



**Inquiry into ACT Budget 2021–22**  
**QUESTION ON NOTICE**

Elizabeth Kikkert: To ask the Minister for Aboriginal and Torres Strait Islander Affairs

Ref: Aboriginal and Torres Strait Islander Affairs, Budget Statement G, pp. 1–2, output class CSD 3.1  
Strategic Policy

In relation to: a proposed commission of inquiry into the overrepresentation of Aboriginal and Torres Strait Islander people in the ACT justice system

1. Can the Minister please provide the names and details of the 24 existing reviews since 2013 identified as part of the audit of existing recommendations, as mentioned in the hearing?
  - a. Can the Minister please provide the URL of each that is publicly available on the internet?
  - b. Can the Minister please attach copies of any that are not publicly available on the internet?
2. When will the audit of existing reviews commence, and when is it expected to finish?
3. Who is performing this audit?
4. Has a cost for the proposed commission of inquiry been estimated in line with the originally proposed terms of reference?
  - a. If so, what is this estimated cost?
  - b. If not, why not?
  - c. Can the Minister please attach a copy of the originally proposed terms of reference for this commission of inquiry?
5. Are there any reasons why a commission of inquiry could not be funded through the Healing and Reconciliation Fund if this were requested by Aboriginal and Torres Strait Islander community leaders?

RACHEL STEPHEN-SMITH MLA: The answer to the Member's question is as follows:–

1. The following reviews have been identified for potential consideration in an audit of existing reviews and recommendations. However, the scope of the audit has not yet been finalised.

**Review**

1. **Value of a justice reinvestment approach to criminal justice in Australia** - Senate Legal and Constitutional Affairs References Committee, 2013  
[https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Legal\\_and\\_Constitutional\\_Affairs/Completed\\_inquiries/2010-13/justicereinvestment/report/index](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/Completed_inquiries/2010-13/justicereinvestment/report/index)

2. <b>Access to Justice Arrangements</b> - Productivity Commission, 2014 <a href="https://www.pc.gov.au/inquiries/completed/access-justice/report/access-justice-overview.pdf">https://www.pc.gov.au/inquiries/completed/access-justice/report/access-justice-overview.pdf</a>
3. <b>Blueprint for Change</b> - Change the Record Coalition Steering Committee, 2015 <a href="https://www.reconciliation.org.au/wp-content/uploads/2017/11/Change-the-Record-Blueprint_web.pdf">https://www.reconciliation.org.au/wp-content/uploads/2017/11/Change-the-Record-Blueprint_web.pdf</a>
4. <b>Inquiry into Aboriginal and Torres Strait Islander Experience of Law Enforcement and Justice Services</b> - Senate Standing Committee on Finance and Public Administration, 2015 <a href="https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Finance_and_Public_Administration/Legalassistanceservices/Report">https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Finance_and_Public_Administration/Legalassistanceservices/Report</a>
5. <b>Heads Held High - Keeping Queensland kids out of detention, strong in culture and community</b> – Amnesty International, 2016 <a href="https://www.amnesty.org.au/wp-content/uploads/2016/12/Heads_Held_High_-_Queensland_report_by_Amnesty_International.pdf">https://www.amnesty.org.au/wp-content/uploads/2016/12/Heads_Held_High_-_Queensland_report_by_Amnesty_International.pdf</a>
6. <b>Prison to Work</b> – Council of Australian Governments, 2016 No URL available – see Attachment A
7. <b>"So Much Sadness in our Lives" - Independent Inquiry into the Treatment in Custody of Steven Freeman</b> – Mr Phillip Moss AM, Mr Sean Costello, Professor Ngiare Brown, Ms Megan Sparke, 2016 <a href="https://www.ics.act.gov.au/_data/assets/pdf_file/0019/1304353/Moss-report.pdf">https://www.ics.act.gov.au/_data/assets/pdf_file/0019/1304353/Moss-report.pdf</a>
8. <b>Inquiry into Auditor-General's Report on Rehabilitation of Male Detainees at the AMC</b> – Standing Committee on Justice and Community Safety, 2016 <a href="https://www.parliament.act.gov.au/_data/assets/pdf_file/0017/910331/Report-on-A-G-s-report-on-rehabilitation-at-the-AMC-Final.pdf">https://www.parliament.act.gov.au/_data/assets/pdf_file/0017/910331/Report-on-A-G-s-report-on-rehabilitation-at-the-AMC-Final.pdf</a>
9. <b>Pathways to Justice - Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples</b> – Australian Law Reform Commission, 2017 <a href="https://www.alrc.gov.au/publication/pathways-to-justice-inquiry-into-the-incarceration-rate-of-aboriginal-and-torres-strait-islander-peoples-alrc-report-133/">https://www.alrc.gov.au/publication/pathways-to-justice-inquiry-into-the-incarceration-rate-of-aboriginal-and-torres-strait-islander-peoples-alrc-report-133/</a>
10. <b>Royal Commission into the Protection and Detention of Children in the Northern Territory</b> – Hon. Margaret White AO, Mr Michael Gooda, 2017 <a href="https://www.royalcommission.gov.au/child-detention/final-report">https://www.royalcommission.gov.au/child-detention/final-report</a>
11. <b>Coronial Findings – Death of Steven Freeman</b> – Coroner Robert Cook, 2018 <a href="https://static1.squarespace.com/static/5b283d0ffc7fd4e0101bd20/t/5b8524f0f950b7f53491d1d2/1535452410597/Steven-Freeman.pdf">https://static1.squarespace.com/static/5b283d0ffc7fd4e0101bd20/t/5b8524f0f950b7f53491d1d2/1535452410597/Steven-Freeman.pdf</a>
12. <b>Review of Opioid Replacement Treatment Program at AMC</b> – ACT Health Services Commissioner, 2018 <a href="https://www.parliament.act.gov.au/_data/assets/pdf_file/0009/1185057/Alexander-Maconochie-Centre-Review-of-the-Opioid-Replacement-Treatment-Program.pdf">https://www.parliament.act.gov.au/_data/assets/pdf_file/0009/1185057/Alexander-Maconochie-Centre-Review-of-the-Opioid-Replacement-Treatment-Program.pdf</a>
13. <b>Royal Commission into Aboriginal Deaths in Custody</b> – Royal Commission, 1991 <a href="#">AustLII - Indigenous Law Resources - Royal Commission into Aboriginal Deaths in Custody</a>

<p><b>Review of the implementation of the recommendations of the Royal Commission into Aboriginal Deaths in Custody (RCIADIC)</b> – Deloitte Access Economics, 2018  <a href="#">Review of the implementation of the Royal Commission into Aboriginal Deaths in Custody   National Indigenous Australians Agency (niaa.gov.au)</a></p> <p><b>Joint response to the Deloitte Review of the implementation of the recommendations of the Royal Commission into Aboriginal Deaths in Custody</b> – Jordan, K &amp; Anthony, T &amp; Walsh, T &amp; Markham, F, 2018  <a href="#">Joint response to the Deloitte Review of the implementation of the recommendations of the Royal Commission into Aboriginal Deaths in Custody (anu.edu.au)</a></p>
<p>14. <b>Commission Initiated Review of Allegations Regarding Bimberi Youth Justice Centre</b> – ACT Disability and Community Services Commissioner, ACT Human Rights Commissioner, 2019  <a href="https://hrc.act.gov.au/wp-content/uploads/2019/04/190329-Bimberi-Review-Screen.pdf">https://hrc.act.gov.au/wp-content/uploads/2019/04/190329-Bimberi-Review-Screen.pdf</a></p>
<p>15. <b>Healthy Prison Review of the Alexander Maconochie Centre</b> – ACT Inspector of Correctional Services, 2019  <a href="https://www.ics.act.gov.au/_data/assets/pdf_file/0011/1463681/10606R-ACT-ICS-Healthy-Prison-Review-Nov-2019_FA-TAGGED.pdf">https://www.ics.act.gov.au/_data/assets/pdf_file/0011/1463681/10606R-ACT-ICS-Healthy-Prison-Review-Nov-2019_FA-TAGGED.pdf</a></p>
<p>16. <b>Obstacles to Parole and Community-Based Sentencing Alternatives for Aboriginal and Torres Strait Islander Offenders</b> - Dr Clarke R. Jones, Australasian Institute of Judicial Administration, 2019  <a href="https://aija.org.au/wp-content/uploads/2019/06/Parole-and-Community-Corrections-Orders-for-Indigenous-Prisoners.pdf">https://aija.org.au/wp-content/uploads/2019/06/Parole-and-Community-Corrections-Orders-for-Indigenous-Prisoners.pdf</a></p>
<p>17. <b>Our Booris, Our Way</b> - Our Booris, Our Way Steering Committee, 2019  <a href="https://www.strongfamilies.act.gov.au/_data/assets/pdf_file/0011/1457813/Our-Booris-Report-FINAL-REPORT.pdf">https://www.strongfamilies.act.gov.au/_data/assets/pdf_file/0011/1457813/Our-Booris-Report-FINAL-REPORT.pdf</a></p>
<p>18. <b>Parole Processes at the AMC – investigation into the administration of parole by ACTCS</b> – ACT Ombudsman, 2020  <a href="https://www.ombudsman.act.gov.au/_data/assets/pdf_file/0014/112073/ACTCS-administration-of-parole-processes.pdf">https://www.ombudsman.act.gov.au/_data/assets/pdf_file/0014/112073/ACTCS-administration-of-parole-processes.pdf</a></p>
<p>19. <b>Review of ACT Corrective Services Court Transport Unit</b> – ACT Inspector of Correctional Services, 2020  <a href="https://www.ics.act.gov.au/_data/assets/pdf_file/0005/1670270/ACT-OICS-Court-Transport-Unit-Report-November-2020_full_FA-TAGGED.pdf">https://www.ics.act.gov.au/_data/assets/pdf_file/0005/1670270/ACT-OICS-Court-Transport-Unit-Report-November-2020_full_FA-TAGGED.pdf</a></p>
<p>20. <b>ACT Policing’s Administrative Framework for engagement with the ACT Aboriginal and Torres Strait Islander community</b> – Commonwealth Ombudsman, ACT Ombudsman, 2021  <a href="https://www.ombudsman.gov.au/_data/assets/pdf_file/0016/112408/Attachment-A-FINAL-Report-Vol-1-ACT-Policing-OMI-accessible-A2147380.pdf">https://www.ombudsman.gov.au/_data/assets/pdf_file/0016/112408/Attachment-A-FINAL-Report-Vol-1-ACT-Policing-OMI-accessible-A2147380.pdf</a></p>
<p>21. <b>Healthy Centre Review of Bimberi Youth Justice Centre</b> – ACT Inspector of Correctional Services, 2021  <a href="https://www.ics.act.gov.au/_data/assets/pdf_file/0008/1779866/FINAL-ACT-ICS-Bimberi-Healthy-Centre-Review-June_2021_FA_tagged.pdf">https://www.ics.act.gov.au/_data/assets/pdf_file/0008/1779866/FINAL-ACT-ICS-Bimberi-Healthy-Centre-Review-June_2021_FA_tagged.pdf</a></p>

<p>22. <b>Riot and Serious Fires at the AMC on 10 November 2020</b> – ACT Inspector of Correctional Services, 2021  <a href="https://www.ics.act.gov.au/_data/assets/pdf_file/0005/1733999/Final-report_tagged.pdf">https://www.ics.act.gov.au/_data/assets/pdf_file/0005/1733999/Final-report_tagged.pdf</a></p>
<p>23. <b>Serious Fire at the AMC on 14 November 2020</b> – ACT Inspector of Correctional Services, April 2021  <a href="https://www.ics.act.gov.au/_data/assets/pdf_file/0007/1744567/11005-ACT-ICS-Critical-Incident-Report-14-November-2020_FA-tagged.pdf">https://www.ics.act.gov.au/_data/assets/pdf_file/0007/1744567/11005-ACT-ICS-Critical-Incident-Report-14-November-2020_FA-tagged.pdf</a></p>
<p>24. <b>The High Level of First Nations People in Custody and Oversight and Review of Deaths in Custody</b> - Select Committee on The High Level of First Nations People in Custody and Oversight and Review of Deaths in Custody, 2021  <a href="https://www.parliament.nsw.gov.au/lcdocs/inquiries/2602/Report%20No%201%20-%20First%20Nations%20People%20in%20Custody%20and%20Oversight%20and%20Review%20of%20Deaths%20in%20Custody.pdf">https://www.parliament.nsw.gov.au/lcdocs/inquiries/2602/Report%20No%201%20-%20First%20Nations%20People%20in%20Custody%20and%20Oversight%20and%20Review%20of%20Deaths%20in%20Custody.pdf</a></p>

2. *When will the audit of existing reviews commence, and when is it expected to finish?*

These matters have not yet been finalised. However, substantive work is currently expected to commence in 2022.

3. *Who is performing this audit?*

These matters have not yet been finalised. However, the audit is currently expected to involve a panel of ACT Aboriginal and Torres Strait Islander community leaders, supported by the Justice and Community Safety Directorate.

4. *Has a cost for the proposed commission of inquiry been estimated in line with the originally proposed terms of reference?*

- a. *If so, what is this estimated cost?*
- b. *If not, why not?*
- c. *Can the minister please attach a copy of the originally proposed terms of reference for this commission of inquiry?*

The ACT Government has not proposed a Terms of Reference for a Royal Commission or a Commission of Inquiry. A copy of the Terms of Reference for Royal Commission proposed to the ACT Government can be found at Attachment B – Proposed Terms of Reference for Royal Commission.

Royal Commissions undertaken in other jurisdictions provide an indication for the possible cost of a Royal Commission in the ACT. However, the Government has not estimated the cost of a Royal Commission in line with these Terms of Reference.

5. *Are there any reasons why a commission of inquiry could not be funded through the Healing and Reconciliation Fund if this were requested by Aboriginal and Torres Strait Islander community leaders?*

It is possible that the Healing and Reconciliation Fund could be used to fund a Commission of Inquiry, or some element(s) of such a process. However, it is anticipated that a commission of inquiry with Royal Commission powers would be a high-cost exercise and may even exceed the available unallocated funds.

Funding a commission of inquiry from the Healing and Reconciliation Fund would also limit the funding available for community priorities, such as progress toward treaty and support for healing intergenerational trauma.

Approved for circulation to the Standing Committee on Justice and Community Safety

Signature: 

Date: 16/11/21

By the Minister for Aboriginal and Torres Strait Islander Affairs, Rachel Stephen-Smith MLA