

2019

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

**GOVERNMENT RESPONSE TO THE REPORT OF A REVIEW OF A CRITICAL INCIDENT BY THE
ACT INSPECTOR OF CORRECTIONAL SERVICES - ASSAULT OF A DETAINEE AT THE
ALEXANDER MACONOCHIE CENTRE ON 1 JANUARY 2019 AND 15 APRIL 2019**

**Presented by
Shane Rattenbury MLA
Minister for Corrections and Justice Health**

INTRODUCTION

The ACT Government welcomes two reports from the Inspector of Correctional Services *Report of a Review of a Critical Incident, Assault of a detainee at the Alexander Maconochie Centre on 1 January 2019* (tabled in the ACT Legislative Assembly on 30 July 2019), and *Report of a Review of a Critical Incident, Assault of a detainee at the Alexander Maconochie Centre on 15 April 2019* (tabled in the ACT Legislative Assembly on 22 August 2019). This Government Response addresses the findings and recommendations of both reports.

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

Following the Moss Review, and in recognition of the unique make-up of the ACT's correctional system and increasing population pressures, the ACT Government committed to establishing an external and independent Inspectorate of Correctional Services, intended to strengthen and improve existing oversight arrangements.

On 30 November 2017, the ACT Legislative Assembly passed the *Inspector of Correctional Services Act 2017*. This legislation established the independent Inspector, tasked with conducting biennial reviews of ACT adult corrections facilities. It also provided the Inspector with powers to visit a corrections place at any time, review records, and talk to both detainees and staff.

These reports provide transparency to the ACT community, and identify areas for continuous improvement in the ACT's corrections environment.

GOVERNMENT RESPONSE

Assault of a detainee at the Alexander Maconochie Centre on 1 January 2019

This review of a critical incident was conducted on the Inspector's own initiative following notification of an assault of a male AMC detainee, and his subsequent hospitalisation, on 1 January 2019. The detainee was admitted to The Canberra Hospital and treated for significant injuries. ACT Corrective Services (ACTCS) reported the incident to ACT Policing for investigation.

Overall the review team found that the assault was not reasonably foreseeable by ACTCS and the actions of ACTCS were appropriate in the circumstances. Two recommendations were made that relate to policies and practices related to segregation. A further recommendation relates to accommodation placement and risk assessments.

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

Finding 1

That AMC staff responded in a timely manner to the incident when it was reported by the victim.

Finding 2

That the “named” detainees in this report were appropriately classified as medium security.

Finding 3

That the decision to place detainees in a shared cell was not properly documented with regard to a considered risk assessment.

Finding 4

That there was no intelligence information available to suggest that Detainee V was at risk of assault.

Finding 5

That there were no failings of security procedures or practices that contributed to the assault on Detainee V.

Finding 6

That notifications of the incident were made in accordance with relevant policies and procedures but the recording of the notifications was lacking. An incident “checklist” would have assisted staff in recording times of notifications.

Finding 7

That ACTCS did not record adequate reasons for placing Detainee X on segregation for 27 days.

Government Response to the findings 1-7: **Noted**

The ACT Government notes the Inspector’s report has provided assurance that ACTCS could not have foreseen the incident occurring. It is also positive that the detainees involved in the incident were classified appropriately, and AMC staff responded to the incident in a timely manner.

Recommendation 1

That the *Corrections Management (Shared Cell) Policy 2009* be reviewed to require that a risk assessment take place (and be appropriately documented) for every accommodation placement decision.

Government Response: **Agreed**

ACTCS has drafted the *Shared Cell* policy that is expected to be notified by 30 December 2019, and will replace the *Corrections Management (Shared Cell) Policy 2009*.

The new policy establishes the requirement for risk assessments to take place for accommodation placement decisions and dictates the type of documentation to be completed.

Recommendation 2

That segregation orders must pinpoint the reasons for segregation in the Corrections Management Act and where it is for ‘security and good order’, must provide a rational basis for making or extending the order on those grounds.

Government Response: Agreed

Since the Inspector initiated the review into this critical incident, ACTCS has notified the *Management of Segregation and Separate Confinement* policy. The policy establishes clear requirements for correctional centres to manage the segregation and separate confinement of detainees in a safe, secure, decent and humane manner.

Section 7 of the *Management of Segregation and Separate Confinement* policy prescribes the information that is to be included in a segregation direction and the appropriate form that corrections officers must use when segregating a detainee. The form includes a field that requires the correction officer to outline the reasons for placing the detainee on segregation. It also provides a field that states the authority to segregate under the policy, and the relevant section of the *Corrections Management Act 2007*.

Recommendation 3

That ACT Corrective Services advise ACT Policing that detainees subject to police investigations will not be kept on *investigative segregation* for more than seven days without a formal written request from ACT Policing to extend the order.

Government Response: Agree in principle

ACTCS recognises the significant impact that segregation or separate confinement regimes can have on the mental health of a detainee and is committed to ensuring that such impacts are minimised as far as practicable. Investigative segregation is not used by ACTCS to provide time for ACT Policing to conduct an investigation, or conduct initial interviews regarding the incident.

ACTCS accepts that the reasons noted on the detainee’s segregation form as “pending action from ACT policing” was not in accordance with ACTCS policy or the *Corrections Management Act 2007*. The *Management of Segregation and Separate Confinement* policy articulates that investigative segregation is necessary after an incident to avoid opportunity for the detainee to associate with anyone else. Association with the general AMC population could create, or may create a risk of harm or threatened harm to any person, the perverting or attempted perverting, of an investigation, or undermining security and good order at a correctional centre. The *Management of Segregation and Separate Confinement* policy states that the length of investigative segregation is three days.

Assault of a detainee at the Alexander Maconochie Centre on 15 April 2019

This review of a critical incident was conducted on the Inspector's own initiative following notification of an assault of a male AMC detainee in his cell by one or more assailants on 15 April 2019. The detainee suffered facial injuries that resulted in his admission to The Canberra Hospital. The incident was reported to ACT Policing for investigation.

The five findings of the report provide the ACT community assurance that ACTCS responded to this critical incident efficiently. It is encouraging to hear that the AMC's procedures for responding to critical incidents and the classification of detainees were appropriate in this instance.

Finding 1

That AMC staff responded in a timely manner to the incident when it was reported by the victim's cell mate.

Finding 2

That the "named" detainees in this report were appropriately classified as Medium security.

Finding 3

That there was no intelligence information available to ACTCS to suggest that Detainee V was at risk of assault.

Finding 4

There were no failings of security procedures or practices that contributed to the assault on Detainee V.

Finding 5

That notifications of the incident to ACT Policing and the Office of the Inspector of Correctional Services were made in accordance with relevant policies but the approved process of notifying next-of-kin, and recording of the notification, was not followed.

Government Response: Noted

ACTCS staff work hard each day to ensure the safety of detainees and de-escalate and prevent serious incidents at the AMC. Within correctional facilities however, there is the inherent potential for conflict amongst some detainees. There is often pre-existing tension in the relationships between detainees at the AMC, resulting from interactions and associations, both in custody, and in the community.

The report notes that CCTV does not deter assaults. ACTCS use CCTV in conjunction with a range of other security measures to increase the safety and security of all detainees of the AMC. Recommendation 1 of the Moss Review called for improved Closed-Circuit Television (CCTV) quality and coverage at the AMC. In response, the AMC increased its use of CCTV to

525 cameras to monitor the movement and behaviour of detainees to ensure safety, security and good order at the AMC. ACTCS continues to refer all serious assault allegations to ACT Policing for investigation. The quality of the images that are captured by the CCTV system have been improved and have assisted ACT Policing in prosecuting some assaults.

ACTCS secured an additional funding over 3.5 years in the 2017-18 Mid-Year Budget to fund improvements in security operations at the AMC, and across ACTCS generally. This funding has seen the creation of a centralised intelligence unit across both Community and Custodial Corrections to work with staff, detainees and ACT Policing to intercept acts prior to their perpetration.

CONCLUSION

ACTCS continues to strive to maintain correctional facilities where detainee and staff safety is paramount, detainees are treated with respect and dignity, and where human rights are maintained at all times.

The ACT Government recognises that effective independent oversight provided by the Inspector of Correctional Services is important to build and maintain public confidence in the ACT's correctional system. The findings and recommendation of both reports will contribute to the continuous improvement of the care, treatment and safety of all detainees in the ACT's correctional facilities.