

2018

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

**GOVERNMENT RESPONSE TO THE
CORONER'S REPORT – FINDINGS OF DEATH OF STEVEN FREEMAN**

**Presented by
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INTRODUCTION

On 27 May 2016 a 25 year old Aboriginal Bundjalung man, Steven Freeman, died while in custody at the Alexander Maconochie Centre (AMC).

The death of Steven Freeman is a tragedy. The ACT Government acknowledges the remarkable resilience and strong advocacy for change by Mrs Narelle King following the death of her son. The ACT Government acknowledges the significant impact that Steven Freeman's death continues to have on the Aboriginal and Torres Strait Islander Community.

The loss of any life in a custodial environment is a serious matter that warrants appropriate scrutiny and review. As such, the ACT Government engaged Phillip Moss AM to conduct an independent inquiry into the circumstances surrounding Steven Freeman's care and treatment while in custody. A report by the independent reviewer (the Moss Review¹) was made public by the Minister for Corrections on 10 November 2016. The ACT Government has made publicly available a report about the progress of the implementation of the Moss Review's recommendations².

In February 2017, the Health Services Commissioner commenced a commission-initiated review of the delivery of health services in the AMC, which was a recommendation of the Moss Review. The Health Services Commissioner publically released her report on 9 March 2018³. A formal response to the review has now been completed and will also be provided to the Legislative Assembly.

Steven Freeman's death was also the subject of a coronial inquest, as required by the *Coroner's Act 1997*. The Coronial hearings commenced on 27 February 2017 and findings were handed down on 11 April 2018.

The ACT Government welcomes the recommendations from the ACT Coroner and notes the findings that the quality of care, treatment and supervision afforded to Mr Freeman by ACT Corrective Services (ACTCS) and ACT Health was not found to have contributed to his death.

The Coroner made seven recommendations for the ACT Government to consider:

- Three relate to ACT Health
- Three relate to ACTCS
- One is a joint recommendation relating to ACT Health and ACTCS.

¹ *'So much Sadness in our Lives, Independent Inquiry into the Treatment in Custody of Steven Freeman'*
https://cdn.justice.act.gov.au/resources/uploads/JACS/Reviews/submissions/Treatment_in_Custody/Report_of_Independent_Inquiry.pdf

² ACT Government – Justice and Community Safety, Moss Review, Annual Report, February 2018
https://www.parliament.act.gov.au/_data/assets/pdf_file/0017/1185002/Moss-Review-Annual-report.pdf

³ Review of the Opioid Replacement Treatment Program at the Alexander Maconochie Centre – Report of the ACT Health Services Commissioner – March 2018
https://www.parliament.act.gov.au/_data/assets/pdf_file/0009/1185057/Alexander-Maconochie-Centre-Review-of-the-Opioid-Replacement-Treatment-Program.pdf

GOVERNMENT RESPONSE

Recommendation 1

The ACT Government should review the then existing practices and to remove inconsistencies in policies and procedures relied upon by correctional officers so as to ensure prisoner safety and welfare checks through musters and headcounts which require eye contact and facial recognition to be complied with. The extent of compliance with those procedures, given their purpose is to ensure the safety and wellbeing of a detainee, should be evaluated and tested periodically to ensure they are effective and practical and minimise compliancy through their routine.

Agreed

A review of the existing policy and procedures in relation to 'Detainee roll check' is currently in progress. ACTCS agrees and is committed to ensuring that any policy or procedure developed in relation to detainee roll call checks includes a requirement of eye contact and/or facial recognition of a detainee.

Recommendation 2

The ACT Government should consider the viability or effectiveness that a daily structured compulsory physical education and training session might have on a prisoner focusing on the prisoner's well-being and rehabilitation coupled with drug rehabilitation counselling. Any consideration of such course would need, I acknowledge, to be factored into current alcohol and drug support programs within the AMC and the various sentencing period for detainees.

Agreed in Principle

ACTCS encourages detainees to maintain or improve their physical fitness while in custody. Subject to security classifications and operational requirements, detainees at the AMC have access to outdoor gym equipment stations, basketball courts, a multipurpose recreational facility, as well as an outdoor recreation and sporting area. ACTCS is unable to agree to the recommendation entirely as the *Corrections Management Act 2007* does not support the introduction of compulsory physical education or training sessions. As part of the AMC's operating philosophy, ACTCS is embedding a structured day for all detainees. The structured day will improve the delivery of programs, employment and constructive activity at the AMC. The structured day will include dedicated time for physical activity and recreation.

Recommendation 3

The ACT Government should ensure that minimising the infiltration of illicit substances into custodial facilities remains at the forefront of screening technology.

Agreed

ACTCS has an existing Contraband Reduction Plan that details the activities adopted to reduce the infiltration of illicit substances into the AMC. Strategies include intelligence processes to identify and target areas of exposure, staff and visitor searching regimes, control and registration of items entering the AMC, the use of detection dogs and regular perimeter patrols and checks. The use of screening technology, such as closed-circuit television (CCTV), x-ray, metal detection and electronic identification equipment, is a critical component of the plan. Further, a significant upgrade to CCTV capabilities at the AMC has been completed to enhance monitoring capability across the centre.

ACTCS also works closely with ACT Policing to prevent the introduction of contraband at the AMC. A memorandum of understanding between ACTCS and ACT Policing has strengthened arrangements for the exchange of information and intelligence.

A broader contraband strategy that will enhance current measures for the prevention of contraband introductions is being finalised by ACTCS. Proactive activities have commenced and have already proven to be successful. In the 2016-17 financial year, corrections officers undertook more than 7,000 searches and detected more than 700 items of contraband.

Recommendation 4

ACT Health should consider obtaining, either by consent from a prisoner or through reliance on legislation a prisoners medical records and all relevant reports from alcohol and drug perspective created prior to incarceration for incorporation into the detainee's electronic medical file for the purposes of an AMC induction or prior to any assessment for access to pharmacotherapy treatment. Further, for detainees who are placed on pharmacotherapy, such as the Methadone Maintenance Program (MMP), that in the interest of the health and safety of the detainee and his or her wellbeing, information of this type should be shared with ACT Corrective Services conducting prisoner headcounts and musters for the very purpose of determining a detainees' location, safety and wellbeing. Equally, any independent urinalysis results undertaken by ACT Corrective Services should be placed on the detainee's medical record to enable medical staff to have a complete picture of the detainee's use of illicit substances as well as those substances prescribed through the Hume Health Centre.

Agreed

In November 2017, ACT Health rolled out an integrated electronic clinical record system across Mental Health, Justice Health and Alcohol and Drug Services (MHJHADS). This system has improved access to clinical information between health services to support and enhance detainee continuity of care.

Further, since November 2017, Justice Health Services (JHS) staff have been able to access Court Alcohol and Drug Assessment Services (CADAS) reports prepared by ACT Health's Alcohol and Drug Service electronically through the integrated electronic clinical record system.

JHS also requests previous medical histories from other health providers through established release of information processes. The information requested by JHS may include the detainee's previous drug and alcohol history, psychosocial histories on opioid dependence, Opioid Replacement Therapy (ORT) program history, substance use history, current and previous dosing histories and a detainee's prior history of compliance, successes and barriers to previous ORT pharmacotherapies in the community.

As part of the ACT Government's commitment to the Moss Review recommendations, in November 2017, a high-level arrangement was developed and implemented to support the sharing of information between ACT Health and ACTCS. Information-sharing between the agencies has improved by:

- The provision of formal notification to ACTCS by ACT Health, by way of a Health Notification Form, when a detainee has commenced opioid replacement treatment.
- ACT Health access to ACTCS' Urinalysis Drug Screening (UDS) reports through ACTCS' Custodial Information System.

Further schedules to the arrangement will be developed to support collaborative working and information sharing arrangements between ACT Health and ACTCS.

Recommendation 5

The ACT Standard Operating Procedures should be reviewed and the focus should be on prescribing individualised treatment setting out the parameters for commencement doses of methadone for instance by anywhere from 5mg to 20mg with the ability to increase daily on medical review only.

Agreed in principle

A number of actions have been taken by Justice Health that address the substance of this recommendation. JHS' *Clinical Procedure, Canberra Hospital and Health Services Opioid Replacement Treatment – Justice Health Services* was implemented in August 2017 and is aligned with the *National Guidelines for Medication-Assisted Treatment of Opioid Dependence 2014* (the National Guidelines).

The JHS clinical procedure outlines the general recommended therapeutic minimum dose to commence a person on to manage opioid dependence, which is 20-30 mg daily. In addition, the JHS clinical procedure and the National Guidelines recognise that there may be some clinical assessments where a lower dose needs to be prescribed. Further, as a part of the principle of individualised prescribing, a detainee may request to increase or decrease their dose of methadone. These parameters are individually discussed with each person at the time of prescribing and may be reviewed by a medical officer. Dose adjustments are not to

occur for three to five days from the commencement of treatment, as the patient will experience increasing effects from the methadone each day, particularly when first commenced on methadone.

Recommendation 6

The ACT Standard Operating Procedure should be reviewed to ensure that those who have only recently commenced on the methadone program not be allowed to, self-prescribe increases for a set period of time to ensure they are, in a physiological sense, capable of accommodating the increased amount of methadone. Further and in the alternative, the ACT Government should consider whether it is even appropriate to allow such increases to occur for a Schedule 8 drug.

Agreed in principle

The JHS Clinical Procedure outlines the process that allows for a prescription of methadone to incorporate a determined sliding scale of clinically appropriate dosing ranges every three to five days. This is done in consultation with the detainee and takes into consideration the detainee's Alcohol and Other Drug assessment, while also keeping within the National Guidelines.

The National Guidelines endorse the practice of patient input into treatment decisions, including the determination of dosing levels. The recognised practice of allowing increases to a detainee's methadone dosage, is not a process for a detainee to self-prescribe methadone. While the sliding scale of a clinically appropriate dosing range increase enables the titration of the methadone dose to achieve an appropriate and individualised dosage regime, the prescribed dose of methadone is determined on clinical assessment and with clinical oversight.

Recommendation 7

Justice Health Services to consider whether or not adopting the National Guidelines to replace its ACT Opiate Maintenance Treatment Guidelines and incorporating random urinalysis or blood tests where there is no objective medical history of opioid dependence prior to placement on the MMP.

Agreed

The JHS Clinical Procedure is aligned with the National Guidelines and documents the process for the assessment and management of ORT at the AMC.

The JHS Clinical Procedure acknowledges the benefits of improving the process of assessment for suitability for the ORT program. Urine screening is to be considered by medical officers when inducting a detainee onto the ORT program. The JHS Clinical Procedure recognizes that, while random UDS are helpful in determining opioid dependency, they are not considered the only measure of opioid dependence. Medical, alcohol and other drug, psychiatric and psychosocial histories are also integral components

of assessing opioid dependence. The determination of the utility of urine screening or blood tests as a measure of opioid dependence is at the discretion of the medical officer and will continue to be considered in conjunction with clinical assessment and collateral information.

CONCLUSION

The ACT Government acknowledges the grief, loss and sadness that Steven Freeman's family has experienced. Since the death of Steven Freeman, the ACT Government has made significant changes to improve detainee health, care and safety in the AMC, through the implementation of the Moss Review recommendations. The ACT Government takes its responsibility to provide a safe custodial environment to detainees seriously and will continue to work towards improving its practices through the actions identified in this response.