

**2019**

**THE LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**MINISTERIAL STATEMENT**

**Government Response to Report of a Review of a Correctional Service by the  
ACT Inspector of Correctional Services**

***The care and management of remandees at the Alexander Maconochie Centre  
2018***

Presented by  
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Madam Speaker

I welcome the Inspector of Correctional Services *Report of a Review of a Correctional Service: The care and management of remandees at the Alexander Maconochie Centre 2018* (The Report) that was tabled in the ACT Legislative Assembly on 20 February 2019.

The Report considered how remanded detainees are being managed in the current circumstances of the Alexander Maconochie Centre (AMC). It makes 39 findings that identifies strengths and areas for improvement to lead sustainable change toward best practice in corrections management. In summary the findings relate to:

- The separation of remand and sentenced detainees
- The induction regime
- Out of cell hours and managing cohorts
- Telephone, email and visits
- Dedicated cultural space areas for detainees
- The care and treatment of women detainee, specifically those remanded, and
- ACT Corrective Services (ACTCS) policies

It has been a year since the onsite component of the review was conducted at the AMC. Since that time, ACT Corrective Services has implemented a range of policy changes that have addressed many of the issues raised in the Report.

The ACT Corrective Services has carefully considered all of the findings made in the Report. Today I am tabling the ACT Government Response to the Report that addresses each of the 39 findings, and notes the Government Position on those findings and indicates actions and timeframes for completion of actions being undertaken, where appropriate.

### *Establishment of the Inspector of Correctional Services*

Establishing an Inspector of Correctional Services was a commitment of the Government in response to Recommendation 8 of the Moss Review, following the death in custody of Steven Freeman at the AMC in 2016. A number of reviews, including the Moss Review, have recognised that effective independent oversight is vitally important to maintain public confidence in our correctional system. These reviews include:

- the 2007 *Human Rights Audit of the Operations of ACT Correctional Facilities under Corrections Legislation*
- the 2016 *Justice and Community Safety Standing Committee's Inquiry into the Auditor-General's Report on the Rehabilitation of Male Detainees*; and
- the 2016 Morison security review.

Following the Moss Review, and in recognition of the unique make-up of the ACT's correctional system and increasing population pressures, the ACT Government committed to establishing an external and independent Inspector of Correctional Services, intended to strengthen and improve existing oversight arrangements. The ACT Government allocated \$1.661 million over four years to establish an external and independent Inspector of Correctional Services to strengthen and improve oversight arrangements.

On 30 November 2017, the ACT Legislative Assembly passed the *Inspector of Correctional Services Act 2017* (the Act). This legislation established an independent Inspector, tasked with conducting biennial reviews of ACT adult correction facilities, and by the end of 2019, youth justice centres. The Act ensures that the Inspector makes these reports public, unless there are public interest grounds against disclosure.

In May 2018, the ACT Government announced the appointment of Mr Neil McAllister to the role of Inspector of Correctional Services for the ACT. Mr McAllister has extensive experience conducting comprehensive reviews of correctional facilities across Australia and providing clear advice to governments on ways to improve operations and policies. The office of the Inspector of Correctional Services is now fully operational and is committed to ensure continuous improvement through its systematic and regular reviews of correctional services.

In June 2018, the Inspector initiated this review under Section 18 (1)(b) of the *Inspector of Correctional Services Act 2017*. This section of the Act provides that the Inspector must examine and review a correctional service at least once every two years. This requirement of the Act ensures the systemic and preventative approach to the oversight of these services.

### *Human Rights*

The Review examined the specific needs of the remand cohort at the AMC, and considers if remanded detainees are being afforded their legal and human rights in accordance with their legal status as defined in the *Corrections Management Act 2007*.

I acknowledge the findings of the Inspector around the human rights of detainees. The Report makes a statement regarding possible or unreasonable or significant limitations on detainee's human rights, a matter I take very seriously. The government has received advice through proactive and ongoing relationships with a range of existing oversight bodies such as the Human Rights Commission, the Official Visitors, and the Ombudsman. I continue to work constructively with all of the relevant stakeholders to ensure a consistent appreciation of the matter.

The ACT Government takes its Human Rights obligations very seriously. Observance of human rights is fundamental to good correctional centre management and the safest and most effective way of managing correctional centres. As Minister for Corrections and Justice Health, I am committed to providing a correctional services regime that supports human rights obligations.

I recently released the first *Human Rights Principles for ACT Correctional Centres* (The Principles). The Principles give clear meaning to the Government's commitment to Human Rights in the adult corrections context and will be used to support better outcomes for detainee's health, safety, education, wellbeing, and integration back into the community. The Principles provide a clear statement that detainees must, at all times, be treated with humanity and respect for the inherent dignity of the human person. These Principles are being used by ACTCS to guide the update and development of correctional centre policies and procedures to best support all detainees, including female, male, intersex and gender diverse, Aboriginal and Torres Strait Islander, culturally and linguistically diverse, those with a disability and older detainees.

#### Separation of Sentenced and Remand Detainees

The separation of sentenced and remanded detainees remains a challenge for ACTCS due to the high numbers of remand detainees, and the complexities of managing a range of detainee cohorts in one facility. I note the Inspectors finding relating to the non-separation of remanded and convicted detainees at the AMC.

Madam Speaker, the separation of sentenced and remanded detainees was also canvassed through the Government's Response to Recommendation 6 of the Moss Review, which recommended '*That ACTCS establish a separate remand prison within the AMC to ensure remanded detainees are segregated from sentenced detainees*'.

In October 2018 I advised the assembly that the Moss Review Implementation Steering Committee had found that Recommendation 6 of the Moss Review could not be met until the ACT Government commits to build a separate remand facility within the AMC. The Committee has noted that a separate remand facility would meet existing legislative requirements under both the *Human Rights Act 2004* and the *Corrections Management Act 2007*.

ACT Corrective Services continues to segregate and separate detainees where necessary, as at the present time the design of the AMC does not allow for complete separation to occur, especially with increased detainee numbers. The issue of separation continues to be addressed by ACTCS through the refreshing and review of existing policies, and the introduction of pro-social methods of detainee management. These include the implementation of the ACT Corrective Services Rehabilitation Framework and the development of the AMC's Operational Model.

On 15 February 2019, the ACT Government announced new funding to support the 'Building Communities, Not Prisons' (BCNP) initiatives. This has seen an initial \$14.5 million of funds dedicated to a range of community programs, legislative reforms and policy initiatives. As part of the 'building communities, not prisons' strategy, the ACT Government is investing \$997,000 to design the Alexander Maconochie Reintegration Centre which will add an additional 80 beds. Formerly known as the Transitional Release Centre, it will allow a range of rehabilitation and reintegration programs to be delivered in partnership with non-government and government agencies.

I note that at the time of the Review, ACTCS did not have a specific policy pertaining to remand detainees. This will be rectified with the Remand Policy that will be notified by 30 June 2019. The Remand Policy will set out the general principles for the management of detainees on remand. It states that remand detainees are to be subject to fewer restrictions than sentenced detainees and recognises the presumption of innocence for any offence for which the detainee is remanded. It also establishes the broad arrangements for remand detainees to maintain their ties to the community and attend to their legal matters.

### Induction Regime

ACT Corrective Services acknowledges that at the time of the Report the management of newly received detainees was not the best practice as it did not maximise access to time out of cells.

The process for managing new reception detainees, at the time, was originally implemented as a direct result of the Moss Review. The recommendations of the Moss Review were very seriously considered by the ACT Government, as the government was required to improve practices after the tragic death of Aboriginal man Steven Freeman at the AMC in 2016.



The Moss review concluded that *“had measures and processes adopted since Steven Freeman’s assault been in place when he was admitted, including the assessment of new receptions in a separate unit generally for five days, the likelihood of his being assaulted would have been significantly reduced.”* The separation regime of new detainees at that time, allowed sufficient time for intelligence checks to occur of all new detainees at the AMC with ACT Policing and Youth Justice, to inform appropriate accommodation placement.

A full review of the induction process is being undertaken in 2019 to enhance current practice and embed a full program aimed at utilising those first few critical days within the AMC as both an information provision and assessment period for new detainees.

In November 2018, ACT Corrective Services repurposed a dedicated unit within the AMC for the purpose of supporting detainees in their first 7-14 days. The regime of the unit is still under development, and will have a constructive regime in place which supports detainees to adjust to their new environment. It will also provide detainees with information in regard to their period of incarceration, and the services and supports that can be accessed while at the AMC. The longer intent will be to provide a full induction program including the commencement of sentence management processes and detainee peer support.

The *Corrections Management (Induction Policy) 2019* will be notified by 30 June 2019. The policy sets out the requirements for a structured induction process for detainees. It stipulates that the General Manager of Custodial Operations will ensure that the induction process meets or exceeds the requirements of the *Corrections Management (Regime Planning) Policy 2018* (Regime Planning Policy) for time out of cell hours, which is 10 hours with consideration of risk and safety.

The enhancements to the induction unit will improve outcomes for this vulnerable cohort, and reduce the risk of suicide and self-harm for new detainees.

#### Out of Cell Hours/Lock-ins

Madam Speaker, the AMC is a complex prison as it hosts and manages a wide number of different cohorts of detainees. The management of cohorts can impact on the out-of-cell hours more than in other jurisdictions.

The reasons for lock-ins are varied and can be due to events such as incident management, detainee health escorts, or training commitments. At present, rostering arrangements at the AMC are under review to ensure that staff resourcing is optimised to meet operational needs.

Time out of cells is defined in the *Regime Planning Policy* as the number of hours per day that detainees are not confined to cells or units. This policy confirms the requirements of the regime for the AMC, including access to exercise. This is now the expected standard for the AMC.

ACTCS continues to examine operations of the AMC, including the number of detainee cohorts and locations. As this work is completed, a *Placement Policy* will be developed to inform the management of cohorts.

### Telephone, Email and Visits

The current telephone system technology at the AMC is 10 years old and the number of phones has not increased to meet the detainee population. Replacement of the telephone system is being funded in the 2019-20 budget so that it can allow for the implementation of finding 16 and 17 by increasing the number of phones and the amount of privacy afforded to detainees when making telephone calls.

ACT Corrective Services appreciates the Inspector's acknowledgement of the AMC's 'progressive initiative' in providing detainees with email and limited internet. Both email and telephone accounts are routinely established within the first week of admission for all detainees. For detainees to add people to their email or telephone account list, verbal permission must be confirmed from the nominated individuals.

In exceptional circumstances, delays may occur as ACT Corrective Services officers attempt to make telephone contact with the nominated person to obtain permission. At times, the relevant person does not answer or respond in a timely manner. This is a necessary process to ensure that victims are not contacted and re-traumatised and people in the community that do not wish to be contacted by a detainee are protected.

### Dedicated Cultural Space Areas

I acknowledge the significant proportion of Aboriginal and Torres Strait Islander detainees at the AMC. I wish to assure the Assembly and the community that the ACT Government is committed to addressing elements of the criminal justice system that disproportionately impact on Aboriginal and Torres Strait Islander people.

ACT Corrective Services offer a range of Aboriginal and Torres Strait Islander specific programs, services and events, to support cultural connection for Aboriginal and Torres Strait Islander detainees. These events and programs are supported by custodial operations, and are well attended and participated in by Aboriginal and Torres Strait Islander detainees.

The AMC has several culturally appropriate areas including two yarning circles, and a cultural area within the horticulture program, which are used for Aboriginal and Torres Strait Islander detainees to gather. ACTCS is currently considering how it may enhance these services by increasing detainee access to them.

### Female detainees

Madam Speaker, in November 2017 I presented a Ministerial Statement to the Assembly, advising members of the planned relocation of female detainees.

Due to population pressures, on 28 November 2017, ACT Corrective Services relocated female detainees to a 57 bed Special Care Centre (SCC) area of the AMC.

ACT Corrective Services acknowledge that the use of the SCC for female detainees is not ideal, but at the time of the relocation this was the *only* viable option available. When the decision to relocate female detainees was made, a risk assessment was undertaken to assess the impact of the move on female detainees. Winnunga Nimmityjah Health and Community Services were engaged to support female detainees in the move by providing additional counselling sessions.

ACT Corrective Services considered the risk of the potential re-traumatisation of women and significant works were undertaken to prevent this from occurring. The AMC infrastructure was altered, including the erection of fencing and enhancing the availability of services and supports within the unit for female detainees.

There has been significant increase in the availability of purposeful activity for female detainees since the move. A Women's and Children Coordinator position has been created to enhance supports and advocacy for this group. The Women's and Children Coordinator works closely with families of all detainees to mitigate the negative impacts on children of incarcerated parents. The Women's Care Team, comprising of a Women's Case Manager and two Program facilitators, develop programs and services targeted to the specific criminogenic needs of the female detainee cohort. The availability of unsupervised access to open air and a grassed area has been resolved.

ACT Corrective Services are currently developing a Female Offender Framework to further address the needs of female detainees, to be finalised by the end of 2019.

The development of the framework will require consultation and active engagement with non-government organisations and key stakeholders in the coming months. The framework aims to meet the specific needs of female offenders and address their issues in order to optimise the chances of successful rehabilitation and reintegration into the community post release.

### Lack of ACTCS Policies

The ACT Government agrees with the Inspectors finding that a policy recognising the status of remanded detainees as unconvicted persons was needed. This has been rectified with the notification of the *Remand Policy*, which establishes the general principles for the management of detainees on remand and recognises that remand detainees be subject to fewer restrictions than sentenced detainees. It also establishes the broad arrangements for remand detainees to maintain their ties to the community and attend to their legal matters.

As part of ongoing continuous improvement, ACT Corrective Services is undertaking a full review of all policies and procedures which will be completed by mid-2019. The review will provide ACT Corrective Services with updated policies to uphold best practice processes and better manage the needs of all detainees within ACT's correctional system. The Justice and Community Safety Directorate are developing a new website for the directorate, that when completed, will provide an easy to access location for ACT Corrective Services to place all of their policies.

## *Conclusion*

I would like to acknowledge that the Inspector made a point to commend the professionalism, assistance and friendliness of staff and detainees at the AMC during his review visits. It was reassuring for me to hear from an independent oversight body that there is a positive culture operating at the AMC.

I take this opportunity to thank the Inspector for his report and its findings. The independent oversight provided by the Inspector of Correctional Services is important to build and maintain public confidence in the ACT's correctional system, and helps contribute to the continuous improvement of the care, treatment and safety of all detainees.

I will now table the Government Response in the Assembly.

ENDS

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