



Submission:

**Inquiry into Community Corrections in the
ACT**

December 2021

About ACTCOSS

ACTCOSS acknowledges Canberra has been built on the land of the Ngunnawal people. We pay respects to their Elders and recognise the strength and resilience of Aboriginal and/or Torres Strait Islander peoples. We celebrate Aboriginal and/or Torres Strait Islander cultures and ongoing contributions to the ACT community.

The ACT Council of Social Service Inc. (ACTCOSS) advocates for social justice in the ACT and represents not-for-profit community organisations.

ACTCOSS is a member of the nationwide COSS Network, made up of each of the state and territory Councils and the national body, the Australian Council of Social Service (ACOSS).

ACTCOSS's vision is for Canberra to be a just, safe and sustainable community in which everyone has the opportunity for self-determination and a fair share of resources and services.

The membership of the Council includes the majority of community-based service providers in the social welfare area, a range of community associations and networks, self-help and consumer groups and interested individuals.

ACTCOSS advises that this document may be publicly distributed, including by placing a copy on our website.

Contact Details

Phone: 02 6202 7200
Address: Weston Community Hub, 1/6 Gritten St, Weston ACT 2611
Email: actcoss@actcoss.org.au
Web: actcoss.org.au
CEO: Dr Emma Campbell
Policy Officer: Dr Gemma Killen

December 2021

ISBN

© Copyright ACT Council of Social Service Incorporated

This publication is copyright, apart from use by those agencies for which it has been produced. Non-profit associations and groups have permission to reproduce parts of this publication as long as the original meaning is retained and proper credit is given to the ACT Council of Social Service Inc (ACTCOSS). All other individuals and Agencies seeking to reproduce material from this publication should obtain the permission of the CEO of ACTCOSS.

An ACT Government funded initiative.

Initiative of



Table of contents

Acronyms	4
Introduction	5
Overrepresentation of Aboriginal and/or Torres Strait Islander people in the justice system	6
Housing	8
Experiences of people with disability and mental illness in the justice system	9
Intensive Correction Orders	11
Sentence Administration Board	12
Drug and alcohol treatment orders	13
Recidivism	14
Experiences of offenders and families	15
Experiences of victim survivors	16
Appendix A: Terms of Reference	18

Acronyms

ACTCOSS	ACT Council of Social Service Inc.
ADACAS	ACT Disability, Aged and Carer Advocacy Service
AFI	Advocacy for Inclusion
ALO	Aboriginal Liaison Officer
AMC	Alexander Maconochie Centre
ATODA	Alcohol Tobacco and Other Drug Association ACT
CSU	Crisis Support Unit
DASL	Drug and Alcohol Sentencing List
DLO	Disability Liaison Officer
ICO	Intensive Correction Order
JRG	Justice Reform Group

Introduction

Thank you for the opportunity to contribute to this Inquiry into Community Corrections in the ACT.

The ACT Council of Social Service (ACTCOSS) has long advocated for serious reform to the justice system in the Territory and while much of that advocacy has focused on the Alexander Maconochie Centre (AMC), we recognise that the Corrections system extends beyond the prison. We appreciate that oversight and review mechanisms exist for places of detention but are lacking for community corrections arrangements.

For the purposes of this submission, we consulted with a range of community sector organisations including ACT Disability, Aged and Carer Advocacy Service (ADACAS), Advocacy for Inclusion (AFI), Alcohol Tobacco and Other Drug Association ACT (ATODA), Toora Women, the ACT Human Rights Commission, the ACT Nannies Group, Prisoners Aid, Meridian, Friends and Families for Drug Law Reform and others through the Justice Reform Group (JRG).

Consultation for this inquiry regularly centred on processes and experiences of detainees within the AMC. Though this is not the focus of the inquiry, it was impossible to reflect on issues such as recidivism, parole or the experiences of offenders, families and victim survivors without also commenting on the systemic problems of the justice system and how they manifest within the prison.

Many of these problems have been articulated by the community for previous reviews, such as the [Healthy Prison Review](#) and the [Our Booris, Our Way Review](#). The Women's Health Matters Community Corrections research is also a valuable resource in this regard.¹

As a starting point, the Justice and Community Safety Committee should collate and implement the significant recommendations from these and other relevant reviews, particularly those relating to the overrepresentation of Aboriginal and/or Torres Strait Islander people in the justice system.

This community in particular is experiencing consultation fatigue and frustration that concerns are not being heard or addressed, as numbers of Indigenous people in the justice system continue to rise and families continue to suffer.

As a priority, the aim of this and other justice related inquiries or reviews should be to keep people out of the justice system by investing in the services and supports that keep people safe, healthy, and connected to community.

Though community-based solutions are preferable to incarceration, community corrections should not be seen as a way to expand the reach of the justice system or impose more punitive measures on people's lives.

¹ Women's Health Matters, Community Corrections Survey Results, (via personal correspondence), accessed November 21, 2021.

Any investment in community corrections must be matched by investments in restorative justice and justice reinvestment programs including restitution, reconciliation, and mediation conferencing.

We must also see an urgent prioritisation of public and social housing in the ACT, as well as funding for mental health supports and services in the community.

Overrepresentation of Aboriginal and/or Torres Strait Islander people in the justice system

Aboriginal and/or Torres Strait Islander people have made clear recommendations to address the serious problem of overrepresentation of Indigenous people in the justice system. More than recommendations, Aboriginal communities and organisations in the ACT have proved that Community Controlled solutions are successful in reducing rates of incarceration and recidivism.

A recent cost benefit analysis of the [Galambany Circle Sentencing Court](#), a culturally relevant and appropriate sentencing option for eligible Aboriginal and Torres Strait Islander people, found that the court offered benefits of \$10.7m in output gains and cost savings, compared with an operating cost of \$3.3m. This represents a benefit cost ration of over three to one.²

ACTCOSS is supportive of calls for high level inquiry or Royal Commission into the overrepresentation of Aboriginal and/or Torres Strait Islander people in the justice system. This would provide people with the opportunity to be heard and would hold the ACT Government to a high level of accountability when addressing this systemic and entrenched problem.

Despite making up only 2% of the Act population, Aboriginal and/or Torres Strait Islander people make up approximately a quarter of the AMC prison population.³ In the period 2018-19, 13% of people arrested as offenders in the ACT were Indigenous.⁴

Aboriginal and Torres Strait Islander people in the ACT are 19 times more likely to be imprisoned than non-Indigenous people, and 12 times more likely to be under a community corrections order.⁵

These are among the highest rates of incarceration of First Nation's people in the country. It is unacceptable that the ACT Government has not yet

² Daly, A., Barrett, G., Williams, R., 2020, [Cost Benefit Analysis of Galambany Court](#), Justice and Community Safety Directorate, ACT Government, accessed June 4, 2021.

³ Australian Bureau of Statistics, [Prisoners in Australia](#), Australia Bureau of Statistics, 2020 accessed 25 May 2021.

⁴ Australian Bureau of Statistics, [Prisoners in Australia](#), 2020.

⁵ Report on Government Services, [Corrective Services](#), Australian Government Productivity Commission, 2021, accessed May 24, 2021.

implemented recommendations from the Aboriginal and/or Torres Strait Islander community to radically reduce these numbers and address the serious harm being done to individuals, families and communities.

Though more than 16% of community corrections offenders are Aboriginal and/or Torres Strait Islander, they have lower than average completion rates, especially in the ACT, where just over half of Indigenous offenders complete a community corrections order.⁶ Rather than a comment on the ability of Aboriginal and/or Torres Strait Islander people to rehabilitate, this data speaks volumes about the cultural safety and appropriateness of the community corrections system in the ACT.

Though we appreciate the role that Aboriginal Liaison Officers (ALOs) play in responding to complaints from detainees, the justice system is currently structured such that these complaints are not able to be escalated. There needs to be a high level of oversight of complaints procedures and follow-through by an independent body.

Such a body could also be involved in the recruitment of Corrective Services staff, including Corrections Officers, Parole Officers and more ALOs. More cultural awareness and safety amongst non-identified positions would do significant work toward changing the culture of the justice system.

Currently, an over-reliance on community members without appropriate funding or resourcing to support the people who do this important work. This limits the number of offenders who can access advocacy, support and community connection.

In consultation with the ACT Nannies Group, ACTCOSS is calling for an expansion of mental health and rehabilitation services for Aboriginal and/or Torres Strait Islander people in the ACT. The most recent *Our Booris, Our Way* Implementation Update notes that recommendations for early support and culturally appropriate programs for alcohol and other drugs, as well as mental health and trauma are not being implemented.⁷

The Bush Healing Farm is an example of an excellent culturally safe rehabilitation service, but it is currently being underutilised. Those on methadone treatment programs are ineligible to attend the Bush Healing Farm. Anecdotal evidence tells us that methadone is overprescribed and overused within the AMC, significantly limiting exiting detainees' opportunities to engage with culturally appropriate rehabilitation. Further research is required to understand veracity of this evidence.

We welcomed the announcements in the recent budget relating to the development of a Community Controlled residential rehabilitation centre. This should be implemented in strong consultation with a range of Aboriginal and/or Torres Strait Islander community groups. The rehabilitation should include focus on skills and employment trades and should encourage people to re-engage with life post-prison.

⁶ Report on Government Services, [Corrective Services](#), 2020.

⁷ Our Booris, Our Way Oversight Committee, Implementation Community Update, December 2021.

If the ACT Government invests in more houses, more rehabilitation units and more community consultation and control, we can reduce the number of Aboriginal and/or Torres Strait people in corrections and reduce the lifetime harm that people face because of engagement with the justice system.

Recommendations

The ACT Government must:

- Undertake a high-level commission or inquiry into the overrepresentation of Aboriginal and/or Torres Strait Islander people in the justice system
- Collate and monitor the implementation of all previous recommendations from reports relating to First Nations people in the corrections system, such as Our Booris, Our Way and the Healthy Prison Review
- Establish an independent oversight body for complaints procedures and follow-through within the AMC. This body could also oversee the recruitment of Corrective Services staff
- Expand and resource mental health and rehabilitation treatment services for Aboriginal and/or Torres Strait Islander people in the ACT
- Encourage culturally appropriate rehabilitation by expanding the scope of the Bush Healing Farm.

Housing

The ACT has a shortfall of around 3,000 social houses.⁸ 1600 people are homeless in the ACT.⁹ Canberrans face an almost four year wait for a standard public housing property.¹⁰

It's not surprising then that many detainees are released into homelessness which in turn expedites their return to the justice system. Recent research on recidivism in the ACT notes that a lack of access to safe and affordable housing

⁸ J Lawson, H Pawson, L Troy, R van den Nouwelant and C Hamilton, Social housing as infrastructure: an investment pathway, AHURI Final Report 306, Australian Housing and Urban Research Institute Limited, 2018, p 63, accessed 22 June 2021.

⁹ Data analysis by Dr Ryan Van Den Nouwelant, Urban and Regional Research Program, University of Western Sydney on Homelessness and social housing need: Look up your local federal electorate [interactive heat map], Everybody's Home website, 2021, accessed 22 June 2021.

¹⁰ ACT Government Community Services Directorate, Social Housing Waiting List, ACT Government Community Services Directorate, 2021, 7 June 2021, accessed 21 June 2021.

is a significant barrier to obtaining employment post-release.¹¹ Inability to find and sustain suitable and fulfilling employment entrenches disadvantage and increases rates of recidivism.

Current parole and Intensive Corrections Orders (ICO) policy mandates a current ACT address, meaning that more people are incarcerated, and incarcerated longer than necessary. This widens the net of community and family disconnection and increases the anxiety people feel while in the prison. Knowing that there will be nowhere to live when you are released does not engender much hope for a life post-prison.

Work on reducing incarceration and recidivism in the ACT must adopt a housing first policy. This should include a 'no release into homelessness' policy that *does not* increase the number of detainees in the AMC.

Significant investment must be made in affordable, social housing in the first instance, and in appropriate and sustainable justice housing as well.

Recommendations

The ACT Government must:

- Adopt a cross-directorate 'housing first' policy
- Implement a 'no-release into homelessness' policy that does not increase the length of time people are remanded in the prison
- Significant investment in affordable social housing and in sustainable justice housing.

Experiences of people with disability and mental illness in the justice system

People with disability are overrepresented as both victim survivors and perpetrators in the justice system. Individual advocacy provides independent support to clients engaging with the justice system and can help prevent sustained systems contact. This is one key element of the [Disability Justice Strategy](#), the whole of which must be urgently funded and accelerated.

The Justice Reform Initiative estimates that more than 50% of adults in prison in Australia have a history of mental illness.¹² For young people, this figure is even

¹¹ Doyle, C., Yates, S., Bartels, L., Hopkins, A., Taylor H., 2021 ["If I don't get a job in six months' time, I can see myself being back in there": Post-prison employment experiences of people in Canberra](#) *Australian Journal of Social Issues*, November 2021.

¹² Justice Reform Initiative, [Mental Illness - Justice Reform Initiative | Jailing Is Failing](#), accessed 29 November, 2021.

higher at 80% of young people incarcerated with a diagnosed psychological disorder.

Identification tools for offenders with disability or mental illness concerns must be developed as a matter of urgency. Self-disclosure is positive but could lead to people being missed. In the ACT, a third of detainees in the AMC identify as having a disability, which is well above the national average of 18%.¹³

The reliance on a medical rather than a social model of disability in the justice system limits support and accessibility both in the prison and in the community, as many detainees are forced to rely on one another for care.

We have anecdotal evidence that across the justice system there is broad conflation of mental health issues with intellectual disability, which profoundly disadvantages everyone as offenders are unable to access targeted support. A review of the disability supports available, coupled with appropriate screening tools for police, the courts and Corrections staff would outline the scope of this problem and do substantive work to addressing it.

ACTCOSS is supportive of the use of Disability Liaison Officers (DLOs) and the recent engagement of a Disability Interventions and Complex Care Co-ordinator. These positions should be expanded and enforced with whole-of-system training and culture change. Respectful and safe interactions with offenders with disabilities should not be the sole responsibility of a handful of staff, rather this should be built in across the system.

We would also like to understand how effective the Disability Action and Inclusion Plan has been in practice. A review of the plan that includes the stories of those with lived experience is recommended.

As Meridian note in their submission to this inquiry, investment in community treatment of mental illness is likely to reduce recidivism, and pre-sentence assessment of suitability for mental health treatment should occur as standard. Keeping people out of the justice system by providing adequate support should be a priority.

If people must be engaged with the justice system, including the community corrections system, it is an ideal time to ensure that they have access to high quality healthcare, including mental health care.

As the Canberra Mental Health Forum note in their submission, the interactions between mental health and the justice systems are often traumatic.¹⁴ ACTCOSS regularly hears stories about detainees cycling between the AMC and the Dhulwa mental health unit. Mental health deteriorates in the prison, then as offenders are appropriately supported at Dhulwa and their mental health improves, they are sent back to the AMC for the whole cycle to start again.

¹³ ACT Inspector of Correctional Services, [Healthy Prison Review of the Alexander Maconochie Centre, 2019](#), ACT Inspector of Correction Services, 2020, accessed 1 July 2021.

¹⁴ https://www.parliament.act.gov.au/__data/assets/pdf_file/0009/1886472/Submission-004-Canberra-Mental-Health-Forum.pdf

We need sustainable mental health support in the prison and clear and effective throughcare plans in place to support people as they re-enter the community. ACTCOSS has heard, first-hand and [publicly reported](#), traumatic stories about the serious consequences of inadequate post-release support. Individuals receiving care in the Crisis Support Unit (CSU) in the AMC need to be released on remand with mental health treatment plans and engagements in place. We can and should be doing better.

As multiple organisations, such as AFI and ADACAS, have noted in their submissions, we need clear guidelines around NDIS access and support for people engaged with the justice system. We endorse calls for NDIS case workers to be embedded in the AMC, so that by the time someone is exiting the prison they have access to the support they need.

Recommendations

The ACT Government must:

- Urgently fund and accelerate the Disability Justice Strategy
- Develop identification tools for offenders with disability or mental health concerns
- Expand the Disability Liaison Officer scheme and engage all corrections staff in disability awareness and safety training
- Review the Disability Action and Inclusion Plan
- Implement pre-sentence assessment of suitability for mental health treatment
- Review current throughcare systems to ensure exiting detainees have access to the supports they need in the community

Intensive Correction Orders

The Justice and Community Safety annual report suggests an increase in Intensive Correction Orders (ICOs) for the period 2019-2020.¹⁵ While it is positive that people are able to rehabilitate whilst maintaining connections to employment, family and community, we have yet to see an evaluation of the use of Intensive Correction Orders and their impact on offenders and recidivism rates.

Further, numbers of detainees within the AMC have not substantively reduced, which suggests the use of ICOs as a widening of the net of the justice system in the ACT.

¹⁵ Justice and Community Safety Directorate, [Annual Report 2019-2020](#), accessed 25 November 2021.

The focus should be on addressing systemic and entrenched disadvantage, so that people avoid engagement with the justice system in the first instance.

Recommendations

The ACT Government must:

- Ensure the expansion of ICOs does not result in a widening of the net of the justice system in the ACT.

Sentence Administration Board

Community legal services in the ACT are significantly under-resourced. ACTCOSS has heard that these services are often unable to provide support for people attending the sentence administration board, which means that the most vulnerable are left without advocacy.

In particular, people with disabilities need both systemic and individual advocacy to ensure reasonable adjustments are made when considering sentencing. More training in providing reasonable adjustments should be provided for all staff.

While the opportunity for an offender to undertake their sentence in the community is extremely beneficial, some conditions can be too onerous, making people feel as though they are set up to fail. For example, limits placed on allowable working hours can limit income and encourage crime. Mandated attendance at different rehabilitation meetings in different locations around Canberra can be difficult without transport and non-attendance can result in a breach.

Similarly, the under-resourcing of the drug and alcohol treatment sector in the ACT means that sometimes detainees are required to go interstate for treatment, and if they are unable to do so within short timeframes, they land back in the AMC. As noted in the submission from Prisoners Aid, there are currently no publicly funded transport options available for people to attend mandated drug or alcohol rehabilitation treatment.

Funding for systemic and individual advocacy would address some of these issues.

Recommendations

The ACT Government must:

- Fund community legal services in the ACT so they can provide support for people attending the sentence administration board
- Ensure reasonable adjustments are considered for people with disabilities when facing the Sentence Administration Board
- Ensure sufficient resourcing for offenders to meet conditions, for example for transport

Drug and alcohol treatment orders

ACTCOSS strongly endorses calls for funding for the drug and alcohol treatment sector in the ACT to at least double.

The expansion of drug and alcohol treatment orders through the Drug and Alcohol Sentencing List (DASL) needs to be accompanied by a significant investment in the treatment sector. Without this investment, the strain on the sector will mean that voluntary engagement (which could prevent interaction with the justice system) will be limited.

ACTCOSS appreciates that the DASL is currently being reviewed. This evaluation will be important for providing evidence that involuntary treatment makes a difference for people's health or criminal behaviours.

We believe that the interim review of the DASL should be publicly released. The report was handed to the Justice and Community Safety Directorate earlier this year. Given the significant investment in the ACT budget for expanding the DASL, the sector and the community should have access to this report.

Of concern is the restriction of the DASL to people who are sentenced to between one and four years. Those on remand and those with shorter sentences do not have access to programs that might keep them out of prison. This especially affects women who are more likely to have shorter sentences. The scheme, if effective, should be expanded to include offenders sentenced to imprisonment for under a year.

ACTCOSS is also calling for better integrated care to address the needs of people who use drugs and are also experiencing mental illness. People are often precluded from drug and alcohol treatment orders if they also have mental health concerns, despite high co-occurrence for mental illness and dependence on substance use.

Recommendations

The ACT Government must:

- Approximately double funding for the drug and alcohol treatment sector in the ACT
- Release the Interim Report of the review of the Drug and Alcohol Sentencing List
- Expand the Drug and Alcohol Sentencing List to include offenders sentenced to imprisonment for under a year
- Commit to better integrated care for people who use drugs and experience mental illness.

Recidivism

We know that recidivism rates amongst the detainee population at the AMC are higher than the national average, with 77% of prisoners in 2020 having had prior imprisonment, compared with 59% of prisoners across Australia. Aboriginal and/or Torres Strait Islander detainees in the AMC have even higher rates of recidivism, with 94% having been detained before, compared with 78% of Indigenous detainees nationally.¹⁶

The Australian Productivity Commission found that while only 42% of those released from prison in the ACT returned within two years (lower than the national average of 46%), the figure was 71% when including those that returned to prison *or* received a community corrections order within two years (compared to a national figure of 55%).¹⁷

Clearly, community corrections orders and programs should be targeted at reducing recidivism significant within the ACT, especially for Aboriginal and/or Torres Strait Islander people.

However, we do not have data on rates of recidivism or reoffending for people who undertake community corrections orders without experience of sentenced incarceration.

The Women's Health Matters survey on women in community corrections, however, found that close to 80% of participants had previous involvement with

¹⁶ Australian Bureau of Statistics, [Prisoners in Australia](#), Australia Bureau of Statistics, 2020 accessed 25 May 2021

¹⁷ Report on Government Services, [Corrective Services](#), Australian Government Productivity Commission, 2021, accessed May 24, 2021.

community corrections, with 56% having been involved with community corrections between 10 and 20 times.¹⁸

Recommendations

The ACT Government must:

- Capture data on rates of recidivism for those undertaking community corrections orders.

Experiences of offenders and families

Much of this submission has focused on the experiences of offenders. Many of the problems and trauma that offenders experience in the system is extended to their families. Involvement in the justice system is also often accompanied by the care and protection system and many offenders have lost contact with their children or families.

This significantly impacts women offenders and has been pronounced during the pandemic as many offenders have been denied physical contact with children and family.

The ACT Government must move beyond individual advocacy (when it happens) to wholistic family intervention and protection. This requires a coordinated response across directorates and services to ensure families are kept together and in contact wherever possible.

The complexity of the justice system in the ACT means that it can be very hard for families to navigate in order to protect and care for their loved ones. This is especially true for families who already experience disadvantage.

We have heard anecdotal evidence that offenders are being issued with 'reside as directed' orders without specific or clear directions. A review of parole and remand directions could identify the impact of miscommunication or unclear directives on the experiences of offenders and their families. Offenders often choose to stay with family *before* being directed not to, leaving them in breach of orders and without appropriate accommodation. This has been a significant problem during the pandemic and through lockdowns.

ACTCOSS also wishes to echo Meridian's calls for the establishment of an LGBTIQ+ community corrections or justice working group to provide guidance and expertise on policy and programs within the justice system relating to LGBTIQ+ offenders. We also underscore calls for more research into the lived experiences of trans and gender diverse offenders in the justice system.

¹⁸ Women's Health Matters, Community Corrections Survey.

Recommendations

The ACT Government must:

- Ensure sustained and meaningful contact for offenders with families, regardless of pandemic circumstances
- Ensure that parole or ICOs are clearly communicated, especially with regard to accommodations restrictions
- Establish an LGBTIQ+ community corrections or justice working group
- Invest in research into the lived experiences of trans and gender diverse offenders in the justice system in the ACT.

Experiences of victim survivors

ACTCOSS recognises that many detainees or offenders are themselves victims of violence or abuse, especially women. All work across the justice system should be trauma informed.

Justice reinvestment and restorative justice should focus on ensuring plentiful access to evidence-based intervention programs, especially for domestic violence perpetrators. This should include a focus on specialist training for family violence prevention.

ACTCOSS has also heard that understaffing and under resourcing can mean that it can take multiple breaches of an AVO or a Community Corrections Order before action. This is concerning in family violence cases. Targeted, trauma informed case management that is well-funded will avoid these potentially violent oversights.

The most pressing priority for addressing the experiences of victim survivors should be work toward preventing violence and crime through adequate social support and the provision of housing and high-level health care.

Recommendations

The ACT Government must:

- Ensure access to evidence-based intervention programs for family violence perpetrators, including specialist training for family violence prevention.

Appendix A: Terms of Reference

STANDING COMMITTEE ON JUSTICE AND COMMUNITY SAFETY

Mr Jeremy Hanson MLA (Chair), Dr Marisa Paterson MLA (Deputy Chair), Ms Jo Clay MLA

Terms of Reference Inquiry into Community Corrections

The Standing Committee on Justice and Community Safety resolves to inquire and report on the operation of community corrections, with particular reference to:

1. Parole system,
2. Intensive correction orders,
3. Sentence Administration Board,
4. Drug and alcohol treatment orders,
5. Recidivism outcomes,
6. Experiences of offenders and their families,
7. Experiences of victim survivors, and
8. Any other relevant matter.

June 2021