

2019

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

**GOVERNMENT RESPONSE TO THE
STANDING COMMITTEE ON JUSTICE AND COMMUNITY SAFETY
REPORT NO 5**

REPORT ON ANNUAL AND FINANCIAL REPORTS 2017-2018

**Presented by
Mr Andrew Barr MLA
Chief Minister**

Introduction

On Thursday, 25 October 2018, the 2017-18 Annual and Financial reports of all ACT Government agencies were referred to the relevant Standing Committees of the Assembly for inquiry and reporting.

The following annual reports, or sections of annual reports, were referred to the Standing Committee on Justice and Community Safety (the Committee):

- ACT Electoral Commission;
- ACT Gambling and Racing Commission;
- ACT Human Rights Commission;
- ACT Policing;
- Director of Public Prosecutions;
- Inspector of Correctional Services;
- Justice and Community Safety Directorate;
- Legal Aid Commission (ACT); and
- Public Trustee and Guardian.

Response to Committee Recommendations

Recommendation 1

4.7 The Committee recommends that the ACT Government ensure that all victims of sexual assault are made aware of any support available from the Victims of Crime Financial Assistance Scheme.

Government Response – Agreed

Victim Support ACT has agreements in place with ACT Policing to ensure all victims of sexual assault are provided information about the scheme.

Recommendation 2

4.8 The Committee recommends that any new administrative procedures applying to payments under the Victims of Crime Financial Assistance Scheme be concise and, sufficient staffing resources are provided to efficiently administer the scheme.

Government Response – Agreed

The introduction of the *Victims of Crime (Financial Assistance) Act 2016* modernised the operation of the financial assistance scheme in the ACT and streamlined the administrative procedures applying to payments. Resourcing was also provided to Victim Support ACT to operate the revised scheme. A review of the Act will commence following the third year of its operation.

Recommendation 3

4.12 The Committee recommends that the ACT Government finalise the proposed ACT Charter of Victims' Rights as soon as possible, and that the details of the Charter scheme and its proposed implementation be provided in the next JACS Directorate annual report.

Government Response – Agreed in principle

The ACT Government will consider options for adopting an ACT Charter of Victims' Rights following consultation with stakeholders.

Recommendation 4

4.14 The Committee recommends that, utilising appropriate legal and policing expertise gained from other jurisdictions, the ACT Government review laws in other jurisdictions directed at outlaw motor cycle gangs' (OMCG) activities and that this review be directed to limit illegal OMCG activity in the ACT.

Government Response – Agreed

The ACT Government is strongly committed to responding to the criminal activities of criminal gangs in order to ensure Canberra is a safe and secure community. The ACT Government is committed to laws that are evidence based and just and equitable for the entire ACT community. Most recently, the ACT Government committed to the establishment of ACT-specific laws to strip unexplained wealth from people involved with criminal gangs. The ACT

Government actively monitors and review laws in other jurisdictions that are directed at limiting the illegal activity of criminal gangs. The ACT Government will keep monitoring the evidence as it becomes available about both the human rights impact and effectiveness in preventing crime of any new legislation.

Recommendation 5

5.10 The Committee recommends that the ACT Government ensure that current administrative arrangements provide that the office of ACT Director of Public Prosecutions (DPP):

- be independent of the JACS Directorate; and,
- be enabled to deal directly with the Attorney-General and government on the question of funding requirements and all future expenditure.

Government Response – Noted

The ACT Government is working closely with the DPP to actively consider any proposal raised by him with the aim of ensuring the efficiency of the office. All options will be considered including this one in consultation with the DPP.

Recommendation 6

5.12 The Committee recommends that a comparison be undertaken with regard to sentencing patterns by judicial officers in the ACT comparing the pattern of sentencing for the period of 2 years prior to, and for the period since, the opening of the Alexander Maconochie Centre.

Government Response – Agreed in principle

The ACT Government monitors sentencing trends across the ACT courts however as the sentencing outcomes were not electronically validated before the implementation of the ACT Sentencing Database the cost of extracting and validating the data to make the recommended comparison is prohibitive.

Recommendation 7

5.13 The Committee recommends that, the ACT Government investigate how ‘Prosecutor Associates’ and paralegals can be appointed and be enabled to carry out an appropriate level of prosecution work in ACT courts.

Government Response – Agreed in principle

The ACT Government supports any measures that can be shown to support the more effective operation of the criminal justice system. The ACT Government is exploring options to give effect to this recommendation in consultation with the ACT Courts and the Director of Public Prosecutions.

Recommendation 8

5.20 The Committee recommends that, as part of delivery of legal aid support in the ACT, the government consider increased funding of early intervention programs in all areas of family law jurisdiction, as appropriate.

Government Response – Agreed

The ACT Government funds Legal Aid ACT to provide a range of legal services that promote early resolution of legal problems in all areas of family law. This includes Legal Aid’s Health Justice Partnership with the Centenary Hospital for Women and Children.

In the 2019-20 Budget, the ACT Government allocated \$300,000 for 2019-20 through the portfolio of the Minister for the Prevention of Domestic and Family Violence, Yvette Berry MLA, to continue Legal Aid’s Health Justice Partnership and the Health Justice Partnerships run by the Women’s Legal Centre in conjunction with Calvary Hospital and the Gungahlin Child and Family Centre. The Health Justice Partnerships are innovative services providing highly accessible legal services to women in health care settings, intervening early to assist women at risk of violence.

The ACT Government funds Legal Aid to run other early intervention programs that assist clients to deal with a range of issues, including in family law. This includes:

- \$640,000 from 2018-19 for Legal Aid’s Older Persons ACT Legal Service (OPASL) and
- \$410,000 from 2018-19 to support a drug and alcohol court with a view to reducing or eliminating drug and alcohol dependency.

The ACT Government also funds other legal assistance providers in the ACT to provide early intervention programs in family law contexts. In the 2019-20 Budget this includes:

- \$120,000 to Care Inc, which operates the Consumer Law Centre, to fund a specialist family violence financial counsellor in 2019-20, who will work closely with lawyers to provide a holistic service to clients facing financial abuse as a result of family violence and
- \$70,000 to the Women’s Legal Centre to maintain services to women experiencing family and domestic violence, including collaboration with the Consumer Law Centre to assist women experiencing economic abuse.

The ACT Government supports Legal Aid in other ways, including by streamlining Legal Aid processes under the *Legal Aid Act 1977*. On 4 June 2019, the ACT Government passed the *Justice and Community Safety Legislation Amendment Bill 2019*, which made a number of amendments to the Legal Aid Act to ensure its continued efficiency and effectiveness. This includes an amendment to allow matters to be referred to Legal Aid for family dispute resolution (FDR) without the need for a grant of legal assistance. This will allow Legal Aid to assist more parties to family law proceedings to resolve their disputes early, helping to curb lengthy legal disputes and reducing pressures on other areas within Legal Aid and the community generally. The Productivity Commission found that FDR services in legal aid

commissions deliver benefits that outweigh costs such as avoiding high costs of litigation, enabling management of more complex legal and support needs and identifying family violence and child abuse early in the process.

Recommendation 9

5.22 The Committee recommends that Legal Aid ACT administration report on the implementation of the current planned upgrade of IT systems for Legal Aid ACT.

Government Response – Agreed

Legal Aid ACT agrees to include reporting on the implementation of the planned IT upgrade in the 2018-19 Annual Report.

Recommendation 10

5.30 The Committee recommends that the Public Trustee, take all necessary steps to locate and advise persons to whom money is owed from the trust funds administered by the Public Trustee to ensure that these moneys are made available.

Government Response – Noted

Public Trustee and Guardian's (PTG) online Unclaimed Money claims register is an efficient and much used service and results in many claims being made to the rightful owners of the money. PTG practice is similar to that in place in respect to the Commonwealth's Lost Superannuation Register.

Recommendation 11

5.34 The Committee recommends that a program be implemented to encourage more people to deposit their Wills with the Public Trustee to allow Wills to be made available to the Courts by electronic means and to avoid loss or destruction of Wills.

Government Response – Agreed

Public Trustee and Guardian (PTG) has in place a Business Transformation Project and has identified this as a future sustainability project. PTG proposes to investigate similar systems in place elsewhere in Australia and commence discussion with the ACT Law Society and the ACT Supreme Court. It will also be necessary to identify any legislative implications such a system may have.

Recommendation 12

5.36 The Committee recommends that the Public Trustee be empowered and resourced to hold Power of Attorney documents electronically pending the establishment of a national register for this purpose.

Government Response – Noted

The ACT Government notes the benefits that an electronic register of power of attorney documents may bring in safeguarding vulnerable individuals, particularly older people. The ACT Government is also aware of and contributing to the ongoing work of the Council of Attorneys-

General in considering a national register for enduring powers of attorney. It would be premature to require the Public Trustee and Guardian to hold Power of Attorney documents before the outcome of the national work is known.

Recommendation 13

5.38 The Committee recommends that funding sought by the Public Trustee for two extra guardians be provided and that, in light of the increase in demand for guardianship services resulting from the development and implementation of the National Disability Insurance Scheme (NDIS), this service be provided as soon as possible.

Government Response – Noted

The ACT Government will consider the resourcing needs of the Public Trustee and Guardian in relation to the NDIS through the Budget process.

Recommendation 14

5.44 The Committee recommends that the cottage accommodation designed for women be expanded to ensure all women inmates at the Alexander Maconochie Centre (AMC) are housed to meet their specific needs.

Government Response – Noted

ACT Corrective Services completed a feasibility study in 2017 to identify, prioritise and inform future correctional requirements in a staged and cost-effective manner. The feasibility study involved an infrastructure-based assessment to address female accommodation issues at the AMC. The study found that 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.

Recommendation 15

5.10 The Committee recommends that the planned ACT Integrated Case Management System (ICMS) be fully introduced and implemented by the end of 2019.

5.11 The Committee also recommends that the JACS directorate ensure that planned electronic delivery and service of documents, briefs of evidence (including police briefs and defence briefs) is implemented so as to ensure these documents are provided to the ACT Courts as proposed.

Government Response – Agreed in principle

Stage 3 of ICMS was implemented in February 2019. This stage included the criminal jurisdiction, interfaces with key justice agencies and the first tranche of online services such as electronic lodgement of court and tribunal documents. Further work over the next few months is expected to expand the range of documents that may be lodged electronically using the ICMS.

A longer term program of works is being developed to implement the ICMS electronic court book functionality that has recently gone live in Western Australia. This functionality is contingent upon all court documents being lodged electronically in the ICMS. A separate project is underway to explore options for conducting trials and hearings where evidence and other written materials are primarily presented in digital form.

Recommendation 16

5.8 The Committee recommends that, in light of the increase in the number of inmates in the Alexander Maconochie Centre (AMC) current and planned infrastructure be identified and a long-term plan for the next 10 to 20 years be developed.

Government Response – Agreed

ACT Corrective Services completed a feasibility study in 2017, to identify, prioritise and inform future correctional requirements in a staged and cost-effective manner.

Recommendation 17

5.9 The Committee recommends that, as a matter of urgency, accommodation for convicted inmates and remand inmates at AMC be separated.

Government Response – Agreed in principle

ACT Corrective Services (ACTCS) completed a feasibility study in 2017, to identify, prioritise and inform future correctional requirements in a staged and cost-effective manner. The 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 issue of the separation of remand and sentenced detainees was raised in finding one of the Inspector of Correctional Services Review *The Care and Management of Remandees at the Alexander Maconochie Centre*. The Government Response acknowledges that the separation of remanded and sentenced detainees remains a challenge for ACTCS due to the high numbers of remand detainees, and the complexities of managing a range of cohorts in the one facility. At this time a separate remand facility is not proposed, therefore the separation of remand and sentenced detainees cannot be achieved. ACTCS will continue to address the separation in other ways and explore opportunities as the impacts of the Building Communities Not Prison Program are realised in relation to the remand population.

On 15 February 2019, the ACT Government announced new funding to support the 'Building Communities, Not Prisons' (BCNP) initiatives. This has seen an initial \$14.5 million of funds redirected away from prison expansion into a range of community programs, legislative reforms and policy initiatives, as part of the midyear budget review process. As part of the 'building communities, not prisons' strategy, the ACT Government is investing \$997, 000 to design the Alexander Maconochie Reintegration Centre which will add an additional 80 beds. Formerly known as the Transitional Release Centre, it will allow a range of rehabilitation and

reintegration programs to be delivered in partnership with non-government and government agencies support.

On 5 June 2019 the ACT Government announced \$35 million to establish a Reintegration Centre at the AMC to support pathways out of the justice system through provision of accommodation for low risk detainees and support to improve living skills, re-establish connections with family and friends and provide employment, rehabilitation and education opportunities.

Recommendation 18

5.13 The Committee recommends that the visitor centre at the Alexander Maconochie Centre be expanded to allow a greater number of visits to be scheduled.

Government Response – Noted

Visit processes will be reviewed to consider visits processes and visiting arrangement to enhance current provisions. This review will be completed by 30 June 2019.

Recommendation 19

7.14 The Committee recommends that visits to the Alexander Maconochie Centre be planned and programmed to allow visits on Mondays and Tuesdays.

Government Response – Agreed in principle

Visit processes will be reviewed to consider visits processes and visiting arrangement to enhance current provisions. This review will be completed by 30 June 2019.

Recommendation 20

5.19 The Committee recommends that the ACT Government and Corrective services administration review the timeframes for the current program of repairs and maintenance at the Alexander Maconochie Centre.

Government Response – Agreed in principle

The opening of the reintegration centre at the AMC will provide capacity for units within the AMC to undergo maintenance and repairs in a planned approach.

Recommendation 21

5.7 The Committee recommends that the introduction and rollout of ReLink services to high density housing sites be continued to increase the good results evidenced at the Committee's hearings.

Government Response – Agreed

The ACT Government, through the 2018-19 Budget review, has provided recurrent funding to sustain and expand the Strong Connected Neighbourhoods Program (formerly High Density Housing Program) that currently operates on Ainslie Avenue and will expand to provide support services to Illawarra Court in Belconnen.

Recommendation 22

10.7 The Committee recommends that the ACT Government examine and assess the current ability of ACT Emergency Services to monitor and fine tune the Bushfire Operational Plan (BOP) so as to achieve the highest possible level of planned burns and that options be assessed to increase the number and area of BOP burns to be undertaken on any given day, if and when conditions are deemed and considered appropriate.

Government Response – Agreed

Recommendations from the Potters Hill Review support a more collaborative approach to prescribed burning in the ACT. EPSDD and ESA are committed to providing opportunities for both EPSDD staff and ACTRFS volunteers to undertaking prescribed burning activities. The commitment includes engaging with volunteers early to allow arrangements to be made with employers and families and adjusting, where possible, burning times to include after business hours and weekend burns. Volunteers understand the importance of prescribed burning to community safety and are committed to assisting where they can.

Recommendation 23

10.11 That immediate consideration be given to providing an additional ambulance to the current ambulance service provided in Gungahlin.

Government Response – Agreed in principle

The ACT Government recently announced two additional ambulances are on the road to help ensure Canberra maintains the fastest ambulance response times in the country as our city grows. Another five will be on the road in the 2019-20 financial year. The seven new ambulances are in addition to ACT Ambulance Service fleet upgrades, which includes fitting ambulances with electric stretchers, power loaders and new defibrillators. The ACT Government also recently announced funding for thirty new paramedics, who will help crew the additional ambulances.

The increase in the number of ambulances and paramedics provide additional resources to be utilised where required in the ACT, including Gungahlin.

Recommendation 24

10.12 That a fire station and emergency services station be planned and constructed for the Molonglo area as soon as possible.

Government Response – Agreed

As part of the 2019-20 ACT Budget, the ACT Government announced that work will commence on the due diligence and preliminary design for two new combined ACT Ambulance Service and ACT Fire & Rescue stations, to be located in the City and the Molonglo Valley.

Recommendation 25

10.20 The Committee recommends that the agreement between the ACT and the AFP ensure that a high level of focus is directed to the mental health of the members of the AFP, and welfare be measured and compared in each annual report of the AFP.

Government Response – Noted

The legislative framework which governs the provision of police services in the ACT distributes responsibilities between the AFP and the Territory. Under the AFP Act, police members are engaged by the AFP Commissioner, on behalf of the Commonwealth (s24) and the provisions of the *Work Health and Safety Act 2011* (Cth) apply including with the object of protecting workers and other persons against harm to their health, safety and welfare through the elimination or minimisation of risks arising from work.

Recommendation 26

10.23 The Committee recommends that programs for the protection of women in the ACT ensure women are enabled to feel safer when out at night.

Government Response – Agreed

The ACT Government has funded the Canberra Night Crew for two years with the option of extending to a third year. The Canberra Night Crew have a safe space set up in Civic on Thursday and Saturday nights with Friday operating in the warmer months. The service also provides roving patrols who assist people in Civic. The NightCrew provide a range of interventions including:

- de-escalation of potential conflict;
- supporting people vulnerable to sexual assault;
- reducing opportunities for theft from vulnerable people;
- minimising the risk of people being injured by traffic; or
- other types of assistance – for example welfare checks, sober-up support, basic first aid, charging of mobile phones, directions, assistance to transport, water, thongs, vomit bags.

For the period April 2017 to approximately December 2018 38% of the people assisted by the Night Crew were women.

The ACT Government is exploring the possibility of introducing the Ask for Angela program in the ACT. The initiative is aimed at reducing sexual violence arising from meetings generated by online dating and any situation where people find themselves unsure or uncomfortable on a night out. The main objective is to provide vulnerable people with a code word 'Angela' to seek help from bar staff to discreetly support them exiting the venue safely.

Recommendation 27

11.5 The Committee recommends that steps be taken to remove the requirement for 24 hours' notice for visits by the Official Visitor for Disability Services Visitor having regard to the requirements applicable to other ACT Official Visitors.

Government Response – Agreed

This has occurred. The *Disability Services Amendment Act 2018* removed the 24 hour written notice requirement to visit a visitable place. The Disability Official Visitor now only has to give the owner of the operating entity ‘reasonable notice’. No notice is required if the OV reasonably believes that an entitled person at the place is at risk of harm.

Recommendation 28

11.6 The Committee recommends that steps be taken to review the current requirement for the Official Visitor for Disability Services to obtain consent to view records in residences visited by the Official Visitor.

Government Response – Agreed in principle

This matter is being considered in the implementation of the recommendations of the review of the Official Visitor Scheme. It will be important to ensure that any amendment to consent requirements is consistent with the rights to privacy and equality protected under the *Human Rights Act 2004*.

Recommendation 29

11.7 The Committee recommends that a mechanism be developed which will enable the Official Visitor for Disability Services to work with organisations providing disability support so the Official Visitor for Disability Services can make sure personnel found to be unsuitable for work in disability support services do not take up repeat employment in disability support.

11.8 The Committee also recommends that the Official Visitor for Disability Services be empowered to follow up cases of personnel unsuitable for work in disability support services without breaching the privacy of the individuals involved.

Government Response – Agreed in principle

The Official Visitor (OV) is able to make referrals of complaints regarding the treatment of vulnerable people in visitable places to investigative entities, including the Commissioner for Fair Trading (who oversees the Working with Vulnerable People Background checking scheme). However, there are currently no provisions for OVs to receive information from the Commissioner about the actions taken as a result of that information.

Consideration will be given to improving information sharing mechanisms to ensure that risks to vulnerable people identified by OVs are able to be shared in a timely way (whether directly or through appropriate referrals) to inform decisions regarding working with vulnerable people registration and registration of providers under NDIS. Broader legislative and policy consideration is required to fully understand the implications, both in relation to the purview of OVs as independent oversight entities and the functions of the Commissioner in relation to worker screening, of including a power under either Act for the OVs to take on an information sharing entity status. However, given the status and expertise of the OVs it is agreed that advice provided by the OVs to the Commissioner should be weighted more carefully than other general reports.