



LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

SELECT COMMITTEE ON ESTIMATES 2022-2023

Mr James Milligan MLA (Chair), Mr Andrew Braddock MLA (Deputy Chair),
Dr Marisa Paterson MLA

ANSWER TO QUESTION ON NOTICE

Mr Andrew BRADDOCK MLA: To ask the ACT Ombudsman

Ref: ACT Ombudsman

In relation to: Oversight of ACT Police cells

(1) In the past five years, has the ACT Ombudsman received any complaints about ACT Police use of spithoods? If yes how many? How many were children, young people or vulnerable adults?

(2) In the last five years has the ACT Ombudsman inspected the ACT Police Watchhouse or reviewed its policies and practices?

(3) Under the ACT OPCAT arrangements, is the ACT Ombudsman the responsible National Preventive Mechanism (NPM) for oversight of ACT Police cells? If yes:

(a) how does it plan to conduct these NPM responsibilities over the watchhouse?

(b) is the use of spithoods consistent with OPCAT?

ACT Ombudsman: The answer to the Member's question is as follows: –

(1) The ACT Ombudsman does not have any records of receiving any complaints about ACT Police use of spithoods in the past 5 years.

(2) No. The Office of the Commonwealth Ombudsman (the Office) conducted a familiarisation visit to the ACT Police Watch House in April 2021. The Office is currently considering Australian Federal Police (AFP) policies and practices applicable at the ACT Police Watch House for the purpose of developing inspection methodologies to support ongoing oversight of the ACT Police Watchhouse and AFP holding cells more broadly.

(3) The Office will be responsible for inspections of ACT Police cells in its capacity representing both the Commonwealth Ombudsman, as the Commonwealth NPM, and the ACT Ombudsman, as part of the multi-body ACT NPM.

(a) Consistent with OPCAT, the Office will be required to inspect places of detention under the control of the Commonwealth or ACT regularly. The regularity of visits will depend on the risk of torture or ill-treatment at each place of detention. Subject to ongoing risk assessments, the Office anticipates conducting yearly visits to the ACT Police Watch House. In conducting inspections, the Office will operate in a manner consistent with the requirements of OPCAT. This will include the Office exercising its right to have unrestricted access to information relevant to its inspection mandate, unrestricted access to all AFP or ACT Policing holding cells, and the ability to engage privately with individuals in detention. Importantly, outside of inspections, the Office will also seek to maintain regular communications with the AFP and ACT Policing to ensure there is proactive engagement on detention issues as they arise.

(b) International human rights standards and best practice mean the use of restraints of any sort – including spithoods – should occur only when there is a legal basis for this, and the use is proportionate. The use of restraints needs to be considered – and overseen – with particular care in the case of minors.

Approved for circulation to the Select Committee on Estimates 2022-2023

Signature:



Date 12/19/2022

By the ACT Ombudsman, Mr Iain ANDERSON