



**ACT**

Government

Justice and Community Safety

## Open Access release outcome decision – Partial access granted

**Document Category:** Ministerial Briefs

**Title of document:** Minister for Justice, Consumer Affairs and Road Safety – Quarter 1 2019 briefs

**Description of the information:** Question Time Briefs provided to the Minister for Justice, Consumer Affairs and Road Safety between 12 February and 21 March 2019.

The original record of this document contained information the release of which would be contrary to the public interest. This information has been redacted from this publicly available version of the document for the reasons outlined below.

### Grounds for decision to withhold disclosure

It was decided certain information contained in the document would not be disclosed as, on balance it would be contrary to the public interest test set out in section 17 of the FOI Act.

I have included below the relevant factors considered in making this decision.

#### 2.1 Factors favouring disclosure in the public interest

- (a) *Disclosure of the information could reasonably be expected to do any of the following:*
  - (i) *promote open discussion of public affairs and enhance the government's accountability;*
  - (ii) *contribute to positive and informed debate on important issues or matters of public interest;*
  - (viii) *reveal the reason for a government decision and any background or contextual information that informed the decision.*

I consider that the release of the ministerial briefs may be expected to help inform ongoing discussions and debate on matters of continued public importance. The disclosure of this information also helps to promote government accountability and transparency.

#### 2.2 Factors favouring non-disclosure in the public interest

- (a) *Disclosure of the information could reasonably be expected to do any of the following:*
  - (ii) *prejudice the protection of an individual's right to privacy or any other right under the Human Rights Act 2004;*

## Open Access Decision – Quarter 2 2018 – Attorney General

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On balance, I consider the ministerial briefs to be in the public interest to release, with a minor redaction. This includes a redaction to the personal information of an individual in keeping with their right to privacy.

### Review rights

My decision to withhold open access information is a reviewable decision as identified in Schedule 3 of the FOI Act. You can seek an Ombudsman review of this outcome under section 73 of the Act within 20 working days from the day that my decision is published on the Justice and Community Safety Directorate website, or a longer period allowed by the Ombudsman.

If you wish to request a review of my decision, you may write to the ACT Ombudsman at:

The ACT Ombudsman  
Attention: ACT Strategy and FOI Section  
GPO Box 442  
CANBERRA ACT 2601  
Via email: [actfoi@ombudsman.gov.au](mailto:actfoi@ombudsman.gov.au)

### Further assistance

If you have any queries regarding this Open Access release, please contact [JACSF0I@act.gov.au](mailto:JACSF0I@act.gov.au) or phone (02) 6207 2167.

### Authorised by



Naveen Wijemanne  
Information Officer  
2 April 2024



## OPEN ACCESS Q1 2019 SCHEDULE

### PORTFOLIO: MINISTER FOR JUSTICE, CONSUMER AFFAIRS AND ROAD SAFETY

No.	Folio	Description	Date	Status	Reason for non-release or deferral
<b>Question Time Briefs - Sitting Weeks 12-14 &amp; 19-21 February 2019</b>					
1	1	Question Time Briefs Index - 12-14 & 19-21 February 2019	February	Full release	
2	2-3	2018-2019 Budget Summary - Minister for Justice, Consumer Affairs and Road Safety	February	Full release	
3	4-7	Reducing Recidivism	February	Full release	
4	8-9	Repeal of Civil Unions Act	February	Full release	
5	10-11	Charter of Rights for Victims of Crime	February	Full release	
6	12-13	Discrimination	February	Full release	
7	14-16	Restorative Justice	February	Full release	
8	17-21	Justice Reinvestment	February	Full release	
9	22-26	Aboriginal and Justice Partnership	February	Full release	
10	27-29	Official Visitor Review	February	Partial release	Schedule 2, s2.2(a)(ii)
11	30-32	Retirement Villages	February	Full release	
12	33-34	Building Communities, Not Prisons	February	Full release	
<b>Question Time Briefs – Sitting Week 19-21 March 2019</b>					
13	35	Question Time Briefs Index - 19-21 March 2019	March	Full release	
14	36-37	2018-2019 Budget Summary - Minister for Justice, Consumer Affairs and Road Safety	March	Full release	
15	38-39	Repeal of Civil Unions Act	March	Full release	
16	40-41	Charter of Rights for Victims of Crime	March	Full release	
17	42-43	Discrimination	March	Full release	
18	44-46	Restorative Justice	March	Full release	
19	47-50	Reducing Recidivism	March	Full release	
20	51-54	Justice Reinvestment	March	Full release	
21	55-57	Official Visitor Review	March	Full release	
22	58-60	Retirement Villages	March	Full release	
23	61-67	Building Communities, Not Prisons	March	Full release	

# MINISTER FOR JUSTICE, CONSUMER AFFAIRS AND ROAD SAFETY

## QUESTION TIME BRIEFS

12-14 & 19-21 February 2019

<i>Question Time Briefs</i>	
1.	Summary of Budget Initiatives
2.	Reducing Recidivism
3.	Vulnerable Road User Reforms (incl. lane filtering and minimum passing laws)*
4.	Graduated Licencing Scheme*
5.	Repeal of Civil Unions Act
6.	Drug Driving*
7.	Charter of Rights for Victims of Crime
8.	Discrimination
9.	Restorative Justice
10.	Justice Reinvestment
11.	Aboriginal and Justice Partnership
12.	Official Visitor Review
13.	Retirement Villages
14.	Helmets*
15.	E-Scooters*
16.	Move Over, Slow Down Laws*
17.	Building Communities Not Prisons
18.	

\* In accordance with section 35 of the Territory Records Act 2002, this brief has been transferred to Transport Canberra and City Services (TCCS) as the current record owner. Refer to the TCCS website ([www.cityservices.act.gov.au](http://www.cityservices.act.gov.au)) for further information on the release of this brief under Open Access.

**Portfolio:** Justice, Consumer Affairs & Road Safety

**ISSUE:** 2018-19 Budget Summary – Minister for Justice, Consumer Affairs and Road Safety

**Talking points:**

Human Rights Commission

- **\$557,000** over two years will be invested to upgrade the Human Rights Commission digital capabilities and implement a single case management system.

Reducing recidivism by 25 per cent by 2025

- **\$1 million** in 2018-19 to reduce recidivism by supporting initiatives which prevent crime and address offending behaviour, including:
  - **\$84,000** Aboriginal Victim Liaison Officer for the Victims of Crime Office
  - **\$285,000** to expand the High Density Housing Community and Safety Program
  - **\$152,000** to establish Warrumbul Court in the Children’s Court to provide a culturally appropriate sentencing process for Aboriginal and Torres Strait Islander youth in the justice system
  - **\$434,000** for the continued development of, and operationalising initiatives within the justice reinvestment program

The Government will also protect and support the victims of crime through the justice system by investing:

- **\$14.2 million** over four years for supporting survivors of child sexual abuse by joining the National Redress Scheme to deliver a redress payment, counselling and psychological care, and a direct personal response. ACT Health will contribute \$0.184 million from the Health Central Provision to the administration of the scheme.

**Background Information**

- The ACT’s budget announcements will include initiatives relating to:
  - Better Government – Human Rights Commission digital capability;

Cleared as complete and accurate: 23/11/2018  
Cleared by: Deputy Director-General Ext:53504  
Information Officer name: Richard Glenn  
Contact Officer name: Karen Schofield Ext: 54775  
Lead Directorate: Justice and Community Safety

- More support for families and inclusion – Reducing recidivism;
- More support for families and inclusion – Implementing the Commonwealth Redress; and
- Scheme for Institutional Child and Sexual Abuse.

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Safety

**Portfolio:** Justice, Consumer Affairs & Road Safety

**ISSUE: REDUCING RECIDIVISM**

**Talking points:**

- The Government has set a goal to reduce recidivism by 25 per cent by 2025.
- Reducing recidivism in the ACT is a shared responsibility across the justice and human service system. The government will work closely with government stakeholders, the community sector, academia and those with lived experience to develop the Recidivism Plan.
- Developing a Recidivism Plan to achieve this ambitious target will require a package of work to effectively change the life trajectories of some of Canberra's most vulnerable citizens who have complex needs.
- A key contribution to the Recidivism Plan, is the four year commitment to develop a Justice Reinvestment Strategy (2014-18).
- Justice Reinvestment (JR) is about developing a smarter, more cost-effective approach to improving criminal justice outcomes by reducing crime and diverting offenders, and those at risk of becoming offenders, from the criminal justice system.
- There are two main streams of work that form the JR Strategy:
  - building an evidence base to support decisions about reducing recidivism and diverting offenders, and those at risk of becoming offenders, from the justice system.
  - establishing and evaluating justice programs and trials– trials currently focus on addressing the overrepresentation of Aboriginal and Torres Strait Islander people in the justice system.
- The approach created in the JR Strategy will underpin the development of a Reducing Recidivism Plan in order to meet the Government's commitment to reduce recidivism by 25 per cent by 2025.
- In the 2018-19 budget the government provided \$0.955m of support for families to reduce their contact with the justice system.
- The Government is expanding the High Density Housing Community and Safety Program, which facilitates programs that reduce crime and antisocial behaviour through community building at public housing sites in the ACT.

Cleared as complete and accurate:	05/02/2019	
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- We have also provided funding for a dedicated Liaison Officer through Victim Support ACT to better support Aboriginal and Torres Strait Islander victims of crime, and establish Warrumbul Court in the Children’s Court to provide a culturally appropriate sentencing process to help address the overrepresentation of young Aboriginal and Torres Strait Islander people in the justice system.
- These initiatives feed into the government’s broader commitment to develop a recidivism plan.
- Important to success in reducing recidivism in the ACT will be addressing the onset of offending and the cycles of offending.
- I hosted a Justice Reinvestment and Reducing Recidivism Forum – Building Communities Not Prisons on 5 and 6 December 2018.
- The Forum brought together over 100 participants and speakers from across government, local and international academics, community leaders and other key stakeholders to share best practice and discuss ways to reduce recidivism and to advance justice reinvestment in Australia. Professor Tom Calma AO, Chancellor of the University of Canberra, and leading American Criminologist, Alex Piquero, were key contributors to this Forum.
- The speakers and participants at the Forum confirmed the Government’s ongoing commitment to justice reinvestment and its ability to improve people’s lives, prevent or delay their contact with the criminal justice system and strengthen communities. Central to the discussion was the importance of community leadership, self-determination and culturally appropriate community led initiatives in bringing about change.

## Key Information

- The Government traditionally measures recidivism using the Report on Government Services. ROGS measures one part of the justice system, whether a person has received a conviction in a court and whether they have received a second conviction within a two year period.
- The measure does not include other considerations such as police discretion when dealing with offenders, using diversion options (such as restorative justice) or court responses that may prove an offence but not record a conviction.
- It also doesn’t measure if there is a change in the frequency or severity of offending.

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- The 2018 Prisoners in Australia publication by the ABS found that 75 per cent of ACT prisoners have previously been imprisoned under sentence, the largest proportion of any State or Territory (the national average was 57 per cent).
- In 2018 the ACT adult imprisonment rate was 151 prisoners per 100,000, an increase from 141 prisoners per 100,000 (2017) adult population compared to the national imprisonment rate of 221.4 prisoners per 100,000 population.

## Background Information

- The Parliamentary Agreement for the Ninth Legislative Assembly commits to reducing recidivism by 25 per cent by 2025.
- The 2018-19 budget process provided \$0.434 for the continued development of, and operationalising of initiatives within the Justice Reinvestment Program which underpins the reducing recidivism approach. Funding was provided to support the:
  - senior officer to progress the Reducing Recidivism Plan and Justice Reinvestment
  - Yarrabi Bamirr Justice Reinvestment Trial by continuing the essential Aboriginal and Torres Strait Islander identified trial coordinator role
  - Senior legal policy officer to develop a policy and associated legislated reforms for “Clean Street Time”
  - remaining funding to support yet to be identified initiatives to support the 2019-20 Reducing Recidivism business case.
- The 2018-19 Budget also provided \$0.285m to continue the Ainslie Avenue based High Density Housing Program and expanding it to Illawarra Court.
- \$0.150m for an Aboriginal and Torres Strait Islander Victim Liaison Officer (ASO6); and
- \$0.152m for a Warrumbul Court Coordinator & Cultural Advisor for the Children’s Circle Court and core costs associated with Panel Member training, supervision, reimbursements (for expenses and cultural expertise) and ICT.
- In the 2018-19 mid year Budget review the Building Communities Not Prisons (BCNP) justice package sought to reinvest criminal justice funds that would have been considered used to expand high-secure capacity at the Alexander Maconochie Centre (AMC) to other parts of the human service system.
- Through BCNP the Government provided a total of \$24,935,000 to deliver cost effective reductions in crime, victimisation and repeat offending while reducing overcrowding at the AMC as a priority over further investment in building secure facilities at the AMC.
- The following investment from BCNP will support the Government’s commitment towards reducing recidivism by 25 per cent by 2025.
  - \$3,633,000 to continue and extend Yarrabi Bamirr, an intensive family-centric support program for Aboriginal and Torres Strait Islander families to prevent or delay contact with the justice system.

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- Strong Connected Neighbourhoods (formerly known as the High Density Housing Program) received 1,620,000 to continue program provision on Ainslie Avenue and expand the program to residents at Illawarra Court in Belconnen.
- \$1,003,000 for two additional staff to Victim Support ACT to improve access to services and support for Aboriginal and Torres Strait Islander victims of crime.
- \$6,793,000 to establish a Bail Accommodation Transition Support Service in the ACT.
- \$997,000 to progress work to establish the Alexander Maconochie Reintegration Centre.

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**Portfolio:** Justice, Consumer Affairs & Road Safety**ISSUE: REPEAL OF CIVIL UNIONS ACT****Talking points:**

- Since the Commonwealth Government amended the *Marriage Act 1961* (Cwth) (Commonwealth Marriage Act) to allow couples to marry regardless of their sex or gender, no one has been eligible to enter or solemnise a civil union under ACT law.
- The Government considered repealing the *Civil Unions Act 2012* to prevent community misapprehension that civil unions can still be validly entered or solemnised in the ACT.
- The Government decided not to repeal the Civil Unions Act because repealing the legislation could temporarily affect the corresponding recognition of civil unions in other states and territories, and under some Commonwealth laws.
- The Government continues to recognise all civil unions that were entered into in the ACT before marriage equality (9 December 2017).
- In December 2018, the Chief Minister wrote to all couples in registered civil unions to inform them the ACT continues to recognise their civil union following marriage equality. The Access Canberra website was also updated.
- The Government is working to identify future opportunities to update gendered references to marriage across the ACT's statute book. Such changes would enhance the equal recognition of same-sex marriages in ACT legislation.

**Key Information**

- Civil unions offer a legally recognised relationship for same-sex couples that is to be treated identically to a marriage for the purposes of ACT laws.
- As of 20 August 2018, 53 civil unions were registered in the ACT.
- During Estimates hearings on 26 June 2018, you indicated the ACT Government Solicitor (ACTGS) had advised that maintaining the *Civil Unions Act 2012* presents a risk that it could be deemed not consistent with the Commonwealth Marriage Act as that Act now covers the field.

Cleared as complete and accurate: 04/02/2019  
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## Background Information

- The Civil Unions Act was introduced to enable couples who were unable to marry their same-sex partner under the Commonwealth Marriage Act to enter into a legally recognised relationship.
- On 7 December 2017, the Commonwealth Parliament passed the *Marriage Amendment (Definition and Religious Freedoms) Act 2017* (Cwth) (Marriage Amendment Act). This Act amended the definition of marriage in the Commonwealth Marriage Act to enable same-sex couples to marry in Australia. It also introduced legal recognition of overseas same-sex marriages, including retrospective recognition of overseas same-sex marriages prior to 8 December 2017.
- Only natural persons who are not eligible to marry under the Commonwealth Marriage Act may enter into a civil union. Since the entry into force of the Marriage Amendment Act on 9 December 2017, persons of the same-sex have been eligible to marry under the Commonwealth Marriage Act. Therefore no one has been eligible to enter into a civil union since these amendments.
- On 25 October 2018, the Chief Minister agreed to withdraw the Civil Unions Repeal Bill 2018 from the Spring 2018 legislation program. The Bill was withdrawn because some jurisdictions may need to pass consequential amendments to their corresponding relationships legislation in order to continue recognising ACT civil unions after the repeal of the Civil Unions Act 2012. This meant that repealing the Act would expose couples in existing ACT Civil unions to an interim period of uncertainty between the repeal taking effect and other jurisdictions updating their corresponding legislation.
- The Attorney-General is currently considering whether to repeal gendered references to marriage across ACT legislation through a JACS Bill.

Cleared as complete and accurate: 04/02/2019  
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Contact Officer name: Claudia McKeough Ext: 76192  
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Safety

**Portfolio:** Justice, Consumer Affairs & Road Safety**ISSUE: CHARTER OF RIGHTS FOR VICTIMS OF CRIME****Talking points:**

- The Government is committed to introducing a Charter of Rights for Victims of Crime. Victims are central to the ACT justice system and must be included and treated with respect to avoid further trauma being caused and encourage crime to be reported.
- The Charter will outline the rights of victims of crime, the obligations justice agencies have when dealing with victims, and establish a complaints resolution process where the Charter is breached.
- The Government is working closely with stakeholders including the Victims Advisory Board, the Victims of Crime Commissioner, individual victims of crime and justice agencies to identify the best approach for implementing a Charter of Rights for Victims of Crime in the ACT.
- It is important for Government to listen to what victims have to say about our criminal justice system, and I thank all community members, particularly those who have experienced crime, who gave their views on how the Charter can best meet their needs and interests during the public consultation period in 2018.
- A proposed model of the Charter is now being developed in close consultation with justice stakeholders.

**Key Information**

- During the public consultation period from 22 June to 27 August 2018, over 440 community members were reached including feedback from over 100 direct victims of crime.
- In November 2018 the Directorate provided advice on public consultation feedback and a proposed model for the Charter. The Victims Advisory Board and justice agencies remain focused on ensuring their own obligations are deliverable, and the oversight mechanism is appropriate.
- The Charter is likely to be implemented in the second half of 2019, and will include a package of reforms including legislation change and practical strategies to give victims' rights and a complaints process where these are breached.
- The development of the Charter, Government implementation of the *Royal Commission into Institutional Responses to Child Sexual Abuse* recommendations,

Cleared as complete and accurate: 29/01/2019  
Cleared by: Executive Director Ext: 70522  
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and the Disability Justice Strategy share significant interest in improving access to justice in the ACT, particularly for those most vulnerable members of our community. The Government is considering these reforms in a cohesive way.

- The Charter is expected to replace the governing principles for the treatment of victims of crime in the *Victims of Crime Act 1994 (s4)*. Common feedback heard from victims of crime during consultations include wanting information and support in a timely manner so they can choose how to interact with the justice system, and opportunities to participate in processes and be consulted about key decisions. Having a voice in the justice system is particularly important for diverse and marginalised community members.
- The Charter is building on the commitment of justice agencies to victims of crime, and existing and emerging good practice across justice agencies, ACT Government and the community sector.
- All other states and territories in Australia have introduced victim rights as principles or guidelines. The Government seeks to build on the ACT's Human Rights framework by providing community members with actionable rights linked to an accountability mechanism.

#### **Background Information**

- The Parliamentary Agreement to the 9<sup>th</sup> Legislative Assembly commits to the introduction of an ACT Rights of Victims Charter.
- Providing opportunities for victims of crime to be informed and have a voice in the justice process leads to improved outcomes for the community and justice system more broadly, including increased confidence in reporting crimes, better evidence provision, reduced re-traumatisation, and a more efficient and transparent justice process.
- The ACT has a strong history of supporting victims and upholding human rights. The ACT led Australian jurisdictions with the introduction of legislated governing principles for the treatment of victims of crime in the administration of justice (1994); the establishment of the *Human Rights Act 2004*; the introduction of the statutory Victim of Crime Commissioner role (2010) and its integration into the Human Rights Commission (2016).
- Best practice in victim participation, services and rights is developing across Australian jurisdictions and community expectation that victims are central to justice processes is growing. Victim rights will be upheld in a balanced way with the rights of defendants.

Cleared as complete and accurate: 29/01/2019  
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Lead Directorate: Justice and Community Safety

TRIM Reference: MIN:2019/000034-012

**Portfolio:** Justice, Consumer Affairs & Road Safety

**ISSUE:       DISCRIMINATION**

**Talking points:**

- In the ACT, the *Discrimination Act 1991* makes it unlawful for someone to discriminate against another person on the basis of a protected attribute in areas of public life including education, employment and in receiving goods and services.
- The *Discrimination Act* identifies a wide range of protected attributes, including race, sex, disability, sexual orientation, religious conviction, and gender identity. More recently added attributes include accommodation status, employment status and immigration status.
- In November 2018 the *Discrimination Amendment Bill* was introduced into the Legislative Assembly to provide greater protection for students and staff from discrimination in religious educational institutions.
- This Bill was jointly sponsored by myself and the Chief Minister.
- The Bill was passed on 27 November 2018 and will come into force on 29 April 2019.
- Upon commencement of the *Discrimination Amendment Act 2018 (ACT)*, the scope of the exceptions available to religious educational institutions will be more limited, permitting discrimination only on the ground of the student or worker's religious conviction.
- JACS is working with the Education Directorate and the Discrimination Commissioner to develop guidance materials to assist religious educational institutions to prepare for the commencement of this legislation.
- The Government implemented its response to a first tranche of recommendations of the Law Reform Advisory Council (LRAC) review relating to the *Discrimination Act 1991 (ACT)* in 2016. JACS will progress work on a second tranche of LRAC's recommendations in 2019. This will include a broader look at the exceptions framework in the Act.

Cleared as complete and accurate:	24/01/2019	
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Lead Directorate:	Justice and Community Safety	

- If anyone is subject to discrimination or vilification in the ACT, I encourage them to contact the ACT Human Rights Commission to talk through the complaints process.

**Key Information**

- On 27 November 2018, the Legislative Assembly passed the *Discrimination Amendment Act 2018* (ACT)(the *2018 Amendment*). The Government introduced the 2018 Amendment following the leaked report of the Ruddock’s review on religious freedom in October 2018.
- On 27 November 2018, you indicated to the Assembly that the 2018 Amendment would likely commence on 29 April 2019. The 2018 Amendment must commence its operation on or before 6 June 2019.
- You also said that JACS would consider the other outstanding recommendations of the Law Reform Advisory Council (LRAC) in 2019. On 24 October 2018, the Chief Minister committed to considering the entire exceptions framework under the Discrimination Act 1991 (ACT). This is one of the LRAC’s recommendations.
- The Human Rights Commission is an independent agency that promotes the human rights and welfare of people in our community and provides an independent, fair and accessible process for resolving individual complaints about discrimination and vilification.
- The Commission does not make binding determinations but can resolve matters through conciliation. If the matter cannot be resolved, the complainant has the right to take matter to the ACAT, which can make a binding decision and award compensation for unlawful discrimination.
- ACT law also includes an offence of ‘serious vilification’ which involves threats of physical harm that incite hatred because a person’s protected attribute(s) (s 750 of the Criminal Code). The maximum penalty is \$7500 (50 penalty units). This offence is a matter for the police.

Cleared as complete and accurate: 24/01/2019  
Cleared by: Deputy Executive Director Ext: 70674  
Information Officer name: Daniel Ng  
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Lead Directorate: Justice and Community  
Safety



**Portfolio:** Justice, Consumer Affairs & Road Safety

**ISSUE: RESTORATIVE JUSTICE**

**Talking points:**

- Ensuring that victims of crime have the opportunity to access restorative justice if and when they need it is a Government priority.
- Changes made last year by the *Crimes (Restorative Justice) Amendment Act 2018* removed legislative barriers to referring entities making referrals to the Restorative Justice Scheme. It also made amendments to strengthen the Restorative Justice Unit's ability to manage family violence and sexual offences following the commencement of Phase 3.
- Phase 3 of the Restorative Justice Scheme commenced on 1 November 2018. This means that victims of family violence and/or sexual offences can access restorative justice and that victims will no longer be excluded from accessing restorative justice based on the particular offence they have experienced.
- Around 15 family violence referrals have already been received which include a range of offending characteristics.
- The RJU has received one sexual offence referral for a young person, for an offence of a less serious nature.
- The Restorative Justice Unit (RJU) has finalised guidelines and is working with local support agencies to strengthen restorative justice processes.
- A model of Restorative Justice (RJ) that promotes a strong commitment to responsibility and accountability, educational and or therapeutic support for participants throughout the process and stringent risk management and safety planning has been adopted in the ACT.

Cleared as complete and accurate: 31/01/2019  
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- A significant reform included in last year's amendments to the restorative justice legislation allows victims to be directly referred at the post-sentence stage to RJ by the Victim of Crime Commissioner, victim advocates and supporters or victims themselves, without the offender's initial awareness or agreement. This is so that the victim can explore the potential benefits and risks of RJ without fear of coercion or influence by the offender. This is especially important in phase three as family violence and sexual offences are referred to RJ.

**Key Information**

- Phase 3 commencement completes the rollout of the ACT's Restorative Justice Scheme as it was originally envisioned by the Restorative Justice Sub-Committee of the ACT Sentencing Review Committee in 2003.
- The RJU is in consultation with local support agencies such as Relationships Australia, Menslink, Everyman Australia, the Domestic Violence Crisis Service, CatholicCare and Victim Support ACT to develop service provision agreements to support the successful rollout of more complex conferencing in Phase 3. The role of these service providers is to help prepare victims and offenders to participate in RJ conferences in ways that are safe and satisfying for all participants.
- Any person who has been impacted by an offence can seek a referral to restorative justice.

**Background Information (updated for half year report)****Statistical information**

- The RJ scheme involved only referrals for young people and less serious offences between 2005 and 2016. In February, 2016 the scheme began accepting referrals for adult offenders and for serious offences for adults and young people. On Nov 1 2018 phase 3 was declared by the Minister for Justice and Consumer Affairs and Road Safety.

**Referrals to RJ in first half of 2018-19 Financial Year (FY)**

- 123 referrals have been made to the RJU, comprising 203 victims and 139 offenders with a total of 276 offences. (each referred case may contain multiple offenders, victims and offences)
- 39 conferences have taken place during this time, 28 of them face to face and eleven indirectly facilitated (via shuttled communication). Conferences can include matters referred the previous financial year.

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**Family Violence and Sexual Offences referred to RJ in first half of the 2018-19 FY**

- Included in the totals above, there have been 14 referrals for family violence and 1 referral for a sexual offence since the RJ Phase 3 began on November 1 2018 until the end of the second quarter on 31 December 2018.
- Three of these referrals were for young people and twelve for adults. The sexual offence was for a young person (less serious category).
- 27 of the associated offences were of the 'less serious' ('summary offence') category and one offence was considered a 'serious' (or indictable) offence\*.
- None of these referrals have proceeded to conference to date but are still in assessment mode – two have been assessed as unsuitable to proceed.
- The compliance of young people with RJ agreements so far this financial year is 93 per cent and is 90 per cent since the scheme began.
- The overall compliance rate of adults with RJ agreements this financial year is 100 per cent and the overall compliance rate is 89 per cent.
- \*Less serious offences are those which carry a maximum prison sentence of 10 years or less for personal offence and 14 years or less for a property or other offence.

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**Portfolio:** Justice, Consumer Affairs & Road Safety

**ISSUE: JUSTICE REINVESTMENT**

**Talking points:**

- The ACT government made a four year commitment to develop a Justice Reinvestment Strategy in the 2014-15 Budget.
- Justice Reinvestment (JR) is about developing a smarter, more cost-effective approach to improving criminal justice outcomes by reducing crime and diverting offenders, and those at risk of becoming offenders, from the criminal justice system.
- The approach created in the JR Strategy will underpin the development of a Reducing Recidivism Plan in order to meet the Government's commitment to reduce recidivism by 25 per cent by 2025.
- The ACT's approach to Justice Reinvestment is multi-faceted. Rather than undertaking a single intervention to achieve cost savings, a cumulative approach has been developed.
- There are two main streams of work that form the JR Strategy:
  - building an evidence base to support decisions about reducing recidivism and diverting offenders, and those at risk of becoming offenders, from the justice system.
  - establishing and evaluating justice programs and trials– trials currently focus on addressing the overrepresentation of Aboriginal and Torres Strait Islander people in the justice system.
- The JR Strategy has developed a three by three approach to JR in the ACT. The three steps are:
  - Get the right people together at the right times with the information needed to make the best decisions for their community.
  - Get local data to help identify local problems and local solutions.
  - Use co-design principles to identify key programs and trials that prevent or delay people's contact with the justice system.

The three pathways are:

- Place based – providing crime reduction and community strengthening programs and supports in the same location as the people who need them.
  - Point in the system – providing interventions at crucial points in the justice system, for example arrest, bail and remand, where a change to that part could reduce peoples future contact with the justice system.
  - Cohort – focusing efforts on particular groups who are in constant contact with the justice system and targeting services and support to this group.
- The JR Strategy involves six key projects: Justice System Cost Model; Justice and Human services system data snapshots; Justice services and programs map; Evaluation Framework; Yarrabi Bamirr (family-centric service support model with Aboriginal and Torres Strait Islander families) and Ngurrambai (bail support program for Aboriginal and Torres Strait Islander people).
  - The JR Strategy reinforces a number of strategic cross Government initiatives including the Aboriginal and Torres Strait Islander Agreement and Justice Partnership, the Human Services Blueprint and the Blueprint for Youth Justice.
  - I hosted a Justice Reinvestment and Reducing Recidivism Forum – Building Communities Not Prisons on 5 and 6 December 2018.
  - The Forum brought together over 100 participants and speakers from across government, local and international academics, community leaders and other key stakeholders to share best practice and discuss ways to reduce recidivism and to advance justice reinvestment in Australia. Professor Tom Calma AO, Chancellor of the University of Canberra, and leading American Criminologist, Alex Piquero, were key contributors to this Forum.

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- The speakers and participants at the Forum confirmed the governments ongoing commitment to justice reinvestment and its ability to improve people’s lives, prevent or delay their contact with the criminal justice system and strengthen communities. Central to the discussion was the importance of community leadership, self-determination and culturally appropriate community led initiatives in bringing about change.

**Key Information**

- The JR Strategy was presented to the Human Services and Social Inclusion subcommittee of Cabinet on 28 September 2018.
- The first meeting of the Reducing Recidivism Advisory Group was held on 17 October 2018. The Group met to begin development of the Reducing Recidivism Plan which will set the strategic direction for achieving the Government’s commitment to reduce recidivism by 25 per cent by 2025.
- A second meeting of the Reducing Recidivism Advisory Group will be held in March 2019.
- The JR Strategy involves six key projects:
  - Yarrabi Bamirr (Ngunawal words for ‘Walk Tall’) was officially launched at Winnunga Aboriginal Health and Community Services (Winnunga) in April 2017. it involves using a family-centric service support model that works with Aboriginal and Torres Strait Islander families to improve life outcomes and reduce or prevent contact with the justice system.
  - Winnunga has been working with 10 families over the period 2017-18 and participated in an independent evaluation conducted by Dr Jason Payne from the Australian National University (ANU). Winnunga has approved this evaluation on 21 January 2019 and ANU is working on the final report.
  - The preliminary report indicates that Yarrabi Bamirr has provided strong benefits to families by keeping families together, preventing homelessness and keeping people out of prison.
  - It further concludes that Winnunga has provided a proactive, intensive and problem-oriented system of case management
  - In addition to the program delivered by Winnunga, the Aboriginal Legal Service (NSW/ACT) and Mulleun Mura (The Women’s Legal Centre, ACT) were engaged to deliver Yarrabi Bamirr referred at the point of release from prison.
  - Utilising the expertise of these three Aboriginal-led agencies means that at least twenty local Aboriginal and/or Torres Strait islander families will now have access to the Yarrabi Bamirr model of support. Currently the three agencies are supporting 20 families (50 adults and 53 children). The preliminary research from the evaluation conducted by the Australian National University indicates

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Yarrabi Bamirr has provided strong benefits to families including keeping families together, preventing homelessness and keeping people out of prison.

- Ngurrumbai (Ngunnawal words for ‘perceive, I see, I listen, I understand’): A bail support trial which works with Aboriginal and Torres Strait Islander people on bail to ensure compliance with bail orders. Launched in December 2017, the Bail Support program as at December 2018 has 84 clients registered with the program. Key issues for clients were accommodation, access to drug rehabilitation, transport to interstate legal obligations, and access to residential mental health services.
- Justice System Cost Model: A model which costs the individual components of the current adult and juvenile ACT Justice System from the point of apprehension to post-sentence, in order to establish a baseline cost of the ACT’s Justice System.
- Justice services and programs map: A project which aimed to create an evidence base of government and community sector programs that provide services and support to people who have contact, or are at risk of having contact, with the ACT criminal justice system including victims of crime and perpetrators of crime. A decision was made in May 2018 by Minister Rattenbury to no longer invest in the development of the Programs Map.
- Justice and Human services system data snapshots provide local data to inform local solutions that change people’s contact with the justice system.
- An evaluation framework consisting of program evaluations containing justice reinvestment measures.

### **Background Information**

- The 2014-15 Budget provided \$689, 000 over four years, to develop a whole of government justice reinvestment approach in the ACT. This funding was provided within JACS existing resources.
- In 2016-17 \$926, 000 was provided for the JR trials. The funds, from the 2016–17 Budget (\$76, 000) and the CAT fund (\$850, 000), were directed towards Aboriginal-run organisations, the Domestic Violence Crisis Service and ACT Policing to deliver Yarrabi Bamirr. A further \$226, 000 was provided in the 2017-18 Budget to support the JR Trials.
- In the 2018-19 Budget \$434, 000 was provided to continue the development of, and operationalising of initiatives within, the justice reinvestment program. Funding was provided to support the:
  - Senior officer to progress Reducing Recidivism Plan and Justice Reinvestment
  - Yarrabi Bamirr Justice Reinvestment Trial by continuing the essential Aboriginal and Torres Strait Islander identified trial coordinator role

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- Senior legal policy officer to develop a policy and associated legislated reforms for “Clean Street Time”
  - Remaining funding to support yet to be identified initiatives to support the 2019-20 Reducing Recidivism business case.
- The High Density Housing program also received \$285, 000 in the 2018-19 Budget for six months of funding for Ainslie Avenue and 12 months funding to expand the program to Illawarra Court.
- \$150, 000 on an Aboriginal and Torres Strait Islander Victim Liaison Officer (ASO6); and
- \$152, 000 on a Warrumbul Court Coordinator & Cultural Advisor for the Children’s Circle Court and core costs associated with Panel Member training, supervision, reimbursements (for expenses and cultural expertise) and ICT.

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**ISSUE: ABORIGINAL AND JUSTICE PARTNERSHIP****Talking points:**

- The Aboriginal and Torres Strait Islander Justice Partnership demonstrated the ACT Government's commitment to improving law and justice services and outcomes for Aboriginal and Torres Strait Islander people in the ACT.
- Over 2015-2018 the Partnership took a targeted approach to addressing the over-representation of Aboriginal and Torres Strait Islander people in the ACT criminal justice system and includes detailed actions, measures and areas of accountability.
- The three key objectives of the Partnership were to:
  - reduce over-representation by reducing recidivism and increasing access to diversionary programs
  - improve access to justice services
  - improve data collection and reporting.
- Some major targets under the Partnership were to:
  - reduce the daily average Aboriginal and Torres Strait Islander detainee population at the Alexander Maconochie Centre (AMC), as a percentage of the total prison population, to 10 per cent
  - reduce the over-representation of Aboriginal and Torres Strait Islander young people in the youth detention system by 20 per cent over the life of the Partnership, from a 2012 baseline figure
  - increase the number of Aboriginal and Torres Strait Islander adults and young people being referred to and accessing diversionary criminal justice system programs, from a 2013 baseline
  - manage and support stakeholders to deliver effective justice related services
  - improve the collection and reporting of Aboriginal and Torres Strait Islander data by criminal justice agencies by:
    - i. implementing data systems that are capable of collecting Aboriginal and Torres Strait Islander data and increasing access to

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public reports on Aboriginal and Torres Strait Islander data through better use of formal and informal communication channels.

- While Aboriginal and Torres Strait Islander incarceration rates are still at unacceptable levels in the ACT, the government remains committed to continuing to work with the community on options to address this issue.
- The Partnership lead to a number improvement in the justice sector over the three years, particularly in relation to:
  - the increase in the number of programs and initiatives Aboriginal and Torres Strait Islander people were able to access, for example;
    - Driver Licensing Pilot Program, which allows those that otherwise wouldn't be able to afford to get a licence to do so
    - Additional funding for the Women's Legal Centre, to increase is capacity to provide frontline services to Aboriginal and Torres Strait Islander women.
  - an increase in Aboriginal and Torres Strait Islander identified positions in the justice sector; and the introduction of an Aboriginal and Torres Strait Islander Caucus to support the implementation of the Partnership.

### Whole of Government Aboriginal and Torres Strait Islander Agreement:

- From 2019 the Partnership will be combined with the ACT Aboriginal and Torres Strait Islander Agreement 2019 -2028 (the Agreement). This will be a cross-directorate Agreement under which each directorate will have a specific plan. It is planned for there to be four specified action plans (coinciding with ACT Aboriginal and Torres Strait Elected Body terms) over the ten year course of the Agreement.
  - Phase One – Action Plan – Jan 2019 to Jun 2020
  - Phase Two – Action Plan – Jul 2020 to Jun 2023
  - Phase Three – Action Plan – Jul 2023 to Jun 2026
  - Phase Four – Action Plan – Jul 2026 to Dec 2028.
- Action Plans, including the Justice Action Plan, are being developed to include specific, measurable, achievable and relevant targets aimed at improving service outcomes for the ACT Aboriginal and Torres Strait Islander community. Their development is being overseen by an Inter-Directorate Committee and the Elected Body.

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**Background Information**

- The ACT Government developed the first ACT Aboriginal and Torres Strait Islander Justice Agreement 2010-2013 in conjunction with the Elected Body in response to a joint report that the Attorney-General launched in 2008 by the ACT Council of Social Services/Aboriginal Justice Centre entitled *Circles of Support: Towards Indigenous Justice: Prevention, Diversion and Rehabilitation*.
- Governance arrangements under the Partnership include a Strategic Board Sub-Committee, an Advisory Group and an Aboriginal and Torres Strait Islander Caucus to oversee and drive progress.
- The Advisory Group was made up of representatives from agencies responsible for deliverables under the Partnership, including:
  - JACS:
    - ACT Corrective Services
    - ACT Courts and Tribunals
    - Legislation, Policy and Programs Branch
    - Victim Support ACT (run by Victims of Crime Commissioner)
  - CSD:
    - Children, Youth and Families
  - ACT Policing
  - Canberra Health Services including
    - Mental Health, Justice Health and Alcohol and Drug Services
  - Legal Aid ACT
  - Aboriginal Legal Service (NSW/ACT)
  - ACT Aboriginal and Torres Strait Islander Elected Body.

The Caucus is a process used successfully by the Victorian Government to allow the local Aboriginal and Torres Strait Islander community to provide regular advice on the Victorian Aboriginal Justice Agreement. The process was quickly embraced by the Caucus as a platform for monitoring and contributing to the success of the Partnership. The Caucus will continue to meet to ensure members of the local Aboriginal and Torres Strait Islander community have an opportunity to contribute to the JAC Action Plan and other justice-related initiatives.

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## Key Information

- The Justice Partnership concluded at the end of 2018. At that time an analysis of each responding agency's (both government and non-government) performance against the specified actions, measures and areas of accountability will be undertaken and a comprehensive report outlining the many successes and remaining challenges from the Justice Partnership will be made available to relevant Ministers in early 2019.

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**Portfolio:** Justice, Consumer Affairs & Road Safety**ISSUE: OFFICIAL VISITOR REVIEW****Talking points:**

- The Official Visitor scheme has been in place for five years (since 1 September 2013).
- A number of reforms have changed the way Official Visitors (OVs) do their work, including:
  - the rollout of the National Disability Insurance Scheme;
  - increased procedural safeguards in the *Mental Health Act 2015*;
  - the development of an ACT Inspectorate for Custodial Services and;
  - the expected ratification by the Australian Government of the Optional Protocol for the Convention Against Torture.
- In March 2017, I asked the Justice and Community Safety Directorate (JACS) to undertake a formal review (the Review) of the scheme.
- The purpose of the Review was to determine whether the OV scheme was achieving its purpose of providing independent oversight of visitable places, increasing transparency in visitable places and reporting to Government about conditions and concerns in visitable places.
- The Review commenced in May 2017. The final report was completed in November 2017. The Government has since sought the views of OVs on the final report, and is continuing to consider the Review's recommendations.
- The Review found that OVs are valued and trusted, particularly around the way they assist eligible people to resolve day to day issues.
- However, the consultation identified that there is no clarity or shared understanding about the role of the OVs even amongst the OVs themselves.

- It was also evident that OVs require more support in the form of induction, training and professional development (including debriefing), and guidelines about performing their role. The review identified some clear areas for improvement to the scheme with recommendations relating to governance, the OVs mandate, recruitment, workloads, and accountability measures.
- Key amongst these recommendations was a proposal to relocate the administrative centre of OVs from the PTG to the ACT Human Rights Commission (HRC), and appoint a full time OV Coordinator to address governance, administrative, communication and capacity development needs.

#### Next steps

- JACS has convened a cross-government working group to assist with the implementation of the recommendations of the review. The group includes OVs as well as representatives from operational areas and oversight agencies. The group met in December 2018 and is scheduled to meet again on 29 January 2019. The group has provided constructive feedback on the recommendations and has worked through implementation issues.
- JACS is also progressing recommendations in relation to reform of the *Official Visitors Act 2012* to address issues of consistency in visits and reporting, and to provide greater flexibility for OVs to work across operational areas where needed.

#### Key Information

- The Official Visitor Scheme is primarily administered out of the office of the PTG. The PTG chairs the Board which has statutory functions for the training, coordination and support of the official visitors.
- Official Visitors work with varying levels of co-operation, assistance and support from those areas of Government or community service entities that administer the visitable places where official visitors have rights of access and investigation.
- There are OVs for the:
  - *Children and Young People Act 2008* (two OVs, one of whom is an Aboriginal and Torres Strait Islander person);
  - *Corrections Management Act 2007* (three OVs, one of whom is an Aboriginal and Torres Strait Islander person);

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- *Disability Services Act 1991* (two OVs);
- *Housing Assistance Act 2007* (one OV); and
- *Mental Health Act 2015* (four OVs).
- The OVs for one operational Act are empowered to assist the responsible OVs for other Acts if asked (under section 18 of the *Official Visitors Act 2012*).
- The review's methodology included:
  - Directly contacting 46 people and organisations including, advisory bodies, relevant Government directorates and the HRC;
  - Sending 182 letters to registered service providers in the areas of disability, children and young people and homelessness;
  - Directly emailing detainees at the Alexander Maconochie Centre; and
  - Holding forums and a range of meetings with organisations and individuals.

### Background Information

- An ACT OV tasked with monitoring children in custody resigned in February 2017 on the basis that his complaints were 'not being taken seriously'. The OV, Mr Bill Bashford, questioned the independence of OVs who must report to the Community Services Directorate (CSD). The OV resigned over a complaint he submitted to Child and Youth Protection Service (CYPS) about a child in foster care **Sch 2, s2.2 (a)(ii)**. CYPS responded to the Visitor by informing him the complaint had been handled in accordance with their internal procedures. CYPS would not share any further information with the Official Visitor.
- CSD did not provide the OV with further information because foster care was beyond the remit of the OVs responsibility. CYPS were therefore legally restricted from sharing information with the OV.
- JACS is progressing the implementation of the Government's response to the OV review with a view to finalising work on the review by mid 2019.
- A working group has been established and OVs have been invited to participate. The first meeting was held in December 2018 and the next meeting is scheduled for 29 January 2019.
- An Official Visitors Amendment Bill is proposed to be introduced into the Assembly in the Autumn session (June 2019).

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**Portfolio:** Justice, Consumer Affairs & Road Safety**ISSUE: RETIREMENT VILLAGES****Talking points:**

- The *Retirement Villages Legislation Amendment Bill 2018* (the Bill) was introduced on 29 November 2018. .
- The Bill implements a second tranche of recommendations that arose from the 2015-16 review of the *Retirement Villages Act 2012*.
- The Bill makes a range of amendments that will:
  - remove administrative duplication and streamline budget processes for unit titled retirement villages under the Retirement Villages Act and the *Unit Titles (Management) Act 2011*
  - restore a default voting procedure of ‘one vote per unit’. Individual villages will be able to restore a ‘one vote per person’ voting procedure by passing a special resolution
  - provide access to an enforceable conciliation process to manage complaints about service provision under the Retirement Villages Act through the Human Rights Commission
  - clarify the definitions of the terms ‘capital item’ and ‘capital replacement’; and
  - allow sellers of units in unit-titled retirement villages to provide certain due-diligence documents at a later stage of the sales process. Failure to provide these documents within the required timeframes is a strict liability offence carrying a maximum penalty of ten penalty units.
- The Bill has been developed with the assistance of the Review Advisory Group – a group of key stakeholders who represent residents and operators of retirement villages, advocacy groups and other relevant bodies. It includes members of the ACT Retirement Villages Residents Association, the ACT Property Council Retirement Living Committee, the Human Rights Commission, Access Canberra, the Council on the Ageing ACT, representatives of unit-titled retirement villages and the ACT Law Society.

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- The Government has undertaken targeted stakeholder consultation on the Bill.
- Officers of the Justice and Community Safety Directorate (JACS) met with residents of IRT Kangara Waters, Goodwin Monash and Bellerive Retirement Village to discuss the contents of the Bill. Approximately 100 people participated in these consultation meetings.
- Nine written submissions were received about the contents of the Bill. Feedback from this consultation informed the development of the legislation.
- On 12 November 2018 I convened a roundtable of the Review Advisory Group to finalise the Bill.
- Definitions of capital maintenance and capital replacement were a major area of concern in the RVA Review and the targeted consultation with retirement villages. The Government's intention is to provide more clarity to all stakeholders regarding these issues.
- To this end, guidelines addressing the distinction between capital maintenance and capital replacement are currently being finalised in consultation with the Review Advisory Group.

### Greiner Review

- I am aware of the *Greiner Review Report* on retirement villages, which was commissioned by the NSW Government.
- The *Greiner Review Report* was publicly released along with a Government response in June 2018. The report makes 17 recommendations to improve the NSW legislative framework and operational practices of the industry and regulator. The NSW Government has announced it will accept most of the recommendations, with the rest being accepted in principle.
- The ACT Government will give further consideration to the recommendations of the *Greiner Review Report*.

### **Key Information**

- The Review Advisory Group reconvened in 2017 to consider the second stage of recommendations. A sub-group was also convened to consider issues relating to unit-titled retirement villages.

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- JACS is continuing to engage with stakeholders representing residents and operators of unit titled retirement villages.

## Background Information

- The 2016 review of the Retirement Villages Act included first and second stage recommendations. The review was conducted with the assistance of the Review Advisory Group.
- The first stage reforms commenced on 16 December 2016.
- The Legislative and Governance Forum on Consumer Affairs (CAF) recently conducted an investigation into best practice regulation of retirement villages in Australia, led by Consumer Affairs Australia and New Zealand (CAANZ).
- The CAANZ progress report, finalised and circulated in May 2018, recommended that the investigation be concluded. This report is **not** publicly available.
- The progress report uncovers common issues identified across jurisdictions, including difficulties in understanding contracts and payment, power imbalances between operators and residents, and unfair or misleading conduct by village operators.
- The CAANZ investigation has determined that States and Territories are best placed to develop best practice regulation.

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**Portfolio/s:** Justice, Consumer Affairs & Road Safety**ISSUE: BUILDING COMMUNITIES, NOT PRISONS****Talking points:**

- In the 2018-19 mid year Budget review the Building Communities Not Prisons (BCNP) justice package sought to reinvest criminal justice funds that may have otherwise been used to expand high-secure capacity at the Alexander Maconochie Centre (AMC) to other parts of the human service system.
- Through BCNP the Government provided a total of \$14.5 million to deliver cost effective reductions in crime, victimisation and repeat offending while reducing overcrowding at the AMC as a priority over further investment in building secure facilities at the AMC.
- The following investment from BCNP will support the Government's commitment and parliamentary agreement item towards reducing recidivism by 25 per cent by 2025.
  - \$3.6 million to continue and extend Yarrabi Bamirr, an intensive family-centric support program for Aboriginal and Torres Strait Islander families to prevent or delay contact with the justice system. Yarrabi Bamirr are Nggunawal words for Walk Tall, and the program empowers families to be self-reliant in navigating the system to get the right help from the right place at the right time. It helps keep families together, prevent homelessness and keep people out of prison.
  - An evaluation of the 18 month trial of the Yarrabi Bamirr program will be released in coming weeks.
  - Strong Connected Neighbourhoods (formerly known as the High Density Housing Program) received \$1.6 million to continue program provision on Ainslie Avenue and expand the program to residents at Illawarra Court in Belconnen. A recent independent evaluation of the Ainslie Avenue program by the Australian Institute of Criminology (AIC) found that it has reduced violent crime by 50 per cent and property crime by 60 per cent, and

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increased levels of social cohesion among high and complex need residents. The program effectively demonstrated its capacity to reduce and prevent crime by a cost saving of police time equivalent to \$0.50 for every \$1 invested

- \$1 million for two additional staff to Victim Support ACT to improve access to services and support for Aboriginal and Torres Strait Islander victims of crime. Also included is \$534,000 in funding to manage an increase in applications made under the new Victims of Crime Financial Assistance Scheme and outstanding claims under the previous court-based scheme.
- \$6.8 million to establish a Bail Accommodation Transition Support Service in the ACT. This accommodation service will provide the courts with a new housing option to reduce the number of people remanded in custody. A comprehensive justice housing program will be developed over time, beginning with supported accommodation for men on bail. \$997,000 to progress work to establish the Alexander Maconochie Reintegration Centre. The Reintegration Centre will be a minimum security facility, with approximately 80 beds, and with a focus on building community connections and participation in education and work.
- \$997 has been allocated for the planning and design of a new Reintegration Centre for the AMC, at this stage to include consideration of up to 80 new beds. Incorporating the former the Transitional Release Centre the Reintegration Centre will allow a wide range of rehabilitation programs to be delivered in partnership with non-government and government organisations. These programs will include trauma and relationship counselling, alcohol, tobacco and other drug rehabilitation, and other training including job skills. These will help detainees when they are released from the AMC.

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# MINISTER FOR JUSTICE, CONSUMER AFFAIRS AND ROAD SAFETY

## QUESTION TIME BRIEFS

19-21 March 2019

<i>Question Time Briefs</i>	
1.	Summary of Budget Initiatives
2.	Vulnerable Road User Reforms (incl. lane filtering and minimum passing laws)*
3.	Graduated Licencing Scheme*
4.	Helmets*
5.	E-Scooters*
6.	Move Over, Slow Down Laws*
7.	Drug Driving*
8.	Coroner's Inquest - Avoidable Death (Cycling Laws)*
9.	Repeal of Civil Unions Act
10.	Charter of Rights for Victims of Crime
11.	Discrimination
12.	Restorative Justice
13.	Reducing Recidivism
14.	Justice Reinvestment
15.	2019 – 2028 Aboriginal and Torres Strait Islander Agreement/Justice Action Plan
16.	Official Visitor Review
17.	Retirement Villages
18.	Building Communities Not Prisons
19.	
20.	
21.	

\*In accordance with section 35 of the Territory Records Act 2002, this brief has been transferred to Transport Canberra and City Services (TCCS) as the current record owner. Refer to the TCCS website ([www.cityservices.act.gov.au](http://www.cityservices.act.gov.au)) for further information on the release of this brief under Open Access.

**Portfolio:** Justice, Consumer Affairs & Road Safety

**ISSUE:** 2018-19 Budget Summary – Minister for Justice, Consumer Affairs and Road Safety

**Talking points:**

Human Rights Commission

- **\$557,000** over two years will be invested to upgrade the Human Rights Commission digital capabilities and implement a single case management system.

Reducing recidivism by 25 per cent by 2025

- **\$1 million** in 2018-19 to reduce recidivism by supporting initiatives which prevent crime and address offending behaviour, including:
  - **\$84,000** Aboriginal Victim Liaison Officer for the Victims of Crime Office
  - **\$285,000** to expand the High Density Housing Community and Safety Program
  - **\$152,000** to establish Warrumbul Court in the Children’s Court to provide a culturally appropriate sentencing process for Aboriginal and Torres Strait Islander youth in the justice system
  - **\$434,000** for the continued development of, and operationalising initiatives within the justice reinvestment program

The Government will also protect and support the victims of crime through the justice system by investing:

- **\$14.2 million** over four years for supporting survivors of child sexual abuse by joining the National Redress Scheme to deliver a redress payment, counselling and psychological care, and a direct personal response. ACT Health will contribute \$0.184 million from the Health Central Provision to the administration of the scheme.

**Background Information**

- The ACT’s budget announcements will include initiatives relating to:
  - Better Government – Human Rights Commission digital capability;

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- More support for families and inclusion – Reducing recidivism;
- More support for families and inclusion – Implementing the Commonwealth Redress; and
- Scheme for Institutional Child and Sexual Abuse.

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**Portfolio:** Justice, Consumer Affairs & Road Safety**ISSUE: REPEAL OF CIVIL UNIONS ACT****Talking points:**

- Since the Commonwealth Government amended the *Marriage Act 1961* (Cwth) (Commonwealth Marriage Act) to allow couples to marry regardless of their sex or gender, no one has been eligible to enter or solemnise a civil union under ACT law.
- The Government considered repealing the *Civil Unions Act 2012* to prevent community misapprehension that civil unions can still be validly entered or solemnised in the ACT.
- The Government decided not to repeal the Civil Unions Act because repealing the legislation could temporarily affect the corresponding recognition of civil unions in other states and territories, and under some Commonwealth laws.
- The Government continues to recognise all civil unions that were entered into in the ACT before marriage equality (9 December 2017).
- In December 2018, the Chief Minister wrote to all couples in registered civil unions to inform them the ACT continues to recognise their civil union following marriage equality. The Access Canberra website was also updated.
- The Government continues to take steps to make Canberra as inclusive as possible:
  - The 2019 JACS Bill, which will be introduced in the March 2019 sittings, will remove gendered references to marriage from across the ACT statute book.
  - The Chief Minister, Treasury and Economic Development Directorate is also undertaking an extensive audit of our laws to identify any provisions that discriminate against LGBTIQ Canberrans.

Cleared as complete and accurate: 18/03/2019  
Cleared by: Executive Branch Manager Ext: 70764 (Daniel Ng)  
Contact Officer name: Claudia McKeough Ext: 76192  
Lead Directorate: Justice and Community  
Safety  
Cleared for release: Yes  
Information Officer name: David Pryce  
TRIM Ref: MIN:2019/000034-031

**Key Information**

- Civil unions offer a legally recognised relationship for same-sex couples that is to be treated identically to a marriage for the purposes of ACT laws.
- As of 20 August 2018, 53 civil unions were registered in the ACT.
- During Estimates hearings on 26 June 2018, you indicated the ACT Government Solicitor (ACTGS) had advised that maintaining the *Civil Unions Act 2012* presents a risk that it could be deemed not consistent with the Commonwealth Marriage Act as that Act now covers the field.

**Background Information**

- The Civil Unions Act was introduced to enable couples who were unable to marry their same-sex partner under the Commonwealth Marriage Act to enter into a legally recognised relationship.
- On 7 December 2017, the Commonwealth Parliament passed the *Marriage Amendment (Definition and Religious Freedoms) Act 2017* (Cwth) (Marriage Amendment Act). This Act amended the definition of marriage in the Commonwealth Marriage Act to enable same-sex couples to marry in Australia. It also introduced legal recognition of overseas same-sex marriages, including retrospective recognition of overseas same-sex marriages prior to 8 December 2017.
- Only natural persons who are not eligible to marry under the Commonwealth Marriage Act may enter into a civil union. Since the entry into force of the Marriage Amendment Act on 9 December 2017, persons of the same-sex have been eligible to marry under the Commonwealth Marriage Act. Therefore no one has been eligible to enter into a civil union since these amendments.
- On 25 October 2018, the Chief Minister agreed to withdraw the Civil Unions Repeal Bill 2018 from the Spring 2018 legislation program. The Bill was withdrawn because some jurisdictions may need to pass consequential amendments to their corresponding relationships legislation in order to continue recognising ACT civil unions after the repeal of the Civil Unions Act 2012. This meant that repealing the Act would expose couples in existing ACT Civil unions to an interim period of uncertainty between the repeal taking effect and other jurisdictions updating their corresponding legislation.

Cleared as complete and accurate: 18/03/2019  
Cleared by: Executive Branch Manager Ext: 70764 (Daniel Ng)  
Contact Officer name: Claudia McKeough Ext: 76192  
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Cleared for release: Yes  
Information Officer name: David Pryce  
TRIM Ref: MIN:2019/000034-031

**Portfolio:** Justice, Consumer Affairs & Road Safety**ISSUE: CHARTER OF RIGHTS FOR VICTIMS OF CRIME****Talking points:**

- The Government is committed to introducing a Charter of Rights for Victims of Crime. Victims are central to the ACT justice system and must be included and treated with respect to avoid further trauma being caused and encourage crime to be reported.
- The Charter will outline the rights of victims of crime, the obligations justice agencies have when dealing with victims, and establish a complaints resolution process where the Charter is breached.
- The Government is working closely with stakeholders including the Victims Advisory Board, the Victims of Crime Commissioner, individual victims of crime and justice agencies to identify the best approach for implementing a Charter of Rights for Victims of Crime in the ACT.
- It is important for Government to listen to what victims have to say about our criminal justice system, and I thank all community members, particularly those who have experienced crime, who gave their views on how the Charter can best meet their needs and interests during the public consultation period in 2018.
- A proposed model of the Charter is now being developed in close consultation with justice stakeholders.

**Key Information**

- During the public consultation period from 22 June to 27 August 2018, over 440 community members were reached including feedback from over 100 direct victims of crime.
- The Charter is likely to be implemented from the second half of 2019, and will include a package of reforms including legislation change and practical strategies to give victims' rights and a complaints process where these are breached.
- The development of the Charter, Government implementation of the *Royal Commission into Institutional Responses to Child Sexual Abuse* recommendations, and the Disability Justice Strategy share significant interest in improving access to justice in the ACT, particularly for those most vulnerable members of our community. The Government is considering these reforms in a cohesive way.

Cleared as complete and accurate: 12/03/2019  
Cleared by: Executive Group Manager Ext:  
Contact Officer name: Laura Pound Ext: 73997  
Lead Directorate: Justice and Community  
Safety  
Cleared for release Yes  
Information Officer name: Richard Glenn  
TRIM Ref: MIN:2019/000034-019

- The Charter is expected to replace the governing principles for the treatment of victims of crime in the *Victims of Crime Act 1994 (s4)*. Common feedback heard from victims of crime during consultations include wanting information and support in a timely manner so they can choose how to interact with the justice system, and opportunities to participate in processes and be consulted about key decisions. Having a voice in the justice system is particularly important for diverse and marginalised community members.
- The Charter is building on the commitment of justice agencies to victims of crime, and existing and emerging good practice across justice agencies, ACT Government and the community sector.
- All other states and territories in Australia have introduced victim rights as principles or guidelines. The Government seeks to build on the ACT's Human Rights framework by providing community members with actionable rights linked to an accountability mechanism.

**Background Information**

- The Parliamentary Agreement to the 9<sup>th</sup> Legislative Assembly commits to the introduction of an ACT Rights of Victims Charter.
- Providing opportunities for victims of crime to be informed and have a voice in the justice process leads to improved outcomes for the community and justice system more broadly, including increased confidence in reporting crimes, better evidence provision, reduced re-traumatisation, and a more efficient and transparent justice process.
- The ACT has a strong history of supporting victims and upholding human rights. The ACT led Australian jurisdictions with the introduction of legislated governing principles for the treatment of victims of crime in the administration of justice (1994); the establishment of the *Human Rights Act 2004*; the introduction of the statutory Victim of Crime Commissioner role (2010) and its integration into the Human Rights Commission (2016).
- Best practice in victim participation, services and rights is developing across Australian jurisdictions and community expectation that victims are central to justice processes is growing. Victim rights will be upheld in a balanced way with the rights of defendants.

Cleared as complete and accurate: 12/03/2019  
Cleared by: Executive Group Manager Ext:  
Contact Officer name: Laura Pound Ext: 73997  
Lead Directorate: Justice and Community  
Safety  
Cleared for release: Yes  
Information Officer name: Richard Glenn  
TRIM Ref: MIN:2019/000034-019

TRIM Reference: MIN:2019/000034-012

**Portfolio:** Justice, Consumer Affairs & Road Safety

**ISSUE:       DISCRIMINATION**

**Talking points:**

- In the ACT, the *Discrimination Act 1991* makes it unlawful for someone to discriminate against another person on the basis of a protected attribute in areas of public life including education, employment and in receiving goods and services.
- The *Discrimination Act* identifies a wide range of protected attributes, including race, sex, disability, sexual orientation, religious conviction, and gender identity. More recently added attributes include accommodation status, employment status and immigration status.
- In November 2018 the *Discrimination Amendment Bill* was introduced into the Legislative Assembly to provide greater protection for students and staff from discrimination in religious educational institutions.
- This Bill was jointly sponsored by myself and the Chief Minister.
- The Bill was passed on 27 November 2018 and will come into force on 29 April 2019.
- Upon commencement of the *Discrimination Amendment Act 2018* (ACT), the scope of the exceptions available to religious educational institutions will be more limited, permitting discrimination only on the ground of the student or staff member's religious conviction.
- JACS is working with the Education Directorate and the Discrimination Commissioner to finalise guidance materials to assist religious educational institutions to prepare for the commencement of this legislation.
- The Government implemented its response to a first tranche of recommendations of the Law Reform Advisory Council (LRAC) review relating to the *Discrimination Act 1991* (ACT) in 2016. JACS will progress work on a second tranche of LRAC's recommendations in 2019. This will include a broader look at the exceptions framework in the Act.

Cleared as complete and accurate:	05/03/2019	
Cleared by:	Executive Branch Manager	Ext: 70674
Contact Officer name:	Gabrielle McKinnon	Ext: 53158
Lead Directorate:	Justice and Community Safety	
Cleared for release	Yes	
Information Officer name:	Richard Glenn	
TRIM Ref:	MIN:2019/000034-012	

- If anyone is subject to discrimination or vilification in the ACT, I encourage them to contact the ACT Human Rights Commission to talk through the complaints process.

**Key Information**

- On 27 November 2018, the Legislative Assembly passed the *Discrimination Amendment Act 2018* (ACT)(the *2018 Amendment*). The Government introduced the 2018 Amendment following the leaked report of the Ruddock’s review on religious freedom in October 2018.
- On 27 November 2018, you indicated to the Assembly that the 2018 Amendment would likely commence on 29 April 2019. The 2018 Amendment must commence its operation on or before 6 June 2019.
- You also said that JACS would consider the other outstanding recommendations of the Law Reform Advisory Council (LRAC) in 2019. On 24 October 2018, the Chief Minister committed to considering the entire exceptions framework under the Discrimination Act 1991 (ACT). This is one of the LRAC’s recommendations.
- The Human Rights Commission is an independent agency that promotes the human rights and welfare of people in our community and provides an independent, fair and accessible process for resolving individual complaints about discrimination and vilification.
- The Commission does not make binding determinations but can resolve matters through conciliation. If the matter cannot be resolved, the complainant has the right to take matter to the ACAT, which can make a binding decision and award compensation for unlawful discrimination.
- ACT law also includes an offence of ‘serious vilification’ which involves threats of physical harm that incite hatred because a person’s protected attribute(s) (s 750 of the Criminal Code). The maximum penalty is \$7500 (50 penalty units). This offence is a matter for the police.

Cleared as complete and accurate: 05/03/2019  
Cleared by: Executive Branch Manager Ext: 70674  
Contact Officer name: Gabrielle McKinnon Ext: 53158  
Lead Directorate: Justice and Community  
Safety  
Cleared for release: Yes  
Information Officer name: Richard Glenn  
TRIM Ref: MIN:2019/000034-012

**Portfolio:** Justice, Consumer Affairs & Road Safety**ISSUE: RESTORATIVE JUSTICE****Talking points:**

- Ensuring that victims of crime have the opportunity to access restorative justice if and when they need it is a Government priority.
- Changes made last year by the *Crimes (Restorative Justice) Amendment Act 2018* removed legislative barriers to referring entities making referrals to the Restorative Justice Scheme. It also made amendments to strengthen the Restorative Justice Unit's ability to manage family violence and sexual offences following the commencement of Phase 3.
- Phase 3 of the Restorative Justice Scheme commenced on 1 November 2018. This means that victims of family violence and/or sexual offences can access restorative justice and that victims will no longer be excluded from accessing restorative justice based on the particular offence they have experienced.
- Around 25 family violence referrals have already been received which include a range of offending characteristics.
- The RJU has received two sexual offence referrals for offences of a less serious nature.
- The Restorative Justice Unit (RJU) has finalised guidelines and is working with local support agencies to strengthen restorative justice processes.
- A model of Restorative Justice (RJ) that promotes a strong commitment to responsibility and accountability, educational and or therapeutic support for participants throughout the process and stringent risk management and safety planning has been adopted in the ACT.

Cleared as complete and accurate: 15/03/2019  
Cleared by: Executive Branch Manager Ext:76244  
Contact Officer name: Amanda Lutz Ext:70041  
Lead Directorate: Justice and Community  
Safety  
Cleared for release: Yes  
Information Officer name: Richard Glenn  
TRIM Ref: MIN:2019/000034-34

- A significant reform included in last year's amendments to the restorative justice legislation allows victims to be directly referred at the post-sentence stage to RJ by the Victim of Crime Commissioner, victim advocates and supporters or victims themselves, without the offender's initial awareness or agreement. This is so that the victim can explore the potential benefits and risks of RJ without fear of coercion or influence by the offender. This is especially important in phase three as family violence and sexual offences are referred to RJ.

**Key Information**

- Phase 3 commencement completes the rollout of the ACT's Restorative Justice Scheme as it was originally envisioned by the Restorative Justice Sub-Committee of the ACT Sentencing Review Committee in 2003.
- The RJU is in consultation with local support agencies such as Relationships Australia, Menslink, Everyman Australia, the Domestic Violence Crisis Service, CatholicCare and Victim Support ACT to develop service provision agreements to support the successful rollout of more complex conferencing in Phase 3. The role of these service providers is to help prepare victims and offenders to participate in RJ conferences in ways that are safe and satisfying for all participants.
- Any person who has been impacted by an offence can seek a referral to restorative justice.

**Background Information (updated for half year report)****Statistical information**

- The RJ scheme involved only referrals for young people and less serious offences between 2005 and 2016. In February, 2016 the scheme began accepting referrals for adult offenders and for serious offences for adults and young people. On Nov 1 2018 phase 3 was declared by the Minister for Justice and Consumer Affairs and Road Safety.

**Referrals to RJ in first half of 2018-19 Financial Year (FY)**

- 123 referrals have been made to the RJU, comprising 203 victims and 139 offenders with a total of 276 offences. (each referred case may contain multiple offenders, victims and offences)

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TRIM Ref: MIN:2019/000034-34



- 39 conferences have taken place during this time, 28 of them face to face and eleven indirectly facilitated (via shuttled communication). Conferences can include matters referred the previous financial year.

### **Family Violence and Sexual Offences referred to RJ in first half of the 2018-19 FY**

- Included in the totals above, were 14 referrals for family violence and 1 referral for a sexual offence since the RJ Phase 3 began on November 1 2018 until the end of the second quarter on 31 December 2018.
- Three of these referrals were for young people and twelve for adults. The sexual offence was for a young person (less serious category).
- 27 of the associated offences were of the 'less serious' ('summary offence') category and one offence was considered a 'serious' (or indictable) offence\*.
- The compliance of young people with RJ agreements in the first half of this financial year was 93 per cent and is 90 per cent since the scheme began.
- The overall compliance rate of adults with RJ agreements in the first half of this financial year was 100 per cent and the overall compliance rate is 89 per cent.
- \*Less serious offences are those which carry a maximum prison sentence of 10 years or less for personal offence and 14 years or less for a property or other offence.

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TRIM Ref: MIN:2019/000034-34

**Portfolio: Justice, Consumer Affairs & Road Safety****ISSUE: REDUCING RECIDIVISM****Talking points:**

- The Government has set a goal to reduce recidivism by 25 per cent by 2025.
- Reducing recidivism in the ACT is a shared responsibility across the justice and human service system. The government will work closely with government stakeholders, the community sector, academia and those with lived experience to develop the Recidivism Plan.
- Developing a Recidivism Plan to achieve this ambitious target will require a package of work to effectively change the life trajectories of some of Canberra's most vulnerable citizens who have complex needs.
- A key contribution to the Recidivism Plan, is the four year commitment to develop a Justice Reinvestment Strategy (2014-18).
- Justice Reinvestment (JR) is about developing a smarter, more cost-effective approach to improving criminal justice outcomes by reducing crime and diverting offenders, and those at risk of becoming offenders, from the criminal justice system.
- The recent ACT Government announcement recognised the nation leading role the ACT has with justice reinvestment and its commitment to build communities not prisons.
- \$14.5 million of funds has been redirected away from prison expansion into community programs.
- The work in the ACT to realise the principles of justice reinvestment for those coming in and out of the prison system marks some of the most ambitious justice work underway in Australia.
- This is the first time an Australian jurisdiction has committed to reinvesting what would otherwise be millions of dollars in funding towards expanding prisons: instead, these future funds will be directed to rehabilitative programs, seeing fewer individuals cycle through the justice system through to prison.

Cleared as complete and accurate: 12/03/2019  
Cleared by: Executive Branch Manager Ext: 70522  
Contact Officer name: Nova Inkpen Ext: 54786  
Lead Directorate: Justice and Community  
Safety  
Cleared for release: Yes  
Information Officer name: Humaira Saeed  
TRIM Ref: MIN:2019/000034-037

- Known officially as ‘Building Communities Not Prisons’, it will deliver a number of initiatives that aim to reduce reoffending, reduce the prison population, improve the lives of those individuals and their families, and improve community safety.
- This included:
  - Ruling out an expansion of the Alexander Maconochie Centre high security campus;
  - Improving rehabilitation options for detainees at the AMC, including a purpose built “reintegration centre”;
  - Providing more supported housing - a major factor in reoffending - for better justice outcomes; and
  - Providing more pathways for safe and sustainable bail
  - Continuing the ACT’s first Justice Reinvestment, Yarrabi Bamirr
- These initiatives feed into the government’s recidivism plan.
- Also contributing to the reducing recidivism commitment is the Justice Reinvestment and Reducing Recidivism Forum – Building Communities Not Prisons that I hosted on 5 and 6 December 2018.
- The Forum brought together over 100 participants and speakers from across government, local and international academics, community leaders and other key stakeholders to share best practice and discuss ways to reduce recidivism and to advance justice reinvestment in Australia. Professor Tom Calma AO, Chancellor of the University of Canberra, and leading American Criminologist, Alex Piquero, were key contributors to this Forum.
- The speakers and participants at the Forum confirmed the Government’s ongoing commitment to justice reinvestment and its ability to improve people’s lives, prevent or delay their contact with the criminal justice system and strengthen communities. Central to the discussion was the importance of community leadership, self-determination and culturally appropriate community led initiatives in bringing about change.

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Contact Officer name: Nova Inkpen Ext: 54786  
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Information Officer name: Humaira Saeed  
TRIM Ref: MIN:2019/000034-037

**Key Information**

- Developing a Recidivism Plan to achieve the 25by25 target will require a package of work to effectively change the life trajectories of some of Canberra’s most vulnerable citizens who have complex needs.
- The next crucial steps to develop the Reducing Recidivism Plan (RR25) include:
  - Agreeing on a definition of recidivism and a multi-measure framework, against which to measure success
  - Identifying and evaluating existing measures that work to reduce recidivism, and whether they can be expanded or built upon
  - Developing with community sector agencies critical programs that will reduce recidivism, improve public safety and strengthen communities.
- Driving this work forward is the Reducing Recidivism Advisory Group that consists of a cross section of critical stakeholders from government, community and academia.
- Key ACT data driving the RR25 commitment:
  - 28.2% increase in the ACT prisoners between the June 2016 and 2018 quarters
  - 10% increase in adult prisoners in ACT prisons in 2018 (from 449 in 2017 to 492 in 2018)
  - (75% or 369 prisoners) Three-quarters of prisoners had previously been imprisoned. This was the largest proportion of any state or territory (the national average was 57%).
  - 38% (186 prisoners) of the adult prisoner population comprised of un-sentenced prisoners. This was the highest proportion of un-sentenced prisoners across all states and territories. (32% Nationally)
  - 1.9 per cent of the ACT population is Aboriginal and Torres Strait Islander but they make up 22 per cent of the ACT’s prison population
  - 17.4 times Aboriginal and Torres Strait Islander people are more likely to be incarcerated than non-Indigenous people in 2018 in the ACT, (13 times nationally)
  - 90% of the ACT Aboriginal and Torres Strait Islander detainees at the AMC have a previous history of incarceration in ACT, (75% nationally).
  - 93% (457 prisoners) of the total prisoner population of ACT is male in 2018.
  - 95% increase in the female population at the AMC between 2015 and June 2018, while the other jurisdictions saw increases of between 23.5% and 27%.

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Information Officer name: Humaira Saeed  
TRIM Ref: MIN:2019/000034-037

- 48.1% increase of female prisoners in comparison to an increase of 24.5% of males from 2016 to 2018.
- 64.1% of female prisoners were un-sentenced, compared to 35.7% of male detainees in ACT.
- 80% of Indigenous women in the AMC were on remand and two-thirds of these women had been there for less than two months.

**Background Information**

- The Parliamentary Agreement for the Ninth Legislative Assembly commits to reducing recidivism by 25 per cent by 2025.
- In the 2018-19 mid-year Budget review the Building Communities Not Prisons (BCNP) justice package sought to reinvest criminal justice funds that would have been used to expand high-secure capacity at the Alexander Maconochie Centre (AMC) to other parts of the human service system.
- Through BCNP the Government provided a total of \$24,935,000 to deliver cost effective reductions in crime, victimisation and repeat offending while reducing overcrowding at the AMC as a priority over further investment in building secure facilities at the AMC.
- The following investment from BCNP will support the Government's commitment towards reducing recidivism by 25 per cent by 2025.
  - \$3,633,000 to continue and extend Yarrabi Bamirr, an intensive family-centric support program for Aboriginal and Torres Strait Islander families to prevent or delay contact with the justice system.
  - Strong Connected Neighbourhoods (formerly known as the High Density Housing Program) received 1,620,000 to continue program provision on Ainslie Avenue and expand the program to residents at Illawarra Court in Belconnen.
  - \$1,003,000 for two additional staff to Victim Support ACT to improve access to services and support for Aboriginal and Torres Strait Islander victims of crime.
  - \$6,793,000 to establish a Bail Accommodation Transition Support Service in the ACT.
  - \$997,000 to progress work to establish the Alexander Maconochie Reintegration Centre.

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Contact Officer name: Nova Inkpen Ext: 54786  
Lead Directorate: Justice and Community  
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Information Officer name: Humaira Saeed  
TRIM Ref: MIN:2019/000034-037

**Portfolio:** Justice, Consumer Affairs & Road Safety**ISSUE: JUSTICE REINVESTMENT****Talking points:**

- The recent ACT Government announcement recognised the nation leading role the ACT has with justice reinvestment and its commitment to build communities not prisons.
- \$14.5 million of funds has been redirected away from prison expansion into community programs.
- The work in the ACT to realise the principles of justice reinvestment for those coming in and out of the prison system marks some of the most ambitious justice work underway in Australia.
- This is the first time an Australian jurisdiction has committed to reinvesting what would otherwise be millions of dollars in funding towards expanding prisons: instead, these future funds will be directed to rehabilitative programs, seeing fewer individuals cycle through the justice system through to prison.
- Our focus is on ensuring that the people in prison are those that should be kept away from the community for our safety. We do not want to use prison for those that do not pose a risk to public safety and can be sentenced to community based orders.
- In this justice reinvestment announcement, I am pleased that two important justice reinvestment initiatives, the Strong Connected Neighbourhoods Program (formerly High Density Housing Program) and Yarrabi Bamirr have received recurrent funding.
- The ACT government made a four year commitment to develop a Justice Reinvestment Strategy in the 2014-15 Budget.
- Justice Reinvestment (JR) is about developing a smarter, more cost-effective approach to improving criminal justice outcomes by reducing crime and diverting offenders, and those at risk of becoming offenders, from the criminal justice system.

Cleared as complete and accurate: 12/03/2019  
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Contact Officer name: Dr Nova Inkpen Ext: 54786  
Lead Directorate: Justice and Community  
Safety  
Cleared for release: Yes  
Information Officer name: Humaira Saeed  
TRIM Ref: MIN:2019/000034-38

- The approach created in the JR Strategy will underpin the development of a Reducing Recidivism Plan in order to meet the Government’s commitment to reduce recidivism by 25 per cent by 2025.
- A key step in driving this commitment forward was the Justice Reinvestment and Reducing Recidivism Forum – Building Communities Not Prisons that I hosted on 5 and 6 December 2018.
- The Forum brought together over 100 participants and speakers from across government, local and international academics, community leaders and other key stakeholders to share best practice and discuss ways to reduce recidivism and to advance justice reinvestment in Australia. Professor Tom Calma AO, Chancellor of the University of Canberra, and leading American Criminologist, Alex Piquero, were key contributors to this Forum.
- Through our commitment to justice reinvestment and reducing recidivism we continue to reform the justice system so that our justice system can reduce crime, improve public safety and strengthen communities.
- The speakers and participants at the Forum confirmed the governments ongoing commitment to justice reinvestment and its ability to improve people’s lives, prevent or delay their contact with the criminal justice system and strengthen communities. Central to the discussion was the importance of community leadership, self-determination and culturally appropriate community led initiatives in bringing about change.

**Key Information**

- The JR Strategy was presented to the Human Services and Social Inclusion subcommittee of Cabinet on 28 September 2018.
- There are two main streams of work that form the JR Strategy:
  - building an evidence base to support decisions about reducing recidivism and diverting offenders, and those at risk of becoming offenders, from the justice system.
  - establishing and evaluating justice programs and trials– trials currently focus on addressing the overrepresentation of Aboriginal and Torres Strait Islander people in the justice system.
- The JR Strategy has developed a three by three approach to JR in the ACT. The three steps are:

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Lead Directorate:	Justice and Community Safety	
Cleared for release	Yes	
Information Officer name:	Humaira Saeed	
TRIM Ref:	MIN:2019/000034-38	

- Get the right people together at the right times with the information needed to make the best decisions for their community.
- Get local data to help identify local problems and local solutions.
- Use co-design principles to identify key programs and trials that prevent or delay people's contact with the justice system.

The three pathways are:

- Place based – providing crime reduction and community strengthening programs and supports in the same location as the people who need them.
  - Point in the system – providing interventions at crucial points in the justice system, for example arrest, bail and remand, where a change to that part could reduce peoples future contact with the justice system.
  - Cohort – focusing efforts on particular groups who are in constant contact with the justice system and targeting services and support to this group.
- The JR Strategy involves six key projects: Justice System Cost Model; Justice and Human services system data snapshots; Justice services and programs map; Evaluation Framework; Yarrabi Bamirr (family-centric service support model with Aboriginal and Torres Strait Islander families) and Ngurrambai (bail support program for Aboriginal and Torres Strait Islander people).
  - The JR Strategy reinforces a number of strategic cross Government initiatives including the Aboriginal and Torres Strait Islander Agreement and Justice Partnership, the Human Services Blueprint and the Blueprint for Youth Justice.

### **Background Information**

- In the 2018-19 mid-year Budget review the Building Communities Not Prisons (BCNP) justice package sought to reinvest criminal justice funds that would have been used to expand the high-secure capacity at the Alexander Maconochie Centre (AMC) to other parts of the human service system.
- Through BCNP the Government provided a total of \$24,935,000 to deliver cost effective reductions in crime, victimisation and repeat offending while reducing overcrowding at the AMC as a priority over further investment in building secure facilities at the AMC.
- The following investment from BCNP will support the Government's commitment towards reducing recidivism by 25 per cent by 2025.
  - \$3,633,000 to continue and extend Yarrabi Bamirr, an intensive family-centric support program for Aboriginal and Torres Strait Islander families to prevent or delay contact with the justice system.

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Contact Officer name: Dr Nova inkpen Ext: 54786  
Lead Directorate: Justice and Community  
Safety  
Cleared for release Yes  
Information Officer name: Humaira Saeed  
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- Strong Connected Neighbourhoods (formerly known as the High Density Housing Program) received 1,620,000 to continue program provision on Ainslie Avenue and expand the program to residents at Illawarra Court in Belconnen.
- \$1,003,000 for two additional staff to Victim Support ACT to improve access to services and support for Aboriginal and Torres Strait Islander victims of crime.
- \$6,793,000 to establish a Bail Accommodation Transition Support Service in the ACT.
- \$997,000 to progress work to establish the Alexander Maconochie Reintegration Centre.

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Information Officer name: Humaira Saeed  
TRIM Ref: MIN:2019/000034-38

**Portfolio:** Justice, Consumer Affairs & Road Safety

**ISSUE: OFFICIAL VISITOR REVIEW**

**Talking points:**

- The Official Visitor scheme has been in place for five years (since 1 September 2013).
- A number of reforms have changed the way Official Visitors (OVs) do their work, including:
  - the rollout of the National Disability Insurance Scheme;
  - increased procedural safeguards in the *Mental Health Act 2015*;
  - the development of an ACT Inspectorate for Custodial Services and;
  - the expected ratification by the Australian Government of the Optional Protocol for the Convention Against Torture.
- In March 2017, I asked the Justice and Community Safety Directorate (JACS) to undertake a formal review (the Review) of the scheme.
- The purpose of the Review was to determine whether the OV scheme was achieving its purpose of providing independent oversight of visitable places, increasing transparency in visitable places and reporting to Government about conditions and concerns in visitable places.
- The Review commenced in May 2017. The final report was completed in November 2017. The Government has since sought the views of OVs on the final report, and is continuing to consider the Review's recommendations.
- The Review found that OVs are valued and trusted, particularly around the way they assist eligible people to resolve day to day issues.
- However, the consultation identified that there is no clarity or shared understanding about the role of the OVs even amongst the OVs themselves.

Cleared as complete and accurate: 15/03/2019  
Cleared by: Executive Branch Manager Ext:  
Contact Officer name: Gabrielle McKinnon Ext: 53158  
Lead Directorate: Justice and Community Safety  
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- It was also evident that OVs require more support in the form of induction, training and professional development (including debriefing), and guidelines about performing their role. The review identified some clear areas for improvement to the scheme with recommendations relating to governance, the OVs mandate, recruitment, workloads, and accountability measures.
- Key amongst these recommendations was a proposal to relocate the administrative centre of OVs from the PTG to the ACT Human Rights Commission (HRC), and appoint a full time OV Coordinator to address governance, administrative, communication and capacity development needs.

#### Next steps

- JACS has convened a cross-government working group to assist with the implementation of the recommendations of the review. The group includes OVs as well as representatives from operational areas and oversight agencies. The group met in December 2018 and in January and February 2019. The group has provided constructive feedback on the recommendations and has worked through implementation issues.
- JACS is also progressing recommendations in relation to reform of the *Official Visitors Act 2012* to address issues of consistency in visits and reporting, and to provide greater flexibility for OVs to work across operational areas where needed.

#### Key Information

- The Official Visitor Scheme is primarily administered out of the office of the PTG. The PTG chairs the Board which has statutory functions for the training, coordination and support of the official visitors.
- Official Visitors work with varying levels of co-operation, assistance and support from those areas of Government or community service entities that administer the visitable places where official visitors have rights of access and investigation.
- There are OVs for the:
  - *Children and Young People Act 2008* (two OVs, one of whom is an Aboriginal and Torres Strait Islander person);

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- *Corrections Management Act 2007* (three OVs, one of whom is an Aboriginal and Torres Strait Islander person);
  - *Disability Services Act 1991* (two OVs);
  - *Housing Assistance Act 2007* (one OV); and
  - *Mental Health Act 2015* (four OVs).
- The OVs for one operational Act are empowered to assist the responsible OVs for other Acts if asked (under section 18 of the *Official Visitors Act 2012*).
  - The review's methodology included:
    - Directly contacting 46 people and organisations including, advisory bodies, relevant Government directorates and the HRC;
    - Sending 182 letters to registered service providers in the areas of disability, children and young people and homelessness;
    - Directly emailing detainees at the Alexander Maconochie Centre; and
    - Holding forums and a range of meetings with organisations and individuals.

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**Portfolio:** Justice, Consumer Affairs & Road Safety**ISSUE: RETIREMENT VILLAGES****Talking points:**

- The *Retirement Villages Legislation Amendment Bill 2018* (the Bill) was introduced on 29 November 2018.
- The Bill implements a second tranche of recommendations that arose from the 2015-16 review of the *Retirement Villages Act 2012*.
- The Bill makes a range of amendments that will:
  - remove administrative duplication and streamline budget processes for unit titled retirement villages under the Retirement Villages Act and the *Unit Titles (Management) Act 2011*
  - restore a default voting procedure of ‘one vote per unit’. Individual villages will be able to restore a ‘one vote per person’ voting procedure by passing a special resolution
  - provide access to an enforceable conciliation process to manage complaints about service provision under the Retirement Villages Act through the Human Rights Commission
  - clarify the definitions of the terms ‘capital item’ and ‘capital replacement’; and
  - allow sellers of units in unit-titled retirement villages to provide certain due-diligence documents at a later stage of the sales process. Failure to provide these documents within the required timeframes is a strict liability offence carrying a maximum penalty of ten penalty units.
- The Bill has been developed with the assistance of the Review Advisory Group – a group of key stakeholders who represent residents and operators of retirement villages, advocacy groups and other relevant bodies. It includes members of the ACT Retirement Villages Residents Association, the ACT Property Council Retirement Living Committee, the Human Rights Commission, Access Canberra, the Council

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on the Ageing ACT, representatives of unit-titled retirement villages and the ACT Law Society.

- The Government has undertaken targeted stakeholder consultation on the Bill.
- Officers of the Justice and Community Safety Directorate (JACS) met with residents of IRT Kangara Waters, Goodwin Monash and Bellerive Retirement Village to discuss the contents of the Bill. Approximately 100 people participated in these consultation meetings.
- Nine written submissions were received about the contents of the Bill. Feedback from this consultation informed the development of the legislation.
- On 12 November 2018 I convened a roundtable of the Review Advisory Group to finalise the Bill.
- Definitions of capital maintenance and capital replacement were a major area of concern in the RVA Review and the targeted consultation with retirement villages. The Government's intention is to provide more clarity to all stakeholders regarding these issues.
- To this end, guidelines addressing the distinction between capital maintenance and capital replacement have been drafted in consultation with the Review Advisory Group. The draft guidelines have been publicly released prior to the Bill being debated.

### Greiner Review

- I am aware of the *Greiner Review Report* on retirement villages, which was commissioned by the NSW Government.
- The *Greiner Review Report* was publicly released along with a Government response in June 2018. The report makes 17 recommendations to improve the NSW legislative framework and operational practices of the industry and regulator. The NSW Government has announced it will accept most of the recommendations, with the rest being accepted in principle.
- The ACT Government will give further consideration to the recommendations of the *Greiner Review Report*.

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## Key Information

- The Review Advisory Group reconvened in 2017 to consider the second stage of recommendations. A sub-group was also convened to consider issues relating to unit-titled retirement villages.
- JACS is continuing to engage with stakeholders representing residents and operators of unit titled retirement villages.

## Background Information

- The 2016 review of the Retirement Villages Act included first and second stage recommendations. The review was conducted with the assistance of the Review Advisory Group.
- The first stage reforms commenced on 16 December 2016.

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**Portfolio/s:** Justice, Consumer Affairs & Road Safety**ISSUE: BUILDING COMMUNITIES, NOT PRISONS****Talking points:**

- As part of the 9<sup>th</sup> Parliamentary Agreement, the ACT Government has set a goal to reduce recidivism by 25 per cent by 2025. A crucial part of this commitment is building communities not prisons.
- Building Communities Not Prisons (BCNP) focuses on reforming the ACT's justice system, so that it reduces crime, improves community safety and strengthens communities.
- It works to ensure that the people in prison are the people who should be there – for the community's safety and for the prisoners own safety as they get back on a path of law abiding, mentally and physically healthy life choices.
- BCNP aims to deliver cost effective reductions in crime, victimisation and repeat offending while reducing overcrowding at the Alexander Maconochie Centre (AMC) and the risk associated with overcrowding as a priority over further investment in building secure facilities at the AMC.
- The BCNP 2018-19 Budget Review delivers initiatives aimed at reducing crime, improving public safety and strengthening communities:
  - \$14.6 million has been put into preventative and diversionary efforts aimed at reducing offending and the need for imprisonment at the Alexander Maconochie Centre (AMC).
  - \$997,000 is being invested for design work to establish the Alexander Maconochie Reintegration Centre.
  - \$6.8 million to establish a Bail Accommodation Transition Support Service in the ACT.
  - \$1.6 million to sustain and expand the Strong Connected Neighbourhoods program (formerly High Density Housing Program) that currently operates on Ainslie Avenue and is

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expanding to provide support services to Illawarra Court in Belconnen on an ongoing basis.

- \$3.6 million to continue the family-centric Yarrabi Bamirr program delivered by Aboriginal and Torres Strait Islander run organisations or organisations with Aboriginal and Torres Strait Islander staffed programs. \$1.5 million to increase support to victims by Victim Support ACT

### **Data driving BCNP**

- The ACT has seen significant growth in the number of people detained at the AMC from 278 detainees in the June 2012 quarter to 496 detainees in the June 2018 quarter representing an increase of 78% over this time.
- Over the same period, the ACT has seen a 135% increase in the number of people identifying as Aboriginal and Torres Strait Islander detained at the AMC (from 48 in 2012 to 111 in 2018).
- 38% (186 prisoners) of the adult prisoner population comprised of un-sentenced prisoners. This is the highest proportion of un-sentenced prisoners across all states and territories. (32% nationally)
- There has been a 95% increase in the female population at the AMC between 2015 and June 2018, while the other jurisdictions have seen increases of between 23.5% and 27%.
- 48.1% increase of female prisoners in comparison to an increase of 24.5% of males from 2016 to 2018.
- 64.1% of female prisoners were un-sentenced, compared to 35.7% of male detainees in ACT.
- 80% of Indigenous women in the AMC were on remand and two-thirds of these women had been there for less than two months.
- Increasing numbers of detainees will continue to place strain on the AMC given its current design capacity (439) and safe operating capacity (511).

### **How do we change the way we use prisons**

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- Changing incarceration requires investment of time, money and people.
- Experience elsewhere in the world has shown that recidivism reduction targets are unlikely to be met within existing programs or through business-as-usual. Therefore, turning around our current situation requires a comprehensive program of work to meet the 9th Parliamentary Agreement commitment to reduce recidivism by 25% by 2025. This is where BCNP comes in.
- Reducing recidivism using BCNP is a package of initiatives, developed in partnership with the Human Services Cluster, and underpinned by the ACT's Justice Reinvestment approach (led by JACS over the last four years).
- Building Communities not Prisons (BCNP) aims to:
  - progress a number of intersecting and overlapping initiatives that address key opportunities in the human services system to reduce reoffending, reduce detainee population and improve the lives of those individuals and their families.
  - reduce trauma and costs for victims and their families associated with crime and related costs for government and the broader community.
  - reduce overcrowding at the Alexander Maconochie Centre (AMC).
  - use restorative, cultural and evidence informed approaches that change people's contact with the justice system and most particularly with prison.
  - take a particular focus on unsentenced people in the prison and within this cohort women are the most critical point requiring change.
  - address a number of the recommendations of the Australian Law Reform Commission Report *Pathways to Justice – An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples*.
  - reinvest funds from the criminal justice system that might be otherwise used for detaining people in a correctional centre, into

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homes and community supports making the ACT a safer and more inclusive city.

- All of this work in relation to BCNP was further informed by the Justice Reinvestment and Reducing Recidivism Forum – Building Communities Not Prisons that I hosted on 5 and 6 December 2018.

### **Justice Reinvestment and Reducing Recidivism Forum – Building Communities Not Prisons**

- The Forum brought together over 100 participants and speakers from across government, local and international academics, community leaders and other key stakeholders to share best practice and discuss ways to reduce recidivism and to advance JR in Australia. Professor Tom Calma AO, Chancellor of the University of Canberra, and leading American Criminologist, Alex Piquero, were key contributors to this Forum.
- The speakers and participants at the Forum confirmed the governments ongoing commitment to JR and its ability to improve people's lives, prevent or delay their contact with the criminal justice system and strengthen communities. Central to the discussion was the importance of community leadership, self-determination and culturally appropriate community led initiatives in bringing about change.
- The Justice and Community Safety Directorate (JACS), in partnership with key people from health, education and community services has examined legislation, policies and programs that will change, reduce or prevent contact with the justice system (and other statutory parts of the human service system) and this work is underpinned by the ACT's Justice Reinvestment approach.

The ACT Government has made the choice in BCNP that rather than spend money on building more cells, we will instead put our resources into preventing increasing numbers of detainees being held in the AMC, and supporting those people who have found themselves in contact with the justice system to change their life trajectories away from the justice system. To me this is the very essence of justice reinvestment.

#### **Key Information**

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- Key messages obtained from the Justice Reinvestment and Reducing Recidivism Forum – Building Communities Not Prisons are to:
  - bring the right people together (partnerships with community, academic, justice agencies, all levels of government)
  - gather and share data to identify local solutions because meaningful change needs cross system input
  - evaluate programs and trials
  - commit to investment and reinvestment in those programs demonstrating success
  - community leadership, self-determination and culturally appropriate community led initiatives will bring about change.

### **Background Information**

- The ACT Government made a four year commitment to develop a Justice Reinvestment Strategy in the 2014-15 Budget.
- The development of the Justice Reinvestment (JR) Strategy is now complete and was well received at the Human Services and Social Inclusion subcommittee of cabinet on 28 September 2018.
- The JR trials continue to operate as 2018-19 budget review provided ongoing funding for Strong Connected Neighbourhoods Program (formerly High Density Housing) and Yarrabi Bamirr.
- A two day Justice Reinvestment and Reducing Recidivism Forum – Building Communities Not Prisons in December 2018 was an opportunity to publicly launch the ACT JR Strategy and bring together government, academic and community sector experts to discuss ways to advance JR in Australia and support the development of the ACT's reducing recidivism plan.
- Given the significant and growing economic and social costs of incarceration, there is a compelling case for the ACT Government to increase investment in developing appropriate and more effective community supports to reduce reoffending, promote safe and sustainable bail and strengthen alternatives to imprisonment.
- The BCNP package focuses on areas including housing, alcohol and other drug services, mental health and disability, as well as family and other group services for Aboriginal and Torres Strait Islander people. Initiatives are intersecting and overlapping and align with the ACT Government's strategic priorities.

### **Principles underpinning BCNP**

- The proposed work for BCNP is guided on the following principles:
  - *Trauma informed* – it is important to contextualise offending within experiences of

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intergenerational trauma, family and sexual violence, child removal, mental illness, disability, and poverty. Informed practices are needed that provide alternatives to incarceration, including holistic, trauma-informed diversion programs for people who have experienced deep and intergenerational trauma.

- *Gender informed* – the number of female detainees in prisons in Australia is growing at a rate faster than that of men, which necessitates focusing on female offenders and how to rehabilitate and address their criminogenic and life needs while in custody. The challenges women face while in prison are considerably greater than men, involving high levels of trauma including family and sexual violence and highly disadvantaged backgrounds. The impacts on women in custody are further reaching if they are primary carers (of either children or parents).
- *Cultural Integrity*– it is important to take into account the unique systemic and historical factors affecting Aboriginal and Torres Strait Islander peoples. Services need to build cultural capacity and to provide cultural advice as to what works in reducing offending. These efforts must be based on an understanding of the modern day impacts of historical colonisation and dispossession of land and culture.
- *Restorative practices* – provides a framework of practices within human services whose purpose is to build healthy communities, increase social capital, decrease crime and antisocial behaviour, repair harm and restore relationships.
- *Human rights* – Under the Human Rights Act 2004 no-one may be deprived of liberty, except on the grounds and in accordance with the procedures established by law.
- *Evidence Based* – initiatives will bring together data, evaluations and stakeholder views in order to support Government decisions to invest in what works in order to reduce crime and reoffending while increasing community safety and strengthening communities.

### **BCNP Streams**

- BCNP frames six streams of initiatives in the human services system that will reduce the flow of people into the AMC and improve life trajectories for vulnerable and disadvantaged Canberrans through:
  - Reducing the over-representation of Aboriginal and Torres Strait Islander people – as you are well aware, over-representation is both a persistent and growing problem with incarceration rates increasing by 51 per cent across Australia between 2012 and 2018. The degree of urgency in the ACT is more acute with a 135 per cent increase over the same period. In the ACT Aboriginal and Torres Strait Islander adults make up 1.9 per cent of the ACT population and 22 per cent of the ACT prison population.

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- Increasing justice accommodation options – A multi-component response is needed to meet the diverse needs of people involved in or at risk of being involved in the criminal justice system. This includes short term, culturally sensitive, transitional accommodation and longer term supported accommodation.
- Responding to the impacts of drug and alcohol dependence – The National Drug Strategy 2017-2026 identifies individuals in contact with the criminal justice system as a priority group. More treatment programs are needed to address alcohol and drug related offending, its harmful health effects on detainees, and the related harm that impacts on families and communities.
- Proving more early support for people living with a mental illness or disability - The Australian Institute of Health and Welfare has reported almost half of prison entrants (49 per cent) have a mental health disorder, and more than 1 in 4 (27 per cent) are on medication for a mental health disorder.
- Opening up more pathways for safe and sustainable bail – A significant proportion of people held on remand do not receive a custodial sentence upon conviction. More options are required that will allow release on bail with effective conditions for people who do not represent a serious risk of offending.
- Continuing to develop community building capabilities –System wide capabilities are critical to the success of driving the broad range of initiatives under BCNP, considering the complex profile of ACT offenders and their needs.

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