

2021

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

**GOVERNMENT RESPONSE TO THE REPORT OF A REVIEW OF A CRITICAL
INCIDENT BY THE ACT INSPECTOR OF CORRECTIONAL SERVICES –
SERIOUS FIRE AT THE ALEXANDER MACONOCHIE CENTRE
ON 14 NOVEMBER 2020**

**Presented by
Mick Gentleman MLA
Minister for Corrections**

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INTRODUCTION

The ACT Government welcomes the report from the Inspector of Correctional Services ('the Inspector') titled *Report of a Review of a critical incident: Serious fire at the Alexander Maconochie Centre on 14 November 2020* ('the Report'), tabled in the ACT Legislative Assembly on 20 April 2021.

Establishing an Inspector of Correctional Services was a commitment of the Government in response to Recommendation 8 of the Moss Review¹, following the death in custody of Steven Freeman at the Alexander Maconochie Centre (AMC) in 2016. It recognised that effective independent oversight is vitally important to maintain public confidence in our correctional system.

Following the Moss Review, and due to the unique make-up of the ACT's correctional system as well as taking into account existing oversight measures in the ACT, the ACT Government committed to establishing an external and independent Inspectorate of Correctional Services, intended to strengthen and improve existing oversight arrangements.

The *Inspector of Correctional Services Act 2017* ('the Act') establishes the independent statutory authority and systematic review framework to facilitate a preventative regime to oversee correctional centres in the ACT. Section 18(1)(c) of the Act provides that the Inspector "may examine a critical incident on the inspector's own initiative or as requested by a relevant Minister or relevant director-general". A critical incident is defined in s17(2) of the Act as "any event in a correctional centre or in the provision of correctional services that involved any of the following:

- (a) the death of a person;
- (b) a person's life being endangered;
- (c) an escape from custody;
- (d) a person being taken hostage;
- (e) a riot that results in significant disruption to a centre or service;
- (f) a fire that results in significant property damage;
- (g) an assault or use of force that results in a person being admitted to a hospital;
- (h) any other incident identified as a critical incident by a relevant Minister or relevant director-general."

In May 2018, the ACT Government announced the appointment of Mr Neil McAllister to the role of Inspector. On 27 November 2018, the Inspector tabled his first report of a review of a critical incident, which pertained to an assault of a detainee at the AMC on 23 May 2018. Seven more reports by the Inspector reviewing critical incidents at the AMC were tabled between February 2019 and March 2021. All these reports concluded that the incidents reviewed were not reasonably foreseeable by ACT Corrective Services (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

The Report makes three findings and four recommendations. The ACT Government has carefully considered all recommendations and:

- Agreed to 3 recommendations (1-2, and 4); and
- Agreed in principle to one recommendation (3).

While findings are not formally responded to, the ACT Government welcomes positive findings into the prompt and effective response of staff. A table summarising the ACT Government responses to recommendations made by the Inspector (which provides further clarity on why a recommendation is agreed or agreed in principle), including proposed actions and timeframes for completion to each of the recommendations can be found at Annexure 1. Confidential recommendations are not further addressed in this Government Response as they relate to security and disclosure may undermine the safety, security and good order at the AMC.

GOVERNMENT RESPONSE

This review of a critical incident was conducted at the Inspector's own initiative and follows the Inspector's report on a disturbance including serious fires that occurred on 10 November 2020 ('10 November Report'), four days prior to the incident subject of the current review.

The Report describes the fire incident during the night shift of 14 November 2020 in Sentenced Cottage 2 (SC2) and commends the staff response, which was described as "prompt and effective in minimising damage and protecting the lives of detainees". Regarding the post incident response, the Report found that no Formal Debrief was held while this is a requirement for acts of concerted ill-discipline under the *Corrections Management (Incident Reporting, Notifications and Debrief) Policy 2020*. However, it is noted that ACTCS never considered the fire an act of concerted ill-discipline for reasons also noted in the Report, which include that there is no CCTV of the incident and that while intelligence identified potential suspects, lack of further evidence prevented the ACTCS from determining the circumstances of the fire.

Further to clothing issues raised in the Inspector's 10 November Report, this Report also notes that Correctional Officers' (COs) daily uniform is not suitable for heavy duty use such as fighting fires or responding to other hazardous situations and recommends exploring options for providing staff with appropriate heavy-duty clothing. In line with recommendation 13 of the 10 November Report, the suitability of staff uniforms for use in hazardous situations as well as the provision of fresh clothes to staff after incidents is being considered as reviewed in consultation with the Emergency Services Agency.

Another concern raised in the 10 November Report (as well as other reports) and reiterated in the current Report relates to staff training. The associated recommendation calls for ACTCS to urgently bring Fire Refresher Training (including Breathing Apparatus) up to date for all relevant staff, and for review processes to be implemented to ensure mandatory training is provided when required to maintain currency. Strategies to address the backlog of mandatory training are already underway. Prioritisation of training is based on considerations of risk/safety and logistical issues such as staffing availability. A sustainable training plan will be developed to ensure currency of mandatory training is maintained. Improved reporting to the ACTCS Executive Governance Committee will track progress against demand.

As also noted in the Government Response to the 10 November Report, issues around staff training are addressed as a priority by the ACT Government. This is evidenced by the formation of the Blueprint for Change oversight committee, which was announced in December 2020 and supports ACTCS in bringing training capabilities for all custodial officers to a higher standard. The Organisational Capability Unit (OCU) that ACTCS established focuses on further professionalising the workforce and ensuring training related issues are addressed appropriately. Work to date has seen compliance increase across all mandatory CO training courses, with Breathing Apparatus compliance increasing from 60% in May 2021

to 88% in July 2021, and Fire Awareness compliance increasing from 58% to 86% in the same period.

The Report further identified that it took ACTFR 35 minutes from the time they arrived at the AMC to when they reached SC2, which was due to different keys being required to open various ring road gates. The Hot Debrief conducted with staff after the incident also recognised this, indicating it should be rectified as soon as possible. The Inspector echoes this and recommended keying them all alike. Work to address this commenced shortly after the incident and has been completed in a way that ensures security but addresses the access concerns.

A final concern raised in the Report relates to detainees accommodated on the upper level of SC2 only having one exit, which is via the stairwell where the fire occurred on 14 November 2020. The Inspector recommends that ACTCS investigate engineering options for the safe evacuation of detainees from the upper level in all cottages at the AMC. ACTCS will explore engineering and other options to ensure an enhanced evacuation of detainees while taking into account any security risks. Any solution is likely to require capital expenditure and would need prioritising relative to other capital infrastructure projects currently underway or being planned.

While work is underway and currently planned to implement the Inspector's recommendations, the ACTCS Facilities Management team, which includes the Fire Protection Manager appointed in October 2019, have made numerous improvements to increase fire safety around the AMC since November 2020. Examples include:

- upgrading of fire detection systems across the AMC to the latest Australian standard with the latest technology in the industry is underway;
- rolling out of 'point type' detector protection cages in the cottages;
- purchasing of additional Breathing Apparatus sets and cylinders for incidents and training;
- anti-contamination improvements during emergencies (such as creation of a portable decontamination station and supply of responder decontamination wipes); and
- Breathing Apparatus training for several on-call Facilities Management staff to assist in incidents.

Finally, while the confidential recommendations as well as their responses are redacted, the ACT Government agrees to all four confidential recommendations, of which one in principle as additional funding is required to implement the recommendation.

Conclusion

The ACT Government is strongly committed to maintaining correctional facilities where the safety of detainees and staff is of paramount importance, while respecting the human rights of detainees. As such, critical incident reviews by the Inspector play a vital role in identifying both immediate concerns and systemic issues. The findings and recommendations of this

Report will contribute to the continuous improvement of the care, treatment and safety of all detainees and staff at the AMC.

Annexure 1

ACT Government Response to Recommendations

Recommendation	Government Response	Implementation
<p>Recommendation 1</p> <p>That ACT Corrective Services explore options for providing staff with appropriate “heavy-duty” clothing that they can access quickly and change into, or put over their normal uniform, to provide better protection against heat, fire and chemicals.</p>	<p>Agreed</p> <p>In line with recommendation 13 of the Inspector’s 10 November Report, the suitability of staff uniforms for use in hazardous situations as well as the provision of fresh clothes to staff after incidents is being considered in consultation with the Emergency Services Agency.</p>	<p>Suitability of staff uniforms to have been considered and addressed by 31 March 2022</p>
<p>Recommendation 2</p> <p>That ACT Corrective Services ensure that Fire Refresher Training (including Breathing Apparatus) for all relevant staff is brought up to date as a matter of urgency and review processes are implemented to ensure that mandatory training is provided when it is required to maintain currency.</p>	<p>Agreed</p> <p>Strategies to ensure mandatory training has been completed are already underway. Prioritisation of training is based on considerations of risk/safety and logistical issues such as staffing availability. A sustainable training plan is being developed to ensure currency of mandatory training is maintained as soon as practicable. Improved reporting to the ACTCS Executive Governance Committee will track progress against demand. As of 30 May 2021, compliance with Breathing Apparatus was 60% (up from 38% in January 2021) and compliance with Fire Awareness was 58% (up from 42% in January 2021).</p>	<p>Fire Awareness and Breathing Apparatus training to be up to date by 31 December 2021</p>
<p>Recommendation 3</p> <p>That ACT Corrective Services take urgent action to ensure that the Alexander Maconochie Centre ring road gates are keyed alike.</p>	<p>Agreed in Principle</p> <p>The padlocks on the ringroad gates have been replaced in a way that ensures security but addresses the access concerns.</p>	<p>Completed</p>
<p>Recommendation 4</p> <p>That ACT Corrective Services investigate engineering options for the safe evacuation of detainees from upper level Pods in all Cottages in the Alexander Maconochie Centre.</p>	<p>Agreed</p> <p>ACTCS will explore engineering and other options to ensure an enhanced evacuation of detainees while taking into account any security risks. Any solution is likely to require capital expenditure and would need prioritising relative to other capital</p>	<p>Review to be completed by 28 February 2022</p>

Recommendation	Government Response	Implementation
	infrastructure projects currently underway or being planned.	

In relation to the four confidential recommendations, the Minister for Corrections will respond directly to the ACT Inspector for Correctional Services. For transparency, this Minister for Corrections has agreed that first and fourth confidential recommendation will be completed by the end of the year, with the remaining two recommendations to be completed by the end of February next year. Confidential Recommendation 3 is agreed in principle, the other recommendations are all agreed.