



## OPEN ACCESS Q1 2018 SCHEDULE

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

No.	Folio	Description	Status	Reason for non-release or deferral
<b>Sitting Weeks 13-15 and 20-22 February 2018</b>				
1	1	Question Time and Oversight Brief Index	Full release	
2	2 - 3	Drug and Alcohol Court	Full release	
3	4 – 6	Victims Charter of Rights	Full release	
4	7 – 8	Reducing Recidivism	Full release	
5	9	Vilification and Discrimination	Full release	
6	10	Freedom of Information Act 2016	Full release	
7	11	Marriage Equality	Full release	
8	12	Review of Prostitution	Full release	
9	12	Drug and Alcohol Court	Full release	
10	12-13	Victims Charter of Rights	Full release	
11	13	Vilification and Discrimination	Full release	
12	13	Justice Recidivism	Full release	
13	13	Restorative Justice	Full release	
14	14	Justice Reinvestment	Full release	
15	14	Aboriginal and Justice Partnership	Full release	
16	14 – 15	Retirement Villages	Full release	
17	15	Public Advocate Annual Report / Funding	Full release	
18	16	Taxi Review	Full release	
19	16	Official Visitor Review	Full release	
<b>Sitting Week 20 – 22 March 2018</b>				
20	17	Question Time and Oversight Brief Index 20 to 22 March 2018	Full Release	
21	18 – 19	Drug and Alcohol Court	Full release	
22	20 – 21	Reducing Recidivism	Full release	
23	22	Freedom of Information Act 2016	Full release	
24	23	Marriage Equality	Full release	

No.	Folio	Description	Status	Reason for non-release or deferral
25	24	Review of Prostitution	Full release	
26	25	Drug and Alcohol Court	Full release	
27	26	Victim Charter of Rights	Full release	
28	27	Vilification and Discrimination	Full release	
29	28	Justice Recidivism	Full release	
30	29	Restorative Justice	Full release	
31	30	Justice Reinvestment	Full release	
32	31	Aboriginal and Justice Partnership	Full release	
33	32	Retirement Villages	Full release	
34	33	Public Advocate Annual Report / Funding	Full release	
35	34	Official Visitor Review	Full release	

**MINISTER FOR JUSTICE, CONSUMER AFFAIRS AND ROAD SAFETY**  
**QUESTION TIME AND OVERSIGHT BRIEF INDEX**  
**13-15 and 20-22 FEBRUARY 2018**

<b><i>Question Time Briefs (updated for each Assembly Sitting)</i></b>	
1.	Reduction in fatalities by 2020 efforts *
2.	Drug and Alcohol Court
3.	Victims Charter of Rights
4.	Reducing Recidivism
5.	Vulnerable Road User Reforms (incl. lane filtering and minimum passing laws) *
6.	Vilification and Discrimination
7.	Graduated Licencing Program *
<b><i>Oversight Brief (updated weekly)</i></b>	
	<p><b><i>Hot Issues</i></b></p> <ul style="list-style-type: none"> <li>8. Graduated Licensing Scheme *</li> <li>9. Freedom of Information Act 2016</li> <li>10. Marriage Equality</li> <li>11. Review of Prostitution</li> <li>12. Drug and Alcohol Court</li> <li>13. Victim Charter of Rights</li> <li>14. Vilification and Discrimination</li> <li>15. Justice Recidivism</li> <li>16. Restorative Justice</li> </ul> <p><b><i>Ongoing Issues</i></b></p> <ul style="list-style-type: none"> <li>17. Justice Reinvestment</li> <li>18. Aboriginal and Justice Partnership</li> <li>19. Retirement Villages</li> <li>20. Public Advocate Annual Report / Funding</li> <li>21. Taxi Review</li> <li>22. Official Visitor Review</li> <li>23. Vulnerable Road Users Reform *</li> <li>24. Road Crash Report *</li> <li>25. Drug Driving *</li> </ul>

\*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/s Justice, Consumer Affairs & Road Safety

**ISSUE: DRUG AND ALCOHOL COURT**

**Talking points:**

- The Government committed to establishing a Drug and Alcohol Court (DAC) in the Parliamentary Agreement for the 9<sup>th</sup> Assembly.
- A DAC takes a therapeutic problem-solving approach to achieving behavioural change in offenders who are addicted to drugs and/or alcohol. This aims to reduce recidivism, and improve the health and well-being of offenders.
- The ACT Supreme Court, supported by a working group of key stakeholders including the Justice and Community Safety Directorate (JACS), is developing proposals for consideration by Government.
- The Supreme Court released an *'Issues and draft proposals paper for consultation'* to targeted stakeholders in October 2017, with the responses coordinated by Legislation, Policy and Programs (LPP) in JACS.
- JACS commissioned the Drug Policy Modelling Program (National Drug and Alcohol Research Centre, University of New South Wales) to develop an evaluation framework for the DAC. This work included identifying key program and system issues that need to be considered, and recommendations for addressing those issues.
- The DAC will require a range of services to be provided directly to the court and to offenders. These services will need to interact well to achieve an effective DAC.
- JACS has been working closely with other directorates including Health and the Community Services Directorate and other business units within JACS including ACT Corrective Services and ACT Courts and Tribunal. This work has included identification of roles and responsibilities and development of costings.

**Key Information**

- It is the aim to establish a DAC in this term of government.

Cleared as complete and accurate:	02/02/2018	
Cleared by:	Executive Director	Ext: 76244
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Lead Directorate:	Justice and Community Safety	

- There are a number of key considerations to resolve, such as clearly identifying the appropriate cohort of offenders who should receive this form of intensive intervention, and establishing clear pathways into treatment. These considerations require a whole of government approach to ensure the chosen model operates effectively.
- An operational DAC requires a significant investment in terms of resourcing across government and non-government services. The Government will be considering the resource needs of DAC through the budget process.
- There is strong support across the wide range of stakeholders for a DAC. All 10 submissions received to the Supreme Court's draft proposals paper were supportive of the DAC in principle. All stakeholders who participated in consultation with the Drug Modelling Policy Program (who were drawn from government and non-government organisations, including the alcohol and drug service sector) also indicated strong support for a DAC.

### **Background Information**

- The Annual Report (2016-17) for JACS states that 'supporting the design and costing of a Drug and Alcohol Court' as a key priority for 2017-18.
- Funding to support the development work for the DAC was provided through the 2017-18 budget process and the 2017-18 mid-year budget process.
- The Supreme Court for the ACT issued a strategic statement for 2016-17 which gave as one its judicial priorities as 'To explore the potential for a Drug and Alcohol Court'.

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Portfolio/s Justice, Consumer Affairs & Road Safety

**ISSUE: VICTIMS CHARTER OF RIGHTS  
(PARLIAMENTARY AGREEMENT 7.6)**

**Talking points:**

VOCC Report

- I welcome the Victim of Crime Commissioner's Consultation Report on the Charter of Rights.
- It is important for Government to listen to what victims have to say about our criminal justice system and a Charter of Rights for Victims in the ACT.
- As part of the development process for the Charter, the Government will be releasing an options paper which is informed by the Commissioner's consultation report and discussions with other key stakeholders.
- One aspect on which feedback will be sought is the operation of the ACT Victims Register, and if changes need to be made to support victims access more information about offenders and participate in decision-making about release and parole.

Victims Charter

- The Government is committed to establishing a Victims Charter of Rights in the Territory.
- The Government is working closely with stakeholders including the Victims Advisory Board, justice agencies, Victims of Crime Commissioner (VOCC) and victims of crime to identify options and the best approach for implementing a Victims Charter of Rights for the ACT.
- We will shortly be releasing an options paper and engaging with community members with experiences of crime or who are vulnerable in the justice system.
- Providing timely and accurate information to victims, and opportunities for victims to participate in justice processes are central issues we will be seeking feedback on through the consultation process.

Cleared as complete and accurate:	31/01/2018	
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- All other states and territories in Australia have introduced victims' rights as principles or guidelines. The Government is seeking to transform the ACT's existing guiding principles for the treatment of victims into obligatory rights through legislative reform.
- The Victims Charter will cover the rights of victims of crime and the obligations that agencies and others have when dealing with victims of crime.
- Justice system accountability may be enhanced through ensuring appropriate transparency and oversight mechanisms, and investigating new options for complaint and redress.

### **Key Information**

- In December 2017, the VOCC publicly released a report summarising his findings and recommendations for Government on the Charter and victims issues more broadly, titled *A Charter of Rights for Victims of Crime: Consultation Report*. Many issues raised are aligned with the options the Government is considering for implementation of the Charter.
- In his report the VOCC recommends that the operation of the ACT victims registers be reviewed, and that a degree of discretion is available to those making decisions about what information is provided to victims, including victims of previous offences if an offender goes on to commit offences against other people.
- The *Crimes (Sentence Administration) Act 2005* governs the youth justice (administered by the Community Services Directorate) and adult (administered by JACS) victims registers in the ACT. Currently the focus of the ACT Victims Register for adult offenders is to provide information about the location of an offender while they are serving a sentence and when they may be eligible for release on parole or unsupervised external leave. The Director-General may disclose information about an offender to a registered victim in order to inform a submission to the Sentence Administration Board, and the legislation provides some examples, however is not prescriptive
- The development of the Victims Charter and Government response to the Royal Commission into Institutional Responses to Child Sexual Abuse Criminal Justice Report share significant interest in improving the experience of victims of crime in the justice system. The Government is considering these victim focused reforms in a cohesive way.

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## Background Information

- The *Victims of Crime Act 1994* (the Act) outlines the governing principles for the treatment of victims in the administration of justice. In summary, the principles govern the treatment of victims around
  - a) respectful treatment and having appropriate regard to the victim's personal situation
  - b) providing a victim with information about:
    - progress of police investigations
    - charges laid
    - plea bargains
    - decisions not to proceed with a charge
    - the trial process
    - rights and responsibilities of witnesses
    - the outcome of criminal proceedings and sentences
    - an offender's impending release from custody (where the victim has expressed a need for protection).
  - c) return of property
  - d) protection from unnecessary contact with the accused and defence witnesses and unnecessary appearances at hearings or proceedings
  - e) protecting a victim's home address.

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Portfolio/s Justice, Consumer Affairs & Road Safety  
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.
- Developing a Recidivism Plan to achieve this aspirational goal is an ambitious and complex commitment that will require a package of work to effectively change the life trajectories of some of Canberra's most complex and vulnerable citizens.
- Reducing recidivism in the ACT requires shared responsibility across the justice system. The government will work closely with justice stakeholders, the community sector, academia and those with lived experience to develop the Recidivism plan.
- The Justice and Community Safety Directorate is preparing an approach for developing a long term recidivism plan. It will draw on the ACT evidence base developed as part of the Justice Reinvestment Program.
- Important to the success of a recidivism plan is to address the onset of offending and the cycles of offending, as well as setting clear targets in collaboration with a broad range of stakeholders with influence over the targets that can take responsibility for meeting them.
- As a starting point we will look to lessons from other Australian States and Territories, as well as internationally, to see what is relevant to consider in the ACT context. The Australian National University has been engaged to undertake a literature review to underpin the recidivism plan which is expected to be available by April 2018.

**Key Information**

- The Government traditionally measures recidivism through the Report on Government Services. It 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.

Cleared as complete and accurate: 18/01/2018  
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- The measure does not include other considerations such as police discretion when dealing with offenders, using diversion (such as restorative justice) or court responses that may prove an offence but not record a conviction.
- The ABS report on Prisoners in Australia 2016 found that 74 per cent of ACT prisoners have previously been imprisoned under sentence, the largest proportion of any State or Territory.
- The ACT consistently has the lowest imprisonment rate in Australia per head of population. In 2016 the adult imprisonment rate was 144 prisoners per 100,000 adult population compared to the national imprisonment rate of 208 prisoners per 100,000 population.
- This suggests that offenders sentenced to periods in prison may have more endemic offending behaviour.

### **Background Information**

- The Parliamentary Agreement for the Ninth Legislative Assembly commits to reducing recidivism by 25 per cent by 2025.
- Resourcing the approach to developing a comprehensive recidivism strategy is the subject of a 2018-19 budget business case.

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**ISSUE:        Discrimination and Vilification**

**Talking points:**

- In the ACT, the *Discrimination Act 1991* makes it unlawful for someone to discriminate against another person because of their sexual orientation or race in a range of areas of public life including education, employment and in receiving goods and services. Sexual orientation includes a person being gay, lesbian, bisexual, or heterosexual.
- It is also against the law to vilify a person or group of people on the grounds of sexuality or race. Vilification means to publicly incite hatred towards a person or group of people which is likely to offend, insult, humiliate or intimidate that person or group of people.
- If anyone is subject to this behaviour in the ACT, I encourage them to contact the ACT Human Rights Commission to talk through the complaints process.

**Key Information**

- The 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.
- Where a complaint is established, the Commission may grant the affected individual compensation for economic loss as well as non-economic losses, like hurt and humiliation.
- ACT law also includes an offence of ‘serious vilification’ which involves threats of physical harm that incite hatred (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:	18/01/2018	
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HOT ISSUES	TALKING POINTS
<p>5. <a href="#">Freedom of Information Act 2016</a>  Cleared by Sean Costello  12 January 2018</p>	<ul style="list-style-type: none"> <li>• The new FOI Act strengthens the community's right to access government held information unless, on balance, releasing the information would be contrary to the public interest. It commenced on 1 January 2018.</li> <li>• The Act is a significant change from the current legislation as it requires a greater proactive and routine release of information via an Open Access Scheme. Those in charge of agencies must appoint Information Officers to make decisions under the legislation.</li> <li>• The Justice and Community Safety Directorate (JACS) is responsible for implementation broadly, while the Chief Minister, Treasury and Economic Development Directorate is progressing operational matters, like designing appropriate publishing mechanisms for open access material.</li> <li>• A new Open Access scheme is operational, with agencies proactively releasing information online.</li> <li>• The new Act introduces a substantial role for the ACT Ombudsman under a significantly different structure.</li> <li>• The 2017-18 Budget includes funding for the Ombudsman to perform its new functions under the new FOI Act. This funding provides approximately \$900,000 per year to the Ombudsman for two years, with future funding to be determined on the basis of a review of the volume of work undertaken.</li> <li>• Since its introduction, the ACT has been amended to clarify the scope of agencies that must comply with the Act, allow delegation of support functions to administrative staff and confirm the Act's interaction with other access regimes, like that in the Adoptions Act.</li> </ul>

6. [Marriage Equality](#)

Cleared by Sean Costello  
12 January 2018

- The ACT is carefully considering the effect on the *Civil Union Act 1994* following the legalisation of same-sex marriage at the Federal level.
- The Government is considering how best to ensure that existing civil unions are not affected.
- As the legislation is currently drafted, it is unlikely that same-sex couples living in the ACT will be able to enter a civil union in the future. However, this raises complex legal and constitutional issues that I am also seeking legal advice on.

<p><b>11. Review of Prostitution Act</b>  Cleared by Sean Costello  12 January 2018</p>	<ul style="list-style-type: none"> <li>• In 2017 I agreed to progress proposed amendments to the Prostitution Act including: <ul style="list-style-type: none"> <li>○ renaming the Act the ‘Sex Work Act’ to bring the title of the Act in line with appropriate terminology</li> <li>○ repealing sections 24 and 25 to remove the offences regarding sexually transmissible infections (because such offences are covered in division 6.1 of the <i>Public Health Act 1997</i>, and to make clear that separate offences specifically for sex workers is discriminatory)</li> <li>○ amending section 27 to require an operator to make available a range of prescribed safety equipment</li> <li>○ amending the Act to remove any requirement for sole operators to register or provide annual notices to the Commissioner, or otherwise have obligations regarding registration under the Act</li> <li>○ including a new provision that sex work conducted in accordance with the Act is lawful, legitimate occupation, and should be regulated in a similar fashion to other occupations, and that sex workers should not be discriminated against, and</li> <li>○ amending section 20(4) to prevent a person charged with causing a child to provide sexual services from using a defence of mistake of fact, and instead requiring them to establish that they took reasonable steps to ascertain the age of the child concerned.</li> </ul> </li> <li>• Feedback from all key stakeholders since July indicated broad agreement on these proposed amendments.</li> <li>• As a result, the Chief Minister and I have agreed to JACS developing a bill for introduction to the Legislative Assembly in 2018.</li> </ul>
<p><b>12. Drug and Alcohol Court</b>  Cleared by Karen Greenland  15 January 2018</p>	<ul style="list-style-type: none"> <li>• The Government has committed to establishing a Drug and Alcohol Court (DAC) and associated support programs for the ACT. This is part of a goal to reduce recidivism by 25 per cent by 2025 [Parliamentary Agreement for the 9th Assembly for the Australian Capital Territory].</li> <li>• The effectiveness of DAC in achieving long-term behavioural change in offenders is supported by a substantial body of research.</li> <li>• Results include reductions in re-offending (recidivism), reduced incarceration rates, and improved community safety outcomes.</li> <li>• Drug courts operate in most other Australian jurisdictions with the exception of the Northern Territory and Queensland. Queensland’s new Drug Court, based in Brisbane, was due to commence in November 2017 but is on hold pending the Queensland elections on 25 November 2017.</li> <li>• The problem-solving approach taken by drug courts involves key principles to achieve the best outcomes including: an integrated approach by all parts of the justice system, prompt access to treatment and related services &amp; a high level of judicial intervention.</li> <li>• The Supreme Court is developing proposals for Government in relation to the model, assisted by a working group of key stakeholders including Director of Public Prosecution and Legal Aid ACT.</li> </ul>
<p><b>13. Victims Charter of Rights</b></p>	<ul style="list-style-type: none"> <li>• All other states and territories in Australia have introduced victims’ rights as principles or guidelines. The Government is seeking to transform the ACT’s guiding principles for the</li> </ul>

<p>Cleared by Tamsyn Harvey 12 January 2018</p>	<p>treatment of victims into obligatory rights through legislative reform. Other options will also be considered.</p> <ul style="list-style-type: none"> <li>• The victims Charter can cover, among other things, the rights of victims of crime and the obligations that agencies and others have when dealing with victims of crime, and establish a complaints resolution process for when the charter is breached.</li> <li>• The Government is currently working closely with stakeholders including the Victims Advisory Board, Victims of Crime Commissioner, individual victims of crime and justice system agencies to identify options and the best approach for implementing a Victims Charter of Rights for the ACT.</li> <li>• Wider stakeholder and public consultation will occur in early 2018 with the release of an options for implementation paper.</li> </ul>
<p><b>14. Vilification and Discrimination</b> Cleared by Sean Costello 12 January 2018</p>	<ul style="list-style-type: none"> <li>• In the ACT, the <i>Discrimination Act 1991</i> makes it unlawful for someone to discriminate against another person because of their sexual orientation or race in a range of areas of public life including education, employment and in receiving goods and services. Sexual orientation includes a person being gay, lesbian, bisexual, or heterosexual.</li> <li>• It is also against the law to vilify a person or group of people on the grounds of sexuality or race. Vilification means to publicly incite hatred towards a person or group of people which is likely to offend, insult, humiliate or intimidate that person or group of people.</li> <li>• If anyone is subject to this behaviour in the ACT, I encourage them to contact the ACT Human Rights Commission to talk through the complaints process.</li> </ul>
<p><b>15. Justice Recidivism</b> Cleared by Karen Greenland 15 January 2018</p>	<ul style="list-style-type: none"> <li>• The Justice and Community Safety Directorate is preparing an approach for developing a long term recidivism plan, to set a pathway for achieving recidivism targets for the justice system.</li> <li>• The recidivism plan requires an understanding of ‘what works’ backed up by planning, innovation, efficiency and community engagement.</li> <li>• The plan will need to be carefully balanced to ensure that public safety is maintained and further improved.</li> <li>• Reducing recidivism in the ACT requires shared responsibility across the justice system so that a change in one part of the justice system does not negatively impact another part of the justice system.</li> <li>• By taking a balanced and shared approach to reducing recidivism the targets can not only be achieved but sustained. Reducing recidivism also requires the support of the human services system.</li> </ul>
<p><b>16. Restorative Justice</b> Cleared by Karen Greenland 15 January 2018</p>	<ul style="list-style-type: none"> <li>• From July 2018 the RJ Scheme will include domestic and family violence and sexual offence matters.</li> <li>• The Restorative Justice Unit has previously consulted and drafted guidelines for managing domestic and family violence.</li> <li>• It is now consulting and constructing guidelines for the management of sexual offences. It is acknowledged that these highly sensitive matters will involve additional supports and expertise.</li> <li>• If people would like to provide comments as part of phase three, they can contact the ACT Restorative Justice Unit on 6207 3992.</li> </ul>

ONGOING ISSUES	TALKING POINTS
<p><b>17. Justice Reinvestment</b> Cleared by Karen Greenland 12 January 2018</p>	<ul style="list-style-type: none"> <li>• The Justice Reinvestment, or JR Strategy 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 justice system.</li> <li>• The ACT's approach to JR is multi-faceted. Rather than undertaking a single intervention to achieve cost savings, a cumulative approach is being developed.</li> <li>• The development of the JR Strategy currently involves six key projects: <ul style="list-style-type: none"> <li>○ justice reinvestment family trial – Yarrabi Bamirr</li> <li>○ justice reinvestment bail support program trial</li> <li>○ justice system costing model</li> <li>○ justice services and programs map</li> <li>○ justice and human services system data snapshots and</li> <li>○ an evaluation framework consisting of program evaluations containing justice reinvestment measures</li> </ul> </li> <li>• The development of the JR Strategy also 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 in the ACT.</li> </ul>
<p><b>18. Aboriginal and Justice Partnership</b> Cleared by Karen Greenland 12 January 2018</p>	<ul style="list-style-type: none"> <li>• The Partnership takes 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.</li> <li>• The three key objectives of the Partnership are to: <ul style="list-style-type: none"> <li>○ reduce over-representation by reducing recidivism and increasing access to diversionary programs</li> <li>○ improve access to justice services and</li> <li>○ improve data collection and reporting.</li> </ul> </li> <li>• The Partnership consists of a total of 21 actions areas with 38 key measures that in some instances are jointly addressed by lead agencies bringing the total number of reportable action items to 79.</li> <li>• As at 28 September 2017: <ul style="list-style-type: none"> <li>○ 13 action items have been completed and</li> <li>○ 49 are on track.</li> </ul> </li> </ul>
<p><b>19. Retirement Villages</b> Cleared by Sean Costello 12 January 2018</p>	<ul style="list-style-type: none"> <li>• The 2016 review of the Retirement Villages Act included first and second stage recommendations.</li> <li>• The first stage reforms commenced on 16 December 2016.</li> <li>• The second stage of the review included recommendations for the following: <ul style="list-style-type: none"> <li>○ removing administrative duplication under the Retirement Villages Act and Unit Titles (Management) Act 2011 for unit titled retirement villages</li> </ul> </li> </ul>



	<ul style="list-style-type: none"> <li>○ giving consideration to voting rights</li> <li>○ and</li> <li>○ developing standard documents including the general inquiry document, village contract, village budget, condition report and safety and security report.</li> </ul> <ul style="list-style-type: none"> <li>● Any additional issues raised by stakeholders can also be considered in the second stage of the reforms.</li> <li>● During 2017 the Review Advisory Group reconvened to consider the second stage of recommendations.</li> <li>● A sub-group of the Review Advisory Group was also convened to consider issues relating to unit titled retirement villages.</li> <li>● The Justice and Community Safety Directorate (JACS) is continuing to engage with stakeholders representing residents and operators of unit titled retirement villages.</li> <li>● I intend to seek Cabinet approval for release of a public exposure draft of the second tranche amendments this year.</li> </ul>
<p><b>20. Public Advocate Annual Report/Funding</b>  Cleared by Sean Costello  12 January 2018</p>	<ul style="list-style-type: none"> <li>● I am aware of calls for additional funding to support the Public Advocate's oversight role.</li> <li>● The 2017-18 Budget provides \$631,000 over 4 years in additional funding for the Public Advocate.</li> <li>● This initiative will provide funding for an additional Senior Advocate to respond to recent and anticipated changes to legislative and service systems within the ACT.</li> <li>● The restructure of the HRC was aimed at ensuring that the functions of the Commissioners could be undertaken in the most efficient manner and to free up resources for service delivery. It included expanding the Commission to include the advocacy functions of the Public Advocate.</li> <li>● I am working with the Public Advocate to determine how to further support her ability to deal with increasing work demand and expanded functions resulting from recent government reforms.</li> <li>● The 2017-18 initiative also provides funding for a review to assess whether resources directed towards the Public Advocate adequately support the Public Advocate's oversight role.</li> <li>● In the Government response to the Glanfield Review the ACT Government committed to reviewing the resources of the Public Advocate and Children and Young People Commissioner, as well as the resources in the Community Services Directorate required to respond to oversight requests (such as Child and Youth Protection Services).</li> <li>● The Government has engaged an independent reviewer, Spring Green Consulting, to undertake this review of resources.</li> <li>● This is in advance of the broader review of protection of rights services legislation which is required by legislation as soon as practicable after 1 April 2019.</li> <li>● The statutory review will assess if the new structure is effective in delivering the objects of the Act. Following the restructure of the HRC, which took effect on 1 April 2016, the President has responsibility for managing the budget for all work areas of the HRC (s 18(1)(a)&amp;(b) HRC Act).</li> </ul>

<p><b>21. Taxi Review</b> Cleared by Tamsyn Harvey 12 January 2018</p>	<ul style="list-style-type: none"> <li>• To address strong demand for taxi licences, including increased demand as a result of international flights at Canberra Airport, the ACT Government lifted its freeze on the release of 50 government-leased taxi licences.</li> <li>• 20 taxi licences have been made available to service the market since the ACT Government announced its release strategy in February 2017.</li> <li>• The release comprised ten standard-taxi licences in March, five wheelchair accessible taxi licences in June, and five standard-taxi licences in September.</li> <li>• The next scheduled release is March 2018, subject to consideration of market conditions. There was no release in December 2017.</li> <li>• There are now 31 Wheelchair Accessible Taxi (WAT) licences issued for use by WAT vehicle owners in the ACT, and this has improved the availability of accessible transport for people with disabilities across the ACT.</li> </ul>
<p><b>22. Official Visitor Review</b> Cleared by Sean Costello 12 January 2018</p>	<ul style="list-style-type: none"> <li>• The Official Visitor scheme has been in place for three years.</li> <li>• A number of reforms are changing the way official visitors do their work, including: <ul style="list-style-type: none"> <li>○ the rollout of the National Disability Insurance Scheme</li> <li>○ increased procedural safeguards in the <i>Mental Health Act 2015</i></li> <li>○ the development of an ACT Inspectorate for Custodial Services and</li> <li>○ the expected ratification of the Optional Protocol for the Convention Against Torture by the Australian Government</li> </ul> </li> <li>• It is therefore timely to consider a formal review of the scheme. The review is being undertaken by a project officer located in JACS.</li> <li>• The Review is completed and the Government is considering the recommendations.</li> </ul>

Transferred to Transport Canberra and City Services

**MINISTER FOR JUSTICE, CONSUMER AFFAIRS AND ROAD SAFETY**  
**QUESTION TIME AND OVERSIGHT BRIEF INDEX**  
**20 to 22 March 2018**

<b><i>Question Time Briefs (updated for each Assembly Sitting)</i></b>	
1.	Drug and Alcohol Court
2.	Reducing Recidivism
3.	Vulnerable Road User Reforms (incl. lane filtering and minimum passing laws) *
4.	Graduated Licencing Scheme *
<b><i>Oversight Brief (updated weekly)</i></b>	
	<p><b><i>Hot Issues</i></b></p> <ul style="list-style-type: none"> <li>5. Freedom of Information Act 2016</li> <li>6. Marriage Equality</li> <li>7. Review of Prostitution</li> <li>8. Drug and Alcohol Court</li> <li>9. Victim Charter of Rights</li> <li>10. Vilification and Discrimination</li> <li>11. Justice Recidivism</li> <li>12. Restorative Justice</li> <li>13. Speeding and road safety cameras *</li> </ul> <p><b><i>Ongoing Issues</i></b></p> <ul style="list-style-type: none"> <li>14. Justice Reinvestment</li> <li>15. Aboriginal and Justice Partnership</li> <li>16. Retirement Villages</li> <li>17. Public Advocate Annual Report / Funding</li> <li>18. Official Visitor Review</li> <li>19. Drug Driving *</li> </ul>

\*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 &amp; Road Safety

**ISSUE: DRUG AND ALCOHOL COURT****Talking points:**

- The Government committed to establishing a Drug and Alcohol Court (DAC) in the Parliamentary Agreement for the 9<sup>th</sup> Assembly.
- A DAC takes a therapeutic problem-solving approach to achieving behavioural change in offenders who are addicted to drugs and/or alcohol. This aims to reduce recidivism, and improve the health and well-being of offenders.
- The ACT Supreme Court, supported by a working group of key stakeholders including the Justice and Community Safety Directorate (JACS), is developing proposals for consideration by Government.
- The Supreme Court released an *'Issues and draft proposals paper for consultation'* to targeted stakeholders in October 2017, with the responses coordinated by Legislation, Policy and Programs (LPP) in JACS.
- JACS commissioned the Drug Policy Modelling Program (National Drug and Alcohol Research Centre, University of New South Wales) to develop an evaluation framework for the DAC. This work included identifying key program and system issues that need to be considered, and recommendations for addressing those issues.
- The DAC will require a range of services to be provided directly to the court and to offenders. These services will need to interact well to achieve an effective DAC.
- JACS has been working closely with other directorates including Health and the Community Services Directorate and other business units within JACS including ACT Corrective Services and ACT Courts and Tribunal. This work has included identification of roles and responsibilities and development of costings.

Cleared as complete and accurate: 12/03/2018  
Cleared by: Executive Director Ext: 76244  
Contact Officer Name: Anita Axell Ext: 54104  
Lead Directorate: Justice and Community Safety

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**Key Information**

- It is the aim to establish a DAC in this term of government.
- There are a number of key considerations to resolve, such as clearly identifying the appropriate cohort of offenders who should receive this form of intensive intervention, and establishing clear pathways into treatment. These considerations require a whole of government approach to ensure the chosen model operates effectively.
- An operational DAC requires a significant investment in terms of resourcing across government and non-government services. The Government will be considering the resource needs of DAC through the budget process.
- There is strong support across the wide range of stakeholders for a DAC. All 10 submissions received to the Supreme Court's draft proposals paper were supportive of the DAC in principle. All stakeholders who participated in consultation with the Drug Modelling Policy Program (who were drawn from government and non-government organisations, including the alcohol and drug service sector) also indicated strong support for a DAC.

**Background Information**

- The Annual Report (2016-17) for JACS states that 'supporting the design and costing of a Drug and Alcohol Court' as a key priority for 2017-18.
- Funding to support the development work for the DAC was provided through the 2017-18 budget process and the 2017-18 mid-year budget process.
- The Supreme Court for the ACT issued a strategic statement for 2016-17 which gave as one its judicial priorities as 'To explore the potential for a Drug and Alcohol Court'.

Cleared as complete and accurate: 12/03/2018  
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Safety

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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.
- 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 complex and vulnerable citizens.
- 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.
- The Justice and Community Safety Directorate is preparing an approach to reducing recidivism by 25 per cent by 2025. The approach will draw on the ACT evidence base developed as part of Justice Reinvestment.
- Important to success in reducing recidivism in the ACT will be addressing the onset of offending and the cycles of offending.
- It will be important to set clear targets in collaboration with a broad range of stakeholders that have responsibility for meeting the targets.
- As a starting point we will look to lessons from other Australian States and Territories, as well as internationally, to see what is relevant to consider in the ACT context. The Australian National University has been engaged to undertake a literature review on approaches to reducing recidivism which is expected to be available by April 2018.

**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.

Cleared as complete and accurate: 13/03/2018  
Cleared by: Executive Director Ext: 70522  
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Lead Directorate: Justice and Community Safety

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- The 2016 Prisoners in Australia publication by the ABS found that 74 per cent of ACT prisoners have previously been imprisoned under sentence, the largest proportion of any State or Territory.
- The ACT consistently has the lowest imprisonment rate in Australia per head of population. In 2016 the adult imprisonment rate was 144 prisoners per 100,000 adult population compared to the national imprisonment rate of 208 prisoners per 100,000 population.
- This suggests that offenders sentenced to periods in prison may have more endemic offending behaviour.

**Background Information**

- The Parliamentary Agreement for the Ninth Legislative Assembly commits to reducing recidivism by 25 per cent by 2025.
- Resourcing the approach to reducing recidivism is the subject of a 2018-19 budget business case.

Cleared as complete and accurate: 13/03/2018  
Cleared by: Executive Director Ext: 70522  
Contact Officer Name: Mimi Dyll Ext: 78611  
Lead Directorate: Justice and Community  
Safety

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HOT ISSUES	TALKING POINTS
<p>5. <a href="#">Freedom of Information Act 2016</a>  Cleared by Sean Costello  12 January 2018</p>	<ul style="list-style-type: none"> <li>• The new FOI Act strengthens the community's right to access government held information unless, on balance, releasing the information would be contrary to the public interest. It commenced on 1 January 2018.</li> <li>• The Act is a significant change from the current legislation as it requires a greater proactive and routine release of information via an Open Access Scheme. Those in charge of agencies must appoint Information Officers to make decisions under the legislation.</li> <li>• The Justice and Community Safety Directorate (JACS) is responsible for implementation broadly, while the Chief Minister, Treasury and Economic Development Directorate is progressing operational matters, like designing appropriate publishing mechanisms for open access material.</li> <li>• A new Open Access scheme is operational, with agencies proactively releasing information online.</li> <li>• The new Act introduces a substantial role for the ACT Ombudsman under a significantly different structure.</li> <li>• The 2017-18 Budget includes funding for the Ombudsman to perform its new functions under the new FOI Act. This funding provides approximately \$900,000 per year to the Ombudsman for two years, with future funding to be determined on the basis of a review of the volume of work undertaken.</li> <li>• Since its introduction, the ACT has been amended to clarify the scope of agencies that must comply with the Act, allow delegation of support functions to administrative staff and confirm the Act's interaction with other access regimes, like that in the Adoptions Act.</li> </ul>



6. [Marriage Equality](#)

Cleared by Sean Costello  
12 January 2018

- The ACT is carefully considering the effect on the *Civil Union Act 1994* following the legalisation of same-sex marriage at the Federal level.
- The Government is considering how best to ensure that existing civil unions are not affected.
- As the legislation is currently drafted, it is unlikely that same-sex couples living in the ACT will be able to enter a civil union in the future. However, this raises complex legal and constitutional issues that I am also seeking legal advice on.

7. [Review of Prostitution Act](#)  
Cleared by Julie Beddoe  
14 March 2018

- In 2017 I agreed to progress proposed amendments to the Prostitution Act including:
  - renaming the Act the ‘Sex Work Act’ to bring the title of the Act in line with appropriate terminology
  - repealing sections 24 and 25 to remove the offences regarding sexually transmissible infections (because such offences are covered in division 6.1 of the *Public Health Act 1997*, and to make clear that separate offences specifically for sex workers is discriminatory)
  - amending section 27 to require an operator to make available a range of prescribed safety equipment
  - amending the Act to remove any requirement for sole operators to register or provide annual notices to the Commissioner, or otherwise have obligations regarding registration under the Act, and
  - amending section 20(4) to prevent a person charged with causing a child to provide sexual services from using a defence of mistake of fact, and instead requiring them to establish that they took reasonable steps to ascertain the age of the child concerned.
- Feedback from all key stakeholders since July indicated broad agreement on these proposed amendments.
- As a result, the Chief Minister and I have agreed to JACS developing a bill for introduction to the Legislative Assembly in 2018.

8. [Drug and Alcohol Court](#)  
Cleared by Karen Greenland  
15 January 2018

- The Government has committed to establishing a Drug and Alcohol Court (DAC) and associated support programs for the ACT. This is part of a goal to reduce recidivism by 25 per cent by 2025 [Parliamentary Agreement for the 9th Assembly for the Australian Capital Territory].
- The effectiveness of DAC in achieving long-term behavioural change in offenders is supported by a substantial body of research.
- Results include reductions in re-offending (recidivism), reduced incarceration rates, and improved community safety outcomes.
- Drug courts operate in most other Australian jurisdictions with the exception of the Northern Territory and Queensland. Queensland's new Drug Court, based in Brisbane, was due to commence in November 2017 but is on hold pending the Queensland elections on 25 November 2017.
- The problem-solving approach taken by drug courts involves key principles to achieve the best outcomes including: an integrated approach by all parts of the justice system, prompt access to treatment and related services & a high level of judicial intervention.
- The Supreme Court is developing proposals for Government in relation to the model, assisted by a working group of key stakeholders including Director of Public Prosecution and Legal Aid ACT.

## 9. [Victims Charter of Rights](#)

Cleared by  
Tamsyn Harvey  
12 January 2018

- All other states and territories in Australia have introduced victims' rights as principles or guidelines. The Government is seeking to transform the ACT's guiding principles for the treatment of victims into obligatory rights through legislative reform. Other options will also be considered.
- The victims Charter can cover, among other things, the rights of victims of crime and the obligations that agencies and others have when dealing with victims of crime, and establish a complaints resolution process for when the charter is breached.
- The Government is currently working closely with stakeholders including the Victims Advisory Board, Victims of Crime Commissioner, individual victims of crime and justice system agencies to identify options and the best approach for implementing a Victims Charter of Rights for the ACT.
- Wider stakeholder and public consultation will occur in early 2018 with the release of an options for implementation paper.

10. [Vilification and Discrimination](#)

Cleared by Sean Costello  
12 January 2018

- In the ACT, the *Discrimination Act 1991* makes it unlawful for someone to discriminate against another person because of their sexual orientation or race in a range of areas of public life including education, employment and in receiving goods and services. Sexual orientation includes a person being gay, lesbian, bisexual, or heterosexual.
- It is also against the law to vilify a person or group of people on the grounds of sexuality or race. Vilification means to publicly incite hatred towards a person or group of people which is likely to offend, insult, humiliate or intimidate that person or group of people.
- If anyone is subject to this behaviour in the ACT, I encourage them to contact the ACT Human Rights Commission to talk through the complaints process.

**11. Justice  
Recidivism**

Cleared by Karen  
Greenland  
15 January 2018

- The Justice and Community Safety Directorate is preparing an approach for developing a long term recidivism plan, to set a pathway for achieving recidivism targets for the justice system.
- The recidivism plan requires an understanding of ‘what works’ backed up by planning, innovation, efficiency and community engagement.
- The plan will need to be carefully balanced to ensure that public safety is maintained and further improved.
- Reducing recidivism in the ACT requires shared responsibility across the justice system so that a change in one part of the justice system does not negatively impact another part of the justice system.
- By taking a balanced and shared approach to reducing recidivism the targets can not only be achieved but sustained. Reducing recidivism also requires the support of the human services system.

**12. [Restorative Justice](#)**

Cleared by Karen  
Greenland  
15 January 2018

- From July 2018 the RJ Scheme will include domestic and family violence and sexual offence matters.
- The Restorative Justice Unit has previously consulted and drafted guidelines for managing domestic and family violence.
- It is now consulting and constructing guidelines for the management of sexual offences. It is acknowledged that these highly sensitive matters will involve additional supports and expertise.
- If people would like to provide comments as part of phase three, they can contact the ACT Restorative Justice Unit on 6207 3992.

ONGOING ISSUES	TALKING POINTS
<p>14. <a href="#">Justice Reinvestment</a> Cleared by Karen Greenland 12 January 2018</p>	<ul style="list-style-type: none"> <li>• The Justice Reinvestment, or JR Strategy 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 justice system.</li> <li>• The ACT's approach to JR is multi-faceted. Rather than undertaking a single intervention to achieve cost savings, a cumulative approach is being developed.</li> <li>• The development of the JR Strategy currently involves six key projects: <ul style="list-style-type: none"> <li>○ justice reinvestment family trial – Yarrabi Bamirr</li> <li>○ justice reinvestment bail support program trial</li> <li>○ justice system costing model</li> <li>○ justice services and programs map</li> <li>○ justice and human services system data snapshots and</li> <li>○ an evaluation framework consisting of program evaluations containing justice reinvestment measures</li> </ul> </li> <li>• The development of the JR Strategy also 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 in the ACT.</li> </ul>



15. [Aboriginal and Justice Partnership](#)

Cleared by Karen Greenland  
12 January 2018

- The Partnership takes 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 are to:
  - reduce over-representation by reducing recidivism and increasing access to diversionary programs
  - improve access to justice services and
  - improve data collection and reporting.
- The Partnership consists of a total of 21 actions areas with 38 key measures that in some instances are jointly addressed by lead agencies bringing the total number of reportable action items to 79.
- As at 28 September 2017:
  - 13 action items have been completed and
  - 49 are on track.

16. [Retirement Villages](#)

Cleared by Julie Beddoe  
26 February 2018

- The 2016 review of the Retirement Villages Act included first and second stage recommendations.
- The first stage reforms commenced on 16 December 2016.
- The second stage of the review included recommendations for the following:
  - removing administrative duplication under the Retirement Villages Act and Unit Titles (Management) Act 2011 for unit titled retirement villages
  - giving consideration to voting rights
  - and
  - developing standard documents including the general inquiry document, village contract, village budget, condition report and safety and security report.
- Any additional issues raised by stakeholders can also be considered in the second stage of the reforms.
- During 2017 the Review Advisory Group reconvened to consider the second stage of recommendations.
- A sub-group of the Review Advisory Group was also convened to consider issues relating to unit titled retirement villages.
- The Justice and Community Safety Directorate (JACS) is continuing to engage with stakeholders representing residents and operators of unit titled retirement villages.
- I intend to consult further with key stakeholders on proposed second tranche amendments this year.

17. [Public Advocate Annual Report/Funding](#)  
Cleared by Sean Costello  
12 January 2018

- I am aware of calls for additional funding to support the Public Advocate’s oversight role.
- The 2017-18 Budget provides \$631,000 over 4 years in additional funding for the Public Advocate.
- This initiative will provide funding for an additional Senior Advocate to respond to recent and anticipated changes to legislative and service systems within the ACT.
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- The Government has engaged an independent reviewer, Spring Green Consulting, to undertake this review of resources.
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- The statutory review will assess if the new structure is effective in delivering the objects of the Act. Following the restructure of the HRC, which took effect on 1 April 2016, the President has responsibility for managing the budget for all work areas of the HRC (s 18(1)(a)&(b) HRC Act).

<p>18. <a href="#">Official Visitor Review</a> Cleared by Sean Costello 12 January 2018</p>	<ul style="list-style-type: none"><li>• The Official Visitor scheme has been in place for three years.</li><li>• A number of reforms are changing the way official visitors do their work, including:<ul style="list-style-type: none"><li>○ the rollout of the National Disability Insurance Scheme</li><li>○ increased procedural safeguards in the <i>Mental Health Act 2015</i></li><li>○ the development of an ACT Inspectorate for Custodial Services and</li><li>○ the expected ratification of the Optional Protocol for the Convention Against Torture by the Australian Government</li></ul></li><li>• It is therefore timely to consider a formal review of the scheme. The review is being undertaken by a project officer located in JACS.</li><li>• The Review is completed and the Government is considering the recommendations.</li></ul>
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