

# Regulatory Impact Statement

## **Crime Statistics (Fees and Charges) Regulations 2015**

Crime Statistics Agency

Department of Justice & Regulation

March 2015

This Regulatory Impact Statement has been prepared in accordance with the requirements of the *Subordinate Legislation Act 1994* and the *Victorian Guide to Regulation*

## Crime Statistics (Fees and Charges) Regulations 2015

### REGULATORY IMPACT STATEMENT

In accordance with the *Victorian Guide to Regulation (VGR)*, the Victorian Government seeks to ensure that regulations are well targeted, effective and appropriate, and that they impose the lowest possible burden on Victorian businesses and the community.

The impact of these regulations is expected to be below the threshold for which the VGR requires a Regulatory Impact Statement (RIS) to be completed. However, as these fees are being created for the first time, the Department of Justice & Regulation has chosen to use the RIS process to test its reasoning and consult publicly regarding the setting of these fees.

The RIS process involves an assessment of regulatory proposals and allows members of the community to comment on proposed regulations before they are finalised. Such public input provides valuable information and perspectives, and improves the overall quality of regulations.

This RIS has been prepared to facilitate public consultation on the proposed Crime Statistics (Fees and Charges) Regulations 2015 (the proposed Regulations). The proposed Regulations prescribe fees to recover costs incurred by the Crime Statistics Agency with respect to providing certain crime statistics information requested by members of the public or government agencies. A copy of the proposed Regulations is attached to this RIS.

Submissions are now invited on the proposed Regulations. Unless requested by the author, all submissions will be treated as public documents and may be made available to other parties.

Written comments and submissions should be forwarded by no later than **5:00pm, 02 April 2015** to:

Chief Statistician  
Crime Statistics Agency  
GPO Box 4356  
Melbourne Vic 3001

or email: [info@crimestatistics.vic.gov.au](mailto:info@crimestatistics.vic.gov.au)

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## ABBREVIATIONS

**ABS** – Australian Bureau of Statistics

**BOCSAR** – Bureau of Crime Statistics and Research (NSW)

**CPI** – Consumer Price Index

**CSA** – Crime Statistics Agency

**FOI** – Freedom of Information

**FTE** – Full time equivalent (of staff)

**MCA** – Multi-criteria Analysis

**NCC** – National Competition Council

**Premier's Guidelines** – Subordinate Legislation Act 1994 Guidelines

**RIS** – Regulatory Impact Statement

**the Act** – the *Crime Statistics Act 2014*

**the Guidelines** – Victorian Cost Recovery Guidelines

**the proposed Regulations** – Crime Statistics (Fees and Charges) Regulations 2015

**VCEC** – Victorian Competition and Efficiency Commission

**VGR** – Victorian Guide to Regulation

**VPS** – Victorian Public Service



# SUMMARY

## Context

In 2013, the government committed to set up the Crime Statistics Agency (CSA), to receive crime data from Victoria Police and independently publish crime statistics to assist law enforcement policy and improve public access to this data.<sup>1</sup>

The *Crime Statistics Act 2014* (the Act) was passed in August 2014. The Act allows for regulations to be made setting fees or charges that may be imposed for the provision of services by the Chief Statistician.

## Objectives

The objective of the proposed Regulations is to ensure that fees are consistent with the government's *Cost Recovery Guidelines* (that is, that the fees are efficient and equitable) in cases where persons or organisations request Victorian crime statistics as part of a customised consultancy from the Chief Statistician of the CSA.

## Proposed fees

### Fees for information request (expressed in fee units and 2014-15 dollar amounts)

Activity	First 2 hours	Further hours
Preparation and supply of customised data	11.5 (\$151.76)	5.7 (\$75.88)
Statistical analysis, research or other forms of statistical advice	15.9 (\$210.22)	7.9 (\$105.11)

The fees in the proposed Regulations are expressed in fee units. The value of a fee unit for the 2014-15 financial year is \$13.24.<sup>2</sup> The dollar figures in the above table indicate the value of the fees for 2014-15 only.

All these fees are new, taking effect following the commencement of the Act and creation of the Regulations. The Act commenced on 1 January 2015.

Options considered included full cost recovery and two kinds of partial cost recovery, compared against a base case scenario of zero cost recovery. This RIS determined that it is appropriate to recover costs on a full cost recovery basis.

<sup>1</sup> 2013-14 Victorian Budget, *Building for Growth: Service Delivery Budget Paper 3*, pp.33. <http://www.dtf.vic.gov.au/State-Budget/2013-14-State-Budget/Service-Delivery>

<sup>2</sup> Fee units are defined in the *Monetary Units Act 2004*. The amount of the fee is to be calculated, in accordance with section 7 of that Act, by multiplying the number of fee units applicable by the value of a fee unit. The value of a fee unit for future financial years is to be fixed by the Treasurer under section 5 of the *Monetary Units Act 2004*.

## Consultation

While the impact of these regulations is expected to be below the threshold for which the VGR requires a Regulatory Impact Statement (RIS) to be completed, the Department of Justice & Regulation has chosen to use the RIS process to test its reasoning and consult publicly regarding the setting of these fees, given that these fees are being created for the first time.

A primary function of the RIS process is to allow the public to comment on the proposed Regulations before they are finalised. Public input provides valuable information and perspectives and improves the overall quality of regulations. Accordingly, feedback on the proposed Regulations is welcomed and encouraged.

The consultation period for this RIS will be 28 days, with written comments required by **5.00pm, 02 APRIL 2015**.

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# 1. INTRODUCTION

## 1.1 Purpose of this Regulatory Impact Statement

This RIS applies the Victorian Government's *Cost Recovery Guidelines* ('the Guidelines') to determine appropriate fees and/or levies for the provision of customised statistics data by the CSA. This is done in reference to requirements in the *Subordinate Legislation Act 1994* and the *Victorian Guide to Regulation*.

The assessment framework of this RIS:

- examines the nature and extent of the rationale for regulation
- outlines the objectives of the proposed Regulations
- explains the effects of the proposed Regulations on various stakeholders

Feasible alternatives to the proposed Regulations are considered and assessed. The RIS also examines potential impacts on competition and outlines the proposed evaluation strategy.

## 2. CRIME STATISTICS

### 2.1 Background

Crime statistics are an important public interest issue and need to be trusted; their credibility is essential. Crime data are not only used to inform the Victorian public about the incidence of crime, but also critically to inform operational decisions by police, such as in effectively addressing crime 'hot spots' and in the allocation of police resources and broader criminal justice and crime prevention policy.<sup>3</sup>

In 2009, the Victorian Ombudsman investigated the production of Victoria Police crime statistics.<sup>4</sup> The Ombudsman highlighted the importance of crime statistics:

*information relating to crime statistics ... should be as accurate, consistent and as timely as possible. This is critical, not only to police and to the public they serve, but also to others, such as local and state governments who rely on crime statistics to develop crime reduction strategies and to assess their effectiveness.*<sup>5</sup>

A key recommendation from the Ombudsman's report was to enhance public confidence in crime statistics by giving consideration to establishing a unit, independent of Victoria Police, responsible for the analysis and reporting of crime statistics. This recommendation was reiterated in the Ombudsman's 2011 report *Investigation into an allegation about Victoria Police crime statistics*.<sup>6</sup>

Following these reports, the Victorian Government provided a commitment to set up the Crime Statistics Agency, with Budget Paper 3 of the 2013-14 Budget papers describing the CSA in the following terms:

*An agency will be established to receive crime data from Victoria Police and independently publish crime statistics to assist law enforcement policy and improve public access to this data.*<sup>7</sup>

### 2.2 Legislative framework

In August 2014, the *Crime Statistics Act 2014* was passed through Parliament to provide a statutory framework for the publication of crime statistics and the employment of the Chief Statistician. The Second Reading speech of the Minister for Police and Emergency Services outlined the functions of the new agency:

*The government is committed to increasing community confidence in crime statistics and improving public access to crime statistics in Victoria ... In 2009 and*

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<sup>3</sup> Victorian Ombudsman, 2011, *Investigation into an allegation about Victoria Police crime statistics June 2011*, Victorian government printer, Session 2010–11, P.P. No. 43, p. 8.

<sup>4</sup> Ombudsman Victoria, 2009, *Crime statistics and police numbers*, Victorian government printer, Session 2006-09, P.P. No. 173.

<sup>5</sup> *ibid.*, 18-19.

<sup>6</sup> Victorian Ombudsman, 2011, *op. cit.*

<sup>7</sup> 2013-14 Victorian Budget, *Building for Growth: Service Delivery Budget Paper 3*, pp. 33. <http://www.dtf.vic.gov.au/State-Budget/2013-14-State-Budget/Service-Delivery>

*2011, the Ombudsman recommended that an agency, independent from Victoria Police, be responsible for the publication of crime statistics. In 2011, the former Office of Police Integrity also recommended that the government consider establishing a crime statistics agency. This bill gives effect to these recommendations.*

*One of the primary objectives of the Crime Statistics Agency is to make crime statistics more accessible for individuals and local communities. The Crime Statistics Agency, under the leadership of the chief statistician, will be responsible for the publication of quarterly and annual crime statistics reports instead of Victoria Police.<sup>8</sup>*

The main purpose of the Act is to provide for the publication of crime statistics and the employment of a Chief Statistician for that purpose. The Chief Statistician will have key functions including to:

- publish and release statistical information relating to crime in Victoria;
- undertake research into and analysis of crime and criminal justice issues and trends in Victoria; and
- any other functions conferred on the Chief Statistician.

The Chief Statistician may require the Chief Commissioner of Police to give the Chief Statistician free and full access at all reasonable times to any law enforcement data as is necessary to enable the Chief Statistician to perform his or her functions. Despite anything contrary in any other Act or law, the Chief Statistician may make copies of or take extracts from any data or document of law enforcement data in accordance with the Chief Statistician's functions. Whereas previously requests for data were made directly to Victoria Police, the Act makes the CSA the primary point of contact for people requesting recorded crime data. Victoria Police will remain the source for statistics relating to policing that are not within the scope of recorded crime data (i.e. operational or HR information).

The proposed Regulations are authorised under s. 10 of the Crime Statistics Act 2014. Section 10 of the Act establishes the power to make regulations, which includes prescribing fees or charges that may be imposed for the provision of services by the Chief Statistician. The power to make regulations for the imposition of fees may be exercised by providing for all or any of the following matters:

- a) specific fees;
- b) maximum fees;
- c) minimum fees;
- d) fees that vary according to value and time; and
- e) the waiver or reduction of fees.

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<sup>8</sup> Victorian Parliament, Assembly, Second Reading, Crime Statistics Bill 2014, 26 March 2014, pp. 916.

## 2.3 Crime Statistics Agency

The CSA is intended to commence public operation on 1 January 2015, and thereafter be the sole agency providing recorded crime statistical information for Victoria. The CSA is a small group, commencing with 7.5 full time equivalent (FTE) staff and functions encompassing both statistical production and research.

There will be three channels through which crime statistics will be released by the Crime Statistics Agency:

- public release on the CSA's website
- through collaborative research partnerships with other entities (e.g. universities or other government departments)
- customised data consultancies.

The purpose of this RIS is to assess appropriate fees for preparing crime statistics data as part of a customised consultancy. It is important to distinguish these services from Freedom of Information (FOI) requests. FOI requests essentially entail document retrieval, reviewing and copying. However, customised crime statistics requests involve statistical extraction and validation. The data usually exists in some form (such as within a database), but needs to be extracted to the client's specification, validated and packaged for delivery with relevant explanatory material to support client use and understanding. In this context, it is relevant to note that the Freedom of Information Regulations 2014 prescribe the fee for information that is not available in discrete form in documents but could be produced through use of a computer or other equipment to be 'the reasonable costs incurred by the agency.'

The public release of statistics on the CSA website is intended to be the main release mechanism and the CSA will be aiming to evolve standard outputs to reach an appropriate balance between stakeholder desires for information, practical size and complexity of releases and usability. Regular quarterly and annual statistical reports as well as irregular and thematic publications will be published on the CSA website. This activity is resourced through the CSA's operations and development team who produce the statistical outputs for the CSA.

Given the research function outlined for the Chief Statistician in the *Crime Statistics Act 2014* and the resources available to the CSA, it is likely that the CSA will establish research and collaborative partnerships with others to maximise the value that can be added to the evidence base. Such agreements would be considered with stakeholders with mutual interest and public good objectives that align with the CSA's research agenda and organisational priorities. In the execution of these research partnerships and agreements, aggregate data may be supplied to partner agencies for further analysis and use. Fees would be waived for collaborative research projects, with this function resourced through the CSA's research and evaluation team who will produce added-value outputs for the CSA.

For instances that fall outside standard public releases of statistics and collaborative relationships, the CSA will need to be able to flexibly meet the needs of stakeholders and members of the public to make data accessible. The CSA will offer a customised data consultancy service for those who wish to obtain recorded crime statistics in a specific view (e.g., cross-tabulation, layout or time series) which is not routinely produced as part of the CSA's regular public outputs and which is of interest to the

key client only to support their own operational work, research, evaluation, policy activities or general interest.

In some instances, data requests may be substantially the same as prior requests, requiring minimum further work by the CSA to provide the requested data. In these instances, fees could be reduced or waived. While this would technically result in the first user subsidising the subsequent users, based on experience in similar agencies, this is expected to occur only rarely. Nonetheless, this will be monitored as part of the ongoing evaluation of the fees.

## 2.4 Cost-recovery principles

This RIS concerns setting fees for requests of customised crime statistics.

Cost-recovery is the recuperation of the costs of government-provided or funded products, services or activities that, at least in part, provide private benefits to individuals, entities or groups, or reflect the costs imposed by their actions. Cost recovery is a method of recovering all or some of the cost of particular activities undertaken by government agencies from individuals or businesses, based on the beneficiary pays<sup>9</sup> or impactor pays<sup>10</sup> principle. The concept 'user pays' will be used in this RIS to capture both situations.

The task of setting cost recovery fees/charges involves determining whether to recover costs from users or others who benefit; those whose actions give rise to it; or taxpayers more generally. Whether costs should be user pays or more generally funded by taxpayers will depend on the type of activity and the existence of any public benefits.

The *Cost Recovery Guidelines* apply to cost-recovery arrangements of government departments and agencies, and include the recovery of the costs incurred by the Government in providing goods and services.<sup>11</sup>

As stated in the *Cost Recovery Guidelines*, Victorian Government policy is that regulatory fees and user charges should generally be set on a **full cost-recovery basis**.<sup>12</sup> However, if it is determined that full cost-recovery is not consistent with other policy objectives of the government, it may not be appropriate to introduce a full cost-recovery regime. Consideration may be given to a regime of partial cost-recovery (if it can be demonstrated that a lower than full cost-recovery does not jeopardise other objectives) and/or to rely on other funding sources (e.g. general taxation) to finance the activity.

When designed and implemented appropriately, the adoption of cost-recovery has the potential to advance efficiency and equity objectives. However, the Guidelines note that "efficiency and equity considerations may need to be balanced against each other in determining the appropriate form of cost-recovery".<sup>13</sup>

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<sup>9</sup> Those who benefit from the provision of a particular good or service should pay for it (Productivity Commission, 2001, p. XXI).

<sup>10</sup> This is where impactors meet the full costs of their actions, based on the view that those who create the need for a service should incur these costs.

<sup>11</sup> Government of Victoria, 2013, *Cost Recovery Guidelines*, Department of Treasury and Finance, Melbourne.

<sup>12</sup> Cost Recovery Guidelines, 2103,, p. 7.

<sup>13</sup> Cost Recovery Guidelines, 2013,p. 6..

As noted, the Guidelines set as the main objective full cost-recovery from the activity. While this does not preclude partial cost-recovery or no cost recovery, it does set out conditions under which less than full cost-recovery would be considered appropriate. Less than full cost-recovery may be deemed appropriate where:

- merit goods are being provided or where activities generate benefits to unrelated third parties (positive externalities)
- objectives of income redistribution or social insurance are important
- concessions are deemed appropriate
- full cost-recovery may undermine innovation and product development
- the government is providing goods and services on a commercial basis in competition with the private sector, and/or
- full cost charging could undermine other objectives.

In the case of general crime statistics, a case can be made that their provision has positive externalities and should be provided at less than full cost recovery. To the extent that the crime data have general public value, they will be released free of charge on the CSA website. This is the core purpose of the service provided by the CSA.

The provision of customised crime statistics data to individuals or organisations, however, clearly has private good characteristics (in that customised data are likely to be of more use to those making the specific request than to other parties) and therefore a strong case for 'user pays' can be made.<sup>14</sup>

The provision of customised crime statistics data is also separate from the core purpose of the CSA, and such data do not form part of the basic information that CSA is intended to produce and release. The intention to recover costs for the provision of customised crime statistics data is therefore consistent with the 2009 Victorian Parliamentary *Inquiry into Improving Access to Victorian Public Sector Information and Data*, which found that "cost recovery enhances economic efficiency when applied to the creation of information products that do not form part of governments' basic information product set."<sup>15</sup>

It is therefore proposed that customized data consultancy activities be conducted in a fully cost-recovered manner. In this case, a departure from full cost-recovery would result in the Victorian community providing a subsidy to individuals or organisations who request these services to provide customised data, and would divert resources from the CSA's general and intended functions (e.g., the public release of statistics and conduct of research into crime trends).

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<sup>14</sup> 'Private goods' are those where consumption by one party conflicts with its use by another, and where benefits of consumption only accrue to the consuming party.

<sup>15</sup> Parliament of Victoria, Economic Development and Infrastructure Committee, *Inquiry into Improving Access to Victorian Public Sector Information and Data*, June 2009, Victorian Government Printer, P.P., No. 198 Session 2006-2009, Finding 18.

## 2.5 Objective

The objective of the proposed Regulations is to ensure that fees are consistent with the government's *Cost Recovery Guidelines* (that is, that the fees are efficient and equitable) in cases where persons or organisations request Victorian crime statistics as part of a customised consultancy from the Chief Statistician of the CSA.

## 3. THE PROPOSED FEES

This RIS applies the Victorian Government's *Cost Recovery Guidelines* ('the Guidelines') to determine appropriate fees and/or levies. This Part also draws on relevant guidance as provided in the *Victorian Guide to Regulation*.<sup>16</sup>

This section covers the following issues:

- *Defining* the activity
- *Estimating* the efficient cost base
- *Allocating* costs to regulatory activities
- *Setting* fees/charges

### 3.1 Defining the activity

The Guidelines apply when fees/charges are proposed for the following activities:

- government provision of a good or service e.g. issuing a birth certificate, certificate of title, or a working with children check; or providing access to land valuation data
- regulatory activities e.g. registration, licensing, approvals, issuing of permits, and compliance and enforcement.

Under the Act, individuals and organisations may request information from the Chief Statistician. This gives rise to a cost to government (through the CSA) in processing the requests, accessing and collating relevant data, providing analysis of the data, preparing the data and analysis for release, and distributing the information.

All these activities are subject to cost recovery consideration.

### 3.2 Estimating the efficient cost base

Estimating the efficient cost base first requires an identification of all relevant operating costs, capital costs and proportion of overhead costs to be recovered. These must be integral or directly related to the activity. Costs that are not integral or directly related to the activity should be excluded. In particular, costs of the broad development of policy/regulation and general parliamentary servicing roles of government should be excluded from the cost base.

The main costs associated with the provision of customised crime statistics by the CSA are the labour costs involved based on the time taken to extract data and conduct analysis of that data.

The nature of requests for crime statistics is not yet known, and as such the likely duration and amount of staff effort is unclear. Requests and responses will be tailored to individual circumstances. As such, fees will be set on an hourly basis for each of the following types of activities:

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<sup>16</sup> See section 2.3 of the *Victorian Guide to Regulation*.



- Preparation and supply of customised data consultancy and associated explanatory material
- Provision of statistical analysis, research or other forms of statistical advice to fulfil customised requests

For simple preparation and supply of data, the work will be performed largely by staff at the VPS 4 level. The current VPS salary rates for the VPS4 is therefore an appropriate efficient cost estimate for the per hour costs of this service.

For requests requiring analysis or other research and advice, the level of staff undertaking the work may vary, and involve staff at different levels, including direct involvement by the Chief Statistician. However, to provide certainty in fee setting, an average staff level of a VPS6 has been used as the basis for measuring the costs of these types of activities.

Staff costs including on-costs, operating costs and overheads have been estimated by the Department of Justice & Regulation as being \$75.88 per hour for a VPS4 staff member and \$105.11 per hour for a VPS6 staff member. Further detail on these calculations is at Attachment B.

Based on experiences at the Australian Bureau of Statistic (ABS) and the New South Wales Bureau of Crime Statistics and Research (BOCSAR), the time to fulfil the majority of customised crime statistics requests is from two hours to half a day for simple to intermediate requests. Most requests to the CSA are expected to fall within this category. Complex requests may take several days to complete, but these are not expected to be very frequent.

As the fee will be charged on an hourly basis, costs will be recovered only for the time spent on individual requests. Costs of staff time involved in other activities, such as policy development, ministerial advice, policy advice and supporting data analysis will not be recovered through the fees.

Given the specific nature of these data as opposed to the data provided by the ABS, and given that the provision of these data has not been offered as a service before, the Department of Justice & Regulation is unable to provide a credible estimate of the likely volume of queries. Given the customised nature of the service, however, the Department expects the volume and associated impact of fees to be relatively small.

The Guidelines state that cost recovery charges should be set according to an 'efficient' cost base. This means that costs should be the minimum necessary to deliver the good/service/regulatory activity to achieve the required quality.

Typical ways to demonstrate that the costs to be recovered are based on efficient costs include:

- Activity-based costing can be used to show all input activities and associated costs in a regulatory process. This approach may highlight inefficient parts of the regulatory process and help to identify process improvements. It also enables stakeholders to comment on possible process inefficiencies.
- Consultation with affected stakeholders about the appropriate standards and level of service provision, including how much they would be willing to pay for the goods and services.

- Benchmarking fees/charges against those charged in other jurisdictions. The proposed fees/charges should be broadly in line with those charged in other jurisdictions that provide similar goods/services/regulatory activities.
- Audits undertaken by the Auditor-General. Performance audits can be used to assess the cost-effectiveness of agencies.
- Introduction of competitive pressures e.g. market testing and third-party competition to allow other suppliers to deliver services.<sup>17</sup>

Most of these approaches are not relevant to the particular activities of the CSA, or not (yet) possible to measure. However, it is helpful to consider the fees charged for similar types of services.

Fees should continue to reflect an efficient cost base over time as the fee will be expressed in fee units and linked to the annual rate set by the Treasurer. This annual rate is typically less than wages growth and is set through consultation to ensure fee levels remain appropriate.

### 3.3 Allocation of costs to activities

Once the relevant costs have been identified and the cost base has been assessed to be efficient, the next step is to allocate these costs to activities. These costs will provide the basis on which fees/charges for users will be set. In this instance, the costs for each type of activity can be easily allocated to separate fees in the regulations.

### 3.4 Comparing cost recovery options

In general, costs of government services can be recovered directly from private parties, including individuals or businesses that directly benefit from a government good or service, or can be paid for by taxpayers through budget appropriations.

Whether or not fees are used to recover costs from those that directly benefit requires consideration of three general criteria: efficiency, equity and effectiveness.

*Efficiency* – in this context refers to allocative efficiency—a situation where resources are allocated in a way to encourage an optimal level of investment – the funds that an activity receives is based on how much, or how many, people value it.

*Equity* – those that benefit from an activity or service bear the costs, and costs are not imposed on those who do not benefit or take part in an activity or service. Equity includes both horizontal and vertical equity.

- Horizontal equity refers to treating people in similar situations in similar ways. This is consistent with the user pays principle and facilitates consistent treatment across different parties.
- Vertical equity refers to those with greater means contributing proportionately more than those with lesser means. For example, discounts may be provided on

<sup>17</sup> Market testing involves publicly tendering out the provision of an agency's activity; third party competition allows users of a service to choose from multiple providers (*Cost Recovery Guidelines*, 2013, p. 29).

certain charges to particular user groups (e.g. those on low incomes), where the goal is to maximise these groups' access to certain goods and services.

*Effectiveness* – this objective can be used to capture other issues relevant to cost recovery such as compliance, implementation and consistency with other policy objectives.

General government policy is that regulatory fees and user charges should be set on a full cost recovery basis because it ensures that both efficiency and equity objectives are met. In particular, full cost recovery seeks to achieve allocative efficiency and horizontal equity objectives. That said, vertical equity may be a factor where partial or zero cost recovery is appropriate, such as where a service is costly but it is considered good policy that all people have reasonable access to the service.

To assist in identifying the appropriate level of cost recovery, three levels of cost recovery (100 per cent, 75 per cent and 50 per cent) were assessed using an multi-criteria analysis (MCA) framework. In an MCA, options are scored against a number of criteria (which reflect competing policy objectives). Scores may be positive or negative relative to a 'base case'; in this RIS, the base case is no fees (i.e., zero cost recovery) as the CSA would not have the power to charge fees for data requests in the absence of the regulations, although would still respond to data requests.

Drawing on the above discussion on cost recovery, the criteria used in this RIS are:

- Allocative efficiency and horizontal equity – 50 per cent. This is assessed based on the extent to which fees in each option reflect the most efficient use of resources and minimise cross-subsidisation.<sup>18</sup>
- Vertical equity – 50 per cent. This is assessed based on the extent that fees do not reflect individuals' ability to pay, and therefore may prevent some people with low ability to pay from accessing the service. As the base case would allow data requests to be made with no fees, any fee has a negative impact on vertical equity as those with limited ability to pay for the service may be disproportionately adversely affected by the introduction of a fee.

The weightings given to the two criteria reflect the equal importance given to each.

While effectiveness is important, it was not necessary to include as a separate criterion as it is unlikely that any of the cost recovery options will adversely affect the effectiveness. For example, there is no risk of evasion of paying fees as payment will be required before data is provided. If no fees were set in regulations (i.e., this situation in the base case), the CSA would still provide services, with the costs falling on taxpayers, but would not change the effectiveness of the services provided. The setting of fees is also unlikely to affect any other policy objectives.

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<sup>18</sup> In the context of the service provided by the CSA, a fee based on the efficient cost of provision of service will also promote the efficient allocation of demand for those services, while simultaneously ensuring that the user pays. For this reason, allocative efficiency and horizontal equity are combined in this criterion.

**Table 2: Multi-criteria analysis outcomes**

Option	Criteria	Assessment	Score	Weighted score
<b>Full cost recovery</b>	<b>Efficiency/horizontal equity</b>	In the absence of market failures, full cost recovery is consistent with optimising allocative efficiency	<b>10</b>	<b>5</b>
	<b>Vertical Equity</b>	The fee does not take account of ability to pay, and so has a negative score in terms of vertical equity. As the value of the fee is relatively small, the score applied here is -4. While there is uncertainty regarding the specific individuals or groups who will request data, the CSA expects it will be mostly organisations.	<b>-4</b>	<b>-2</b>
<b>Total weighted score:</b>				<b>3</b>
<b>Partial cost recovery (75%)</b>	<b>Efficiency/horizontal equity</b>	75% cost recovery is associated with a proportionate outcome in terms of allocative efficiency and horizontal equity compared to an option of full cost recovery.	<b>7.5</b>	<b>3.75</b>
	<b>Vertical Equity</b>	Fees under this option would be lower than full cost recovery, and therefore have a smaller impact on vertical equity than full cost recovery in relation to the ability to pay of some users. This impact is assumed to be proportionate relative to the impact of an option of full cost recovery (with a score of -3 given for this option in proportion to the score of -4 for the full cost recovery option). However as this is still a cost (compared to the base case of zero fees) there is still the possibility of a negative impact in terms of ability of some to pay to access the service.	<b>-3</b>	<b>-1.5</b>
<b>Total weighted score</b>				<b>2.25</b>
<b>Partial cost recovery (50%)</b>	<b>Efficiency/horizontal equity</b>	50% cost recovery is associated with a proportionate outcome in terms of allocative efficiency and horizontal equity compared to an option of full cost recovery.	<b>5</b>	<b>2.5</b>
	<b>Vertical Equity</b>	Fees under this option would be lower than full cost recovery, and therefore have a smaller impact on vertical equity than full cost recovery in relation to the ability to pay of some users. This impact is assumed to be proportionate relative to the impact of an option of full cost recovery (with a score of -2 given for this option in proportion to the score of -4 for the full cost recovery option). However as this is still a cost (compared to the base case of zero fees) there is still the possibility of a negative impact in terms of ability of some to pay to access the service.	<b>-2</b>	<b>-1</b>
<b>Total weighted score</b>				<b>1.5</b>

This RIS concludes that full cost recovery is therefore the preferred option for setting fees.

## 4. ALTERNATIVE OPTIONS

### 4.1 Other options assessed in this RIS

A Regulatory Impact Statement must contain a statement of other practicable options of achieving the objectives and reasons why the other options are not appropriate.

The *Victorian Guide to Regulation* states that, in the case of RISs prepared for fees and charges, the range of different options will be narrower than for other types of regulations, and is likely to include consideration of different levels of service provision that are to be funded through fees and charges; different types of fee structures; and different levels of cost sharing.

Some form of statutory rule is the only viable option to achieve the Government's objectives because only a statutory rule can 'give effect' to key elements of the Act. For example, where the authorising legislation provides for fees to be prescribed in statutory rules, there may be no discretion to set those fees by another method.<sup>19</sup>

Given the limited discretion provided by the Act, this RIS will focus on alternative design options rather than considering alternative non-regulatory options for achieving government objectives.

### 4.2 Alternative Options

Consideration was given to prescribing a fixed fee per request (or type of request) rather than an hourly amount. This would improve certainty to persons making requests and create further incentive to ensure requests are processed efficiently. However, this option was considered not appropriate as:

- There would likely be significant cross-subsidisation between different requests
- There may be perverse incentives in how request are made (e.g., grouping many different requests into a single request)
- There may be inadvertent impact on the core activities of the CSA.

Similarly, imposing a fee cap may lead to undesired outcomes, however the pattern of requests and fees over the first two years will be monitored and the need for a fee cap will be considered in the future.

It is also important to note that the CSA will regularly consider what data is published on its website free of charge.

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<sup>19</sup> *Subordinate Legislation Act 1994 Guidelines* (as gazetted August 2014), clause 51; and *Victorian Guide to Regulation* page 19.

## 5. PREFERRED OPTION

### 5.1 Full cost-recovery for customised data consultancy work

It is proposed that customised data consultancy activities be fully cost-recovered, to enable the CSA to continue to meet its general functions (public release of statistics and conduct of research into crime trends) without significant diversion of resources. In this manner, flexibility can be provided to specific clients and additional access to information be maintained, and through cost-recovery, resources can be available to meet these needs. The amount of customised data consultancy work that may come to the CSA is currently unknown, but a significant number of requests could impinge upon the core work of the CSA. As such, it is proposed that cost recovered funds be returned to the CSA to fund resources for client servicing.

It is noted that the estimates of costs reflected the staff level where most of the work would be undertaken. There will also be some time of more senior staff in each request, although only a small component. However, for a small request (e.g., total time of less than 2 hours), the proportion of senior staff time may become significant in the overall costs. However, to ensure a simple fee structure, rather than having many different rates, this can be accommodated by requiring a minimum 2 hour fee for any request.

In cases where a person makes a complex data request, an officer from the CSA will contact the person and clarify what data can be provided and in what form, and get back to them with a quote for the service. In cases where requests may generate potentially open-ended work, the officer will break the tasks up into manageable, quotable stages to provide transparency and certainty for the person making the request. The Department of Justice & Regulation expects that the time taken to clarify and prepare a quote for a request will be minimal, and that therefore this will not need to be reflected in an additional fee beyond the minimum two hour charge.

The fees are expressed in terms of fee units, as defined in the *Monetary Units Act 2004*. The amount of the fee is to be calculated, in accordance with section 7 of that Act, by multiplying the number of fee units applicable by the value of a fee unit.

**Table 3 – Fee units**

Activity	Hourly cost at 1 January 2015	First 2 hours	Further hours
Preparation and supply of customised data	\$75.88	11.5	5.7
Statistical analysis, research or other forms of statistical advice	\$105.11	15.9	7.9

The value of a fee unit for the 2014-15 financial year is \$13.24. Therefore the actual fee values that will apply from 1 January 2015 are:

**Table 4 – Fee amounts in 2014-15**

<b>Activity</b>	<b>First 2 hours</b>	<b>Further hours</b>
Preparation and supply of customised data	\$151.76	\$75.88
Statistical analysis, research or other forms of statistical advice	\$210.22	\$105.11

The fee amounts do not align exactly to the hourly staff rates (see Table 2) as the determination of the fee units required rounding to 1 decimal place, and then calculation of fee amounts from the fee units each year allows rounding to the nearest 10 cents (see section 7(3) of the *Monetary Units Act 2004*).

The value of a fee unit for future financial years is to be fixed by the Treasurer under section 5 of the *Monetary Units Act 2004*. The value of a fee unit for a financial year must be published in the Government Gazette and a Victorian newspaper before 1 June in the preceding financial year.

## **5.2 Groups affected**

The organisations and persons affected by the proposed fees include those who make requests for customised Victorian crime statistics. This may include private sector organisations, educational institutions, community groups, federal or local government, or other Victorian government departments. Private researchers, the media, or indeed any individual may also request such crime statistics.

There will be two elements to costs imposed on these groups: a direct financial cost associated with the prescribed fee, and an administrative cost associated with applying for the information. The CSA will provide an application form to assist in these requests.

## **5.3 Implementation and enforcement**

The CSA website will contain full information about how stakeholders and members of the public can obtain statistics (both through regular releases and customised requests).

Requests will be initiated through a form on the website which will prompt clients to clearly specify their requirements or by direct contact to the CSA (phone or email). CSA staff will discuss and refine requirements with the client if necessary. If the request is feasible then an indicative estimate of total fees will be given and if accepted by the client, the request will be fulfilled and data delivered to the client.

Data will be provided electronically via email. Payment mechanisms will be via credit card or other direct invoicing.

Further engagement with stakeholders will occur over the coming months prior to the commencement of operations.

Requests for customised data from clients across local, state and federal government, academic, private sector, members of the public, members of Parliament and the media would all be charged a fee at set on a full cost recovery basis.



It is proposed, however, to exempt entities within the Department of Justice & Regulation and Victoria Police, and where data is required from the CSA through an overriding legislated power or provision.

The regulations allow for the fee to be waived by the Chief Statistician. While this is presented as a general capacity to waive the fee (because it is difficult to envisage all scenarios in which waiving the fee may be appropriate) the intention is that this power will be used in two ways.

Fees may be waived or reduced where a request is made for data substantially the same as a prior request, and where the same data can be provided. If there are repeated private requests for the same information, the CSA will consider producing this as 'free' public information on its website in future releases.

Fee waivers will also be provided where the CSA is part of a collaborative research project. If an academic institution or government agency partners with the CSA on a project consistent with its research objectives then fees may be reduced/waived. This would be handled administratively via a memorandum of understanding.

## 5.4 Evaluation

The CSA notes that the fees are being set prior to any requests being made. As such, the CSA will closely monitor the process for data requests and report this to the Chief Statistician on an ongoing basis to identify any matters, and to consider opportunities for making commonly requested data publicly available.

After two years (i.e., by January 2017) the CSA will formally review the requests made under the Act, assessing:

- the number and types of requests made
- the frequency of any repeated or similar requests for the same data
- the time and task breakdown in responding to data requests
- indicators of staff efficiency in responding to requests
- average and minimum times to respond to requests
- overheads and on-costs specific to the CSA

In line with standard arrangements, the proposed Regulations will sunset after ten years. Prior to making any subsequent regulations, a further Regulatory Impact Statement will be prepared in accordance with the Subordinate Legislation Act.

## 6. IMPACTS ON COMPETITION

### 6.1 Competition

This section of the RIS discusses the impact of the proposed Regulations on competition. A measure is likely to have an impact on competition if any of the questions in Table 5 can be answered in the affirmative.

Given the sensitive nature of data provided by police and used by the CSA to prepare and supply of custom data and associated explanatory material, private entities are not able to access this data directly. There is, therefore, no market for the preparation and supply of this custom data and explanatory material.

The CSA's services in analysing the data are provided in the context of a market for the general analysis and manipulation of data by private entities. However, as consumers can opt to have the CSA provide them with the data only and choose to have a private third party conduct the analysis, the CSA's operation in the market for analysis is not expected to constrain competition.

**Table 5 – Competition questions**

Test question	Assessment
Is the proposed measure likely to affect the market structure of the affected sector(s) – i.e. will it reduce the number of participants in the market, or increase the size of incumbent firms?	No
Will it be more difficult for new firms or individuals to enter the industry after the imposition of the proposed measure?	No
Will the costs/benefits associated with the proposed measure affect some firms or individuals substantially more than others (e.g. small firms, part-time participants in occupations, etc.)?	No
Will the proposed measure restrict the ability of businesses to choose the price, quality, range or location of their products?	No
Will the proposed measure lead to higher ongoing costs for new entrants that existing firms do not have to meet?	No
Is the ability or incentive to innovate or develop new products or services likely to be affected by the proposed measure?	No

Overall, the proposed Regulations are assessed as not being likely to restrict competition. By charging fees based on a full cost-recovery basis, the government is ensuring that appropriate costs are included in the 'regulated service'.

### 8.2 Competitive Neutrality

Under Clause 3(1) of the *Competition Principles Agreement*, the objective of competitive neutrality is the elimination of resource allocation distortions arising out of the public ownership of entities engaged in significant business activities:

Government business should not enjoy any net competitive advantage simply as a result of their public sector ownership.<sup>20</sup>

In general terms, the competitive advantages of public ownership arise from additional costs (or other factors affecting the supply of goods or services) which would be faced by a government business if it were a private firm. The Victorian *Government's Competitive Neutrality Policy* (2012) calls on agencies to review all of their circumstances and the markets they supply to identify any advantages peculiar to their own circumstances. It is in this context that fees will be charged to government departments and agencies for customised crime statistics, in the same way that an organisation or individual would be charged for such data.

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<sup>20</sup> Department of Treasury and Finance, 2012, *Competitive Neutrality Policy*, Melbourne, p. 2

## 7. CONSULTATION

In considering the types of costs to be recovered and the comparison to similar fees charged, preliminary communication occurred with Victoria Police and the NSW Bureau of Crime Statistics and Research (BOCSAR).

A primary function of the RIS process is to allow the public to comment on the proposed Regulations before they are finalised. Public input provides valuable information and perspectives and improves the overall quality of regulations. Accordingly, feedback on the proposed Regulations is welcomed and encouraged.

The consultation period for this RIS will be 28 days, with written comments required by no later than **5.00pm, 02 APRIL 2015**.

## REFERENCES

Department of Treasury and Finance, 2012, *Competitive Neutrality Policy*, Melbourne

Government of Victoria, 2014, *Victorian Guide to Regulation*, Department of Treasury and Finance, Melbourne

Government of Victoria, 2012, *Victorian Public Service (VPS) Workplace Determination 2012*, effective from 29 July 2012 to 1 July 2015

Government of Victoria, 2013, *Cost Recovery Guidelines*, January 2013, Department of Treasury and Finance, Melbourne

Parliament of Victoria, Economic Development and Infrastructure Committee, *Inquiry into Improving Access to Victorian Public Sector Information and Data*, June 2009, Victorian Government Printer, Session 2006–2009, P.P., No. 198

Victorian Ombudsman, 2009, *Crime statistics and police numbers*, Victorian government printer, Session 2006–09, P.P., No. 173

Victorian Ombudsman, 2011, *Investigation into an allegation about Victoria Police crime statistics June 2011*, Victorian government printer  
Session 2010–11, P.P., No. 43

## COMPARABLE POLICIES AT SIMILAR AGENCIES

Agencies similar to the Crime Statistics Agency have similar policies. Beyond the basic data set released, if specific customised data is requested, the user is expected to pay for this service. Broad details of relevant policies are shown in the table below.

### Policy on fee provision of customised crime statistics

Agency	Charge for customised data?	Details of policy
Australian Bureau of Statistics <sup>21</sup>	Yes	Brief queries answered free of charge via National Information Referral Service. Users wanting information or services that are beyond that provided by the published Basic Information Set are required to pay relevant costs, including overheads, incurred beyond the costs of collection and production of clean unit files from which information is produced. Pricing is determined according to the Australian Government Cost Recovery Guidelines on an hourly basis (2 hour minimum), combined with the number of data cells requested if applicable.
NSW Bureau of Crime Statistics and Research <sup>22</sup>	Yes	If request involves data which has already been created for another purpose but not published on the website, this information is provided free of charge. If special extraction, programming or additional work is required, then charges will apply to members of the public, local government, and the media who request customised information. The current rate is approximately \$220 per hour.
Victoria Police	Yes	The Victorian Police website notes that there is a 4–6 week turnaround for most requests and that fees for service apply.

<sup>21</sup> Australian Bureau of Statistics (2014) ABS Pricing Policy, <http://www.abs.gov.au/websitedbs/d3310114.nsf/Home/ABS+Pricing+Policy>

<sup>22</sup> NSW Bureau of Crime Statistics and Research (2014), Information Service Policy: [http://www.bocsar.nsw.gov.au/agdbasev7wr/bocsar/documents/pdf/bocsar\\_infoservicepolicy.pdf](http://www.bocsar.nsw.gov.au/agdbasev7wr/bocsar/documents/pdf/bocsar_infoservicepolicy.pdf)

## ASSUMPTIONS AND CALCULATIONS

The following staff costs have been used in the calculation of fees:

Activity	Staff level	Salary (mid point at 1 January 2015)	On-costs	Operating costs	Overheads	Hourly rate
Preparation and supply of customised data	VPS4	\$78,825	\$15,354	\$13,700	\$25,333	\$75.88
Statistical analysis, research or other forms of statistical advice	VPS6	\$122,198	\$23,300	\$13,700	\$25,333	\$105.11

- VPS salaries are taken from the *VPS Workplace Determination 2012*. The mid-point between the upper and lower salaries for each VPS grade has been used.
- On-costs and overheads have been estimated by the Department of Justice & Regulation based on the on-costs, operating costs and overheads for the organisation. These typically include corporate services costs, such as financial services, human resources and information technology.
- The hourly rate has been calculated on the basis that the total annual costs cover 46.2 weeks per year (52.2 weeks minus 4 weeks annual leave and 2 weeks for other leave (public holidays)), and 38 hours worked each week (as per the VPS Workplace Determination). This is to ensure the fees capture the true incremental staff cost of the activity. Therefore, the hourly rate is:

$$\text{Hourly rate} = \frac{\text{(Total annual cost of staff member)}}{\text{(46.2 weeks x 38 hours)}}$$

- Salaries used were those that will be in place from 1 January 2015, the intended commencement date of the CSA. The fees in the RIS were converted to fee units using the fee unit value of \$13.24, which is the relevant fee unit value for the 2014-15 financial year.