

2022

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

**REPORT NO.6 OF THE STANDING COMMITTEE ON JUSTICE AND COMMUNITY
SAFETY
INQUIRY INTO ANNUAL AND FINANCIAL REPORTS 2020-21 - GOVERNMENT
RESPONSE**

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

Introduction

On 16 September 2021, the Legislative Assembly passed an amendment to the 2 December 2020 Resolution of Establishment (clause 3(A)), referring the Annual and Financial Reports 2020-21 to the seven Standing Committees (the Committees) for inquiry and report by 31 May 2022.

The 2020-21 Annual and Financial Reports were reviewed by the relevant Standing Committees, and each Committee held hearings and reported separately.

The below Government Response addresses the recommendations which relate to the 2020-21 Annual and Financial Reports.

The following Annual and Financial 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 Integrity Commission;
- ACT Policing;
- Inspector of the ACT Integrity Commission;
- Justice and Community Safety Directorate;
- Legal Aid ACT;
- Office of the Director of Public Prosecutions;
- Office of the Inspector of Correctional Services;
- Office of the Public Trustee and Guardian; and
- Sentence Administration Board.

Response to Committee Recommendations

Recommendation 1

The Committee recommends that the ACT Government consider revising the restorative justice legislation to support court referrals to the Restorative Justice Unit so that they can be made after the second mention.

Government Response – Agreed in-principle

Proposed legislative amendments will be considered further, subject to government consideration.

Recommendation 2

The Committee recommends that the Justice and Community Safety Directorate take steps to better understand why matters are not proceeding to Restorative Justice conferences (for example, the offender declining or not being contactable) and analyse the impact on victims who are engaging with the Restorative Justice process.

Government Response – Agreed

The Australian Institute of Criminology is assisting to analyse data about the conversion of referrals to conferences, which may lead to further avenues of investigation.

In the meantime, 2021-22 saw an overall 11% increase in conferences when compared with 2020-21, reversing the trend of the previous year. The Restorative Justice Unit (RJU) is engaging with key stakeholders including AFP and the Courts with an aim to maximise the suitability of referrals and maintain this reversal.

Where a matter does not proceed to conference for reasons outside the victim's control, the RJU refers them to other supports to address the impacts on them.

Recommendation 3

The Committee recommends that the ACT Government look to accelerate the Disability Justice Strategy as a priority.

Government Response – Noted

The Disability Justice Strategy is a key priority for the ACT Government. Significant progress has been made in implementing the First Action Plan (2019-2023) for the Disability Justice Strategy with the support of both government and non-government stakeholder. The ACT Government will continue to progress the Disability Justice Strategy First Action Plan according to action timeframes and is on track. Work is now underway to build on that progress through the development of the Second Action Plan (2023-2027). As part of the work on the Second Action Plan, community consultation is already in progress and consultation with agencies involved in the justice system is being planned.

Recommendation 4

The Committee recommends that the ACT Government ensure that direct personal responses are promptly facilitated with respect to the national redress scheme for institutional child sexual abuse.

Government Response – Agreed

The ACT Government is committed to ensuring that Direct Personal Responses (DPR) are promptly facilitated.

As a responsible institution, the ACT Government is obliged under section 6 of the National Redress Scheme for Institutional Child Sexual Abuse DPR Framework 2018 to give the DPR as soon as practicable, taking into account the survivor's circumstances and readiness for engagement in the DPR.

The ACT Government is in the process of engaging a consultant to develop a DPR Framework that will assist it to meet its legislative obligations and ensure a responsive, timely and trauma-informed DPR for the survivor.

Recommendation 5

The Committee recommends that the ACT Government ensure that the ACT Government reporting framework can positively demonstrate the protection of human rights.

Government Response – Noted

The updates made to the JACS Governance Framework in 2021 did not change the reporting on the protection of rights under Output 1.5. Information on the delivery of Output 1.5 can be found in the Human Rights Commission's standalone Annual Report.

The full suite of human rights annual reporting requirements are set out in Part 5 of the Annual Reports (Government Agencies) Directions 2022 and the whole of government report can be found at section O.2 of the Justice and Community Safety Directorate Annual Report.

Recommendation 6

The Committee recommends that the ACT Government review the *Coroner's Act* and associated policy for information included in death certificates so as to not include traumatising information and suicidal means for those who have committed suicide.

Government Response – Agreed in-principle

As part of the 2021-22 ACT Budget, the ACT Government announced funding of \$3.2 million over four years for the appointment of a dedicated Coroner and support staff.

In addition, the ACT Government committed a further \$250,000 to engage an independent facilitator to conduct a restorative coronial reform process aimed at making the system more

timely, inclusive and trauma-informed. As part of this restorative reform process, consideration will be given to information included in death certificates.

It is noted that the cause of death can be omitted in its entirety without otherwise affecting the integrity or validity of a certificate. This is known as an abridged death certificate and is an optional product available to families at no extra cost. The abridged certificate can be provided with the existing death certificate to help to address the identified sensitivities around including traumatising information for families.

While consideration is given to what information is included in death certificates as part of the restorative reform process, the ACT Government proposes further communication with relevant community stakeholders in 2022-23 to ensure that the value and validity of both certificates is understood by all relevant parties who may otherwise seek to view a death certificate.

Recommendation 7

The Committee recommends that the ACT Government undertake proactive communications to increase community understanding of cooperatives and how they can operate in the ACT.

Government Response – Agreed

Information regarding cooperatives and their operation in an ACT context is available on the Access Canberra website. Consideration will be given to the location of this information as part of a Whole of Government website review to ensure it remains easily accessible.

Recommendation 8

The Committee recommends that the ACT Government look at further ways to educate, inform, and warn the community about scams that are occurring.

Government Response – Agreed

The ACT Government currently supports the need to provide information to educate the community about scams, and to build upon best practice mechanisms established through inter-jurisdictional learnings to prevent scams and reduce their impacts on consumers.

Access Canberra continues to work closely with the Australian Consumer and Competition Commission (the ACCC), the host of Scamwatch (www.scamwatch.gov.au), which is the national body for reporting scams. Scamwatch also provides valuable resources to inform and educate the public about scam activity, including how to subscribe for email alerts and to get help. Access Canberra provides information on scams directed to members of the ACT community and acts upon information provided by ACCC in relation to national scams.

Access Canberra also works closely with other fair trading regulators in all Australian jurisdictions to share information and ensure a consistent approach to national scams to better protect consumers, and will continue to do so.

Recommendation 9

The Committee recommends that the ACT Government decrease study interval for gambling harm survey.

Government Response – Noted

The ACT will lead a discussion on the timing of prevalence surveys at the Gambling Research Australia Governance Committee.

The five-yearly timing of the survey is supported by expert advice based on appropriate timeframe for change to be measurable. Tasmania recently amended its legislative requirement for surveys from three-yearly to five-yearly, due to three-yearly surveys being too frequent to consider interventions or assess effectiveness before recommencing procurement processes.

Recommendation 10

The Committee recommends that the ACT Government provide gambling harm and support services information in other languages to assist those communities that do not speak English.

Government Response – Agreed

The government acknowledges the need to provide information that is accessible for different cultural and linguistic diverse (CALD) groups.

The ACT Gambling and Racing Commission will work with the ACT Gambling Support Service in liaising with the CALD community about any need for, and development of, culturally appropriate materials.

Gambling Help Online also offers gambling help information in a range of languages. The Commission contributes funding for this service, and it is promoted both on the Commission's website and gambling harm materials.

Recommendation 11

The Committee recommends that the ACT Government outline a clear plan and timeframes to implement bet-limits on gambling machines in the ACT.

Government Response – Agreed

The ACT Government's Discussion Paper – Lowering bet and credit limits for electronic gaming machines includes an indicative timeframe to implement bet and credit limits on electronic gaming machines.

This timeframe will be refined as consultation continues.

Recommendation 12

The Committee recommends that the ACT Government ACT Diversification and Sustainability Support Fund ensure grant funds are going to diversification as opposed to sustainability of club venues as an immediate priority.

Government Response – Noted

It is the role of the Diversification and Sustainability Support Fund (DSSF) Advisory Board to make recommendations to the Minister about payments from the Fund (*Gaming Machine Act 2004* section 163L).

Payments are made in accordance with the following legislative criteria under section 163I of the Act:

- the payment meets the Fund purposes under section 163F of the Act;
- the Minister has consulted the Board on the payment; and
- the application for payment has been made in accordance with the *Gaming Machine (Applications for Payments Out of the Diversification and Sustainability Support Fund) Guidelines 2021*.

In relation to the applicant's capacity to meet the Fund purposes, in the most recent funding round, the Board advised the Minister that it found applicants to be more suitable for funding if:

- the initiative presents a path to diversification by enhancing non-gaming service delivery;
- there is the potential for further growth from the initiative; and/or the initiative meets more than one Fund purpose; or meets one Fund purpose well.

Recommendation 13

The Committee recommends that the ACT Government consider a population level prevalence survey to understand the impacts and changes of gambling harm post-COVID-19 lockdowns.

Government Response – Agreed

The ACT Gambling and Racing Commission will include COVID related questions in its next population level prevalence survey to assess any impacts on gambling harm.

Recommendation 14

The Committee recommends that the ACT Government develop and implement an action plan to substantially increase the number of detainees, especially women, in the Transitional Release Centre and to provide regular updates to the Assembly.

Government Response – Agreed in-principle

ACT Corrective Services has undertaken a review of, and will continue to review, the Transitional Release Program (TRP) to reduce barriers for eligibility and to enhance utilisation of the Transitional Release Centre (TRC).

The TRC re-opened post COVID lockdowns in April 2022. Since that time there have been nine detainees that have been, or are currently, participants in the TRP and/or the TRC. As of 14 September 2022, there are 25 detainees who meet the basic eligibility criteria for TRP based on their classification (minimum) and as their earliest release date is within 12 months.

Eligible female detainees can participate in the TRP. While they cannot access the TRC accommodations, they can access temporary leave into the community to support the full rehabilitation and reintegration needs of the TRP.

Recommendation 15

The Committee recommends that the ACT Government restart the reintegration centre project.

Government Response – Noted

Significant program of reform is underway to reduce recidivism in the ACT and support the provision of a leading correctional service.

ACT Corrective Services (ACTCS) is working to enhance reintegration opportunities for detainees returning to the community, including accommodation priorities, that best manage the current detainee numbers and profiles.

Another focus this term has been the addressing the underutilisation of the Transitional Release Centre. Work is also being undertaken to modernise and improve programs and services available to detainees. This includes the development of an Integrated Offender Management Model.

Investment in these areas will assist in reducing recidivism and will better support detainees transitioning back into the community from a custodial setting.

The Government is committed to exploring reintegration and recidivism programs that equally apply to both male and female detainees, noting the proposed Centre was only designed to accommodate male detainees.

Recommendation 16

The Committee recommends that the ACT Corrective Services fully implement and report back to the Assembly on the Incentives and Earned Privileges (IEP) Policy.

Government Response – Agreed

The Incentives and Earned Privileges Policy was notified on 28 April 2022 and came into effect on 1 September 2022.

A review is planned 12 months after the commencement of the program, following a managed implementation and to allow for the benefits of change to be realised.

A report back to the Assembly at that time would be appropriate.

Recommendation 17

The Committee recommends that the ACT Government ensure the ACT Corrective Services workforce culture values, considers, and upholds the human rights of detainees and supports their rehabilitation.

Government Response – Agreed

ACT Corrective Services (ACTCS) agrees the human rights of detainees must be valued and considered in all interactions with detainees, from their first contact with ACTCS through their rehabilitation and release to the community.

Building improvements in organisational culture is an ongoing process. ACTCS is committed to a culture of continuous improvement which includes ongoing reflection and identification of opportunities for improving staffs' ability to competently consider and uphold the human rights of detainees and offenders.

Recommendation 18

The Committee recommends that the ACT Government publish a plan to expand the facilities at the Hume Health Centre.

Government Response – Noted

ACT Corrective Services (ACTCS) continues to explore the accommodation needs at the AMC, including health and wellbeing facilities.

Recommendation 19

The Committee recommends that the ACT Government ensure that female remandees be accommodated separately from the general female prisoner population.

Government Response – Noted

The current design of the Alexander Maconochie Centre (AMC) does not enable such segregation of female remandees and sentenced female detainees.

While the design of, and cohorts within, the AMC do not allow for complete separation to occur, ACT Corrective Services continues to separate detainees where necessary based on risk, rather than sentence status.

Recommendation 20

The Committee recommends that the ACT Gambling and Racing Commission provide assurances that ACT poker machine venues are operating machines that have been inspected to ensure correct player payouts.

Government Response – Agreed

Access Canberra administers gaming legislation on behalf of the Gambling and Racing Commission which includes enforcement of legislative requirements under the Gaming Machine Act 2004 regarding electronic gaming machines. Access Canberra operates on a risk-based approach towards compliance in accordance with its Accountability Commitment framework, focussing its resources on areas of non-compliance where the risk and harms are the greatest.

Access Canberra undertakes regulatory compliance activities focussed on gaming machines through periodic inspection programs.

The most recent inspection program was conducted in 2021, where over 1,500 individual machines were inspected across all licensed gaming machine venues in the ACT. A percentage of machines at each venue were targeted (dependant on the number of machines at each venue) with additional machines being inspected where non-compliance may have been found. The machines were checked for various requirements, including the return to player payout percentage, where 100% compliance was identified through the sampled machines. This gave the highest possible outcome of compliance.

Access Canberra will continue to inspect gaming machines to uphold legislative requirements where information or other drivers identify that the risk of harm to the public is prevalent or increasing.

Recommendation 21

The Committee recommends that the ACT Gambling and Racing Commission publicly provide detail to the self-exclusion data and present it in ACT Gambling and Racing Commission Annual Reports, including numbers of self-exclusions, regions of self-exclusion, gender of self-excluded, average length of exclusion, and outline both casino and club data relating to numbers of self-exclusion breaches.

Government Response – Agreed in-principle

The ACT Government notes this recommendation has been made in the context that more transparent data would assist in evaluating the regime’s effectiveness and identifying how to improve it. While conclusions about how to improve the scheme cannot necessarily be drawn from the data fields specified, the Commission will consider what further relevant data on self exclusion can be published, subject to privacy considerations.

Recommendation 22

The Committee recommends that the ACT Government look to urgently resource the Public Advocate, with respect to FTE positions, to assist with processing the significant increase in involuntary mental health orders.

Government Response – Noted

The ACT Government is committed to ensuring the safety and wellbeing of all Canberrans and recognises the additional vulnerability of those persons subject to involuntary mental health intervention. The ACT Government continues to monitor the Public Advocate’s resourcing requirements and resourcing decisions are subject to budget processes.

Recommendation 23

The Committee recommends that the ACT Government continue to adequately resource ACT Policing and advocate to the Commonwealth Government for resource assistance in respect to recent protest activity.

Government Response – Noted

The ACT Government has raised the issue of the resources required for recent protest activity with the Commonwealth.

In the meantime, the ACT Government continues to resource and support ACT Policing through a provision of \$203.2 million in 2022-23 to fund ACT Policing services.

This builds on the recent 2021-22 Budget in which ACT Policing were funded for a total of \$196.5 million including \$17.9 million for new initiatives. New initiative budgets provided funding for a range of benefits to the community via ACT Policing, including the continuing COVID-19 Public Health Response, Specialist Protection Services, forensic medical contract,

enabling services, radio communications capability and supporting the ACT Policing Enterprise Agreement.

This was an increase on the 2020-21 ACT Policing funding for a total of \$181 million including \$4.9 million for new initiatives. New initiative budgets included the 2019-20 bushfire response, COVID-19 Public Health Response, forensic medical contract, and Police, Ambulance and Clinician Early Response (PACER).

The 2019-20 Budget provided a significant investment of \$33.9 million over four years to support transition to a more prevention and community focused Police Services Model. This initiative permanently increases ACT Policing base budget by \$14.9 million from 2022-23 onwards.

In addition to the above, ACT Government provided considerable funding towards improving facilities that ACT Policing occupy including \$3.4 million in 2020-21, \$9.3 million in 2021-22 and \$6.8 million in 2022-23.

Recommendation 24

The Committee recommends that Legal Aid ACT, in their next annual report, fully explain the reason(s) for their reported surplus.

Government Response – Agreed

Legal Aid ACT accepts this recommendation and will implement it accordingly.

Recommendation 25

The Committee recommends that the ACT Government ensure funding for the Office of the Inspector of Correctional Services be commensurate with their new oversight responsibilities as well as the higher than anticipated critical incident reviews.

Government Response – Agreed in-principle

The ACT Government continues to work closely with the Office of the Inspector of Correctional Services to ensure that it is adequately resourced.

Future resourcing decisions are subject to normal Government Budget processes.

Recommendation 26

The Committee recommends that the ACT Government urgently address the Sentencing Administration Board's accommodation problem by ensuring they have office space at the courts.

Government Response – Noted

The ACT Government is engaged in constructive discussions with ACT Courts and Tribunal and the Sentence Administration Board about accommodation.

Recommendation 27

The Committee recommends that ACT Policing ensure that those individuals whose parole has been revoked, and who currently have a warrant out for their arrest, be detained as a priority.

Government Response – Agreed

ACT Policing members are proactive in pursuing outstanding warrants, as one of ACT Policing's key priorities is to maintain public safety.

In addition to the administrative management of recording and prioritising arrest warrants, including those issued by the Sentencing Administration Board, police will undertake specific operations to progress closure of these issues.

Recommendation 28

The Committee recommends that the ACT Government increase Electoral Commission funding for the conduct of democratic education for the community.

Government Response – Noted

The Electoral Commission undertakes a range of educational functions and provides a list of resources to educate the community on democracy. Education programs were suspended for the first six months of 2020-21 as a result of the COVID-19 pandemic and when the programs resumed they were delivered within the public health requirements of additional spacing and limited audiences. Any additional funding would be subject to usual Budget processes.

Recommendation 29

The Committee recommends that the ACT Government seek advice from the Integrity Commission regarding the need for extra resources to enable more detailed investigation if they are required.

Government Response – Noted

In the 2021-22 Budget, the ACT Government increased the ACT Integrity Commission's (ACTIC) controlled recurrent payments by \$2.361 million (62 per cent) above the 2020-21 Interim Outcome. The additional funds allowed for –

- An increase of \$0.673 million (30 per cent) to support recruitment and ongoing employment of 6.4 employees to assess and manage Public Interest Disclosures and enhance the Commission's ability to discharge its other legislative responsibilities; and
- An increase of \$1.325 million (92 per cent) for supplies and services to allow the ACTIC to establish an IT operating environment separate from ACT Government Shared Service ICT and other resources critical to the Commission discharging its legislative responsibilities.

Given the significant recent increase in resourcing in the 2021-22 budget, further requests for funding for the ACTIC will be considered after the statutory review of the Integrity Commission Act 2018 (IC Act), scheduled to occur as soon as possible three years after the commencement of section 303 of the IC Act – which falls in December 2022.