

# Closure Report of Moss Review Recommendations

October 2018

**MOSS REVIEW IMPLEMENTATION STEERING COMMITTEE**  
**INDEPENDENT CHAIR COMMUNIQUÉ TO MINISTER FOR CORRECTIONS #13**

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The Moss Review Implementation Steering Committee held its 13<sup>th</sup> meeting on Wednesday 20 June 2018.

The Director-General of the Justice and Community Safety Ms Alison Playford, the Interim Director-General of Community Safety Directorate Ms Bernadette Mitcherson, and Interim Director-General ACT Health attended the meeting. Mr David Pryce, Deputy Director-General JACS was also in attendance as the Chair of Inter-Directorate Project Team.

Ms Julie Tongs from Winnunga Nimmityjah Health and Community Services, Mr Anthony Longbottom from the Aboriginal Legal Service and Ms Katrina Fanning representative of the Aboriginal and Torres Strait Islander Elected Body, attended the meeting as Ms Jo Chivers was an apology.

I have provided you a summary of the discussions during the meeting below. A copy of the minutes are attached for your reference ([Attachment A](#)).

I have also attached a paper for your consideration with suggestions on broader issues related to improving the circumstances for Aboriginal and Torres Strait Islander people in the ACT Community ([Attachment B](#)).

### **Inspector of Correctional Services**

I welcomed Ms Rebecca Minty and Neil McAllister (via telephone), from the Inspectorate of Correctional services to the meeting. I thanked Mr McAllister for the response he provided to the Committee ([Attachment C](#)) about the Inspectorate's capacity to maintain oversight of the Moss conclusions and recommendations. Mr McAllister explained to the Committee that he is restrained by legislation in continuing oversight of the conclusions of the Moss Review. However, he assured the Committee that he will keep the insights and findings of the Moss Review in his mind when conducting future reviews.

Ms Playford noted the helpful suggestion of Mr McAllister around other oversight bodies. She suggested that a letter to the Human Rights Commission ([Attachment D](#)) and the ACT Ombudsman ([Attachment E](#)) would assist in the future. This suggestion was endorsed and supported by the Committee.

Mr McAllister provided some information to the Committee about the review he is currently undertaking of the Alexander Maconochie Centre (AMC), focusing on the management and care of remand detainees. He informed the Committee that this review will focus on the issue of remand and sentenced detainees not being separated at the AMC. He noted that while he is not in a position to discuss the findings, he wanted to acknowledge the professionalism and friendliness of the staff and detainees at the AMC. This gave him the overall impression that there was a positive culture operating at the AMC. This was reassuring for the Committee to hear.

I wished Mr McAllister well with his important work into the future.

### **Recommendation 6 – Mr Jon Peach**

Mr Peach discussed the development of the Rehabilitation Framework (Attachment F). He acknowledged that this had been an outstanding recommendation made in the Auditor-Generals review in 2015. He noted that the framework has now been finalised and will inform part of the operating model of the AMC. As part of the structural reform of ACTCS the new management team will drive the rehabilitation framework and operating procedures.

Mr Peach also provided an update on the on the implementation of a structured day. The partnership between Winnunga and ACT Health is ongoing and the structured day implemented for females will be rolled out to male detainees by the end of the year.

The Committee heard about the update of the policies and procedures that will now be delivered as a project and will bring all policies and procedures in line with the operating model.

The Committee were concerned to hear about the increasing detainee pressures at the AMC, with a detainee population that recently reached a new high of 507. Mr Peach noted that the infrastructure of the AMC has not grown to match these numbers, however, AMC staff continue to be creative about what they can do within the current infrastructure restraints.

Mr Peach stated that moving forward rehabilitation services will continue to be a focus of ACTCS. Each detainee will have a sentence management plan that will continue with them into the community post release.

I am of the view that with 33-35% of the population being remand detainees there needs to be some useful programs offered, one area that could be most beneficial is in the area of parenting. The goal needs to be reducing the number of remand prisoners as they are presumed innocent, with many of them requiring drug and alcohol rehabilitation facilities and/or mental health facilities. Mr Peach acknowledged this, and stated that the issues I am referring to are a whole of society problem that could be addressed through effective early intervention and prevention strategies.

I complimented Mr Peach and ACTCS on the work that has been done so far and the direction he is taking ACTCS.

### **Steering Committee Paper on its position in relation to recommendation 6**

The Committee endorsed the position paper on Recommendation 6 (Attachment G). The Committee agree that that Recommendation 6 has not been achieved, however there has been a lot of work around the intent of the recommendation by ACTCS.

The Committee are very supportive of your approach to looking into initiatives designed to reduce the number of people in the AMC. I note that the Inspector of Correctional Services had forewarned that if another facility were built it would no doubt be quickly filled.

### **Closure Reports**

David Pryce advised that the Project Team had developed formal closure reports against each recommendation. These reports provide a succinct outline of the key activities that demonstrate achievement against each of the recommendations. These reports have been signed by the leads of the IDPT and myself, providing strong governance and closure to the project. These reports are at [Attachment H-P](#).

By way of summary the status of each recommendation endorsed by the Steering Committee is:

Recommendation 1 – closed

Recommendation 2 – closed

Recommendation 3 – closed

Recommendation 4 – closed

Recommendation 5 – ongoing

Recommendation 6 – Not achievable

Recommendation 7 – closed

Recommendation 8 – closed

Recommendation 9 – closed

### **Discussion about the findings of the Coronial Inquest**

Ms Tongs had not had the opportunity to discuss the findings into the Coronial Inquest into the death of Steven Freeman, as she was unable to attend the May 2018 Steering Committee meeting. Ms Tongs expressed her disappointment about the coronial outcome on behalf of Winnunga and the family of Steven Freeman. She noted that the inquest pointed to multi-system failures but no individual or agency was held responsible. Understandably, the family have been left with many questions and feel as that there has been no justice. Ms Tongs intends to continue to advocate for the family and for change.

Ms Tongs informed the Committee that in light of the findings she has re-assessed how Winnunga will provide services in the AMC and will maintain the position of 'Winnunga on the inside and outside'. As the Coronial Inquest did not make any specific findings into the systems, Winnunga are not willing to partner and share the risk.

The Committee are aware that the ACT Government is providing a whole of government response to the findings of the Steven Freeman Coronial Inquest.

### **Other Business**

#### Policing

Anthony Longbottom raised a concern about an Aboriginal and Torres Strait Islander women that was 39 minutes late to report for bail at the police station. She was taken into custody as a result by ACT Policing for breaching her bail. The Committee were in agreement that this punitive approach is detrimental to individuals and the broader community. They would like to see steps taken to prevent this type of reaction in future circumstances.

Ms Tongs raised a concern about an assault of an Aboriginal and Torres Strait Islander women that she does not feel was dealt with by Police appropriately. She has the support of

the Committee to approach the Minister for Police to get answers. It is Ms Tongs view that change has to start with policing who need to better understand and respect Aboriginal culture in order to achieve the best results.

### Employment

Community members noted that Aboriginal and Torres Strait Islander people are not employed to work on community projects such as the light rail. Providing employment options for Aboriginal and Torres Strait Islander people on such projects would be positive for the Community, and the ACT Government needs to review its procurement policies to ensure that this happens.

### Domestic Violence Services

Ms Tongs noted that Winnunga does not receive specific funding for supporting victims or perpetrators of Domestic Violence. She noted that many of her clients do not want to engage with mainstream services. The Community would benefit from funding Aboriginal operated services to provide support to Aboriginal and Torres Strait Islander People who are victims and perpetrators of Domestic Violence.

### **Closure of Project, acknowledgements and reflection**

I am aware that you may provide a final update on the Moss Review Implementation to the Legislative Assembly. I trust that the closure documents will support that process.

I would like to acknowledge the significant time and resources that have been dedicated to the Moss Review Implementation. The work undertaken to implement these recommendations has been extensive, particularly the work undertaken by the IDPT and Directorates. I note the genuine commitment and collaboration demonstrated to implement the recommendations.

I would also like to acknowledge the work of Alison Playford and David Pryce, noting that they have facilitated some very sensitive issues, and the Secretariat/Project Support on her efforts in providing high quality papers and support to the Committee.

The Committee agreed to close the Moss Review Implementation Project.

### **Attachments**

I attach for your information:

- Final minutes from Steering Committee Meeting on 20 June 2018 ([Attachment A](#))
- Chairs Paper - broader issues related to improving the circumstances for Aboriginal and Torres Strait Islander people in the ACT Community ([Attachment B](#))
- Inspector Response ([Attachment C](#))
- Letter from the Chair of the Steering Committee to the Human Rights Commissioner ([Attachment D](#))
- Letter from the Chair of the Steering Committee to the ACT Ombudsman ([Attachment E](#))
- ACTCS Rehabilitation Framework ([Attachment F](#))

- Committee Position Paper – Recommendation 6 (Attachment G)
- Closure Reports (Attachments H-P)

Russell Taylor AM  
Independent Chair

**JULY 2018**

# Attachment A

Final Minutes from Steering Committee  
Meeting on 20 June 2018

**MOSS REVIEW IMPLEMENTATION  
STEERING COMMITTEE**

**MEETING MINUTES**

**Meeting 13: 9.30 – 1.00 pm on 20 June 2018**

**DG Conference Room, Level 9, 12 Moore Street**

Attendees	Apologies
<p>Russell Taylor AM (Chair)  Alison Playford (DG, JACS)  Julie Tongs OAM (CEO Winnunga Nimmityjah Aboriginal Health and Community Service)  Bernadette Mitcherson (DG, CSD)  Michael De’Ath (DG, ACT Health)  Anthony Longbottom (Aboriginal Legal Service)  Katrina Fanning (ABTSIEB)  <b>Others</b>  David Pryce (DDG, JACS) (IDPT Chair)  Vanessa Dumbrell (Secretariat, ACTCS)</p>	<p>Joanne Chivers (ATSIEB)</p>

Agenda item	Description	Discussion	Action
1.	<b>Welcome</b>	<p>The Chair welcomed everyone to the thirteenth and final Steering Committee meeting.</p> <p>The Chair acknowledged the traditional custodians of the land on which the meeting is held and paid respect to their elders past and present. The Chair recognised the memory of Steven Freeman as the reason for coming together today.</p> <p>The Chair noted that this would be the final meeting for the Moss Implementation Steering Committee. He commended the hard work and diligence of the Inter-Directorate Project Team in delivering the recommendations of the Moss Review. He will</p>	

		<p>take time in the meeting to discuss information he will put into a report for the Minister that moves beyond the terms of reference of the Steering Committee, but will provide advice and information for the Minister to consider to improve the Justice System into the future.</p> <p>Katrina Fanning attended on behalf of the Aboriginal and Torres Strait Elected Body (the Elected Body). It was noted that Joanne Chivers from the Elected Body was an apology for the meeting.</p>	
2.	<b>Minutes</b>	The Committee endorsed the minutes noting no changes had been made out of session.	
3.	<b>Action Items</b>	<p>Action items:</p> <ul style="list-style-type: none"> <li>• CSD to provide a soft copy of the presentation to the Secretariat <b>Completed.</b> This was circulated to the Committee out of session.</li> <li>• Secretariat to send the Arrangement and supporting Information-Sharing Schedule to members of the Steering Committee <b>Completed.</b> This was circulated to the Committee out of session.</li> <li>• Secretariat to consult with Mr Taylor about the paper (recommendation 6) and provide a draft back to the Committee in the June meeting <b>Completed.</b> The draft paper will be discussed further at agenda item 5.</li> <li>• Secretariat to send the letter to the Inspector on behalf of the Steering Committee <b>Completed.</b> The Inspector has provided a response. This will be discussed further at agenda item 4.</li> <li>• Secretariat to invite Mr McAllister to attend the June Steering Committee meeting to discuss the review of remand detainees <b>Completed.</b> Ms Rebecca Minty from the Office of the Inspector will attend personally. Mr Neil McAllister will be available via telephone.</li> </ul>	

		<ul style="list-style-type: none"> <li>• Secretariat to draft a paper/final communique to the Minister responding to key issues of the Law Reform Commission report <b>Ongoing.</b> Secretariat and the Chair will begin drafting this paper for the Minister.</li> <li>• Bail Support and housing to be listed as an agenda item at the next meeting for Anthony to speak to <b>Completed.</b> This will be discussed at Agenda item 7.</li> <li>• The Secretariat to reschedule the meeting to an earlier time <b>Completed.</b></li> <li>• Governance Arrangements <b>Completed.</b> A reference document was tabled outlining a number of arrangements between JACS and other committees. David Pryce noted that the list is not exhaustive, but describes those that are most relevant. The Chair suggested adding a column describing the terms of reference for each of the arrangements.</li> </ul>	
4.	<b>Inspector of Correctional Services – to discuss the review of remand detainees and response to the Steering Committee</b>	<p>The Chair welcomed Ms Rebecca Minty (in person) and Mr Neil McAllister (via telephone), the Inspector of Correctional Services, to the meeting. Mr McAllister apologised for not being able to attend in person, noting that he was not scheduled to be in Canberra at the time of the meeting. He thanked the Committee for the opportunity to phone in.</p> <p>The Chair thanked Mr McAllister for the response he provided to the Committee (<a href="#">Attachment A</a>). Mr McAllister explained that he is restrained by legislation in continuing oversight of the conclusions of the Moss Review. However, he provided assurance to the Committee that he will keep the insights and findings of the Moss Review in his mind when conducting future reviews. The Chair acknowledged the position of the Inspector.</p>	<p>Secretariat to arrange letters to both the ACT Human Rights Commission and the ACT Ombudsman around on-going awareness of the Moss Review recommendations.</p>

		<p>Alison Playford noted the helpful suggestion of Mr McAllister around other oversight bodies. She suggested that a letter to the Human Rights Commission and the ACT Ombudsman would assist into the future, which was supported by the Chair.</p> <p>Mr McAllister informed the Committee that he is currently undertaking a review at the AMC focusing on the management and care of remand detainees. The review will focus on the issue of remand and sentence detainees not being separated at the AMC. It will consider if the regime is fair, appropriate, and in accordance with human rights, noting that remand detainees are unconvicted. He explained that he is only one week into the review and not in a position to discuss the findings. He noted that he was very impressed with the professionalism and friendliness of the staff and detainees at the AMC. This gave him an overall impression that there was a positive culture operating at the AMC.</p> <p>The Chair thanked Mr McAllister for his time and speaking with the Committee, and wished him well with his future work.</p>	
5.	<p><b>Recommendation 6 – Jon Peach, ED of ACTCS to provide a briefing about the initiatives of recommendation 6</b></p>	<p>The Chair welcomed Jon Peach, ED, ACTCS to the meeting.</p> <p>a) <u>Rehabilitation Framework</u></p> <p>Mr Peach discussed the development of the Rehabilitation Framework. He acknowledged that this had been an outstanding recommendation made in the Auditor-General’s review in 2015. The framework has now been finalised and will form part of the operational model of the AMC, which will be underpinned by safety, dignity. The new operating model ties into structural change that has been introduced, with a new leadership team to be finalised by end of July. The new management team will drive the rehabilitation framework and operating procedures.</p> <p>Mr Peach informed the Committee that the partnership between Winnunga and ACT Health is ongoing and the structured day for females will be rolled out to male detainees by the end of the year. The review and update of policies and procedures will be delivered as a project and will bring all policies and procedures in line with the operating model. The first procedures to be reviewed</p>	

		<p>will be on incident and reporting notification, regime planning and the structured day including incentives and privileges.</p> <p>The Chair complimented Mr Peach and ACTCS on the work that has been done so far and the direction of ACTCS. Mr Peach noted that there are increasing detainee pressures with a high of 507 detainees at the AMC recorded recently. The infrastructure has not grown to match this and it has been necessary for the AMC to be creative about what they can do within the current infrastructure restraints.</p> <p>Mr Peach stated that moving forward rehabilitation services will continue to be a focus. Each detainee will have a sentence management plan that will continue with them into the community post release.</p> <p>The Chair offered his view that with 33-35% of the population being remand detainees there needs to be some useful programs offered, for example parenting. Mr Peach informed him that the sentence management plan will assist in identifying the potential for these programs. The Chair also stated that the goal needs to be reducing the number of remanded prisoners as they are presumed innocent. Mr Peach noted this concern and stated that ACTCS can't make these changes on its own. These issues are a whole of society problems and early interventions would assist with this. The Chair noted many remand detainees should not be in custody rather rehabilitation facilities and mental health facilities.</p> <p>The Chair believes that many of the Aboriginal and Torres Strait Islander people in custody may be struggling with issues related to identity. It is his view that programs around family history and language would assist with this. Mr Peach noted that these are done in part, particularly with the support of Winnunga, but further development of these types of programs would be positive. The position</p>	
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		<p>of Indigenous Services Coordinator has been established with the intention to bring these programs together.</p> <p>b) Endorsement of the Steering Committee Position Paper on Recommendation 6 (<u>Attachment B</u>).</p> <p>The paper was endorsed with minor changes. The Committee suggested that the statement be amended to include that the Elected Body has agreed to continue oversight through the hearings process, and that the Inspector and other oversight agencies have also been approached to assist in ongoing oversight of the implementation of Recommendation 6.</p> <p>It was agreed that Recommendation 6 has not been achieved but there has been a lot of work around the intent of the recommendation by ACTCS.</p> <p>The Committee supports the Minister’s approach to looking into initiatives to reduce the number of people in the AMC. The Chair noted that the Inspector of Correctional Services had forewarned that if another facility were built it would no doubt be quickly filled.</p> <p>Anthony Longbottom raised a concern about an Aboriginal and Torres Strait Islander women that was 39 minutes late to report for bail at the police station. She was taken into custody as a result by ACT Policing for breaching her bail. The Committee were in agreement that this punitive approach is detrimental to individuals and the broader community. They would like to see steps taken to prevent this type of reaction in future circumstances.</p>	
6.	<b>Closure Reports</b>	David Pryce advised that the Project Team had developed formal closure reports against each recommendation to assist the Committee. He further advised that the reports are intended to provide a succinct outline of the key activities that demonstrate achievement	

		<p>against each of the recommendations. To strengthen the reports and provide strong governance they will be signed by the leads of the IDPT and the Chair of the Steering Committee. The Committee were supportive of this approach.</p> <p>i) Recommendation 1 This recommendation focused on CCTV and the arrangements around its improvement including developing standards and the training of officers in its operation. The committee agreed to the content of the closure report.</p> <p>ii) Recommendation 2 and 3 Mr Pryce noted that recommendations 2 and 3 cross over and it is most appropriate for the Deputy Chief Police Officer to sign off on the closure report. The committee agreed to the content of the closure report.</p> <p>iii) Recommendation 4 Mr Pryce reminded the Committee that this recommendation was fulfilled through the signing of the Arrangement. Supporting schedules will be a work in progress, with the completion of the Information Sharing schedule, SAS and others needing to be developed under the new governance arrangements provided for in the Arrangement.</p> <p>Alison Playford noted that the Directors-General of JACS and ACT Health had agreed to a one year review of the Arrangement. This is due in August and is an agenda item on the quarterly strategic meeting. The review will also assist in focusing on the next schedules to be developed. The Committee agreed to the content of the closure report.</p> <p>iv) Recommendation 5 David Pryce noted that a new contract had not yet been signed by ACT Health and Winnunga. Ms Tongs advised that Winnunga had signed their copy of the contract and it was now back with ACT Health for finalisation. Michael</p>	
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		<p>De'Ath anticipated that the contract would be finalised very soon noting an intended 1 July commencement date. The Committee agreed that signing of the contract would satisfy this recommendation, and requested that closure report be completed once this has occurred.</p> <p>v) Recommendation 6 The committee agreed to the content of the closure report, noting that the recommendation had not been achieved.</p> <p>vi) Recommendation 7 The Health Services Commissioner has completed her own motion review. The Committee agreed to the content of the closure report.</p> <p>vii) Recommendation 8 The appointment of a new Inspector of Custodial Services along with supporting legislation has been achieved. The Committee agreed to the content of the closure report.</p> <p>viii) Recommendation 9 There were some minor amendment's suggested to this closure report. The Committee agreed to the content of the closure report with some minor amendments.</p>	
7.	<p><b>Discussion on progress of Bail Support and Housing</b></p>	<p>Anthony Longbottom provided the Committee with an update of the Bail Support trial. He reported that it is going along smoothly and has a number of clients it supports. It is his view that the trial will prosper with the courts as Magistrates begin to understand what the program is about and its benefits.</p> <p>He stated that the program would be more successful if the courts had somewhere to bail clients to in Canberra. Currently, there are very few housing options available to Aboriginal and Torres Strait Islander people. A housing support option would allow a</p>	

	<p>service sufficient time to work with individuals and build everyday living skills, employment, and enhance connections to positive culturally appropriate support networks.</p> <p>Ms Tongs noted that there is not an Aboriginal Hostel in Canberra, like other jurisdictions. It is a source of sadness for her that many Aboriginal and Torres Strait Islander people are choosing to stay in custody as they have nowhere else to go. She spoke of one client, who went to the Sentence Administration Board (the Board) with a packed bag and asked that the Board cancel her parole as she felt she had no other options. The Board cancelled her parole order and she went back to custody.</p> <p>Ms Tongs pointed out that if there were more appropriate housing options it would take pressure of the AMC and other justice agencies. Bernadette Mitcherson suggested that an economic modelling project could be done to compare the cost of imprisonment to the cost of staffing a hostel, in order to support the approach. It is the view of the Committee that the benefits of the bail program would be enhanced dramatically if there was a funded supported housing program in the ACT.</p> <p>Community members noted that Aboriginal and Torres Strait Islander people are not employed to work on community projects. For example there are no Aboriginal people working on projects like the light rail. Providing employment options for Aboriginal and Torres Strait Islander people on such projects would be positive for the Community and suggested that the ACT Government review its procurement policies.</p> <p>Ms Tongs noted that Winnunga does not receive specific funding for supporting victims or perpetrators of Domestic Violence. She noted that many of her clients do not want to engage with mainstream services around these issues as they are fearful of Children, Youth and Protection Services involvement. Currently Winnunga support these people within existing services.</p> <p>Anthony Longbottom noted that Jervis Bay is an area under ACT jurisdiction that is ignored and not funded to provide appropriate support to members of the community in</p>	
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		<p>need. He suggested that many of the people who are not supported in the community, will eventually be detained at the AMC.</p> <p>Ms Tongs noted that there remain ongoing issues with detainees who have mental health issues. She provided an example of the recent tragedy of a 23 year old Aboriginal man who committed suicide in Junee Correctional Centre. Mr De’Ath noted that the office of a Co-ordinator General for Mental Health has been launched and will provide a coherent and cohesive way to move forward. Ms Tongs acknowledged this development however, noted that she is more interested in seeing change occurring ‘on the ground’ as she is constantly reminded through her work of the traumatic and serious level of mental illness in her clients that move across all of these agencies.</p> <p>The Chair stated that all of these issues will be discussed in the communiqué to the Minister.</p>	
8.	<b>Next Steps</b>	<p>The Committee agreed that a number of issues are to be considered in the closing Communique. These are:</p> <ul style="list-style-type: none"> <li>• Justice Reinvestment</li> <li>• Bail Trial</li> <li>• Availability of Housing</li> <li>• Issues captured in the Australian Law Reform Commission Report</li> <li>• Bail/Sentencing</li> <li>• Trauma informed practice and policies and procedures including development of family history programs at the AMC and ongoing cultural proficiency training of staff.</li> <li>• Rising number of detainees at the AMC</li> <li>• Mental Health</li> <li>• Restorative Justice and Circle Sentencing</li> <li>• Nattai Reports</li> <li>• Front-up and Interview with Friends programs.</li> </ul>	

		The Chair noted that his final communique will also include all closure reports and the committee’s position paper on Recommendation 6.	
9.	<b>Other Business</b>	<p><u>Discussion about the findings of the Coronial Inquest</u></p> <p>The Chair noted that Ms Tongs had not had the opportunity to discuss the findings of the Coronial Inquest into the death of Steven Freeman, as she was unable to attend the May 2018 Steering Committee meeting. The Chair invited Ms Tongs to make any comments on the coronial outcome.</p> <p>Ms Tongs expressed disappointment about the coronial outcome on behalf of Winnunga and the family of Steven Freeman. She noted that the inquest pointed to multi-system failures but no individual or agency was held responsible. Ms Tongs said that this has left the Freeman family with many questions and they feel that there has been no justice. Ms Tongs advised she will continue to advocate for the family, and for change.</p> <p>As a response to the findings, Ms Tongs advised that she had re-assessed how Winnunga will provide services within the AMC. She has decided that they will maintain the position of ‘Winnunga on the inside and outside’. As the Coronial Inquest did not make any specific findings into the systems, Winnunga are not willing to partner and share the risk if something goes wrong. She further advised that Winnunga has engaged Blooms Chemist to provide medication to detainees; the revised contract includes provisions for an initial health check, review, and triage; and Winnunga will employ a psychologist and social health team.</p> <p><u>Issues with Police</u></p> <p>Ms Tongs raised a concern about an assault of Aboriginal and Torres Strait Islander woman that she does not feel was dealt with appropriately. She advised that she intends to approach the Minister for Police to get answers. It is her view that change has to start with policing and they need to better understand and respect Aboriginal culture in order to achieve the best results.</p>	

<p><b>10.</b></p>	<p><b>Closure of Project, acknowledgements and reflection</b></p>	<p>David Pryce advised the Committee that it is likely that the Minister for Corrections will provide a final update on the Moss Review Implementation to the Legislative Assembly. He also noted that the ACT Government is providing a whole of government response to the findings of the Steven Freeman coronial inquest, and this was a separate process. Mr Pryce acknowledged the contribution of individuals and the time and resources that have been dedicated to the Moss Review Implementation. He thanked the Chair for his leadership and guidance to achieve positive changes in response to the Moss Review.</p> <p>The Chair echoed the comments and noted the extensive work undertaken by the project teams and Directorates, and recognised the genuine commitment and collaboration demonstrated to implement the recommendations. The Chair also acknowledged the work of Alison Playford and David Pryce who had facilitated some very sensitive issues, and the Secretariat/Project Support on her efforts providing high quality papers and support to the Committee.</p> <p>The Chair closed the meeting and the Moss Review Implementation Project.</p>	
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# Attachment B

Chairs Paper – broader issues related to improving circumstances for Aboriginal and Torres Strait Islander People in the ACT Community

## Chair's Paper - Broader Criminal Justice Issues

### Background/Moss Review

On 27 May 2016 a 25 year old Aboriginal man, Steven Freeman, died while in custody at the Alexander Maconochie Centre (AMC). This tragic death has had a lasting impact on the Aboriginal and Torres Strait Islander community. I pay my respect to his family and acknowledge their loss and grief. I would also like to acknowledge the strength of Ms Narelle King, Steven Freeman's mother, who has been a strong advocate for change since the death of her son.

In June 2016, the Minister for Corrections announced an independent review into Steven Freeman's care and treatment during his time in custody. Mr Philip Moss AM was the independent reviewer, and he examined Steven Freeman's treatment throughout his time at the AMC.

Mr Moss titled his review "*So much Sadness in our Lives*", *Independent Inquiry into the Treatment in Custody of Steven Freeman*<sup>1</sup> (The Moss Review). It was released publically on 10 November 2016.

The Inquiry found that the ACT Government must do more to ensure people in custody are safe and receive culturally safe health care. It suggested improvement in a range of areas, particularly increasing cultural proficiency to more effectively manage the welfare of Aboriginal and Torres Strait Islander detainees.

### Implementation Steering Committee

The ACT Government agreed to implement eight of the nine recommendations of the Moss Review. Strong governance arrangements have been in place to ensure the implementation of these recommendations, which has been overseen by a high-level Steering Committee. I have led this Committee and represented the interests of both the community and the Freeman family, and reported directly to the Minister each month on the status of each recommendation.

Other members of the Steering Committee include the Directors-General of the Justice and Community Safety Directorate, ACT Health and the Community Services Directorate along with key community representatives; Julie Tongs OAM, Chief Executive Officer, Winnunga Nimmityjah Aboriginal Health and Community Service (Winnunga), Anthony Longbottom for

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<sup>1</sup> Philip Moss AM (2016), "*So Much Sadness in our Lives*" Independent Inquiry into the Treatment in Custody of Steven Freeman, [http://cdn.justice.act.gov.au/resources/uploads/JACS/Reviews/submissions/Treatment\\_in\\_Custody/Report\\_of\\_Independent\\_Inquiry.pdf](http://cdn.justice.act.gov.au/resources/uploads/JACS/Reviews/submissions/Treatment_in_Custody/Report_of_Independent_Inquiry.pdf)

the Aboriginal Legal Service and Joanne Chivers for the Aboriginal and Torres Strait Islander Elected Body.

When the Moss Review Implementation Steering Committee held its first meeting on Thursday 25 May 2017, I noted that, as the Independent Chair I would remain impartial and represent the Minister in the interests of the community and the Freeman family. I endeavoured to test the strategy for each recommendation against the questions: has it been implemented; will it last for the long haul; does it meet community expectations?

More than a year later, by answering the test strategy, the Steering Committee agreed to close the Moss Review Implementation Project on 20 June 2018. The Steering Committee has found that the work undertaken by the ACT Government to implement the recommendations of the Moss Review has been extensive, and I can see that real change has occurred.

The Committee found seven of the nine recommendations satisfied. Recommendation 5 relates to the introduction of Winnunga into the AMC and will require time to implement. Work is well underway to incorporate Winnunga's holistic model of care into the AMC, and I have been advised that Winnunga have been present at the AMC since 2 July 2018 developing protocols for service delivery. This ground-breaking partnership will assist in maintaining cultural connection and improving the overall wellbeing and safety of all detainees, especially Aboriginal and Torres Strait Islander detainees.

Recommendation 6 was found not to have been achieved as it requires a commitment from the ACT Government to build another facility, and no such decision has been made. The Steering Committee have concluded that while the Government has agreed in principle to this recommendation, it cannot be considered as delivered until the ACT Government commits to build another facility.

The Steering Committee traversed a lot of ground, and through the course of the meetings many issues were raised by the community members on broader issues related to improving the circumstances for Aboriginal and Torres Strait Islander people in the ACT, particularly for those engaged with the criminal justice system. This paper brings these issues to the attention of the ACT Government and provides suggestions and options for government to consider as it continues to develop initiatives to reduce the number of Aboriginal and Torres Strait Islander people in custody.

### Australian Law Reform Commission Report

The Australian Law Reform Commission Report released *Pathways to Justice – Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples* (ALRC Report)<sup>2</sup>, in

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<sup>2</sup> Australian Law Reform Commission, *Pathways to Justice – Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander People*, Final Report No 133 (2017) (ALRC Report). Retrieved from <https://www.alrc.gov.au/publications/indigenous-incarceration-report133>

December 2017. This report is a recipe for government to follow to reduce the disproportionate rate of incarceration of Aboriginal and Torres Strait Islander people and improve community safety. It calls for the Commonwealth Government to develop national criminal justice targets to reduce Indigenous incarceration rates, the creation of an independent justice reinvestment body, and to establish a national inquiry into child protection laws affecting Indigenous children.

Since 1991 there have been numerous reports and inquiries into Aboriginal and Torres Strait Islander involvement in the criminal justice system, and the cultural, social, and legal, factors that contribute to this overrepresentation. Recommendations such as those put forward in the ALRC Report follow the recommendations from previous reports, and remind us that we should not neglect whole-of-government responses to these issues that will result in tangible and measurable outcomes for Aboriginal and Torres Strait Islander peoples.

The ALRC Report revealed the startling disproportionate incarceration rates for Aboriginal and Torres Strait Islanders. Although Aboriginal and Torres Strait Islander adults make up around 2% of the national population, they constitute 28% of the national prison population<sup>3</sup>. Sadly, Aboriginal and Torres Strait Islander incarceration rates increased by 41% between 2006 and 2016<sup>4</sup>.

I am deeply concerned that the ACT has experienced an increase in Indigenous detainees at the AMC. On 30 June 2014, Indigenous detainees comprised 16 per cent of the AMC prisoner population<sup>5</sup>. On 30 June 2017, this number had risen to 21 per cent of the AMC prisoner population<sup>6</sup>. The ACT recorded the largest annual increase in Aboriginal and Torres Strait Islander prisoners of 17% between the March quarters of 2017 and 18<sup>7</sup>. While we work together to innovate and collaborate on the delivery of new or improved services, let us agree that this trend simply cannot be allowed to continue.

I urge the ACT Government to act now and implement new programs, invest in housing programs and try new and innovative programs to reduce the rate of incarceration of Aboriginal and Torres Strait Islander peoples. I am aware that these programs require significant financial investment, however these costs must be considered against the continuing cost of incarcerating Aboriginal and Torres Strait Islander people in increasing numbers in the AMC.

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<sup>3</sup> ABS '4512.0 - Corrective Services, Australia, March quarter 2018'. Retrieved from <http://www.abs.gov.au/ausstats/abs@.nsf/0/C57B3CAC8D0EDB87CA25825000141F8F?Opendocument>

<sup>4</sup> ALRC p 40-41

<sup>5</sup> ABS '4517.0 - Prisoners in Australia 2014' Retrieved from [http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/4517.0~2014~Media%20Release~Australian%20prisoner%20numbers%20climb%20to%20ten%20year%20high%20\(Media%20Release\)~10023](http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/4517.0~2014~Media%20Release~Australian%20prisoner%20numbers%20climb%20to%20ten%20year%20high%20(Media%20Release)~10023)

<sup>6</sup> ABS '4517.0 - Prisoners in Australia 2017' Retrieved from <http://www.abs.gov.au/ausstats/abs@.nsf/mf/4517.0>

<sup>7</sup> ABS 4512.0 - Corrective Services Australia, March quarter 2018

I am also concerned that the number of remand detainees at the AMC comprises 39% of all prisoners at the AMC<sup>8</sup>, an amount that is greater than the national average of 33%<sup>9</sup>. It is imperative that the ACT innovate and implement solutions to reduce the number of unconvicted people in custody. This would involve making available to Aboriginal and Torres Strait Islander offenders alternatives to imprisonment that are appropriate to the offence and the offender's circumstances. Such an outcome would significantly reduce pressure on the AMC and improve the health, social and economic outcomes for Aboriginal and Torres Strait Islander peoples involved in the criminal justice system. I am aware the Inspector of Correctional Services, Mr Neil McAllister, has initiated a review into the care and management of detainees at the AMC, and look forward to following the outcomes of this review.

### Justice Reinvestment

The ALRC Report recommends that Commonwealth, state and territory governments should support the establishment of an independent justice reinvestment body to promote the reinvestment of resources from the criminal justice system to local community development initiatives, in order to address the drivers of crime and incarceration<sup>10</sup>. In January 2018, the Steering Committee learnt about the Yarrabi Bamirr Justice Reinvestment Trial partnership between the ACT Government and Winnunga. This trial aims to provide support to Aboriginal and Torres Strait Islander families involved in the criminal justice system by providing case management for offenders and their families, coordinating support through the development of family plans, and connecting offenders to support services in the community, while also providing supportive reintegration to the family and community. I was pleased to hear that the development of the Justice Reinvestment Trial involved a co-design process with cross-agency sector support.

Justice reinvestment can provide the ACT Government with alternatives to incarceration that are consistent with targets to reduce recidivism and decrease high numbers of Aboriginal and Torres Strait Islander incarceration. I recommend that the ACT Government invest in an independent evaluation of the Yarrabi Bamirr Justice Reinvestment Trial that is led by the Indigenous community, and allows the local Aboriginal and Torres Strait Islander community to take ownership of justice reinvestment for its people.

### Bail Trial and Availability of Housing

The ALRC Report recommended that government work with Aboriginal and Torres Strait Islander organisations to “develop and implement culturally appropriate bail support

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<sup>8</sup> Ibid

<sup>9</sup> Ibid

<sup>10</sup> ALRC p 13

programs”<sup>11</sup> to reduce Aboriginal and Torres Strait Islander incarceration. Similar recommendations were made by the Royal Commission into the Protection and Detention of Children in the Northern Territory<sup>12</sup>. The Moss Review also concluded that the options available to the Magistrates Court when considering Steven Freeman’s bail application were lacking in so far as the “Aboriginal community were not able to participate and there were limited supported accommodation options available for the magistrate to consider outside the AMC”.

The Steering Committee heard that the Ngurrumbai Bail Support Trial was launched on 7 December 2017. The Trial will provide individualised bail support both at the Magistrates Court, and on an outreach basis, as well as case planning and goal-setting, with the aim of reducing recidivism and strengthening communities. This is a very exciting initiative that has the potential to realise some very positive results in the community, and is in line with the recommendation of the ALRC Report on culturally appropriate support programs.

Anthony Longbottom from the Aboriginal Legal Services has provided regular updates to the Steering Committee about the progress of the trial. Mr Longbottom believes the program will prosper as the Magistrates Court becomes familiar with the program and its outcomes.

Mr Longbottom identified that the program would be more successful if the Magistrates Court had access to a suitable bail housing option in the ACT. There are few housing options available to Aboriginal and Torres Strait Islander people, in particular for those requiring supportive accommodation in order to be eligible for bail in the first instance, as well as to ensure compliance with bail conditions. A housing support option would provide Indigenous services with essential access to support individuals to improve their living skills, access employment, and enhance connections to culturally relevant support networks, which will improve their prospects of rehabilitation beyond the completion of criminal proceedings.

Up to one third of Aboriginal and Torres Strait Islander detainees are held on remand awaiting trial or sentence.<sup>13</sup> Disadvantages when applying for bail can include irregular employment, previous convictions, and/or lack of secure accommodation, all of which can disadvantage Aboriginal and Torres Strait Islander peoples when applying for bail. The Steering Committee are of the view that the Magistrates Court would elect to grant bail more frequently where a supportive accommodation option was available.

It was disheartening to hear that Steering Committee members have witnessed people choosing to stay in custody due to a lack of safe accommodation options in the community. This situation would be alleviated if there were sufficient housing programs in the community that included assistance for people to comply with community-based orders. For Aboriginal and Torres Strait Islander women in particular, rates of imprisonment reflect the disproportional levels of victimisation and entrenched disadvantage they experience. In

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<sup>11</sup> ALRC 11

<sup>12</sup> Royal Commission into the Protection and Detention of Children in the Northern Territory (2016). ‘Findings and Recommendations’, p 42

<sup>13</sup> ALRC p 13

2016 it was found that Aboriginal and Torres Strait Islander were incarcerated at a rate which was 21 times higher than for non-Indigenous women<sup>14</sup>. Family violence and assault, unstable housing and involvement with child protection, are just some of the key forms of disadvantage reflected in Aboriginal and Torres Strait Islander women who are the fastest growing prison cohort across Australia<sup>15</sup>. Alternatives to incarceration, including holistic, trauma-informed diversion programs for Aboriginal and Torres Strait Islander women who have experienced intergenerational trauma,<sup>16</sup> are desperately needed.

I recommend that the ACT Government invest in research to inform the establishment of bail hostels or similar programs, in partnership with Aboriginal and Torres Strait Islander organisations, to provide culturally safe support for Aboriginal and Torres Strait Islander people to assist them to comply with bail conditions in a supported environment.

### Bail/Sentencing

The ALRC Report recommends that bail laws should require bail authorities to consider issues and circumstances arising from a person's experiences as an Aboriginal or Torres Strait Islander person when making bail determinations.<sup>17</sup> I am aware that work has begun on this issue with the Response to the Standing Committee on Justice and Community Safety's Inquiry into Sentencing.

I am further aware that consultation on a trial of Ngattai Court Reports is underway. Ngattai means 'listen' in the Ngunnawal language. These reports are also known as Aboriginal and Torres Strait Islander Experience Sentencing Reports, and will provide sentencing courts with a complete understanding of a person's intergenerational family background, connection to culture, circumstances of offending and rehabilitative recommendations. These reports will allow the Court to apply individualised justice when considering sentencing options, allowing the unique circumstances of Aboriginal and Torres Strait Islanders peoples to inform meaningful outcomes. I look forward to hearing about the success of the implementation of this trial.

The legacy of discrimination and disadvantage experienced by generations of Aboriginal and Torres Strait Islander peoples has resulted in the disproportionate levels of involvement in the justice system of this cohort. Reversing this legacy requires decision-making which is informed by these intergenerational traumas, and considers the historical, social, and personal circumstances of each individual within the context of their status as an Aboriginal and Torres Strait Islander person. I am pleased that the ACT is leading the country in addressing this issue, and hope to see it expanded across the criminal justice system in the ACT.

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<sup>14</sup> ALRC p 161

<sup>15</sup> Ibid p 98

<sup>16</sup> Ibid p 21

<sup>17</sup> Ibid p 14

## Trauma informed practice and policies and procedures

Research suggests that the relationship between the child protection system, juvenile justice and adult incarceration is so strong that child removal into out-of-home care and juvenile detention could be considered key drivers of adult incarceration.<sup>18</sup> The Royal Commission into Aboriginal Deaths in Custody found that almost half of the people reviewed had been removed from their parents.<sup>19</sup> With Aboriginal and Torres Strait Islander young people placed into out-of-home care at alarming rates<sup>20</sup>, these links should be considered as a part of whole-of-government responses to improving life outcomes for our people. Involvement by the justice system with Aboriginal and Torres Strait Islander young people should recognise the crossover between care and detention, and prioritise services addressing the needs of young people and minimising re-offending. The appropriate treatment of complex needs and behaviours of young people involved in both care and detention would likely reduce the risk factors for future involvement in the adult justice system.

I am of the belief that many Aboriginal and Torres Strait Islander people in custody may be struggling with issues related to identity and intergenerational trauma. The ACT Government could consider introducing stand-alone programs on family history and language for delivery inside the AMC, such as were recommended in the findings of the Royal Commission into Aboriginal Deaths in Custody<sup>21</sup>. While it has been noted that this is done in the AMC in part, particularly with the support of Winnunga, further development of these types of programs would be a positive development. The position of Indigenous Services Coordinator at the AMC is welcome and it is my hope that this position will oversee new programs linked to local Aboriginal and Torres Strait Islander service organisations. I recommend that ACT Corrective Services approach the Australian Institute of Aboriginal and Torres Strait Islander Studies to explore the potential for a program to be delivered at the AMC to assist Aboriginal and Torres Strait Islander detainees to research their Indigenous family histories.

Aboriginal and Torres Strait Islander detainees require assistance to address offending behaviours and aid rehabilitation that is informed by the experiences of our people across generations. Intergenerational trauma for Aboriginal and Torres Strait Islander peoples is indelibly linked to colonisation and its damaging consequences for social networks and social norms across communities. For female offenders in particular, programs need to be trauma-informed and culturally safe<sup>22</sup>. Jane Pederson, a Churchill Fellowship recipient, wrote a recent report into trauma-informed and healing practices at the Marinwarntikura

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<sup>18</sup> ALRC p 20

<sup>19</sup> The Royal Commission into Aboriginal Deaths in Custody, National Report (1991), (RCIADIC) p 52

<sup>20</sup> ALRC p 489

<sup>21</sup> RCIADIC Vol 5 [184]

<sup>22</sup> ALRC p 16

Women's Resource Centre<sup>23</sup>. The report reflects the need for the community sector and policy makers to understand the breadth and depth of intergenerational trauma, and what it means to deliver effective and sustainable community interventions that can break the cycle of intergenerational trauma<sup>24</sup>. The seven recommendations that conclude the report are designed as a trauma-informed and healing implementation plan to be used by Indigenous and community-based organisations. These recommendations could be applied across the ACT Government and have the potential to break the cycle of intergenerational trauma.

In this context I note the recent report produced by the Australian Institute of Health and Welfare entitled *Aboriginal and Torres Strait Islander Stolen Generations and descendants: Numbers, demographic characteristics and selected outcomes*<sup>25</sup>. This report highlights the significant numbers making up the surviving Stolen Generations (and their descendants) population. The report identifies the acute and complex needs of the Stolen Generations (compared with other Aboriginal and Torres Strait Islander peoples not subject to removal policies and practice) and importantly recognises the insidious legacy and costly flow on effects of intergenerational trauma to the descendants of the Stolen Generations.

The report also highlights that compared to other Indigenous Australians, the Stolen Generations experience higher levels of adversity in relation to all of the 38 key health and welfare measures included in the report. The report proves that the negative impact of past atrocities impacts on later generations. Descendants of the Stolen Generations consistently experience poorer health and social outcomes including unemployment and greater interaction with the justice system. For example compared to other Aboriginal and Torres Strait Islander people descendants are:

- Almost twice as likely to have experienced violence
- 1.3 times more likely to report poor mental health
- 1.4 times more likely to have been charged by police
- 1.4 times likely to have low levels of trust in the general community, and
- 1.2 times to have used substance in the past 12 months

Interestingly, 30% of the Stolen Generations reside in New South Wales with 5% identified as residing in the ACT and Tasmania and all of the Stolen Generations survivors will be eligible for aged care by 2023.<sup>26</sup>

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<sup>23</sup> Pedersen. J (2016) 'Empowering women and children to overcome intergenerational trauma', retrieved from <https://www.churchilltrust.com.au/fellows/detail/4191/Jane+Pedersen>

<sup>24</sup> Ibid p 3

<sup>25</sup> Australian Institute of Health and Welfare (2018) 'Generations and descendants: numbers, demographic characteristics and selected outcomes' retrieved from [www.aihw.gov.au](http://www.aihw.gov.au)

<sup>26</sup> Ibid

I make the foregoing observations to emphasise the importance of developing and initiating trauma informed policy, programs and practice within the judiciary, within policing and within corrective services.

### Aboriginal-led services

The ALRC Report recommends that prison programs be developed with relevant Aboriginal and Torres Strait Islander organisations. This recommendation was also made in the findings of the Royal Commission into Aboriginal Deaths in Custody<sup>27</sup> and the Royal Commission into the Protection and Detention of Children in the Northern Territory<sup>28</sup>. The programs should be made available to Aboriginal and Torres Strait Islander people serving short sentences or held on remand. Additionally, programs designed for female Aboriginal and Torres Strait Islander prisoners should be developed, designed and delivered by Aboriginal and Torres Strait Islander organisations and services<sup>29</sup>. I recommend a review of all the programs offered to Aboriginal and Torres Strait Islander detainees at the AMC, to consider their cultural appropriateness and effectiveness. Feedback from prisoners should also form part of such a review.

### Circle Sentencing

The Galambany Circle Sentencing Court within the Magistrates Court is a positive step for the culturally-appropriate administration of justice for Aboriginal and Torres Strait Islander people. This court provides a cultural sentencing option for eligible Aboriginal and Torres Strait Islander people who have offended. While the circle sentencing process gives the ACT Aboriginal and Torres Strait Islander community an opportunity to work collaboratively with the criminal justice system to address issues of over representation and offending behaviour, the court needs further resources. These resources would incorporate individualised case management and wraparound services that are culturally competent, culturally safe and culturally appropriate.<sup>30</sup>

I am pleased to note the commencement of the Warrumbul Circle Sentencing Court later this year, which will extend the benefits provided by culturally-appropriate sentencing options to the ACT Children's Court. Relevant Aboriginal Torres Strait Islander organisations should play a central role in the design, implementation and evaluation of specialist Aboriginal and Torres Strait Islander sentencing courts.

### Conclusion

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<sup>27</sup> RCIADIC (1998) Vol 5 [183]

<sup>28</sup> RCPDCNT p 35

<sup>29</sup> ALRC p 20

<sup>30</sup> ALRC rec 10

I am impressed with the commitment the ACT Government continues to display to reduce the rates of Aboriginal and Torres Strait Islander people incarcerated in the AMC. Further investment of resources is needed to implement new programs, invest in housing programs and try new and innovative programs that could reduce the rate of incarceration of Aboriginal and Torres Strait Islander People. Culturally appropriate support programs in the community and at the AMC would alleviate the discrimination and disadvantage experienced by Aboriginal and Torres Strait Islander people. The Australian Institute of Aboriginal and Torres Strait Islander Studies could assist ACT Corrective Services to deliver programs to support Aboriginal and Torres Strait Islander detainees to research their Indigenous family histories and build their sense of identity. A review of all programs offered to Aboriginal and Torres Strait Islander detainees at the AMC would be beneficial to consider their cultural appropriateness and effectiveness, it is essential that the voice of prisoners is heard in any such review. I also recommend that Aboriginal and Torres Strait Islander organisations play a central role in the design, implementation and evaluation of specialist Aboriginal and Torres Strait Islander sentencing courts. The cost of a multi-faceted approach must be considered against the huge costs of continuing to incarcerate Aboriginal and Torres Strait Islander People, and continuing the cycle of disadvantage and trauma.

I have appreciated the opportunity to participate in the Steering Committee deliberations and I am available to discuss any and all aspects of this report at the convenience of the Minister and appropriate Departmental Officials.

# Attachment C

Response from the  
Inspector of Correctional Services



## ACT INSPECTOR OF CORRECTIONAL SERVICES

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Our ref: OCSI 02/18

6 June 2018

Mr Russell Taylor AM  
Independent Chair  
Moss Review Oversight Steering Committee  
GPO BOX 158  
CANBERRA ACT 2601

Dear Mr Taylor

### **Moss Review recommendations – continuing oversight by the Inspector of Correctional Services**

I refer to your letter of 17 May 2018 in which you sought my *'agreement to provide continuing oversight and monitoring of the outstanding Moss review recommendations and related conclusions across correctional centres and services.'* I note that you have made a similar request of the Chair of the Aboriginal and Torres Strait Islander Elected Body (ATSIEB).

I understand these requests to be in the context of the Steering Committee disbanding in the near future, having completed the bulk of its work.

At the outset, I commend the Steering Committee for the outstanding work it has done in managing the complexities of its oversight role in relation to the Moss Report recommendations.

Whilst I strongly support the intent of the Moss Report recommendations, unfortunately I do not consider a formal monitoring role of the recommendations to be within my core functions as set out in Section 17 (1) of the *Inspector of Correctional Services Act 2017*.

However, I am mindful of the significant number of Moss Report conclusions referenced in Recommendation 9 (refer to Appendix 1 to this letter), not all of which were explicitly captured in Recommendations 1-8, and will continue to consider them broadly in the context of our work. I also think it desirable to ask the various oversight bodies (HRC, Ombudsman, Auditor-General) to be mindful of the Moss conclusions in the context of issues that might arise in the course of reviews, audits or investigations conducted by them at AMC.

As I am not scheduled to be in Canberra when the Steering Committee meets on 20 June I have asked Ms Rebecca Minty from my office to attend on my behalf. However, I am happy to participate by telephone (0466 131 236) if the Committee would find this helpful.

On a personal note, I am very appreciative of the support and wise advice you have provided to me since my appointment and I am sure that we will talk again about the work of the Inspectorate.

Yours sincerely

(signed)

Neil McAllister  
**Inspector of Correctional Services**

## **Appendix 1: Conclusions reached in the Moss Report**

The following is a list of ‘conclusions’ contained in the Moss Report shown by paragraph number (e.g. 2.1.3), Where more than one conclusion is contained in a paragraph they are shown separately [e.g. 2.1.2 (1) and 2.1.2(2)].

### **2.1.2 (1)**

When Steven Freeman arrived at the AMC he would have been unwell and vulnerable after a prolonged period of drug and alcohol use. The Inquiry concludes that a number of factors combined to place Steven Freeman unknowingly in harm’s way at the AMC.

### **2.1.2 (2)**

The Inquiry concludes also 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.

### **2.1.3**

The Inquiry concludes further that the agencies involved in the care of detainees need to find a way to share relevant detainee-related information, yet take into account all legislative, professional and ethical obligations.

### **2.1.13**

The Inquiry concludes there was no follow-up after 9 September 2015 regarding Steven Freeman’s head injury. Justice Health Services did not revisit early advice to ACTCS regarding the nature of his injuries. For its part, the AMC did not act upon the Justice Health Services advice that Steven Freeman had suffered a serious head injury.

### **2.2.1**

The Inquiry concludes there is a need to reform the AMC (ACTCS) / Justice Health Services (ACT Health) relationship under contract or memorandum of understanding (MOU) to improve information sharing and to reflect the AMC responsibility and accountability for the management of detainees’ safety and wellbeing. This MOU should reflect that Justice Health Services must meet professional health standards and protect patient privacy and confidentiality.

### **2.2.2**

Recognising the significant proportion of Indigenous detainees at the AMC, the Inquiry concludes there is a need to introduce Winnunga Nimmityjah Aboriginal Health Service to provide its holistic approach to health care for Indigenous detainees at the AMC.

### **2.2.4**

The Inquiry concludes the AMC should segregate remanded and sentenced detainees, by establishing at the AMC a separate remand facility, and thereby achieve greater human rights compliance.

### **7.2.12**

The MOU covers transfer of custody and other topics including intelligence exchange, investigations, police responses to incidents at the AMC and DNA back-capture. The Inquiry notes that ACT Health is not a party to the MOU, but concludes it would also benefit from a transfer from ACT Policing of health, wellbeing and other relevant information.

#### 7.2.14

The Inquiry notes that ACT Policing's record of interview of 27 April 2015, made reference to Steven Freeman's recent illicit drug and alcohol use. The Inquiry notes also that ACT Policing did not provide this information to ACTCS until 15 March 2016, almost a year after Steven Freeman's admission to the AMC. This situation may explain why the ACTCS Court Transport Unit Risk Assessment Form records that Steven Freeman showed no signs of being under the influence of substances. The Inquiry concludes that there was a deficiency in procedure, in that ACT Policing did not being provide this information to ACTCS or ACT Health.

#### 7.2.15

Accordingly, information which ACT Policing knew regarding Steven Freeman's illicit drug and alcohol use and difficulty in answering questions was not available to ACTCS and Justice Health Services. It meant that the opportunity for appropriate assessment and treatment for Steven Freeman on his arrival at the AMC was lost. The Inquiry concludes also that a placement at AMC based on detoxification and rehabilitation would have been more appropriate.

#### 7.2.16

The Inquiry concludes further that the lack of a comprehensive approach to information sharing between ACT Policing and ACTCS was a factor in Steven Freeman's assault in April 2015.

#### 8.2.7

The Inquiry concludes youth justice information should be available to the AMC when it is assessing the accommodation placement options for new detainees.

#### 8.2.9

The Inquiry notes the AMC's induction process required Steven Freeman himself to identify detainees of concern. The assessment took place when, unknown to the ACTCS, Steven Freeman had been using illicit drugs and alcohol for a prolonged period. The Inquiry concludes this approach placed too great an onus on Steven Freeman to identify the risk in the accommodation options.

#### 8.3.6

The Inquiry concludes that Justice Health Services failure to inform both the AMC and TCH about Steven Freeman's "significant daily ICE habit" was a deficiency.

#### 8.3.8 (1)

The Inquiry concludes also that this situation reveals an instance of inadequate information sharing in relation to Steven Freeman.

#### 8.3.8 (2)

The Inquiry concludes further that the agencies involved in the care of detainees need to find a way to share relevant detainee related information, yet take into account all legislative, professional and ethical obligations.

#### 8.4.6

The Inquiry concludes that, at the AMC, the need to accommodate increasing numbers of detainees, with a wide range of categories and classifications, has been a factor in undermining the original aim of a human rights compliant prison with a focus on rehabilitation.

#### 8.4.9

The Inquiry concludes that, at the time, the AMC admission process was deficient in that it relied on Steven Freeman to provide information about his own risk factors rather than AMC-collected information from a wider range of sources (such as ACT Policing, Justice Health Services, and Youth Justice) collated with its own intelligence.

#### 8.4.11

The Inquiry concludes also that there was a deficiency in Steven Freeman's treatment at the AMC, in that the period of induction and admission was insufficient.

#### 8.4.16

The Inquiry concludes further that a number of factors, as referred to above (eg his likely being unwell and vulnerable), combined with the result that Steven Freeman was placed unknowingly in harm's way.

#### 8.4.19

The Inquiry concludes further that had these measures and processes been in place when Steven Freeman was admitted to the AMC, the likelihood of his being assaulted would have been significantly reduced.

#### 8.6.6

The Inquiry concludes the ACTCS response following Steven Freeman's assault was appropriate.

#### 8.7.2

The Inquiry concludes the Justice Health Services immediate response to Steven Freeman's assault was appropriate.

#### 9.1.6

The Inquiry concludes that the next of kin of a detainee at TCH should be provided information about the detainee's condition and prognosis, when the detainee is unconscious and cannot give consent.

#### 9.2.5

The Inquiry concludes that in future, Justice Health Services should ensure that it shares all relevant health information about a detainee who is transferred to hospital.

#### 10.1.13

The Inquiry was told that Steven Freeman originally appeared in court wearing a hospital gown, but was unable to verify this report. Nevertheless, the Inquiry concludes that ACT Health and ACTCS need to ensure detainees transferred from hospital to the courts are provided with clothes and do not appear only wearing hospital garments. In response, ACT Health told the Inquiry it will work with ACTCS to address this issue.

#### 10.1.14

The Inquiry concludes the options available to Magistrate Dingwall in considering Steven Freeman's bail application were lacking in that the Aboriginal community was not able to participate and there

were limited supported accommodation options available for the magistrate to consider outside the AMC.

#### 11.1.7

The Inquiry concludes that ACTCS and ACT Policing should update their MOU to reflect changes made in August 2015 (as listed as paragraph 11.1.4), and this MOU be subject to ministerial approval.

#### 11.1.18

The Inquiry understands that the CCTV cameras in operation at the time of Steven Freeman's assault had the capability to "sweep", although they were not used in this way. The Inquiry notes that one of the cameras could be moved to observe Steven Freeman's cell door, as occurred when the Code Pink was called. The Inquiry concludes that ACTCS considering increased use of sweeping CCTV cameras regularly.

#### 11.1.20

The Inquiry concludes also that ACTCS should log all movements of CCTV cameras consistently with the requirements of the Australian Standard.

#### 11.1.22

The Inquiry concludes further that training consistent with the Australian Standard is not given to CCTV operators at the AMC.

#### 11.1.26

The Inquiry concludes further that the security of the AMC is lessened by the incorrect time being displayed on CCTV footage, which makes it unnecessarily difficult to determine the time of incidents within the AMC.

#### 11.1.28

This measure was abandoned in February 2011 due to problems with the battery life of RFID bracelets. The Inquiry concludes further the use of RFID bracelets and anklets should be explored again. The use of such bracelets at the time of Steven Freeman's assault would have identified who was in his cell.

#### 11.2.11

The Inquiry understands that ACT Policing already has a pro-arrest policy in relation to family violence matters. The Inquiry concludes that a similar pro-charge policy is required for violent incidents at the AMC.

#### 11.2.12

The Inquiry concludes also that the investigations of serious assaults at the AMC should also be given a higher priority by ACT Policing. The Inquiry notes that during Steven Freeman's bail hearings, ACT Policing gave evidence that they were not treating his assault as an attempted murder investigation.

#### 11.3.8 (1)

The Inquiry concludes that consideration should be given to how ACTCS and ACT Policing can work together in the context of investigations to achieve a coordinated, rather than serial and separate approach, to matters at the AMC.

#### 11.3.8 (2)

The Inquiry concludes also that ACTCS and ACT Policing should determine how joint investigation would enhance the response to any incident of assault at the AMC.

#### 12.2.21

TCH discharge procedure is for a discussion to be held with the patient's carers. This discussion includes the need for vigilance about post-concussive or post-traumatic brain injury syndrome. The symptoms that need to be monitored include any alteration of sleep patterns, increased irritability, impaired concentration, and potential for ongoing headaches which may last for many months after a significant head injury. The Inquiry notes that this discussion is not documented in Steven Freeman's clinical record or discharge summary from TCH. The Inquiry concludes this lack of documentation is a deficiency in record keeping.

#### 12.2.24

The Inquiry concludes also there was no follow-up after 9 September 2015 regarding Steven Freeman's head injury. Justice Health Services did not revisit its 7 May 2015 advice to ACTCS. For its part, AMC staff members did not act upon the Justice Health Services advice of 7 May 2015, for example assessing whether Steven Freeman had impaired learning or cognitive function.

#### 12.2.27

The Inquiry concludes further that the standard of Justice Health Services record keeping and documentation is minimal, if not at times inadequate.

#### 12.2.28

The AMC relies on information from Justice Health Services to manage detainees both collectively and individually. Accordingly, the Inquiry concludes further that poor clinical record keeping may have an adverse affect on the AMC's ability to make proper provision for any given detainee.

#### 12.2.36 (1)

The Inquiry concludes that the monitoring of Steven Freeman following his head injury was not adequate. Justice Health Services advised the AMC on 20 May 2015, to cease the observation regime with no information about potential symptoms of concern.

#### 12.2.36 (2)

The Inquiry concludes also that the AMC was not alerted to the need to monitor Steven Freeman for certain behaviour or issues of concern, particularly in relation to his head injury.

#### 12.2.40

The Inquiry notes the five-month delay in Steven Freeman receiving a dental appointment, and concludes that this delay in obtaining treatment indicates a deficiency in the provision of dental care.

#### 12.2.47

The Inquiry concludes that the involvement of Winnunga Nimmityjah's holistic model of health care would enhance the provision of mental health and counselling services at the AMC (see paragraph 12.2.59 for a discussion).

#### 12.2.53

The Inquiry concludes that there would be considerable benefit for Aboriginal and Torres Strait Islander detainees if Winnunga Nimmityjah Aboriginal Health Service's holistic approach was integrated into the health care which Justice Health Services provides.

#### 12.2.57

Steven Freeman's experience at the AMC indicates that inadequate information sharing was a factor in the deficiencies evident in his treatment. Accordingly, the Inquiry concludes that, if AMC management is to have overall responsibility for outcomes and incidents relating to detainees, it must have access, to the extent possible, to all relevant information.

#### 12.2.60

The Inquiry concludes also that a significant role for Winnunga Nimmityjah Aboriginal Health Service is necessary, given the need to enhance the care available to Indigenous detainees in the AMC. The present limited involvement of Aboriginal-led health services in an institution with a detainee population of twenty-five per cent Aboriginal and Torres Strait Islander peoples is not acceptable.

#### 12.2.61

In light of the RCIADIC recommendations, the Inquiry concludes further that ACTCS and ACT Health work with Winnunga Nimmityjah Aboriginal Health Service to fund and embed its holistic health model for Aboriginal and Torres Strait Islander clients. There are several benefits to this approach, including enhanced throughcare for detainees leaving the AMC.

#### 12.2.62

In proposing this approach, the Inquiry notes that there will need to be a mechanism to ensure that the arrangements established under contract or MOU are workable at the operational level and that issues of concerns can be resolved as they arise. Accordingly, the Inquiry concludes further that a coordinating committee needs to be established. The committee would comprise representatives of the AMC, Justice Health Services and Winnunga Nimmityjah Aboriginal Health Service.

#### 12.2.66

The Inquiry notes that these conclusions are not a reflection on the provision of service provided by Justice Health Services. The Inquiry concludes further that it is wholly professional. The proposed new framework seeks to improve the care and custody of Indigenous detainees in the light of Steven Freeman's experience. The aim is also to prevent serious assault and death in custody.

#### 12.2.68

The Inquiry concludes further that the new framework proposed for the provision of health services at the AMC requires resources for the enhanced role for Winnunga Nimmityjah Aboriginal Health Service.

#### 12.3.7

The Inquiry notes the inconsistency in the legislation on the question of whether remanded detainees should have individual case plans. Given the long periods of time a detainee sometimes spends on remand at the AMC, the Inquiry concludes that individual case management plans should be in place for remanded detainees too.

#### 12.3.24

The Inquiry concludes that the lack of a structured day at the AMC inevitably leads to boredom, which invites the possibility and added risk of detainees using illegal drugs.

#### 12.3.28

The Inquiry concludes that if a separate remand prison were established AMC, there were improvements in a number of areas, including rehabilitation services, human rights compliance and personal safety of remanded detainees.

#### 12.4.3

The Inquiry concludes it was a breach of the ACTCS Drug Testing Policy that Steven Freeman was not drug tested at admission.

#### 12.4.6

The Inquiry concludes also it was a deficiency in Steven Freeman's treatment in custody that he was not referred to a therapeutic program, such as the Solaris Therapeutic Community.

#### 12.4.11

The Inquiry concludes that the solely punitive response to Steven Freeman under the 2015 ACT Drug Testing Policy was inappropriate.

#### 12.4.12

The Inquiry concludes also that a more appropriate response would have included therapeutic treatment, which would have assessed Steven Freeman, in order to understand the reason(s) for the renewed drug use, including a consideration of whether that drug use was a form of "self-medication" for one reason or another.

#### 12.7.6 (1)

The Inquiry concludes that this level of training is inadequate, both in terms of the proportion of staff members who have undertake the program and the method of training.

#### 12.7.6 (2)

The Inquiry concludes also that all Justice Health Services staff should undertake cultural awareness training, on commencement at the AMC, and on a refresher basis thereafter. This training is particularly important while the ACT continues to have a significant number and proportion of Aboriginal and Torres Strait Islander persons in custody.

#### 12.7.11

The Inquiry concludes that ACTCS should not undertake cultural activities without consulting with the relevant family. If the family cannot be contacted, ACTCS should consult with Aboriginal organisations supporting the family.

#### 12.8.11

The Inquiry concludes that it is inappropriate for the AMC to have to rely on "exceptional circumstances" to breach the human right of a remanded detainee to be segregated. In reaching this conclusion, the Inquiry acknowledges that, as a one institution corrective services system with limited accommodation options, the AMC management regards the personal safety of detainees as its highest priority.

#### 12.8.12

The Inquiry concludes also that AMC management needs to be able to achieve both obligations of detainee safety and human rights.

#### 12.8.16

The Inquiry notes further that, while both Official Visitors are female, until very recently, all Aboriginal case managers and Indigenous liaison officers at the AMC were male. Accordingly, female Aboriginal and Torres Strait Islander detainees could not be supported by equivalent Indigenous female staff. The Inquiry concludes further that this situation was inappropriate. Moreover, an Indigenous leadership forum told the Inquiry that this situation may also have been culturally inappropriate. Having passed on these observations to ACTCS, the Inquiry notes that, with effect from 2 November 2016, the AMC has seconded a female Aboriginal case manager.

#### 12.8.19

The Inquiry concludes further that, the claim so commonly made about the AMC being human rights compliant cannot be made in good faith. Until such time as male and female detainees are in separate facilities, and remanded detainees are segregated from sentenced detainees, the AMC cannot be said to be a human rights compliant correctional facility.

#### 12.10.8

The Inquiry concludes that for each member agency to respond more effectively to detainee issues, there is a need for them to be as informed as possible about the AMC. Oversight can only be effective if information from and about detainees is available.

#### 12.10.9

Noting the role the Inquiry proposes for the Winnunga Nimmityjah Aboriginal Health Service at the AMC (to introduce its holistic approach to health care) the Inquiry concludes also that it would be desirable for Winnunga Nimmityjah to be included in this forum.

#### 12.10.14

The Inquiry notes the concerns of Narelle King, her family and the broader community about the lack of information about Steven Freeman's assault, and the manner and cause of his death in custody. Two submissions to this Inquiry also raised concerns about the lack of transparency into that matter and other critical incidents at the AMC. The Inquiry concludes that, in order for trust to be restored and maintained in the ACT's corrections system, independent reviews are required for all critical incidents at the AMC. In the Inquiry's view, a critical incident would include any serious assault.

#### 12.10.16

The Inquiry concludes also that ACT Ombudsman should be resourced to undertake regular administrative and procedural inspections of the AMC to provide early warning of systemic issues and assurance that policies and procedures are in place and implemented effectively.

#### 12.11.8

The Inquiry concludes that any detainee concerns about the arrangements for visits at AMC is a matter for the ACT Ombudsman, ACT Human Rights Commission and Official Visitors.

12.12.9 (1)

The Inquiry concludes that the current system of notification regarding deaths in custody by ACT Policing is inappropriate, particularly for Aboriginal and Torres Strait Islander peoples. The Inquiry notes that ACT Policing treat all deaths in custody as a criminal investigation, and so must be involved in notification to the family.

12.12.9 (2)

The Inquiry concludes also that ACTCS should attempt to attend with ACT Policing when they notify the detainee's family, preferably an ACTCS Indigenous Liaison Officer.

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# Attachment D

Letter from the Chair of the Steering  
Committee to the  
Human Rights Commissioner



**ACT**  
Government

Justice and Community Safety

Dr Helen Watchirs, OAM  
ACT Human Rights Commissioner  
ACT Human Rights Commission  
GPO Box 158  
CANBERRA ACT 2601  
Email: [Helen.Watchirs@act.gov.au](mailto:Helen.Watchirs@act.gov.au)

Dear Dr Watchirs

### **On-going awareness of Moss Review recommendations**

I am writing to seek your agreement to provide continuing oversight and monitoring of the outstanding Moss Review recommendations and related ACT conclusions across correctional centres and services.

By way of some background, the Report of the Independent Inquiry into the Treatment in Custody of Steven Freeman (the 'Moss Review') was completed in November 2016 and made nine recommendations. The ACT Government agreed to eight of the nine recommendations, either wholly or in principle. Recommendation 7 was noted as it related to an own motion investigation by the Health Services Commissioner.

In responding to the Moss Review, the Minister for Corrections appointed me to independently lead the implementation of the recommendations as Chair of an oversight Steering Committee.

The Steering Committee held its final meeting on 20 June 2018. While I am pleased to advise that the majority of the Moss Review recommendations have now been satisfied, it seems apparent that a couple will continue to be implemented beyond the life of the Steering Committee. Recommendations 5 (integration of Winnunga at the Alexander Maconochie Centre) and Recommendation 6 (establishment of a separate Remand facility) will take much longer to implement.

The Steering Committee is keen to ensure that all recommendations are achieved, and to ensure substantive and enduring changes are implemented, to improve the safety and wellbeing of detainees at the Alexander Maconochie Centre.

The Steering Committee is of the view that the Human Rights Commission is ideally placed to provide continuing oversight of the outstanding Moss Review recommendations and related conclusions as part of your on-going oversight of processes.

The Aboriginal and Torres Strait Islander Elected Body have committed to continuing the oversight of the outstanding Moss Review recommendations across the ACT Government, particularly recommendations 5, 6 and 9.



**ACT**  
Government

Justice and Community Safety

Mr McAllister, ACT Inspector of Correctional Services has explained that he is restrained by legislation in continuing oversight of the conclusions of the Moss Review. However, he provided assurance to the Committee that he will keep the insights and findings of the Moss Review in his mind when conducting future reviews.

I would appreciate if you could confirm the extent to which you could provide on-going monitoring and oversight of the outstanding Moss Review recommendations across the ACT Government.

Yours sincerely,

Russell Taylor AM  
Independent Chair  
Moss Review Oversight Steering Committee

*24* July 2018

# Attachment E

Letter from the Chair of the Steering  
Committee to the  
ACT Ombudsman



**ACT**  
Government

Justice and Community Safety

Mr Michael Manthorpe, PSM  
Office of the ACT Ombudsman  
GPO Box 442  
CANBERRA ACT 2601  
[ombudsman.central@ombudsman.gov.au](mailto:ombudsman.central@ombudsman.gov.au)

Dear Mr Manthorpe

### **On-going awareness of Moss Review recommendations**

I am writing to seek your agreement to provide continuing oversight and monitoring of the outstanding Moss Review recommendations and related conclusions across ACT correctional centres and services.

By way of some background, the Report of the Independent Inquiry into the Treatment in Custody of Steven Freeman (the 'Moss Review') was completed in November 2016 and made nine recommendations. The ACT Government agreed to eight of the nine recommendations, either wholly or in principle. Recommendation 7 was noted as it related to an own motion investigation by the Health Services Commissioner, who is an independent statutory office holder.

In responding to the Moss Review, the Minister for Corrections appointed me to independently lead the implementation of the recommendations as Chair of an oversight Steering Committee.

The Steering Committee held its final meeting on 20 June 2018. While I am pleased to advise that the majority of the Moss Review recommendations have now been satisfied, it seems apparent that a couple will continue to be implemented beyond the life of the Steering Committee. Recommendations 5 (integration of Winnunga at the Alexander Maconochie Centre) and Recommendation 6 (establishment of a separate Remand facility) will take much longer to implement.

The Steering Committee is keen to ensure that all recommendations are achieved, and to ensure substantive and enduring changes are implemented, to improve the safety and wellbeing of detainees at the Alexander Maconochie Centre.

The Steering Committee is of the view that the ACT Ombudsman is ideally placed to provide continuing oversight of the outstanding Moss Review recommendations and related conclusions as part of your on-going monitoring and review processes.

The Aboriginal and Torres Strait Islander Elected Body have committed to continuing the oversight of the outstanding Moss Review recommendations across the ACT Government, particularly recommendations 5, 6 and 9.



**ACT**  
Government

Justice and Community Safety

Mr McAllister, ACT Inspector of Correctional Services has explained that he is restrained by legislation in continuing oversight of the conclusions of the Moss Review. However, he provided assurance to the Committee that he will keep the insights and findings of the Moss Review in his mind when conducting future reviews.

I would appreciate if you could confirm the extent to which you could provide on-going monitoring and oversight of the outstanding Moss Review recommendations across the ACT Government.

Yours sincerely,

Russell Taylor AM  
Independent Chair  
Moss Review Oversight Steering Committee

*24* July 2018

# Attachment F

ACTCS Rehabilitation Framework

The Central Eight risk/need factors are:

RISK	NEED
<b>History of criminal activity</b>	
Early and continuing involvement in a number and variety of criminal activities in a variety of settings	Build non-criminal alternative behaviours to employ when faced with potentially criminal situations
<b>Anti-social/pro-criminal thoughts &amp; attitudes</b>	
Attitudes, values, beliefs and rationalisations supportive of crime; cognitive emotional states of anger, resentment, and defiance; negative attitudes to the law; criminal versus anti-criminal identity	Counter with prosocial attitudes, build up a prosocial identity, recognise and reduce risky thinking and feeling
<b>Anti-social / pro-criminal peers</b>	
Criminal friends; immediate social support for crime; relative isolation from prosocial others	Reduce association/ replace criminal friends and associates with prosocial friends and associates
<b>Antisocial personality pattern</b>	
Impulsive, adventurous, pleasure seeking, restlessly aggressive, irritable	Build self-management skills, teach anger management, coping skills, problem solving skills
<b>Family / marital relationships</b>	
Poor parental monitoring and disciplining, poor family relationships	Teach parenting skills, build positive relationships, reduce conflict, enhance monitoring and supervision
<b>School / work performance</b>	
Poor performance, low levels of satisfaction	Enhance work/study skills, support interpersonal relationships within the context of work and school
<b>Substance abuse</b>	
Abuse of Alcohol and/or drugs	Reduce substance abuse, reduce the personal and interpersonal supports for substance-oriented behaviour; enhance supports and alternatives to substance abuse
<b>Levels of prosocial recreation</b>	
Low levels of involvement in prosocial recreational/ leisure activities	Encourage participation in prosocial recreational activities, hobbies and sports

## Therapeutic Jurisprudence (TJ)

The second key theory applied by ACTCS is TJ which incorporates the following concepts:

- ▷ Consistent and fair application of policy, expectations and consequences
- ▷ Reinforce and model prosocial behaviour - respect, courtesy, working cooperatively in a team
- ▷ Build self-confidence and a sense of self worth
- ▷ Enable skills and social supports.

## Programs

ACTCS provides a set of programs which address offender criminogenic risks and needs, as well as services that contribute to the wellbeing of offenders. Program categories include:

- ▷ **Offence specific:** Cognitive Self Change, sex offender, anger/violence, and alcohol & other drugs
- ▷ **Other program areas:** psychological/therapeutic, wellbeing, Aboriginal, women, education & VET, employment & industry, prosocial activities.

## Program Integrity

In order to maximise the effectiveness of programs, a number of elements must be fulfilled:

- ▷ The program is evidence-based and linked to a rehabilitation theory, and delivery adheres to the manual
- ▷ Ensure that staff (and participants) understand the goals and objectives
- ▷ Deliver in a style and mode that will engage offenders and is responsive to diversity
- ▷ Program staff are trained in relevant competencies, undergo professional development, and are appropriately supervised and supported
- ▷ Ensure program participants meet eligibility criteria and that there are defined entry and exit criteria
- ▷ Programs are evaluated to determine whether they have met integrity elements; met demand; and for short & long term effectiveness in lowering risk and reducing reoffending.



**ACT**  
Government

Justice and Community Safety

# REHABILITATION FRAMEWORK

**ACT Corrective Services  
March 2018**

GPO Box 158  
Canberra ACT 2601

## Introduction

ACT Corrective Services sentence management addresses offence specific and offence related risks and needs; both in custody and in the community. The Rehabilitation Framework principles are based on research evidence that has been demonstrated to reduce reoffending.

## Context

The ACTCS Rehabilitation Framework operates in the context of a suite of inputs:

- ▶ Legislation, including the *Corrections Management Act 2007 (CMA)*, *Crimes (Sentencing) Act 2005* and *Crimes (Sentence Administration) Act 2005* and *ACT Human Rights Act 2004*
- ▶ The CSAC national *Standard Guidelines for Corrections in Australia 2012*, *Australian Offender Program and Facilitation Standards 2013*, and *Indigenous Strategic Framework 2016*
- ▶ JACS Strategic Priorities, including:
  - Contribute to the goal to decrease recidivism by 25% by 2025
  - Improve rehabilitation & reintegration of offenders through programs & support
- ▶ Service demand, projections and demographics
- ▶ The 'Healthy Prison' concept which advocates that detainees are:
  - held safely and feel safe
  - treated with respect for their human dignity
  - encouraged to improve themselves through the provision of purposeful activity
  - prepared for release into the community and helped to reduce the likelihood of reoffending.

## Key Figures

- ▶ In late 2017, the AMC population was 471 detainees: 63% sentenced, 37% remand.
- ▶ 21% identified as Aboriginal and Torres Strait Islander, and 9% were women.
- ▶ 75% of detainees had previously been imprisoned under sentence.
- ▶ Median time spent on remand was 2.7 months and median aggregate sentence length was 3 years.
- ▶ The top three 'most serious offence' groups were: assaults non-sexual (33%), property offences (15%) and sex offences (12%).
- ▶ *Crime Trends Analysis* projections indicate that the detainee population is projected to rise by 18.6% over the next 10 years to 2027.
- ▶ At 1 October 2017 Community Corrections supervised 1,100 offenders on 1,251 orders.
- ▶ 25% identified as Aboriginal and Torres Strait Islander, and 19% were women.
- ▶ Approximately 60% of offenders were assessed as medium to high risk.

## Sentence Management

Sentence Management is a continuum of related processes which manage an offender's risks and needs from induction to discharge. These processes include: assessment, sentence plan, classification & placement, identification & referral to programs & services; incentives, privileges & sanctions; transitional programs & services; and post release services such as parole and Extended Throughcare.

Sentence management goals are to:

- ▶ Protect the community
- ▶ Engage the offender
- ▶ Monitor the offender.

Sentence management outcomes are to:

- ▶ Complete the order/sentence
- ▶ Reduce the likelihood of reoffending
- ▶ Enhance community reintegration.

## Level Of Service Inventory – Revised (LSI-R)

ACTCS utilises the LSI-R, which is a 54-item instrument that assesses offender risks and needs across 10 domains known to be related to an offender's likelihood of reoffending. The LSI-R is an effective method of establishing an appropriate level of sentence management intervention.

LSI-R	DOMAINS
1	Criminal history
2	Education / Employment
3	Financial
4	Family / Marital
5	Accommodation
6	Leisure / Recreation
7	Companions
8	Alcohol / Drug problems
9	Emotional / Personal
10	Attitudes / Orientation

## Theoretical principles Risk Need Responsivity (RNR)

The key model of offender assessment and sentence management is RNR:

**Risk:** Intensive management and interventions target moderate and high risk offenders

**Needs:** Interventions, including programs, target assessed risk factors

**Responsivity:** Interventions are delivered with the corresponding intensity to match level of assessed risk, are inclusive, and are tailored to offender learning style, motivation, abilities and strengths.

Responsivity also includes external factors such as staff interactions and a constructive environment that supports behaviour change.

# Attachment G

Steering Committee's Position Paper -  
Recommendation 6

**MOSS REVIEW IMPLEMENTATION STEERING COMMITTEE  
POSITION PAPER – RECOMMENDATION 6**

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**Recommendation 6:** *“That ACTCS establish a separate remand prison within the AMC to ensure that remanded detainees are segregated from sentenced detainees.”*

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Steering Committee position

The Committee has concluded that this recommendation will not be met until the ACT Government commits to build a separate remand facility within the AMC. The Committee also notes that a separate remand facility would also meet existing legislative requirements under both the *Human Rights Act 2004* and the *Corrections Management Act 2007*. Further, the Committee recognises that ACT Corrective Services has implemented a range of initiatives to support the intent of the recommendation.

Position rationale

The Moss Review concluded that AMC management needs to achieve both the obligations of detainee safety and human rights protection, including separation of remand and sentenced detainees.

The Government Response to the Moss Review noted the operational complexity of the AMC. The AMC is the only adult prison in the ACT which services a small jurisdiction and a detainee population comprising male and female detainees of multiple security classifications, and often with long-standing interpersonal relationships.

The Committee notes that Recommendation 6 is consistent with Section 19 of the *Human Rights Act 2004*, which states:

**19 Humane treatment when deprived of liberty**

(1) Anyone deprived of liberty must be treated with humanity and with respect for the inherent dignity of the human person.

(2) An accused person must be segregated from convicted people, except in exceptional circumstances.

*Note An accused child must also be segregated from accused adults (see s 20 (1))*

(3) An accused person must be treated in a way that is appropriate for a person who has not been convicted.

In addition, Section 44 of the *Corrections Management Act 2007* also provides for separation of detainees:

**44 Treatment of convicted and non-convicted detainees**

(1) Without limiting section 14 (Corrections policies and operating procedures), the director-general must make a corrections policy or operating procedure providing for different treatment of convicted detainees and non-convicted detainees.

*Example*

*a corrections policy or operating procedure, in accordance with the following rules of the United Nations Standard Minimum Rules for the Treatment of Prisoners, for non-convicted detainees to be able to—*

- *procure food at own expense (r 87)*
- *be offered work but not be obliged to work (r 89)*
- *procure reading and writing material at own expense (r 90)*
- *visit and be treated by own doctor at own expense (r 91)*

*Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).*

(2) The director-general must also ensure that convicted detainees are accommodated separately from non-convicted detainees.

(3) For chapter 10 (Discipline)—

(a) a detainee's entitlement in relation to treatment in detention includes anything expressed to be an entitlement in a corrections policy or operating procedure made for subsection (1); and

(b) subsection (2) is taken to provide an entitlement for each detainee in relation to accommodation.

(4) However, the director-general may give directions for different accommodation of a non-convicted detainee if the director-general suspects, on reasonable grounds, that is necessary to ensure the safety of the detainee or anyone else.

*Example*

*Remandee J has served various sentences for violence offences, has an aggressive personality and enjoys bullying other people. The director-general suspects that other remandees detained with J are highly vulnerable in comparison with J. The director-general decides that J should be accommodated with convicted offenders.*

*Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).*

(5) In this section:

*convicted detainee* means a detainee whose detention is because of the detainee's conviction of an offence.

Section 44(2) clearly indicates the intent of the legislation for convicted (sentenced) detainees to be accommodated separately from non-convicted (remanded) detainees.

The Committee notes that ACT Corrective Services relies on the application of Section 44(4) to address separation arrangements at the AMC. Sub-section (4) provides that, “...the director-general may give directions for different accommodation of a non-convicted detainee if the director-general suspects, on reasonable grounds, that is necessary to ensure the safety of the detainee or anyone else.”

The Committee notes that since its inception, both remand and sentenced detainees have been managed in a mixed custodial setting within the AMC, noting it is the only adult prison facility in the ACT.

The Committee notes the steps being taken by ACT Corrective Services to manage the separation of remanded and sentenced detainees at the AMC, and that these measures are also intended to help address concerns raised in the *Standing Committee on Justice and Community Safety: Inquiry into Auditor-General’s Report on the rehabilitation of male detainees at the AMC* and the *Independent Review of Operational Security: Alexander Maconochie Centre (ACT)*.

The Committee notes that to achieve full separation of remand and sentenced detainees the ACT Government would need to build appropriate facilities for this purpose. At the present time, the design of the AMC does not allow for this to occur, especially with increased detainee numbers.

Until Recommendation 6 can be achieved, the issue of separation will need to be continually addressed by ACTCS in other ways. As such, the Committee has requested that both the Inspector of Custodial Services and the Aboriginal and Torres Strait Islander Elected Body each continue to monitor this recommendation.

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### **Summary of steps being taken by ACT Corrective Services**

ACT Corrective Services (ACTCS) has responded to the intent of this recommendation through a range of initiatives that are in the spirit of the recommendation. Jon Peach, Executive Director, ACTCS has attended three meetings of the Steering Committee to outline these initiatives and to provide updates on their progress and the achievements of ACTCS to improve the safety and management of detainees. This information has been used to inform this paper.

#### Induction Process

ACTCS has advised that the admission process in the AMC has been updated so that new admissions are now segregated in a section of a cell block for a period of five to seven days.

During this time detainees are placed on an observation regime. Concurrently, a number of assessments are conducted by ACT Health and ACTCS, and intelligence checks are undertaken in conjunction with ACT Policing to gain additional information about the detainee's history and any potential association risks. A senior Corrections Officer considers a risk assessment to identify any concerns with regard to safety and security prior to determining the most suitable accommodation placement for a detainee

ACTCS has also advised that a full review of the Induction process is being undertaken through 2018 to enhance current practice and embed a full program aimed at utilising those first few critical days within the AMC as both an information and assessment period for new detainees.

### Segregation

Where possible remand and sentenced detainees are kept separated by ACTCS. A risk based approach is taken to consider all known factors relating to a detainee to minimise risk

Maintaining the separation continues to be extremely challenging for ACTCS. The ACT is a small jurisdiction which has only one adult correctional facility. The AMC holds a detainee population comprising male and female detainees of multiple security classifications, and often with longstanding interpersonal relationships. Grievances, debts and interpersonal conflicts often dictate non-association flags between sets of detainees due to threats or risks of violence rather than solely their legal status. These non-association issues often prevents separation of remand and sentenced detainees. Additionally, there may be circumstances where placement of remand and sentenced detainees may be beneficial for individuals for cultural, religious or other wellbeing reasons.

Since November 2017 due to population pressures, female detainees have been relocated to one distinct area of the AMC. Following this change, the Management Unit is again available as an option to place detainees. Detainees are generally placed into the Management Unit either as a consequence following a breach of prison discipline or as a place of segregation for a number risk factors including the good order and safety of the prison, for a detainee's own protection or for health reasons.

### Detainee Management

ACTCS is currently focussing on improving key elements of safety and security at the AMC. Extensive work is ongoing to refresh and review existing policies and introduce pro-social methods of detainee management. Security and safety is paramount for the delivery of innovative rehabilitation and reintegration programs.

As a result of the projected future growth of the detainee population, program planning and implementation at the AMC is being prioritised in order to realise improved sentence management and service delivery of offender rehabilitation programs. ACTCS has prioritised the development of a Rehabilitation Framework through its *Strategic Plan 2017-2019 'Resetting the Foundations'*. ACTCS is currently finalising the design and associated communications plan for the Rehabilitation Framework. Once publically released, the Rehabilitation Framework will inform the ACTCS operating model, alongside the core elements of safety and security.

The Rehabilitation Framework, once released, will underpin the work of ACTCS into the future. It will inform the development of a future operating model for how offenders, both in the community and custody, are supervised and supported. It will also support decisions to better manage remand status, security classification, health needs, sentence management and rehabilitation, and accommodation-based program participation of detainees in line with population increase trends for the ACT.

ACTCS is also using the women's unit to trial a range of new initiatives for consideration within the wider AMC. The structured day initiative has been implemented centre wide, which has seen the AMC hit 100% of all eligible detainees working (in line with ROGS definitions). This work will be accompanied with an incentive based regime where pro-social behaviour is encouraged along with the attendance at structured activities. This model will be used to inform the development of the Operational Model for all detainees within the AMC, and will be rolled out in a staged approach over time.

#### Safety and Security Funding

ACTCS has advised that additional funding of \$8.8 million over the next three and a half years has been allocated to improve safety and security-related matters at the AMC. This new investment will employ additional senior staff at the AMC to manage security, accommodation and detainee services thereby allowing dedicated and consistent management of key functional areas within the AMC.

As a result of this funding, an Indigenous Services Coordinator position and a Women's and Children Coordinator position have been created to enhance supports and advocacy for these groups. In addition, the Women's and Children Coordinator will work closely with families of all detainees to mitigate the negative impacts on children of incarcerated parents.

In addition, the additional funding also provides for the creation of a centralised intelligence unit which will ensure a greater ability to proactively manage risks within the AMC and across ACTCS. ACTCS reports that the new security team has already conducted a number of recent search operations, seizing a significant number of phones and illicit substances and severing valuable trafficking routes. The additional funding also provides ACTCS with the capability to work closely with staff, detainees and the Australian Federal Police to address emerging issues including: contraband; organised crime; and countering violent extremism.

#### Feasibility Study

ACTCS advised that it has conducted a feasibility study to identify, prioritise and inform future correctional requirements in a staged, cost effective manner. This study covers the AMC Centre Logic referred to in the Government's response to the Moss Review.

The findings of the feasibility study will inform future ACTCS plans for additional capacity and flexibility in detainee classification and placement, and to inform options to better deal with changing demand conditions.

ACTCS advises the feasibility study found there is limited scope to increase the number of fixed beds within the existing accommodation and proposes a number of options to inform future decisions about potential building expansion. The study will support business cases for the Government to consider in the budget context.

# Attachment H-P

Closure Reports of each recommendation of  
the Moss Review



**Recommendation: 1**

**Status: Closed**

That ACTCS conduct a survey of electronic surveillance at the AMC to ensure best practice protection for, and the security of, detainees including:

- i) training for AMC custodial officers operating CCTV cameras; and
- ii) developing protocols relating to camera settings, movement and recording

The inquiry also made the following conclusions:

- that ACTCS consider increased use of sweeping CCTV cameras regularly;
- the ACTCS should log all movements of CCTV cameras consistently with the requirements of the Australian Standard;
- that training consistent with the Australian Standard is not given to CCTV operators at the AMC;
- that the security of the AMC is lessened by the incorrect time being displayed on CCTV footage, which makes it unnecessarily difficult to determine the time of incidents within the AMC.

**Lead:** ACTCS

**Executive sponsor:** ACTCS

**ACTIONS TAKEN**

- Supporting infrastructure related to this recommendation has been implemented. This has included the installation of additional CCTV cameras bringing the total number of CCTV cameras in the AMC to 525. The quality of the images that are captured by the CCTV System has been improved.
- A training package has also been reviewed and implemented to support the operation of the CCTV system. 96 Officers have been trained to operate the CCTV system. The training package is embedded into the ongoing training of all correctional officers.
- Policies and procedures that relate to the MCR have been completed and notified, these are:
  - Gatehouse X-Ray Operating Procedure
  - Master Control Room – Systems Check Operating Procedure
  - Master Control Room – Roll Check and Lock in Operating Procedure
  - Master Control Room – Personal Duress Alarm Operating Procedure
  - Master Control Room – Workstations Failure Operating Procedure
- ACTCS has established standards related to the use of CCTV within Correctional facilities through the development of policies and procedures
- The Steering Committee had the opportunity to view the CCTV system upgrades and the Master Control Room at a site visit in July 2017
- Enhancements to the quality of the CCTV footage has supported police investigations and prosecutions.



Signature of Jon Peach, Executive Director, ACT  
Corrective Services

31/7/18.

Date signed

22 November 2017

Date Steering  
Committee found the  
Recommendation  
closed



Signature of Russell Taylor, Chair of the Moss  
Implementation Steering Committee

20/6/18

Date signed



**Recommendation: 1**

**Status: Closed**

That ACTCS conduct a survey of electronic surveillance at the AMC to ensure best practice protection for, and the security of, detainees including:

- i) training for AMC custodial officers operating CCTV cameras; and
- ii) developing protocols relating to camera settings, movement and recording

The inquiry also made the following conclusions:

- that ACTCS consider increased use of sweeping CCTV cameras regularly;
- the ACTCS should log all movements of CCTV cameras consistently with the requirements of the Australian Standard;
- that training consistent with the Australian Standard is not given to CCTV operators at the AMC;
- that the security of the AMC is lessened by the incorrect time being displayed on CCTV footage, which makes it unnecessarily difficult to determine the time of incidents within the AMC.

**Lead:** ACTCS

**Executive sponsor:** ACTCS

**ACTIONS TAKEN**

- Supporting infrastructure related to this recommendation has been implemented. This has included the installation of additional CCTV cameras bringing the total number of CCTV cameras in the AMC to 525. The quality of the images that are captured by the CCTV System has been improved.
- A training package has also been reviewed and implemented to support the operation of the CCTV system. 96 Officers have been trained to operate the CCTV system. The training package is embedded into the ongoing training of all correctional officers.
- Policies and procedures that relate to the MCR have been completed and notified, these are:
  - Gatehouse X-Ray Operating Procedure
  - Master Control Room – Systems Check Operating Procedure
  - Master Control Room – Roll Check and Lock in Operating Procedure
  - Master Control Room – Personal Duress Alarm Operating Procedure
  - Master Control Room – Workstations Failure Operating Procedure
- ACTCS has established standards related to the use of CCTV within Correctional facilities through the development of policies and procedures
- The Steering Committee had the opportunity to view the CCTV system upgrades and the Master Control Room at a site visit in July 2017
- Enhancements to the quality of the CCTV footage has supported police investigations and prosecutions.



Signature of Jon Peach, Executive Director, ACT  
Corrective Services

31/7/18.

Date signed

22 November 2017

Date Steering  
Committee found the  
Recommendation  
closed



Signature of Russell Taylor, Chair of the Moss  
Implementation Steering Committee

20/6/18

Date signed



**Recommendation:** 2

**Status:** Closed

That ACT Policing accord a higher priority to the investigation of any assault at the AMC.

The Moss Inquiry also made the following conclusion:

- that the investigation of serious assaults at the AMC should be given a higher priority by ACT policing;
- that ACTCS should attempt to attend with ACT Policing when they notify the detainee's family, preferably an ACTCS Indigenous Liaison Officer;
- that the current system of notification regarding deaths in custody by ACT Policing is inappropriate, particularly for Aboriginal and Torres Strait Islander people;
- that ACTCS and ACT Policing should update their MOU to reflect changes made in August 2015 when ACT Policing began providing ACTCS with: the statement of facts for current charges, a list of all victims, a list of known associates, and a list of alerts on ACT Policing which records those who are relevant to the safety of the detainee or other detainees at the AMC, any victims, the AMC or the Community.

**Lead:** ACTC Policing

**Executive sponsor:** ACT Policing, DPP and ACTCS

**ACTIONS TAKEN**

- The Memorandum of Understanding (MOU) between ACTCS and ACT Policing was reviewed and updated to reflect the issues raised in the Moss Report. The amended MOU was agreed by both agencies and signed on 28 April 2017. It sets out the arrangement between ACT Policing and ACTCS, including information-sharing, cooperative management arrangements relating to serious incidents and operations, and the nature of incidents to be reported to and responded by ACT Policing. The amended MOU includes arrangements for reporting serious assaults to Deputy Chief Police Officer level within ACT Policing to ensure investigations are appropriately prioritised and have appropriate oversight.
- The MOU provides that where appropriate, a designated Aboriginal or Torres Strait Islander representative from ACTCS may accompany ACT Policing, the ACT Coroner's Court or the AFP Coroner's Team when notifying the next of kin for a death in custody to provide cultural support. ACTCS will provide a nominated senior officer to attend notifications of next of kin in support of ACT Policing or the Coroner's representative at their request.
- The MOU between ACTCS and ACT Policing provides for a Management Committee to oversee and manage the relationship between the two agencies with a specific focus on the arrangements of the MOU and other operational and policy issues. The ACTCS/ACT Policing Senior Officers Forum convened for the first time on 10 August 2017 has met quarterly since then.
- Enhanced information-sharing has been formalised through high level meetings between the Executive Director ACTCS and DCPO (Crime) through the ACTCS/ACT Policing Senior Officers Forum. This forum will continue to meet quarterly.
- Since the amendments to the MOU and enhancements to the CCTV system, ACT Policing has responded to a number of assaults at the AMC. These enhancements have been critical in the subsequent investigations and the obtaining of evidence in support of criminal prosecutions of detainee assault incidents at the AMC.



Signature of Mark Walters, Deputy Chief Police Officer  
(Crime)

3/8/15

Date signed

12 December 2017

Date Steering  
Committee found the  
Recommendation  
closed



Signature of Russell Taylor, Chair of the Moss  
Implementation Steering Committee

19/9/18

Date signed



**Recommendation:** 3

**Status:** Closed

That ACT Policing, ACTCS and the DPP develop pro-charge and pro-prosecution policies in relation to assaults at the AMC.

The Moss Inquiry also made the following conclusions:

- that a similar pro-charge policy [to the ACT Policing pro-arrest policy in relation to family violence matters] is required for violent incidents at the AMC;
- that consideration should be given to how ACTCS and ACT Policing can work together in the context of investigations to achieve a coordinated, rather than serial and separate approach, to matters at the AMC;
- that ACTCS and ACT Policing should determine how joint investigation would enhance the response to any incident of assault at the AMC;

**Lead:** ACT Policing


**Executive sponsor:** ACT Policing, DPP and ACTCS

**ACTIONS TAKEN**

- The Office of the Director of Public Prosecutions has an existing prosecution policy that supports the intent of the recommendation ([https://www.dpp.act.gov.au/\\_\\_data/assets/pdf\\_file/0006/715506/PROSECUTION-POLICY-OF-THE-AUSTRALIAN-CAPITAL-TERRITORY.pdf](https://www.dpp.act.gov.au/__data/assets/pdf_file/0006/715506/PROSECUTION-POLICY-OF-THE-AUSTRALIAN-CAPITAL-TERRITORY.pdf)). The views of ACT Policing and the DPP that there is a 'pro-charge' approach when there is sufficient evidence was accepted by the Steering Committee.
- The Steering Committee discussed the extent of consultations between ACT Policing and the DPP in relation to the investigation into the assault of Mr Freeman. The Chair of the Steering Committee requested further information about why ACT Policing did not provide a brief of evidence to the DPP or consult with ACT Policing in relation to Steven Freeman's assault. The Deputy Chief Police Officer – Crime provided written response to the Chair of the Steering Committee outlining the position of ACT Policing on the issue. ACT Policing and Deputy Director of the DPP also met with the Committee to discuss this issue clarifying the roles and responsibilities of both agencies in investigating and prosecuting alleged assaults.
- The Chief Police Officer requested the office of the Director of Public Prosecutions (DPP) review the evidence in the Steven Freeman assault investigation, after meeting with the Freeman family. The Assistant Director, DPP briefed the Steering Committee on 12 December 2017 on his findings, noting that all lines of enquiry were pursued by ACT Policing.
- On 12 December 2017 the Director of Public Prosecutions briefed the Steering Committee on his review of the evidence in the Steven Freeman assault investigation.
- The MOU between ACTCS and ACT Policing was reviewed and updated to reflect the issues raised in the Moss Report. The amended MOU was agreed by both agencies and signed on 28 April 2017. The amended MOU includes arrangements for enhanced collaboration between ACTCS and ACT Policing in relation to the investigation of serious incidents (including assaults) at the AMC.
- General information-sharing capability was enhanced in the updated MOU to enable the provision of a statement of facts for current charges, a list of victims, a list of known

associates and a list of alerts which records information that is relevant to the safety of detainees and other.

- Enhanced information-sharing has been formalised through high level meetings between the Executive Director ACTCS and DCPO (Crime) through the ACTCS/ACT Policing Senior Officers Forum. This forum will continue to meet quarterly.
- Since the amendments to the MOU and enhancements to the CCTV system, ACT Policing has responded to a number of assaults at the AMC. These enhancements have been critical in the subsequent investigations and the obtaining of evidence in support of criminal prosecutions of detainee assault incidents at the AMC.



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*Signature of Mark Walters, Deputy Chief Police Officer  
(Crime)*

3/8/18  
Date signed

12 December 2017

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*Date Steering  
Committee found the  
Recommendation  
closed*



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*Signature of Russell Taylor, Chair of the Moss  
Implementation Steering Committee*

19/9/18  
Date signed



**Recommendation:** 4

**Status:** Closed

That the arrangements for provision of health care at the AMC be established, under contract or MOU, to reflect the respective responsibilities of ACTCS and Justice Health Services.

**The Moss Inquiry also made the following conclusions:**

- that there is need to reform the AMC and Justice Health Services relationship under contract or MOU to improve information sharing and to reflect the AMC responsibility and accountability for the management of detainee safety and wellbeing;
- that [to ensure that the arrangements established under contract or MOU are workable at the operational level and that issues of concerns can be resolved as they arise] a coordinating committee needs to be established comprising representatives of the AMC, Justice Health Services and Winnunga Nimmityjah Aboriginal Health Service.

The Moss Inquiry also noted that the MOU should reflect that Justice Health Services must meet professional health standards and protect patient privacy and confidentiality.

**Lead:** ACT Health and ACTCS

**Executive sponsor:** ACTCS and ACT Health

**ACTIONS TAKEN**

- In June 2017, an external consultant was jointly engaged by ACT Health and JACS to develop a contract or MOU, known as the Arrangement.
- The high-level 'Arrangement' for the provision of health services for detainees was agreed and signed by Directors-General JACS and Health on 15 August 2017.
- The 'Arrangement' is a values based document and contains a number of key elements, including:
  - Statement of Intent
  - Guiding Principles
  - Service Arrangements and Responsibilities
  - Resources and Governance
  - Incident reporting and dispute resolution
  - Relationships and media
- Over time the Arrangement will be supported by schedules detailing service level agreements and protocols
- ACTCS and ACT Health jointly briefed staff on the new Arrangement on 16 August 2017.
- The first schedule was signed on 20 November 2017, being the Information-Sharing by the Executive Directors of ACT Health and ACTCS.
- A joint working group of ACTCS and ACT Health staff is progressing the operational recommendations related to the Mental Health Services Review at the AMC. This work supports this recommendation by strengthening roles and responsibilities between the two Directorates.
- Director's-General ACT Health and JACS have committed to reviewing the implementation of the Arrangement after one year.

*K Bracher*

Signature of Katrina Bracher, Executive Director,  
Mental Health, Justice Health and Alcohol and Drug  
Services.

*29/8/18*

Date signed

*J Peach*

Signature of Jon Peach, Executive Director, ACT  
Corrective Services

*31/7/18*

Date signed

24 January 2018

Date Steering  
Committee found the  
Recommendation  
closed

*R Taylor*

Signature of Russell Taylor, Chair of the Moss  
Implementation Steering Committee

*20.6.18*

Date signed



**Recommendation:** 5

**Status:** Ongoing

**Description:**

That Winnunga Nimmityjah Aboriginal Health Service be integrated into the provision of health care at the AMC in order to introduce its holistic model of care to Indigenous detainees.

**The Moss Inquiry also made the following conclusions:**

- recognising the significant proportion of Indigenous detainees at the AMC, that there is a need to introduce Winnunga Nimmityjah Aboriginal Health Service to provide its holistic approach to health care for Indigenous detainees at the AMC;
- that the involvement of Winnunga Nimmityjah's holistic model of health care would enhance the provision of mental health and counselling services at the AMC;
- also, that a significant role for Winnunga Nimmityjah Aboriginal Health Service is necessary, given the need to enhance the care available to Indigenous detainees in the AMC; the present limited involvement of Aboriginal-led health services in an institution with a detainee population of 25% Aboriginal and Torres Strait Islander people is not acceptable;
- further, that [in light of the RCIADIC recommendation] ACTCS and ACT Health work with Winnunga Nimmityjah Aboriginal Health Service to fund and embed its holistic health model for Aboriginal and Torres Strait Islander clients;
- that the AMC requires resources for the enhanced role for Winnunga Nimmityjah Aboriginal Health Service;
- noting the role proposed for Winnunga Nimmityjah Aboriginal Health Service at the AMC, that it would be desirable for Winnunga Nimmityjah to be included in [the oversight agencies] forum.

**Lead:** ACT Health

**Executive sponsor:** ACTCS and ACT Health

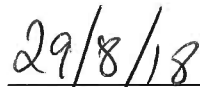
**ACTIONS TAKEN**

- ACT Health and ACTCS have worked collaboratively with Winnunga to develop and agree a best practice model of Aboriginal and Torres Strait Islander health service delivery at the AMC.
- Throughout the second part of 2017, a series of Workshops commenced with ACTCS, ACT Health and Winnunga to work through the operational details to support the integration of the Winnunga Model. These workshops were independently facilitated and were informed by:
  - The outcomes of the high level workshops in 2017;
  - The experience of the female detainee trial; and
  - Four key areas of focus (information sharing, clinical handover pharmacy/pathology processes and clinical management).
- The facilitated workshops have addressed various operational considerations including information sharing protocols related to electronic clinical records, provision of pharmaceuticals, clinical management, and site constraints.
- Additionally, a number of Executive level meetings have occurred focussed on service scope, models of care and clarifications regarding contractual arrangements.

- On 2 May 2018, DG ACT Health and ED MHJHADS met with CEO Winnunga to commence more detailed the contract discussions based on the government Appropriation.
- Contract negotiations a have been finalised between ACT Health and Winnunga
- Since 2 July 2018 staff from Winnunga have been present at the AMC developing protocols for service delivery.
- In preparation for this the CEO has conducted site visits at AMC. The Winnunga Nurse Manager has also undertaken site visit to AMC to observe medication rounds and other health processes within the Hume Health Centre.
- A senior governance forum will be established as a mechanism for Winnunga, ACT Health and ACT Corrective Services to monitor, manage and develop the health services at AMC into the future.
- In addition to this ACT Health and Winnunga are looking to develop with the Commonwealth an innovative health model of care for Aboriginal detainees in the AMC.



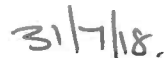
*Signature of Katrina Bracher, Executive Director,  
Mental Health, Justice Health and Alcohol and Drug  
Services.*



*Date signed*



*Signature of Jon Peach, Executive Director, ACT  
Corrective Services*



*Date signed*



*Signature of Russell Taylor, Chair of the Moss  
Implementation Steering Committee*



*Date signed*



**Recommendation:** 6

**Status:** Not achieved

**Description:**

That ACTCS establish a separate remand prison within the AMC to ensure remanded detainees are segregated from sentenced detainees

**The Moss Inquiry also made the following conclusions:**

- That the AMC should segregate remanded and sentenced detainees, by establishing a separate remand facility at the AMC, and thereby achieve greater human rights compliance;
- at the AMC, the need to accommodate increasing numbers of detainees, with a wide range of categories and classifications, has been a factor in undermining the original aim of a human rights compliant prison with a focus on rehabilitation;
- that if a separate remand prison were established at AMC, there would be improvements in a number of areas, including rehabilitation services, human rights compliance and personal safety of remanded detainees;
- that it is inappropriate for the AMC to have to rely on 'exceptional circumstances' to breach the human right of a remanded detainee to be segregated;
- that AMC management needs to be able to achieve both obligations of detainee safety and human rights;
- that the claim so commonly made about the AMC being human rights compliant cannot be made in good faith [and] until such time as male and female detainees are in separate facilities, and remanded detainees are segregated from sentenced detainees, the AMC cannot be said to be a human rights compliant correctional facility.

**Lead:** ACTCS

**Executive sponsor:** ACTCS

**ACTIONS TAKEN**

- Achievement of this recommendation will require the development of an additional facility within the AMC to allow for the separation of remand and sentenced detainees.
- In order to address the intent of the recommendation the Government have funded a feasibility study which is currently being undertaken to consider infrastructure needs for the Territory for the next 5-20 years.
- The term 'AMC Centre Logic' was a term used in the Government response to the Moss Inquiry but is not a common term within Corrective Services and is considered to refer to the operating model of the centre.
- A number of reforms have already commenced within the AMC which in the long term would satisfy the intent of this recommendation and further conclusions under Recommendation 9. The recent change in female accommodation at the AMC has enabled the establishment of a structured day for female detainees that will progress to a pro-social model of detainee management including the introduction of an incentive and earned privilege scheme within the AMC. Once refined these initiatives will be rolled out across the centre.
- ACTCS has developed a draft Rehabilitation Framework that will inform the operational philosophy for ACTCS.
- ACTCS have provided a summary of initiatives to achieve the intent of this recommendation as part of the Steering Committee's position paper on Recommendation 6.



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*Signature of Jon Peach, Executive Director, ACT  
Corrective Services*

3/7/18.

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*Date signed*



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*Signature of Russell Taylor, Chair of the Moss  
Implementation Steering Committee*

10.6.18

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*Date signed*



**ACT**  
Government

## Inter-Directorate Project Team

### Closure report

**Recommendation:** 7

**Status:** Closed

That the Health Services Commissioner (of the ACT Human Rights Commission) conduct an own Initiative Investigation into prescription of methadone to detainees at the AMC.

The Inquiry also made the following conclusions which will be dealt with under recommendation 9:

- that Mr Freeman was not drug tested at admission in breach of the ACTCS Drug Testing Policy;
- a solely punitive response to a positive drug test under the Drug Testing Policy was inappropriate and a response to a positive drug test should include a therapeutic element.

Related to this recommendation, the Government Response provided a commitment for ACT Health to develop a more comprehensive processes and procedures related to the methadone program at the AMC, following a comprehensive internal review.

**Lead:** Health Services Commissioner

#### ACTIONS TAKEN

- The review was conducted by the Health Services Commissioner.
- The review focused on the current operation of the ORT program, and was informed by the information adduced before the coronial inquest regarding ORT and the application of the National and ACT prescribing guidelines.
- On 9 March 2018, the Health Services Commissioner, publicly release the report on the Review of Opioid Replacement Treatment Program at the AMC.
- In consultation with ACT Health the Health Services Commissioner will continue to monitor the implementation of the recommendations from the report.

Signature of Karen Toohey, Health Services Commissioner

28/8/2018  
Date signed

24 January 2018

Date Steering Committee found the Recommendation closed

Signature of Russell Taylor, Chair of the Moss Implementation Steering Committee

20.6.18

Date signed

Action Officer

Karen Toohey



**Recommendation:** 8

**Status:** Closed

That the ACT Ombudsman have the role of reviewing the response to all critical incidents at the AMC including serious assaults.

**The Moss Inquiry also made the following conclusions:**

- that, in order for trust to be restored and maintained in the ACT's corrections system independent reviews are required for all critical incidents at the AMC. In the Inquiry's view, a critical incident would include any serious assault.
- that the ACT Ombudsman should be resourced to undertake regular administrative and procedural inspections of the AMC to provide early warning systemic issue and assurance that policies and procedures are in place and implemented effectively

**Lead:** LPP

**Executive sponsor:** ACTCS and LPP

**ACTIONS TAKEN**

- The ACT Government has passed legislation to establish an Inspector of Correctional Services.
- The *Inspector of Correctional Services Act 2017* passed the Legislative Assembly in November 2017, and came into effect on 8 December 2017. The Act establishes the role of Inspector, and provides the Inspector with the necessary powers and functions to perform the role.
- The Inspector of Corrective Services has a vital role to play in identifying any systemic issues in adult corrections, proposing solutions and working collaboratively to promote continuous improvement.
- An Inspector was appointed on 14 March 2018.

Signature of Tamsyn Harvey, Executive Director, Legal Policy and Programs

29 August 2018  
Date signed

24 January 2018

Date Steering Committee found the Recommendation closed

Signature of Russell Taylor, Chair of the Moss Implementation Steering Committee

30. 6. 18

Date signed



**Recommendation: 9**

**Status: Closed**

That the Inquiry's conclusions, which provide detail of various aspects of the treatment in custody of Steven Freeman that were deficient, be addressed with a view to implementing change and bringing about improvement

The conclusions in the Moss Review address a number of important themes including Steven Freeman's custodian experience, information sharing and culturally safe practices.

**Lead:** ACTCS      **Executive sponsor:** ACTCS, ACT Health, CSD and ACT Policing

Each agency has taken on board and committed to continue this work as normal business. The Aboriginal and Torres Strait Islander Elected Body will continue to monitor this work through the annual hearings process.

Conclusions	Action Taken
<u>Security</u>	<u>ACTCS</u>
<i>RFID Bracelets/anklets - a device able to track a detainee's whereabouts every two seconds. This measure was abandoned in Feb 2011 due to problems with the battery life of RFID bracelets. The Inquiry concludes that the use of RFID bracelets and anklets should be explored again. The use of such bracelets at the time of Steven Freeman's assault would have identified who was in his cell.</i>	ACTCS have investigated reintroducing RFID bracelets into the AMC. Investigations revealed that RFID bracelets are inaccurate and expensive. ACTCS has enhanced the overall security of the AMC including improvements to the CCTV system that better meets the intent of this conclusion.
<u>Health Care</u>	<u>ACT Health</u>
<i>Intensive care unit - The Inquiry concludes that the next of kin of a detainee at The Canberra Hospital should be provided information about the detainee's condition and prognosis, when the detainee is unconscious and cannot give consent.</i>	It is practice to provide information to all next of kin identified in the clinical record of all clients when they are unconscious. If the clinical records do not identify the next of kin, that information will be sought from alternative sources such as ACT Policing or other medical practitioners such as the person's GP.
<i>The Inquiry was told that Steven Freeman originally appeared in court wearing a hospital gown, but was unable to verify this report. Nevertheless, the Inquiry concludes that ACT Health and ACTCS need to ensure detainees transferred from hospital to the courts are provided with clothes and do not appear only wearing hospital garments. In response, ACT Health told the inquiry it will work with ACTCS to address this issue.</i>	In July 2017 a joint email from the Acting General Manager of the AMC and Operational Director of Justice Health Service was sent to staff reinforcing the need to ensure that detainees must have appropriate clothing for court. This has resulted in improved arrangements for detainees.
<i>The Inquiry concludes that the standard of Justice Health Service's record keeping and documentation is minimal, if not at times, inadequate.</i>	
<i>The Canberra Hospital discharge procedure is for a discussion to be held with the patient's carers. This discussion includes the need for vigilance post-concussive or post-traumatic brain injury syndrome. The symptoms that need to be monitored include any alteration of sleep patterns, increased irritability, impaired concentration, and potential for ongoing headaches which may last for</i>	ACT Health have developed improved health notification forms to provide ACTCS that includes information about any observations or symptoms to look for when a detainee returns from hospital. This health form is also used to inform ACTCS of all new inductees onto methadone.

<p><i>many months after a significant head injury. The Inquiry notes that this discussion is not documented in Steven Freeman's clinical record or discharge summary from TCH. The Inquiry concludes this lack of documentation is a deficiency in record keeping.</i></p>	
<p><i>The Inquiry concludes there was no follow-up after 9 September 2015 regarding Steven Freeman's head injury. Justice Health Services did not revisit its 7 May 2015 advice to ACTCS. For its part, AMC staff members did not act upon the Justice Health Services advice of 7 May 2015, for example, assessing whether Steven Freeman had impaired learning or cognitive function.</i></p>	<p>As above.</p>
<p><i>The AMC relies on information from Justice Health Services to manage detainees both collectively and individually. Accordingly, the Inquiry concludes further that poor clinical record keeping may have an adverse effect on the AMC's ability to make proper provision for any given detainee.</i></p>	<p>As above.</p>
<p><i>The Inquiry concludes that the monitoring of Steven Freeman following his head injury was not adequate. Justice Health Services advised the AMC on 20 May 2015, to cease the observation regime with no information about potential symptoms of concern.</i></p>	<p>For patients with a Traumatic Brain Injury, discharge summaries include reference to require allied health follow up based on the clinician's assessment of the patients' needs, informed by evidence based practice. The Community Rehabilitation Team eligibility and Prioritisation Procedure is being reviewed.</p>
<p><i>The Inquiry concludes also that the AMC was not alerted to the need to monitor Steven Freeman for certain behaviour or issues of concern particularly in relation to his head injury.</i></p>	<p>As above.</p>
<p><i>The Inquiry notes the five month delay in Steven Freeman receiving a dental appointment, and concludes that this delay in obtaining treatment indicates a deficiency in the provision of dental care.</i></p>	<p>In October 2017, an additional dental day was implemented, and there are now dental services at the AMC 3 days a week, which is an increase of 1 day a week. Since the implementation of the additional day, 28 detainees have been removed from the wait list, with 11/28 completed their treatment, 12/28 are currently receiving treatment, 5/28 have refused to attend the Hume Health Centre. During November there were 27 detainees seen by dental on the extra dental day.</p> <p>In October 2017, there were 197 people on the waitlist for non-urgent appointments.</p> <p>Since the commencement of the additional day of dental services the wait time for an urgent dental appointment has decreased from over six weeks to approximately 1-2 weeks.</p>
<p>Relevant to health care at the AMC and related conclusions was the finalisation of the Mental Health Services Review (McGrath report) in June 2017. In August 2017, a joint working group with MHJHADS and ACT Corrective Services was convened and that working group has:</p> <ul style="list-style-type: none"> <li>• A Charter – ACT Corrective Services and ACT Health was established in October 2017 to outline the expected behaviours and values of staff within ACTCS and ACT Health in working together to provide health services to those incarcerated within Alexander Maconochie Centre;</li> <li>• Information Sharing Protocol under the Arrangement document was signed in November 2017 by the Executive Director's;</li> </ul>	

- On 16 April 2018, Forensic Mental Health Services (FMHS) resumed role of at risk clinician and induction assessment;
- Recruitment occurred for FMHS to fill 3 new clinician roles;
- Communication strategy implemented regarding role out of new at risk process; and
- FMHS staff trained in Collaboration Assessment and Management of Suicidality (CAMS) Care model which was the suicide prevention and intervention framework.

The High Risk Assessment Team (HRAT) is Chaired by ACT Corrective Services are the Chair and they provide secretariat services as HRAT was convened by ACTCS. HRAT continues to operate on a daily basis, Monday to Friday and representatives from Primary Health and Forensic Mental Health Services attend the daily meeting and provide input regarding Multidisciplinary Team (MDT) decisions and intervention planning to help coordinate the management of at risk detainees who are vulnerable to suicide or self-harm.

Information Sharing	ACTCS/ACT Health
<p><i>The Inquiry notes that Steven Freeman was likely still withdrawing from his multi-substance use, throughout his time at the Canberra Hospital and on return to the AMC. The Inquiry concludes further that the agencies involved in the care of detainees need to find a way to share relevant detainee-related information, yet take into account all legislative, professional and ethical obligations.</i></p>	<p>The first schedule of the Arrangement, on 'Information Sharing', was signed on 20 November 2017 by Executive Directors of ACT Health and ACTCS, to improve information sharing arrangements between the agencies. It will be used to inform joint workshops with staff, facilitated by the Health Services Commissioner, to work through operational scenarios.</p> <p>The MOU between ACTCS and ACT Policing commits both parties to improved information sharing.</p> <p>An inter-directorate working group with ACTCS, ACT Health, ACT Policing and CSD convened on 5 September 2017 to discuss information sharing arrangements. A representative from the Government Solicitor's Office provided legal advice about information sharing arrangements. This group re-convened on 18 January 2018 and 14 March 2018 to discuss progress on action items.</p>
<p><i>The AFP/ACTCS MOU covers transfer of custody and other topics including intelligence exchange, investigations, police responses to incidents at the AMC and DNA back-capture. The Inquiry notes that ACT Health is not a party to the MOU, but concludes it would also benefit from a transfer from ACT Policing of health, wellbeing and other relevant information.</i></p>	<p>The updated MOU between ACTCS and ACT Policing provides additional information-sharing arrangements to "assist ACTCS to provide a safe custodial environment, free from injury or death, to detainees, or in the provision of services".</p>
<p><i>The Inquiry notes that ACT Policing's record of interview of 27 April 2015, made reference to Steven Freeman's recent illicit drug and alcohol use. The Inquiry notes also that ACT Policing did not provide this information to ACTCS until 15 March 2016, almost a year after Steven Freeman's admission to the AMC. The situation may explain why the ACTCS CTU Risk Assessment Form records that Steven Freeman showed no signs of being under the influence of substances. The Inquiry concludes that there was a deficiency in procedure, in that ACT Policing did not provide this information to ACTCS or ACT Health.</i></p>	<p>ACT Health is currently progressing work in consideration of becoming a 'Justice Entity' for the purpose of information sharing in specific areas – including between Police and Justice Health. This strategy will enable a legislative ability and requirement to share information for the purpose of safer health care.</p>
<p><i>The Inquiry concludes that the lack of comprehensive approach to information sharing between ACT Policing and ACTCS was a factor in Steven Freeman's assault in April 2015.</i></p>	<p>The Inquiry noted that since August 2015, ACT Policing now provides the following information to ACTCS in relation to each detainee: the statement of facts for the current charges; a list of all victims; a list of known associates; and, a</p>

	<p>list of ACT Policing alerts which record those who are relevant to the safety of the detainee and other detainees at the AMC, any victims, the AMC or the Community.</p> <p>The Inquiry also concluded that ACTCS and ACT Policing update their MOU to reflect the changes made in August 2015. This MOU was updated and signed on 28 April 2017 (see recommendation 2).</p> <p>This conclusion is addressed through the new admissions process.</p>
<p><i>The Inquiry concludes youth justice information should be available to the AMC when it is assessing the accommodation placement options for new detainees.</i></p>	<p>ACTCS and CSD are developing a process to support improved information sharing under s136 of the <i>Crimes (Sentencing) Act 2005</i> between ACTCS and CSD around youth justice histories. This is an administrative process that will allow CSD to provide information about a detainee's Youth Justice histories during the induction process. This will be formalised in an MOU between the directorates which will include a number of elements.</p>
<p><i>The Inquiry concludes that Justice Health Service's failure to inform both the AMC and TCH about Steven Freeman's "significant daily ice habit" was a deficiency.</i></p>	<p>ACTCS and ACT Health have developed the overarching Arrangement and Supporting Information Sharing Schedule to improve detainee health care and safety arrangements at the AMC (see recommendation 4)</p>
<p><i>The Inquiry concludes that this situation (above) reveals an instance of inadequate information sharing in relation to Steven Freeman.</i></p>	<p>As above.</p>
<p><i>The Inquiry concludes that in future, Justice Health Services should ensure that it shares all relevant health information about a detainee who is transferred to hospital.</i></p>	<p>As above.</p>
<p><i>Steven Freeman's experience at the AMC indicates that inadequate information sharing was a factor in the deficiencies evident in his treatment. Accordingly, the Inquiry concludes that, if AMC management is to have overall responsibility for outcomes and incidents relating to detainees, it must have access, to the extent possible, to all relevant information.</i></p>	<p>As above.</p>
<p><i>The Inquiry notes that ACT Human Rights Commission initiative to convene regular meetings of oversight agencies. This forum enables otherwise disparate efforts to be coordinated. The Inquiry notes also that Prisoners Aid has recently joined this group. The Inquiry concludes that for each member agency to respond more effectively to detainee issues, there is a need for them to be as informed as possible about the AMC. Oversight can only be effective if information from detainees is available.</i></p>	<p>The ACT Human Rights Commission convenes a monthly AMC oversight meeting with relevant stakeholders including ACT Ombudsman, AMC Official Visitors, Winnunga Nimmityjah Aboriginal Health and Community Services to consider issues that have been brought to the attention of the agencies regarding the AMC. The purpose of the meeting is to ensure a rigorous and collaborative approach to issues brought to the agencies through complaint mechanisms, OV's visits, direct contact with detainees and other sources of information. This informs the work of the oversight agencies and enables us to take a strategic approach in responding to those issues through our regulatory and oversight functions</p>

	as well as draw them to the attention of relevant ACTCS and ACT Health staff in regular oversight meetings convened by ACTCS.
<b>Detainee Management</b>	<b>ACTCS</b>
<i>When Steven Freeman arrived at the AMC he would have been unwell and vulnerable after a prolonged period of drug and alcohol use. The Inquiry concludes that a number of factors combined to place Steven Freeman unknowingly in harm's way at the AMC.</i>	The induction and assessment processes at the AMC have been improved in collaboration with ACT Policing to ensure that relevant information is transferred between agencies. Policies and procedures about the induction and assessment process are currently being developed.
<i>The Inquiry concludes also 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.</i>	A new induction process has since been implemented by ACTCS for all new admissions to the AMC. This process is vital to ensuring the appropriate placement of detainees (Also refer to Recommendation 6)
<i>Information which ACT Policing knew regarding Steven Freeman's illicit drug and alcohol use and difficulty in answering questions was not available to ACTCS and Justice Health Services. It meant that the opportunity for appropriate assessment and treatment for Steven Freeman on his arrival at the AMC was lost. The Inquiry concludes also that a placement at AMC based on detoxification and rehabilitation would have been more appropriate.</i>	As part of the new induction process, and in addition to the other assessments completed by ACTCS, all detainees also receive a joint assessment by the Primary Health Team and Forensic Mental Health Service within Justice Health Services. This assessment process screens for mental and physical health concerns and referral for treatment and care as issues are being identified. This process is inclusive of direct questioning around Aboriginal and Torres Strait Islander status. Under this process identified persons can also be referred to the Aboriginal Liaison Officer. (Also refer to Recommendation 6)
<i>The Inquiry notes the AMC's induction process required Steven Freeman himself to identify detainees of concern. The assessment took place when, unknown to the ACTCS, Steven Freeman had been using illicit drugs and alcohol for a prolonged period. The Inquiry concludes this approach placed too great an onus on Steven Freeman to identify the risk in the accommodation options.</i>	Intelligence checks occur with all new detainees at the AMC with ACT Policing. These checks help identify further information about the detainee's history and any potential association risks. Another assessment is completed when the ACT Policing checks are returned. This includes a declaration by the detainee with the sentenced supervisor discussing any safety and security risks. This process is subsequently reviewed by an Area Manager prior to any relocation. A detainee will not be moved out of new admission placement until all intelligence checks are completed. (Also refer to Recommendation 6)
<i>The Inquiry concludes that, at the time, the AMC admission process was deficient in that it relied on Steven Freeman to provide information about his own risk factors rather than AMC-collected information from a wider range of sources (such as ACT Policing, Just Health Services and Youth Justice)</i>	This conclusion continues to be addressed through an Information Sharing Working Group. CSD and ACTCS are developing an MOU to formalise protocols in sharing information about a detainees Youth Justice history. Justice Health are exploring legislative change to become a 'criminal justice entity' under the Corrections Management Act. This would improve information sharing capabilities between ACTCS/ACT Health and ACT Policing.
<i>The Inquiry concludes that there was a deficiency in Steven Freeman's treatment at the AMC, in that the period of induction and admission was insufficient.</i>	As above.

<i>The Inquiry notes the inconsistency in the legislation on the question of whether remanded detainees should have individual case plans. Given the long periods of time a detainee sometimes spends on remand at the AMC, the Inquiry concludes that individual case management plans should be in place for remanded detainees.</i>	This conclusion has been addressed through the development of a Rehabilitation Framework.
<i>The Inquiry concludes that the lack of a structured day at the AMC inevitably leads to boredom, which invites the possibility and added risk of detainees using illicit drugs.</i>	A structured day has been implemented in the new female accommodation unit. It is intended that this will be refined and rolled out across the AMC over time.
<i>The Inquiry notes that Steven Freeman was not drug tested on admission because he was assaulted within hours of induction and taken to TCH. The Inquiry notes also that on his return to the AMC from TCH, Steven Freeman was not drug tested either. The Inquiry concludes it was a breach of the ACTCS Drug Testing Policy that Steven Freeman was not drug tested at admission.</i>	The Drug Testing and Admission policy and operating procedure is currently under review.
<i>The Inquiry concludes also it was a deficiency in Steven Freeman's treatment in custody that he was not referred to a therapeutic program, such as the Solaris Therapeutic Community.</i>	This has been considered as part of the Rehabilitation Framework that is scheduled to be complete by early 2018.
<i>The Inquiry concludes that the solely punitive response to Steven Freeman under the 2015 ACT Drug Testing Policy was inappropriate.</i>	ACTCS is currently reviewing The Drug Testing policy and will include referrals to drug and alcohol support services or counselling for detainees that provide positive urinalysis results. This will be completed by the end of February 2019.
<i>The Inquiry concludes also that a more appropriate response would have included therapeutic treatment, which would have assessed Steven Freeman, in order to understand the reason(s) for the renewed drug use, including a consideration of whether that drug use was a form of "self-medication" for one reason or another.</i>	As above.
<i>The Inquiry notes that, while both Official Visitors are female, until very recently, all Aboriginal case managers and Indigenous Liaison Officer at the AMC were male. Accordingly, female Aboriginal and Torres Strait Islander detainees could not be supported by equivalent Indigenous female staff. The Inquiry concludes further that this situation was inappropriate. Moreover, an Indigenous leadership forum told the Inquiry that this situation may also have been culturally inappropriate. Having passed on these observations to ACTCS, the Inquiry notes that, with effect from 2 November 2016, the AMC has seconded a female Aboriginal case manager.</i>	ACTCS has since appointed an extra Official Visitor under the <i>Official Visitor Act 2012</i> . Currently there is one male Official Visitor and two female Official Visitors, one of whom is the Aboriginal and Torres Strait Islander Official Visitor.  There are currently two Aboriginal Case Managers. There is also an Aboriginal Liaison Officer at the AMC.  Winnunga now attend the AMC on a weekly basis to provide support services to women detainees.
ACTCS is currently introducing structural change which will encourage cross-organisational working and holistic offender management. A key driver of this work is the requirement for ACTCS to support an offender across all elements of their sentence in a seamless manner. Functional heads have been appointed to develop an operational implementation plan bringing together the new structure. This program of work will be delivered in a staged approach over the next 1-2 years.	
<b>Culturally Safe Practice</b>	<b>ACT Health</b>
<i>The Inquiry notes that in relation to Justice Health Service's staff members, 7 had completed cultural awareness training, 4 through an e-learning package, and 3 attended face to face. The Inquiry understands that a</i>	A female Aboriginal Liaison Officer (ALO) attended the AMC to support female detainees. As of September 2017, the ALO had attended six

*new e-learning package, which is expected to be ready the end of 2016, is being developed. A face-to-face training package was sought without success. The Inquiry concludes that this level of training (above) is inadequate, both in terms of the proportion of staff members who have undertaken the program and the method of training.*

times resulting in 90 occasions of service with detainees.

To date, 86% of Justice Health Service staff completed the e-learning Working with Aboriginal and Torres Strait Islander People.

Further cultural awareness face to face training will be completed by the end of 2018. Two training sessions in AMC and Bimberi, for the Forensic Mental Health Team occurred in late November 2017 and one training session has occurred at Dhulwa. A refresher training component for staff will continue.

As part of its commitment to providing culturally safe and responsive services, MHJHADS have also developed Practice Standards for its Aboriginal and Torres Strait Islander Liaison Officers and included consultation with other internal and external stakeholders. These Practice Standards are not only aimed to help define the roles of Liaison Officers and establish and articulate guidelines around their practice, but are also designed to embed a culturally responsive framework for MHJHADS more broadly.

As part of the planned ACT Health re-alignment of Canberra Hospital and Health Services, a Centre for Excellence for Aboriginal and Torres Strait Health Services has also been proposed.

As part of its commitment to providing cultural safe and responsive services. MHJHADS have also developed a Framework for Culturally Responsive and Practice Standards for its Aboriginal and Torres Strait Liaison Officers, which was endorsed in February 2018. The Framework was developed with the Liaison Officers and included consultation with other internal and external stakeholders. These Practice Standards are not only aimed to help define the roles of these Liaison Officers and establish and articulate guidelines around their practice, but are also designed to embed a culturally responsive framework for MHJHADS more broadly.

Child and Youth Protection Services (CYPS) delivers a cultural development program for staff. The program is managed and delivered by the CYPS Cultural Services team and is core training for staff. The training utilises an online training program developed by the Australian Institute of Aboriginal and Torres Strait Islander Studies. Online training is complemented by face to face discussions, a day on country with ACT Parks, and includes engagement activities with ACT Aboriginal organisations.

The training has been specifically designed for Child and Youth Protection Services staff to assist them to develop a better understanding of the history, spirituality and importance of the land for Aboriginal people.

As of 23 May 2018, 117 frontline Child and Youth Protection Services staff have completed the program.

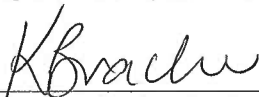
<p>Bimberi Youth Justice Centre employs a designated Aboriginal and Torres Strait Islander Family Engagement Officer who supports the engagement between families and young people and promotes an Aboriginal and Torres Strait Islander perspective into the daily functions and management of the centre.</p> <p>The Cultural Services Team within Child and Youth Protection Services provide staff with support and advice when working with Aboriginal and Torres Strait children, young people and families. The Team also provide assistance in engaging with other community agencies.</p> <p>ACTCS training staff met with members of the CORE project team from Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS). AIATSIS has been commissioned by the Department of Prime Minister and Cabinet to produce a cultural competency online learning package specifically for frontline workers in Corrective Services agencies and service provider organisations. ACTCS has trialled the final product and provided input and feedback. However, ACTCS will need to conduct further discussions around how this training product can be implemented, as ACTCS does not currently have an e-learning platform, access and logistics to this type of training methodology.</p>	
<b>Bail/Sentencing</b>	<b>LPP</b>
<p><i>Aboriginal and Torres Strait Islander considerations in bail and sentencing - The Inquiry concludes the options available to Magistrate Dingwall in considering Steven Freeman's bail application were lacking in that the Aboriginal community was not able to participate and there were limited supported accommodation options available for the magistrate to consider outside the AMC.</i></p>	<p>The Aboriginal Legal Service and LPP have developed a Bail Support trial. It aims to reduce the number of Aboriginal and Torres Strait Islander people on remand and reduce the amount of time spent on remand.</p> <p>Permission was sought and granted from the United Ngunnawal Elders council to name the trial 'Ngurrumbai' (Nuh-ram-buy), a Ngunnawal word meaning 'Perceive'.</p> <p>The Ngurrumbai Bail Support trial was launched on 7 December 2017.</p>
<b>Others</b>	<b>ALL</b>
<p>These conclusions are mainly observations that are further explored in other recommendations. They have been noted and all the work being undertaken as part of the Moss Review response is informed and underpinned by these conclusions and observations.</p>	
<p><i>The Inquiry concludes further that a number of factors, (i.e. His likely being unwell and vulnerable, placement in a cell furthest away from the officers' station, and that other detainees may have known about his arrival at AMC) combined with the result that Steven Freeman was placed unknowingly in harm's way.</i></p>	<p>These conclusions are mainly observations that are further explored in other recommendations. They have been noted.</p>
<p><i>The Inquiry concludes the ACTCS response following Steven Freeman's assault was appropriate.</i></p>	As above
<p><i>The Inquiry concludes the Justice Health Services immediate response to Steven Freeman's assault was appropriate.</i></p>	As above
<p><i>The Inquiry notes that these conclusions are not a reflection on the provision of service provided by Justice Health Services. The Inquiry concludes that it is wholly professional.</i></p>	As above
<p><i>The Inquiry concludes that any detainee concerns about the arrangements for visits at AMC is a matter for the ACT Ombudsman, ACT Human Rights Commission and Official Visitors.</i></p>	As above



Signature of Tamsyn Harvey, Executive Director,  
JACS Legislation, Policy and Programs

28 August 2018

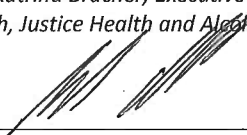
Date signed



Signature of Katrina Bracher, Executive Director,  
Mental Health, Justice Health and Alcohol and Drug  
Services.

29/8/18

Date signed



Signature of Mark Walters, Deputy Chief Police  
Officer (Crime)

3/8/18

Date signed



Signature of Jon Peach, Executive Director, ACT  
Corrective Services

31/7/18.

Date signed



Signature of Russell Taylor, Chair of the Moss  
Implementation Steering Committee

20.6.18

Date signed

