenous males 15-34	217 800	2 481 876	8 776	6
Indigenous other	51 762	236 668	21 871	15
Non-Indigenous other	194 217	13 403 588	1 449	1

Note: Population includes persons aged 17 and above. Court defendants exclude defendants with unknown age or sex and organisations.

Source: Criminal Courts 2006-07 (ABS 4513.0), supplemented by State provided data on criminal court appearances, 2006 Census.

Table A-4 Prisoners, 2007

	Prisoners	Population	Rates	Ratios
Indigenous males 15-34	4 038	68 095	5 930	77
Non-Indigenous males 15-34	10 147	2 341 053	433	6
Indigenous other	2 585	231 475	1 117	15
Non-Indigenous other	10 219	13 269 969	77	1

Note: Population includes persons aged 18 and above. Excludes prisoners with unknown Indigenous status and prisoners under 18 years of age in Queensland.

Source: Prisoners in Australia 2007 (ABS 4517.0), 2006 Census.

6 Table A-5 details the weighted ratios for each component for use in the justice services use factor. In addition, a rate of 1.6 was applied to all people on low income (including Indigenous people and males aged 15-34 on low income).

Table A-5 Justice service use rates

	Police	Community police	Criminal courts	Civil courts	Prisons	Aggregate weights ^(a)
Indigenous males 15-34	34	1	46	1	77	32.6
Non-Indigenous males 15-34	3	1	6	1	6	3.4
Indigenous other	10	1	15	1	15	8.4
Non-Indigenous other	1	1	1	1	1	1.0
Percentage of category	27.0%	27.0%	14.4%	10.2%	21.3%	100.0%

Note: Police custody ratios have been discounted by 50 per cent.

Source: CGC analysis.

7 Relevant population for the justice services use factor includes only persons aged 10 and above. Court services, corrective services and a large proportion of policing services are not provided for age groups under 10.

8 Table A-6 details the calculation of the justice services use factor.

Table A-6 Justice services use factor calculation

	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Aust
A. Population 10+ (m)	5.971	4.508	3.563	1.799	1.387	0.430	0.294	0.176	18.127
B. Weighted pop (m)	11.289	7.578	7.348	3.804	2.534	0.876	0.510	1.153	35.092
Proportion of weighted pop (B / A)	1.891	1.681	2.062	2.114	1.827	2.039	1.736	6.535	1.936
Raw factor	0.97667	0.86846	1.06534	1.09215	0.94390	1.05312	0.89657	3.37593	1.00000
Rescaled factor	0.97523	0.86717	1.06377	1.09053	0.94251	1.05157	0.89525	3.37095	1.00000

Source: CGC analysis.