

2022

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

TENTH ASSEMBLY

**REPORT NO 9 OF THE STANDING COMMITTEE ON JUSTICE AND COMMUNITY SAFETY –
INQUIRY INTO COMMUNITY CORRECTIONS – GOVERNMENT RESPONSE**

**Presented by
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Attorney-General
November 2022**

INTRODUCTION

The ACT Government welcomes the Standing Committee on Justice and Community Safety's Report on the *Inquiry into Community Corrections* (the Report), tabled in the ACT Legislative Assembly on 27 July 2022.

The ACT Government is committed to reducing recidivism by 25% by 2025 as outlined in the RRby25by25 Plan and as we work towards this goal, we welcome the opportunity to consider how the broader justice and human services systems work together to improve the care, supervision and monitoring of people in the Community Corrections system to reduce recidivism and maintain community safety.

The success of Community Corrections is a shared responsibility as evidenced by the Committee's recommendations which span aspects of the human services system including health, employment, education and housing as well as elements of the justice system, including legislation, as they impact offenders and victims.

In this landscape, ACT Corrective Services (ACTCS) has responsibility for administering court-imposed sanctions including the supervision of offenders in the community subject to bail conditions; community-based sentences and those released from custody on parole.

Community supervision is focused on addressing criminogenic needs, which are major risk factors associated with criminal behaviour, while also delivering other services and supports to promote the effective rehabilitation and reintegration of offenders.

ACTCS aims to work with offenders to address issues such as substance use issues and unemployment with the shared goal of reducing the offender's risk of reoffending and promoting greater community safety.

The Committee's recommendations are consistent with work already underway or planned by the ACT Government, and such the Government agrees or agrees in principle to twelve of the thirteen recommendations, and Recommendation 13 to establish a victim advisory body is existing government policy, as a Victims Advisory Board has already been established under the *Victims of Crime Act 1994*.

The ACT Government agrees to four recommendations, with Recommendation 5 complete with the SAB now sitting within the ACT Courts complex, work is underway on Recommendation 1 to increase community awareness of sentencing options and Recommendation 9 to promote education and employment within community corrections is ongoing; and Recommendation 6 will be achieved through the independent evaluation of the Justice Housing Program currently underway by the Australian National University.

The remaining recommendations are agreed in principle as the Government supports the Committee's intent, but it would be pre-emptive to agree in full to recommendations that are subject to ACT legislative and/or funding processes; those that require further analysis and stakeholder consultation to inform evidence based decisions; or those that are already being addressed through another review process.

ACT Government Response to Recommendations

The Report makes 13 recommendations, which the ACT Government has carefully considered, and:

- agrees to four recommendations
- agrees in principle to eight recommendations; and
- notes one recommendation is existing Government policy.

| Recommendation | Government Response | Implementation date |
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| Recommendation 1 <p>The Committee recommends that the ACT Government ensure there is awareness in the community of community sentencing options and their significance.</p> | Agreed <p>The Government notes that there is some perception that community based sentences are a soft or lighter touch option to detention, and agrees that it is important to challenge this perception and increase understanding around community based sentencing.</p> <p>There is currently information on community based sentencing on the ACTCS, Victims Support ACT and Sentence Administration Board websites. The Justice and Community Safety Directorate will work with these agencies to review the information available to increase awareness of the intensity and effectiveness of community based sentencing options.</p> | <p>Publicly available information will be reviewed and updated in the first half of 2023 to support increased awareness of the intensity and effectiveness of community based sentencing options.</p> |
| Recommendation 2 <p>The Committee recommends that the ACT Government take action to remove the prohibition in the <i>Crimes (Sentencing) Act 2005</i> in relation to combination sentences.</p> | Agree in principle <p>The Committee raised concerns about the impact of the restriction on combined sentences for Intensive Correction Orders in the <i>Crimes (Sentencing) Act 2005</i>.</p> <p>The structure and intent of an Intensive Correction Order is to provide a stand-alone sentence of imprisonment being served in the community.</p> | <p>. The ACT Government is undertaking work to review sentencing options. Consideration of the prohibition in the <i>Crimes (Sentencing) Act 2005</i> in relation to combination sentences and the overarching</p> |

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| | <p>Administering such a sentence in combination with other types of sentences introduces complexities.</p> <p>If the prohibition against combination sentences was removed, a global/aggregate sentencing approach would need to be established, which may assist in reducing the complexities, but would represent a significant change in the way sentencing is undertaken in the ACT.</p> <p>As outlined by the Committee, the <i>Intensive Correction Orders – Statutory Review Report</i>¹ also addressed this issue and recommended the ACT Government consider the impact of aggregate/global sentencing legislative provisions being established in the ACT along the lines of those applied in NSW, Victoria and other jurisdictions.</p> <p>The ACT Government is undertaking work to review sentencing options. Consideration of the prohibition in the <i>Crimes (Sentencing) Act 2005</i> in relation to combination sentences and the overarching approach to sentencing will form part of this work.</p> <p>The ACT Government is also in the process of establishing a Law and Sentencing Advisory Council. The new body will advise the Government on areas of potential law reform, as well as provide expert advice on sentencing. The Council will perform a dual role, with its primary purpose to support the Government to keep the law current and relevant for the ACT community. The Council will also have a sentencing advisory role, which may include the collection, analysis and publication of data on sentencing trends and practices</p> | <p>approach to sentencing will form part of this work in 2023.</p> |

¹ https://www.parliament.act.gov.au/data/assets/pdf_file/0010/1483381/List_Intensive-Correction-Orders-Review-Report.pdf

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| <p>Recommendation 3</p> <p>The Committee recommends that the ACT Government implement electronic monitoring where appropriate as part of community corrections orders.</p> | <p>Agree in principle</p> <p>The ACT Government is actively considering options for electronic monitoring in the ACT. The Government agrees in principle to this recommendation, noting that the introduction of electronic monitoring in the ACT would require consideration and consultation with stakeholders on the most appropriate use of electronic monitoring within the ACT justice system; and a significant investment in technology, infrastructure and services. Any decision on implementation would be taken by Government informed by scoping and feasibility work specific to the ACT environment.</p> <p>Electronic monitoring is currently used in other Australian jurisdictions, and overseas, in a range of contexts including bail, sentencing, parole, general leave from detention, domestic and family violence perpetrators (and victims) and violent and sexual offenders. It also has a variety of purposes and can be used to ensure a person remains at a designated place, restrict access to places or contact with people, or to continuously track movements.</p> <p>It is noted that a range of views were received from stakeholders in submissions and evidence given to the Inquiry. Where the introduction of electronic monitoring was supported, submissions discussed the need for preliminary work, including consultation, to be undertaken prior to progressing to development of an ACT model and implementation. It is also noted that submissions which supported examining electronic monitoring for possible use in the ACT did not propose restriction of consideration to the sentencing aspect of the justice system as per this recommendation.</p> | <p>Scoping and feasibility work on electronic monitoring options will be undertaken, with appropriate consultation with stakeholders, during 2023.</p> |
| <p>Recommendation 4</p> <p>The Committee recommends that the ACT Government repeal the provisions</p> | <p>Agree in principle</p> <p>The <i>COVID-19 Emergency Response Legislation Amendment Act 2020</i> provides for the lapsing of COVID emergency powers within a defined period (up to 12</p> | <p>Nil</p> |

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| <p>of the <i>COVID-19 Emergency Response Legislation Amendment Act 2020</i> that provide temporary powers to Community Corrections Officers to apply a discretion when managing non-compliance with Good Behaviour Orders, Intensive Corrections Orders and Parole Orders instead of having such matters referred to the Sentencing Administration Board.</p> <p>If the provisions are not repealed, the Committee recommends that the ACT Government ensure that the powers are not made permanent and, if the powers remain in any form, ensure that:</p> <ul style="list-style-type: none"> • the powers are confined to minor breaches; • the powers are used only for low-risk offenders with sentences for minor matters; and • any use of the powers is promptly notified to the Board for possible review. | <p>month) after the cessation of the COVID-19 Public Health Emergency Declaration.</p> <p>Any future consideration to permanently adopt breach discretion powers in relation to Intensive Correction Orders and/or Parole Orders, would be informed by consultation with key stakeholders (including the SAB) and appropriately consider the seriousness of the breach, risks and notification requirements.</p> <p>In consultation with key stakeholders, the Government is currently considering legislative reform to equip Community Corrections Officers with greater flexibility to deal with certain breaches of Good Behaviour Order obligations. Any discretion framework would provide an appropriate administrative oversight mechanism so that there is consistent and transparent supervision and enforcement of Good Behaviour Orders, which are referred to the Court.</p> | |
| <p>Recommendation 5</p> <p>The Committee recommends that the ACT Government and ACT judiciary</p> | <p>Agreed</p> <p>An Occupancy Agreement between the SAB and the ACT Courts for the SAB to sit in the ACT Courts complex commenced in September 2022.</p> | <p>Completed</p> |

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| <p>work collaboratively to enable the Sentence Administration Board to sit within the court complex, and that the Attorney-General report quarterly to the Assembly until this is resolved.</p> | | |
| <p>Recommendation 6</p> <p>The Committee recommends that the ACT Government review the existing funding model for justice housing to ensure that offenders being released from detention have access to suitable accommodation, to avoid prolonging detention due to lack of housing and to reduce risks of recidivism.</p> | <p>Agreed</p> <p>The Government acknowledges the impact that a lack of suitable and accessible housing can have on the successful completion of parole, rehabilitation and reducing the likelihood of recidivism, and notes concerns raised about the demand for housing for offenders.</p> <p>The Justice Housing Program (JHP) is a core element of the ACT Government’s Building Communities Not Prisons initiative and the Reducing Recidivism by 25% by 2025 Plan (RR25by25 Plan). The JHP commenced in 2020 and is a collaboration between the JACS Directorate, Community Services Directorate (CSD), the social and community housing sector and support agencies, and responds to the accommodation needs of people in the criminal justice system who are on bail or exiting custody. The JHP is currently funded until June 2024 and the Australian National University through the Reducing Recidivism Research and Evaluation Collaboration, is evaluating the Justice Housing Program to inform future program models and funding decisions beyond 2024.</p> <p>Consistent with the RR25by25 Plan’s emphasis on collaboration across human services, and aligned with the ACT Housing Strategy objective to establish an integrated and coordinated human services system across the ACT Government, the Justice and Community Safety Directorate will continue work with the Housing ACT and other stakeholders to identify opportunities for whole-of-government responses to recidivism. In doing so, the ACT Government will consider the intersections between homelessness, health,</p> | <p>The ANU evaluation of the Justice Housing Program will be completed in 2023 and will inform Government consideration of future program and funding models.</p> |

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| | justice, mental health, cultural heritage and child, youth and family services, particularly for those exiting custody. | |
| <p>Recommendation 7</p> <p>The Committee recommends that the ACT Government investigate the reasons that lead to lengthy parole application periods and implement options to reduce them.</p> | <p>Agree in principle</p> <p>The Government notes stakeholder concerns that the application process for parole is complex and lengthy, and that there are particular challenges for Aboriginal and Torres Strait Islander people and people with a disability applying for parole.</p> <p>The Government remains committed to improving parole processes, as demonstrated through agreement to all 15 recommendations in the <i>ACT Ombudsman Report 5/2020: Parole Processes at the Alexander Maconochie Centre</i>². A number of actions identified in the Ombudsman Report are already completed and ACTCS will continue implementing and reporting progress against these recommendations in the Justice and Community Safety Directorate Annual Report.</p> <p>The SAB is working with Community Corrections to improve effectiveness of processes and reduce the estimated parole application process to eight weeks (eight weeks is a practical minimum period required to prepare the necessary documentation and provide statutory notice). A <i>Protocol between the Sentence Administration Board and ACT Corrective Services</i>³ has established clearer expectations on process and timing and enables flexibility for fast-tracked processes where circumstances justify this.</p> | Nil |

² https://www.ombudsman.act.gov.au/_data/assets/pdf_file/0014/112073/ACTCS-administration-of-parole-processes.pdf

³ [Protocol between the Sentence Administration Board and ACT Corrective Services - Justice and Community Safety Directorate](#)

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| | The SAB is also seeking to add a male Aboriginal and/or Torres Strait islander member during 2023, in addition to the current female Aboriginal and/or Torres Strait Islander member. | |
| <p>Recommendation 8</p> <p>The Committee recommends that the ACT Government explore ways for detainees to be placed on community service, and potentially within government directorates.</p> | <p>Agree in principle</p> <p>Within a corrections setting the term ‘community service (work)’ typically refers to a specific sentencing option that has the goals of punishment, restitution and/or restoration with respect to offending behaviour.</p> <p>Community service work may be stipulated as a condition of a community-based corrections order as determined by the sentencing court.</p> <p>Rather than exploring ways for ‘detainees to be placed on community service’, the ACT Government is committed to providing opportunities for those offenders who are in the community (or those transitioning from custody) to participate in meaningful employment and work opportunities that promote longer-term vocational security.</p> <p>ACTCS has developed a number of arrangements with government departments, non-government agencies and private businesses that offer various employment opportunities. ACTCS is continually exploring and regularly responding to approaches from various agencies and businesses offering employment placements for detainees and offenders in the community.</p> | Ongoing |
| <p>Recommendation 9</p> <p>The Committee recommends that the ACT Government promote education and employment within the community corrections system, as a</p> | <p>Agree</p> <p>ACTCS is committed to continue promoting educational and vocational opportunities for offenders within the community, as it recognises the associated benefits for both offenders and community safety, in terms of addressing the underlying risk factors for offending behaviour and supporting rehabilitation and reduced recidivism.</p> | Ongoing |

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| means of ending the cycle of recidivism | <p>ACTCS's commitment to promoting education and employment is demonstrated through the dedicated Employment Specialist role which offers a range of support to offenders who are subject to community-based corrections orders (as well as those in custody who are preparing to transition back into the community) to improve their chances of securing ongoing employment. These services include access to the Work Ready program (modularised course that builds skills and provides assistance in areas such as resume writing, job interview preparation, communication, goal setting and career planning); identification of suitable job vacancies through engaged employers; and referrals to other employment assistance programs and Job Network Providers in the community to provide a connected service between offenders and employers. Similarly, community-based clients (and those transitioning from custody) are able to access a range of educational and vocational training programs, including those that are offered in custody and transitional release programs, as well as educational courses and training programs that mainstream community-based educational institutions (e.g. CIT) offer. Furthermore, educational and employment goals and objectives are incorporated into an individual offender's case management plan.</p> | |
| <p>Recommendation 10</p> <p>The Committee recommends that the ACT Government expand the eligibility criteria for Drug and Alcohol Treatment Orders with sufficient corresponding funding for the Drug and Alcohol Court.</p> | <p>Agree in principle</p> <p>In August 2022, the ACT Government released an independent evaluation by the Australian National University on the Drug and Alcohol Court (DAC). The evaluation report considers issues in relation to eligibility and funding for the DAC. The ACT Government will table a response to the recommendations in the evaluation report in the Legislative Assembly in November 2022.</p> <p>The Government agrees in principle to increasing access to DATOs noting that this is being considered as part of the Government response and funding is subject to the ACT Budget process.</p> | <p>The ACT Government will table a response to recommendations in the evaluation report on the Drug and Alcohol Court in the Legislative Assembly in November 2022.</p> |

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| | A more detailed review on the operation and effectiveness of provisions relating to drug and alcohol treatment orders will also commence as soon as practicable after December 2022 as per section 80ZQ of the <i>Crimes (Sentencing) Act 2005</i> . | |
| <p>Recommendation 11</p> <p>The Committee recommends that people on community corrections orders receive access to culturally appropriate alcohol and other drug treatment services that are adequately funded and offered to people routinely.</p> | <p>Agree in principle</p> <p>ACTCS will continue to refer people on community corrections orders to alcohol and other drug treatment services.</p> <p>The ACT Government is committed to increasing the availability of culturally appropriate alcohol and other drug treatment services, which is a key consideration for the <i>ACT Drug Strategy Action Plan 2022-26</i> currently under development. The Government is working with the community and relevant service providers to plan a culturally appropriate residential alcohol and other drug rehabilitation service for the ACT Aboriginal and Torres Strait Islander Community.</p> <p>In 2021-22 the Government provided \$803,000 to commence design work to deliver a new community-led alcohol and other drug and mental health treatment precinct in Watson including an Aboriginal and Torres Strait Islander residential alcohol and other drug rehabilitation facility in partnership with Winnunga Nimmityjah. In the 2022-23 Budget, a further \$2.998 million has been allocated for detailed design and planning work for the construction of three new health facilities at the ACT Government owned site at 350 Antill Street Watson, including the ACT's first Aboriginal and Torres Strait Islander Alcohol and Other Drug Residential Rehabilitation Service.</p> <p>The Government agrees in principle to this recommendation, noting that funding for the Aboriginal and Torres Strait Islander residential alcohol and other drug rehabilitation facility is subject to the design work and the ACT Budget processes.</p> | Nil |

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| <p>Recommendation 12</p> <p>The Committee recommends that the ACT Government implement a single victims register under the Victims of Crime Commissioner as planned and that the Victims Crime Commissioner who will be responsible for the register is sufficiently resourced.</p> | <p>Agree in principle</p> <p>The ACT has three separate victims registers with different legislative obligations and operational requirements. These are the:</p> <ol style="list-style-type: none"> 1. Adult Offender Victims Register 2. Youth Justice Victims Register 3. Affected Persons Register <p>Since the commencement of the Charter of Rights for Victims of Crime in January 2021, work has been underway to relocate the three victims registers together under Victim Support ACT (VSACT). While it is not appropriate to have a single victims register, VSACT's coordination of all three registers will facilitate victim-focussed management of the registers, and to uphold victim rights under the registers to information, support, consultation and participation.</p> <p>On the basis that all three registers are transferring to the VSACT, resourcing of three additional officers was made available in the 2022-23 Budget to support VSACT administration of the three Victims Registers. These resources are in addition to the staff member that is already allocated to administration of the Adult Offender Victims Register.</p> | <p>The transfer of the Victim Registers to Victims Support ACT will be finalised by the end of 2022.</p> |
| <p>Recommendation 13</p> <p>The Committee recommends that the ACT Government explore establishing a victims advisory body to provide advice to government on criminal justice policies to ensure that the government is fully informed by input from victims.</p> | <p>Existing Government policy</p> <p>The Victims Advisory Board is established under the <i>Victims of Crime Act 1994</i>. The Board includes a range of members from across government and the community, including members who represent the interests of victim services groups. Among its statutory functions, the Board is to advise the Minister on policies, priorities and strategies for the acknowledgment, protection and promotion of the interests of victims in the administration of justice and help develop and maintain protocols and procedures for the treatment of victims by agencies involved in the administration of justice.</p> | <p>Complete</p> |