



ICS
ACT Inspector
of Correctional
Services

OICS REVIEW RECOMMENDATIONS AND GOVERNMENT RESPONSES:

TABLED CRITICAL INCIDENT REVIEWS

(as at 12/10/2021)

Summary

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| <i>Reports tabled by OICS:</i> | 10 |
| <i>Recommendations made by OICS:</i> | 38 |
| Agreed by government: | 17 |
| Agreed in-principle by government: | 11 |
| Not agreed by government: | 1 |
| Pending government response: | 9 |

| Report | Recommendations | Government responses |
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| <p>1. Assault of a detainee at AMC on 23 May 2018</p> | <p>1. ACTCS policies and procedures should be reviewed so that in the event of injury or illness affecting an Indigenous detainee, where possible and appropriate, a person of Aboriginal or Torres Strait Islander background notify the next of kin of the detainee.</p> | <p>Agreed in principle The ACT Government is satisfied that the current ACTCS practice for notifying next of kin when a serious incident or illness occurs is appropriate for all detainees at this time. Where possible, ACTCS will use Indigenous Liaison Officers to deliver the notification if there are available staff to deliver the information.</p> |
| <p>2. Assault of a detainee at AMC on 25 October 2018</p> | <p>Nil</p> | <p>n/a</p> |
| <p>3. Assault of a detainee at AMC on 16 December 2018</p> | <p>1. That ACTCS ensure that victims and secondary victims of traumatic events in correctional centres are offered appropriate support from mental health professionals or counsellors as soon as possible after the event. Such offers of support and responses from detainees must be recorded on relevant files.</p> | <p>Agreed in principle ACTCS will consider how referrals can be provided to support services for detainees who have been exposed to traumatic incidents, so that they receive the necessary support and how these offers and responses can be recorded.</p> |
| <p>4. Assault of a detainee at AMC on 1 January 2019</p> | <p>1. That the Corrections Management (Shared Cell) Policy 2009 be reviewed to require that a risk assessment take place (and be appropriately documented) for every accommodation placement decision.</p> <p>2. That segregation orders pinpoint the legal authority for segregation in the Corrections Management Act and where it is for 'security and good order', ACT Corrective Services must provide a rational basis for making or extending the order on those grounds.</p> | <p>Agreed ACTCS has drafted the Shared Cell policy that is expected to be notified by 30 December 2019 and will replace the Corrections Management (Shared Cell) Policy 2009.</p> <p>Agreed Since the Inspector initiated the review into this critical incident, ACTCS has notified the Management of Segregation and Separate Confinement policy. The policy establishes clear requirements for correctional centres to manage the segregation and separate</p> |

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| | | confinement of detainees in a safe, secure, decent and humane manner. |
| | 3. That ACT Corrective Services advise ACT Policing that detainees subject to police investigations will not be kept on investigative segregation for more than seven days without a formal written request from ACT Policing to extend the order. | Agreed in principle ACTCS recognises the significant impact that segregation or separate confinement regimes can have on the mental health of a detainee and is committed to ensuring that such impacts are minimised as far as practicable. Investigative segregation is not used by ACTCS to provide time for ACT Policing to conduct an investigation or conduct initial interviews regarding the incident. ACTCS accepts that the reasons noted on the detainee's segregation form as "pending action from ACT policing" was not in accordance with ACTCS policy or the Corrections Management Act 2007. |
| 5. Assault of a detainee at AMC on 15 April 2019 | Nil | n/a |
| 6. Assault of a detainee at AMC on 5 December 2019 | 1. That ACTCS implement the use of an Incident Checklist to ensure that all notifications are made and recorded, including the time of successful notification. | Agreed An Incident Checklist will be incorporated in the Incident Summary Form as part of the current review of the Incident Reporting, Notifications and Debriefs Policy. |
| 7. Assault of a detainee at AMC on 13 January 2020 | 1. That the Corrections Management Act 2007 be amended to provide a definition for the term 'officer-in-charge of a correctional centre'. | Not agreed 'Officer-in-Charge' is a standard and recognised term that refers to the highest-ranking custodial officer in a correctional centre at any one time. Moreover, amending the Corrections Management Act 2007 (CMA) to include this role would create a statutory office holder, which is not currently required in the legislation. As such, the ACT Government does not agree with the recommendation to amend the CMA. |

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| | <p>2. That s8.1(b) of the Corrections Management (Incident Reporting, Notifications and Debriefs) Policy 2019 (NI2019-266) be revised to read 'where the Officer-in-Charge of a correctional centre considers it prudent to do so, based on their assessment of the severity of the injury/ies or illness'.</p> | <p>Agreed in principle The Incident Reporting, Notifications and Debriefs Policy is currently under review and will be updated to reflect that the Duty Manager may decide to notify next of kin prior to formal hospital admission based on their assessment of the severity of the injury/ies or illness.</p> |
| <p>8. Riot and serious fires at AMC on 10 November 2020</p> | <p>1. That the Corrections Management (Emergency Management) Policy 2019 and the ACTCS Emergency Management Framework 2018 be updated as a matter of urgency to ensure they are consistent and reflect the current senior management structure of ACTCS to avoid any confusion about the responsibilities of ACTCS senior managers in the event of an emergency situation.</p> | <p>Agreed The EMF has been identified as requiring a review and update. The EMF will be updated to clarify the command structure based on roles rather than position title. The update will also ensure that the EMF is operationally appropriate within ACTCS and considers cross-jurisdictional interfaces during an emergency. The Policy and EMF will more clearly articulate the difference between incident and emergency management and the method of determining when to commence emergency management structures. The Emergency Services Agency is assisting ACTCS to undertake a more wholesale review to ensure the EMF is contemporary.</p> |
| | <p>2. That ACT Corrective Services review the Emergency Management Framework 2018, the Corrections Management (Code Red (Fire)) Operating Procedure 2020 and the Corrections Management (Code Grey – Detainee Disturbance or Riot) Procedure 2014 (No 1) to ensure that there is a consistent approach to notifications of ACT Policing, ACT Fire and Rescue and ACT Ambulance Service about serious incidents.</p> | <p>Agreed The EMF has been identified as requiring a review and update as per recommendation 1. The Codes are currently under review.</p> |
| | <p>3. That ACT Corrective Services review the Corrections Management (Code Grey – Detainee Disturbance or Riot) Procedure 2014 (No 1) and the Emergency Management Framework 2018 Major Disturbance Plan to ensure that they include responses to fires lit during major disturbances.</p> | <p>Agreed The EMF has been identified as requiring a review and update as per recommendation 1. The Codes are currently under review.</p> |
| | <p>4. That ACT Corrective Services develop a three-year contingency-based exercise program covering both the Alexander Maconochie Centre and the</p> | <p>Agreed in Principle</p> |

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| | <p>Court Transport Unit that reflects the requirements set out in section 6.1 of the Corrections Management (Emergency Management) Policy 2019.</p> | <p>ACTCS will review the manner in which exercises are scheduled to ensure that the requirement to test all responses over the three years is met. ACTCS will work with ACT Policing and the Emergency Services Agency to build participation into exercise programs cross agency.</p> |
| | <p>5. That ACT Corrective Services conduct one major exercise in 2021 which includes significant participation by ACT Policing, ACT Fire and Rescue and ACT Ambulance Service, and which involves after-hours activation and operation of the ACT Corrective Services Head Office Incident Command Suite.</p> | <p>Agreed in Principle After the finalisation of recommendations 1 to 3 (scheduled to be completed by 31 December 2021), an emergency exercise including ACTCS, ACT Police, ACT Fire & Rescue and ACT Ambulance Service will be scheduled (after hours if possible) based on the availability of these agencies, noting that bushfire season may limit their availability prior to April 2022. Should this exercise be scheduled within business hours, the after-hour activation of the Head Office Incident Command Suite will form part of a separate desktop exercise. Between finalisation of the EMF review and the major cross-agency exercise, ACTCS will conduct various smaller (single-agency) exercises to optimise benefits from the major exercise.</p> |
| | <p>6. That ACT Corrective Services enter into one or more Memorandums of Understanding (MOUs) with ACT Policing, ACT Fire and Rescue and ACT Ambulance Service concerning the conduct of joint operations arising from major incidents at ACT correctional centres and that the completion of these MOUs be given a high priority by ACT Corrective Services in 2021.</p> | <p>Agreed in Principle ACTCS is in the preliminary stages of complex MOU discussions with the Australian Federal Police (AFP), that includes ACT Policing. ACTCS (through JACS) will consult internally with the relevant agencies and with ACT Policing to gauge interest in establishing a formal MOU to support joint operations. Stronger interoperability will also be achieved through joint exercising and training.</p> |

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| | 7. That the General Manager of the Alexander Maconochie Centre review the storage of Tactical Personal Protection Equipment kits, batons and shields to ensure that they can be accessed quickly in the event of serious incident. | Agreed The location of Tactical Personal Protective Equipment (TPPE) storage will be reviewed, and changes made if required. |
| | 8. That ACT Corrective Services conduct a full audit of Tactical Personal Protection Equipment kits to ensure that they are complete, items are undamaged and properly labelled as to size. | Agreed The TPPE kits will be re-audited to confirm completeness, condition and labelling. Any deficiencies will be rectified. |
| | 9. That ACT Corrective Services make a firm policy decision as to whether CS gas should be retained as a use of force option at the Alexander Maconochie Centre, and if so decided, ensure that as a minimum all CO2 and CO3 officers are fully trained and qualified to deploy chemical agents if approved to do so. If it is decided that CS gas is not a use of force option, then the current stock of CS gas at the Alexander Maconochie Centre be disposed of as soon as possible. | Agreed in Principle As part of the EMF review and consideration of additional emergency response tools, a decision regarding the use of CS gas will be made. Depending on the decision, ACTCS will either make a determination on the number and classification of staff that may require training or dispose of the current CS gas stock. |
| | 10. That a senior training officer(s) be embedded at the Alexander Maconochie Centre, reporting operationally to the General Manager of the Alexander Maconochie Centre. | Agreed in Principle Dividing training capacity across different divisions is not optimal due to poor economy of scale as well as difficulty ensuring consistency and standards maintenance in line with the Registered Training Organisation (RTO) status. Whilst the current governance for training will continue, dedicated custodial training staff will be established and will build strong connections with custodial operations to support greater onsite training and assessment in a flexible and timely manner. |
| | 11. That the ACT government urgently seek legal advice on whether a written direction to transfer a detainee under section 26(2) of the Crimes (Sentence Administration) Act 2005 requires a specific NSW correctional centre to be stated. | Agreed Legal advice regarding transfer directions, including whether there is a requirement to specify a NSW correctional centre was obtained in February 2021. |
| | 12. That the ACT Government make guidelines under section 27 of the Crimes (Sentence Administration) Act 2005 which include provisions about | Agreed Guidelines are under development in line with the legal advice obtained. These will ensure |

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| | <p>the transfer of detainees to NSW correctional centres. These guidelines must include human rights considerations and record-keeping requirements.</p> | <p>detainees are afforded due process and that their individual circumstances are considered, as well as outline recordkeeping requirements.</p> |
| | <p>13. That ACT Corrective Services review its incident response plans with regard to:</p> <ul style="list-style-type: none"> a. Medical and EAP assistance to staff b. Provision of fresh PPE to staff during protracted incidents c. Provision of fresh clothes to staff after incidents where clothes may have become wet or contaminated by smoke or chemicals d. The suitability of staff uniforms for use with PPE or in hazardous situations e. The provision of rest breaks, meals and refreshments to staff engaged in protracted incidents. | <p>Agreed</p> <p>The review of Emergency Management Framework (EMF) will take into account the recommendations made and updated where required.</p> |
| <p>9. Serious fire at AMC on 14 November 2020</p> | <p>1. That ACT Corrective Services explore options for providing staff with appropriate “heavy-duty” clothing that they can access quickly and change into, or put over their normal uniform, to provide better protection against heat, fire and chemicals.</p> | <p>Agreed</p> <p>In line with recommendation 13 of the Inspector’s 10 November Report, the suitability of staff uniforms for use in hazardous situations as well as the provision of fresh clothes to staff after incidents is being considered in consultation with the Emergency Services Agency.</p> |
| | <p>2. That ACT Corrective Services ensure that Fire Refresher Training (including Breathing Apparatus) for all relevant staff is brought up to date as a matter of urgency and review processes are implemented to ensure that mandatory training is provided when it is required to maintain currency.</p> | <p>Agreed</p> <p>Strategies to ensure mandatory training has been completed are already underway. Prioritisation of training is based on considerations of risk/safety and logistical issues such as staffing availability. A sustainable training plan is being developed to ensure currency of mandatory training is maintained as soon as practicable. Improved reporting to the ACTCS Executive Governance Committee will track progress against demand. As of 30 May 2021, compliance with Breathing Apparatus was 60% (up from 38% in January 2021) and compliance with Fire Awareness was 58% (up from 42% in January 2021).</p> |

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| | 3. That ACT Corrective Services take urgent action to ensure that the Alexander Maconochie Centre ring road gates are keyed alike. | Agreed in Principle The padlocks on the ring road gates have been replaced in a way that ensures security but addresses the access concerns. |
| | 4. That ACT Corrective Services investigate engineering options for the safe evacuation of detainees from upper level Pods in all Cottages in the Alexander Maconochie Centre. | Agreed ACTCS will explore engineering and other options to ensure an enhanced evacuation of detainees while taking into account any security risks. Any solution is likely to require capital expenditure and would need prioritising relative to other capital infrastructure projects currently underway or being planned. |
| | Confidential recommendations (4) | Agreed (3) Agreed in principle (1) |
| 10. Use of force to conduct a strip search at AMC on 11 January 2021 | 1. That ACT Corrective Services remove from policy, procedure and written direction any requirement for mandatory strip searches on entry into the Crisis Support Unit. | Pending since 16/09/2021 |
| | 2. That ACT Corrective Services expedite the procurement of body scanner technology to provide options for less restrictive ways than strip searching to search detainees on entry to the Crisis Support Unit. | Pending since 16/09/2021 |
| | 3. That ACT Corrective Services ensure that human rights are explicitly considered prior to conducting a planned use of force to carry out a strip search, and the reasons for a decision are documented. To support this, ACT Corrective Services should develop a practical decision making tool for operational staff, and incorporate it into relevant procedures. | Pending since 16/09/2021 |
| | 4. That ACT Corrective Services ensure that Operational Managers and Corrections Officers, level 3 and above have appropriate capability in considering human rights in decision making. Capacity building of staff should draw on expert input on human rights and decision making. | Pending since 16/09/2021 |
| | 5. That ACT Corrective Services amend the Corrections Management (Use of Force and Restraint) Policy to require that non-essential staff leave the scene prior to a planned use of force. | Pending since 16/09/2021 |
| | 6. That all ACTCS Tactical Personal Protection Equipment helmets display a clearly visible number and that the number on a helmet be recorded when issued to a Corrections Officer. | Pending since 16/09/2021 |
| | 7. That the Corrections Management (Duty Manager) Operating Procedure be amended to require the Duty Manager to maintain a log of all | Pending since 16/09/2021 |

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| | conversations involving notifications to the Duty Manager and any advice or directions given by the Duty Manager. | |
| | 8. That staff are trained in the correct use of handheld video cameras to comply with relevant policy and procedure, for example, through recruit, refresher, or scenario training. | Pending since 16/09/2021 |
| | 9. That ACT Corrective Services develop terms of reference to guide the process of reviewing uses of force, that includes a requirement for reflective practice about whether the use of force complied with policy and procedure. | Pending since 16/09/2021 |
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