

2017

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

**GOVERNMENT RESPONSE TO THE STANDING COMMITTEE ON JUSTICE AND
COMMUNITY SAFETY'S REPORT 7:
INQUIRY INTO AUDITOR-GENERAL'S REPORT ON REHABILITATION OF
MALE DETAINEES AT THE AMC**

Presented by
Shane Rattenbury MLA
Minister for Corrections

INTRODUCTION

The ACT Government welcomes the Standing Committee on Justice and Community Safety's Report 7: Inquiry into Auditor-General's report on rehabilitation of male detainees at the AMC (the Inquiry Report) tabled in the ACT Legislative Assembly on 3 August 2016.

The Inquiry Report provides valuable insights into the challenges of adequately servicing a range of stakeholders in the criminal justice system, particularly in the unique context of the ACT.

The recommendations contained in the Inquiry Report highlight opportunities for improvement, as well as suggestions to guide future directions and ACT Corrective Services (ACTCS) work projects which have been developed in line with addressing recommendations raised in the ACT Auditor-General's Report: The rehabilitation of male detainees at the Alexander Maconochie Centre report No. 2/2015 (the Auditor-General's Report).

The Auditor-General commenced a performance audit of the Alexander Maconochie Centre (AMC) rehabilitation efforts for male detainees in May 2014 with the final report tabled in the ACT Legislative Assembly on 17 April 2015. The ACT Government Response to the Auditor-General's Report was tabled in the Assembly on 4 June 2015. On 8 March 2016 the Assembly was advised that the Standing Committee would inquire into, and report on, the Auditor-General's Report and hearings were held in April and May of 2016.

The ACT Government acknowledges the valuable evidence provided by witnesses and submitters to the inquiry, and appreciates their contribution to informing the content of the final report.

SUMMARY

The ACT Government remains committed to rehabilitation of detainees at the AMC.

The Inquiry Report makes 12 recommendations which are each considered in this response. They relate to delivery of rehabilitation programs within the AMC, strategy for the adequate management of data within ACTCS, oversight of the AMC facility, and the adequacy of observance of the rules relating to parliamentary privilege by officers of the ACT Public Service.

The ACT Government acknowledges the need for improvement in the delivery of programs and employment which will assist in providing a structured day for detainees. In addition to the Inquiry Report, the recent report from the Independent Inquiry into the Treatment in Custody of Steven Freeman (the Moss Report), undertaken by Mr Philip Moss AM, identified deficiencies in the treatment of Mr Freeman relating to his rehabilitation opportunities, including a failure to develop a case plan (as he was a remand detainee), and the absence of a structured day. The content and recommendations in both these reports provide additional emphasis on the commitment and prioritisation of this significant imperative.

The ACT Government agrees with the conclusion that the diversity of issues and challenges faced in the corrective system cannot be considered an insurmountable obstacle to progress in the rehabilitation of detainees. Furthermore, it acknowledges that greater coordination and a systematic approach will assist in meeting these objectives. The ACT Government has further prioritised this through the recent engagement of a consultant to develop and implement an effective Rehabilitation Strategy. It is acknowledged that there have been inefficiencies regarding access to employment and too much unstructured time for detainees in the AMC due to inadequate employment facilities or other activities such as organised recreation. The Rehabilitation Strategy will engage with the new prison industries capacity which became available at the AMC in 2016, and provide expanded work opportunities for detainees. It is recognised that there has been a delay in the development of the Rehabilitation Strategy, created in part by the need to expand the scope of the strategy to include community corrections operations, thus achieving a more holistic approach across ACTCS services.

In order to improve business practice, ACTCS is engaged in a comprehensive review of over 200 policies and operating procedures notified under the *Corrections Management Act 2007*. This involved the development of a policy and procedure review, including a framework, an initial review of all existing policies and operating procedures, consideration of new required policies or operating procedures, and risk assessments for each policy or operating procedure. The review and associated work will increase consistency in operational practice within the AMC and reduce discretionary decision-making by staff as there will be clearer prescription of duties and tasks in the relevant operating procedures. As a result, coordination in the management of detainees will be enhanced.

The ACT Government accepts that it was appropriate for the Standing Committee to raise the observance of Parliamentary Privileges rules relating to witnesses with the Minister for Corrections and his officers. The ACT Government has acted quickly to ensure Executives and Senior Managers are aware of their responsibilities regarding parliamentary privilege in line with the ACT Public Service values and behaviours and the Social Compact. Training was delivered to achieve this outcome in August 2016.

GOVERNMENT RESPONSE

Recommendation 1

The Committee recommends that Corrective Services meet as fully as possible its statutory obligations with respect to the rehabilitation of detainees at the AMC, and further, noting the practical differences and possibilities for each category of detainee, the ACT government make provision for the agency to fulfil this obligation.

Agreed.

The ACT Government agrees with the recommendation that ACTCS meet as fully as possible all statutory obligations with respect to the rehabilitation of detainees at the AMC.

The ACT Government commits to continuing provision and support to ACTCS to advance detainee rehabilitation as a priority. This will involve building on existing strategies which deliver therapeutic and educational programs and establishing a prison industry program utilising the new laundry and bakery facilities.

ACTCS is engaging external expertise to develop a Rehabilitation Strategy, which will enhance the operating philosophy for rehabilitation across corrective services. In support of this Rehabilitation Strategy, the ACTCS Offender Services Manager will commence an internal secondment to drive the focus and completion of a rehabilitation framework into the business practice. This work will start in January 2017 and will take into account the practical difficulties of managing the complexity of the AMC, such as multiple detainee categories and association issues between detainees within the prison population. It will ensure appropriate rehabilitation strategies are embedded in the delivery of services to detainees, taking account of health needs and appropriate cultural considerations.

Recommendation 2

The Committee recommends that ACT Corrective Services undertake enhanced training and programs to support rehabilitation practitioners at the AMC in their compilation, capture, management and retrieval of data on rehabilitation at the AMC.

Agreed.

The ACT Government advises that as part of the Corrective Services Information Management System project, ACTCS will provide enhanced training and programs to support Corrections Officers and other ACTCS staff to manage data on rehabilitation at the AMC.

In 2015-16, ACTCS undertook an open tender process for acquisition of a new case management system. The successful provider, Abilis Solutions, will in conjunction with ACTCS deliver a new software solution, known as CORIS™. The new system will replace the manual processes and database which have been in use since 2004. CORIS™ is a modern business solution that will significantly enhance the capability of ACTCS users.

CORIS™ will be introduced in a staged approach. ACTCS has begun the implementation phase, and will continue to roll out subsequent phases until the system becomes fully operational in 2018. The project is currently in the first phase of implementation with a series of gap analysis workshops and workflow design underway, which have already commenced.

Case Management training is currently provided to Corrections Officers as part of the mandatory Entry Level Training Program (ELTP). Corrections Officers are trained on their obligations to report on all relevant information and on use of the current ACTCS Information Management System database (JOIST), manual files and spreadsheets.

The intake of Corrections Officers under the mandatory accredited training in the Certificate III in Correctional Practice (Custodial) provides a requisite basis in technological literacy. Training in the new CORIS™ system will build on this literacy and current familiarity with JOIST. Additionally, ACT Corrective Services is building its evaluation and research capability by engaging a dedicated officer to undertake evaluation and research activities. This will capture data for reporting and analysing to ensure effective rehabilitation strategies and programs are in place.

Recommendation 3

The Committee recommends that ACT Corrective Services ensures that it acquires an information system able to support contemporary best-practice in data capture, supporting consistent data input and providing flexible reporting facilities to support the rehabilitation of detainees in the ACT corrections system, and that effective project management ensures that such facilities are implemented once the system is acquired.

Agreed.

As outlined in the response to Recommendation 2, the ACT Government has signed a \$10 million contract with Abilis Solutions to provide and manage a new offender management system, known as CORIS™, for ACTCS. An Internal ACTCS Project Team was supported by other areas of the ACT Public Service including Shared Services ICT, Procurement and Capital Works and the ACT Government Solicitor in acquiring this solution.

The internal Project Team has advanced preparations for the implementation phase drawing on the knowledge, skills and experience of ACTCS staff and subject matter experts. The Abilis Integration Team is in the process of aligning its CORIS™ product to ACTCS's requirements undertaking a workflow analysis. Training will be delivered to all staff following phases of testing and implementation.

The project is governed by the ACTCS Information Management / Information Communications Technology ICT Committee (ACTCS IM/ICT Committee), which reports to the Justice and Community Safety Information Management/ ICT Committee. The focus of the ACTCS IM/ICT Committee is strategic management and oversight for ACTCS's IM/ICT projects and systems.

Recommendation 4

The Committee recommends that legislation be amended to provide a non-judicial process and Tribunal access such that the ACT Human Rights Commissioner is able to receive individual human rights complaints from within the ACT jurisdiction

Noted.

The ACT Government has considered the recommendation to provide a non-judicial process and access to the ACT Civil and Administrative Tribunal (ACAT) via a complaints mechanism for the ACT Human Rights Commissioner. The ACT Government considered conferring a human rights complaint handling function to the ACT Human Rights Commissioner in the 2012 Government Response to '*The Human Rights Act 2004 (ACT): The First Five years of operation*' and it was not supported at that time.

The ACT Human Rights Commission presently has broad ranging complaints and investigations powers including under the *Human Rights Commission Act 2005* and the *Discrimination Act 1991*. These powers include investigating individual complaints by detainees relating to health services and unlawful discrimination. Additionally, the *Human Rights Act 2004* also provides for a direct right of action to the ACT Supreme Court for a person who is a victim of a breach of human rights to seek appropriate relief. There is case law which supports the jurisdictions of inferior courts to hear applications relating to alleged violations of human rights.

A new individual human rights complaints handling process would need to sit alongside these existing avenues, and would have resourcing implications. In recognition of this issue being raised in multiple reports and reviews, and as the ACT Government understands that the Commonwealth is considering ratification of the Optional Protocol to the Convention Against Torture (OPCAT), the Government will undertake further consideration in conjunction with allied proposals regarding complaints and oversight processes. OPCAT aims to prevent ill treatment in closed environments through a system of regular visits. If ratification occurs, the ACT Government will need to undertake further consideration of oversight mechanisms regarding closed environments, including in relation to the AMC.

Recommendation 5

The Committee recommends that the ACT Government advise the Legislative Assembly for the ACT on progress regarding the appointment of an ACT Inspector of Prisons, or an equivalent office, as soon as practicable.

Agreed.

The ACT Government agrees to the recommendation to advise the Legislative Assembly for the ACT on progress regarding the appointment of an ACT Inspector of Prisons, or an equivalent office. This recommendation was noted in the Report of the Independent Inquiry into the treatment in custody of detainee Steven Freeman, which subsequently recommended that the Ombudsman have an increased role in reviewing all critical incidents at the AMC, including serious assaults.

The external oversight of ACTCS is currently governed by multiple agencies with legislated power to consider matters which arise at the AMC. The current agencies and statutory positions that provide oversight, and who investigate issues are: the ACT Human Rights Commission, which consists of the President and Human Rights Commissioner, Health Services Commissioner, Discrimination Commissioner, the ACT Public Advocate; the ACT Ombudsman and the ACT Auditor-General. ACTCS holds regular oversight agencies meetings where diverse matters are discussed and complaints may be resolved without further escalation.

While there are established and effective oversight mechanisms in place, the Minister for Corrections believes that due to the unique make up of the ACTs correctional system and the growing population pressures a new model of oversight is required.

JACS will therefore commence work on developing an Inspectorate of Custodial Services function. This may be based on existing models in Western Australian (WA) and New South Wales (NSW), both of which have independent statutory bodies as 'Inspectors of Custodial Services'. Alternative models could include the development of an ACT specific inspectorate within an existing oversight agency or utilising existing external inspectorate functions within NSW or WA and enhancing other oversight functions within existing oversight agencies. The utilisation of services from WA or NSW would be subject to discussions with those jurisdictions.

This issue will also need to be considered in further detail if the Commonwealth Government ratifies OPCAT, including the role of existing and potentially new oversight mechanisms in that context.

While a model for adoption in the ACT will need to be determined in consultation with current oversight agencies, it is anticipated that the ACT Inspectorate functions will be operational by the end of 2017.

Recommendation 6

The Committee recommends that ACT Corrective Services acknowledge, accept and implement the Auditor-General's view that the rehabilitation effort at the Alexander Maconochie Centre should adopt a systematic approach, including by:

- **establishing clear, coordinated, and consistent goals and objectives in the form of a comprehensive policy framework;**
- **aligning practice with policy;**
- **performing timely update of policy documents and guidelines;**
- **conducting evaluation as an integral part of program delivery;**
- **ensuring consistent creation, management and retrieval of data; and**
- **implementing continuous improvement for all practices designed to support rehabilitation.**

Agreed.

The ACT Government agrees to the recommendation that a systematic approach to the rehabilitation of detainees at the AMC be adopted.

As noted in Recommendation 1, an external expert consultant has been engaged by ACTCS to develop a Rehabilitation Strategy. A framework for evaluating the Rehabilitation Strategy and a methodology for its implementation will be developed once the Strategy is finalised. Funding for intensive external evaluation activity within ACTCS will be subject to budget consideration following endorsement of the Strategy and framework. Further work is also required to enhance evaluation framework co-ordination with other jurisdictions.

Currently, data handling is coordinated manually as part of business as usual to identify rehabilitation initiatives.

ACTCS is currently reviewing all policies and operating procedures notified under the *Corrections Management Act 2007*, which comprise more than 200 documents. This has included the development of a policy and procedure review, an initial review of all existing policies and operating procedures, consideration of new required policies or operating procedures, and risk assessments for each policy or operating procedure. The review and associated work will increase consistency in operational practice within the AMC, and the coordination in the management of detainees will be enhanced.

Recommendation 7

The Committee recommends that ACT Corrective Services implement prison industries which cater to demand external to that generated by the Alexander Maconochie Centre (AMC), as a matter of urgency, with a view to creating the 'structured day' envisaged for detainees in early planning documents for the AMC.

Agreed.

In January 2016, the ACT Government agreed to utilise savings from the AMC's Accommodation Expansion Project to fund new infrastructure in the AMC to support and enhance detainee industries. Construction of these new facilities commenced in May 2016 and was completed by the end of 2016. The Government reappropriated these savings to develop work industries within the AMC in recognition of the need for improvement and expansion of opportunities for detainees to build work skills to support their rehabilitation.

The first stage in the development of industries capacity will include the expansion of the existing laundry facilities at the prison. Additionally, a bakery facility has been constructed and planning for its commissioning and utilisation will be one of the focuses of the Rehabilitation Strategy. These industries will eventually provide detainees with the opportunity to gain skills through work and external training, which is intended to improve their employment prospects on release into the community.

A multi-purpose facility has been built adjacent to the AMC oval. This facility will allow ACTCS to relocate existing services and provide a larger activity space for visitor events, pastoral care and recreational activities.

When combined, these changes will facilitate a better structured day for detainees. Scheduling resources and appropriate activity to make the best use of the new industries facilities will be a focus of the Rehabilitation Strategy.

Recommendation 8

The Committee recommends that ACT Corrective Services engages the local ACT business community regarding planning and implementation of more extensive prison industries, and that it find ways to draw on existing business acumen within the ACT business community in order to develop and deliver successful prison industries.

Agreed.

The ACT Government recognises the importance of ensuring the effective development of prison industries. The bakery and expanded laundry will service the internal needs of the AMC and comprise industrial work available to detainees. The intention behind the creation of prison industries is the rehabilitative value and meaningful activity they provide to detainees rather than a focus on integration with the ACT business community.

Phase 2 of the Prison Industries strategy includes market research, engagement with local community and businesses to assess opportunities for commercial expansion which is anticipated to be completed in 2017.

Any future plans to expand the scope of industries within the AMC will involve community and industry consultation. The ACT Government will examine potential negative impacts on local businesses as decisions of this nature are bound by public sector competitive neutrality guidelines.

Competitive neutrality requires that government business activities should not enjoy net competitive advantages over their private sector competitors simply by virtue of public sector ownership. Competitive neutrality also requires that governments should not use their legislative or fiscal powers to advantage their own businesses over the private sector. If governments do advantage their businesses in this way, it will distort the competitive process and reduce efficiency.

The Australian Government Competitive Neutrality Complaints Office, a separate unit within the Productivity Commission, operates as the Australian Government's competitive neutrality complaints mechanism.

Until such time as these issues and potential impact on the local business community can be fully assessed, expansion of the role of industries within the AMC cannot be actively considered by the ACT Government. ACTCS is, however, currently focussing on utilising the new infrastructure within a rehabilitation framework which focuses on meaningful activity, rehabilitation and education.

Recommendation 9

The Committee recommends that the ACT government continue support to organisations which work with detainees, and families of detainees, with a view to maintaining support networks for offenders and ultimately reducing rates of recidivism in the ACT.

Agreed.

The ACT Government commits to continue supporting organisations who undertake the vital and challenging work of supporting offenders within custody and in our community. ACTCS continues to engage with, and support, a wide range of organisations that provide services and support to detainees, and/or former detainees as well as their families, where this is appropriate. These cover a range of nearly 100 organisations from small, not-for-profit organisations, such as the Everyman's Centre, to the nationally structured non-government organisations including St Vincent de Paul and Alcoholics Anonymous. A vast range of services is provided by these organisations including financial counselling, cultural support, employment services, relationship counselling, reintegration services and accommodation support services.

ACTCS recognises the vital role played by the community sector and its long standing and significant contribution to community life. ACTCS strives to uphold the values of the ACT Government's Social Compact in its dealings with community organisations and seeks to utilise the experience, skills and insight of community organisations to provide clients with the targeted services and support.

ACTCS values its engagement with the Aboriginal and Torres Strait Islander community. ACTCS works with indigenous organisations including Winnunga Nimmityjah Aboriginal Health Service, Gudan Gulwan Youth Aboriginal Corporation, Dhunlung Yarra Service, and the Yeddung Murra (Good Pathways) Aboriginal Corporation to provide support to Aboriginal and Torres Strait offenders both in the AMC and in the community.

Below is a list of some of these organisations and their primary contribution to assisting offenders:

| EMPLOYMENT AND EDUCATION | |
|---|---|
| <i>Australian National University- Legal Literacy Program</i> | Education to help detainees develop an understanding of the legal system. |
| <i>Aboriginal Legal Service</i> | Legal advice and information for indigenous detainees which covers criminal law cases and referral services for other types of matters. |
| <i>AIDS Action Council</i> | Counselling and education in relation to coping with AIDS symptoms and prevention of the spread of AIDS. |

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|--|---|
| <i>Habitat</i> | Providing and supporting indigenous detainees with stable employment on release from the AMC. |
| <i>Prison Legal Service</i> | Paralegal advice and information on legal matters and issues. |
| FINANCE | |
| <i>Care Financial</i> | Financial counselling and advice on a range of concerns including debt management, budgeting and financial support. |
| FAMILY/ MARITAL | |
| <i>Shine for Kids</i> | Facilitates parental/child contact while in custody; provides child friendly activities and family days for parents and children. |
| ACCOMODATION | |
| <i>Everyman's Centre</i> | Accommodation, advice, counselling and outreach support including supported accommodation on release. |
| <i>Directions ACT</i> | Provides in custody and pre-release support for detainees' who have an identified substance misuse issue. |
| <i>Samaritan House</i> | A crisis support service for male detainees' who are transitioning back into the community. |
| <i>Havelock Housing Association</i> | Delivering community housing for people on low to moderate incomes in the ACT. |
| ALCOHOL AND OTHER DRUGS | |
| <i>Alcoholics Anonymous</i> | An 'informal' support group for recovering alcoholics or significant alcohol users. |
| <i>The Oolong Aboriginal Corporation</i> | Provides residential treatment for Aboriginal and non-Aboriginal men who wish to manage problems with alcohol and other drugs. |

| EMOTIONAL/WEELLBEING | |
|--|---|
| <i>Gugan Gulwan</i> | Provides cultural support for young indigenous males aged 18 to 25 years. |
| <i>Hepatitis Resource Centre</i> | Provides support, information and education about Hepatitis and Blood Borne Virus as well as preventative advice. |
| <i>Menslink</i> | A number of mentors and support people who provide counselling and support for detainees under the age of 25. |
| <i>Prisoner's Aid</i> | Provides practical support and assistance to detainees and their families and as well as detainees preparing to reintegrate into the community. |
| <i>Relationships Australia</i> | Generalist counselling support and mediation with a focus in building better relationships with friends, family and the wider community. |
| <i>Service Assisting Male Survivors of Sexual Assault (SAMSSA)</i> | Counselling, support, information and referral services for male survivors of sexual abuse and their families. |
| <i>Winnunga Nimmityjah Aboriginal Health Service</i> | Health services, supports, guidance and counselling in relation to holistic health care for Aboriginal and Torres Strait Islander detainees. |
| <i>Women's Health Counsellor</i> | Generalist counselling in relation to health, well being, self care and skill building for women. |
| <i>Women in Prisons</i> | Advocacy and support for female detainees in a range of areas based on supporting and encouragement. |
| <i>Wellways Australia</i> | Providing mental health and disability support in the community. |

Recommendation 10

The Committee recommends that the ACT government formally write to all ACT government agencies advising of agency's obligations with respect to parliamentary privilege, and in particular their obligations with respect to witnesses and submitters to inquiries of committees of the Legislative Assembly for the ACT.

Agreed.

The whole of government Executive induction package has been updated to include information on parliamentary privilege. The Executive induction package is available on the ACTPS Employment Portal - <http://www.cmd.act.gov.au/employment-framework/for-executives/actps-executive-induction>.

The Head of Service will write to Directors-General advising them of the updates and offering to work with agencies on including this information in agency-specific induction packages. Workshops were completed in 2016 with senior managers and executives to ensure a comprehensive awareness of parliamentary privilege across ACT Government Executive.

Recommendation 11

The Committee recommends that where in regard to strict adherence to privilege, defects either perceived or real, in the correspondence of a Directorate are identified, Ministers, Executives, and Directorate staff promptly acknowledge same and use this as a learning tool into the future to avoid such incidents.

Agreed.

In addition to the updates to the Executive induction package identified in the response to recommendation 10, work has also been undertaken to develop a training package on parliamentary privilege. As well as referencing relevant case studies, the training has been broadened to incorporate the ACTPS values and behaviours and links to the Social Compact. Justice and Community Safety Directorate staff participated in this training in August 2016.

Recommendation 12

The Committee recommends that the Legislative Assembly consider if adequate protections exist and if not that Standing Orders be amended so as to introduce a standing order which explicitly provides for the protection of communications with parliamentary committees, including witnesses and submitters to inquiries of parliamentary committees.

Noted.

The ACT Government notes the recommendation and that this matter was raised with the Clerk of the ACT Legislative Assembly. The Clerk advised it would be brought to the attention of the Speaker of the Ninth ACT Legislative Assembly with a view to taking the matter to the Standing Committee on Administration and Procedure for its consideration when it reviews the Standing Orders.