ACT Government
Justice and Community Safety

Open Access release outcome decision – Partial access granted

Document Category: Ministerial Briefs

Title of document: Attorney General – Quarter 3 2021 briefs

Description of the information: Question Time Briefs provided to the Attorney General between 1 July and 30 September 2021.

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 its release 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;

(iv) ensure effective oversight of expenditure of public funds;

(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 additionally helps in promoting 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.

On balance, I consider the ministerial briefs to be in the public interest to release, with minor redactions. This includes redactions to the personal information of ACT Policing staff where disclosure could reasonably be expected to prejudice their right to privacy.

Review rights

My decision to release or 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:

ACT Ombudsman
Attention: ACT Strategy and FOI Section
GPO Box 442
CANBERRA ACT 2601
Via email: actfoi@ombudsman.gov.au

Further assistance

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

Authorised by

L. Callow

Lauren Callow
Information Officer
02/10/2026

ACT Government
Justice and Community Safety

OPEN ACCESS Q3 2021 SCHEDULE
PORTFOLIO: ATTORNEY-GENERAL

No.	Folio	Description	Date	Status	Reason for non-release or deferral
Question Time Briefs - Sitting Days 3-5 August 2021					
1	1-2	Question Time Briefs Index - 3-5 August 2021	August		
2	3-6	Family Violence Act Review	August		
3	7-11	Review into Whole of Justice System Interactions with Aboriginal and Torres Strait Islander People	August		
4	12-14	Positive Definition of Consent	August		
5	15-16	Recent Sentencing Decision in R v Newby	August		
6	17-21	Covid-19 Impacts - Relief to clubs and licensed premises	August		
7	22-27	Access to Legal Assistance Services During Covid-19	August		
8	28-34	Support for Community Service Providers During Covid-19 Pandemic	August		
9	35-36	People Spitting or Coughing on Frontline Workers (Covid-19) - ACT Criminal Law Response	August		
10	37-44	Gaming Machine Harm Reduction Measures	August		
11	45-48	Diversification and Sustainability Support Fund - 20/21 Funding Round	August		
12	49-53	Updates on Incentive Applications Under Voluntary Surrender Agreements	August		
13	54-56	Community Contributions	August		
14	57-60	Community Clubs Ministerial Advisory Council	August		
15	61-62	Gaming Machine Technical Advice	August		
16	63-65	Resourcing of Magistrates and Coroner's Courts	August		
17	66-69	Coronial Reform	August		
18	70-73	Drug and Alcohol Court/Drug and Alcohol Sentencing List	August		
19	74-75	Judge Alone Trials	August		
20	76-80	National Security and Public Safety	August		
21	81-83	Criminal Outlaw Motorcycle Gang	August	Partial	Sch 2, s2.2(a)(ii)
22	84-87	Serious and Organised Crime Response	August		
23	88-89	Coward Punch Laws	August		
24	90-92	Assaults on Police and Frontline Community Services Providers	August		
25	93-95	Assaults on Police and Frontline Community Services Providers (Duplication)	August		
26	96-98	Strong Connected Neighbourhoods	August		
27	99-102	2019-2028 ACT Aboriginal and Torres Strait Islander Agreement/Justice Action Plan	August		
28	103-109	Restorative Justice	August		
29	110-115	Reducing Recidivism Through Building Communities Not Prisons	August		
30	116-118	Crimes (Offences Against Vulnerable People) Legislation Amendment Act 2020	August		
31	119-124	How to ACT Liquor Act Compares to NSW Changes	August		
32	125-129	Residential Tenancies	August		
33	130-133	Review of Child Protection Decisions in the ACT	August		
34	134-136	Tenants Advice Service	August		
35	137-139	Age of Criminal Responsibility	August		
Question Time Briefs - Sitting Day 16 September 2021					

No.	Folio	Description	Date	Status	Reason for non-release or deferral
36	140-141	Question Time Briefs Index - 16 September 2021	September		
37	142-145	Family Violence Act Review	September		
38	146-151	Review into Whole of Justice System Interactions with Aboriginal and Torres Strait Islander People	September		
39	152-154	Positive Definition of Consent	September		
40	155-165	Residential Tenancies	September		
41	166-171	Covid-19 Impacts - Relief to clubs and licensed premises	September		
42	172-177	Access to Legal Assistance Services During Covid-19	September		
43	178-184	Support for Community Service Providers During Covid-19 Pandemic	September		
44	185-187	People Spitting or Coughing on Frontline Workers (Covid-19) - ACT Criminal Law Response	September		
45	188-195	Gaming Machine Harm Reduction Measures	September		
46	196-199	Diversification and Sustainability Support Fund - 20/21 Funding Round	September		
47	200-205	Updates on Incentive Applications Under Voluntary Surrender Agreements	September		
48	206-208	Community Contributions	September		
49	209-212	Community Clubs Ministerial Advisory Council	September		
50	213-214	Gaming Machine Technical Advice	September		
51	215-216	Resourcing of Magistrates and Coroner's Courts	September		
52	217-220	Coronial Reform	September		
53	221-224	Drug and Alcohol Court/Drug and Alcohol Sentencing List	September		
54	225-226	Judge Alone Trials	September		
55	227-231	National Security and Public Safety	September		
56	232-234	Criminal Outlaw Motorcycle Gang	September	Partial	Sch 2, s2.2(a)(ii)
57	235-236	Coward Punch Laws	September		
58	237-239	Assaults on Police and Frontline Community Services Providers	September		
59	240-245	Property Crime (Strategy, Outsmart the Offender Campaign and Rates)	September	Partial	Sch 2, s2.2(a)(ii)
60	246-248	Strong Connected Neighbourhoods	September		
61	249-251	2019-2028 ACT Aboriginal and Torres Strait Islander Agreement/Justice Action Plan	September		
62	252-258	Restorative Justice	September		
63	259-263	Reducing Recidivism Through Building Communities Not Prisons	September		
64	264-265	Recision of Contracts in the Vivace Development in Throsby	September		
65	266-268	Crimes (Offences Against Vulnerable People) Legislation Amendment Act 2020	September		
66	269-275	How to ACT Liquor Act Compares to NSW Changes	September		
67	276-279	Review of Child Protection Decisions in the ACT	September		
68	280-282	Tenants Advice Service	September		
69	283-285	Age of Criminal Responsibility	September		

ACT Government
Justice and Community Safety

SHANE RATTENBURY MLA
ATTORNEY-GENERAL/MINISTER FOR GAMING/MINISTER FOR CONSUMER AFFAIRS
QUESTION TIME BRIEFS PACK
3-5 AUGUST 2021

Hot topics	
1.	Family Violence Act Review
2.	Review into Whole of Justice System Interactions with Aboriginal and Torres Strait Islander People
3.	Justice system response to sexual assault (including positive definition of consent)
4.	Recent sentencing decision in *R v Newby* (NEW)
COVID-19 Related	
5.	COVID-19 Impacts-Relief to clubs and licensed premises
6.	Awareness of legal assistance services during COVID-19
7.	Support for community service providers during the COVID-19 pandemic
8.	Spitting or coughing at frontline workers (COVID-19) - ACT criminal law response
Gaming	
9.	Gaming Harm Reduction Measures
10.	Diversification and Sustainability Fund
11.	Updates on incentive applications under Voluntary Surrender Agreements
12.	Community Contributions
13.	Club Engagement
14.	Gaming Machine technical advice
Judicial/Courts	
15.	Resourcing of Magistrates and Coroners Court
16.	Coronial Reform

ACT Government
Justice and Community Safety

17.	Drug and Alcohol Court
18.	Judge Alone Trials
Security and Crime	
19.	National Security Issues
20.	OMCG Incidents – Taskforce Nemesis (Copy of ACT P Brief only)
21.	Serious and Organised Crime Response (Policy)
22.	Coward punch laws
23.	Assaults on Police and Emergency Services Personnel
24.	Property Crime (Rates, Strategy and OTO Campaign)
25.	Strong Connected Neighbourhoods (incl. Jerilderie Court)
Justice	
26.	2019 – 2028 Aboriginal and Torres Strait Islander Agreement/Justice Action Plan
27.	Restorative Justice
28.	Reducing Recidivism
General	
29.	Crimes (Offences Against Vulnerable People) Amendment Bill 2020
30.	How the ACT Liquor Act compares to NSW changes
31.	Residential Tenancies
32.	Review of child protection decisions in the ACT
33.	Tenant's Advisory Service
34.	Age of Criminal Responsibility

QUESTION TIME BRIEF

JACS2021/46-001-032

Portfolio/s: Attorney-General

Family Violence Act Review

Talking points:

- Family violence is a complex and challenging area of law, policy and service delivery.
- The ACT Government welcomes the publication of the *Review of the Family Violence Act 2016.*
- The ACT Government is committed to strengthening the protections for victims of family violence in the ACT and to using the consistent themes in the feedback detailed in the review to help shape family violence law and policy going forward.
- We are working to ensure our services and laws are as effective as they can be to prevent family violence, to protect and support victims of family violence, and to hold perpetrators to account.
- The Review provides useful insights, including from those who work in the family violence sector and those with lived experience of family violence. Such insights are vital to help shape the ACT's response to family violence now and into the future.
- Many of the review's recommendations complement or reflect current and on-going work by the ACT Government in response to family violence.
- On 30 March 2021, in response to keen interest in the review, the ACT Government agreed to table a response to it in the September sitting of the Legislative Assembly.
- The ACT Government thanks Professor Lorana Bartels and Professor Easteal for their work in conducting the review as well as the professional stakeholders and people with lived experience who participated in the review.

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Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-032	

If asked: Why was a review undertaken?

- The review was commissioned once the *Family Violence Act* had been operating for two years.
- The review was commissioned by Justice and Community Safety Directorate in collaboration with the Office of the Coordinator General for Family Safety.
- The purpose of the review was to gauge the extent to which the Act had improved the protections and experience of victims of family violence and to inform the government family violence work going forward.
- The review was not required by statute and no formal government response was required. However, on 30 March 2021 the Attorney-General informed the Legislative Assembly that, due to strong community and Parliamentary interest, the ACT Government would provide a formal response.
- A formal response will be tabled by the Government in the September sitting period.

If asked: When was the report delivered?

- The final report was delivered on 14 December 2020.

If asked: Why was publication of the report delayed?

- An earlier version was delivered in March 2020 on which feedback was given.
- That feedback process, related consultation with stakeholders, and delays due to COVID-19 and Caretaker, mean that the final report was not provided to Government until 14 December 2020.
- Although some text of the report changed after this feedback and consultation process, none of the recommendations changed.
- In the intervening months work continued in the Government to make progress on issues identified in the review report.

QUESTION TIME BRIEF

Key Information

- Family violence is a complex and challenging area of law, policy and service delivery.
- The *Review of the Family Violence Act 2016* offers useful insights into the experiences and concerns of those who work in the family violence sector and those with lived experience of family violence.
- The ACT Government is committed to strengthening the protections for victims of family violence in the ACT and acting on the themes in the feedback in the review to help shape family violence law and policy.
- A number of the report's recommendations are for:
    - further work and / or research to be done;
    - actions which are now complete (for example, the recommendation to publish information about Victim Support ACT on the ACT Courts website); and
    - actions which are already under active consideration (for example, recommendations to improve information-sharing are being addressed through a pilot program run by the Office of the Coordinator-General for Family Safety and the Victims of Crime Commissioner).
- On 30 March 2021 Ms Elizabeth Lee MP tabled a motion in the Legislative Assembly noting some of the findings of the review and condemning the Government for delaying the release of the review and calling for a formal response to the review.
- The Attorney General spoke to the motion and agreed that the ACT Government would provide a response to the review to be tabled in the August-September sittings.

Background Information

Media Coverage

- On 23 February 2021, Justice and Community Safety Directorate published the final report of the *Review of the Family Violence Act 2016:* https://www.justice.act.gov.au/final-report-review-family-violence-act-2016
- The report has been the subject of media comment and queries following an ABC News article published online on Sunday 21 March 2021. In particular, certain recommendations have been subject to media comment, including:
    - recommendation 1 - amend the Act to expand the definition of 'family violence' by referring to specific types of abuse;
    - recommendation 2 – identify and address issues with after-hours orders;
    - recommendation 5 – children being included on family violence orders; and

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TRIM Ref:	JACS2021/46-001-032	

- recommendation 10 (and related recommendations of 8 and 13) – better information for victims.

Notice of Motion

- On 30 March 2021 Ms Elizabeth Lee MP tabled the following motion in the Legislative Assembly:
  - *That this Assembly:*
    1. *acknowledges there is no place for family or domestic violence in our community;*
    2. *notes the Family Violence Act 2016 (the Act) was implemented to address the scourge of family and domestic violence;*
    3. *further notes the Review of the Implementation of the Family Violence Act 2016 (the Review) and its findings that the Act is "not operating as intended" and requires reform;*
    4. *condemns the ACT government for delaying the release of the review; and*
    5. *calls on the ACT government to table a formal response to the Review, including what legislative reforms will be undertaken, by the last sitting in June 2021.*
- The Government amended the motion to omit paragraph 4, and change the date for a formal response to be provided by the Government to the August-September sittings 2021. The amended motion was passed.

Background on the Review

- The review proceeded largely by way of interviews undertaken with two cohorts of participants: 33 interviews with professional stakeholders and eight with people who had lived experience of family violence.
- The review made 18 recommendations, half of which are for further consultation, consideration of, or work on particular issues.
- JACS is working with the Office of the Coordinator-General for Family Safety to develop a forward work program for family violence legislation and policy reform, which will have regard to the recommendations of the review.

QUESTION TIME BRIEF

JACS2021/46-001-017

Portfolio/s: Attorney-General

ISSUE: REVIEW INTO WHOLE OF JUSTICE SYSTEM INTERACTIONS WITH ABORIGINAL AND TORRES STRAIT ISLANDER PEOPLE

Talking points:

- Like all Australian states and territories, Aboriginal and Torres Strait Islander people are overrepresented in incarceration.
- In June 2020 in the ACT, approximately 1.9 per cent of the population were Aboriginal and Torres Strait Islander peoples, but Aboriginal and Torres Strait Islander people make up approximately 22 per cent of the prison population.
- Almost a quarter (23 per cent) of all children and young people under justice supervision in the ACT, were Aboriginal or Torres Strait Islander people.
- We must turn this around. We must take real action to reduce the rate at which we incarcerate Aboriginal and Torres Strait Islander people in the ACT so that it matches that of non-indigenous people.
- The Legislative Assembly motion on 9 February 2021 endorsed this approach by calling for the Government to proceed with a review into the overrepresentation of Aboriginal or Torres Strait Islander people in the ACT justice system.
- Reducing the overrepresentation of Aboriginal and Torres Strait Islander people in custody is already a key pillar of the ACT's Building Communities Not Prisons Initiative (BCNP) and its 2020 Reducing Recidivism Plan.
- However, to make a difference, we require a shared plan across the justice and human service systems, and for that work to be led by local Aboriginal and Torres Strait Islander women and men.
- In order to understand how a review or other action would be best led by Aboriginal and Torres Strait Islander people, the Minister for Aboriginal and Torres Strait Islander Affairs and I, with my fellow Ministers for Police and Emergency Services and Justice Health, hosted a Roundtable on 25 March 2021 to listen to representatives of the local Aboriginal and Torres Strait Islander community.

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TRIM Ref:	JACS2021/46-001-017	

- Following that Roundtable, on 15 April 2021, Ms Julie Tongs, CEO of Winnunga Nimmityjah convened a meeting of local Aboriginal and Torres Strait Islander leaders.
- Ms Tongs subsequently wrote to my colleagues and me advising that the meeting attendees had agreed that the most effective and best prospect for identifying and responding to overrepresentation of Aboriginal and Torres Strait Islander people incarcerated or in touch with the ACT justice system, is by means of a formal Commission of Inquiry under the *Royal Commissions Act 1991* (ACT) (RCA).
- Most recently, Ms Tongs has provided draft Terms of Reference developed by Aboriginal and Torres Strait Islander community leaders setting out the proposed scope of a Commission of Inquiry.
- The ACT Government is considering this request.
- We remain engaged with the Aboriginal and Torres Strait Island community about the need for a review that leads to reforms and programs that would have real impacts on the systemic problems that have led to the overrepresentation of Aboriginal and Torres Strait Islander people in the ACT criminal justice system.

Background Information

Overrepresentation of Aboriginal and Torres Strait Islander peoples in incarceration

- Overrepresentation of Aboriginal and Torres Strait Islander peoples in custody is a persistent and growing problem across Australia with incarceration rates increasing by 51% between 2012 and 2018. However, the degree of urgency in the ACT is acute with a 119% increase over the 2012-2019 period.
- The latest Prisoners in Australia report shows that the ACT has the nation's highest ratio of Aboriginal and Torres Strait Islander to non-Indigenous people in incarceration for 2020 (a ratio of 21.3 compared to the Australian average of 15.6).
- One of the more recent and relevant reviews on incarceration of Aboriginal and Torres Strait Islander peoples is from the Australian Law Reform Commission in the *Pathways to Justice – An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples* report, tabled in Parliament by the Commonwealth Attorney-General in March 2018. That report gives an overview of the issues to be addressed nationally, many of which have already informed work in the ACT, including through Justice Reinvestment to reform:

- Bail
- Sentencing (including Community-based sentences and mandatory sentencing)
- Prison Programs
- Parole
- Fines and infringements (including driving when unlicensed)
- Policing
- Out of home care
- Access to Justice (for example through interpreters)
- Alcohol related offending.

- Reducing incarceration of First Nations women and men to match non-indigenous incarceration rates by 2030 is listed as a priority in the Parliamentary & Government Agreement of the 10th Legislative Assembly.
- To progress work into the overrepresentation of Aboriginal and Torres Strait Islander people in incarceration in the ACT, a Roundtable discussion with key community members, experts, and Government staff was held on Thursday, March 25, 2021 (3pm - 5pm) at Yarramundi Cultural Centre. The community Roundtable on Overrepresentation of Aboriginal and Torres Strait Islander people in the ACT Justice System was attended by Shane Rattenbury, Attorney-General; Rachel Stephen-Smith, Minister for Aboriginal and Torres Strait Islander Affairs; Mick Gentleman, Minister for Police and Emergency Services and Minister for Corrections; and Emma Davidson, Minister for Justice Health.
- The purpose of the Roundtable was to hear from the community on:
    - whether a review is required and if so, clearly communicating that this will be an Aboriginal and Torres Strait Islander led response
    - whether any further consultation is required on the scope and proposed processes for a review (and/or any other actions), and
    - initial indications (if any) of what is needed to redress overrepresentation of Aboriginal and Torres Strait Islanders in the ACT justice system.
- One of the potential review models discussed was the Our Booris, Our Way review process. At the Roundtable, Ms Barbara Causon who was the former Chair of the Our Booris, Our Way Review Committee, presented and provided an overview of the process and timeline which was delivered over a 3 year period. Ms Causon also discussed how the Our Booris, Our Way process could potentially be applied to a justice review.
- Victims of Crime Commissioner, Ms Heidi Yates, also presented and shared her insights about using a review process similar to that used to develop the Disability Justice Strategy.

QUESTION TIME BRIEF

- In response, Ms Tongs emphasised the lack of trust by the Aboriginal and Torres Strait Islander community in government. Ms Tongs suggested a Royal Commission may be required because Aboriginal and Torres Strait Islander people need an independent commission with powers to recommend broad ranging actions. Ms Tong offered to host a further meeting of key community members to discuss how they see the scope and governance arrangements for further action and a possible Royal Commission.
- Ms Julie Tongs hosted a meeting on 15 April to consider a recommendation to the ACT Government on a mechanism to take action on overrepresentation of Aboriginal and Torres Strait Islander peoples in the ACT justice system.
- In a letter of 22 April 2021, Ms Tongs advised that a meeting of 16 Aboriginal and Torres Strait Islander leaders had been addressed by Senator Pat Dodson and Professor Larissa Behrendt. The letter advised that it was unanimously agreed to advise the ACT Government that the most effective and best prospect for identifying and responding to overrepresentation of Aboriginal and Torres Strait Islander people incarcerated or in touch with the ACT justice system, is by means of a formal Commission of Inquiry under the *Royal Commissions Act 1991* (ACT) (RCA). The letter proposed direct involvement by the Aboriginal community in all aspects to establish a Commission of Inquiry.
- The Government has since been provided with proposed Terms of Reference developed by Aboriginal and Torres Strait Islander community leaders setting out the proposed scope of a Commission of Inquiry. The Terms of Reference are broad and include an inquiry into:
    - laws and legal frameworks including legal institutions and law enforcement (for example, arrest, remand, bail and sentencing);
    - treatment in detention (for example compliance with duty of care and human right laws);
    - actions that should have been taken under past reports and reviews;
    - access to medical care in detention and housing prior to release from detention;
    - systemic changes needed to reduce recidivism;
    - institutional and practice changes to protect from, and report and respond to allegations of racism; and
    - measures to adopt to prevent inappropriate treatment in detention.
- Further work is underway to support consideration of how best to respond to the call for a Royal Commission, that respects the self-determination of the local Aboriginal and Torres Strait Island community.
- The next Roundtable for Overrepresentation for Aboriginal and Torres Strait Islander people in the ACT criminal justice system is tentatively scheduled for Monday 16 August 2021 (11:30am-1.30pm). It is likely to discuss outstanding recommendations from the review and short term legislation and program issues, but the agenda is not confirmed.

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QUESTION TIME BRIEF

Truth Telling

- The *Uluru Statement from the Heart* in 2017 called for Voice, Treaty and Truth. In particular the statement sought a Makarrata Commission to supervise a process of agreement-making between governments and First Nations and truth-telling about Aboriginal and Torres Strait Islander history.
- In order to address that statement, Victoria is establishing the Yoo-rrook Justice Commission from July 2021-2024. The Victorian Commission will be able to make broad recommendations about practical actions and reforms, including to effectively redress and address systemic injustices, essentially as a pre-condition to Treaty.
- It is understood that the Commission is likely to canvass overrepresentation of Aboriginal and Torres Strait Islander people in incarceration.
- In a letter dated 14 March 2021, the ACT Bar Association has called on the Attorney-General and ACT Government to publicly investigate the history of injustice to Aboriginal and Torres Strait Islanders. This appeared to be a more theoretical discussion of what was appropriate, and there was no reference to whether this was supported by Aboriginal and Torres Strait Islander people in the ACT.

Building Communities Not Prisons (BCNP)

- The overall aim of BCNP is to deliver a number of initiatives that are designed to reduce reoffending, reduce the prison population, improve the lives of those individuals and their families, and improve community safety.
- 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 peoples.
- BCNP aims to:
    - 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, particularly prison
    - 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 homes and community supports, making the ACT a safer and more inclusive city.

QUESTION TIME BRIEF

JACS2021/46-001-011

Portfolio/s: Attorney-General

POSITIVE DEFINITION OF CONSENT

- The ACT Government is committed to protecting people from sexual abuse and ensuring that those who commit sexual offences are appropriately held to account.
- A strong criminal justice response to sexual offending is important, not only for victims and survivors but the entire community.
- The Parliamentary and Governing Agreement of the 10th Legislative Assembly includes agreement to legislative reforms to sexual offence laws, including consideration of a positive definition of consent.
- The ACT Government welcomes the opportunity to consider potential improvements to our criminal laws as outlined in the Government Response to the Justice and Community Safety Standing Committee's Report on the inquiry into the Crimes (Consent) Amendment Bill 2018.
- The ACT Government will also examine the findings of the NSW Law Reform Commission final report "Consent in relation to sexual offences", published on 18 November 2020.
- On 30 March 2021, the ACT Government announced a new Sexual Sssault Prevention and Response Working Group to coordinate the contribution of community, service sector, policymakers, and other relevant stakeholders to sexual assault responses. This group will review and evaluate gaps in the system and make recommendations to strengthen responses to sexual assault in the ACT.

If Asked – Crimes (Stealthing) Amendment Bill 2021

- On 22 April 2021 Ms Elizabeth Lee MLA introduced a private members bill, the Crimes (Stealthing) Amendment Bill.
- The Government is currently considering its position on the Bill.
- Removing a condom without consent during sex, or 'stealthing', is likely already a crime under ACT law - but there may well be value in putting the matter beyond doubt or highlighting this deplorable practice.
- The ACT Government is taking a holisitic response to tackling sexual violence in our community. Laws are only one a part of that response

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TRIM Ref:	JACS2021/46-001-011	

and reforms relating to 'stealthing' are only one potential aspect of that part.

- The Sexual Assault Prevention and Response Working Group is currently considering the Bill and may make recommendations to the ACT Government on the Bill.

If asked – Crimes (Consent) Amendment Bill 2021

- The Crimes (Consent) Amendment Bill 2021 is a private member's bill proposed to be introduced in the Legislative Assembly by Marisa Paterson MLA. The Bill was recently open for public consultation.
- The Bill seeks to amend the Crimes Act to introduce a communicative model of consent.
- The Bill is broadly consistent with the recommendations made by the NSW Law Reform Commission in its recent report on consent.
- Law reform, such as what is proposed in the Bill, will need to be coupled with public education campaigns to achieve normative change to community standards.
- The Sexual Assault Prevention and Response Working Group is currently considering the Bill and may make recommendations to the ACT Government on the Bill.

Key Information

- ACT sexual offences and 'intimate image abuse' offences are contained in the *Crimes Act 1900* (Crimes Act). The ACT is the only Australian jurisdiction with no statutory definition of consent. Rather, s 67 of the Crimes Act includes a list of circumstances which 'negate' consent.
- All States and the Northern Territory have statutory definitions of consent that are variations on the concept of 'free and voluntary agreement'.

<u>Law reform commission recommendations</u>

- The 2010 Australian Law Reform Commission's *Final Report Family Violence – A National Legal Response* recommended that ACT sexual offence provisions should 'include a statutory definition of consent based on the concept of free and voluntary agreement' (recommendation 25-4).
- The NSW Law Reform Commission recently published their final report "Consent in relation to sexual offences" (NSWLRC Consent Report). A review of this report is currently being undertaken.

QUESTION TIME BRIEF

Background Information

- On 11 April 2018 a draft Private Members Bill titled *Crimes (Consent) Amendment Bill 2018* (Bill) was presented in the Legislative Assembly. The Bill sought to amend the *Crimes Act 1900* to introduce a new statutory definition of consent for certain sexual offences and the distribution of intimate images, and to exclude the application of specified child sex offences to some young people.
- On 8 May 2018 the Legislative Assembly referred the Bill to the Standing Committee on Justice and Community Safety (the Standing Committee) for inquiry and report. The Standing Committee Report recommended that the Bill should not proceed in its current form and that any enactments or legislative changes to the definition of consent should wait until consideration of the NSW Law Reform Commission final report "Consent in relation to sexual offences" (NSWLRC Consent Report). The Government Response[1] agreed to all but one aspect of the Committee Report that related to consideration of affirmative vs communicative models of consent. The NSWLRC Consent Report was published on 18 November 2020.[2]
- Many of the recommendations from the NSWLRC Consent Report link to other work done in this area, including the Royal Commission into Institutional Responses to Child Sexual Abuse, Criminal Justice Report (CARC CJ Report) as well as the joint 2010 ALRC/NSWLRC Report 'Family Violence: A National Legal Response' [Report 114] (ALRC Report).
- On 22 April 2021 Leader of the Opposition and Shadow Attorney-General Ms Elizabeth Lee MLA, introduced the Crimes (Stealthing) Amendment Bill 2021 ('the PMB'). The PMB proposes to amend the *Crimes Act 1900* to include a new factor which negates consent if that consent is caused "by an intentional misrepresentation by the other person about the use of a condom" ('stealthing').
- On 21 June 2021, Dr Marisa Paterson MLA released the exposure draft of the Crimes (Consent) Amendment Bill 2021. The Bill was open for public consultation from 21 June – 16 July 2021. It is anticipated that the Bill will be amended in response to feedback received during consultation and introduced in the Legislative Assembly later this year.

[1] https://www.parliament.act.gov.au/__data/assets/pdf_file/0004/1322509/9th-JAC-03-Report-On-Inquiry-into-The-Crimes-Consent-Amendment-Bill-2018.pdf

[2] https://www.lawreform.justice.nsw.gov.au/Pages/lrc/lrc_current_projects/Consent/Consent.aspx

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TRIM Ref:	JACS2021/46-001-011	

QUESTION TIME BRIEF

JACS2021/46-001-033

Portfolio/s: Attorney-General

Recent sentencing decision in *R v Newby*

Talking points:

- Murder is the most serious crime our community recognises. It deprives the victim of their life, it devastates the victim's loved ones, and it deprives the community of that unique person.
- The person who murdered Mr Frankie Prineas, Mr Jayscen Newby, has been sentenced to a term of 20 years' imprisonment, with a minimum nonparole period of 10 years.
- I understand the Director of Public Prosecutions has decided to appeal against this sentence.
- It would not be appropriate for me to comment on either the sentencing decision or the Director of Public Prosecutions' decision to appeal.

Key Information

- Mr Jayscen Anthony Newby pled guilty to, on 11 January 2020, murdering Mr Frankie Victor Prineas.
- On 2 June 2021 Chief Justice Murrell sentenced Mr Newby to 20 years' imprisonment, with a nonparole period of 10 years commencing on the date Mr Newby entered custody (11 January 2020), and expiring on 10 January 2030.
- Mr Newby and Mr Prineas did not know each other personally. At the time of the murder, Mr Prineas was dating a woman with whom Mr Newby had previously had a relationship.
- Mr Prineas' family has publically expressed shock at Mr Newby's sentence, particularly the nonparole period, and the decision has received media coverage.[1]
- The Attorney-General's Office received correspondence from two community members, including a member of Mr Prineas' family, expressing disappointment with the sentence and seeking that the sentence be appealed by the Director of Public Prosecution.

[1] ABC News, Family in 'complete shock' at Jayscen Anthony Newby's 20 year sentence for murder of Frankie Prineas 2 June 2021 - https://www.abc.net.au/news/2021-06-02/jayscen-newby-murder-sentence-canberra/100183762).

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TRIM Ref:	JACS2021/46-001-033	

QUESTION TIME BRIEF

Background Information

The decision

- The reasons for the decision were handed down on 4 June 2021. In summary:
    - The offence was objectively very serious.
    - Mr Newby has a complex personal background including exposure to family violence from a very early age. Mr Newby was 27 years old at the time of sentencing. Mr Newby showed no remorse for murdering Mr Prineas.
    - The starting point for the sentence was 25 years' imprisonment. A discount of 20% was applied because Mr Newby pled guilty and, to some extent, he cooperated with law enforcement authorities.
    - The Court cited Mr Newby's personal history, relative youth, and the objective of rehabilitation in setting the nonparole period. Chief Justice Murrell noted '[i]t will be up to the parole authority when it is appropriate for the offender to be released into the community'.
- The Director of Public Prosecutions has lodged an appeal against Mr Newby's sentence.

Parole

- Section 120 of the *Crimes (Sentence Administration) Act 2005* provides that the Sentence Administration Board (the Board) may only grant parole 'if it considers that parole is appropriate for the offender, having regard to the principle that the public interest is of primary importance'.
- The Board must consider a range of factors including the likely effect of parole on the victim's family.

Family violence

- The offence occurred in the context of family violence against Mr Newby's former partner. The Crimes Legislation Amendment Bill 2021, introduced on 24 June 2021, includes amendments to the *Crimes (Sentencing) Act 2005*. These amendments require a sentencing court to consider family violence circumstances, where the offence constitutes a family violence offence.
- Legally, this offence did not constitute a family violence offence because Mr Newby and Mr Prineas were not current or former partners or relatives. In considering the objective seriousness of the offence however, Chief Justice Murrell found:

> *The motive for the offence was to dominate the offender's former partner… by terrifying her. The offence was the final and most extreme display of jealous and controlling behaviour by the offender towards [his former partner].*

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QUESTION TIME BRIEF

JACS2021/46-001-005

Portfolio: Minister for Gaming

ISSUE: COVID-19 Impacts - Relief to clubs and licensed premises

Talking points:

- The Government has provided financial support to clubs and licensed premises affected by emergency closure directions and ongoing restrictions necessary in response to the COVID-19 public health emergency.

<u>Legislative change</u>

- Amendments passed in the Assembly on 2 April 2020 gave effect to the following Economic Survival Package initiatives:
    - suspending the obligation of clubs to make payments to the Diversification and Sustainability Support Fund (DSSF) for a 12-month period;
    - allowing the Attorney-General to declare certain payments to be emergency community purpose contributions for a certain period during and after the emergency closure directions; and
    - providing that clubs can claim $2 (as a community purpose contribution) for every $1 the club contributes to charitable support by preparing or providing food for emergency-affected people, to assist clubs in meeting their obligations under the *Gaming Machine Act 2004*.

<u>Emergency relief funding</u>

- The Government delivered emergency relief funding of approximately $3.3 million to clubs from the DSSF to help clubs to keep their workers employed or provide other income support, and continued Government contributions to the DSSF despite the suspension of clubs' payments to the fund.

<u>Cash payments for surrendering gaming machine authorisations</u>

- On 2 April 2020, the Government announced that it would offer a cash payment of $15,000 to gaming machine licensees (clubs and hotels) in exchange for each surrendered gaming machine authorisation, with the payments being used towards:

  - staff employment;
  - diversification activities and initiatives; and
  - energy and water efficiency measures.
- The measure was available until 30 June 2021.
- A total of 133 authorisations were surrendered by clubs under this incentive, for cash payments totalling $1.995m.

Emergency Community Purpose Contributions

- Two ministerial declarations were made to allow clubs to meet their community contribution requirements under the *Gaming Machine Act 2004* more flexibly.
- Under the *Gaming Machine (Emergency Community Purpose Contribution—Club Employees) Declaration 2020*, clubs could claim staff wages as community purpose contributions, provided the amount meets or exceeds the relevant minimum wage under the *Registered and Licensed Clubs Award 2010*. This measure was extended until 23 March 2021 to provide support to clubs and club workers during the emergency period and into the recovery phase. While the declaration has now expired, clubs can still claim payments made during that 12-month period as part of their community purpose contributions for the relevant reporting year.
- I have committed to extending the *Gaming Machine (Emergency Community Purpose Contribution—Local Live Performance Industry) Declaration 2020* by three months so that clubs can claim, as community purpose contributions, the contributions made to or for the local live performance industry for music or other live entertainment (other than sport) from 28 August 2020 until 30 November 2021. This measure will provide support to the local live performance industry, which continues to be affected by COVID-19.

Fee waivers

- The Government waived fees for most liquor licences and permits for 12 months at the start of the pandemic to put approximately $5.8 million dollars back into the pockets of licensed businesses at a time when they needed it most.

- In particular, annual liquor licence fees were waived between 31 March 2020 and 31 March 2021 for all on licensees, and for off licensees with a gross liquor purchase value of $3 million or less in the last reporting period. As a tapering measure and to support Canberra's economic recovery, a 50% fee reduction for annual liquor licence fees for *on* licences and *club* licences will be in place for 12 months from 1 April 2021.
- From 1 July to 31 August 2021 the Government has waived application fees which allow on licensees to receive a commercial permit to sell liquor for takeaway consumption and commercial and non-commercial permit-holders to amend their permits to reschedule event dates. The Government has waived these fees in light of the current COVID19 outbreak in NSW.
- These fee waivers and reductions have and will continue to provide support for liquor licensees' efforts to adapt their business models as we continue to adjust to the effects of the COVID-19 pandemic.

<u>Other COVID-19 Economic Survival Package measures</u>

- Other support measures for clubs and licensed premises implemented as part of the Economic Survival Package include:
    - waiver or refund of gaming machine tax liabilities for March 2020 gaming activity (for clubs that pay tax monthly) or gaming activity in the first quarter of 2020 (for clubs that pay tax quarterly);
    - Icon Water rebate of fixed water and sewerage charges for two quarters in 2020; and
    - waiver or refund of annual licence fee and gaming machine tax liability for March 2020 activity for Casino Canberra.
- Clubs may have also benefitted from additional business supports and measures announced in the Economic Survival Package, such as payroll tax relief.
- Some clubs may have benefitted from sport and recreation sector support measures, including a waiver of ACT Government sportsground hire fees for the Winter 2020 season and suspension of existing invoices for sportsground hire fees until 1 July 2020.

QUESTION TIME BRIEF

Key Information

- On 23 March 2020, the *Public Health (Closure of Non-Essential Business or Undertaking) Emergency Direction 2020* [NI2020-169] (repealed) (the closure direction) directed the closure of:
    - businesses that supply liquor for consumption ON the premises but not including any part of those businesses that sell liquor for consumption OFF the premises as defined by the *Liquor Act 2010*;
    - hotels, whether licensed or unlicensed, but not to the extent that they provide accommodation, takeaway meals or a meal delivery service, or a bottleshop;
    - a casino;
    - cinemas, nightclubs or entertainment venues of any kind;
    - restaurants or cafes, other to than to the extent that they provide takeaway meals or a meal delivery service.
- These restrictions have been eased in line with Canberra's Recovery Plan.
- Casinos and gaming facilities in clubs were permitted to reopen from 9 am on Monday 10 August 2020.

Background Information

DSSF emergency relief for clubs

- In April-May 2020, the Government distributed emergency relief funding of approximately $3.3 million from the Diversification and Sustainability Support Fund (DSSF) to clubs affected by COVID-19.
- This funding was made up of approximately $0.8 million contributed by clubs according to the number of gaming machine authorisations held, approximately $1 million contributed by the Government as part of its undertaking to match clubs' contributions for the first three years of the DSSF's operation, and a further $1.5 million of additional funding provided by the Government.
- These funds from the DSSF were required to be used by ACT clubs to support the payment of wages and other financial support to staff.
- Clubs provided an undertaking to use the funds for the purpose for which they are provided and, as required, provide evidence that funds were used for the agreed purpose.

Government amendments to the *Gaming Machine Act 2004*

- Amendments to the *Gaming Machine Act 2004* which were passed on 2 April 2020 (in the *COVID-19 Emergency Response Act 2020* and the *Gaming Machine Amendment Act 2020*) will assist clubs comply with the community contributions scheme. These amendments have allowed the Minister for Gaming to make

declarations about what constitutes a community purpose contribution in a COVID-19 emergency. Two emergency community purpose contribution declarations have been made.

- The *Gaming Machine (Emergency Community Purpose Contribution—Club Employees) Declaration 2020* [DI2020-139] (repealed). This declaration expired on 23 March 2021.
- The *Gaming Machine (Emergency Community Purpose Contribution—Local Live Performance Industry) Declaration 2020* [DI2020-252]. This declaration is set to expire on 31 August 2021 but will be extended until 30 November 2021.

- Amendments also suspended clubs' obligation to contribute to the DSSF for 12 months and allow clubs to meet their community contribution requirements more flexibly.

Surrender of Gaming Machine Authorisations

- In June 2020, the *COVID-19 Economic Survival Package – Gaming Machine Authorisation Surrender Incentive* offered to gaming machine licensees at clubs or hotels a payment of $15,000 for every gaming machine authorisation surrendered to the Government. Payments received under this initiative had to be used towards the employment of staff. 109 authorisations were surrendered by clubs in exchange for payments totalling $1.635 million, before the deadline on 30 June 2020.
- The Government extended the incentive twice and allowed the incentive payment to be used for an expanded range of purposes, as follows:
  - staff employment;
  - diversification activities and initiatives; and
  - energy and water efficiency measures.
- The extended incentive ended on 30 June 2021.
- In October 2020, one club surrendered a further 20 authorisations in exchange for a cash payment of $300,000, and in June 2021 another club surrendered four authorisations in exchange for a cash payment of $60,000.
- The total number of authorisations surrendered under the incentive is 133, with $1.995 million in incentive payments paid to participating clubs. The surrender of these authorisations will reduce the ACT's total number of authorisations from 3,997 to 3,864.

QUESTION TIME BRIEF

JACS2021/46-001-023

Portfolio/s: Attorney-General

ISSUE: ACCESS TO LEGAL ASSISTANCE SERVICES DURING COVID-19

Talking points:

- The ACT's legal assistance sector continues to work to support Canberrans respond to the impacts of COVID-19. I would like to reassure Canberra that its legal assistance service providers, including Legal Aid ACT, the Aboriginal Legal Service and the ACT's community legal centres, have continued to operate and have been able to be accessed during this critical time.
- COVID-19 has meant that some service providers are now operating in different ways, including offering services by phone, video or online. I encourage Canberrans to check the websites and social media platforms of service providers for updates about how they can continue to access their services.
- The Government recognises the critical role that the legal assistance sector plays in supporting Canberrans through COVID-19. Organisations within this sector provide vital services to vulnerable Canberrans, including people experiencing domestic and family violence, people with lived experience of homelessness and tenants and occupants who may be involved in disputes about their rental agreements.
- On 25 May 2020, the legal assistance sector launched its new website canberracovidlegalhelp.org.au - a single legal portal to assist Canberrans obtain the right legal information, and the right legal service for their needs. With funding provided through the Chief Minister's Charitable Fund (among other sources) the website brings together the expertise of Canberra Community Law, Women's Legal Centre ACT, Legal Aid ACT, CARE Financial Counselling and Economic Justice Australia, to provide up-to-date legal information for the Canberra Community during this time.

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TRIM Ref:	JACS2021/46-001-023	

- Should you require further legal assistance, you can contact the following services:
    - Legal Aid – 1300 654 314
    - Women's Legal Centre – (02) 6257 4377
    - Canberra Community Law – (02) 6218 7900
    - CARE Financial– 1800 007 007
    - The Consumer Law Centre – (02) 6143 0044
    - Environmental Defenders Office – 0491 243 638
    - Aboriginal Legal Service NSW/ACT – (02) 6120 8800
- The services provided by Legal Aid and the Community Legal Centres can be accessed free of charge. If a service provider is unable to help you, they will refer you to someone who can.

If asked about Commonwealth funding to the ACT to support the legal assistance sector during COVID-19

- On 28 May 2020, the ACT Government signed the *Project Agreement for COVID Funding to the Legal Assistance Sector*. The funding delivered over $1.39 million in Commonwealth funding to the ACT Legal assistance sector between 2019-20 and 2020-21 to help the sector support people who have been impacted by COVID-19.
- This funding delivered increased legal assistance support for Canberrans in 2020-21 through:
    - the engagement of a family law lawyer and an employment and discrimination lawyer at the Women's Legal Centre;
    - the engagement of a housing law lawyer at Canberra Community Law;
    - enabling the Consumer Law Centre and CARE Inc to provide the Reach Out Program to support Canberrans impacted by economic abuse;
    - the engagement of an additional lawyer in Legal Aid ACT's Family Violence Unit and Older Persons ACT Legal Service;
    - additional resourcing to support Legal Aid ACT to provide an employment advice service to Canberrans whose employment has been impacted by COVID-19;

  - the engagement of a senior trial advocate at the Aboriginal Legal Service NSW/ACT to support Aboriginal and Torres Strait Islander people accessing the justice system.

- The ACT Government provided further funding to Canberra Community Law to engage a social security lawyer in 2020-21 to support Canberrans who have been impacted by COVID-19.
- The Commonwealth Government did not to continue the funding for COVID-19 frontline legal assistance services that was provided for under the Project Agreement. The ACT Government will, as a part of its 2021-22 ACT Budget process, provide additional funding to continue COVID-19 legal response positions and programs at Canberra Community Law, CARE, and the Aboriginal Legal Service NSW/ACT for twelve months.

If asked about the Commonwealth 2021-22 Budget measures:

- The Commonwealth Government's 2021-22 Budget will deliver increased funding for legal assistance services in the ACT. This funding is welcomed by the ACT Government but is not a like-for-like substitute for the COVID-19 response frontline services funding provided under the Project Agreement. It funds a range of new initiatives including the provision of increased support to assist persons with mental health conditions accessing the justice system and increased funding for legal assistance services for women.
- The ACT Government is currently working with the Commonwealth Government to negotiate amendments to the National Legal Assistance Partnership 2020-25 which will enable increased funding to be delivered to the Territory's legal assistance sector.
- The Justice and Community Safety Directorate will be in contact with providers in the coming weeks to commence with the implementation of the Commonwealth Budget announcements that are relevant to them.
- The ACT Government will not make a determination as to how funding for the Commonwealth Budget initiatives will be distributed until the amendments to the National Legal Assistance Partnership are finalised. Legal assistance providers will be consulted as a part of this process.

If asked about the impact of the Commonwealth Budget for the Women's Legal Centre:

- The ACT Government acknowledges that the Women's Legal Centre is experiencing a challenging period of financial uncertainty at this time as it awaits the outcome of the Commonwealth Budget process.
- The ACT Government is working with the Women's Legal Centre to consider its funding needs going forward. The ACT Government acknowledges the important role of the Women's Legal Centre in responding to the legal needs of Canberra's vulnerable women.
- The ACT Government will not make a determination as to how funding for the Commonwealth Budget initiatives will be distributed until amendments to the National Legal Assistance Partnership are finalised.
- The ACT Government is mindful of the impact that a lack of clarity regarding the outcome of the Commonwealth Budget has caused so far for the Women's Legal Centre and is working to provide clarity to the Women's Legal Centre as soon as it is possible to do so.

Key Information

- Legal Aid ACT has a helpline for general legal information and advice that is open to all members of the community. It runs the Tenancy Advice Service and the Older Persons ACT Legal Service in the ACT, as well as many other services. More information is available at: http://www.legalaidact.org.au/
- The Aboriginal Legal Service Canberra Office provides legal advice, court representation and referral support in the area of criminal law for the Aboriginal and Torres Strait Islander community of the ACT and surrounds. It also provides a range of culturally specific community justice programs. More information is available at: https://www.alsnswact.org.au/
- Canberra Community Law (CCL) is providing legal advice, assistance and representation to people in the ACT on low incomes for matters relating to public housing, community housing and occupancy agreements, social security and disability discrimination law, including issues related to COVID-19.
- CCL provides public housing, social security, and race discrimination legal services to Aboriginal and Torres Strait Islander communities through its Dhurrawang Aboriginal Human Rights Program and general law services to people who are homeless or at risk of experiencing homelessness through its Street Law program.
- CCL's Night Time Legal Advice Service (NTLAS) operates from February to November each year on Tuesday nights. NTLAS provides one-off advice in most areas of law not covered by CCL's daytime services. NTLAS is available on 02 6218 7000between 6pm and 8pm on a Tuesday night. More information is available at: https://www.canberracommunitylaw.org.au/

- CCL's COVID-19 General Law Clinic provides advice in most areas of law directly or indirectly related to COVID-19 including but not limited to property, employment, debt, and contractual disputes. The COVID-19 General Law Clinic is available on 02 6218 7900 on a Thursday night between 6pm to 8pm on a Thursday night. More information is available at: https://www.canberracommunitylaw.org.au
- Additional information is available on CCL's COVID-19 website: www.canberracovidlegalhelp.org.au.
- Care Inc and the Consumer Law Centre provide support and advice to people in financial stress. They are continuing to provide financial counselling, legal advice and microfinance services. More information is available at: https://www.carefcs.org/
- Environmental Defenders Office's ACT Office provides free initial legal advice on planning and environmental law matters. More information is available at: https://www.edo.org.au
- The Women's Legal Centre provides specialist advice in relation to family law, care, and protection, employment, and discrimination issues, including issues related to COVID-19. The Centre's Aboriginal Women's Program, Mulleun Mura, is also still providing culturally safe support to Aboriginal and Torres Strait Islander women. More information is available at: http://womenslegalact.org/

QUESTION TIME BRIEF

Background Information

- Feedback obtained in late 2020 from CLCs noted significant increases in demand, corresponding with greater delays in the legal system. COVID-related income losses and housing stress caused greater demand for legal assistance in applying for JobSeeker and JobKeeper.
- Increases were also reported of women in or leaving family violence situations requiring assistance navigating welfare systems to obtain financial and housing security. Care Inc noted increases in financial abuse and legal issues arising from debts. The Women's Legal Centre reported increased demand for family law assistance, including divorce and domestic violence. The sector widely reported increased workloads and anticipates further demand as COVID continues and government assistance is scaled back.
- There has been media interest in community legal centre funding following the ACT Legislative Assembly's motion about funding for the legal assistance sector which was passed on 2 June 2021. This motion was brought by Elizabeth Lee MLA in relation to funding uncertainty being experienced by Canberra Community Law regarding their COVID-19 response positions.
- Elena Rosenman (CEO, Women's Legal Centre) was interviewed by the Canberra Times in June and July 2021 regarding the Commonwealth Budget announcement. Her most recent interview (9 July 2021) speaks of Women's Legal Services being betrayed by the Commonwealth Government's decision to not limit access to this funding to specialist Women's Legal Centres. Ms Rosenman's July interview states Women's Legal Centre is scaling down its service as it has not received the promised funding from the Commonwealth Budget. This is a change from Ms Rosenman's interview with the Canberra Times of 21 June 2021, which announced plans for the Women's Legal Centre to expand beyond its Civic office and partner with existing services that women use already.
    - https://www.canberratimes.com.au/story/7288794/it-allows-us-to-thrive-funding-lifeline-for-womens-legal-centre/
    - https://www.canberratimes.com.au/story/7332701/we-have-been-lied-to-womens-legal-groups-say-promised-budget-funding-has-gone-elsewhere/

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QUESTION TIME BRIEF

JACS2021/46-001-028

Portfolio/s: Attorney-General

ISSUE: SUPPORT FOR COMMUNITY SERVICE PROVIDERS DURING COVID-19 PANDEMIC

Talking points:

BCNP

- Using Justice Reinvestment funding provided by the ACT Government, as part of Building Communities, Not Prisons initiative, the ACT Government has been working with community service organisations that are, in turn, helping vulnerable Canberrans improve their lives, avoid reoffending and prevent crime in the community.
- During the COVID-19 pandemic, the ACT Government continued this work and provided an additional $14.6 million for new and expanded community programs.

Legal Services

- The ACT Government provided more than $450,000 in funding to the community legal assistance sector to ensure essential legal services could be provided for vulnerable people impacted by the COVID-19 pandemic.
- The ACT Government also administered $1.39 million in Commonwealth funding to the ACT legal assistance sector across 2019-20 and 2020-21, to help the sector support people who have been impacted by COVID-19.
- This funding has boosted frontline services to meet the additional demand flowing from the COVID-19 emergency and also supported the sector to have the ICT capacity to deliver services remotely.

CSD grants

- In addition the ACT Government has provided one-off funding to a range of community organisations, including some from the legal assistance sector, through the COVID-19 Community Support Package and the Rapid Response Grant Rounds (RRGR) administered by the Community Services Directorate.

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Aboriginal and Torres Strait Islander community

- Programs that focus on our Aboriginal and Torres Strait Islander community have benefited from the funding support (described above). For example:
    - **Throughcare, Yarning Circles and Yarrabi Bamirr** – these important programs assist Aboriginal and Torres Strait Islander detainees to transition back into community, or to selfcare in the community and manage their own lives.
    - **Ngurrambai Bail Support, Duty Lawyer, and Front Up** – provides appropriate support for Aboriginal and Torres Strait Islander people in their interactions with the Justice system.
    - **The Aboriginal Legal Service** – received $50,000 in ACT community legal sector funding, and an additional amount of $21,000 through the Community Services Directorate Rapid Response grants.
    - **The Aboriginal Legal Service** – has also been allocated $142,000 in Commonwealth funding, administered by the Justice and Community Safety Directorate.
    - **Winnunga Nimmitjyah Health Service** – received $159,000 from ACT Health for minor capital works, including the setting up of the second reception at Winnunga.
- These services strengthen access to early intervention supports and reduce the risk that relatively minor legal matters unnecessarily escalate.

QUESTION TIME BRIEF

Key Background Information

COVID-19 specific funding initiatives to Aboriginal and Torres Strait Islander community organisations

Aboriginal and Torres Strait Islander community organisations in the ACT have received funding from a variety of sources to assist them to respond to the immediate impacts of COVID-19. Much of that funding assisted in one off transitional costs in continuing to provide services in more flexible and remote ways. It is not expected that additional funding would be needed to continue to providing these services through 2021:

- ***Yarrabi Bamirr***
  - Delivered by Winnunga and Yeddung Mura, and on an interim basis, Clybucca Dreaming. Tjillari Justice has withdrawn their contract and the existing subcontractor, Clybucca Dreaming, is delivering interim services.
  - Involves face to face contact, but can be by phone which is not ideal.
  - Referral services have required some restrictions, and adjustments have been made to accommodate these.
  - There has been ongoing review with service providers and program clients.
  - Winnunga noted that face to face is their usually delivery method but continues to deliver over the phone when required. In addition, group programs have been reinstated.
- ***Ngurrambai***
  - Delivered by the ALS.
  - Involves face to face contact, but can be by phone which is not ideal.
  - Bail plans can be provided by email, and clients/lawyers communications done remotely.
  - Continuing to monitor court activities and restrictions and Alexander Maconochie Centre (AMC) restrictions.
  - Increasing use of Audio Visual Link (AVL) to contact clients at the AMC.
- ***Front up***
  - Delivered by the ALS.
  - Involves face to face contact, but can be by phone which is not ideal.
  - Support for warrants and breaches of bail.
  - Regular review with ALS to monitor challenges.
- ***Duty Lawyer***
  - Delivered by the ALS.
  - Involves face to face contact, but can be by phone which is not ideal.
  - Continuing to monitor court activities and restrictions and Alexander Maconochie Centre (AMC) restrictions.
  - Increasing use of Audio Visual Link (AVL) to contact clients at the AMC.
  - Regular review with ALS to monitor challenges.
- ***Throughcare***
  - This is face to face contact focussed.
  - Yeddung Mura has made IT systems available to community members wishing to participate in virtual visits at AMC.
  - Ongoing monitoring of options with Yeddung Mura.

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- ***Yarning Circles for Justice***
  - Face to face preferred, though can be delivered online if necessary, but not ideal.
  - Ongoing monitoring of options with Yeddung Mura.
- ***Galambany***
  - Court continues.
  - Support for existing clients is possible to do by phone, webex, email and in person.
  - The Galambany support worker role was filed temporally by Tjillari; however, this position has recently again become vacant. Other providers have been approached to provide these services.
- ***Strong Connected Neighbourhoods***
  - Delivered by Reclink Australia.
  - Largely face to face dependent.
  - Alterations to the delivery of the program have been made to ensure social distancing and other COVID-19 safety measures can be adhered to for the safety of staff and residents.
  - Regular review with Reclink to monitor challenges.
- ***Mulleun Mura – A2J Program (Access 2 Justice)***
  - Delivered by Women's Legal Centre.
  - Involves face to face contact, but can be by phone.
  - Court activities are being monitored.
  - Funding model is currently being review for distribution of instalment appropriation funds moving forward.

COVID-19 specific funding initiatives to the ACT legal assistance sector

The ACT legal assistance sector has received funding from both the JACS and CSD Directorates and the Commonwealth Government to assist them to respond to the immediate impacts of COVID-19. The majority of these COVID-19 related funding sources for the sector will expire on **30 June 2021.**

Recipients of these COVID-19 funding initiatives include the ALS, Canberra Community Law, CARE Inc (includes Consumer Law Centre), Environmental Defenders Office, Legal Aid ACT and Women's Legal Centre.

The expiration of funding for these programs on 30 June 2021 will reduce the capacity of the sector to respond to legal need in the ACT. This will impact on the ability of vulnerable Canberrans to be supported before their legal problems exacerbate to more significant issues. Legal need has increased in the ACT following COVID-19, and is expected to increase further in 2021.

Summary of COVID-19 Initiatives managed by JACS					
Service Provider	**Activity Funded**	**Managed By**	**Amount Funded**	**Funding Type**	**Expiry Date**
Aboriginal Legal Service NSW/ACT (ALS)	Senior Trial Advocate (COVID-19)	JACS	$142,000	Commonwealth Frontline Services (Project Agreement)	30 June 2021

Cleared as complete and accurate:	26/07/2021	
Cleared for public release by:	Executive Branch Manager	
Contact Officer name:	Kathryn Johnson	Ext:x52451
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-028	

QUESTION TIME BRIEF

Summary of COVID-19 Initiatives managed by JACS					
Service Provider	**Activity Funded**	**Managed By**	**Amount Funded**	**Funding Type**	**Expiry Date**
Canberra Community Law (CCL)	ICT infrastructure to support virtual service delivery	JACS	$75,575	Commonwealth ICT funding (Project Agreement)	30 June 2021
	Housing Lawyer	JACS	$114,000	Commonwealth Frontline Services (Project Agreement)	30 June 2021
	Socio-Security Lawyer	JACS	$114,000	ACT Government (JACS resources)	30 June 2021
	CLC Hub Contribution to enable reallocation of resources to frontline services	JACS	$22,000	ACT Government (JACS resources)	30 June 2021
	Support for continuation of legal assistance services (COVID-19)	CSD & JACS	$50,000	ACT Government (CSP)	31 December 2020
CARE Inc (including the Consumer Law Centre) (CARE)	ICT infrastructure to support virtual service delivery	JACS	$30,909	Commonwealth ICT Funding (Project Agreement)	30 June 2021
	Reach Out Program to respond to economic abuse	JACS	$150,000	Commonwealth frontline services funding (Project Agreement)	30 June 2021
	Contribution to Reach Out Program Costs	JACS	$70,000	ACT Government (JACS resources)	30 June 2021
Environmental Defenders Office (EDO)	ICT infrastructure to support virtual service delivery	JACS	$10,000	Commonwealth ICT funding (Project Agreement)	31 December 2020
Legal Aid ACT (LAACT)	ICT infrastructure to support virtual service delivery	JACS	$270,439	Commonwealth ICT funding (Project Agreement)	30 June 2021
	Resourcing to increase the capacity of the Family Violence Unit, the Older Persons ACT Legal Service and to provide an	JACS	$314,087	Commonwealth frontline services funding (Project Agreement)	30 June 2021

QUESTION TIME BRIEF

Summary of COVID-19 Initiatives managed by JACS					
Service Provider	**Activity Funded**	**Managed By**	**Amount Funded**	**Funding Type**	**Expiry Date**
	Employment Assistance Service				
	Support for domestic violence helpline services	CSD & JACS	$50,000	ACT Government (CSP)	31 December 2020
Women's Legal Centre (WLC)	ICT infrastructure to support virtual service delivery	JACS	$60,315	Commonwealth ICT funding (Project Agreement)	30 June 2021
	Resourcing for a family law lawyer and an employment and discrimination law lawyer, and administrative expenses to support these roles	JACS	$224,200	Commonwealth frontline services funding (Project Agreement)	30 June 2021
	Support for continuation of legal assistance services	CSD & JACS	$50,000	ACT Government (CSP)	31 December 2020

ACT Government's approach to service providers during COVID-19

- Since the commencement of the pandemic, in line with the ACT Government's Guiding Principles, the Justice and Community Safety (JACS) Directorate has engaged with a range of service providers on matters including their COVID-19 planning, their ability to deliver (or modify delivery of) funded services, and swift payment to support sustainability.
- In common with other Directorates, JACS has sought to support the continued delivery of the greatest level of service, in a safe environment.
- The majority of the JACS service contracts have been drafted to allow the Territory to alter them to respond swiftly to changing circumstances. In the context of COVID-19, this supported approaches such as:
    - Reducing or varying the level, type and frequency of service.
    - Delaying or relaxing reporting obligations.
    - Suspending obligations to meet key performance indicators and outcomes to allow for adaptation to new conditions.
    - Removing penalties for non-compliance with contracts arising from the COVID-19 Emergency.
- To support the Government's economic efforts and ensure that service providers are able and ready to recommence service delivery if and when required, the Directorate has and will continue to take a flexible approach with service providers (where required), regarding:

- COVID-19 planning and ability to continue to deliver on funded services, while keeping their staff and clients safe;
- ability to continue to deliver face to face services;
- options for delivery online or where this is not possible, their ability to continue to deliver services via electronic means (i.e. telephone);
- where all client service delivery is no longer possible or appropriate given the service, undertaking work to support delivery of the services when they recommence (i.e. improving reporting, data capture mechanisms etc);
- otherwise, where necessary, undertaking work that furthers the objectives of the contract in the current environment; or

  where all of these options are not possible, consideration is given, in the particular circumstances, to continuing payment of the contract in the absence of service delivery to allow service providers to continue to pay staff.

- Amendment of the services under a contract will generally not be considered:
  - frustration, under the contract;
  - contract default; and/or
  - grounds to terminate the contract generally.

QUESTION TIME BRIEF

JACS2021/46-001-022

Portfolio/s: Attorney-General

People spitting or coughing on frontline workers (COVID-19) – ACT criminal law response

Talking points:

- The behaviour of people threatening to spread COVID-19 to frontline workers by deliberately spitting or coughing on them is unacceptable.
- This conduct, whether committed against a police officer, health worker or any other person in the community will not be tolerated.
- Under ACT laws, general assault provisions and public alarm offences have long applied so that a person who engages in this criminal behaviour may be subject to maximum penalties of between 2 and 15 years imprisonment.
- Indeed, in March 2020, ACT Policing charged two people with the offence of acting with intent to cause public alarm alarm under section 140A of the Crimes Act, an offence which attracts a maximum penalty of 10 years imprisonment, for separate incidents alleged to involve spitting and coughing in public while claiming to be infected with COVID-19.
- In recognition of the seriousness of any type of assault where our frontline workers are involved, last year the Crimes (Protection of Frontline Community Service Providers) Amendment Act 2020 was passed. From 10 June 2020, new offences have been in place specifically for assaults against frontline workers including police officers, paramedics and emergency service workers

Cleared as complete and accurate:	19/07/2021	
Cleared for public release by:	Executive Branch Manager	Ext: 74264
Contact Officer name:	Stephanie Johns	Ext: 59908
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-022	

QUESTION TIME BRIEF

Background Information

NSW offence for spitting or coughing on public officials

- On 9 April 2020, the New South Wales *Public Health (COVID-19 Spitting and Coughing) Order 2020* commenced. The order was made under section 7 of the *Public Health Act 2010* (NSW) and has been remade a number of times (as an order expires after 90 days).=The order directs that a person must not intentionally spit at or cough on a public official or another worker while the worker is at the worker's place of work or travelling to or from the place of work in a way that would reasonably be likely to cause fear about the spread of COVID-19.

- Breach of the order is an offence contrary to section 10 of the *Public Health Act 2019* (NSW). The maximum penalty for an individual is 100 penalty units ($11,000) and/or 6 months imprisonment. It is also a penalty notice offence under the *Public Health Regulation 2012* with a fine amount of $5,000.

ACT criminal laws that apply for spitting or coughing on others

- The *Crimes Act 1900* (Crimes Act) contains offences against the person which may cover spitting or coughing on a police officer, health worker or other person.

- These offences and maximum imprisonment penalties include: common assault (2 years), acts endangering life (15 years), acts endangering health (5 years), threat to inflict grievous bodily harm (5 years) and affray (10 years).

- For conduct which leads to a person's death, the offence of manslaughter (28 years) or murder (imprisonment for life) may apply.

- The Crimes Act, Division 6.7 also includes offences relating to causing public alarm, with maximum penalties of 200 penalty units and/or 10 years imprisonment.

- The Crimes (Protection of Frontline Community Service Providers) Amendment Act 2020 created a new specific offence at section 26A of the Crime Act: *'Assault of a frontline community service provider'* with a maximum penalty of imprisonment for 2 years.

Cleared as complete and accurate:	19/07/2021	
Cleared for public release by:	Executive Branch Manager	Ext: 74264
Contact Officer name:	Stephanie Johns	Ext: 59908
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-022	

ACT Government

QUESTION TIME BRIEF

JACS2021/46-001-009

Portfolio/s: Minister for Gaming

ISSUE: GAMING MACHINE HARM REDUCTION MEASURES

Talking points:

- The *Parliamentary and Governing Agreement for the 10th Legislative Assembly* includes 10 commitments towards reducing harm from gaming while supporting sustainable clubs. These commitments are:
  - establishing a Community Clubs Ministerial Advisory Council (the Council) with government, industry and unions to build a long-term, sustainable clubs sector in the ACT
  - targeting a further reduction in the number of gaming machine authorisations to 3,500 by 1 July 2025, with additional incentives where a club venue becomes 'pokie-free'
  - establishing a rigorous, across-venue self-exclusion regime across the ACT, with significant penalties for breaches, aligning with or exceeding reforms currently progressing in NSW
  - matching or exceeding any further harm reduction reforms commenced in NSW, such as cashless gaming
  - introducing $5 bet limits and $100 load-up limits following a thorough review and transition plan to manage impacts on clubs, particularly smaller clubs that update machines less regularly, with a staged rollout to commence by the end of 2022 at the latest
  - facilitating planning and other processes to allow clubs to diversify to other revenue generating streams, particularly development of available land for social housing and land supply purposes, that are supported by the community
  - providing a just transition for workers in the industry
  - conducting a review into water cost for high-intensity club users of non-potable water in 2021
  - establishing a five-year $5 million Building Energy Efficiency Upgrade Fund to be accessed by community clubs
  - supporting clubs to become heat and smoke refuges for local communities, including air filtration systems and financial payments for venues designated as official extreme weather refuge sites.

Cleared as complete and accurate:	23/03/2021	
Cleared for public release by:	Executive Branch Manager	Ext: 76192
Contact Officer name:	Natasha Del Piero	Ext: 76480
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-009	

- These commitments build on progress made under the previous Government.

Community Clubs Ministerial Advisory Council

- Early this year, on 12 February 2021, Minister Cheyne and I co-chaired an initial meeting with key stakeholder representatives from government, the clubs industry, unions and gambling harm advocacy groups to discuss the establishment of the Council, including its proposed membership and terms of reference. (please see QTB **JACS2021/46-001-002**).
- In May 2021, the Council was established and I appointed 14 members to the Council from a mix of stakeholders including clubs, community sector organisations, unions and individuals with knowledge or experience of gambling harm.
- Minister Cheyne and I attended the Council meetings on 26 May 2021, 1 July 2021 and 29 July 2021. The Council will continue to meet on a monthly basis (approximately every four weeks). The Council will function mainly as a formal link between stakeholder groups and the ACT Government. I look forward to consulting with the club industry through the Council to deliver the Government's commitments.
- The Council's work will focus on important initiatives included in the *Parliamentary and Governing Agreement* such as reducing community club reliance on gaming machine revenue. These initiatives include introducing $5 bet limits and $100 load-up limits for gaming machines in the ACT and enhancing the self-exclusion scheme.

Reducing the Number of Gaming Machine Authorisations

- On 23 August 2018 the ACT Government announced the pathway to reduce the number of gaming machine authorisations in the ACT to 4,000 by 2020. This pathway was informed by the recommendations of the *Club Industry Diversification Support Analysis* by Mr Neville Stevens AO.
- The number of authorisations in the ACT has reduced by 1,082 (from 4,946 to **3,864)** as a result of strong club industry participation in the voluntary surrender of authorisations and uptake of Government incentives provided through the Pathway to 4,000 and COVID-19 Economic Survival Package, the first stage of compulsory surrender, and forfeitures as a result of trading activity between clubs.

QUESTION TIME BRIEF

Gaming Machine Tax Rebate

- The Government provides a 50 per cent gaming machine tax rebate for small and medium clubs and club groups to support these clubs as they diversify their revenue sources away from gaming machines and facilitate new services and support for the Canberra community.
- Since 1 July 2020, a club or club group is considered small or medium where its annual gross gaming machine revenue (GGMR) is not more than $4 million. Licencees exceeding the threshold receive a reduced rebate under phased reduction provisions. The phased reduction provisions reduce the amount of rebate by $0.50 for every $1 over $4 million in GGMR per annum.

Regulatory reforms (incl. Code of Practice)

- Amendments to the *Gaming Machine Act 2004* enhanced the compliance framework for gaming machines and provided the ACT Gambling and Racing Commission with more tools for effective enforcement, including enforceable undertakings and a higher maximum financial penalty as part of disciplinary action.
- The COVID-19 public health emergency interrupted work on strengthening the *Gambling and Racing Control (Code of Practice) Regulation 2002* through proposed changes that:
  - improve the definition of gambling harm
  - provide greater clarity about the signs of gambling harm for club staff, and their requirement to record and respond to this
  - require club staff to undertake better training more often, in recognition of the crucial role they play in identifying signs of harmful gambling
  - require club board members to be trained to foster a culture where gambling harm reduction and consumer protection is the priority
  - enhance the operation of self-exclusion, and
  - require a Gambling Contact Officer to be on-site at every club whenever the gaming machines are turned on to provide an immediate point of contact for club patrons that are impacted by gambling harm.

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Cleared for public release by:	Executive Branch Manager	Ext: 76192
Contact Officer name:	Natasha Del Piero	Ext: 76480
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-009	

- From 25 September 2020 to 11 December 2020 the NSW Government conducted public consultation on the Gaming Machines Amendment (Gaming Harm Minimisation) Bill 2020 (the NSW Bill). The NSW Bill proposed several amendments to the *Gaming Machines Act 2001* (NSW) to reduce gambling harm.
- Proposed NSW amendments include:
    - improved management and intervention by gambling venues to support people who show problematic gambling behaviours
    - an improved scheme for gamblers who 'self-exclude' including State-wide exclusion register and online portal
    - a new exclusion scheme where family members of a gambler may apply to venues for a ban or ask a gambling counsellor to apply on their behalf
    - venues to enforce the ban on excluded gamblers
    - forfeiting prizes of excluded gamblers and minors
    - advanced responsible conduct of gambling training
    - whistle-blower protections for venue staff
    - new offences and increased penalties.
- Many of the proposed NSW measures are similar to the existing ACT legislative framework, including the online self-exclusion portal and prohibition on paying winnings to excluded gamblers and minors.
- Further work on these measures will be considered in the context of the new Parliamentary and Governing Agreement commitments.

Key Information

- The most recent figures published by the Gambling and Racing Commission (1 May 2021) state there are **3,611** electronic gaming machines in operation in the Territory. As at 1 May 2021, there are **31** gaming machine licensees and 48 venues (authorisation certificates) in the ACT.
- As at 23 July 2021, the *Gambling and Racing Control (New Cap on Number of Authorisations) Notice 2021 (No 1)* (NI2021-448) sets the cap on the number of gaming machine authorisations at 3,864. This follows the surrender of 133 authorisations in response to the COVID-19 Economic Survival Package support measures for clubs.

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TRIM Ref:	JACS2021/46-001-009	

- Prior to 30 June 2021, under the *COVID-19 Economic Survival Package Gaming Machine Authorisation Surrender Incentive,* licensees (clubs and hotels) could access an incentive payment of $15,000 per gaming machine authorisation surrendered, to be used towards the employment of staff, diversification activities and initiatives, and energy and water efficiency measures.

Background information

Community Clubs Ministerial Advisory Council (please see QTB **JACS2021/46-001-002**).

If asked about the composition of the Council:

- The Council is made up of 14 members. This includes the following ex-officio members:
    - Minister for Gaming, Mr Shane Rattenbury MLA (Chair);
    - Minister for Business and Better Regulation, Ms Tara Cheyne MLA (Deputy Chair);
    - Ms Yu-Lan Chan – Chief Executive Officer, ACT Gambling and Racing Commission;
    - Ms Kim Marshall – President, ClubsACT;
    - Mr Athol Chalmers – Chair, Canberra Community Clubs;
    - Ms Lyndal Ryan – Secretary, United Workers Union; and
    - Executive Branch Manager, Justice and Community Safety Directorate.
- The Council includes seven stakeholder representatives with an interest in issues impacting Canberra's club industry. They are:
    - Ms Wendy Sandeman – Financial Counsellor, Care Inc. Financial Counselling Service and Consumer Law Centre of the ACT;
    - Mr Jeremy Halcrow – Founder and Co-chair, Canberra Gambling Reform Alliance;
    - Ms Kate Seselja – Founder, The Hope Project;
    - Mr Geoff McKay – President, Canberra Bowling Club;
    - Ms Mary Collier – President, Canberra Irish Club;
    - Mr Brian Weir – President, Canberra Labor Club; and
    - Mr Thomas Stevens – Director, Design and Communications, The Youth Coalition of the ACT.
- The roles of the members are outlined in the table below.

QUESTION TIME BRIEF

Membership of the Council		
Member	**Role**	**No.**
Minister for Gaming, Mr Shane Rattenbury MLA	Chair	1
Minister for Business and Better Regulation, Ms Tara Cheyne MLA	Deputy Chair	1
Senior Executive, Justice and Community Safety Directorate (JACS)	To advise on policy considerations from the perspective of the Directorate.	1
Representative, ACT Gambling and Racing Commission	Senior Executive, Access Canberra or member of the ACT Gambling and Racing Commission Governing Board to bring practical expertise regarding the application of gaming laws in the ACT and advise on the workability of reform proposals.	1
Chief Executive Officer or Board member, ClubsACT	To represent the views of the constituent clubs of ClubsACT.	1
Chief Executive Officer or Board member, Canberra Community Clubs	To represent the views of the constituent clubs of Canberra Community Clubs.	1
Secretary or nominated representative, United Workers Union	To represent the views of club workers.	1
Representatives, gambling harm reduction organisations or experts	To bring external harm reduction perspectives to the discussions of the Council, particularly with respect to proposed harm reduction regulatory changes. It is proposed that there would be three positions for representatives from gambling harm reduction organisations or experts. Representatives would be appointed by the Minister following a nomination process.	3
Representatives, community clubs	To represent clubs in the ACT. It is proposed that there would be three positions for representatives from clubs, or club members (with a preference for small/medium clubs). Representatives would be appointed by the Minister following a nomination process.	3
Representative, young people	To provide a youth perspective on Council discussions. While the Council's focus is clubs (it is not a broad 'gambling harm' body considering issues such as online gambling), younger Canberrans are the future of club membership. They are also a significant part of the club workforce and may be affected by diversification efforts. The representative would be appointed by the Minister following a nomination process.	1
	TOTAL	**14**

Gaming machine bet limits

- The ACT's gaming machines currently have a $10 maximum stake amount ('bet limit').
- The Parliamentary and Governing Agreement includes a commitment to introduce $5 bet limits and $100 load-up limits with a staged rollout to commence by the end of 2022 at the latest. The ACT Government has commissioned an external expert to provide advice on technical and cost issues associated with introducing lower bet and load-up limits in ACT electronic gaming machines. The external expert is an authorised technical evaluator of electronic gaming machines with extensive experience. The external expert will also consider and provide advice on issues such as cashless gaming and gaming systems.

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TRIM Ref:	JACS2021/46-001-009	

- The *Casino (Electronic Gaming) Act 2017* includes a maximum bet limit of $2 for casino gaming machines in a redeveloped casino.

Budget Funding

(JACS 27) AG - 2018-19 Budget Review Initiative - Reducing the Number of Gaming Machine Authorisations to 4,000 and Supporting Clubs to Reduce their Reliance on Gaming Machines

BUDGET ALLOCATION						
	2020-21	2021-22	2022-23	2023-24	2024-25	**Total**
	$'000	$'000	$'000	$'000	$'000	**$'000**
CMTED Directorate – Expenses	0	0	0	0	0	**473**
JACS Directorate – Expenses	1,105	1,105	0	0	0	**5,521**
Depreciation	45	45	45	45	45	**135**
Total Expenses	**1,150**	**1,150**	**45**	**45**	**45**	**6,129**
CMTED Directorate – Associated Capital	0	0				**225**
EPSD Directorate – Associated Revenue	-1,714	-1,714				**-5,642**

CURRENT STATE OF FUNDING (INCLUDING ROLL OVER OF FUNDS)						
Includes Rollover of $400k for DSSF						
	2020-21	2021-22	2022-23	2023-24	2024-25	**Total**
	$'000	$'000	$'000	$'000	$'000	**$'000**
CMTED Directorate – Expenses	0	0	0	0	0	**473**
JACS Directorate – Expenses	705	1,505	0	0	0	**5,521**
Depreciation	45	45	45	45	45	**135**
Total Expenses	**1,150**	**1,150**	**45**	**45**	**45**	**6,129**
CMTED Directorate – Associated Capital	0	0				**225**
EPSD Directorate – Associated Revenue	-1,714	-1,714				**-5,642**

Community Clubs Ministerial Advisory Council

BUDGET ALLOCATION						
Financial Impacts Summary	**2020-21**	**2021-22**	**2022-23**	**2023-24**	**2024-25**	**Totals**
	$'000	**$'000**	**$'000**	**$'000**	**$'000**	**$'000**
Expense Impacts[(a)]						
Expenses	249	489	502	515	528	**1,755**
Total Additional FTEs (number)	**1.25**	**3**	**3**	**3**	**3**	

CURRENT STATE OF FUNDING (INCLUDING ROLL OVER OF FUNDS)						
Includes Rollover of $50k for Consultant						
Financial Impacts Summary	**2020-21**	**2021-22**	**2022-23**	**2023-24**	**2024-25**	**Totals**
	$'000	**$'000**	**$'000**	**$'000**	**$'000**	**$'000**
Expense Impacts[(a)]						
Expenses	199	539	502	515	528	**1,755**
Total Additional FTEs (number)	**1.25**	**3**	**3**	**3**	**3**	

- The funding allocation in relation to the Council is for 3 x full-time equivalent (FTE) SOG C positions (for 2020-21 for 5 months (ie 1.25 FTE)) and 3 x FTE ongoing SOGC positions from 2021-22 onwards.

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Cleared for public release by:	Executive Branch Manager	Ext: 76192
Contact Officer name:	Natasha Del Piero	Ext: 76480
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-009	

- This funding also provides for $50,000 to commision an external expert to provide advice on technical and cost issues associated with introducing lower bet and load-up limits in ACT electronic gaming machines. This advice is necessary to inform Government decision making.

QUESTION TIME BRIEF

JACS2021/46-001-031

Portfolio/s: Gaming

Diversification and Sustainability Support Fund – 20/21 funding round

Talking points:

- On 1 July 2021 the Diversification and Sustainability Support Fund (DSSF) Advisory Board opened a Tier 2 funding round for applications for payments from the DSSF.
- The DSSF helps Canberra's community clubs to develop initiatives which meet the following purposes:
    - assisting clubs to diversify their income to sources other than gaming machines;
    - supporting the sustainability of clubs;
    - contributing to projects that help reduce regulatory costs or improve efficiency in administration and compliance for clubs; and
    - training and skills development for club workers, executives and members of club management committees and boards help clubs pursue a future away from gaming machines and support club staff to develop new skills
- This will be the second complete Tier 2 funding round held by the Advisory Board since the Fund was established in July 2019.
- There is approximately $1 million available for distribution in this round.
- ACT Clubs are encouraged to apply before the funding round closes on 13 August 2021. I look forward to receiving the Board's recommendations about payments to the Fund.
- Applications for Tier 1 funding to a maximum amount of $25,000 can be submitted by small to medium clubs or club groups at any time on an ongoing basis.

Cleared as complete and accurate:	19/07/2021	
Cleared for public release by:	Executive Branch Manager	Ext:76192
Contact Officer name:	Megan Sparke	Ext:70580
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-031	

QUESTION TIME BRIEF

Background Information

- The DSSF operates under a two-tier funding model:
    - Applications for Tier 1 funding, to a maximum amount of $25,000 per application, may only be made by small or medium clubs / club groups, on an ongoing basis.
    - Applications for Tier 2 funding, to a maximum amount of $250,000 may be made by any club or entity that can demonstrate that the funding will be applied towards meeting the Fund purposes.
- Tier 2 applications are restricted to one or more rounds per financial year, at the discretion of the DSSF Advisory Board. The Board also has discretion to recommend payments of more than $250,000 in exceptional circumstances.
- The DSSF Advisory Board is responsible for advising you on matters concerning the DSSF and making recommendations about payments out of the Fund.
- The first round of applications for payments out of the DSSF opened on 18 December 2019 and was due to close on 27 March 2020. However, due to the temporary closure of clubs in response to the COVID-19 public health emergency, this funding round did not proceed. Payments were instead made to clubs as emergency relief funding for club staff.
- A total of $3.3 million was provided to clubs as emergency relief funding to support club staff. This comprised $1.8 million from the DSSF (approximately $1m in Government funding and $0.8m in industry contributions) and $1.5 million of supplementary Government funding.
- As a COVID-19 relief measure, industry contributions to the Fund were also suspended, effectively for the 12-month period April 2020 to March 2021.

2020-21 Tier 2 Funding Round

- In October 2020 the Board held a Tier 2 funding round.
- The Board received eleven applications for Tier 2 Funding, totalling a requested amount of $2,061,600. Four applications were received for Tier 1 Funding (for a total of $85,000).
- The Minister agreed to the DSSF Advisory Board's recommendations to:
    - grant payments to seven clubs, totalling $632,811.
    - set aside $300,000 in DSSF funding for the ACT Government to run a tender process to engage a training provider to provide skills development and training to the club industry.
- The $632,811 in funding is being distributed to successful applicants for the following activities:

QUESTION TIME BRIEF

Recipient		Tier	Amount	Purpose
1	Murrumbidgee Country Club	1	$25,000	To assist with the construction of a shed to store golf carts.
2	Belconnen Bowling Club	2	$155,000	To allow the club to upgrade and reopen its kitchen.
3	Belconnen Soccer Club	2	$100,000	To develop an early learning centre on the Club's McKellar site.
4	Canberra Irish Club	2	$99,093	To install a 65,155 KWP Solar Grid Connect system at its premises.
5	Canberra Southern Cross Club	2	$101,518	To install the following at its Canberra Yacht Club venue: solar panels, an electric vehicle charging station and solar light fittings in the precinct car park.
6	Eastlake Football Club	2	$52,200	For the development of a diversification strategy and implementation plan.
7	Hellenic Club of Canberra	2	$100,000	To contribute to the funding to engage a consultant to conduct a Full Appraisal and Risk

Recipient		Tier	Amount	Purpose
				Analysis to inform the applicant about redevelopment options for the club's main site in Woden.

DSSF Information Session

- On 17 May 2021, the Chair of the DSSF Advisory Board held an information session with clubs to provide feedback on the recent Tier 2 Funding Round.
- At the information session, the Chair of the Board announced that a Tier 2 funding round would commence on 1 July 2021, and will be open for six weeks.

QUESTION TIME BRIEF

JACS2021/46-001-021

Portfolio/s: Minister for Gaming

ISSUE: UPDATES ON INCENTIVE APPLICATIONS UNDER VOLUNTARY SURRENDER AGREEMENTS

Please note: This QTB addresses incentives under the Pathway to 4,000 Voluntary Surrender Agreements – for information on surrender of gaming machine authorisations under the COVID-19 Economic Survival Package, please see QTB titled 'COVID-19 Impacts - Relief to clubs and licensed premises' (JACS2021/46-001-005)

Talking points:

Reducing the number of gaming machine authorisations in the ACT

- The number of authorisations in the ACT is capped at **3,864** following the surrender of 133 authorisations in response to the COVID-19 Economic Survival Package support measures for clubs.
- The number of gaming machine authorisations in the ACT has steadily reduced from 4,946 since 23 August 2018 following the ACT Government announcement of the *Pathway to 4,000 Gaming Machine Authorisations by 2020* (the Pathway). Under the Pathway, financial and non-financial incentives were available to clubs that voluntarily surrendered gaming machine authorisations to diversify their business models.
- The COVID-19 Economic Survival Package surrender wasavailable to clubs and hotels until 30 June 2021.
- In the *Parliamentary and Governing Agreement for the 10th Legislative Assembly*, the Government committed to targeting a further reduction in the number of authorisations to 3,500 by 1 July 2025 with additional incentvies to move to zero machines within a venue location. I will provide anupdate on the implementation of the gaming commitments in the Agreements in the October 2021 sitting period.

Outcomes of the voluntary surrender process

- Clubs and hotels with 19 or fewer authorisations were exempt from compulsory surrender, and these licensees elected not to access the incentives available through voluntary surrender. All clubs that were facing a compulsory surrender obligation participated in the voluntary surrender process.

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Cleared for public release by:	Executive Branch Manager	Ext: 76192
Contact Officer name:	Megan Sparke	Ext: 75547
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-021	

- In total, 911 authorisations and 1 authorisation certificate were voluntarily surrendered from clubs. A venue needs to hold an authorisation certificate to operate gaming machines and the certificate provides the maximum number of authorisations for a specific venue.
- The ACT Government budgeted a total amount of $14,390,500 in incentives for the Voluntary Surrender Agreemenst - comprising $648,000 in cash incentives and $13,742,500 in offset incentives for land-related payments, fees and charges.

Cash Incentives

- Five small or medium clubs/club groups elected to receive cash payments under their Voluntary Surrender Agreement with the Territory.
- Cash payments totalling $648,000 were made to eligible licensees.

Offset Incentives

- Four clubs have accessed all or part of their offset incentives to date. The incentives have been applied towards deconcessionalisation payout amounts, lease variation charges and development application fees. The total amount of offset incentives accessed to date is $879,515.
- Twelve clubs/club groups are still eligible for offset incentives under the Pathway. These clubs have seven years, until April 2026, to use their Total Offset Amount entitlement towards land-related payments, fees and charges.Key Information
- The *Gambling and Racing Control (New Cap on Number of Authorisations) Notice 2021 (No 1)* NI2021-448 sets the cap on the number of gaming machine authorisations at **3,864** as at 1 July 2021.
- Under the Pathway, licensees that voluntarily surrendered gaming machine authorisations were eligible for financial incentives as follows:

QUESTION TIME BRIEF

Club type	Cash per authorisation voluntarily surrendered	Land-related Fees and Charges Offset per authorisation voluntarily surrendered
Small or medium club/club group (not more than $4 million GGMR in 2017-18)	$12,000	$25,000
Large club/club group (more than $4m GGMR in 2017-18)	N/A	$15,000
'Pokie free' club bonus (surrender authorisation certificate, maintain community access to venue)	Additional 25 per cent of eligible incentives	Additional 25 per cent of eligible incentives
Hotels NB: this is the only incentive hotels were eligible for	$6,000	N/A

- The reduction in the number of authorisations from 4,946 (August 2018) to 3,864 (1 July 2021) was achieved through:
  - voluntary surrender of authorisations under a Voluntary Surrender Agreement (by 14 February 2019) – 911 authorisations
  - first stage of compulsory surrender (1 April 2019) – 9 authorisations
  - forfeitures through trading activity between licensees – 29 authorisations.
  - COVID-19 Economic Survival Package surrender of authoriations – 133 authorisations.

QUESTION TIME BRIEF

Cash incentives paid to date

Club/Club Group	Cash Amount Entitlement	Cash Amount Paid to Date
Belconnen Soccer Club	336,000	336,000
Canberra Irish Club	60,000	60,000
Harmonie German Club	72,000	72,000
The RUC at Turner	120,000	120,000
Yowani Country Club	60,000	60,000
Total	**$648,000**	**$648,000**

Offset incentives accessed to date

Club/Club Group	Payment, fee or charge	Total Offset Amount Entitlement	Offset Amount Accessed To Date
Magpies Group	Deconcessionalisation payout amount and lease variation charge	$625,000	625,000
Ainslie Group	Deconcessionalisation payout amount	$1.2 million	140,000
Eastlake Group	Lease variation charge Administrative charges for territory plan variation	$945,000	7,500 3,530
Croatia Deakin Soccer Club	Development application fees Lease variation charge	$200,000	3,485 100,000
		Total	**$879,515**

Offset incentives remaining to be accessed

Club/Club Group	Offset Amount Remaining
Ainslie Group	1,060,000
Magpies Group	0
Canberra Highland Society and Burns Club	925,000
Canberra Labor Club Group	1,590,000
Mawson Club	450,000
Raiders Group	1,395,000
Canberra Club Group	375,000
Southern Cross Club Group	1,927,500
Canberra Tradesmen's Union Club	1,140,000
Croatia Deakin Soccer Club	96,515
Eastlake Group	933,970
Hellenic Group	870,000
Vikings Group	2,100,000

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TRIM Ref:	JACS2021/46-001-021	

QUESTION TIME BRIEF

Total	**$12,862,985**

Budget Funding

(JACS 27) AG - 2018-19 Budget Review Initiative - Reducing the Number of Gaming Machine Authorisations to 4,000 and Supporting Clubs to Reduce their Reliance on Gaming Machines

BUDGET ALLOCATION						
	2020-21	2021-22	2022-23	2023-24	2024-25	**Total**
	$'000	$'000	$'000	$'000	$'000	**$'000**
CMTED Directorate – Expenses	0	0	0	0	0	**473**
JACS Directorate – Expenses	1,105	1,105	0	0	0	**5,521**
Depreciation	45	45	45	45	45	**135**
Total Expenses	**1,150**	**1,150**	**45**	**45**	**45**	**6,129**
CMTED Directorate – Associated Capital	0	0				**225**
EPSD Directorate – Associated Revenue	-1,714	-1,714				**-5,642**

CURRENT STATE OF FUNDING (INCLUDING ROLL OVER OF FUNDS)						
Includes Rollover of $400k for DSSF						
	2020-21	2021-22	2022-23	2023-24	2024-25	**Total**
	$'000	$'000	$'000	$'000	$'000	**$'000**
CMTED Directorate – Expenses	0	0	0	0	0	**473**
JACS Directorate – Expenses	705	1,505	0	0	0	**5,521**
Depreciation	45	45	45	45	45	**135**
Total Expenses	**1,150**	**1,150**	**45**	**45**	**45**	**6,129**
CMTED Directorate – Associated Capital	0	0				**225**
EPSD Directorate – Associated Revenue	-1,714	-1,714				**-5,642**

Community Clubs Ministerial Advisory Council

BUDGET ALLOCATION						
Financial Impacts Summary	**2020-21**	**2021-22**	**2022-23**	**2023-24**	**2024-25**	**Totals**
	$'000	**$'000**	**$'000**	**$'000**	**$'000**	**$'000**
Expense Impacts[(a)]						
Expenses	249	489	502	515	528	**1,755**
Total Additional FTEs (number)	**1.25**	**3**	**3**	**3**	**3**	

CURRENT STATE OF FUNDING (INCLUDING ROLL OVER OF FUNDS)						
Includes Rollover of $50k for Consultant						
Financial Impacts Summary	**2020-21**	**2021-22**	**2022-23**	**2023-24**	**2024-25**	**Totals**
	$'000	**$'000**	**$'000**	**$'000**	**$'000**	**$'000**
Expense Impacts[(a)]						
Expenses	199	539	502	515	528	**1,755**
Total Additional FTEs (number)	**1.25**	**3**	**3**	**3**	**3**	

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Cleared for public release by:	Executive Branch Manager	Ext: 76192
Contact Officer name:	Megan Sparke	Ext: 75547
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-021	

QUESTION TIME BRIEF

JACS2021/46-001-003

Portfolio/s: Minister for Gaming

ISSUE: COMMUNITY CONTRIBUTIONS

Talking points:

- Under the *Gaming Machine Act 2004*, licensees must make community contributions.
    - Hotels are required to make mandatory contributions of 0.8 per cent of their Net Gaming Machine Revenue (NGMR).
    - Clubs are required to contribute 8.8 per cent of their NGMR but may apply for a lower minimum contribution rate where they can demonstrate that meeting the overall 8.8 per cent requirement would seriously affect their viability.
- Large clubs and large club groups must make a minimum monetary contribution of 6 per cent of NGMR. The minimum monetary contribution may be reduced where large clubs have long-term (3 or more years) in-kind arrangements to support a defined facility, space or program (e.g. providing office space for a community organisation).
- A portion of the contributions are distributed through two funds to provide support to people in the community:
    - 0.4 per cent to the gambling harm prevention and mitigation and
    - 0.4 per cent to the community charitable causes through the Chief Minister's Charitable Fund.

<u>COVID-19 support measures in the community contributions scheme</u>

- The community contributions scheme (the scheme) includes support measures for clubs in response to the impacts of the COVID-19 public health emergency, following changes introduced through the *COVID-19 Emergency Response Act 2020* and the *COVID-19 Emergency Response Legislation Amendment Act 2020*. These measures:
    - enable the Minister to declare certain things, including payments to club staff, to be community contributions, where an emergency declaration has been made; and
    - incentivise the provision of food in an emergency by allowing clubs to claim $2 for every $1 of their contribution as a community purpose contribution, where the club is providing charitable

support by preparing or providing food for emergency-affected people.

- Under the *Gaming Machine (Emergency Community Purpose Contribution – Local Live Performance Industry) Declaration 2020*, clubs can claim contributions to or for the local live performance industry for music or other live entertainment (other than sport) as a community purpose contribution. This declaration encourages clubs to host live performances and supports Canberra's musicians, performers and workers in the performance industry, who have been significantly impacted by COVID-19 public health restrictions.
- The current declaration applies to contributions made between 27 August 2020 and 31 August 2021 (inclusive). I have committed to extending this measure by a further three months to allow clubs to claim contributions until 30 November 2021 (inclusive). The extension of this measure should provide further support to the local live performance industry and clubs sector at this time.

Background information- further detail on key aspects of the scheme

- The scheme includes a longstanding requirement that clubs must deduct any income or benefits received by the club from the value of a claimed community contribution. This may include entry fees received or profit earned from food and beverage sales.
- The scheme does not limit the amount of in-kind support that a club can provide to the community, but it does limit the amount that can be claimed under the scheme towards meeting clubs' obligations.
- For clubs that already meet their minimum cash requirements, and overall community contribution rates, any decisions about whether they withdraw funding that is provided above those minimum amounts is entirely a matter for each club.

<u>Contibution to sports</u>

- The scheme has a long-standing incentive to promote women's sport by allowing clubs to claim $4 for every $3 contributed.
- In addition to this specific incentive for claims for women's sport, clubs are able to claim a range of sports related expenses, for both men's and women's sport, as a community contribution, including umpires,

trainers, coaches, administrators and maintenance of sports facilities – except to the extent they relate to professional men's sport. In limited circumstances, the Minister may determine that costs relating to a professional sportsman or men's professional sports team may be allowable as a community purpose contribution.

Regulating compliance with the scheme

- Revised Guidelines for the scheme are being finalised for distribution to licensees.
- To provide greater transparency to the community, reporting by clubs on the scheme is now contained in the clubs' annual reports which they must make public and which the ACT Gambling and Racing Commission (the Commission) publish.
- Previously this information was provided to the Commission for verification and only summary information was made public.
- Access Canberra (on behalf of the Commission) is responsible for regulating and enforcing compliance with the scheme.
- In accordance with its Accountability Commitment, Access Canberra applies a risk based compliance approach to ensure resources are targeted to where the risks of harm, unsafe practices or misconduct are the greatest, thereby strengthening its capacity to take action where the community, workers and the environment are most at risk.
- Compliance is encouraged through education, but escalating enforcement action will be applied to those whose conduct will, or is likely to, cause harm, or those who demonstrate a disregard for the law. Conduct which contravenes the legislation is considered on a case by case basis, with consideration given to the circumstances of the conduct.

QUESTION TIME BRIEF

JACS2021/46-001-002

Portfolio/s: Minister for Gaming

ISSUE: Community Clubs Ministerial Advisory Council

Talking points:

- The Government will work with stakeholders, including the club industry, to reduce harm from gaming while supporting sustainable clubs.
- The first commitment in the *Parliamentary and Governing Agreement for the 10th Legislative Assembly* (the *Parliamentary and Governing Agreement*) is to establish a Community Clubs Ministerial Advisory Council (the Council) with government, industry and unions to build a long-term, sustainable clubs sector in the ACT.
- Earlier this year, on 12 February 2021, Minister Cheyne and I co-chaired an initial meeting with key stakeholders representing government, the clubs industry, unions and gambling harm advocacy groups to discuss the establishment of the Council, including its proposed membership and terms of reference.
- After considering feedback received from the initial stakeholder meeting, on 15 March 2021, the government issued a call for expressions of interest for Council membership on the ACT Diversity Register and the ACT Jobs website. I also wrote to key stakeholders seeking nominations for appointment. The expression of interest process closed on 26 March 2021.
- In May 2021, the Council was established and I appointed 14 members to the Council. I announced the members of the Council.
- Minister Cheyne and I attended the Council meetings on 26 May 2021, 1 July 2021 and 29 July 2021. The Council will continue to meet on a monthly basis (approximately every four weeks). The Council will function mainly as a formal link between stakeholder groups and the ACT Government. I look forward to consulting with the club industry through the Council to deliver the Government's commitments.
- The Council's work will focus on important initiatives included in the *Parliamentary and Governing Agreement* such as reducing community club reliance on gaming machine revenue. These initiatives include

introducing $5 bet limits and $100 load-up limits for gaming machines in the ACT and enhancing the self-exclusion scheme.

Background Information:

If asked about the composition of the Council:

- The Council is made up of 14 members. This includes the following ex-officio members:
    - Minister for Gaming, Mr Shane Rattenbury MLA (Chair);
    - Minister for Business and Better Regulation, Ms Tara Cheyne MLA (Deputy Chair);
    - Ms Yu-Lan Chan – Chief Executive Officer, ACT Gambling and Racing Commission;
    - Ms Kim Marshall – President, ClubsACT;
    - Mr Athol Chalmers – Chair, Canberra Community Clubs;
    - Ms Lyndal Ryan – Secretary, United Workers Union; and
    - Executive Branch Manager, Justice and Community Safety Directorate.
- The Council includes seven stakeholder representatives with an interest in issues impacting Canberra's club industry. They are:
    - Ms Wendy Sandeman – Financial Counsellor, Care Inc. Financial Counselling Service and Consumer Law Centre of the ACT;
    - Mr Jeremy Halcrow – Founder and Co-chair, Canberra Gambling Reform Alliance;
    - Ms Kate Seselja – Founder, The Hope Project;
    - Mr Geoff McKay – President, Canberra Bowling Club;
    - Ms Mary Collier – President, Canberra Irish Club;
    - Mr Brian Weir – President, Canberra Labor Club; and
    - Mr Thomas Stevens – Director, Design and Communications, The Youth Coalition of the ACT.
- The roles of the members are outlined in the table below.

QUESTION TIME BRIEF

Membership of the Council		
Member	**Role**	**No.**
Minister for Gaming, Mr Shane Rattenbury MLA	Chair	1
Minister for Business and Better Regulation, Ms Tara Cheyne MLA	Deputy Chair	1
Senior Executive, Justice and Community Safety Directorate (JACS)	To advise on policy considerations from the perspective of the Directorate.	1
Representative, ACT Gambling and Racing Commission	Senior Executive, Access Canberra or member of the ACT Gambling and Racing Commission Governing Board to bring practical expertise regarding the application of gaming laws in the ACT and advise on the workability of reform proposals.	1
Chief Executive Officer or Board member, ClubsACT	To represent the views of the constituent clubs of ClubsACT.	1
Chief Executive Officer or Board member, Canberra Community Clubs	To represent the views of the constituent clubs of Canberra Community Clubs.	1
Secretary or nominated representative, United Workers Union	To represent the views of club workers.	1
Representatives, gambling harm reduction organisations or experts	To bring external harm reduction perspectives to the discussions of the Council, particularly with respect to proposed harm reduction regulatory changes. It is proposed that there would be three positions for representatives from gambling harm reduction organisations or experts. Representatives would be appointed by the Minister following a nomination process.	3
Representatives, community clubs	To represent clubs in the ACT. It is proposed that there would be three positions for representatives from clubs, or club members (with a preference for small/medium clubs). Representatives would be appointed by the Minister following a nomination process.	3
Representative, young people	To provide a youth perspective on Council discussions. While the Council's focus is clubs (it is not a broad 'gambling harm' body considering issues such as online gambling), younger Canberrans are the future of club membership. They are also a significant part of the club workforce and may be affected by diversification efforts. The representative would be appointed by the Minister following a nomination process.	1
	TOTAL	**14**

If asked about which stakeholders you wrote to seeking nominations for appointment:

- On 16 March 2021, I wrote to the following organisations advising of the call for nominations to the Council:

	Position-based appointments
1	ACT Gambling and Racing Commission
1	ClubsACT
1	Canberra Community Clubs
1	United Workers Union

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Cleared for public release by:	Executive Branch Manager	Ext: 76192
Contact Officer name:	Natasha Del Piero	Ext: 76480
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-002	

	Nominated representatives	
3	Representatives, gambling harm reduction organisations or experts	• Canberra Gambling Reform Alliance • The Hope Project • Care Financial Counselling • Centre for Gambling Research • Menslink • Relationships Australia • University of Canberra Professor Laurie Brown

3	Representatives, community clubs	• Canberra Community Clubs
		• ClubsACT
		• Unaffiliated clubs:
		  ○ Canberra Labor Club
		  ○ Canberra Irish Club

1	Representative, young people	• Youth Coalition of the ACT • Children and Young People Commissioner) • ANU Students Association • University of Canberra Student Representative Council
1	Representative, Business/hospitality professional	• Canberra Business Chamber • Tully Heard Consulting • Canberra Women in Business

Recent consultation activity:

- A summary of key, recent consultation activity held with the Council is outlined below.

Date	Document	Stakeholders
20 January 2021	Email – invitations to initial meeting to discuss establishment of the Council	Clubs industry peak bodies, United Workers Union and community groups
12 February 2021	Meeting – Council Initial stakeholder meeting	As above
16 March 2021	Letter – Seeking nominations for appointment to the Council and follow up emails providing Diversity Profile Form	Club industry peak bodies, United Workers Union and community groups, key gambling harm reduction organisations, unaffiliated clubs, organisations representing young people, and organisations representing business.
19 May 2021	Letter – Letters to Council members and stakeholders advising of Council's establishment	As above

QUESTION TIME BRIEF

JACS2021/48-001-018

Portfolio/s: Gaming

Business and Better Regulation

Gaming Machine Technical Advice

Talking points:

- The ACT Government committed through the *Parliamentary and Governing Agreement for the 10th Legislative Assembly* to introduce $5 bet limits and $100 load-up limits for gaming machines operated in the ACT.
- The ACT Government also committed to keep pace with harm reduction measures implemented in NSW, such as cashless gaming.
- The government is seeking advice about technical issues associated with these harm reduction measures and the possible costs for their implementation. A procurement process for the advice has been completed and a supplier has been selected.
- The kind of technical issues that might arise relate to, for example, whether and how a game installed on a gaming machine can be recoded to set a lower bet limit.
- The government is seeking this technical advice from parties removed from the actual manufacture and sale of gaming machines so as to better assure the impartiality and integrity of the advice.
- The government remains committed to working with the ACT community, including community clubs, on how to support sustainable clubs as these harm reduction measures are introduced.
- The government has received a draft report for comment from an external technical expert.
- The final report is due to the government by 7 August 2021.

Key Information

- As at 1 February 2021 there were 3,868 gaming machine authorisations in the ACT and 31 licencees (including B and C class).
- On 3 May 2021, JACS released a Request for Quotation to a number of industry participants who are not gaming manufacturers, including advisory firms and gaming machine testing providers. These included:

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Cleared for public release by:	Executive Branch Manager	
Contact Officer name:	Zoe Hutchinson	Ext: 76192
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-018	

- Senet Legal, a legal and advisory firm specialising in the gambling law and regulation.
- Gaming machine test facilities authorised by the NSW Government and used by the ACT Government for gaming machine regulatory processes:
  - BMM Australia
  - QALab
  - Gaming Laboratories International.

- JACS selected BMM Australia to provide the technical advice. The contract for this advice is a notifiable contract and has been placed on the ACT Government contracts register.

Background Information

- The ACT Government, through the *Parliamentary and Governing Agreement for the 10th Legislative Assembly*, made commitments to:
  - E.5 Introduce the harm reduction measures $5 bet limits and $100 load-up limits, following a thorough review and transitional plan to manage impacts on clubs, particularly smaller clubs that upgrade machines less regularly. A staged rollout of this reform should commence by the end of 2022 at the latest.
  - E.4 Match or exceed any further harm reduction gaming reforms commenced in NSW, such as cashless gaming.
- Industry has indicated that implementing these measures is technically costly and not technically feasible, in some cases requiring replacement of gaming machines. Some gaming machine manufacturers suggest that the cost may be between $5,000 and $25,000, depending on the age of the machine.

QUESTION TIME BRIEF

JACS2021/46-001-015

Portfolio/s: Attorney-General

ISSUE: RESOURCING OF MAGISTRATES AND CORONER'S COURTS

Talking points:

- The ACT Government is committed to providing the ACT Magistrates Court and the ACT Coroner's Court with the resourcing required to meet the community's needs.

Recent Magistrate appointments

- I welcome the appointment of Dr Anthony Hopkins as a Special Magistrate. Dr Hopkins commenced in his new role on 1 May 2021 and brings a wealth of experience to the bench, particularly in the area of criminal law practice and procedure and is a leading Australian authority on therapeutic jurisprudence.

Dedicated full time ACT Forensic Pathologist

- The 2018-19 Budget provided $1.9 million over four years for the recruitment of a resident full-time ACT Forensic Pathologist which will ensure efficient and dedicated provision of pathology services to support the Coroner's Court.

Family Liaison Officer

- A new Family Liaison Officer role commenced in the Coroner's Court on 25 June 2020. The role is providing support to families and friends of loved ones who have passed, as they progress through the coronial system.

Dedicated Coroner

- The Government is committed to considering the establishment of a dedicated full-time Coroner's Court to help reduce delays, improve consistency and lift the experience of families engaging with the coronial process.

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Cleared for public release by:	Executive Branch Manager	Ext: 76192
Contact Officer name:	Kate Daly	Ext: 75285
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-015	

QUESTION TIME BRIEF

Key Information

Full-time dedicated Coroners Court

- The Parliamentary and Governing Agreement for the 10th Legislative Assembly provides that an Executive reform priority is to '*Explore the establishment of a dedicated full time Coroners Court*' (Appendix 2, Executive Reform no. 5).
- The ACT Courts and Tribunal submitted a business case as part of the 2021-22 Budget for a full-time dedicated Coroner, which is under active consideration.

Operational issues

- COVID-19 led to a range of measures being implemented by the ACT Courts and Tribunal to support social distancing and reduce the spread of the virus. Where feasible, essential court and tribunal operations continued by using a range of technologies such as video and telephone conferencing.
- The pandemic led to a slowing of the court and tribunal operations and a slowing of finalisation rates. The Chief Magistrate has publicly stated that a significant backlog has accumulated which will take many months to address. Funding has been provided to assist the Magistrates Court with reducing this backlog.
- In addition, there has been a steady increase in the number of family violence and personal violence applications to the Courts in recent years, which is impacting on the Court's ability to deliver interim orders in a timely manner. Additional funding was sought this year but the business case did not progress. JACS is working with the Courts to monitor resourcing and manage delays.

Coroners Amendment Bill 2020

- The Coroners Amendment Bill 2020 was passed in the Assembly in July 2020. The Bill amends the *Coroners Act 1997* to enhance our framework to better respond to the justice needs of families engaging in the coronial system and to make it easier for the Coroner's Court to implement restorative approaches in its daily practice.

Special Magistrates recruitment process

- A recruitment process will be undertaken in the second half of 2021 for Special Magistrates. This will ensure the Chief Magistrate has a suitable pool of Special Magistrates at her disposal to assist the Court when required. An exchange of letters between the Attorney-General and Chief Magistrate will settle understanding that these Special Magistrates will be used in a more 'traditional' manner.

Background Information

Recent Magistrate appointments

- Magistrate James Stewart is appointed as a part-time magistrate of the ACT Magistrates Court. Magistrate Stewart has been working full-time since 1 August 2019 to support the Court to address the backlog of matters caused by the COVID-19 pandemic, and to assist the ongoing operation of the Court in light of other magistrates' absences anticipated in 2021. The current full-time work arrangement for Magistrate Stewart will end on 30 June 2022.

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Cleared for public release by:	Executive Branch Manager	Ext: 76192
Contact Officer name:	Kate Daly	Ext: 75285
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-015	

QUESTION TIME BRIEF

- The appointment of Ms Margaret Hunter OAM as a Special Magistrate was recently extended to 30 April 2022. The Chief Magistrate indicated Special Magistrate Hunter will be utilised as a 'traditional' Special Magistrate to assist in covering leave taken by other magistrates, dealing with conflicts and so on, rather than using her on a regular or fulltime basis.
- Dr Anthony Hopkins was appointed a part-time Special Magistrate for 12 months from 1 May 2021. The Chief Magistrate indicated Special Magistrate Hopkins would sit one day per week and presides over the Galambany Court and Family Violence lists on those days.

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Contact Officer name:	Kate Daly	Ext: 75285
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-015	

QUESTION TIME BRIEF

JACS2021/46-001-004

Portfolio/s: Attorney-General

ISSUE: CORONIAL REFORM

Talking points:

- The Government is focused on improving the coronial system to ensure that cases are finalised as quickly and as sensitively as possible and that the benefits to the community of coronial recommendations for public health and safety improvements are realised.
- The coronial process is a vital part of the judicial system that deserves ongoing focus. Coronial inquiries are complex and time consuming.
- To make the coronial process more timely, inclusive and sensitive to the needs of grieving families, we are examining our current system and the potential for meaningful process improvements and reform.
- In 2020, having regard to feedback from the November 2019 Restorative Coronial Reform Forum, we amended the Coroners Act to explicitly recognise the impact on family and friends of the death of a loved one, and the interest that family and friends have in the coronial process.
- In addition, a new Family Liaison Officer role commenced in the Coroner's Court on 25 June 2020. The role is critical in providing support to families and friends of loved ones who have passed, as they progress through the coronial system.
- The Government is now committed to exploring the establishment of a full time dedicated Coroner. Currently, the coronial responsibilities are shared across a number of ACT Magistrates.
- I am currently participating in a series of forums faciliated by Relationships Australia which are providing a space for families and professionals to share their experiences of the coronial process, and to identify opportunities of further reform.

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Cleared for public release by:	Deputy Director-General	Ext:
Contact Officer name:	Kate Daly	Ext: 55285
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-004	

QUESTION TIME BRIEF

Key Information

Full-time dedicated Coroner's Court

- The Parliamentary and Governing Agreement for the 10th Legislative Assembly provides that an Executive reform priority is to 'Explore the establishment of a dedicated full time Coroner's Court' (Appendix 2, Executive Reform no. 5).
- ACT Courts and Tribunal submitted a business case as part of the recent 2021-22 Budget for a full-time dedicated Coroner, which is under active consideration.

Funding from the 2018-19 Budget

- The 2018-19 Budget provided $1.9 million over four years for the recruitment of a resident full-time ACT Forensic Pathologist. This supports the timely provision of manner and cause of death information to expedite the release of the deceased to their family and the making of findings by the Coroner.
- The 2018-19 Budget also included $3.1 million in funding over four years for an eighth full time resident magistrate.

Coronial Reform Forums – 2021

- To progress the coronial reform agenda, JACS is working with Relationships Australia (ACT Coronial Counselling Service) to organise a series of roundtable discussions with family members and professionals with lived experience of the coronial system.
- The first gathering was held of 8 July 2021 with 12 family members and their support persons. This was an opportunity for family members to share their personal experiences and ideas on how the coronial process can be improved for families.
- The next gathering with professionals who interact with the coronial system (including police officers, paramedics, solicitors, barristers and ACT Courts staff) is scheduled for 27 August 2021. This will be an opportunity for these professionals to share their experiences and ideas for reform.
- Conversations are ongoing with community advocates for coronial reform, restorative practitioners, Relationships Australia and JACS on the development of a restorative coronial reform agenda.

Background Information

Law Reform Advisory Council (LRAC) Report

- The LRAC report, *Canberra – Becoming a Restorative City,* released on the JACS website on 15 November 2019, recommended that restorative practices be trialled within the coronial system.

Restorative Coronial Reform Forum (November 2019)

- A forum was held on 19 November 2019 which reflected upon the experiences of families who had engaged with the coronial system, and explored opportunities for restorative coronial reform, in alignment with the recommendations of the LRAC Inquiry into Canberra as a Restorative City.

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QUESTION TIME BRIEF

Legislative reforms

- In July 2020, the Legislative Assembly passed the Coroners Amendment Bill 2020 which was part of a package of reforms to better respond to the justice needs of families engaging with the coronial system and to make it easier for the Coroners Court to implement restorative approaches in its daily practices.
- Feedback from families with lived experience in the coronial system significantly informed the amendments to the Coroners Act, which commenced on 29 January 2021.
- The Justice and Community Safety Legislation Amendment Bill 2019 (JACS Bill), passed in June 2019, clarified that the Judicial Council can receive and examine complaints about a magistrate performing the coronial role, and made changes to require a government response to be presented to the Legislative Assembly following the release of coronial findings which identify matters of public safety.

Family Liaison Officer (FLO)

- The trial of the FLO position in the Coroner's Court commenced on 25 June 2020, with the recruitment of Ms Corinne Vale to the role. The role is currently funded up to December 2021. Positive anecdotal feedback has been received from families, which indicated that the FLO has assisted to bridge the gap for families interacting with the coronial process and increase information flow between families and the Court.

Canberra as a Restorative City

- Several initiatives are being progressed as part of the Restorative City initiative to strengthen the use of restorative practice in the Coroner's Court, including:
    - Ministerial guidelines for Government responses to coronial reports to promote transparent, respectful, and sensitive engagement between families and coronial staff during the preparation of Government responses.
    - Exploring the use of restorative conferencing to complement current and completed coronial inquiries.
    - Developing information materials to help bereaved families navigate the coronial system.
    - Facilitating discussions between religious and cultural leaders in the ACT and Coroners, Coroner's Court staff and Forensic Medicine Centre staff on different practices around death, autopsy, and burial.
    - Supporting opportunities for Coroners to discuss restorative approaches with colleagues across jurisdictions.

National Commissioner for Defence and Veteran Suicide Prevention

- The ACT continues to participate in national level discussions led by the Commonwealth Attorney-General's Department about the establishment of a National Commissioner for Defence and Veteran Suicide Prevention, and National Coronial Centre. The ACT's coronial reform program is of interest to the Commonwealth as a focus of anyCommissioner's role will be engagement with affected families using restorative and trauma-informed principles.

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QUESTION TIME BRIEF

Coronial Reform Group (CRG)

- Mrs Eunice Joliffe, and Ms Ann Finlay (Fennessy) are collectively known as the Coronial Reform Group (CRG). Members of the CRG experienced the coronial system following the death of their sons, Mark Joliffe and Paul Fennessy in 2010.
    - Mark Joliffe died on or about 15 February 2010. Coroner Dingwall's findings were delivered on 30 June 2015.
    - Paul Fennessy died on 6 January 2010. Coroner Hunter's findings were delivered on 16 December 2016. The Health Minister's response to the Coroner's recommendations was tabled in the Legislative Assembly in August 2017.
- The CRG was awarded the ACT's Mental Health Volunteer of the Year Award in 2018 for their work to support a more timely, supportive and effective coronial system and better lives for people affected by mental illness through service improvements.

Alliance for Coronial Reform (ACR)

- Ms Rosslyn Williams (formerly of the CRG), Ms Janine Haskins and Ms Jacqueline Ryles recently formed the Alliance for Coronial Reform (ACR).
- Ms Williams experienced the coronial system following the death of her son Benjamin Williams in 2010.
    - Benjamin Williams died on 28 September 2010. The Chief Coroner's findings were delivered on 17 October 2013.
- Ms Haskins is currently going through the coronial system following her daughters death in 2020.
    - Brontë Haskins died on 18 February 2020. A public inquest hearing is set to take place in January 2022.
- Ms Williams was awarded the Medal of the Order of Australia (OAM) for her work in mental health and coronial reform in 2021.

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QUESTION TIME BRIEF

JACS2021/46-001-007

Portfolio/s: Attorney-General

ISSUE: DRUG AND ALCOHOL COURT/DRUG AND ALCOHOL SENTENCING LIST

Talking points:

- The Government committed to establishing a Drug and Alcohol Court (DAC) in the Parliamentary Agreement for the 9th Assembly. The ACT DAC commenced operations on 3 December 2019.
- On 1 July 2020, former judge of the ACT Supreme Court, Justice Richard Refshauge was appointed as an Acting Judge to oversee the DAC, which is referred to by the Courts as the Drug and Alcohol Sentencing List (DASL).
- The DAC sits each Friday and as required on other days.
- The first Drug and Alcohol Treatment Order (DATO) was made on 15 January 2020.
- As at 22 July 2021, 25 DATOs were in effect with a further 5 people awaiting sentence.
- As at 22 July 2021, a total of 78 people have been referred to the DAC, with 71 people sent for eligibility assessments.
- A wide range of community services including health, housing, treatment and counselling programs complement and support the DAC to achieve positive outcomes for offenders and the community.
- Those outcomes include better health outcomes, reduced offending, reduced incarceration rates and improved community safety.
- In September 2020, the NSW Bureau of Crime Statistics and Research (BOCSAR) published an evaluation of the NSW Drug Court entitled '*The long-term effect of the NSW Drug Court on recidivism*'. The report considered whether the positive results observed in early evaluations of the NSW Drug Court had been sustained over more than ten years.
- The report concluded that the NSW Drug Court appears to have long term beneficial effects on the total number of reconvictions and the risk of an offender committing a further offence against another person.

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- The ACT Government will be considering this important research very carefully as it determines next steps for the drug court in the ACT.

Purpose and nature of the DAC

- The ACT DAC operates in the Supreme Court. The fitout of the court room and urinalysis suite for the DAC were included as part of the courts building project.
- Offenders are carefully assessed for eligibility and suitability for DAC participation. Criteria include that they must have pleaded guilty to an eligible offence, and be dependent on alcohol or a controlled drug that substantially contributed to their offending.
- Participants have their sentence of imprisonment (between one and four years) suspended and have individualised treatment and sentence management plans. The plans include intensive judicial supervision, frequent drug and alcohol urine and breath testing, and regular and ongoing contact with health and corrections staff.
- Case management is undertaken by both Health and ACT Corrective Services staff, with agencies working closely together to support the offender throughout the order.
- The DAC Team includes members from Canberra Health Services, ACT Corrective Services, the Director of Public Prosecutions, Legal Aid ACT and ACT Policing. Importantly, the Team may also include an Aboriginal Liaison Officer from Canberra Health Services and housing support as required.
- A scheme of rewards and sanctions supports compliance. Progress is rewarded, and breaches are sanctioned through a system of swift, certain and proportionate consequences. This sends a strong message about the consequences of continued criminal or antisocial conduct.
- The DAC deals with offending linked to serious drug and alcohol use. It provides a unique response to a group of high risk and high need offenders in the form of an alternative to full-time imprisonment.
- The DAC will promote community safety and decrease the impact of criminal activity in the Territory by reducing the likelihood of drug dependant people resorting to further offending behaviour.

- The evidence shows that drug courts are effective at achieving long-term behavioural change in offenders.

Participant requirements and cooperation

- An offender may be referred for consideration of eligibility for a DATO if they plead guilty to an eligible offence, if drugs and or alcohol was a factor in the commission of the offence and the offender is facing a sentence of one to four years.
- The offender will be assessed for eligibility and if eligible, will be referred for a suitability assessment. This involves judicial supervision, primary case management by Health staff in conjunction with Corrective Services staff and frequent drug testing or breath testing.
- The offender must give informed consent to be assessed for a DATO.
- Once an offender is sentenced to a DATO, the DAC Team manages the participant through targeted multidisciplinary treatment programs.
- All participants commence on phase one of the program. Progress through the three phases will depend on the participant and their progress on the DATO.
- Intensive supervision ensures that offenders are doing the right thing for themselves and for the community.
- By promoting the reintegration of eligible offenders into the community and taking a holistic approach to addressing key risk factors related to offending, the DAC can reduce recidivism.
- For example, when a DAC participant stops using drugs, and has stable housing and re-engages with their community, some of the risk factors for re-offending are lessened.
- This ultimately helps to reduce the burden on our health and justice systems caused by drug use and offending, and helps to maintain safety in the community.
- Drug courts in NSW, Queensland and Victoria have demonstrated the long-term cost-effectiveness of a therapeutic approach which is able to achieve continuing behavioural change.

QUESTION TIME BRIEF

Background Information

- The Parliamentary Agreement for the 9th Assembly committed to establishing a Drug and Alcohol Court and associated support programs as part of a goal to reduce recidivism by 25 percent by 2025.
- $6.83 million over 2.5 years was allocated to the DAC in the 2018-19 mid-year budget appropriation.
- An independent evaluation of the DAC is currently underway by academics from the Australian National University and will provide its final report in April 2022. In April 2021 the consultants provided the initial Process Evaluation report. The report is currently being considered by DAC partners.

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QUESTION TIME BRIEF

JACS2021/46-001-030

Portfolio: Attorney-General

ISSUE: JUDGE ALONE TRIALS

Talking points:

- The temporary amendments to the judge alone trial provisions in the *Supreme Court Act 1933* were a response to the COVID-19 pandemic and aimed to ensure the continued effective administration of justice.
- ACT Courts and Tribunal introduced a range of measures to allow jury trials to proceed safely but social distancing requirements mean that two court rooms are required for each jury trial, which has a significant impact on the capacity of the Supreme Court infrastructure.
- The Government has commenced consulting with stakeholders about the future of judge alone trials in the ACT. It has been nearly 10 years since sexual offences and offences involving the death of a person were excluded from being heard by a judge alone.
- The consultation process includes a roundtable with targeted justice stakeholders, including the legal profession, which was held on 22 March 2021. Written submissions have also been received in response to a discussion paper titled 'Judge alone trials and jury issues'.
- The review will include an assessment of the current temporary judge alone provisions and I will carefully examine the views of stakeholders before reaching a position for consideration by the Government.
- I am aware that the legal profession is concerned about the constitutionality of 68BA of the *Supreme Court Act 1933* (now repealed). As there is a case currently before the courts in relation to this issue, I do not propose to comment further.
- Section 68B (3A) of the *Supreme Court Act 1933* has now lapsed which means that the ACT's judge alone provisions have returned to the pre-COVID-19 position, with specified offences being excluded from being tried by a judge alone.
- I am aware that the Director of Public Prosecutions commented in his 2019-20 Annual Report that the temporary amendments have impacted on the conviction rate. It is important to note that the data is limited as it covers a period of under 3 months. It is also important to say that the

DPP will be given every opportunity to express his views through the consultation process which is underway, noting that both judge alone and jury trials have a place in the ACT.

Background Information

- In 2011, new section 68B of the *Supreme Court Act 1933* (SCA) limited the types of offences which could be heard by a judge alone. The excluded offences were sexual offences and offences involving the death of a person.
- In April 2020, section 68B of the SCA was temporarily amended in response to the COVID-19 pandemic, including by permitting previously excluded offences to be tried by a judge alone. This amendment expired on 30 June 2021.
- Section 68BA of the SCA was enacted as part of the COVID-19 measures in April 2020 but repealed in June 2020. This allowed the court to order a trial by judge alone if satisfied certain criteria were met. This provision has been challenged twice in the courts. The first challenge did not proceed and the second challenge is still before the courts. Attention has also been drawn to the provision by an article co-authored by Dr John Boersig, Jane Campbell (now Special Magistrate Campbell) and S Carmichael which expresses doubt as to the constitutionality of the provision.
- The 2019-20 DPP Annual Report states that 20 trials for sexual offences were held in the Supreme Court with 11 guilty verdicts. This is a conviction rate of 55% and is broadly commensurate with the conviction rate since 2011 reforms which excluded sexual offences and offences involving the death of a person from being heard by a judge alone.
- The DPP Annual Report also states that ".. as at 30 June 2020, of the eight trials that proceeded as 'judge alone' (post COVID-19 shutdown period), seven returned verdicts of not guilty". The DPP does not specify that these were normally excluded offences and, given the timeframe it is likely that that this data includes all offence types.
- The DPP has provided information that, in relation to sexual offences, there have been 9 judge alone trials resulting in 2 guilty verdicts (conviction rate of 22%) to 30 November 2020. This does not correspond with the ACT Courts and Tribunal (ACTCT) data which indicates 6 judge alone trials for sexual offences (to end October 2020) with 3 convictions (conviction rate of 50%). The reason for the discrepancy , based on information from ACTCT, is that the DPP's data includes all matters where a not guilty plea was entered as opposed to ACTCT data which is based on matters which actually proceeded to trial. This reason has not yet been verified with the DPP.

QUESTION TIME BRIEF

JACS2021/47-001-031

Portfolio/s: Chief Minister

Police and Emergency Services

Special Minister of State

ISSUE: NATIONAL SECURITY AND PUBLIC SAFETY

TALKING POINTS

<u>Ideologically</u> motivated <u>violent extremism and religiously</u> motivated <u>violent extremism (Chief Minister)</u>

- The national language used to describe violent extremism has changed to focus on an individual or groups' support for violence.
- There are now two categories: ideologically motivated violent extremism and religiously motivated violent extremism.
    - Ideologically motivated violent extremists, specifically nationalist and racist extremists, are motivated by a wide variety of social, economic and political grievances.
    - Religiously motivated violent extremism and the violent narrative of groups – such as ISIL and al-Qa'ida – continues to appeal to a small number of people in Australia.
- The ACT's laws and arrangements focus on threat and criminality regardless of ideology or motivation.
- The best defence to violent extremism is maintaining the ACT as a harmonious, inclusive and cohensive community.
- Concerns about violent extremism be reported to the National Security Hotline on 1800 123 400, or ACT Policing on triple-zero if the situation is life threatening.

<u>Fixated Threat Capability (Minister for Police and Emergency Services)</u>

- In the ACT Budget 2019-20, the Government announced $1.08 million over three years to establish and trial a fixated threat capability for the ACT. This capacity has been established and is the FLAG – Fixated, Lone Actor and Grievance Fuelled Violence assessment team. The ACT FLAG has specially trained officers from ACT Policing, and mental health

professionals from Canberra Health Services co-located and working closely together to assess and manage fixated individuals in the ACT. The ACT Government is also undertaking a two year review of the capability to ensure it is best practice and meets the requirements of the ACT.

- A fixated individual is a person with an unhealthy obsession or perceived grievance with another person. In many cases, a fixated individual may have undiagnosed or untreated mental health issues.
- A focus for the ACT's fixated threat capability is to reduce harm to the community by engaging (or sometimes re-engaging) fixated individuals with appropriate mental health or other community support services.
- The establishment of this capability completes the ACT's implementation of the October 2017 agreement of the Council of Australian Governments to adopt a national approach to assessing and managing fixated individuals.

Counter Terrorism (Chief Minister)

- The ACT is a successful and harmonious multicultural society. This is one of our greatest strengths against acts of terrorism and violent extremism occurring in Canberra.
- Our identity is defined by an overriding commitment to our nation, its democratic values and the rule of law, not by race, religion or ethnic background.
- The ACT supports community leaders and activities to promote our vibrant, inclusive and culturally diverse community while maintaining the rule of law and protecting human rights.
- We as a government reject those who seek to impose their world view on others through intimidation and violence.
- Anyone who singles out any particular group as a target for hatred plays into the hands of terrorists.
- My Government is committed to ensuring the safety and security of our community. We work closely with ACT Policing and other law enforcement and intelligence agencies to combat terrorism and violent extremism.

- We cannot eliminate the risk of terrorism any more than any other serious crime. But we will do all we can to keep our community safe from those who seek to do us harm.
- Terrorism is a national issue, and we work closely with our interstate and Commonwealth partners on the national security challenges we face. We need to keep our legislation and capabilities under constant review to meet these evolving issues.
- The Australian National Security website contains information about Australia's security threat environment and terrorism in Australia.
- Concerns about national security or terrorism should be reported immediately to the National Security Hotline on 1800 123 400.
- If a situation requires a police response, call Police Operations on 131 444. If the situation is potentially life threatening, call Triple-Zero (000).

Australian Government Critical Infrastructure Reforms (Chief Minister)

- Critical infrastructure is essential to the function of our daily lives in the ACT.
- The ACT's establishment of a second power supply is one example of how the ACT is strengthening the resilience of our critical infrastructure.
- The ACT remains supportive of the focus by the Australian Government to strengthen the security of Australia's critical infrastructure by reforming the *Security of Critical Infrastructure Act 2018*. The ACT remains engaged with the Commonwealth and the state and territory governments to support the development of the reforms.
- The ACT maintains its own critical infrastructure arrangements and relationships between government and non-government owners and operators.
- This relationship was used to great effect during the 2019-20 bushfire season to share information about critical infrastructure.

Cyber Security and Online Safety (Special Minister of State)

- The ACT remains an attractive target for cyber criminals.

- The cyber threat is persistent. State actors, criminal syndicates, issue motivated groups and self-motivated individuals continue to target children, families, businesses, online critical infrastructure and steal Government intellectual property.
- Cyber security remains a top priority for the ACT Government.
- Our specialist teams work to protect information managed by the ACT Government and regularly meet with the National Cyber Security Committee to monitor the cyber threat environment.
- The ACT is progressing a risk and threat assessment of the ACT Government's environment. This is in addition to a wide range of other activities to strengthen the ACT's cyber security resilience.
- The ACT remains engaged with the Commonwealth about proposed reforms to the ***Security of Critical Infrastructure Act 2018***. A significant focus for these reforms is strengthen cyber security arrangements as they apply to critical infrastructure and systems of national significance.
- With more Canberrans working and studying online due to COVID-19, the potential for online harm is increased. Visit the eSafety Commissioner's website for ways to keep you and your family safe online.
- I encourage all Canberrans to follow the IT security advice of the Australian Cyber Security Centre available at cyber.gov.au.

Foreign Interference (Chief Minister)

- The ACT values its open and transparent international engagement with other governments to progress matters of mutual benefit.
- Unfortunately, some foreign actors are pursuing opportunities to interfere in a range of areas such as decision makers, intellectual property, and IT systems in Australia. The ACT is not immune from this interference.
- Foreign interference activities go beyond routine diplomatic influence practiced by governments. Interference may be coercive, covert, deceptive and clandestine in nature and can cause harm to the ACT's interests.
- The ACT partners with the Australian Government and other states and territories on efforts to protect our systems of government, democracy, critical infrastructure, education and media.

- Concerns about foreign interference should be reported to the National Security Hotline on 1800 123 400.

Public Spaces and Venue Safety (Minister for Police and Emergency Services)

- Canberra's public places and events remain a safe and attractive place for communities and families.
- While the national terrorism public alert level remains at PROBABLE, there is no specific or credible threat to the ACT at this time.
- The ACT Government and ACT Policing continually monitor the security threat environment. We must all remain vigilant to the threat of terrorism.
- The Government remains focused of promoting and supportive safe public events within the current COVID environment.
- The Government continues to expand and enhance the ACT's Public Safety CCTV Network into areas including Glebe Park. The Government also continues to make use of portable CCTV capability, vehicle protection barriers and other measures as appropriate to protect Canberrans.

QUESTION TIME BRIEF

JACS2021/47-001-021

Portfolio: Minister for Police & Emergency Services

Attorney-General

ISSUE: CRIMINAL OUTLAW MOTORCYCLE GANG

TALKING POINTS:

- The ACT Government and ACT Policing are committed to countering serious and organised crime by criminal gangs, and maintaining public safety.
- Taskforce Nemesis is focussed on combating criminal motorcycle gang behaviour in the ACT. The taskforce often collaborates across whole-of-government to create innovative strategies to disrupt criminal gang behaviour.
- Since 2016 the ACT Government has injected almost $6.4 million to help expand Taskforce Nemesis resources. A further $1.594 million over four years was pledged in 2018/19 to continue to bolster capabilities and enable ACT Policing to employ specifically skilled members, equipment and training.
- In 2017, the Federal Government provided funding to combat organised crime through the National Anti-Gangs Squad (NAGS). Taskforce Nemesis has an embedded NAGS member, enabling interoperability and liaising on matters of operational and strategic importance.
- NAGS brings together the resources and expertise of Federal and state/territory agencies to cooperate and share information to identify, target, disrupt and deter gang-related crime.
- ACT Policing is also in a unique position to call on specialist and surge capabilities from the broader AFP to meet changing operational environments.
- This approach ensures a multijurisdictional response to ACT geographically based targets, and impact felt from others within the Territory.
- ACT Policing has also established a whole-of-government interagency working group, with representatives from a number of local and Commonwealth government agencies to consider all aspects of criminal gang behaviour in the ACT.

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QUESTION TIME BRIEF

Operational successes

Taskforce Nemesis Criminal Motorcycle Gang related figures	2018	2019	2020	2021 (1 Jan – 30 June 2021)
Criminal gang members charged *(person may be charged on numerous occasions)*	45	54	30	8
Offences charged*	136	127	87	23
Firearms seized	18	14	9	1

Offence charges cleared include: by arrest, summons, caution and charged before court

Criminal Outlaw Motorcycle Gangs in Canberra

- As at 30 June 2021, there are **three** known Criminal Motorcycle Gangs operating in the ACT – one of which has increasingly limited influence.
    - The total number of members associated with ACT chapters is estimated at approximately 30-40 people.
    - This is a decrease from approximately 70 members in 2018-19, as a result of members being deported, imprisoned or fleeing interstate.
- Criminal Motorcycle Gang membership has traditionally been relatively stable, however, changes to criminal gang membership in recent years highlight a shift towards more fluid concepts of membership.
- Serious and organised crime is not limited to openly-identifiable criminal gangs and ACT Policing will continue to proactively target, prosecute and disrupt those involved in serious and organised crime in the ACT - regardless of their individual affiliations.

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QUESTION TIME BRIEF

Background information

- While 'patch-overs' have been known to occur from time to time, large numbers of patch overs have occurred in recent years. These changes to club numbers can affect the structure and strength of a Criminal Motorcycle Gang, and has had a significant impact upon the strength and rivalry between Criminal Motorcycle Gangs in the ACT.
- Appropriate legislative frameworks are an essential component to enable police to effectively disrupt and dismantle criminal organisations. A number of legislative amendments have been made to increase the tools available to police and enhance the response capacity of police officers. Most recently, these have included legislation passed on fortifications, drive-by shootings and crime scene powers.
- Recent legislative amendments to help equip ACT Policing in combating Criminal Motorcycle Gang activity have included:
    - Laws providing powers to remove fortification from dwellings;
    - Laws enabling police to establish crime scenes;
    - A tiered regime of affray offences;
    - Laws allowing police to apply to exclude individuals from working in certain industries or attending licensed premises.
- As a result of an increase of Criminal Motorcycle Gang activity in 2018, Taskforce Nemesis strengthened its surveillance and targeting of Criminal Motorcycle Gangs as well individual gang members via a combination of successful apprehensions and the confiscation of criminal assets.
- These efforts resulted in the demise of certain gangs. The reduction in member numbers severely disrupted remaining gangs' illegal functions and possible offending within the ACT.

QUESTION TIME BRIEF

JACS2021/46-001-019

Portfolio/s: Attorney-General

ISSUE: SERIOUS AND ORGANISED CRIME RESPONSE

Criminal gangs are involved in illegal activities across Australia, including serious drug offences, fraud and property crime, vehicle rebirthing, firearms offences, money laundering, extortion and serious assaults.

TALKING POINTS

- Countering serious and organised crime and maintaining public safety is a primary focus for the ACT Government.
- Outlaw motorcycle gangs (OMCGs) have been identified as having high involvement in serious criminal activities. A February 2020 report by the Australian Institute of Criminology found that violent and profit-motivated offending is common among members of OMCGs, and that there is evidence that joining an OMCG increases a person's propensity to commit crime.
- As at 30 June 2021, there are three known OMCGs operating in the ACT, one of which has increasingly limited influence. The total number of members associated with the ACT chapters of these gangs is approximately 30-40 people. This is a decrease from previously reported numbers of approximately 70 members in 2018-2019 and is a result of members being deported, imprisoned or fleeing interstate.
- In 2020, in the ACT, 30 OMCG members were charged with a total of 87 offences. In this period, 9 firearms were seized.

Key Taskforce Nemesis figures (Criminal Motorcycle Gang related figures as at 30 June 2021)	**2018**	**2019**	**2020**	**2021 (1 Jan-30 June)**
Criminal gang members charged (person may be charged on numerous occasions)	27	54	30	8
Offences charged*	78	127	87	23
Firearms seized	20	12	9	1

*Offence charges cleared include: by arrest, summons, caution and charged before a court

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- The ACT Government is strongly committed to targeting, disrupting, and prosecuting organised criminal gang members and ensuring the safety of all Canberrans.
- ACT Policing's Taskforce Nemesis continues to focus on operational and investigative responses to criminal gang activity. Through the Taskforce, ACT Policing continues to proactively disrupt criminal gang members to deter and detect criminal activity. The Government has provided continued investment to ensure that ACT Policing has the resources it needs to combat criminal gangs in the ACT.
- In the 2018-19 Budget, $1.6 million over four years was provided to Taskforce Nemesis. These resources fund two specialist officers – a forensic accountant and surveillance team member – to bolster the ability of the taskforce to combat organised crime, strip criminal wealth and improve surveillance capability to monitor the activity of criminal gangs.
- The 2019-20 Budget delivered a further $2.8 million over four years to the ACT Director of Public Prosecutions to assist with efforts to combat serious and organised crime including to strip criminals of their criminal profits.
- During the 2019-20 financial year, almost $1.5 million was forfeited to the Territory under the *Confiscation of Criminal Assets Act 2003*. These funds came from the seizure of cash, 16 motor vehicles and 6 real estate properties and mostly involved offenders convicted of serious drug offences. The funds will be used by the ACT Government to fund projects related to criminal justice activities, crime prevention and assistance to victims of crime.

<u>Recent legislative reform</u>

- The *Confiscation of Criminal Assets (Unexplained Wealth) Amendment Act 2020* commenced on 29 August 2020. The Act introduces an ACT-specific unexplained wealth scheme to more effectively prevent and investigate organised crime and target the criminal profits of organised crime groups.
- The new scheme complements existing confiscation of criminal assets laws in the ACT. The new unexplained wealth scheme allows the police and Director of Public Prosecutions (DPP) to intervene when there is a

suspicion that part of a person's wealth was not lawfully acquired. The court must make an unexplained wealth order if it is satisfied that there are reasonable grounds to suspect that a person's total wealth exceeds the value of the person's wealth that was lawfully acquired and that the whole or any part of the person's wealth was derived from serious criminal activity.

- The unexplained wealth scheme allows ACT Policing and the DPP to more effectively target those involved in drug trafficking or other serious organised criminal activity and those masterminding or directing criminal activity at arms-length.
- The Commonwealth *Unexplained Wealth Legislation Amendment Act 2018* passed Parliament on 19 September 2018. The Act extends Commonwealth unexplained wealth orders to certain ACT offences.
- The *Crimes (Disrupting Criminal Gangs) Legislation Amendment Act 2019*, which was passed in November 2019, introduced a range of measures to improve public order and safety in the Territory including:
    - New tiered offences of serious affray;
    - Increased penalties for offences of fighting (section 391 of the *Crimes Act 1900*) and offensive behaviour (section 392 of the *Crimes Act 1900*);
    - Increased maximum penalties for specified offences committed in connection with a criminal group or by a person associated with a criminal group;
    - A civil exclusion order scheme under the *Liquor Act 2010* that allows the Chief Police Officer to apply to the court for an order to prohibit a certain person from entering or remaining on licensed premises for a stated period; and
    - A licence cancellation scheme under the *Liquor Act 2010* and the *Construction Occupations (Licensing) Act 2004* that allows the Chief Police Officer to make an application for the cancellation of a person's licence on the basis of their criminal activity.
- These measures address serious public safety concerns about the risk to community safety posed by organised crime.
- The *Crimes (Fortification Removal) Amendment Act 2017* commenced on 1 September 2018. The Act introduced provisions that allow the Chief

Police Officer to apply to the Magistrates Court for an order that an occupier remove fortifications from their premises. The Act also introduces provisions which prohibit the establishment of fortifications on certain premises.

- These laws work to make the ACT a hostile environment for criminal gangs by preventing the establishment of fortified premises such as criminal gang club houses.
- The *Crimes (Police Powers and Firearms Offence) Amendment Act 2017* commenced on 8 December 2017. The Act introduced statutory crime scene powers to allow police officers to preserve evidence in a timely manner at crime scenes in both public and private places while taking the least restrictive approach to limiting a person's right to privacy.
- The Act also creates a new offence of 'drive by shooting' which deals with people shooting at a building, including a home, whether from a car or otherwise. The offence is punishable by a maximum of 10 years imprisonment.

Background

A review of the effectiveness of ACT policing powers to target, disrupt, investigate and prosecute criminal gang members in conjunction with a statutory review of the ACT crime scene powers was undertaken by Dr Terry Goldsworthy of Bond University in late 2019. The Report on this review was tabled in the Assembly on 20 February 2020. The Report highlights that the ACT Government has successfully implemented legislative responses to combat serious and organised crime to date, and that these legislative tools are effective and proportionate. The Report does not indicate a need for further significant legislative reform, other than an ACT-specific unexplained wealth scheme which has now been introduced.

QUESTION TIME BRIEF

JACS2021/46-001-035

Portfolio/s: Attorney-General

Coward punch laws

Talking points:

- The ACT does not have 'one-punch' or 'coward punch' legislation.
- Random acts of violence such as 'coward punches' are serious acts of violence and are dealt with as such by the ACT's current criminal law.
- The *Crimes Act 1900* has various offences with which a person could be charged if they strike with a 'coward punch'. The exact offence, and the sentence attached to that offence, will depend on the individual circumstances of the crime and offender.
- In 2011 the ACT increased the maximum penalties for various offences. One of these was the maximum penalty for intentionally inflicting grievous bodily harm, which was increased from 15 to 20 years imprisonment.
- The ACT takes a systemic approach to community-based violence, considering causes, harms and prevention, and then taking steps to address these elements.
- Many 'coward punch' offences are alcohol-related. I note that the ACT government introduced and implemented the *Liquor Act 2010*, an object of which is to regulate the sale, supply, promotion and consumption of liquor in a way that minimises the harm associated with the consumption of liquor – including violent or anti-social behaviour.
- The reforms in the *Liquor Act 2010* have had a significant impact on alcohol-related violence and anti-social behaviour, with ACT Policing reporting a consistent decrease in alcohol-related arrests since 2011.

Key Information

- In 2017, the Director of Public Prosecutions (DPP) proposed amendments to section 20 of the *Crimes Act 1900* to ensure that the offence of 'recklessly inflicting grievous bodily harm' captured situations where the person who inflicts the harm is reckless as to the severity of the harm caused (eg grievous vs actual). The DPP was concerned that, as currently constructed, the section 20 offence is unnecessarily difficult to prove.
- The proposed amendments did not progress due to the overwhelming concerns of the ACT Human Rights Commission and various legal stakeholders.

Cleared as complete and accurate:	27/07/2021	
Cleared for public release by:	Executive Branch Manager	Ext: 74264
Contact Officer name:	Nicola Sheville/Cate Allingham	Ext: 54663/70634
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-035	

QUESTION TIME BRIEF

- The DPP continues to advocate for an amendment of this kind.

Background Information

- There has been renewed interest in 'coward punch' sentencing and legislation since the sentencing of Zane Daniel in June 2021 for an alcohol-related one-punch attack at the Civic Pub in August 2019. You have received some ministerial correspondence relating to the perceived inadequacy of the sentence.
- The victim's injuries included a severe traumatic brain injury and post-traumatic amnesia that lasted for 38-days after the attack. The victim is also affected by moderate hearing loss, mild cognitive impairment and mental and physical fatigue.
- Mr Daniel was sentenced to an Intensive Corrections Order and 500 hours of community service.

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TRIM Ref:	JACS2021/46-001-035	

QUESTION TIME BRIEF

JACS2021/46-001-024

Portfolio: Attorney-General

ISSUE: ASSAULTS ON POLICE AND FRONTLINE COMMUNITY SERVICE PROVIDERS

Talking points:

- Police and frontline community service providers are regularly exposed to a risk of assault and injury as an unfortunate reality of their jobs.
- Assaults on police and emergency services personnel warrant a strong response from Government.
- The *Crimes (Protection of Frontline Community Service Providers) Amendment Act 2020* commenced on 10 June 2020. The Act created a new offence specifically for assaults against frontline workers including:
    - Police officers;
    - Protective service officers and special protective service officers;
    - Corrections workers;
    - Paramedics;
    - Firefighters and volunteer firefighters; and
    - Emergency services employees and volunteers.
- This new standalone offence sends a clear message that violence against workers providing critical frontline services will not be tolerated.
- Previously, offenders have been charged with common assault when an assault has been committed against a frontline worker. The new standalone offence improves accountability by ensuring that the true nature and seriousness of the crime is described on a criminal record.
- The Amendment Act also created new offences for driving at police and ramming police vehicles to send a clear signal that those who engage in this dangerous behaviour will be held to account.
- Emergency first responders are required to step forward to face risks that others are expected to step away from, and it is appropriate for the law to specifically reflect this and support them.
- The Government is also committed to ensuring a safe and healthy work environment through policies, procedures, and strategies to mitigate the

risk of assault and injury. This includes training all of our emergency services personnel, to assist in identifying and managing potentially high risk situations.

Incident involving police – 11 July 2021

The incident

- About 2:50pm on Sunday 11 July 2021, three police officers stopped a vehicle at the Forest Drive and Lady Denman Drive intersection.
- Shortly after, it is alleged that a driver of a Ford Laser sedan approached from the road, passed the stopped vehicle, veered left and hit the three officers. All officers sustained injuries and were treated in hospital.
- Two of the officers restrained the driver of the Ford Laser at the scene.
- At the time of the incident, the driver was on bail arising from earlier charges.
- The driver of the Ford Laser has now faced new charges, including three counts of attempted murder, and has been remanded in custody. As this matter is now before the court, it is not appropriate for me to provide comment.
- This incident highlights the risk that police officers face each and every day when working to keep our community safe. I commend their bravery and wish them the very best in their recovery.

Bail laws

- The ACT's bail laws are set out in the *Bail Act 1992* and are designed to balance the sometimes competing objectives of acknowledging that individuals charged with offences have not been convicted of those crimes and are presumed innocent, ensuring accused people attend court, keeping the accused person and community safe, and ensuring evidence and witnesses are protected.
- The ACT's bail laws provide a framework for Courts to resolve the potential tensions between these objectives on an individualised basis. Whether a Court grants bail in a particular matter will depend in many cases on whether the court considers these tensions can be adequately addressed through the imposition of bail conditions.
- The Government is reflecting on the recent incident but is not currently considering amendments to the Territory's Bail laws.

QUESTION TIME BRIEF

Key Information

Background information

Prior to the passage of the *Crimes (Protection of Frontline Community Service Providers) Amendment Bill 2020*, there were no specific ACT offences for assaulting police or emergency service workers while executing their duties.

All other jurisdictions in Australia have introduced specific offence provisions for assaulting police.

Between 30 June 2011 and 16 March 2020, ACT Policing recorded 374 instances of assaults upon police.

The Queensland Sentencing Advisory Council recently conducted a review of penalties for assaults on police and other emergency service workers, corrective services officers and other public officers. Terms of Reference were issued by the Queensland Attorney-General and Minister for Justice, the Honourable Yvette D'Ath MP in early December 2019. The Council publicly released the Final Report on 1 October 2020 (https://www.sentencingcouncil.qld.gov.au/__data/assets/pdf_file/0004/657742/final-report-assault-public-officers.pdf).

Cleared as complete and accurate:	19/07/2021	
Cleared for public release by:	Executive Branch Manager	Ext: 70674
Contact Officer name:	Stephanie Johns	Ext: 59908
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-024	

QUESTION TIME BRIEF

JACS2021/46-001-024

Portfolio: Attorney-General

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Lead Directorate:	Justice and Community Safety	
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QUESTION TIME BRIEF

JACS2021/46-001-027

Portfolio/s: Attorney-General

ISSUE: STRONG CONNECTED NEIGHBOURHOODS

Talking points:

- The *Strong Connected Neighbourhood* program is one of the ACT Government's targeted place-based Justice Reinvestment initiatives. It commenced in 2008, as a service facilitation initiative, and continues to support the local community today.
- In the 2018-19 Budget Review, the ACT Government committed over $500,000 annually to sustain and expand the program which currently operates on Ainslie Avenue, to also provide support services to Illawarra Court in Belconnen on an ongoing basis.
- This multi-agency initiative includes the Justice and Community Safety Directorate, Housing ACT, ACT Health, ACT Policing.
- The program targets support to high and complex needs residents including:
  - socially disengaged or isolated people
  - Aboriginal and Torres Strait Islander peoples
  - women (including mothers), children and youth, and
  - residents who have had contact with or are at risk of becoming involved in the criminal justice system.
- The program as it is being delivered today, has the objectives of:
  a. preventing or reducing opportunities for crime
  b. promoting community safety
  c. developing pro-social and law-abiding community engagement, and
  d. facilitating access to services that are related to justice, health, mental health, education and employment.
- The 2018 evaluation of the program by the Australian Institute of Criminology (AIC),[1] reported that it met its objectives by:
  - reducing violent crime by 50 per cent

[1] https://aic.gov.au/publications/rr/rr6

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TRIM Ref:	JACS2021/46-001-027	

- reducing property crime by 60 per cent
- reducing disturbance incidents by 49 per cent
- increasing levels of social cohesion among residents at public housing sites across Ainslie Avenue, and
- providing a realised saving to government (of police time alone) through reduced crimes of at least $0.42 to $0.51 for every $1 invested.

- Reclink Australia is currently funded to deliver the program through a range of structured and informal programs, to promote and deliver health, social and economic benefits to the residents of these public housing sites. This can include activities, where it is COVID-safe to undertake them, such as building and maintaining community gardens, neighbourhood chats and a monthly Run, Roll or Walk event at Lake Burley Griffin.
- The value of the program has also been recognised nationally (in 2013), with a National Crime and Violence Prevention Safety Award through the Australian Institute of Criminology.

Impact of COVID-19 (Ainslie Ave)

- In 2020, the *Strong Connected Neighbourhoods* program was modified to respond to the COVID-19 pandemic. Neighbourhood Chat and garden programs were run from Kanangra Court for all residents in the Ainslie Ave precinct.
- With the easing of restrictions the program will re-commence in other Ainslie Ave sites in 2021.

Illawarra Court (Belconnen)

- Reclink has commenced engagement with tenants residing at Illawarra Court, on the expansion of the program to Illawarra Court in Belconnen on an ongoing basis.
- Work is underway, with Housing ACT to set up a community room and shipping container workshop, to be a hub for programs and support services.
- Some delays to formal programs running have been experienced, largely due to complications surrounding setting up secure facilities to work from.

- Formal programs are expected to recommence in the coming months.

Background Information

- A new CEO was appointed to Reclink at the end of 2020 and JACS is engaging in discussions with the Reclink to improve reporting, program delivery and to address the delays to commencing program formal delivery at Illawarra Court, including the installation of the shipping container at that site.
- In 2018-19 Budget funding was provided to expand the program to Illawarra Court, Belconnen considering the recommendations provided by Australian Institute of Criminology (AIC) in its recent evaluation.
- The 2018-19 midyear Budget provided the program recurrent funding and changed the name of the program to '*Strong Connected Neighbourhoods*' to reflect the key outcomes sought and achieved by the program.
- There has been positive media coverage on ABC radio and in *The Canberra Times* about the program and its successes over the last 10 years. Three examples in mid-2019 and mid-2020 are:

  https://www.abc.net.au/news/2020-08-23/inside-canberras-kanangra-court-and-the-impact-of-reclink/12580084

  https://www.canberratimes.com.au/story/6118437/program-is-a-proactive-way-to-cut-crime-in-canberra/

  https://www.canberratimes.com.au/story/6111795/canberras-new-community-guardian-is-already-saving-lives/digital-subscription/

QUESTION TIME BRIEF

JACS2021/46-001-025

Portfolio: Attorney-General

ISSUE: 2019-2028 ACT ABORIGINAL AND TORRES STRAIT ISLANDER AGREEMENT/JUSTICE ACTION PLAN

Talking points:

- The Whole of Government *ACT Aboriginal and Torres Strait Islander Agreement 2019-2028* represents a commitment by the ACT Government to recognise self-determination as a key platform to progress initiatives that are important to Aboriginal and Torres Strait Islander people.
- The Agreement enables Aboriginal and Torres Strait Islander peoples to exercise self-determination and to be able to contribute solutions to challenging and complex issues in our local community.
- The Agreement is a 10 year plan that sets the direction in Aboriginal and Torres Strait Islander affairs to ensure all stakeholders work together to deliver equitable outcomes for Aboriginal and Torres Strait Islander peoples in the ACT.

Justice Action Plan

- Under the terms of the Agreement, Directorates, including the Justice and Community Safety Directorate, have developed Action Plans with reportable actions aligned with the specific focus areas.
- The Justice Action Plan contains 10 Core Focus Areas and 20 'measures'.
- Key targets under the Justice Action Plan are to:
  - reduce the over-representation of Aboriginal and Torres Strait Islander people in the ACT criminal justice system;
  - increase the number of staff undertaking cultural competency training;
  - increase procurement from Aboriginal and Torres Strait Islander community organisations.
- Implementation of the Justice Action Plan, under the Agreement, is well underway.

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Contact Officer name:	Kathryn Johnson	Ext: 51451
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- The Aboriginal and Torres Strait Islander Justice Caucus supports the implementation of the Justice Action Plan in a monitoring and oversight role.
- Progress against the Action Plan was addressed in the October 2020 release of the Elected Body Hearings Report.
- Noting that COVID–19 restrictions have resulted in some impediments for the Justice and Community Safety Directorate in implementing measures under the Justice Action Plan, the Directorate, like all other Directorates, has reviewed the Report from the Elected Body and recent impediments and is pushing for accelerated progress on cross-Directorate initiatives and renewed action through the Justice Action Plan.
- Work has been undertaken for the audit and acquittal process which has informed the development of a Phase One (extension) Plan and accelerated progress efforts against the Agreement for the remainder of 2021.
- The JACS Justice Caucus provides an opportunity for Aboriginal and Torres Strait Islander people to discuss issues related to the Justice Action Plan and to support shared ownership by the local community of the ongoing development of the Agreement.

NEW Productivity Commission Report 'Overcoming Indigenous Disadvantage report' released 3rd December 2020

- This report measures the wellbeing of Aboriginal and Torres Strait Islander people, providing a comprehensive report card that measures 52 indicators across a range of areas.
- There are essentially no new issues for justice agencies raised by the report.
- The lack of improvement and disproportionate rates of adult imprisonment for Aboriginal and Torres Strait Islander people across all jurisdictions are well documented and remain an area of focus for the ACT Government, and Justice and Community Safety Directorate through current consultation on the Overrepresentation of Aboriginal and Torres Strait Islanders in incarceration.

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Lead Directorate:	Justice and Community Safety	
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QUESTION TIME BRIEF

- The new justice target from the 2020 National Agreement on Closing the Gap has informed the development of the draft Outcomes Framework for the *ACT Aboriginal and Torres Strait Islander Agreement*, and will guide future implementation and iterations of the Justice Action Plan.
- The report findings on common characteristics of successful approaches for improving outcomes for Aboriginal and Torres Strait Islander peoples, including connection to culture, are relevant to the design of emerging programs in Justice and beyond. New Justice programs are currently in development to commence this year that are consistent with the principles inherent in the report findings.

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QUESTION TIME BRIEF

Key Information

- The Justice Action Plan was developed in 2018 by a Steering Committee with Aboriginal and Torres Strait Islander representatives from across the Directorate and portfolio, including with:
    - JACS - ACT Corrective Services (ACTCS)
    - JACS - ACT Courts and Tribunals (ACTCT)
    - JACS - ACT Policing (ACTP)
    - CSD – Children and Young People Services (CYPS)
    - CSD – Victim Support ACT
- The Steering Committee focused on identifying specific, measurable, achievable and relevant targets aimed at improving service outcomes for the ACT Aboriginal and Torres Strait Islander community.
- The Justice Caucus which acts as a critical input to the Justice Action Plan met on 15 February 2021 and is scheduled to meet again later this year in May, July, and October.
- Processes are underway to re-establish the Justice Advisory Group as the second level of governance and reporting to the Inter-Departmental Committee.

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QUESTION TIME BRIEF

JACS2021/46-001-016

Portfolio: Attorney-General

ISSUE: RESTORATIVE JUSTICE

Talking points:

- Since January 2005 the ACT Government's world class Restorative Justice scheme has given people most affected by a crime - the victim, their family and friends - the opportunity to meet with an offender to discuss the harm caused, and work together to determine what needs to be done to repair that harm.
- Restorative Justice is an expression of 'restorative practice' which promotes values of respect, fairness, inclusiveness and empowerment through participation.
- Restorative Justice is a voluntary and respectful process that provides those harmed with an opportunity to talk about how the offence has affected them and others close to them. It provides a forum for offenders to accept responsibility for their actions and to actively contribute to make amends.
- Expert evidence has shown that Restorative Justice participants are less likely to reoffend or to reoffend as often, compared with non-participants. Evidence also shows a positive reduction in the risk of recidivism for Restorative Justice participants and a reduction in the experience of trauma.
- Since Phase Three of the Restorative Justice Scheme commenced on 1 November 2018, victims of *any* offence (in ACT Legislation), including family violence and or sexual offences, have been able to access restorative justice.
- This 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 ACT Restorative Justice Scheme is a victim-centred response which prioritises the safety and interests of people who have been impacted by crime. Participants and processes are carefully assessed by convenors in order to facilitate a restorative process which addresses the unique needs of all eligible participants. Restorative justice conferencing can

only proceed if it is safe to do so and meets the needs of the victim of crime.

- In family violence and sexual offence referrals, professional supporters are able to assist participants to be emotionally and psychologically prepared for the restorative justice process.
- Local support agencies such as Everyman Australia, Victim Support ACT, Family Tree House, ACT Together and the Women's Health Centre help prepare victims and offenders to participate in restorative justice conferences in ways that are safe and satisfying for participants.
- Participants in restorative justice are asked, through a survey administered by an independent agency, to provide feedback on the experience and their satisfaction with the process.
- The satisfaction rate for 2020-21 is 99%. This includes satisfaction with family violence and sexual offence matters.

Impact of COVID-19

- COVID-19 disruptions have significantly impacted the delivery of the Restorative Justice Scheme.
- The Restorative Justice Unit in the Justice and Community Safety Directorate remains open, with up to six staff attending the office at any one time to ensure coverage for services. The remainder of the staff are working from home but attend the office as required.
- A Workplace Health and Safety Risk Assessment Plan is in place, and all staff adhere to COVID-19 safety requirements. Convenors utilise a combination of face-to-face and indirect methods of contact with clients to engage in assessment and preparation for conferencing. Face-to-face client contact occurs where a COVID-19 specific safety assessment has appropriately addressed any health risk factors.

QUESTION TIME BRIEF

Background information

- Between 2005 and 2016, the Restorative Justice Scheme involved only referrals for young people and less serious offences.
- However, in late February 2016, the scheme moved into a Phase two rollout and the Restorative Justice Unit began accepting referrals for adult offenders and serious offences for adults and young people.
- From 1 November 2018, Phase three commenced allowing any person who has been impacted by any category of offence, including where an offence has resulted in the death of a victim, to seek a referral to restorative justice at the appropriate point in the system. (Note: this does not include Commonwealth offences).
- The *Crimes (Restorative Justice) Sexual and Family Violence Offences Guideline 2018*, is a disallowable instrument which outlines the application of Restorative Justice for sexual and family violence offences for victims, offenders, the criminal justice system and the community.
- The dedicated Restorative Justice Unit, including two Aboriginal and Torres Strait Islander officers working as a convenor and a guidance partner, work to promote cultural safety and confidence in the Restorative Justice process within the local community.

Comparing referral statistics

- In 2020-21, the RJU received 173 referrals involving 258 victims, 194 offenders and 400 offences. This represents a 18% decrease in the number of referrals received when compared to 2019-20.
- The ongoing impact of COVID-19, including the drop in reported crimes in the ACT, and impacted functioning of some referrers has contributed to a reduction in restorative justice referral rates.

Referrals, victims, offenders and offences referred to RJU in 2019-20 and 2020-21

	2019-20	**2020-21**	**Difference**
Referrals	212	173	-18%
Victims	360	258	-28%
Offenders	234	194	-17%
Offences	494	400	-19%

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QUESTION TIME BRIEF

- In 2019-20, 73 conferences were convened, 45 were face-to-face, and 28 facilitated indirectly. Conferences in 2019-20 included 74 victims and 81 offenders.
- In 2020-21, the RJU convened 47 conferences involving 56 victims and 49 offenders, a reduction of 36% compared with the year before. Of these, 29 were face-to-face and 18 were indirect.

Conferences and conferences types in 2019-20 and 2020-21

Conference Types	2019-20	2020-21	Difference
Face-to-face	45	29	-36%
Indirect	28	18	-36%
Total	73	47	-36%

- The rate at which referrals are subject to conferences has dropped at a higher rate than the drop in referrals. Matters may not proceed to conference for a number of reasons, including offenders and victims declining to participate and also due to an assessment by RJU convenors that the matter is not suitable to conference.
- Preliminary analysis reflects that the rate at which referrals are being conferenced has been most impacted by participants declining to participate and being unable to be contacted. With no obvious drop in satisfaction with RJU services, further analysis is warranted and will be conducted in the near future to help inform remediation activities.
- In 2020-21, 50 agreements were formed (one conference may involve more than one agreement) and of these, seven are currently being monitored, 14 were complied with, 28 related to the conference satisfying the victims' needs and one was not completed. Excluding those agreements still being monitored, 97% have complied with their agreements.

RJU compliance figures in 2019-20 and 2020-21

Agreement Status	2019-20	2020-21
Complied	42	14
Substantially Complied	2	0
Conference Satisfied Victims Needs	38	28
Not Complied	7	1
Monitoring	0	7
Total Agreements	89	50
Compliance Rate	91%	97%

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QUESTION TIME BRIEF

Referring entity activity

- In 2019-20 and 2020-21, ACT Policing, Magistrates Court and Childrens Courts remained the main source of referrals to the RJU. In 2020-21, ACT Policing made the highest number of referrals (87 young people's matters and 16 adults), followed by the ACT Magistrates Court (52) and Childrens Court (21).
- The RJU is engaged in dialogue with referrers in order to better understand the reasons for declines in referrals.

Offenders referred to RJU by referrer in 2019-20 and 2020-21

Referrer	2019-20	2020-21	Difference
ACT Policing	132	103	-22%
ACT Magistrate Court	55	52	-5%
Childrens Court	17	21	+24%
Supreme Court	10	6	-40%
Galambany Court	11	5	-55%
ACT Corrective Services	5	4	-20%
Drug and Alcohol Sentencing List	2	3	+50%
Children and Youth Protection Services	2	0	-100%
Total offenders	234	194	-17%

Aboriginal and Torres Strait Islander impacts

- Factors impacting on overall referrals in 2020-21 appear to have disproportionately impacted on referrals involving Aboriginal and Torres Strait Islander peoples.
- In 2020-21, ACT Policing referred 14 young people and two adult Aboriginal and/or Torres Strait Islander people to the RJU, as a diversion from court. A further five were referred by the Galambany Court and one by the ACT Magistrates Court.

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Referrals involving Aboriginal and Torres Strait Islander people in 2019-20 and 2020-21

Referrer	2019-20	2020-21	Difference
ACT Policing	22	16	-27%
ACT Magistrate Court	13	4	-69%
Galambany Court	11	5	-55%
Supreme Court	2	2	0%
ACT Corrective Services	1	0	-100%
Total offenders	49	27	-45%

- In 2019-20, the Restorative Justice Unit convened nine conferences involving four young offenders and five adults. However, in 2020-21, RJU convened eight conferences involving six young people and four adults (these conferences included matters that were referred in 2019-20). There was a slight decrease in conferences when compared to 2019-20 but the rate of participation increased by 12 percent potentially reflecting enhanced service provision practices by the RJU.

Conferences and conferences types involving Aboriginal and Torres Strait Islander people in 2019-20 and 2020-21

Conference Types	2019-20	2020-21
Face-to-face	7	3
Indirect	2	5
Total	9	8

- In response to these reductions, RJU is in the process of reviewing all procedures and practices in relation to referrals involving Aboriginal and Torres Strait Islander participants to consider ways to increase participation.

Reporting of family violence and sexual offence statistics

Family Violence referrals

- A total of 30 offenders involving 53 offences and 34 known family members (victims) were referred to RJU in 2020-21. Of the 30 offenders, 13 people are still under assessment and 13 did not want to participate in RJ process.
- In 2019-20, the RJU received referrals for 39 offenders involving 81 family violence offences and 59 victims. Of the 39 offenders, nine participated in conferences and 30 did not.
- Three conferences have been convened this financial year all of which were referred in the previous financial year.

- Three formal agreements have been made. Excluding one agreement still being monitored, one adult offender completed the agreement within the required time frame and one young offender did not comply with the agreement.
- Since Phase Three of the Restorative Justice Scheme began on 1 November 2018, three young offenders have either completed their Restorative Justice agreement and for five offenders, their participation in the conference itself satisfied the needs of the victim. For adults, five complied with their Restorative Justice agreements, one conference itself satisfied the victim's needs and one did not comply. The overall agreement compliance rate for family violence matters since 2018 is 87%.

Referrals for sexual offences

- In 2020-21, the RJU received two sexual offence referrals involving two offenders and two victims. These referrals involved three sexual offences, one less serious and two more serious.
- One adult offender who was referred in 2019-20 participated in a face-to-face conference in 2020-21. One agreement was reached during the conference and is still being monitored for compliance.
- Since Phase Three began on 1 November 2018, the RJU has convened three face-to-face conferences. Excluding one agreement still being monitored, one conference itself satisfied the needs of the victim and one agreement has been fully complied with. The overall agreement compliance rate is 100%.

QUESTION TIME BRIEF

JACS2021/46-001-013

Portfolio: Attorney-General

ISSUE: REDUCING RECIDIVISM THROUGH BUILDING COMMUNITIES NOT PRISONS

Talking points:

- Since 2018, the ACT Government has committed to Building Communities Not Prisons (BCNP), by engaging in a broad Justice Reinvestment approach.
- Key pillars of the ACT Government's BCNP initiative include:
    1. reducing the over-representation of Aboriginal and Torres Strait Islander people in custody;
    2. responding to justice housing needs;
    3. supporting people who are in contact with the justice system with substance use disorders;
    4. supporting people living with a mental illness or disability who are in contact with the justice system;
    5. supporting detainee reintegration;
    6. developing community capacity; and
    7. responding to the needs of women in the justice system.
- These pillars are critical to meeting the ACT Government's 2020 target to reduce recidivism rates in the ACT by 25% by 2025 (RR25BY25). By addressing factors such as inadequate housing, drug and alcohol dependence, poor mental health and social isolation, these pillars focus on the underlying causes of repeat offending. The ACT Government is pursuing a range of targeted initiatives, interventions and programs under each pillar.
- Addressing these underlying causal issues will also be critical in achieving parity in the incarceration rates between Aboriginal and Torres Strait Islander and non-Indigenous Canberrans by 2030.
- To achieve these ambitious goals, the ACT Government must collaborate closely across justice and human service systems and with the local community, particularly Aboriginal and Torres Strait Islander community members.

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QUESTION TIME BRIEF

Justice Reinvestment

- Justice Reinvestment 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. It can help keep families together and build a safer, more secure ACT community.
- The ACT Government provided an initial $14.6 million in funding for new and expanded community programs as part of the 2018-19 ACT Budget Review. This funding included:
    1. a family-centric model of support for Aboriginal and Torres Strait Islander families in contact with the justice system;
    2. a bail accommodation transition support service;
    3. sustaining and expanding an 'on-the-ground' service support model to public housing residents;
    4. support for victims of crime.
- A further $70.9 million was allocated in the 2019-20 ACT Budget to bring together strengths-based supports and inclusive pathways that lead to better life outcomes for people in and out of prison. This includes:
    1. providing more supported housing for better justice outcomes, particularly for women and Aboriginal and Torres Strait Islander detainees;
    2. expanding the ACT Bail Support Programs to support accused people to comply with bail to keep them and the community safe;
    3. improving rehabilitation options for detainees at the Alexander Maconochie Centre, including through a purpose built Reintegration Centre that will support detainees transitioning back to the community; and
    4. boosting staff capacity at the Alexander Maconochie Centre to strengthen our focus on rehabilitation.

Reducing Recidivism

- The RR25by25 Plan (the Plan) expands on the ACT's commitment to Build Communities Not Prisons (BCNP).

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- A key component of the RR25by25 Plan is a Reducing Recidivism Research Collaboration with the Australian National University (ANU) to examine and evaluate the impact of initiatives and how the ACT is tracking against targets related to RR25BY25. The Research Collaboration with the ANU was signed in August 2020.
- The Research Collaboration is overseen by an Advisory Committee with representatives from the ACT Government and the ANU Centre for Social Research and Methods (CSRM). The Advisory Committee informs and directs the Research Collaboration and makes recommendations to the Director-General of the Justice and Community Safety Directorate on research and evaluation-based initiatives.
- The RR25BY25 Plan is also driven forward by the Reducing Recidivism Advisory Group, which consists of a cross-section of stakeholders from government, academia and the community.
- An Executive Coordination Group and Human Services Cluster Inter-Directorate Committee provides high-level oversight from key government senior executives.
- The ACT's Justice Reinvestment approach marks some of the most ambitious justice work underway in Australia.

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Background Information

Building Communities Not Prisons (BCNP)

- The overall aim of BCNP is to deliver a range of initiatives that are designed to reduce reoffending, reduce the prison population as appropriate, improve the lives of offenders and their families, and improve community safety.
- 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 peoples.
- Initiatives are intersecting and overlapping with initiatives that address key opportunities in the human services system to reduce recidivism and incarceration, and align with the ACT Government's strategic priorities.
- BCNP aims to:
    1. reduce trauma and costs for victims and their families associated with crime and related costs for government and the broader community
    2. reduce overcrowding at the Alexander Maconochie Centre (AMC)
    3. use restorative, cultural and evidence informed approaches that transform people's contact with the justice system, particularly prison
    4. 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*
    5. reinvest funds from the criminal justice system that might be otherwise used for detaining people in a correctional centre, into homes and community supports, making the ACT a safer and more inclusive city.

The ACT's recidivism rate

- Recidivism is a critical measure of the BCNP in initiative. While measuring the rate at which adult offenders return to custody is an important indicator, which is reported on annually by the Australian Government Productivity Commission, there are several other indicators that are important for measuring the success of the ACT's recidivism reduction priority.
- According to the Report on Government Services 2021 released on 20 January 2021, the percentage of adults released from prison who returned to prison with a new sentence within two years had reduced from 42.4 percent in 2018-19 to 37.1 percent in 2019-20.
- However, this figure is not expected to have reduced so significantly due to existing initiatives in this short time period. Rather, there have been various government restrictions implemented across states and territories as a result of COVID-19 since March 2020. These restrictions over the last four months of 2019-20 may have had an impact on criminal activity and the justice system, as well as this figure and data in future years.

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- In 2018-19, the percentage of adults released from detention who were re-sentenced and returned to prison within two years fell by 1.8% (42.4%) as compared to 2017-18 (44.2%) .
- Of note, the recidivism rate for offenders in 2025 will not be measurable until 2026/27. Achieving the target measurement of a reduction in the recidivism rate by 2025 would mean a reduction of the recidivism rate from 42.4% to 31.7%; a reduction of 146 detainees returning to custody.
- The recidivism rate for those who have been released from prison and have returned to corrective services (prison or community corrections) was 71.3% in 2018-19 up 1.4% from 69.9% in 2017-18.
- The recidivism rate for ex-offenders returning to corrective services was 19.1% in 2018-19 – this is up 2.3% from 16.8% in 2017-18.
- However, these headline figures are a crude indicator for measuring success, as they do not show slowing in reductions in otherwise expected increases to 2025. Data also does not take into consideration a range of qualitative factors, for example, reductions in the seriousness or frequency of offending, meaning this data is not the only relevant indicator of success of the RR25by25 initiative.

Data

- Key ACT data driving the RR25by25 commitment includes the following, noting that given the comparatively small numbers of offenders in the ACT, even minor fluctuations in figures from year to year can significantly affect rates from year to year particularly for certain cohorts:
  - 60% increase in the ACT prisoners between December 2012— (268 detainees) and December 2019 (429 detainees).
  - 10% increase in adult prisoners in ACT prisons in 2018 (from 449 in 2017 to 493 in 2018).
  - In 2018, three-quarters of prisoners had previously been imprisoned (75% or 369 prisoners). This was the largest proportion of any state or territory (noting the national average was 57%).
  - 36.3% (177 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 (which was 33.5% nationally).
  - 1.9 % of the ACT population is Aboriginal and Torres Strait Islander but they make up 22 per cent of the ACT's prison population.
  - Aboriginal and Torres Strait Islander people are 14.6 times more likely to be incarcerated than non-Indigenous people in 2018 in the ACT (11.3 times nationally).

QUESTION TIME BRIEF

- 91% of the ACT Aboriginal and Torres Strait Islander male detainees at the AMC have a previous history of incarceration in ACT (77.3% nationally).
- 92% (454 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%.
- 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.

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QUESTION TIME BRIEF

JACS2021/46-001-006

Portfolio/s: Attorney-General

ISSUE: CRIMES (OFFENCES AGAINST VULNERABLE PEOPLE) LEGISLATION AMENDMENT ACT 2020

Talking points:

- The *Crimes (Offences Against Vulnerable People) Legislation Amendment Act 2020* commenced on 20 April 2021, having passed the Legislative Assembly in August 2020.
- The delayed commencement of the Act has allowed for the development of education and training materials to ensure that people affected by the new laws are aware of them.
- The Act:
    - amended the *Crimes (Sentencing) Act 2005* to introduce new factors for the Court to consider when sentencing if the victim of a crime was a vulnerable person; and
    - introduced three new offences to the *Crimes Act 1900*, being:
        - abuse of a vulnerable person;
        - failure to protect a vulnerable person from a criminal offence; and
        - neglect of a vulnerable person.
- A vulnerable person has been defined to mean:
    - an adult of any age with a disability as defined under the *Disability Services Act 1991*; or
    - someone 60 years old or older to whom one of the following additional elements of vulnerability applies:
        - a disorder, illness or disease that affects the person's thought processes, perception of reality, emotions or judgement or otherwise results in disturbed behaviour;
        - an intellectual, psychiatric, sensory or physical impairment and that impairment results in a substantially reduced capacity of the person for communication, learning or mobility; or

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- the person is, for any other reason, socially isolated or unable to participate in the life of the person's community.

- The purpose of the Act is to provide additional protections for vulnerable adults in the ACT and ensure that those who abuse vulnerable people are subject to appropriate criminal sanctions.
- The Justice and Community Safety Directorate has worked closely with two stakeholder groups to support the implementation of the Act.
- In consultation with members of both groups, a range of information material has been developed, including material in Easy English and languages other than English.
    - A 6-page Fact Sheet and four nuanced 1-page Fact Sheets for institutions and employees, families and carers, people with disability, and people over 60 years old to whom an element of vulnerability applies, has been developed.
    - Easy English translations of the 6-page Fact Sheet have been developed. Easy English translations of three 1-page Fact Sheets for families and carers, people with disability, and people over 60 years old to whom an element of vulnerability applies, are in progress, and will be made available when finalised.
    - Foreign languages translations (Arabic, Chinese, Farsi, Hindi, Italian, Spanish and Vietnamese) of the 6-page Fact Sheet have been developed.
    - A poster has been developed for institutions to display in their workplaces.
    - A Vulnerable People website has been constructed as a reference point to house all the resources developed. The website address is https://justice.act.gov.au/vulnerablepeople.
    - A promotional video is being developed to raise awareness of the new laws. This will be made available when finalised.

How do the offences interact with existing laws?

- The Act complements existing legislative and non-legislative protections for vulnerable people.

QUESTION TIME BRIEF

- The new offences do not prevent the use of any other existing criminal offences if those offences better capture the scope of the offending.
- The penalties have regard to the seriousness of the new offences, relative to existing offences and the continuum of penalties for ACT offences.

Background Information

- In 2019, the ACT Government invited public submissions on the potential for legislative reform to address elder abuse in response to the 'A Proposed Response to Elder Abuse in the ACT' discussion paper. Community feedback highlighted the need for a range of protections (including legislative protections) not only for older people, but also adults who have vulnerabilities arising from non-age related factors, such as disability.
- The Crimes (Offences Against Vulnerable People) Legislation Amendment Bill 2020 (the Bill) was introduced to the Legislative Assembly on 7 May 2020.
- As a result of stakeholder feedback, the Bill was amended to:
    - include an eight-month delay in the commencement of the new provisions; and
    - bring forward the requirement for a statutory review mechanism to 12 months post-commencement.
- On 13 August 2020, the Bill was debated and passed (as amended) by the Assembly.
- The *Crimes (Offences Against Vulnerable People) Legislation Amendment Act 2020* was notified as an amending Act on 20 August 2020. It commenced on 20 April 2021.
- JACS established an Implementation Working Group and a Reference Group to support implementation of the Act, including the identification of any unanticipated issues or unforeseen consequences. The Implementation Working Group comprises representatives of: relevant government agencies; ministerial advisory bodies; and the Reference Group. The Reference Group is comprised of representatives of community stakeholder organisations and individuals with an interest in contributing to the implementation arrangements for the new legislation.

At least one further meeting of the Implementation Working Group will be convened to discuss a framework and approach to the 12-month statutory review, due to commence in April 2022, including the Terms of Reference. Draft Terms of Reference are being prepared as part of a brief package to you and will be the subject of discussion at the next Implementation Working Group meeting.

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QUESTION TIME BRIEF

JACS2021/46-001-010

Portfolio/s: Attorney-General

Economic Development

How the ACT Liquor Act compares to NSW changes

Talking points:

- The sale and supply of liquor in the ACT is regulated under the *Liquor Act 2010* (the ACT Liquor Act) and the *Liquor Regulation 2010*. Decision-making under the Act must have regard to the harm minimisation and community safety principles under section 10 of the Act.
- The ACT applies a risk-based liquor licensing fee framework that links annual fees to three risk factors to create a consistent, scalable and transparent fee framework that reflects the relative risk of alcohol-related harms associated with particular types of licensed premises, while supporting a vibrant ACT nightlife.
- In the ACT, annual liquor licence fees are based on:
    - the class/subclass of the licence (i.e. the type of venue that will be operating under the licence);
    - the maximum permitted occupancy loading for the venue (i.e., the density of a venue, or how many people can be in a venue); and
    - the venue's trading hours (license times, i.e., how late they serve liquor).
- The ACT framework does not account for a liquor licensee's compliance history when determining an annual licence fee.
- The ACT liquor licensing fee framework considers the costs associated with regulatory and police enforcement at licensed premises, and alcohol-related anti-social or violent behaviour.
- Some liquor licensees believe the licence fees are significantly higher in the ACT than in NSW. The fee frameworks of both jurisdictions are not directly comparable:
    - Both jurisdictions have risk-based licence fees, but NSW has a compliance-based fee component. Base fees for a liquor licence in NSW are generally lower than the equivalent licence fee in the ACT.

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  - However, if a NSW licensee has a compliance offence in the past year, an additional risk loading is added to their annual fee. This can make the overall licence fee higher in NSW than in the ACT.
  - Some higher-risk licence types, such as nightclubs with high occupancy loadings and late trading hours, pay higher licence fees in the ACT than in NSW even after accounting for the additional compliance risk loading.

- The *Liquor Amendment (Night-time Economy) Act 2020* (the NSW Act) was passed by the NSW Parliament on 17 November 2020. It makes amendments to liquor, gaming and planning-related legislation. The Act amends the *Liquor Act 2007* (NSW) and *Liquor Regulation 2018* (NSW) to:
  - replace existing sanctions schemes and disciplinary systems with an integrated demerit points and incentives scheme;
  - provide for cumulative impact assessments;
  - regulate same day deliveries of liquor; and

    make miscellaneous amendments of an administrative or minor nature.
- Under the ACT Liquor Act, offences are not integrated with licence fees. There is no discount on licence fees when licensees have no offences, and there is no surcharge on licence fees when licensees do have offences on record.
- Cumulative impact assessments are not expressly part of the assessment of liquor licence applications in the ACT Liquor Act.
- The ACT Liquor Act does not expressly regulate online liquor sales or same day deliveries of liquor. There are a number of supply offences that capture conduct at licensed premises but may not apply to online liquor sales, where the supply occurs away from the licensed premises or via a third-party delivery agent.

QUESTION TIME BRIEF

Key Information

- The table below illustrates scalability of licence fees under the ACT framework:

Licence class	Occupancy loading of 80 or less trading at standard licence times[1]	Occupancy loading of 80 or less trading until 5.00 am	Occupancy loading greater than 350 trading at standard licenced times	Occupancy loading of greater than350 trading until 5.00 am
Nightclub licence	$3,363.00	$7,473.00	$8,969.00	$31,404.00
Bar / general / club licence	$2,240.00	$4,981.00	$5,977.00	$20,935.00
Restaurant and café licence	$1,117.00	$2,488.00	$2,986.00	$10,465.00

- While a nightclub licence has the highest 'base' annual fee of the three licence classes, a nightclub licence with a small occupancy loading, trading at standard licence times will pay less than a restaurant/café licence with a large occupancy loading and trading until 5.00am.
- In NSW, all licensees pay a base fee which also varies by licence class. Licensees trading after midnight also pay a trading hours risk loading. To this point, the NSW fee framework is similar to the ACT's.
- In NSW, compliance risk loadings are triggered where for a licensee committed a liquor-related offence in the previous 12 months. If compliance risk loadings are applicable, licensees will also be required to pay a patron capacity loading and location risk loading (location risk loading is only applicable to Sydney CBD and Kings Cross-based venues). In the ACT, patron capacity risk is built into all licence fees regardless of compliance history.
- For example, a club licensee in Queanbeyan with occupancy loading of 750 occupants and trading hours until 4am would generally be required to pay a base annual fee of $6092. However, if compliance risk loadings are applicable, the annual fee payable by that licensee could increase to up to $24,935 depending on the number of offences in the past year.

Liquor Amendment (Night-time Economy) Act 2020 (the NSW Act)

Integrated demerit points and incentives scheme

- The NSW Act introduced a single, integrated system based on demerit points. The new system will incentivise compliance from venues by offering a 5 per cent discount on annual licence fees for venues with no demerit points after three years, and a 10 per

[1] *Standard license times*: no later than 12.00 am.

cent discount after five years. Venues where demerit points have been incurred will not be eligible for the discount and will pay the additional risk-loading fees as per the current system.

Cumulative impact assessments

- The NSW Act provides a framework for cumulative impact assessments, which are to help manage the density of licensed premises in areas of concern and address cumulative impacts that may arise in the community, including the risks of alcohol-related violence and antisocial behaviour.
- The NSW Act empowers the Independent Liquor and Gaming Authority to publicly issue a cumulative impact assessment if, due to existing issues or risks, it considers that granting further licenses or late-night trading in that area is likely to be inconsistent with its existing duty under the *Liquor Act 2007* (NSW) to ensure community wellbeing.
- Issuing a cumulative impact assessment will create a presumption against the Authority granting applications for new licenses or approving late-night trading in cumulative impact areas, but the Authority is not automatically prevented from approving these applications.
- The ACT Liquor Act and Liquor Regulation do not contemplate a framework for cumulative impact assessments or similar.

Regulation of same-day liquor deliveries

- The NSW Act introduced restrictions on same-day liquor deliveries, including:
    - interstate liquor licensees (including ACT liquor licensees) will be required to hold an NSW liquor licence if delivering alcohol stored in NSW to NSW residents on the same day that the order is placed;
    - same-day delivery providers must not make a same-day delivery, or permit their employees/agents to make a same-day delivery, unless the customer produces evidence of their identity and age;
    - same-day deliveries must not be made after midnight (or 11pm on a Sunday);
    - same-day alcohol deliveries must not be left unattended;
    - same-day alcohol must not be delivered to an intoxicated person;
    - all people making same-day deliveries must complete responsible supply of alcohol training (unlike RSA training, a specific course is not prescribed, allowing industry to create its own training courses); and
    - customers must be able to self-exclude from same-day alcohol deliveries.
- The ACT Liquor Act does not expressly regulate online liquor sales and same-day deliveries. It includes a range of offences relating to the supply of liquor to children, young people and intoxicated people and supply without a current Responsible Service of Alcohol (RSA) certificate. However, these offence provisions only capture

conduct at licensed premises and may not apply to online liquor sales, where the supply occurs away from the licensed premises and potentially via a third party.

- Access Canberra (Licensing and Registrations) represented the ACT at the Australasian Liquor Licensing Authorities Forum (ALLAF), a forum intended to consider the regulation of online liquor sales to facilitate cross jurisdiction consistency. ALLAF has been largely disbanded following disruption by the COVID-19 public health emergency, and now that most other jurisdictions have introduced their own regulations for online liquor sales
- JACS and Access Canberra have previously recommended that any reform in relation to online liquor sales should be informed by the work undertaken by ALLAF. Now that most Australian jurisdictions have introduced their own reforms to online liquor sales, and jurisdictions are unlikely to land on a harmonised policy, JACS intends to seek the views of the Liquor Advisory Board and form an updated recommendation on developing online liquor sales policy in the ACT.

Miscellaneous amendments

- The NSW Act removes certain licence conditions that limit music and performance, including restrictions on music genre, number of musicians, and types of instrument.
    - These restrictions do not exist in the ACT. Licensed premises must abide by the noise standards in the *Environment Protection Act 1997* and the *Environment Protection Regulation 2005*.
- The NSW Act enables small bars to offer family-orientated and diverse services for customers. Small bars that regularly provide meals in seated areas from their opening time until 10pm are permitted to have minors in the company of a responsible adult.
    - This is not an issue in the ACT. Under the ACT Liquor Act, areas within licensed premises can be designated 'adult only areas'. It is an offence for a child or young person to be in an adults-only area unless they are in the care of an adult (parent or guardian etc.).
- The NSW Act streamlines the application process for a low-risk small bar licence by introducing an interim small bar authorisation, to reduce the level of public consultation required.

    Under the ACT Liquor Act, a public consultation period of 30 days is required when an application is made for a new liquor licence.

Background Information

ACT liquor licensing fees framework

- The ACT's liquor licensing fee framework was introduced in 2010-11.
- In the lead up to the reforms, an additional ACT Policing capability was established to collate policing data to compare alcohol-related incidents at restaurants and cafes,

clubs, bar and taverns, and nightclubs. The data showed that the highest number of alcohol-related incidents occurred at nightclubs, followed by clubs, bars and taverns and, after that, restaurants and cafes. Data showed that most alcohol-related incidents occurred at larger venues (61 percent of incidents occurred at venues with occupancy loadings of more than 350 people) and during late-night trading (80 percent of incidents occurred at venues trading to 4.00am or 5.00am).

- The ACT Government was clear in establishing the fee framework that a factor in fee levels was the cost associated with regulatory and police enforcement associated with licensed premises and alcohol-related anti-social or violent behaviour. ACT liquor licensing fees support the cost of ACT Policing's Territory Targeting Team which enforces the ACT's liquor laws and provides policing in the ACT's nightlife precincts.
- The effectiveness of the 2010 liquor reforms was the subject of review in 2013 and 2016. The first review was undertaken by ACIL Allen Consulting and concluded that:
    - most stakeholders consider the reforms have made a positive contribution to community safety; and
    - the adoption of the risk-based approach was a positive step.
- The second consultative review proposed further reforms in the *Building on Liquor Reform: White Paper*. The White paper retained the risk-based license fee framework and delivered a 25 percent annual fee reduction for licensees with an occupancy loading of fewer than 150 people and licensed times up to 2am, to encourage small bars and restaurants.
- A further review of liquor licensing fees for small and medium clubs was undertaken in 2019-20. Following this review the Chief Minister agreed to a 25 percent reduction in annual fees for club licensees trading within standard license times and with occupancy loadings of over 150 people.
- Please also see QTB 'COVID-19 Impacts-Relief to clubs and licensed premises' (JACS2021/46-001-005) for information about fee waivers and measures to support liquor licensees during the COVID-19 public health emergency.

Liquor Advisory Board

- The Liquor Advisory Board (the Board) is established under section 215 of the Act to provide advice to the Minister on matters associated with the Act, including measures that support harm minimisation and community safety principles. Members represent a broad range of liquor stakeholder groups, including government, industry, and community organisations.
- The Board's next meeting is scheduled for 27 July 2021.

QUESTION TIME BRIEF

JACS2021/46-001-014

Portfolio/s: Attorney-General

ISSUE: RESIDENTIAL TENANCIES

Talking points:

"Rent bidding"

- There has recently been media coverage of the challenges faced by prospective tenants in the ACT, specifically including claims about a practice known as "rent bidding". This involves applicants for rental properties offering to pay rent above the advertised rental price in an attempt to secure the property.
- There is no specific prohibition on this practice in the *Residential Tenancies Act 1997*.
- Noting the restricted housing market for tenants at this time, I have asked the Justice and Community Safety Directorate to explore reforms which might combat the challenges posed by the practice of rent bidding, including considering whether the practice should be banned.
- A residential tenancy reform consultation paper will be released shortly and this paper will seek community views on the need for reforms in relation to rent bidding.

Commitment to end no cause terminations

- I have asked the Justice and Community Safety Directorate to begin policy development work on the Parliamentary and Governing Agreement commitment to end no cause evictions.
- I am committed to implementing this commitment in consultation with the ACT community and will ensure that community views are sought during the policy development process.
- A residential tenancy reform consultation paper will be released shortly and this paper will seek community views on issues relating to ending no cause terminations from residential tenancies.

Cleared as complete and accurate:	23/07/2021	
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Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-014	

QUESTION TIME BRIEF

COVID-19 support measures

- Since April 2020, a range of temporary changes to the *Residential Tenancies Act 1997* have been in place **to protect tenants impacted by COVID-19** and **to assist landlords**. These changes have included:
    - a 6 month moratorium on evictions for non-payment of rent for COVID-19 impacted households and related social distancing restrictions in relation to inspections and repairs which was in place from 22 April to 22 October 2020;
    - a transition or grace period which was in place from 23 October 2020 until 30 June 2021 which prevented tenants who were COVID-19 impacted from being evicted during the transition period on the basis of arrears that accrued before or during the moratorium on the condition that they pay rent as it fell due during the transition period;
    - a requirement for ACAT to consider making a payment order rather than ordering an eviction for tenants that have been COVID-19 impacted if the landlord brings a rent arrears eviction application to ACAT. This measure is in place until 30 September 2021;
    - the ability for landlords and tenants to negotiate reduced rent (this measure ended on 30 June2021);
    - restrictions on negative listings being made about COVID-19 impacted persons on tenancy databases (this measure ended on 30 June 2021);
    - the ability for COVID-19 impacted tenants to terminate their fixed-term tenancy agreements early, without penalty (this measure ended on 30 June 2021);
    - the ability for all tenants on pre-6 April 2020 fixed term tenancies to be able to pay just two weeks' rent in advance to assist to manage cost of living pressures (this measure ended on 30 June 2021). All other fixed term and periodic tenancies are already able to pay just 2 weeks' rent in advance; and
    - the ability for a tenant from a COVID-19 impacted household who had previous ACT Civil and Administrative Tribunal (ACAT) orders

suspended during the moratorium to apply to ACAT to vary or set aside those orders (this measure ended on 30 April 2021).

- From 1 April 2020 to 30 June 2021, the ACT Government also offered rates and land tax rebates to landlords who reduced their tenants' rent by 25%. The value of the rebate was up to 50% of the rent reduction, up to a maximum of $1300 per tax quarter (roughly $100 per week).

Residential Tenancies Amendment Act 2020 (No 2)

- The *Residential Tenancies Amendment Act 2020* (No 2) (the Amendment Act) passed the Assembly on 27 August 2020 with most provisions commencing on 3 March 2021. The amendments improve protections for occupants and co-tenants.
- To support community understanding of the changes made, factsheets relating to occupancy laws and co-tenancies are available on the Justice and Community Safety website: https://justice.act.gov.au/renting-and-occupancy-laws/reforms-tenancy-and-occupancy-laws
- The Renting Book has also been updated with information for tenants on the new laws in relation to co-tenancies. The Renting Book is available on the Justice and Community Safety website https://justice.act.gov.au/renting-and-occupancy-laws

Occupancy laws

- The Amendment Act increases protections for occupants, including by:
    - clarifying the difference between an occupancy agreement and a residential tenancy agreement, so that occupants and grantors have greater certainty about their rights and obligations
    - introducing mandatory minimum principles for occupancy agreements, including:
        - protections against unreasonable evictions
        - entitlements for access to communal areas
        - tighter rules around when a grantor can enter the premises
        - requirements for grantors to provide occupants with information, and
        - limitations on penalties that may be charged

- creating a new obligation for grantors to lodge security deposits with the ACT Revenue Office (an exception applies for universities), and
- providing more dispute resolution options for occupants and grantors, by giving them access to free, informal and enforceable conciliation through the ACT Human Rights Commission.

- In addition, the Amendment Act resolves some issues specific to owner-occupiers in residential parks (where a person owns their dwelling but has an occupancy agreement in relation to the site their dwelling is on).
- The Amendment Act also substantially reforms the law on share housing to better reflect modern community behaviours and expectations. People living in share houses deserve clear laws that are adapted to their circumstances.

Co-tenancies

- The reforms:
  - introduce a legal framework into the RTA for co-tenancies, which is a common way to set up a share house, where all tenants have equal rights and responsibilities;
  - provide clear processes for co-tenants to move in and out of share houses, including managing transfers of interest in the bond; and
  - ensure that the ACT Civil and Administrative Tribunal can be used to resolve disputes between co-tenants as well as between co-tenants and landlords.

Universities

- For universities the changes in relation to occupancy agreements will commence on 30 January 2022 - in line with the commencement of the 2022 academic year.
- The Amendment Act includes a number of exemption-style provisions that apply only to occupancy agreements provided by universities - namely:
  - an exemption from the requirement to lodge any security deposit taken in respect of occupancy premises with the Territory;
  - clarifying that the currently existing university disciplinary requirements and medical leave rules established under statute

will not be displaced by the occupancy principles in the event of any inconsistency between the disciplinary requirements or medical leave rules and the occupancy principles;

- requiring parties of occupancy agreements who have a dispute to which to which a university dispute resolution procedure applies to exhaust internal dispute resolution procedures (within a reasonable time) prior to making an application to the Tribunal;
- a clarification that occupancy agreements can be terminated under university disciplinary requirements and medical leave rules and that agreements terminated in these circumstances are not subject to the requirement that the termination is reasonable having regard to the nature of the occupancy agreement; and
- delayed commencement and transitional provisions that apply to education provider occupancy agreements, including universities.

- Universities were exempted from the requirement to lodge security deposits after the universities provided feedback that they currently manage thousands of occupancy agreements for students living on on-campus which would be administratively difficult to lodge all at once. In addition, when invested collectively, the interest gained from the investment of students' security deposits generates significant income which is then used to help cover the administration costs of student accommodation.
- Other exemptions ensure that occupancy laws do not conflict with the universities' pre-existing disciplinary procedures or internal dispute resolution procedures (which are established under the university governing statues).

QUESTION TIME BRIEF

JACS2021/46-001-018

Portfolio: Attorney-General

ISSUE: REVIEW OF CHILD PROTECTION DECISIONS IN THE ACT

Talking points:

Government review of decision-making by CYPS

- The Government is continuing to progress its review of child protection decision-making in the ACT.
- A public consultation process on the discussion paper, *Review of child protection decisions in the ACT* was undertaken from May to June 2019, seeking views from the community, and in particular those who provide support and advocacy for children and young people. An independent consultant was engaged to report on the key themes from submissions.
- The report, titled *Stakeholder Feedback on the Discussion Paper: Review of Child Protection Decision in the ACT* (the Report) was finalised in October 2019 and can be found on the JACS website.
- In April 2020, the Minister for Children, Youth and Families provided an update to the Assembly on the progress and outcomes of the Report.
- The Minister noted that the Report had highlighted three over-arching pieces of work that are currently being progressed in order to strengthen and ensure a robust child protection decision review framework:
    - working to improve internal decision-making processes
    - working to provide a more transparent and consistent internal merits review processes
    - consideration of an external merits review process for child protection in the ACT
- On 30 July 2020, the Standing Committee on Health, Ageing and Community Services tabled in the Assembly its report on its Inquiry into information sharing in the child protection system.
- The Minister for Families and Community Services tabled the Government Response to the Standing Committee on 3 December 2020.
- The response noted that comprehensive legislative reform would be required to respond to the Committee's recommendations and that the

discrete elements of legislative reform would be subject to future Government funding decisions.

Sharing of information in the child protection system

- Concerns have been raised recently about the legal regime for the disclosure of sensitive information relating to children and young people in the care and protection system.
- The Government is conscious of striking the right balance between ensuring transparency of Government decisions, and protecting information that is highly sensitive in nature.
- In June 2019, the Legislative Assembly passed a law which made a minor amendment to the *Freedom of Information Act* to ensure that there is a single set of rules governing access to sensitive information in child protection cases.
- This was a minor 'technical amendment'. It does not change the way in which information about child protection cases can be accessed in practice.

Key Information

Update on CSD work on the government review of CYPS decisions

- The ACT Government is working with the ACT Human Rights Commission and the community to establish a mechanism for the external merits review of some child protection decisions in the ACT.
- This work is driven by community expectation and government understanding that more child protection decisions should be subject to external review.
- In July and September 2020, the Community Services Directorate and the ACT Human Rights Commission held two roundtables with ACT stakeholders and colleagues from Queensland and Victoria. The roundtables provided insights regarding the mechanisms those States use to make child protection decisions, and lessons learnt from implementing those models. ACT stakeholders at the roundtables welcomed the ACT Government's commitment to improve child protection decision-making processes, including with an external review mechanism. This input provides a valuable foundation for developing a model
- To progress this work, the ACT Government is providing $100,000 for an independent consultant to devise a model for an external merits review process appropriate for the ACT.
- A consultant to undertake this work is currently being selected.
- The consultant will work the Community Services Directorate, our community partners, and our communities to develop options for an external merits review mechanism.
- The project will propose options and recommendations for a model of external merits review of child protection decisions that aligns with internal merits review processes and

incorporates family-led, trauma-informed, strengths-based, transparent, and restorative approaches.

Information sharing and amendment to the FOI Act

- Separately to the review, minor changes to the *Freedom of Information Act 2016* (FOI Act) concerning sensitive information held by CYPS were passed in the *Justice and Community Safety Legislation Amendment Act 2019*, which commenced on 21 June 2019.

Background Information

Government review of CYPS decisions

History of the government review

- In April 2016, the *Report of the Inquiry: Review into the system level responses to family violence in the ACT* (the Glanfield Report) made a number of recommendations relating to the operations of Child and Youth Protection Services (CYPS). Recommendation 12 of the Glanfield Report was that a review should be undertaken (chaired by JACS) "of what decisions made by CYPS should be subject to either internal or external merits review." The review is being conducted at present.
- In December 2016 a working group with representatives from JACS and CSD was established to address this recommendation. In May 2019, a discussion paper, 'Review of child protection decisions in the ACT' was published for public consultation until 28 June 2019.
- On 16 October 2019, a report was finalised by an independent consultant based on the submissions received. JACS published the report and submissions where consent had been given to do so. Some parts of submissions were redacted to comply with secrecy provisions in the *Children and Young People Act 2008* (ACT), and the right to privacy in the *Human Rights Act 2004* (ACT).

Assembly motion

- On 18 September 2019 the Assembly passed a motion calling on the Minister for Children, Youth and Families to update the Assembly no later than March 2020 regarding:
    a) How the voices of children and young people are included in this consultation process;
    b) The progress and outcomes of this review and the consultation process; and
    c) What steps will follow, and when these are expected to conclude.
- The ministerial statement in response to this motion was noted by the Assembly on 2 April 2020.

Information sharing in the child protection system

Standing Committee Inquiry

- On 16 May 2019, the ACT Legislative Assembly asked the Standing Committee on Health, Ageing and Community Services to inquire into CYPS, and specifically:
    - first, "to provide an analysis of the decisions of the ACT Court of Appeal in the case of *CP v Director-General of Community Services Directorate* (ACTA 32) and to identify potential systemic issues that may need to be addressed" (Part 1), and

- secondly, "to inquire into the ability to share information in the care and protection system in accordance with the *Child and Young People Act 2008*, with a view to maintain community confidence in the ACT's care and protection system (Part 2)."

- The Committee's final report for Part 1 of the inquiry was tabled in the Assembly on 27 August 2020, and Part 2 was tabled on 30 July 2020. The Part 2 inquiry report provides 44 recommendations, including the following specific to the Attorney-General.
  - Recommendation 15: that the Attorney-General should remind all directorates that any amendment(s) to legislation that removes a fundamental right should not be brought forward in an omnibus bill; and
  - Recommendation 33: that the Attorney-General update the Assembly by the last sitting day in August 2020 on the identification of specified proposals as to how a therapeutic justice approach in the care and protection jurisdiction would work in the ACT
- The Minister for Families and Community Services tabled the Government Response on 3 December 2020. The response 'notes' recommendation 15 and 'agrees in principle' to recommendation 33.

FOI Act amendment

- The amendment to the FOI Act made through the *Justice and Community Safety Legislation Amendment Act 2019* makes clear that a person cannot apply for the release of "protected information" that is also "sensitive information" under the *Children and Young People Act 2008* (CYP Act). This fixed a drafting anomaly in the FOI Act. The disclosure of sensitive information is regulated by the CYP Act, and its release other than in limited circumstances is prescribed to be an offence under that Act.
- The amendment ensures the FOI Act operates consistently with the CYP Act. In practice, the amendment will see no change to the way in which CYPS processes FOI requests, as CYPS has always interpreted the FOI Act consistently with the CYP Act, and so did not release sensitive information under the FOI Act prior to the amendment.

QUESTION TIME BRIEF

JACS2021/46-001-020

Portfolio/s: Attorney-General

ISSUE: TENANTS ADVICE SERVICE

Talking points:

- On 28 February 2020, the Justice and Community Safety Directorate (JACS) entered into a contract with Legal Aid ACT to provide the Tenants Advice Service ACT (TAS) until 30 June 2023.
- Canberrans are actively accessing and seeking support from the TAS. The Tenancy Advice Service provided assistance to 5,334 individuals between 1 March 2020 and 30 June 2021.
- As a part of the TAS, Legal Aid ACT also provides a weekly clinic to support tenants and occupants to understand their rights and obligations under the law and respond to the legal problems that they are facing. Between 1 March 2020 and 30 June 2021, the clinic provided 1,405assistance services to 1,161individuals.
- If you need support to respond to a tenancy or occupancy law issue, the TAS service is available to help you. The Tenancy Advice Line is open and taking calls from 8.30 am – 7pm four nights a week (Monday to Thursday) as a result of COVID-19. It also takes calls on Fridays from 8.30 am – 5pm.

If asked how you can access the TAS:

- The TAS can provide free and confidential support for all tenants and occupants in the ACT.
- You can find out more about the service through its website www.tasact.org.au
- The phone number of the Tenancy Advice Line is 1300 402 512.
- Legal Aid ACT have been providing tenancy advice services for many years.

Cleared as complete and accurate:	27/07/2021	
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TRIM Ref:	JACS2021/46-001-020	

If asked about community legal education and campaigning for tenants rights:

- The contract requires Legal Aid ACT to undertake law and policy reform activities. Since the contract commenced, Legal Aid ACT has provided comprehensive and detailed submissions to government about matters affecting tenants and occupants in the ACT.
- Legal Aid ACT's TAS has been an active participant in all stakeholder consultations with JACS in relation to residential tenancies reform since the service commenced. This includes several consultations in relation to COVID-19 residential tenancy response measures and in relation to amendments to the *Residential Tenancies Amendment Bill 2020.*
- Independent of consultation invited by JACS, Legal Aid ACT's TAS service also provided a submission to and appeared before the Select Committee on the COVID-19 pandemic response.
- Legal Aid ACT is conducting an extensive social media program about rights and responsibilities under tenancy law, focusing on the COVID-19 pandemic. You can access this information through Legal Aid ACT's Facebook page.

Key Information

General

- JACS signed a contract with Legal Aid ACT to provide the TAS on 28 February 2020. The contract will run until 30 June 2023. The contract price for this period is $1,621,995 (GST exclusive) which includes an additional payment of $40,000 which supported Legal Aid ACT to commence providing the service in March 2020 as a result of the closure of the Tenants Union ACT's office on 28 February 2020.
- The TAS ACT is a weekday advice and information service for tenants and occupants, which assists them to understand their rights and obligations under the Residential Tenancies Act 1997, understand the legal problems they are facing and the steps they can take to resolve them, and where appropriate assist in the resolution of those legal problems.
- Legal Aid ACT also provides casework and legal representation services as a part of the TAS service. These services will be targeted towards those persons who would be considered priority clients under the National Partnership Agreement on Legal Assistance Services.

- Legal Aid ACT and JACS will have quarterly operational meetings to discuss and review the operation of, and reporting about, the service. This will include six monthly reviews to assess the delivery of the service and consider what improvements could be made to enhance the TAS.

Matters involving Tenants Union ACT

- The Tenants Union ACT closed their offices on 28 February 2020.
- Their final report was provided to JACS on 10 June 2020.
- The Tenants Union's most recent grant to provide the Tenants Advice Service was signed on 10 September 2019. This grant funded the Tenants Union ACT **$348,171** (GST exclusive) from the ACAT Trust to provide the Tenants Advice Service from July 2019 – March 2020.
- Whilst operated by the Tenants Union ACT, the Tenants Advice Line was closed for new calls on 67 per cent of working days between 1 January and 14 November 2019. This data was sourced from the Tenant's Union's Twitter Feed on 15 August, 24 September, 23 October and 14 November 2019.
- The Justice and Community Safety Directorate has invited the Tenants Union ACT to participate in consultation about residential tenancies reform. The Tenants Union ACT has provided written input in response to a stakeholder consultation paper and has also appeared before the Select Committee on the COVID-19 pandemic response.
- The Tenants Union ACT has recently relaunched its website as a subscriber only service which provides information resources for tenants and occupants in the ACT. The Tenants Union ACT's 2019-20 annual report is paywalled, and has not been reviewed by JACS.

Canberra Times article regarding Tenants Union ACT (5 January 2021)

- The Canberra Times published an article on 5 January 2021 about the Tenants Union ACT and its future as an independent organisation. The article noted that the Tenants Union ACT is in talks to see if it could be combined with or subsumed into another territory organisation, like ACT Shelter.
- The article comments on the tender process which resulted in the TAS service being provided by Legal Aid ACT. The article contains factual inaccuracies.
- The ACT Government's 2020-21 Budget provided $700,000 over four years for systemic advocacy through ACT Shelter to increase its capacity as the peak body advocating for the interests of people living in and looking for affordable and social housing. A copy of the Canberra Times article can be provided upon request.

QUESTION TIME BRIEF

JACS2021/46-001-026

Portfolio/s: Attorney-General

ISSUE: AGE OF CRIMINAL RESPONSIBILITY

Talking points:

- The ACT Government has made clear that raising the minimum age of criminal responsibility is one of the key legislative reform priorities for the 10th ACT Legislative Assembly.
- As Attorney-General, this issue is a very high priority for me.
- Medical evidence tells us children and young people under the age of 14 who display harmful, risky, unsafe, and sometimes violent behaviour often do so as a result of trauma. This same evidence tells us that early involvement with the criminal justice system significantly impacts the neurological and social development of children and young people, which often leads to further offending.
- For this reason, the ACT Government is committed to developing early intervention approaches for these children and young people that address the underlying causes of offending behaviour - making the community safer by changing children's pathways and reducing the likelihood of reoffending as those children become adults.
- Raising the minimum age of criminal responsibility is an essential building block for this reform.
- We will be working across the ACT Government to make sure we have the right systems in place to support children who exhibit harmful behaviours.
- Work is underway to consider how a higher minimum age of criminal responsibility would be implemented in the ACT, taking into account the specific needs of the Territory's at-risk children and young people, and their families, and the characteristics of our criminal justice, and youth and family service sectors.
- This includes a gap and needs analysis review due to report in August 2021, which will include targeted stakeholder consultation on the therapeutic services required to meet the needs of children from 10 to 13 years of age.

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TRIM Ref:	JACS2021/46-001-026	

QUESTION TIME BRIEF

- A Discussion Paper seeking community views on key legal, policy and service system issues has also been released for consultation on the YourSay page on 24 June 2021 and submissions are invited until 5 August 2021. As a leader in implementing this reform across Australia the ACT is, and will continue to be, an active participant in any national conversations on increasing the minimum age of criminal responsibility.

Background Information

- The ACT Government has made raising the minimum age of criminal responsibility (MACR) a key legislative priority.
- This builds on a motion passed by the ACT Legislative Assembly in August 2020 which called on the ACT Government to:
  - support raising the MACR to 14 years of age, taking into account medical and other relevant evidence, and with consideration given to exemptions for serious offences;
  - ensure that reform in this complex area engages with and enhances support services identified through a gap analysis, noting that keeping young people safe and diverting them from the justice system is a whole-of-government and whole-of-community responsibility; and
  - continue to progress policy work, and consider programs and resources that may be required in order for the tenth Assembly to consider legislation raising the age.
- The age of 14 years has not been specifically referenced in the Parliamentary and Governing Agreement.
- The 2020 motion and subsequent Government commitment has been reported favourably in media across Australia.
- The Justice and Community Safety Directorate (JACS) is working with other Directorates (primarily the Community Services Directorate (CSD)) to develop the approach for raising the MACR in the ACT. The ACT Government's vision is to build Canberra as a Restorative City, and raising the MACR supports the integration of preventative and rehabilitative approaches into our justice system.
- As part of the work to raise the MACR, an independent review of the service system needs and implementation requirements for raising the MACR in the ACT has been commissioned using $120,000 from the Confiscated Assets Fund. This review commenced in February 2021, led by Emeritus Professor Morag McArthur in consortium with Aboriginal consultancy Curjio and Dr Aino Soumi. They are consulting across the ACT community to identify what reforms are needed in the ACT service system to support a higher MACR, including what restorative and therapeutic services need support to care for children who are at risk of harming themselves or others. The final report is expected to be delivered in August 2021.
- A further $380,000 of funding from the Confiscated Assets Trust Fund is supporting the continuation of a family-centric therapeutic program that will work with children and young

people coming into contact with the criminal justice system in 2021-22. The program has a priority focus on children and young people up to 14 years of age, and Aboriginal and Torres Strait Islander children and young people, and their families.

National Consideration of the MACR

- In all Australian jurisdictions, including the ACT, the MACR is 10 years old. However, children aged under 14 years cannot be held criminally responsible unless the prosecution proves they knew what they were doing was wrong (*doli incapax* principle)
- The Northern Territory has publicly committed to raising the MACR to 12 years of age. This commitment was made in 2018 in response to the recommendations of the Royal Commission into the Protection and Detention of Children in the Northern Territory in 2017.
- The MACR was previously being considered at the national level through the Council of Attorneys-General (CAG) in response to the United Nations Committee on the Rights of the Child recommendation in 2019 that the MACR be raised to at least 14 years of age and children under 16 years not be placed in detention. A CAG Working Group determined that the MACR could not be raised without a clear framework for implementation and support first being in place.
- On 23 October 2020, National Cabinet agreed to the new ministerial forums structure as part of the recommendations of the Conran Review of Former COAG Councils and Ministerial Forums. As a result, CAG has been replaced with 'time-limited' and 'when needed' forums for select issues. Raising the MACR is not one of the limited priorities for the new Meetings of Attorneys-General.

ACT Government
Justice and Community Safety

SHANE RATTENBURY MLA
ATTORNEY-GENERAL/MINISTER FOR GAMING/MINISTER FOR CONSUMER AFFAIRS
QUESTION TIME BRIEFS PACK
16 SEPTEMBER 2021

Hot topics	
1.	Family Violence Act Review
2.	Review into Whole of Justice System Interactions with Aboriginal and Torres Strait Islander People
3.	Justice system response to sexual assault (including positive definition of consent)
4.	Residential Tenancies
COVID-19 Related	
5.	COVID-19 Impacts-Relief to clubs and licensed premises
6.	Awareness of legal assistance services during COVID-19
7.	Support for community service providers during the COVID-19 pandemic
8.	Talking Points - Spitting or coughing at frontline workers (COVID-19) - ACT criminal law response
Gaming	
9.	Gaming Harm Reduction Measures
10.	Diversification and Sustainability Fund
11.	Updates on incentive applications under Voluntary Surrender Agreements
12.	Community Contributions
13.	Club Engagement
14.	Gaming Machine technical advice
Judicial/Courts	
15.	Resourcing of Magistrates and Coroners Court

ACT Government
Justice and Community Safety

16.	Coronial Reform
17.	Drug and Alcohol Court
18.	Judge Alone Trials
Security and Crime	
19.	National Security Issues
20.	OMCG Incidents – Taskforce Nemesis (Copy of ACT P Brief only)
21.	Coward punch laws
22.	Assaults on police and frontline community service providers (including application of bail laws)
23.	Property Crime (Rates, Strategy and OTO Campaign)
24.	Strong Connected Neighbourhoods (incl. Jerilderie Court)
Justice	
25.	2019 – 2028 Aboriginal and Torres Strait Islander Agreement/Justice Action Plan
26.	Restorative Justice
27.	Reducing Recidivism
General	
28.	Vivace development in Throsby
29.	Crimes (Offences Against Vulnerable People) Amendment Bill 2020
30.	How the ACT Liquor Act compares to NSW changes
31.	Review of child protection decisions in the ACT
32.	Tenant's Advisory Service
33.	Age of Criminal Responsibility

QUESTION TIME BRIEF

JACS2021/46-001-032

Portfolio/s: Attorney-General

Family Violence Act Review

Talking points:

- Family violence is a complex and challenging area of law, policy and service delivery.
- The ACT Government welcomes the publication of the *Review of the Family Violence Act 2016.*
- The ACT Government is committed to strengthening the protections for victims of family violence in the ACT and to using the consistent themes in the feedback detailed in the review to help shape family violence law and policy going forward.
- We are working to ensure our services and laws are as effective as they can be to prevent family violence, to protect and support victims of family violence, and to hold perpetrators to account.
- The Review provides useful insights, including from those who work in the family violence sector and those with lived experience of family violence. Such insights are vital to help shape the ACT's response to family violence now and into the future.
- Many of the review's recommendations complement or reflect current and on-going work by the ACT Government in response to family violence.
- On 30 March 2021, in response to keen interest in the review, the ACT Government agreed to table a response to it in the September sitting of the Legislative Assembly.
- The ACT Government thanks Professor Lorana Bartels and Professor Easteal for their work in conducting the review as well as the professional stakeholders and people with lived experience who participated in the review.

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TRIM Ref:	JACS2021/46-001-032	

QUESTION TIME BRIEF

If asked: Why was a review undertaken?

- The review was commissioned once the *Family Violence Act* had been operating for two years.
- The review was commissioned by the Justice and Community Safety Directorate in collaboration with the Office of the Coordinator General for Family Safety.
- The purpose of the review was to gauge the extent to which the Act had improved the protections and experience of victims of family violence and to inform the family violence work of the Government going forward.
- The review was not required by statute and no formal government response was required. However, on 30 March 2021 the Attorney-General informed the Legislative Assembly that, due to strong community and Parliamentary interest, the ACT Government would provide a formal response. The response has now been tabled.

If asked: When was the report delivered?

- The final report was delivered on 14 December 2020.

If asked: Why was publication of the report delayed?

- An earlier version was delivered in March 2020 on which feedback was given.
- That feedback process, related consultation with stakeholders, and delays due to COVID-19 and the Caretaker period, meant that the final report was not provided to Government until 14 December 2020.
- Although some text of the report changed after this feedback and consultation process, none of the recommendations changed.
- In the intervening months work continued within ACT Government to make progress on issues identified in the review report.

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TRIM Ref:	JACS2021/46-001-032	

QUESTION TIME BRIEF

Key Information

- The *Review of the Family Violence Act 2016* offers useful insights into the experiences and concerns of those who work in the family violence sector and those with lived experience of family violence.
- A number of the report's recommendations are for:
    - further work and / or research to be done;
    - actions which are now complete (for example, the recommendation to publish information about Victim Support ACT on the ACT Courts website); and
    - actions which are already under active consideration (for example, recommendations to improve information-sharing are being addressed through a pilot program run by the Office of the Coordinator-General for Family Safety and the Victims of Crime Commissioner).
- On 30 March 2021 Ms Elizabeth Lee MP tabled a motion in the Legislative Assembly noting some of the findings of the review and condemning the Government for delaying the release of the review and calling for a formal response to the review.
- The Attorney General spoke to the motion and agreed that the ACT Government would provide a response to the review to be tabled in the August-September sittings.

Background Information

Media Coverage

- On 23 February 2021, Justice and Community Safety Directorate published the final report of the *Review of the Family Violence Act 2016:* https://www.justice.act.gov.au/final-report-review-family-violence-act-2016
- The report has been the subject of media comment and queries following an ABC News article published online on Sunday 21 March 2021. In particular, certain recommendations have been subject to media comment, including:
    - recommendation 1 - amend the Act to expand the definition of 'family violence' by referring to specific types of abuse;
    - recommendation 2 – identify and address issues with after-hours orders;
    - recommendation 5 – children being included on family violence orders; and
    - recommendation 10 (and related recommendations of 8 and 13) – better information for victims.

Notice of Motion

- On 30 March 2021 Ms Elizabeth Lee MP tabled the following motion in the Legislative Assembly:

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TRIM Ref:	JACS2021/46-001-032	

- *That this Assembly:*
    1. *acknowledges there is no place for family or domestic violence in our community;*
    2. *notes the Family Violence Act 2016 (the Act) was implemented to address the scourge of family and domestic violence;*
    3. *further notes the Review of the Implementation of the Family Violence Act 2016 (the Review) and its findings that the Act is "not operating as intended" and requires reform;*
    4. *condemns the ACT government for delaying the release of the review; and*
    5. *calls on the ACT government to table a formal response to the Review, including what legislative reforms will be undertaken, by the last sitting in June 2021.*

- The Government amended the motion to omit paragraph 4, and change the date for a formal response to be provided by the Government to the August-September sittings 2021. The amended motion was passed.

Background on the Review

- The review proceeded largely by way of interviews undertaken with two cohorts of participants: 33 interviews with professional stakeholders and eight people who had lived experience of family violence.
- The review made 18 recommendations, half of which are for further consultation, consideration of, or work on particular issues.
- JACS is working with the Office of the Coordinator-General for Family Safety to develop a forward work program for family violence legislation and policy reform, which will have regard to the recommendations of the review.

QUESTION TIME BRIEF

JACS2021/46-001-017

Portfolio/s: Attorney-General

ISSUE: REVIEW INTO WHOLE OF JUSTICE SYSTEM INTERACTIONS WITH ABORIGINAL AND TORRES STRAIT ISLANDER PEOPLE

Talking points:

- Like all Australian states and territories, Aboriginal and Torres Strait Islander people are overrepresented in incarceration.
- In June 2020 in the ACT, approximately 1.9 per cent of the population were Aboriginal and Torres Strait Islander peoples, but Aboriginal and Torres Strait Islander people make up approximately 22 per cent of the prison population.
- Almost a quarter (23 per cent) of all children and young people under justice supervision in the ACT, were Aboriginal or Torres Strait Islander people.
- We must turn this around. We must take real action to reduce the rate at which we incarcerate Aboriginal and Torres Strait Islander people in the ACT so that it matches that of non-indigenous people.
- The Legislative Assembly motion on 9 February 2021 endorsed this approach by calling for the Government to proceed with a review into the overrepresentation of Aboriginal or Torres Strait Islander people in the ACT justice system.
- Reducing the overrepresentation of Aboriginal and Torres Strait Islander people in custody is already a key pillar of the ACT's Building Communities Not Prisons Initiative (BCNP) and its 2020 Reducing Recidivism Plan.
- However, to make a difference, we require a shared plan across the justice and human service systems, and for that work to be led by local Aboriginal and Torres Strait Islander women and men.
- In order to understand how a review or other action would be best led by Aboriginal and Torres Strait Islander people, the Minister for Aboriginal and Torres Strait Islander Affairs and I, with my fellow Ministers for Police and Emergency Services and Justice Health, hosted a Roundtable on 25 March 2021 to listen to representatives of the local Aboriginal and Torres Strait Islander community.

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TRIM Ref:	JACS2021/46-001-017	

QUESTION TIME BRIEF

- Following that Roundtable, on 15 April 2021, Ms Julie Tongs, CEO of Winnunga Nimmityjah convened a meeting of local Aboriginal and Torres Strait Islander leaders.
- Ms Tongs subsequently wrote to my colleagues and me advising that the meeting attendees had agreed that the most effective and best prospect for identifying and responding to overrepresentation of Aboriginal and Torres Strait Islander people incarcerated or in touch with the ACT justice system, is by means of a formal Commission of Inquiry under the *Royal Commissions Act 1991* (ACT) (RCA).
- Most recently, Ms Tongs has provided draft Terms of Reference developed by Aboriginal and Torres Strait Islander community leaders setting out the proposed scope of a Commission of Inquiry.
- The ACT Government is considering this request.
- A further roundtable with the ACT Aboriginal and Torres Strait Islander community was proposed for 16 August 2021 and has now been rescheduled online on Wednesday, 15 September 2021.
- We remain engaged with the Aboriginal and Torres Strait Island community about the need for a review that leads to reforms and programs that would have real impacts on the systemic problems that have led to the overrepresentation of Aboriginal and Torres Strait Islander people in the ACT criminal justice system.

Background Information

Overrepresentation of Aboriginal and Torres Strait Islander peoples in incarceration

- Overrepresentation of Aboriginal and Torres Strait Islander peoples in custody is a persistent and growing problem across Australia with incarceration rates increasing by 51% between 2012 and 2018. However, the degree of urgency in the ACT is acute with a 119% increase over the 2012-2019 period.
- The latest Prisoners in Australia report shows that the ACT has the nation's highest ratio of Aboriginal and Torres Strait Islander to non-Indigenous people in incarceration for 2020 (a ratio of 21.3 compared to the Australian average of 15.6).
- One of the more recent and relevant reviews on incarceration of Aboriginal and Torres Strait Islander peoples is from the Australian Law Reform Commission in the *Pathways to Justice – An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples* report, tabled in Parliament by the Commonwealth Attorney-General in March

2018. That report gives an overview of the issues to be addressed nationally, many of which have already informed work in the ACT, including through Justice Reinvestment to reform:

  - Bail
  - Sentencing (including Community-based sentences and mandatory sentencing)
  - Prison Programs
  - Parole
  - Fines and infringements (including driving when unlicensed)
  - Policing
  - Out of home care
  - Access to Justice (for example through interpreters)
  - Alcohol related offending.

- Reducing incarceration of First Nations women and men to match non-indigenous incarceration rates by 2030 is listed as a priority in the Parliamentary & Government Agreement of the 10th Legislative Assembly.
- To progress work into the overrepresentation of Aboriginal and Torres Strait Islander people in incarceration in the ACT, a Roundtable discussion with key community members, experts, and Government staff was held on Thursday, March 25, 2021 at Yarramundi Cultural Centre. The community Roundtable on Overrepresentation of Aboriginal and Torres Strait Islander people in the ACT Justice System was attended by Shane Rattenbury, Attorney-General; Rachel Stephen-Smith, Minister for Aboriginal and Torres Strait Islander Affairs; Mick Gentleman, Minister for Police and Emergency Services and Minister for Corrections; and Emma Davidson, Minister for Justice Health.
- The purpose of the Roundtable was to hear from the community on:
  - whether a review is required and if so, clearly communicating that this will be an Aboriginal and Torres Strait Islander led response
  - whether any further consultation is required on the scope and proposed processes for a review (and/or any other actions), and
  - initial indications (if any) of what is needed to redress overrepresentation of Aboriginal and Torres Strait Islanders in the ACT justice system.
- One of the potential review models discussed was the Our Booris, Our Way review process. At the Roundtable, Ms Barbara Causon who was the former Chair of the Our Booris, Our Way Review Committee, presented and provided an overview of the process and timeline which was delivered over a 3 year period. Ms Causon also discussed how the Our Booris, Our Way process could potentially be applied to a justice review.

- Victims of Crime Commissioner, Ms Heidi Yates, also presented and shared her insights about using a review process similar to that used to develop the Disability Justice Strategy.
- In response, Ms Tongs emphasised the lack of trust by the Aboriginal and Torres Strait Islander community in government. Ms Tongs suggested a Royal Commission may be required because Aboriginal and Torres Strait Islander people need an independent commission with powers to recommend broad ranging actions. Ms Tong offered to host a further meeting of key community members to discuss how they see the scope and governance arrangements for further action and a possible Royal Commission.
- Ms Julie Tongs hosted a meeting on 15 April to consider a recommendation to the ACT Government on a mechanism to take action on overrepresentation of Aboriginal and Torres Strait Islander peoples in the ACT justice system.
- In a letter of 22 April 2021, Ms Tongs advised that a meeting of 16 Aboriginal and Torres Strait Islander leaders had been addressed by Senator Pat Dodson and Professor Larissa Behrendt. The letter advised that it was unanimously agreed to advise the ACT Government that the most effective and best prospect for identifying and responding to overrepresentation of Aboriginal and Torres Strait Islander people incarcerated or in touch with the ACT justice system, is by means of a formal Commission of Inquiry under the *Royal Commissions Act 1991* (ACT) (RCA). The letter proposed direct involvement by the Aboriginal community in all aspects to establish a Commission of Inquiry.
- The Government has since been provided with proposed Terms of Reference developed by Aboriginal and Torres Strait Islander community leaders setting out the proposed scope of a Commission of Inquiry. The Terms of Reference are broad and include an inquiry into:
    - laws and legal frameworks including legal institutions and law enforcement (for example, arrest, remand, bail and sentencing);
    - treatment in detention (for example compliance with duty of care and human right laws);
    - actions that should have been taken under past reports and reviews;
    - access to medical care in detention and housing prior to release from detention;
    - systemic changes needed to reduce recidivism;
    - institutional and practice changes to protect from, and report and respond to allegations of racism; and
    - measures to adopt to prevent inappropriate treatment in detention.
- Further work is underway to support consideration of how best to respond to the call for a Royal Commission, in a manner that respects the self-determination of the local Aboriginal and Torres Strait Island community.

QUESTION TIME BRIEF

- The next Roundtable for Overrepresentation for Aboriginal and Torres Strait Islander people in the ACT criminal justice system is scheduled for Wednesday 15 September 2021 (12-2pm). When this Roundtable occurs it is expected to discuss the reports to be included in a review, identifying programs with immediate impact on overrepresentation and seeking agreement on a review mechanism.
- A package is coming to Cabinet (currently proposed for 28 September 2021) to respond to the February 2021 notice of motion. The Submission will provide an update on the work that has been done with the Aboriginal and Torres Strait Islander community to address overrepresentation. A brief is coming to you with a proposed letter to the Speaker asking for a short extension to allow the online meeting with the community to occur and the outcomes to be incorporated into the feedback to Cabinet. This would make the new proposed date for lodging the response in early October.

Truth Telling

- The *Uluru Statement from the Heart* in 2017 called for Voice, Treaty and Truth. In particular the statement sought a Makarrata Commission to supervise a process of agreement-making between governments and First Nations and truth-telling about Aboriginal and Torres Strait Islander history.
- In order to address that statement, Victoria is establishing the Yoo-rrook Justice Commission from July 2021-2024. The Victorian Commission will be able to make broad recommendations about practical actions and reforms, including to effectively redress and address systemic injustices, essentially as a pre-condition to Treaty.
- It is understood that the Commission is likely to canvass overrepresentation of Aboriginal and Torres Strait Islander people in incarceration.
- In a letter dated 14 March 2021, the ACT Bar Association has called on the Attorney-General and ACT Government to publicly investigate the history of injustice to Aboriginal and Torres Strait Islanders. This appeared to be a more theoretical discussion of what was appropriate, and there was no reference to whether this was supported by Aboriginal and Torres Strait Islander people in the ACT.

Building Communities Not Prisons (BCNP)

- The overall aim of BCNP is to deliver a number of initiatives that are designed to reduce reoffending, reduce the prison population, improve the lives of those individuals and their families, and improve community safety.
- 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 peoples.
- BCNP aims to:
    - 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, particularly prison
- 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 homes and community supports, making the ACT a safer and more inclusive city.

QUESTION TIME BRIEF

JACS2021/46-001-011

Portfolio/s: Attorney-General

POSITIVE DEFINITION OF CONSENT

- The ACT Government is committed to protecting people from sexual abuse and ensuring that those who commit sexual offences are appropriately held to account.
- A strong criminal justice response to sexual offending is important, not only for victims and survivors but the entire community.
- The Parliamentary and Governing Agreement of the 10th Legislative Assembly includes agreement to legislative reforms to sexual offence laws, including consideration of a positive definition of consent.
- The ACT Government welcomes the opportunity to consider potential improvements to our criminal laws as outlined in the Government Response to the Justice and Community Safety Standing Committee's Report on the inquiry into the Crimes (Consent) Amendment Bill 2018.
- The ACT Government will also examine the findings of the NSW Law Reform Commission final report "Consent in relation to sexual offences", published on 18 November 2020.
- On 30 March 2021, the ACT Government announced a new Sexual Assault Prevention and Response Working Group to coordinate the contribution of community, service sector, policymakers, and other relevant stakeholders to sexual assault responses. This group will review and evaluate gaps in the system and make recommendations to strengthen responses to sexual assault in the ACT.

If Asked – Crimes (Stealthing) Amendment Bill 2021

- On 22 April 2021 Ms Elizabeth Lee MLA introduced a private members bill, the Crimes (Stealthing) Amendment Bill.
- The Government is currently considering its position on the Bill.
- Removing a condom without consent during sex, or 'stealthing', is likely already a crime under ACT law - but there may well be value in putting the matter beyond doubt.
- The ACT Government is taking a holisitic response to tackling sexual violence in our community. Laws are only one a part of that response

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and reforms relating to 'stealthing' are only one potential aspect of that part.

- The Sexual Assault Prevention and Response Working Group is currently considering the Bill and may make recommendations to the ACT Government on the Bill.

If asked – Crimes (Consent) Amendment Bill 2021

- The Crimes (Consent) Amendment Bill 2021 is a private member's bill proposed to be introduced in the Legislative Assembly by Marisa Paterson MLA. The Bill was recently open for public consultation.
- The Bill seeks to amend the Crimes Act to introduce a communicative model of consent.
- The Bill is broadly consistent with the recommendations made by the NSW Law Reform Commission in its recent report on consent.
- Law reform, such as what is proposed in the Bill, will need to be coupled with public education campaigns to achieve normative change to community standards.
- The Sexual Assault Prevention and Response Working Group is currently considering the Bill and may make recommendations to the ACT Government on the Bill.

Key Information

- ACT sexual offences and 'intimate image abuse' offences are contained in the *Crimes Act 1900* (Crimes Act). The ACT is the only Australian jurisdiction with no statutory definition of consent. Rather, s 67 of the Crimes Act includes a list of circumstances which 'negate' consent.
- All States and the Northern Territory have statutory definitions of consent that are variations on the concept of 'free and voluntary agreement'.

<u>Law reform commission recommendations</u>

- The 2010 Australian Law Reform Commission's *Final Report Family Violence – A National Legal Response* recommended that ACT sexual offence provisions should 'include a statutory definition of consent based on the concept of free and voluntary agreement' (recommendation 25-4).
- The NSW Law Reform Commission recently published their final report "Consent in relation to sexual offences" (NSWLRC Consent Report). A review of this report is currently being undertaken.

QUESTION TIME BRIEF

Background Information

- On 11 April 2018 a draft Private Members Bill titled *Crimes (Consent) Amendment Bill 2018* (Bill) was presented in the Legislative Assembly. The Bill sought to amend the *Crimes Act 1900* to introduce a new statutory definition of consent for certain sexual offences and the distribution of intimate images, and to exclude the application of specified child sex offences to some young people.
- On 8 May 2018 the Legislative Assembly referred the Bill to the Standing Committee on Justice and Community Safety (the Standing Committee) for inquiry and report. The Standing Committee Report recommended that the Bill should not proceed in its current form and that any enactments or legislative changes to the definition of consent should wait until consideration of the NSW Law Reform Commission final report "Consent in relation to sexual offences" (NSWLRC Consent Report). The Government Response[1] agreed to all but one aspect of the Committee Report that related to consideration of affirmative vs communicative models of consent. The NSWLRC Consent Report was published on 18 November 2020.[2]
- Many of the recommendations from the NSWLRC Consent Report link to other work done in this area, including the Royal Commission into Institutional Responses to Child Sexual Abuse, Criminal Justice Report (CARC CJ Report) as well as the joint 2010 ALRC/NSWLRC Report 'Family Violence: A National Legal Response' [Report 114] (ALRC Report).
- On 22 April 2021 Leader of the Opposition and Shadow Attorney-General Ms Elizabeth Lee MLA, introduced the Crimes (Stealthing) Amendment Bill 2021 ('the PMB'). The PMB proposes to amend the *Crimes Act 1900* to include a new factor which negates consent if that consent is caused "by an intentional misrepresentation by the other person about the use of a condom" ('stealthing').
- On 21 June 2021, Dr Marisa Paterson MLA released the exposure draft of the Crimes (Consent) Amendment Bill 2021. The Bill was open for public consultation from 21 June – 16 July 2021. It is anticipated that the Bill will be amended in response to feedback received during consultation and introduced in the Legislative Assembly later this year.

[1] https://www.parliament.act.gov.au/__data/assets/pdf_file/0004/1322509/9th-JAC-03-Report-On-Inquiry-into-The-Crimes-Consent-Amendment-Bill-2018.pdf

[2] https://www.lawreform.justice.nsw.gov.au/Pages/lrc/lrc_current_projects/Consent/Consent.aspx

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ACT Government

QUESTION TIME BRIEF

JACS2021/46-001-014

Portfolio/s: Attorney-General

ISSUE: RESIDENTIAL TENANCIES

Talking points:

COVID-19 support measures

- The Government has put in place a **12-week moratorium on evictions** for rental arrears for COVID-19 impacted households, commencing on **2 September 2021.**
- This will be followed by a 12-week transitional period which prevents eviction based on debt accrued during the moratorium period in certain circumstances.
- These measures do not mean that tenants who fall into arrears because of the impact of COVID-19 no longer owe rent money to their landlord. Instead, the measures give tenants more time to pay their debt before they face eviction.
- New measures were also introduced to prevent people being required to leave a rental property while they are subject to a quarantine direction to remain at the prperty.
- All measures were developed in consulation with tenant and landlord representatives and other key community organisations providing support to residential tenants.

<u>Overview of COVID response measures</u>

- The response measures include:
    - **eviction prevention measures** (to support social distancing and support those impacted financially from losing their homes) including:
        - a **12 week eviction moratorium** on evictions due to rent arrears for COVID-19 impacted households;
        - the ability to extend a notice to vacate (issued for any reason) that is due to take effect while a person at the rental premises is subject to a quarantine direction; and
        - the ability for the ACT Civil and Administrative Tribunal (ACAT) to suspend orders or stay warrants:

- on evictions for rent arrears until the end of the moratorium period, or,
- if a person is subject to a quarantine direction, for up to two weeks after the end of their quarantine period.

- **social distancing support measures** (applying to all tenancies) including:
  - restricted access to premises (limiting access for inspections and repairs);
  - virtual inspections; and
  - relaxation of timeframes for non-urgent repairs.
- **rent and occupancy fee measures** including:
  - the ability for landlords and tenants to agree to a temporary rent reduction or rent deferral;
  - a temporary occupancy fee reduction provision to support occupants and grantors wanting to put in place temporary occupancy fee reductions; and
  - a rent increase freeze for COVID-19 impacted households.
- **other related protections**, including:
  - a restriction on listing tenants from impacted households on a tenancy (blacklist) database due to COVID-19 related rent arrears; and
  - the ability for COVID-19 impacted tenants in fixed -term tenancies to terminate their agreements early and without penalty by providing their landlord with 3 weeks' notice of their intention to leave and evidence that they have been impacted.

QUESTION TIME BRIEF

Financial Support Measures

- Residential landlords who provide a temporary rent reduction of at least 25% will be eligible for a credit on their residential land tax of up to $100 per week to share the cost of passing rent relief on to tenants who have lost income due to COVID-19.
- This rebate will operate in the same way as the land tax credit that was offered by the Government last year – which last year provided rental relief to almost 1,000 households impacted by COVID-19.
- An online application process is being developed for residential and commercial rates credits.
- Applicants should check the ACT Revenue Office website for details.

Further detail on the eviction moratorium

- The eviction moratorium prevents a landlord from evicting their tenant if they are in an impacted household and fall behind on their rent during the moratorium period.
    - It is not a 'rent holiday' - any unpaid rent will still be a debt owed to the landlord (unless the landlord has agreed to accept a reduced rent amount).
- The moratorium will be in place for 12 weeks but can be extended if needed.
- It will be followed by a 12-week transition period during which a tenant from an impacted household can't be evicted for debt that accrued during the moratorium period so long as they pay their rent as it falls due during the transition period.
    - This measure provides tenants with a longer period of time to repay any debt before they can face eviction.
    - The moratorium period can also be extended if needed.
- The moratorium does not apply to all tenants – only those who are defined as being impacted by COVID-19.

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- **Tenants can still be evicted for other reasons not related to rent arrears** (unless they are currently subject to a quarantine direction). For example, tenants can still be evicted if:
    - the landlord needs to move into the property or sell it; or
    - if the tenant is in breach of the tenancy agreement (aside from being behind in rent).

<u>Who is protected by the moratorium and related measures</u>

- The social distancing measures (requirements for virtual inspections and relaxation on timeframes non urgent repairs) **apply to all tenancies**. Other protections apply only to those in impacted households.
- Tenants will have the benefit of the eviction moratorium if they are defined as being in an impacted household. A person is in an ***impacted household*** if:
    - one or more rent-paying members of a household have lost income (or had a reduction in income) due to measures taken by any State, Territory or the Commonwealth in response to the COVID-19 pandemic (for example, COVID-19 business closures or stand-downs); or
    - one or more rent-paying members of a household have had to stop working or reduce work hours due to illness with COVID-19 or to care for a family member who is ill with COVID-19; **and**
    - on or after 12 August 2021:
        - the household's or individual household member's gross weekly income is 20% less than their income before it was stopped or reduced; or
        - a rent-paying household member has lost 8 hours of work or more.
    - Alternatively, a household is also impacted if a member of the household became eligible for the Commonwealth Disaster Payment or the ACT Government Small Business Grant on or after 12 August 2021.

QUESTION TIME BRIEF

Coverage of the moratorium

- The moratorium protects those who have lost income due to COVID-19 reponse measures from facing eviction if they fall into rent arrears due to losing that income.
- This targeted intervention protects those who have been directly impacted whilst also ensuring that landlords are otherwise able to deal with their properties as they would normally.
    - This includes allowing landlords to move into their properties themselves or to sell their properties.
    - It also means landlords can remove tenants who are in breach of their agreement (other than impacted tenants who are in rent arrears).

Further detail on protections for those who are required to quarantine

- Tenancy legislation sets out certain circumstances where a tenant can be required to leave rental premises. This includes where the landlord issues them with a notice to vacate because they want to move in, sell or renovate the property. Tenants can also be evicted if they breach the agreement.
- To prevent people from being evicted when they are required to quarantine, measures have been put in place to:
    - delay the day the tenant is required to leave the property where the landlord gives them a notice to vacate; and
    - allow the ACT Civil and Administrative Tribunal to suspend an eviction while a person is in quarantine.
- These measures give a person subject to a quarantine direction up to 2 weeks after the end of their quarantine period to leave the property.

Further information on the residential tenancy response measures

- The ACT Government COVID-19 website under the 'Access Help' section links to further information about the residential tenancy response measures.

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QUESTION TIME BRIEF

Tenants who are not COVID impacted but who are still facing eviction during the lockdown period:

- The eviction moratorium applies to COVID-19 impacted households who are in rent arrears.
- Where tenants are not covered by the moratorium:
    - The public health restrictions do not prevent new tenancy agreements from being entered into at this time.
    - Virtual inspections of properties being offered for rent are available.
    - After midnight on Friday 17 September 2021, in person inspections of vacant rental properties (that are not currently subject to tenancy) can be arranged by private appointment with the landlord or agent.
- If tenants would like advice as to whether they are covered by the residential tenancy response measures or advice on the legality of their eviction, they can contact the Tenancy Advice Service provided by Legal Aid ACT on 1300 402 512.
- There are services available in the ACT for tenants who are at risk of losing their tenancy or facing homelessness. These include:
    - **Onelink** - Onelink assists people who are homeless or at risk of homelessness with information and accommodation referral services (1800 176 468, info@onelink.org.au, www.onelink.org.au/)
    - **Supportive Tenancy Service** - The supportive Tenancy Service helps tenants who are worried about losing their tenancy as well as people who face barriers to securing a tenancy in the first place. Referrals to the Supportive Tenancy Service are made by contacting Onelink.
    - **Care Financial Counselling Service** - Care Financial Counselling Service assists people who may want help managing their expenses to make ends meet (02 6257 1788, admin@carefcs.org, www.carefcs.org/financial-counselling)
- If individuals are experiencing financial hardship and are concerned with the upfront costs of entering a new tenancy on a low to moderate

income, they may be eligible for the ACT Government's Rental Bond Help Program.

- The Program offers to pay up to 100% of the rental bond for approved applicants, as a loan that is interest free and can be repaid over 24 months.
- For more information, see the Housing ACT website at: https://www.myaccount.act.gov.au/rentalbondhelp/s/

Residential Reforms – Consultation paper

- The ACT Government committed to removing no cause evictions from residential tenancies as part of the Parliamentary and Governing Agreement for the 10th Assembly.
- I am committed to implementing this commitment in consultation with the ACT community and have recently released a consultation paper seeking community views on this important change and a number of other key reforms to residential tenancy laws.
- The consultation paper seek community views on 4 reform areas:
  - Ending no cause evictions
  - Regulating rent bidding
  - Strengthening the right to grow food and to compost, and
  - Introducing minimum standards
- The consultation paper and a quick and easy feedback form is available on the YourSay website.
- The consultation period has been extended and will now close on **15 October 2021**.
  - This extension allows those in the residential tenancy sector who have been dealing with the impacts of COVID-19 with a longer period in which to engage with the important issues raised in the consultation paper.

<u>"Rent bidding"</u>

- There has recently been media coverage of the challenges faced by prospective tenants in the ACT, specifically including claims about a practice known as "rent bidding". This involves applicants for rental

properties offering or being asked to pay rent above the advertised rental price in an attempt to secure the property.

- There is no specific prohibition on this practice in the *Residential Tenancies Act 1997*.

Strengthening the right to grow food and to compost

- The ACT Government is considering whether to amend the *Residential Tenancies Act 1997* to create a presumption that landlords will permit renters to compost and grow food.
- Reducing organic waste from households is part of the ACT Climate Change Strategy 2019-2025.
- The proposal would also strengthen tenants' rights, in line with the ACT Housing Strategy, by giving tenants greater say in how they use their homes.
- The Government is seeking community views on classifying changes to a property in order to grow food or compost as 'special modifications'
- This would mean that the tenant would need to seek consent from the landlord to make the changes but the landlord can only refuse if it is reasonable to do so and they get an ACAT order endorsing the refusal.
- Where the tenant does make changes they would be required to restore the property to (substantially the same as) its original condition at the end of the tenancy (unless the landlord agrees to the changes remaining).

Minimum standards

- Last year the ACT Government amended the *Residential Tenancies Act 1997* to create a head of power to make regulations about minimum standards for residential tenancies.
- The Environment, Planning and Sustainable Development Directorate has commenced work on introducing minimum standards in relation to energy efficiency
    - An initial consultation process on this topic has been undertaken and further consultation is proposed during the second half of this year.

- The consultation paper currently out for community comment seeks feedback on what standards should be introduced in relation to:
    - Sanitation
    - Amenity
    - Safety and security, and
    - Physical accessibility

Residential Tenancies Amendment Act 2020 (No 2)

- The *Residential Tenancies Amendment Act 2020* (No 2) (the Amendment Act) passed the Assembly on 27 August 2020 with most provisions commencing on 3 March 2021. The amendments improve protections for occupants and co-tenants.
- To support community understanding of the changes made, factsheets relating to occupancy laws and co-tenancies are available on the Justice and Community Safety website: https://justice.act.gov.au/renting-and-occupancy-laws/reforms-tenancy-and-occupancy-laws
- The Renting Book has also been updated with information for tenants on the new laws in relation to co-tenancies. The Renting Book is available on the Justice and Community Safety website https://justice.act.gov.au/renting-and-occupancy-laws

Occupancy laws

- The Amendment Act increases protections for occupants, including by:
    - clarifying the difference between an occupancy agreement and a residential tenancy agreement, so that occupants and grantors have greater certainty about their rights and obligations
    - introducing mandatory minimum principles for occupancy agreements, including:
        - protections against unreasonable evictions
        - entitlements for access to communal areas
        - tighter rules around when a grantor can enter the premises
        - requirements for grantors to provide occupants with information, and

    - limitations on penalties that may be charged
  - creating a new obligation for grantors to lodge security deposits with the ACT Revenue Office (an exception applies for universities), and
  - providing more dispute resolution options for occupants and grantors, by giving them access to free, informal and enforceable conciliation through the ACT Human Rights Commission.
- In addition, the Amendment Act resolves some issues specific to owner-occupiers in residential parks (where a person owns their dwelling but has an occupancy agreement in relation to the site their dwelling is on).
- The Amendment Act also substantially reforms the law on share housing to better reflect modern community behaviours and expectations. People living in share houses deserve clear laws that are adapted to their circumstances.

<u>Co-tenancies</u>

- The reforms:
  - introduce a legal framework into the RTA for co-tenancies, which is a common way to set up a share house, where all tenants have equal rights and responsibilities;
  - provide clear processes for co-tenants to move in and out of share houses, including managing transfers of interest in the bond; and
  - ensure that the ACT Civil and Administrative Tribunal can be used to resolve disputes between co-tenants as well as between co-tenants and landlords.

<u>Universities</u>

- For universities the changes in relation to occupancy agreements will commence on 30 January 2022 - in line with the commencement of the 2022 academic year.
- The Amendment Act includes a number of exemption-style provisions that apply only to occupancy agreements provided by universities - namely:
  - an exemption from the requirement to lodge any security deposit taken in respect of occupancy premises with the Territory;

- clarifying that the currently existing university disciplinary requirements and medical leave rules established under statute will not be displaced by the occupancy principles in the event of any inconsistency between the disciplinary requirements or medical leave rules and the occupancy principles;
- requiring parties of occupancy agreements who have a dispute to which to which a university dispute resolution procedure applies to exhaust internal dispute resolution procedures (within a reasonable time) prior to making an application to the Tribunal;
- a clarification that occupancy agreements can be terminated under university disciplinary requirements and medical leave rules and that agreements terminated in these circumstances are not subject to the requirement that the termination is reasonable having regard to the nature of the occupancy agreement; and
- delayed commencement and transitional provisions that apply to education provider occupancy agreements, including universities.

- Universities were exempted from the requirement to lodge security deposits after the universities provided feedback that they currently manage thousands of occupancy agreements for students living on on-campus which would be administratively difficult to lodge all at once. In addition, when invested collectively, the interest gained from the investment of students' security deposits generates significant income which is then used to help cover the administration costs of student accommodation.
- Other exemptions ensure that occupancy laws do not conflict with the universities' pre-existing disciplinary procedures or internal dispute resolution procedures (which are established under the university governing statues).

QUESTION TIME BRIEF

JACS2021/46-001-005

Portfolio: Minister for Gaming

ISSUE: COVID-19 Impacts - Relief to clubs and licensed premises

Talking points:

- The Government has provided financial support to clubs and licensed premises affected by emergency closure directions and ongoing restrictions necessary in response to the COVID-19 public health emergency.

2021 Lockdown

- The *Public Health (Lockdown Restrictions) Emergency Direction 2021 (No 1)* (NI2021-480) (the Direction) commenced on 12 August 2021 in response to the COVID-19 outbreak in the Territory.
- Since this time, the provisions in the Direction have been extended and the current direction, the *Public Health (Lockdown Restrictions) Emergency Direction 2021 (No 6)* (NI2021-521), provides that only essential businesses, activities or undertakings may operate in the Territory during the lockdown.
- Retail food services may only provide takeaway meals or drinks, or a meal delivery service. Liquor licensed venues such as restaurants, bars and nightclubs (not including a strip club, brothel or escort agency) may only provide takeaway liquor.
- Through the ACT COVID-19 Business Support Grant, the Government will deliver grants of $20,000 for employing businesses and $7,500 for non-employing businesses.
- The grants are available to local businesses that have experienced at least a 30 per cent reduction in turnover over the five-week lockdown period (13 August – 17 September 2021)due to restricted trading conditions. Applications close on 7 October 2021.
- From October 2021, under the COVID-19 Small Business Hardship Scheme, eligible small businesses will be able to apply to the Government for credits for payroll tax, utility charges, rates and a range of other fees and charges up to a maximum of $10,000 per operator.
- The applicant must be able to demonstrate a 30 per cent loss of revenue (from the June quarter 2021 to the September quarter 2021) to qualify for the Scheme.

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- The Scheme applies to businesses with a turnover between $30,000 and $10 million per annum.

- Employees of businesses who are unable to earn an income during the lockdown may also be able to access the Commonwealth Government's COVID-19 Disaster Payment. Payment amounts vary from $200 to $750 depending on eligibility criteria, including the hours of work lost during the lockdown.

  Relief that commenced in 2020

  - Amendments passed in the Assembly on 2 April 2020 gave effect to the following Economic Survival Package initiatives:
    - suspending the obligation of clubs to make payments to the Diversification and Sustainability Support Fund (DSSF) for a 12-month period;
    - allowing the Attorney-General to declare certain payments to be emergency community purpose contributions for a certain period during and after the emergency closure directions; and
    - providing that clubs can claim $2 (as a community purpose contribution) for every $1 the club contributes to charitable support by preparing or providing food for emergency-affected people, to assist clubs in meeting their obligations under the *Gaming Machine Act 2004*.

  Emergency relief funding

  - The Government delivered emergency relief funding of approximately $3.3 million to clubs from the DSSF to help clubs to keep their workers employed or provide other income support, and continued Government contributions to the DSSF despite the suspension of clubs' payments to the fund.

Cash payments for surrendering gaming machine authorisations

- On 2 April 2020, the Government announced that it would offer a cash payment of $15,000 to gaming machine licensees (clubs and hotels) in exchange for each surrendered gaming machine authorisation, with the payments being used towards:
    - staff employment;
    - diversification activities and initiatives; and
    - energy and water efficiency measures.
- The measure was available until 30 June 2021.
- A total of 134 authorisations were surrendered by clubs under this incentive, for cash payments totalling $2.010 million.

Emergency Community Purpose Contributions

- Two ministerial declarations were made to allow clubs to meet their community contribution requirements under the *Gaming Machine Act 2004* more flexibly.
- Under the *Gaming Machine (Emergency Community Purpose Contribution—Club Employees) Declaration 2020*, clubs could claim staff wages as community purpose contributions, provided the amount meets or exceeds the relevant minimum wage under the *Registered and Licensed Clubs Award 2010*. This measure was extended until 23 March 2021 to provide support to clubs and club workers during the emergency period and into the recovery phase. While the declaration has now expired, clubs can still claim payments made during that 12-month period as part of their community purpose contributions for the relevant reporting year.
- The *Gaming Machine (Emergency Community Purpose Contribution—Local Live Performance Industry) Declaration 2021* (DI2021-214) has extended the measures in the 2020 declaration by three months so that clubs can claim, as community purpose contributions, the contributions made to or for the local live performance industry for music or other live entertainment (other than sport) from 28 August 2020 until 30 November 2021. This measure will provide support to the local live performance industry, which continues to be affected by COVID-19.

QUESTION TIME BRIEF

Fee waivers

- The Government waived fees for most liquor licences and permits for 12 months at the start of the pandemic to put approximately $5.8 million dollars back into the pockets of licensed businesses at a time when they needed it most.
- In particular, annual liquor licence fees were waived between 31 March 2020 and 31 March 2021 for all on licensees, and for off licensees with a gross liquor purchase value of $3 million or less in the last reporting period. As a tapering measure and to support Canberra's economic recovery, a 50% fee reduction for annual liquor licence fees for *on* licences, *special* and *club* licences will be in place for 12 months from 1 April 2021, under the *Liquor (COVID-19 Emergency Response—Licence Fee Waiver and Reduction) Declaration 2021 (No 1)*.
- Under the *Liquor (COVID-19 Emergency Response—Permit Fee Waiver) Declaration 2021 (No 2) and (No 3)*, from 1 July to 30 September 2021, the Government has waived application fees which allow on licensees to receive a commercial permit to sell liquor for takeaway consumption and commercial and non-commercial permit-holders to amend their permits to reschedule event dates. The Government has waived these fees in light of the current COVID-19 outbreak in NSW.
- These fee waivers and reductions have and will continue to provide support for liquor licensees' efforts to adapt their business models as we continue to adjust to the effects of the COVID-19 pandemic.

<u>Other COVID-19 Economic Survival Package measures</u>

- Other support measures for clubs and licensed premises implemented as part of the Economic Survival Package include:
    - waiver or refund of gaming machine tax liabilities for March 2020 gaming activity (for clubs that pay tax monthly) or gaming activity in the first quarter of 2020 (for clubs that pay tax quarterly);
    - Icon Water rebate of fixed water and sewerage charges for two quarters in 2020; and
    - waiver or refund of annual licence fee and gaming machine tax liability for March 2020 activity for Casino Canberra.

- Clubs may have also benefitted from additional business supports and measures announced in the Economic Survival Package, such as payroll tax relief.
- Some clubs may have benefited from sport and recreation sector support measures, including a waiver of ACT Government sportsground hire fees for the Winter 2020 season and suspension of existing invoices for sportsground hire fees until 1 July 2020.

Background Information

Use of EGMs following lockdown

- Clubs have asked you to allow them to turn on EGMs as soon as clubs reopen following the current lockdown to support their economic recovery.
- Following the 2020 COVID-19 lockdown, clubs in the ACT were able to reopen (with restrictions) on 19 June 2020. The use of EGMs was not permitted until 10 September 2020.
- Health advice, including an assessment of the cumulative risk, will continue to guide any easing of COVID-19 restrictions during the current outbreak, including when the use of EGMs can safely recommence.

DSSF emergency relief for clubs

- In April-May 2020, the Government distributed emergency relief funding of approximately $3.3 million from the Diversification and Sustainability Support Fund (DSSF) to clubs affected by COVID-19.
- This funding was made up of approximately $0.8 million contributed by clubs according to the number of gaming machine authorisations held, approximately $1 million contributed by the Government as part of its undertaking to match clubs' contributions for the first three years of the DSSF's operation, and a further $1.5 million of additional funding provided by the Government.
- These funds from the DSSF were required to be used by ACT clubs to support the payment of wages and other financial support to staff.
- Clubs provided an undertaking to use the funds for the purpose for which they are provided and, as required, provide evidence that funds were used for the agreed purpose.

QUESTION TIME BRIEF

Government amendments to the *Gaming Machine Act 2004*

- Amendments to the *Gaming Machine Act 2004* which were passed on 2 April 2020 (in the *COVID-19 Emergency Response Act 2020* and the *Gaming Machine Amendment Act 2020*) will assist clubs comply with the community contributions scheme. These amendments have allowed the Minister for Gaming to make declarations about what constitutes a community purpose contribution in a COVID-19 emergency. Two emergency community purpose contribution declarations have been made.
    - The *Gaming Machine (Emergency Community Purpose Contribution—Club Employees) Declaration 2020* (DI2020-139) (repealed). This declaration expired on 23 March 2021.
- The *Gaming Machine (Emergency Community Purpose Contribution—Local Live Performance Industry) Declaration 2021* (DI2021-214) has extended the measures in the 2020 declaration by three months so that clubs can claim, as community purpose contributions, the contributions made to or for the local live performance industry for music or other live entertainment (other than sport) from 28 August 2020 until 30 November 2021. Amendments also suspended clubs' obligation to contribute to the DSSF for 12 months and allow clubs to meet their community contribution requirements more flexibly.

Surrender of Gaming Machine Authorisations

- In June 2020, the *COVID-19 Economic Survival Package – Gaming Machine Authorisation Surrender Incentive* offered to gaming machine licensees at clubs or hotels a payment of $15,000 for every gaming machine authorisation surrendered to the Government. Payments received under this initiative had to be used towards the employment of staff. 109 authorisations were surrendered by clubs in exchange for payments totalling $1.635 million, before the deadline on 30 June 2020.
- The Government extended the incentive twice and allowed the incentive payment to be used for an expanded range of purposes, as follows:
    - staff employment;
    - diversification activities and initiatives; and
    - energy and water efficiency measures.
- The extended incentive ended on 30 June 2021.
- In October 2020, one club surrendered a further 20 authorisations in exchange for a cash payment of $300,000. In June 2021 a total of five authorisations were surrended by two seperate clubs in exchange for a cash payment of $75,000.
- The total number of authorisations surrendered under the incentive is 134, with $2.010 million in incentive payments paid to participating clubs. The surrender of these authorisations will reduce the ACT's total number of authorisations from 3,997 to 3,863.

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QUESTION TIME BRIEF

JACS2021/46-001-023

Portfolio/s: Attorney-General

ISSUE: ACCESS TO LEGAL ASSISTANCE SERVICES DURING COVID-19

Talking points:

- The ACT's legal assistance sector continues to work to support Canberrans respond to the impacts of COVID-19.
- I would like to reassure Canberra that its legal assistance service providers, including Legal Aid ACT, the Aboriginal Legal Service and the ACT's community legal centres, continue to operate and have been able to be accessed during this critical time.
- COVID-19 has meant that some service providers are now operating in different ways, including offering services by phone, video or online. I encourage Canberrans to check the websites and social media platforms of service providers for updates about how they can continue to access their services.
- The Government recognises the critical role that the legal assistance sector plays in supporting Canberrans through COVID-19. Organisations within this sector provide vital services to vulnerable Canberrans, including people experiencing domestic and family violence, people with lived experience of homelessness and tenants and occupants who may be involved in disputes about their rental agreements.
- On 25 May 2020, the legal assistance sector launched its new website canberracovidlegalhelp.org.au - a single legal portal to assist Canberrans obtain the right legal information, and the right legal service for their needs. With funding provided through the Chief Minister's Charitable Fund (among other sources) the website brings together the expertise of Canberra Community Law, Women's Legal Centre ACT, Legal Aid ACT, CARE Financial Counselling and Economic Justice Australia, to provide up-to-date legal information for the Canberra Community during this time.

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- Should you require further legal assistance, you can contact the following services:
    - Legal Aid – 1300 654 314
    - Women's Legal Centre – (02) 6257 4377
    - Canberra Community Law – (02) 6218 7900
    - CARE Financial– 1800 007 007
    - The Consumer Law Centre – (02) 6143 0044
    - Environmental Defenders Office – 0491 243 638
    - Aboriginal Legal Service NSW/ACT – (02) 6120 8800
- The services provided by Legal Aid and the Community Legal Centres can be accessed free of charge. If a service provider is unable to help you, they will refer you to someone who can.

If asked about Commonwealth funding to the ACT to support the legal assistance sector during COVID-19

- On 28 May 2020, the ACT Government signed the *Project Agreement for COVID Funding to the Legal Assistance Sector*. The funding delivered over $1.39 million in Commonwealth funding to the ACT Legal assistance sector between 2019-20 and 2020-21 to help the sector support people who have been impacted by COVID-19.
- This funding delivered increased legal assistance support for Canberrans in 2020-21 through:
    - the engagement of a family law lawyer and an employment and discrimination lawyer at the Women's Legal Centre;
    - the engagement of a housing law lawyer at Canberra Community Law;
    - enabling the Consumer Law Centre and CARE Inc to provide the Reach Out Program to support Canberrans impacted by economic abuse;
    - the engagement of an additional lawyer in Legal Aid ACT's Family Violence Unit and Older Persons ACT Legal Service;
    - additional resourcing to support Legal Aid ACT to provide an employment advice service to Canberrans whose employment has been impacted by COVID-19;

  - the engagement of a senior trial advocate at the Aboriginal Legal Service NSW/ACT to support Aboriginal and Torres Strait Islander people accessing the justice system.

- The ACT Government provided further funding to Canberra Community Law to engage a social security lawyer in 2020-21 to support Canberrans who have been impacted by COVID-19.
- The Commonwealth Government did not to continue the funding for COVID-19 frontline legal assistance services that was provided for under the Project Agreement. The ACT Government will, as a part of its 2021-22 ACT Budget process, provide additional funding to continue COVID-19 legal response positions and programs at Canberra Community Law, CARE, and the Aboriginal Legal Service NSW/ACT for twelve months.

If asked about the Commonwealth 2021-22 Budget measures:

- The Commonwealth Government's 2021-22 Budget will deliver increased funding for legal assistance services in the ACT. This funding is welcomed by the ACT Government but is not a like-for-like substitute for the COVID-19 response frontline services funding provided under the Project Agreement. It funds a range of new initiatives including the provision of increased support to assist persons with mental health conditions accessing the justice system and increased funding for legal assistance services for women.
- Negotiations between the ACT and Commonwealth Government about amendments to the National Legal Assistance Partnership 2020-25 to deliver the Commonwealth's 2021-22 Budget measures concluded on 25 August 2021.
- The Justice and Community Safety Directorate will be in contact with providers in the coming weeks to commence with the implementation of the Commonwealth Budget announcements that are relevant to them.
- Legal assistance providers will be consulted as a part of the process of determining how this funding can be allocated to best respond to legal need in our community.

QUESTION TIME BRIEF

If asked about the impact of the Commonwealth Budget for the Women's Legal Centre:

- The ACT Government acknowledges that the Women's Legal Centre is experiencing a challenging period of financial uncertainty at this time as it awaits the outcome of the Commonwealth Budget process.
- The ACT Government is working with the Women's Legal Centre to consider its funding needs going forward. The ACT Government acknowledges the important role of the Women's Legal Centre in responding to the legal needs of Canberra's vulnerable women.
- The ACT Government is mindful of the impact that a lack of funding clarity can have and is working to provide funding clarity to the Women's Legal Centre as soon as it is possible to do so.

Key Information

- Legal Aid ACT has a helpline for general legal information and advice that is open to all members of the community. It runs the Tenancy Advice Service and the Older Persons ACT Legal Service in the ACT, as well as many other services. More information is available at: http://www.legalaidact.org.au/
- The Aboriginal Legal Service Canberra Office provides legal advice, court representation and referral support in the area of criminal law for the Aboriginal and Torres Strait Islander community of the ACT and surrounds. It also provides a range of culturally specific community justice programs. More information is available at: https://www.alsnswact.org.au/
- Canberra Community Law (CCL) is providing legal advice, assistance and representation to people in the ACT on low incomes for matters relating to public housing, community housing and occupancy agreements, social security and disability discrimination law, including issues related to COVID-19.
- CCL provides public housing, social security, and race discrimination legal services to Aboriginal and Torres Strait Islander communities through its Dhurrawang Aboriginal Human Rights Program and general law services to people who are homeless or at risk of experiencing homelessness through its Street Law program.
- CCL's Night Time Legal Advice Service (NTLAS) operates from February to November each year on Tuesday nights. NTLAS provides one-off advice in most areas of law not covered by CCL's daytime services. NTLAS is available on 02 6218 7000between 6pm and 8pm on a Tuesday night. More information is available at: https://www.canberracommunitylaw.org.au/

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- CCL's COVID-19 General Law Clinic provides advice in most areas of law directly or indirectly related to COVID-19 including but not limited to property, employment, debt, and contractual disputes. The COVID-19 General Law Clinic is available on 02 6218 7900 on a Thursday night between 6pm to 8pm on a Thursday night. More information is available at: https://www.canberracommunitylaw.org.au
- Additional information is available on CCL's COVID-19 website: www.canberracovidlegalhelp.org.au.
- Care Inc and the Consumer Law Centre provide support and advice to people in financial stress. They are continuing to provide financial counselling, legal advice and microfinance services. More information is available at: https://www.carefcs.org/
- Environmental Defenders Office's ACT Office provides free initial legal advice on planning and environmental law matters. More information is available at: https://www.edo.org.au
- The Women's Legal Centre provides specialist advice in relation to family law, care, and protection, employment, and discrimination issues, including issues related to COVID-19. The Centre's Aboriginal Women's Program, Mulleun Mura, is also still providing culturally safe support to Aboriginal and Torres Strait Islander women. More information is available at: http://womenslegalact.org/

Background Information

- Feedback obtained in late 2020 from CLCs noted significant increases in demand, corresponding with greater delays in the legal system. COVID-related income losses and housing stress caused greater demand for legal assistance in applying for JobSeeker and JobKeeper.
- Increases were also reported of women in or leaving family violence situations requiring assistance navigating welfare systems to obtain financial and housing security. Care Inc noted increases in financial abuse and legal issues arising from debts. The Women's Legal Centre reported increased demand for family law assistance, including divorce and domestic violence. The sector widely reported increased workloads and anticipates further demand as COVID continues and government assistance is scaled back.
- There has been media interest in community legal centre funding following the ACT Legislative Assembly's motion about funding for the legal assistance sector which was passed on 2 June 2021. This motion was brought by Elizabeth Lee MLA in relation to funding uncertainty being experienced by Canberra Community Law regarding their COVID-19 response positions.
- Elena Rosenman (CEO, Women's Legal Centre) was interviewed by the Canberra Times in June and July 2021 regarding the Commonwealth Budget announcement. Her most recent interview (9 July 2021) speaks of Women's Legal Services being betrayed by the Commonwealth Government's decision to not limit access to this

funding to specialist Women's Legal Centres. Ms Rosenman's July interview states Women's Legal Centre is scaling down its service as it has not received the promised funding from the Commonwealth Budget. This is a change from Ms Rosenman's interview with the Canberra Times of 21 June 2021, which announced plans for the Women's Legal Centre to expand beyond its Civic office and partner with existing services that women use already.

- https://www.canberratimes.com.au/story/7288794/it-allows-us-to-thrive-funding-lifeline-for-womens-legal-centre/
- https://www.canberratimes.com.au/story/7332701/we-have-been-lied-to-womens-legal-groups-say-promised-budget-funding-has-gone-elsewhere/

QUESTION TIME BRIEF

JACS2021/46-001-028

Portfolio/s: Attorney-General

ISSUE: SUPPORT FOR COMMUNITY SERVICE PROVIDERS DURING COVID-19 PANDEMIC

Talking points:

- Justice Reinvestment funding provided by the ACT Government, as part of Building Communities, Not Prisons initiative, enables government to work with community service organisations that are, in turn, helping vulnerable Canberrans improve their lives, avoid reoffending and prevent crime in the community.
- These funded programs have been modified to respond to the current COVID 19 restrictions and operate in a COVID safe way that prioritises safety for staff, clients and the broader community.
- I have asked JACS to continue to work with service providers to monitor the evolving COVID arrangements and to be flexible and continue to adapt to changed arrangements, as required.

Legal Services

- Throughout 2019-20 the ACT Government provided more than $450,000 in funding to the community legal assistance sector to ensure essential legal services could be provided for vulnerable people impacted by the COVID-19 pandemic.
- The ACT Government also administered $1.39 million in Commonwealth funding to the ACT legal assistance sector across 2019-20 and 2020-21, to help the sector support people who have been impacted by COVID-19.
- This funding has boosted frontline services to meet the additional demand for supports flowing from the COVID-19 emergency and also supported the sector to have the ICT capacity to deliver services remotely.

CSD grants

- In addition in mid 2020 the ACT Government provided one-off funding to a range of community organisations, including some from the legal assistance sector, through the COVID-19 Community Support Package and the Rapid Response Grant Rounds (RRGR) administered by the Community Services Directorate.

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QUESTION TIME BRIEF

Aboriginal and Torres Strait Islander community

- Programs that focus on our Aboriginal and Torres Strait Islander community have benefited from the funding available through support for the following programs:
    - **Throughcare, Yarning Circles and Yarrabi Bamirr** – these important programs assist Aboriginal and Torres Strait Islander detainees to transition back into community, or to selfcare in the community and manage their own lives.
    - **Ngurrambai Bail Support, Duty Lawyer, and Front Up** – provides appropriate support for Aboriginal and Torres Strait Islander people in their interactions with the Justice system.
    - **The Aboriginal Legal Service** – received $50,000 in ACT community legal sector funding, and an additional amount of $21,000 through the Community Services Directorate Rapid Response grants.
    - **The Aboriginal Legal Service** – has also been allocated $142,000 in Commonwealth funding, administered by the Justice and Community Safety Directorate.
    - **Winnunga Nimmitjyah Health Service** – received $159,000 from ACT Health for minor capital works, including the setting up of the second reception at Winnunga.
- These services strengthen access to early intervention supports and reduce the risk that relatively minor legal matters unnecessarily escalate.

QUESTION TIME BRIEF

Key Background Information

COVID-19 specific funding initiatives to Aboriginal and Torres Strait Islander community organisations

Aboriginal and Torres Strait Islander community organisations in the ACT have received funding from a variety of sources to assist them to respond to the immediate impacts of COVID-19. Much of that funding assisted in one off transitional costs in continuing to provide services in more flexible and remote ways. It is not expected that additional funding would be needed to continue providing these services through 2021 given the capacity that has been built to continue these programs during COVID restrictions:

- ***Yarrabi Bamirr***
  - Delivered by Winnunga and Yeddung Mura, and on an interim basis, Clybucca Dreaming. Tjillari Justice has withdrawn their contract and the existing subcontractor, Clybucca Dreaming, is delivering interim services.
  - Involves face to face contact, but can be by phone although that is not ideal.
  - Referral services have required some restrictions, and adjustments have been made to accommodate these.
  - There has been ongoing review with service providers and program clients.
  - Winnunga noted that face to face is their usual delivery method but continues to deliver over the phone when required. In addition, group programs have been reinstated where possible under the COVID restrictions.
- ***Ngurrambai***
  - Delivered by the Aboriginal Legal Service (ALS)
  - Involves face to face contact, but can be by phone which is not ideal.
  - Bail plans can be provided by email, and clients/lawyers communications are carried out remotely.
  - Continuing to monitor court activities and restrictions and Alexander Maconochie Centre (AMC) restrictions.
  - Increasing use of Audio Visual Link (AVL) to contact clients at the AMC.
- ***Front up***
  - Support for warrants and breaches of bail, delivered by the ALS
  - Involves face to face contact, but can be by phone (although that is not ideal).
- ***Duty Lawyer***
  - Delivered by the ALS.
  - Involves face to face contact, but can be by phone which is not ideal.
  - Continuing to monitor court activities and restrictions and Alexander Maconochie Centre (AMC) restrictions.
  - Increasing use of Audio Visual Link (AVL) to contact clients at the AMC.
- ***Throughcare***
  - This is face to face contact focussed.
  - Yeddung Mura has made IT systems available to community members wishing to participate in virtual visits at AMC.
  - Ongoing monitoring of options with Yeddung Mura.

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- ***Yarning Circles for Justice***
  - Face to face preferred, though can be delivered online if necessary, but not ideal and is more limited given the social nature of interactions.
  - Ongoing monitoring of options with Yeddung Mura.
- ***Galambany***
  - Court continues.
  - Support for existing clients is possible to do by phone, webex, email and in person.
  - The Galambany support worker role was filed temporally by Tjillari; however, this position has recently again become vacant. Yeddung Mura is currently providing these services, including by attendance at Court proceedings when using AVL.
- ***Strong Connected Neighbourhoods***
  - Delivered by Reclink Australia.
  - Largely face to face dependent.
  - Alterations to the delivery of the program have been made to ensure social distancing and other COVID-19 safety measures can be adhered to for the safety of staff and residents.
  - Regular review with Reclink to monitor challenges.
- ***Mulleun Mura – A2J Program (Access 2 Justice)***
  - Delivered by Women's Legal Centre.
  - Involves face to face contact, but can be by phone.
  - Court activities are being monitored.
  - Funding model is currently being reviewed for funds moving forward.

COVID-19 specific funding initiatives to the ACT legal assistance sector

The ACT legal assistance sector has received funding from both the JACS and CSD Directorates and the Commonwealth Government to assist them to respond to the immediate impacts of COVID-19. The majority of these COVID-19 related funding sources for the sector expired on **30 June 2021.**

Recipients of these COVID-19 funding initiatives include the ALS, Canberra Community Law, CARE Inc (includes Consumer Law Centre), Environmental Defenders Office, Legal Aid ACT and Women's Legal Centre.

The expiration of funding for these programs on 30 June 2021 reduced the capacity of the sector to respond to legal need in the ACT. This has impacted on the ability of vulnerable Canberrans to be supported before their legal problems exacerbate to more significant issues. Legal need has increased in the ACT following COVID-19, and is expected to increase further throughout 2021.

QUESTION TIME BRIEF

Summary of COVID-19 Initiatives managed by JACS					
Service Provider	**Activity Funded**	**Managed By**	**Amount Funded**	**Funding Type**	**Expiry Date**
Aboriginal Legal Service NSW/ACT (ALS)	Senior Trial Advocate (COVID-19)	JACS	$142,000	Commonwealth Frontline Services (Project Agreement)	30 June 2021
Canberra Community Law (CCL)	ICT infrastructure to support virtual service delivery	JACS	$75,575	Commonwealth ICT funding (Project Agreement)	30 June 2021
	Housing Lawyer	JACS	$114,000	Commonwealth Frontline Services (Project Agreement)	30 June 2021
	Socio-Security Lawyer	JACS	$114,000	ACT Government (JACS resources)	30 June 2021
	CLC Hub Contribution to enable reallocation of resources to frontline services	JACS	$22,000	ACT Government (JACS resources)	30 June 2021
	Support for continuation of legal assistance services (COVID-19)	CSD & JACS	$50,000	ACT Government (CSP)	31 December 2020
CARE Inc (including the Consumer Law Centre) (CARE)	ICT infrastructure to support virtual service delivery	JACS	$30,909	Commonwealth ICT Funding (Project Agreement)	30 June 2021
	Reach Out Program to respond to economic abuse	JACS	$150,000	Commonwealth frontline services funding (Project Agreement)	30 June 2021
	Contribution to Reach Out Program Costs	JACS	$70,000	ACT Government (JACS resources)	30 June 2021
Environmental Defenders Office (EDO)	ICT infrastructure to support virtual service delivery	JACS	$10,000	Commonwealth ICT funding (Project Agreement)	31 December 2020
Legal Aid ACT (LAACT)	ICT infrastructure to support virtual service delivery	JACS	$270,439	Commonwealth ICT funding (Project Agreement)	30 June 2021
	Resourcing to increase the capacity of the Family	JACS	$314,087	Commonwealth frontline services	30 June 2021

Cleared as complete and accurate: 14/09/2021
Cleared for public release by: Executive Branch Manager
Contact Officer name: Kathryn Johnson Ext:x52451
Lead Directorate: Justice and Community Safety
TRIM Ref: JACS2021/46-001-028

QUESTION TIME BRIEF

Summary of COVID-19 Initiatives managed by JACS					
Service Provider	**Activity Funded**	**Managed By**	**Amount Funded**	**Funding Type**	**Expiry Date**
	Violence Unit, the Older Persons ACT Legal Service and to provide an Employment Assistance Service			funding (Project Agreement)	
	Support for domestic violence helpline services	CSD & JACS	$50,000	ACT Government (CSP)	31 December 2020
Women's Legal Centre (WLC)	ICT infrastructure to support virtual service delivery	JACS	$60,315	Commonwealth ICT funding (Project Agreement)	30 June 2021
	Resourcing for a family law lawyer and an employment and discrimination law lawyer, and administrative expenses to support these roles	JACS	$224,200	Commonwealth frontline services funding (Project Agreement)	30 June 2021
	Support for continuation of legal assistance services	CSD & JACS	$50,000	ACT Government (CSP)	31 December 2020

ACT Government's approach to service providers during COVID-19

- Since the commencement of the pandemic, in line with the ACT Government's Guiding Principles, the Justice and Community Safety (JACS) Directorate has engaged with a range of service providers on matters including their COVID-19 planning, their ability to deliver (or modify delivery of) funded services, flexible reporting arrangements and swift payment to support sustainability.
- In common with other Directorates, JACS has sought to support the continued delivery of the greatest level of service, in a safe environment.
- The majority of the JACS service contracts have been drafted to allow the Territory to alter them to respond swiftly to changing circumstances. In the context of COVID-19, this supported approaches such as:
    - Reducing or varying the level, type and frequency of service.
    - Delaying or relaxing reporting obligations.
    - Suspending obligations to meet key performance indicators and outcomes to allow for adaptation to new conditions.

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- Removing penalties for non-compliance with contracts arising from the COVID-19 Emergency.

- To support the Government's economic efforts and ensure that service providers are able and ready to recommence service delivery if and when required, the Directorate has and will continue to take a flexible approach with service providers (where required), regarding:
  - COVID-19 planning and ability to continue to deliver on funded services, while keeping their staff and clients safe;
  - ability to continue to deliver face to face services;
  - options for delivery online or where this is not possible, their ability to continue to deliver services via electronic means (i.e. telephone);
  - where all client service delivery is no longer possible or appropriate given the service, undertaking work to support delivery of the services when they recommence (i.e. improving reporting, data capture mechanisms etc);
  - otherwise, where necessary, undertaking work that furthers the objectives of the contract in the current environment; or

    where all of these options are not possible, consideration is given, in the particular circumstances, to continuing payment of the contract in the absence of service delivery to allow service providers to continue to pay staff.

- Amendment of the services under a contract will generally not be considered:
  - frustration, under the contract;
  - contract default; and/or
  - grounds to terminate the contract generally.

QUESTION TIME BRIEF

JACS2021/46-001-022

Portfolio/s: Attorney-General

People spitting or coughing on frontline workers (COVID-19) – ACT criminal law response

Talking points:

- The behaviour of people threatening to spread COVID-19 to frontline workers by deliberately spitting or coughing on them is unacceptable.
- This conduct, whether committed against a police officer, health worker or any other person in the community will not be tolerated.
- Under ACT laws, general assault provisions and public alarm offences have long applied so that a person who engages in this criminal behaviour may be subject to maximum penalties of between 2 and 15 years imprisonment.
- Indeed, in March 2020, ACT Policing charged two people with the offence of acting with intent to cause public alarm under section 140A of the Crimes Act, an offence which attracts a maximum penalty of 10 years imprisonment, for separate incidents alleged to involve spitting and coughing in public while claiming to be infected with COVID-19.
- In recognition of the seriousness of any type of assault where our frontline workers are involved, last year the Crimes (Protection of Frontline Community Service Providers) Amendment Act 2020 was passed. From 10 June 2020, new offences have been in place specifically for assaults against frontline workers including police officers, paramedics and emergency service workers.

Cleared as complete and accurate:	09/09/2021	
Cleared for public release by:	Executive Branch Manager	Ext: 76244
Contact Officer name:	Stephanie Johns	Ext: 59908
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-022	

QUESTION TIME BRIEF

Background Information

NSW offence for spitting or coughing on public officials

- On 9 April 2020, the New South Wales *Public Health (COVID-19 Spitting and Coughing) Order 2020* commenced. The order was made under section 7 of the *Public Health Act 2010* (NSW) and has been remade a number of times (as an order expires after 90 days). The order directs that a person must not intentionally spit at or cough on a public official or another worker while the worker is at the worker's place of work or travelling to or from the place of work in a way that would reasonably be likely to cause fear about the spread of COVID-19.

- Breach of the order is an offence contrary to section 10 of the *Public Health Act 2019* (NSW). The maximum penalty for an individual is 100 penalty units ($11,000) and/or 6 months imprisonment. It is also a penalty notice offence under the *Public Health Regulation 2012* with a fine amount of $5,000.

ACT criminal laws that apply for spitting or coughing on others

- The *Crimes Act 1900* (Crimes Act) contains offences against the person which may cover spitting or coughing on a police officer, health worker or other person.

- These offences and maximum imprisonment penalties include: common assault (2 years), acts endangering life (15 years), acts endangering health (5 years), threat to inflict grievous bodily harm (5 years) and affray (10 years).

- For conduct which leads to a person's death, the offence of manslaughter (28 years) or murder (imprisonment for life) may apply.

- The Crimes Act, Division 6.7 also includes offences relating to causing public alarm, with maximum penalties of 200 penalty units and/or 10 years imprisonment.

- The Crimes (Protection of Frontline Community Service Providers) Amendment Act 2020 created a new specific offence at section 26A of the Crime Act: *'Assault of a frontline community service provider'* with a maximum penalty of imprisonment for 2 years.

QUESTION TIME BRIEF

Hanson PMB – Bail Amendment Bill 2021

- On 5 August 2021, Mr Hanson MLA introduced a private members bill (the Bill) proposing amendments to the *Bail Act 1992* which would include the offence of assault of a frontline community service provider as one of the offences where there is *no presumption* in relation to bail – either for or against.

- Currently the offence of assault on a frontline community service provider has a *presumption for bail*.

- The disapplication of this presumption would limit a number of rights under the *Human Rights Act 2004,* including the right to liberty and the right to equality. The Government will consider whether such limitations are reasonable and properly justified as it forms its position on the Bill.

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Contact Officer name:	Stephanie Johns	Ext: 59908
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-022	

QUESTION TIME BRIEF

JACS2021/46-001-009

Portfolio/s: Minister for Gaming

ISSUE: GAMING MACHINE HARM REDUCTION MEASURES

Talking points:

- The *Parliamentary and Governing Agreement for the 10th Legislative Assembly* (the Parliamentary and Governing Agreement) includes 10 commitments towards reducing harm from gaming while supporting sustainable clubs. These commitments are:
  - establishing a Community Clubs Ministerial Advisory Council (the Council) with government, industry and unions to build a long-term, sustainable clubs sector in the ACT
  - targeting a further reduction in the number of gaming machine authorisations to 3,500 by 1 July 2025, with additional incentives where a club venue becomes 'pokie-free'
  - establishing a rigorous, across-venue self-exclusion regime across the ACT, with significant penalties for breaches, aligning with or exceeding reforms currently progressing in NSW
  - matching or exceeding any further harm reduction reforms commenced in NSW, such as cashless gaming
  - introducing $5 bet limits and $100 load-up limits following a thorough review and transition plan to manage impacts on clubs, particularly smaller clubs that update machines less regularly, with a staged rollout to commence by the end of 2022 at the latest
  - facilitating planning and other processes to allow clubs to diversify to other revenue generating streams, particularly development of available land for social housing and land supply purposes, that are supported by the community
  - providing a just transition for workers in the industry
  - conducting a review into water cost for high-intensity club users of non-potable water in 2021
  - establishing a five-year $5 million Building Energy Efficiency Upgrade Fund to be accessed by community clubs

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Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-009	

  - supporting clubs to become heat and smoke refuges for local communities, including air filtration systems and financial payments for venues designated as official extreme weather refuge sites.

- These commitments build on progress made under the previous Government.

Community Clubs Ministerial Advisory Council

- Early this year, on 12 February 2021, Minister Cheyne and I co-chaired an initial meeting with key stakeholder representatives from government, the clubs industry, unions and gambling harm advocacy groups to discuss the establishment of the Council, including its proposed membership and terms of reference (please see QTB **JACS2021/46-001-002**).
- In May 2021, the Council was established and I appointed 14 members to the Council from a mix of stakeholders including clubs, community sector organisations, unions and individuals with knowledge or experience of gambling harm.
- Minister Cheyne and I attended the Council meetings on 26 May 2021, 1 July 2021,29 July 2021 and 26 August 2021. The Council will continue to meet on a monthly basis (approximately every four weeks). The Council will function mainly as a formal link between stakeholder groups and the ACT Government. I look forward to consulting with the club industry through the Council to deliver the Government's commitments.
- The Council's work will focus on important initiatives included in the Parliamentary and Governing Agreement such as reducing community club reliance on gaming machine revenue. These initiatives include introducing $5 bet limits and $100 load-up limits for gaming machines in the ACT and enhancing the self-exclusion scheme.

Reducing the Number of Gaming Machine Authorisations

- On 23 August 2018, the ACT Government announced the pathway to reduce the number of gaming machine authorisations in the ACT to 4,000 by 2020. This pathway was informed by the recommendations of the *Club Industry Diversification Support Analysis* by Mr Neville Stevens AO.
- The number of authorisations in the ACT has reduced by 1,082 (from 4,946 to **3,864)** as a result of strong club industry participation in the voluntary surrender of authorisations and uptake of Government incentives provided through the Pathway to 4,000 and COVID-19

Economic Survival Package, the first stage of compulsory surrender, and forfeitures as a result of trading activity between clubs.

Gaming Machine Tax Rebate

- The Government provides a 50 per cent gaming machine tax rebate for small and medium clubs and club groups to support these clubs as they diversify their revenue sources away from gaming machines and facilitate new services and support for the Canberra community.
- Since 1 July 2020, a club or club group is considered small or medium where its annual gross gaming machine revenue (GGMR) is not more than $4 million. Licencees exceeding the threshold receive a reduced rebate under phased reduction provisions. The phased reduction provisions reduce the amount of rebate by $0.50 for every $1 over $4 million in GGMR per annum.

Regulatory reforms (incl. Code of Practice)

- Amendments to the *Gaming Machine Act 2004* enhanced the compliance framework for gaming machines and provided the ACT Gambling and Racing Commission with more tools for effective enforcement, including enforceable undertakings and a higher maximum financial penalty as part of disciplinary action.
- The COVID-19 public health emergency interrupted work on strengthening the *Gambling and Racing Control (Code of Practice) Regulation 2002* through proposed changes that:
  - improve the definition of gambling harm
  - provide greater clarity about the signs of gambling harm for club staff, and their requirement to record and respond to this
  - require club staff to undertake better training more often, in recognition of the crucial role they play in identifying signs of harmful gambling
  - require club board members to be trained to foster a culture where gambling harm reduction and consumer protection is the priority
  - enhance the operation of self-exclusion; and
  - require a Gambling Contact Officer to be on-site at every club whenever the gaming machines are turned on to provide an

immediate point of contact for club patrons that are impacted by gambling harm.

- From 25 September 2020 to 11 December 2020, the NSW Government conducted public consultation on the Gaming Machines Amendment (Gaming Harm Minimisation) Bill 2020 (the NSW Bill). The NSW Bill proposed several amendments to the *Gaming Machines Act 2001* (NSW) to reduce gambling harm.
- Proposed NSW amendments include:
    - improved management and intervention by gambling venues to support people who show problematic gambling behaviours
    - an improved scheme for gamblers who 'self-exclude' including State-wide exclusion register and online portal
    - a new exclusion scheme where family members of a gambler may apply to venues for a ban or ask a gambling counsellor to apply on their behalf
    - venues to enforce the ban on excluded gamblers
    - forfeiting prizes of excluded gamblers and minors
    - advanced responsible conduct of gambling training
    - whistle-blower protections for venue staff
    - new offences and increased penalties.
- Many of the proposed NSW measures are similar to the existing ACT legislative framework, including the online self-exclusion portal and prohibition on paying winnings to excluded gamblers and minors.
- Further work on these measures will be considered in the context of the new Parliamentary and Governing Agreement commitments.

Key Information

- The most recent figures published by the Gambling and Racing Commission (1 August 2021) state there are **3,632** electronic gaming machines in operation in the Territory. As at 1 August 2021, there are **31** gaming machine licensees and 48 venues (authorisation certificates) in the ACT.
- As at 23 July 2021, the *Gambling and Racing Control (New Cap on Number of Authorisations) Notice 2021 (No 1)* (NI2021-448) sets the cap on the number of gaming machine authorisations at 3,864. This follows the surrender of 133

authorisations in response to the COVID-19 Economic Survival Package support measures for clubs.

- Prior to 30 June 2021, under the *COVID-19 Economic Survival Package Gaming Machine Authorisation Surrender Incentive,* licensees (clubs and hotels) could access an incentive payment of $15,000 per gaming machine authorisation surrendered, to be used towards the employment of staff, diversification activities and initiatives, and energy and water efficiency measures.

Background information

Community Clubs Ministerial Advisory Council (please see QTB **JACS2021/46-001-002**).

If asked about the composition of the Council:

- The Council is made up of 14 members. This includes the following ex-officio members:
    - Minister for Gaming, Mr Shane Rattenbury MLA (Chair);
    - Minister for Business and Better Regulation, Ms Tara Cheyne MLA (Deputy Chair);
    - Ms Yu-Lan Chan – Chief Executive Officer, ACT Gambling and Racing Commission;
    - Ms Kim Marshall – President, ClubsACT;
    - Mr Athol Chalmers – Chair, Canberra Community Clubs;
    - Ms Lyndal Ryan – Secretary, United Workers Union; and
    - Executive Branch Manager, Justice and Community Safety Directorate.
- The Council includes seven stakeholder representatives with an interest in issues impacting Canberra's club industry. They are:
    - Ms Wendy Sandeman – Financial Counsellor, Care Inc. Financial Counselling Service and Consumer Law Centre of the ACT;
    - Mr Jeremy Halcrow – Founder and Co-chair, Canberra Gambling Reform Alliance;
    - Ms Kate Seselja – Founder, The Hope Project;
    - Mr Geoff McKay – President, Canberra Bowling Club;
    - Ms Mary Collier – President, Canberra Irish Club;
    - Mr Brian Weir – President, Canberra Labor Club; and
    - Mr Thomas Stevens – Director, Design and Communications, The Youth Coalition of the ACT.
- The roles of the members are outlined in the table below.

QUESTION TIME BRIEF

Membership of the Council		
Member	**Role**	**No.**
Minister for Gaming, Mr Shane Rattenbury MLA	Chair	1
Minister for Business and Better Regulation, Ms Tara Cheyne MLA	Deputy Chair	1
Senior Executive, Justice and Community Safety Directorate (JACS)	To advise on policy considerations from the perspective of the Directorate.	1
Representative, ACT Gambling and Racing Commission	Senior Executive, Access Canberra or member of the ACT Gambling and Racing Commission Governing Board to bring practical expertise regarding the application of gaming laws in the ACT and advise on the workability of reform proposals.	1
Chief Executive Officer or Board member, ClubsACT	To represent the views of the constituent clubs of ClubsACT.	1
Chief Executive Officer or Board member, Canberra Community Clubs	To represent the views of the constituent clubs of Canberra Community Clubs.	1
Secretary or nominated representative, United Workers Union	To represent the views of club workers.	1
Representatives, gambling harm reduction organisations or experts	To bring external harm reduction perspectives to the discussions of the Council, particularly with respect to proposed harm reduction regulatory changes. It is proposed that there would be three positions for representatives from gambling harm reduction organisations or experts. Representatives would be appointed by the Minister following a nomination process.	3
Representatives, community clubs	To represent clubs in the ACT. It is proposed that there would be three positions for representatives from clubs, or club members (with a preference for small/medium clubs). Representatives would be appointed by the Minister following a nomination process.	3
Representative, young people	To provide a youth perspective on Council discussions. While the Council's focus is clubs (it is not a broad 'gambling harm' body considering issues such as online gambling), younger Canberrans are the future of club membership. They are also a significant part of the club workforce and may be affected by diversification efforts. The representative would be appointed by the Minister following a nomination process.	1
	TOTAL	**14**

Gaming machine bet limits

- The ACT's gaming machines currently have a $10 maximum stake amount ('bet limit').
- The Parliamentary and Governing Agreement includes a commitment to introduce $5 bet limits and $100 load-up limits with a staged rollout to commence by the end of 2022 at the latest. The ACT Government has commissioned an external expert to provide advice on technical and cost issues associated with introducing lower bet and load-up limits in ACT electronic gaming machines. The external expert is an authorised technical evaluator of electronic gaming machines with extensive experience. The external expert will also consider and provide advice on issues such as cashless gaming and gaming systems.

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TRIM Ref:	JACS2021/46-001-009	

- The *Casino (Electronic Gaming) Act 2017* includes a maximum bet limit of $2 for casino gaming machines in a redeveloped casino.

Budget Funding

(JACS 27) AG - 2018-19 Budget Review Initiative - Reducing the Number of Gaming Machine Authorisations to 4,000 and Supporting Clubs to Reduce their Reliance on Gaming Machines

BUDGET ALLOCATION						
	2020-21	2021-22	2022-23	2023-24	2024-25	Total
	$'000	$'000	$'000	$'000	$'000	$'000
CMTED Directorate – Expenses	0	0	0	0	0	**473**
JACS Directorate – Expenses	1,105	1,105	0	0	0	**5,521**
Depreciation	45	45	45	45	45	**135**
Total Expenses	**1,150**	**1,150**	**45**	**45**	**45**	**6,129**
CMTED Directorate – Associated Capital	0	0				**225**
EPSD Directorate – Associated Revenue	-1,714	-1,714				**-5,642**

CURRENT STATE OF FUNDING (INCLUDING ROLLOVER OF FUNDS)						
Includes rollover of $400k for DSSF						
	2020-21	2021-22	2022-23	2023-24	2024-25	Total
	$'000	$'000	$'000	$'000	$'000	$'000
CMTED Directorate – Expenses	0	0	0	0	0	**473**
JACS Directorate – Expenses	705	1,505	0	0	0	**5,521**
Depreciation	45	45	45	45	45	**135**
Total Expenses	**1,150**	**1,150**	**45**	**45**	**45**	**6,129**
CMTED Directorate – Associated Capital	0	0				**225**
EPSD Directorate – Associated Revenue	-1,714	-1,714				**-5,642**

Community Clubs Ministerial Advisory Council

BUDGET ALLOCATION						
Financial Impacts Summary	**2020-21**	**2021-22**	**2022-23**	**2023-24**	**2024-25**	**Totals**
	$'000	**$'000**	**$'000**	**$'000**	**$'000**	**$'000**
Expense Impacts[(a)]						
Expenses	249	489	502	515	528	**1,755**
Total Additional FTEs (number)	**1.25**	**3**	**3**	**3**	**3**	

CURRENT STATE OF FUNDING (INCLUDING ROLLOVER OF FUNDS)						
Includes rollover of $50k for Consultant						
Financial Impacts Summary	**2020-21**	**2021-22**	**2022-23**	**2023-24**	**2024-25**	**Totals**
	$'000	**$'000**	**$'000**	**$'000**	**$'000**	**$'000**
Expense Impacts[(a)]						
Expenses	199	539	502	515	528	**1,755**
Total Additional FTEs (number)	**1.25**	**3**	**3**	**3**	**3**	

Cleared as complete and accurate: 23/03/2021
Cleared for public release by: Executive Group Manager Ext: 70674
Contact Officer name: Natasha Del Piero Ext: 76480
Lead Directorate: Justice and Community Safety
TRIM Ref: JACS2021/46-001-009

QUESTION TIME BRIEF

- The funding allocation in relation to the Council is for 3 x full-time equivalent (FTE) SOG C positions (for 2020-21 for 5 months (ie 1.25 FTE)) and 3 x FTE ongoing SOG C positions from 2021-22 onwards.
- This funding also provides for $50,000 to commision an external expert to provide advice on technical and cost issues associated with introducing lower bet and load-up limits in ACT electronic gaming machines. This advice is necessary to inform Government decision making.

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Contact Officer name:	Natasha Del Piero	Ext: 76480
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-009	

QUESTION TIME BRIEF

JACS2021/46-001-031

Portfolio/s: Gaming

Diversification and Sustainability Support Fund – 20/21 funding round

Talking points:

- On 1 July 2021 the Diversification and Sustainability Support Fund (DSSF) Advisory Board opened a Tier 2 funding round for applications for payments from the DSSF. Applications were due on 27 August 2021 after a two week extension on the closing date due to the current COVID-19 environment.
- The DSSF Advisory Board is in the process of considering applications and will provide me with advice about payments to be made from the Fund. I look forward to receiving the Board's recommendations.
- The DSSF helps Canberra's community clubs to develop initiatives which meet the following purposes:
    - assisting clubs to diversify their income to sources other than gaming machines;
    - supporting the sustainability of clubs;
    - contributing to projects that help reduce regulatory costs or improve efficiency in administration and compliance for clubs; and
    - training and skills development for club workers, executives and members of club management committees and boards help clubs pursue a future away from gaming machines and support club staff to develop new skills
- This will be the second complete Tier 2 funding round held by the Advisory Board since the Fund was established in July 2019.
- There is approximately $1 million available for distribution in this round.
- Applications for Tier 1 funding to a maximum amount of $25,000 can be submitted by small to medium clubs or club groups at any time on an ongoing basis.

Cleared as complete and accurate:	06/08/2021	
Cleared for public release by:	Executive Branch Manager	Ext:76192
Contact Officer name:	Kate Smith	Ext:72536
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-031	

QUESTION TIME BRIEF

Background Information

- The DSSF operates under a two-tier funding model:
    - Applications for Tier 1 funding, to a maximum amount of $25,000 per application, may only be made by small or medium clubs / club groups, on an ongoing basis.
    - Applications for Tier 2 funding, to a maximum amount of $250,000 may be made by any club or entity that can demonstrate that the funding will be applied towards meeting the Fund purposes.
- Tier 2 applications are restricted to one or more rounds per financial year, at the discretion of the DSSF Advisory Board. The Board also has discretion to recommend payments of more than $250,000 in exceptional circumstances.
- The DSSF Advisory Board is responsible for advising you on matters concerning the DSSF and making recommendations about payments out of the Fund.
- The first round of applications for payments out of the DSSF opened on 18 December 2019 and was due to close on 27 March 2020. However, due to the temporary closure of clubs in response to the COVID-19 public health emergency, this funding round did not proceed. Payments were instead made to clubs as emergency relief funding for club staff.
- A total of $3.3 million was provided to clubs as emergency relief funding to support club staff. This comprised $1.8 million from the DSSF (approximately $1m in Government funding and $0.8m in industry contributions) and $1.5 million of supplementary Government funding.
- As a COVID-19 relief measure, industry contributions to the Fund were also suspended, effectively for the 12-month period April 2020 to March 2021.

2020-21 Tier 2 Funding Round

- In October 2020 the Board held a Tier 2 funding round.
- The Board received eleven applications for Tier 2 Funding, totalling a requested amount of $2,061,600. Four applications were received for Tier 1 Funding (for a total of $85,000).
- The Minister agreed to the DSSF Advisory Board's recommendations to:
    - grant payments to seven clubs, totalling $632,811.
    - set aside $300,000 in DSSF funding for the ACT Government to run a tender process to engage a training provider to provide skills development and training to the club industry.
- The $632,811 in funding is being distributed to successful applicants for the following activities:

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Contact Officer name:	Kate Smith	Ext:72536
Lead Directorate:	Justice and Community Safety	
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QUESTION TIME BRIEF

Recipient		Tier	Amount	Purpose
1	Murrumbidgee Country Club	1	$25,000	To assist with the construction of a shed to store golf carts.
2	Belconnen Bowling Club	2	$155,000	To allow the club to upgrade and reopen its kitchen.
3	Belconnen Soccer Club	2	$100,000	To develop an early learning centre on the Club's McKellar site.
4	Canberra Irish Club	2	$99,093	To install a 65,155 KWP Solar Grid Connect system at its premises.
5	Canberra Southern Cross Club	2	$101,518	To install the following at its Canberra Yacht Club venue: solar panels, an electric vehicle charging station and solar light fittings in the precinct car park.
6	Eastlake Football Club	2	$52,200	For the development of a diversification strategy and implementation plan.
7	Hellenic Club of Canberra	2	$100,000	To contribute to the funding to engage a consultant to conduct a Full Appraisal and Risk

QUESTION TIME BRIEF

Recipient		Tier	Amount	Purpose
				Analysis to inform the applicant about redevelopment options for the club's main site in Woden.

- On 27 May 2021 you agreed to the Board's recommendation for $25,000 to be paid to the Austrian-Australian Club for the club to engage in the architectural and interior re-design of the bar, restaurant, outdoor dining area, entry and interface with existing function rooms. Funding will also be used to design an events program and improve signage in the exterior garden areas.

DSSF Information Session

- On 17 May 2021, the Chair of the DSSF Advisory Board held an information session with clubs to provide feedback on the recent Tier 2 Funding Round.
- At the information session, the Chair of the Board announced that a Tier 2 funding round would commence on 1 July 2021 and will be open for six weeks.

QUESTION TIME BRIEF

JACS2021/46-001-021

Portfolio/s: Minister for Gaming

ISSUE: UPDATES ON INCENTIVE APPLICATIONS UNDER VOLUNTARY SURRENDER AGREEMENTS

Please note: This QTB addresses incentives under the Pathway to 4,000 Voluntary Surrender Agreements – for information on surrender of gaming machine authorisations under the COVID-19 Economic Survival Package, please see QTB titled 'COVID-19 Impacts - Relief to clubs and licensed premises' (JACS2021/46-001-005)

Talking points:

Reducing the number of gaming machine authorisations in the ACT

- The number of authorisations in the ACT is capped at **3,863** following the surrender of 134 authorisations in response to the COVID-19 Economic Survival Package support measures for clubs.
- The number of gaming machine authorisations in the ACT has steadily reduced from 4,946 since 23 August 2018 following the ACT Government announcement of the *Pathway to 4,000 Gaming Machine Authorisations by 2020* (the Pathway). Under the Pathway, financial and non-financial incentives were available to clubs that voluntarily surrendered gaming machine authorisations to diversify their business models.
- The COVID-19 Economic Survival Package surrender was available to clubs and hotels until 30 June 2021.
- In the *Parliamentary and Governing Agreement for the 10th Legislative Assembly*, the Government committed to targeting a further reduction in the number of authorisations to 3,500 by 1 July 2025 with additional incentives to move to zero machines within a venue location. I will provide an update on the implementation of the gaming commitments in the Parliamentary Agreement in the October 2021 sitting period.

Outcomes of the voluntary surrender process

- Clubs and hotels with 19 or fewer authorisations were exempt from compulsory surrender, and these licensees elected not to access the incentives available through voluntary surrender. All clubs that were facing a compulsory surrender obligation participated in the voluntary surrender process.

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Cleared for public release by:	Executive Group Manager	Ext: 70674
Contact Officer name:	Natasha Del Piero	Ext: 76480
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-021	

- In total, 911 authorisations and 1 authorisation certificate were voluntarily surrendered from clubs. A venue needs to hold an authorisation certificate to operate gaming machines and the certificate provides the maximum number of authorisations for a specific venue.
- The ACT Government budgeted a total amount of $14,390,500 in incentives for the Voluntary Surrender Agreement - comprising $648,000 in cash incentives and $13,742,500 in offset incentives for land-related payments, fees and charges.

Cash Incentives

- Five small or medium clubs/club groups elected to receive cash payments under their Voluntary Surrender Agreement with the Territory.
- Cash payments totalling $648,000 were made to eligible licensees.

Offset Incentives

- Four clubs have accessed all or part of their offset incentives to date. The incentives have been applied towards deconcessionalisation payout amounts, lease variation charges and development application fees. The total amount of offset incentives accessed to date is $879,515.
- Twelve clubs/club groups are still eligible for offset incentives under the Pathway. These clubs have seven years, until April 2026, to use their Total Offset Amount entitlement towards land-related payments, fees and charges

Key Information

- The *Gambling and Racing Control (New Cap on Number of Authorisations) Notice 2021 (No 2)* sets the cap on the number of gaming machine authorisations at **3,863**.
- Under the Pathway, licensees that voluntarily surrendered gaming machine authorisations were eligible for financial incentives as follows:

QUESTION TIME BRIEF

Club type	Cash per authorisation voluntarily surrendered	Land-related Fees and Charges Offset per authorisation voluntarily surrendered
Small or medium club/club group (not more than $4 million GGMR in 2017-18)	$12,000	$25,000
Large club/club group (more than $4m GGMR in 2017-18)	N/A	$15,000
'Pokie free' club bonus (surrender authorisation certificate, maintain community access to venue)	Additional 25 per cent of eligible incentives	Additional 25 per cent of eligible incentives
Hotels NB: this is the only incentive hotels were eligible for	$6,000	N/A

- The reduction in the number of authorisations from 4,946 (August 2018) to 3,863 (September 2021) was achieved through:
  - voluntary surrender of authorisations under a Voluntary Surrender Agreement (by 14 February 2019) – 911 authorisations;
  - first stage of compulsory surrender (1 April 2019) – 9 authorisations;
  - forfeitures through trading activity between licensees – 29 authorisations; and
  - COVID-19 Economic Survival Package surrender of authoriations – 134 authorisations.

QUESTION TIME BRIEF

Background

Request for extension for use of voluntary surrender incentives

- Clubs have raised with Minister Gentleman (in his capacity as Minister for Planning and Land Management, requesting that clubs should be provided with an extension for time to utilise their offset incentives.
- A change to the current expiry date for the use of offset incentives (April 2026) would require a legislative change, affected by an amendment bill.

Cash incentives paid to date

Club/Club Group	Cash Amount Entitlement	Cash Amount Paid to Date
Belconnen Soccer Club	336,000	336,000
Canberra Irish Club	60,000	60,000
Harmonie German Club	72,000	72,000
The RUC at Turner	120,000	120,000
Yowani Country Club	60,000	60,000
Total	**$648,000**	**$648,000**

Offset incentives accessed to date

Club/Club Group	Payment, fee or charge	Total Offset Amount Entitlement	Offset Amount Accessed To Date
Magpies Group	Deconcessionalisation payout amount and lease variation charge	$625,000	625,000
Ainslie Group	Deconcessionalisation payout amount	$1.2 million	140,000
Eastlake Group	Lease variation charge Administrative charges for territory plan variation	$945,000	7,500 3,530
Croatia Deakin Soccer Club	Development application fees Lease variation charge	$200,000	3,485 100,000
		Total	**$879,515**

Offset incentives remaining to be accessed

Club/Club Group	Offset Amount Remaining
Ainslie Group	1,060,000
Magpies Group	0
Canberra Highland Society and Burns Club	925,000
Canberra Labor Club Group	1,590,000
Mawson Club	450,000
Raiders Group	1,395,000

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Canberra Club Group	375,000
Southern Cross Club Group	1,927,500
Canberra Tradesmen's Union Club	1,140,000
Croatia Deakin Soccer Club	96,515
Eastlake Group	933,970
Hellenic Group	870,000
Vikings Group	2,100,000
Total	**$12,862,985**

Budget Funding

(JACS 27) AG - 2018-19 Budget Review Initiative - Reducing the Number of Gaming Machine Authorisations to 4,000 and Supporting Clubs to Reduce their Reliance on Gaming Machines

BUDGET ALLOCATION						
	2020-21	2021-22	2022-23	2023-24	2024-25	**Total**
	$'000	$'000	$'000	$'000	$'000	**$'000**
CMTED Directorate – Expenses	0	0	0	0	0	**473**
JACS Directorate – Expenses	1,105	1,105	0	0	0	**5,521**
Depreciation	45	45	45	45	45	**135**
Total Expenses	**1,150**	**1,150**	**45**	**45**	**45**	**6,129**
CMTED Directorate – Associated Capital	0	0				**225**
EPSD Directorate – Associated Revenue	-1,714	-1,714				**-5,642**

CURRENT STATE OF FUNDING (INCLUDING ROLLOVER OF FUNDS)						
Includes rollover of $400k for DSSF						
	2020-21	2021-22	2022-23	2023-24	2024-25	**Total**
	$'000	$'000	$'000	$'000	$'000	**$'000**
CMTED Directorate – Expenses	0	0	0	0	0	**473**
JACS Directorate – Expenses	705	1,505	0	0	0	**5,521**
Depreciation	45	45	45	45	45	**135**
Total Expenses	**1,150**	**1,150**	**45**	**45**	**45**	**6,129**
CMTED Directorate – Associated Capital	0	0				**225**
EPSD Directorate – Associated Revenue	-1,714	-1,714				**-5,642**

Community Clubs Ministerial Advisory Council

BUDGET ALLOCATION						
Financial Impacts Summary	**2020-21**	**2021-22**	**2022-23**	**2023-24**	**2024-25**	**Totals**
	$'000	**$'000**	**$'000**	**$'000**	**$'000**	**$'000**
Expense Impacts[(a)]						
Expenses	249	489	502	515	528	**1,755**
Total Additional FTEs (number)	**1.25**	**3**	**3**	**3**	**3**	

CURRENT STATE OF FUNDING (INCLUDING ROLLOVER OF FUNDS)						
Includes rollover of $50k for Consultant						
	2020-21	**2021-22**	**2022-23**	**2023-24**	**2024-25**	**Totals**

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TRIM Ref: JACS2021/46-001-021

QUESTION TIME BRIEF

Financial Impacts Summary	$'000	$'000	$'000	$'000	$'000	$'000
Expense Impacts[a]						
Expenses	199	539	502	515	528	**1,755**
Total Additional FTEs (number)	**1.25**	**3**	**3**	**3**	**3**	

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QUESTION TIME BRIEF

JACS2021/46-001-003

Portfolio/s: Minister for Gaming

ISSUE: COMMUNITY CONTRIBUTIONS

Talking points:

- Under the *Gaming Machine Act 2004*, licensees must make community contributions.
    - Hotels are required to make mandatory contributions of 0.8 per cent of their Net Gaming Machine Revenue (NGMR).
    - Clubs are required to contribute 8.8 per cent of their NGMR but may apply for a lower minimum contribution rate where they can demonstrate that meeting the overall 8.8 per cent requirement would seriously affect their viability.
- Large clubs and large club groups must make a minimum monetary contribution of 6 per cent of NGMR. The minimum monetary contribution may be reduced where large clubs have long-term (3 or more years) in-kind arrangements to support a defined facility, space or program (e.g. providing office space for a community organisation).
- A portion of the contributions are distributed through two funds to provide support to people in the community:
    - 0.4 per cent to the gambling harm prevention and mitigation; and
    - 0.4 per cent to the community charitable causes through the Chief Minister's Charitable Fund.

<u>COVID-19 support measures in the community contributions scheme</u>

- The community contributions scheme (the scheme) includes support measures for clubs in response to the impacts of the COVID-19 public health emergency, following changes introduced through the *COVID-19 Emergency Response Act 2020* and the *COVID-19 Emergency Response Legislation Amendment Act 2020*. These measures:
    - enable the Minister to declare certain things, including payments to club staff, to be community contributions, where an emergency declaration has been made; and
    - incentivise the provision of food in an emergency by allowing clubs to claim $2 for every $1 of their contribution as a community purpose contribution, where the club is providing charitable

support by preparing or providing food for emergency-affected people.

- Under the *Gaming Machine (Emergency Community Purpose Contribution – Local Live Performance Industry) Declaration 2021* (the 2021 Declaration), I extended the measures in the *Gaming Machine (Emergency Community Purpose Contribution – Local Live Performance Industry) Declaration 2020* (the 2020 Declaration) by a further three months, to allow clubs to claim contributions until 30 November 2021 (inclusive). The 2020 Declaration applied to contributions made between 27 August 2020 and 31 August 2021 (inclusive). The extension of this measure should provide further support to the local live performance industry and clubs sector at this time.
- Under the Declaration, clubs can claim contributions to or for the local live performance industry for music or other live entertainment (other than sport) as a community purpose contribution. The Declaration encourages clubs to host live performances and supports Canberra's musicians, performers and workers in the performance industry, who have been significantly impacted by COVID-19 public health restrictions.

Background information- further detail on key aspects of the scheme

- The scheme includes a longstanding requirement that clubs must deduct any income or benefits received by the club from the value of a claimed community contribution. This may include entry fees received or profit earned from food and beverage sales.
- The scheme does not limit the amount of in-kind support that a club can provide to the community, but it does limit the amount that can be claimed under the scheme towards meeting clubs' obligations.
- For clubs that already meet their minimum cash requirements, and overall community contribution rates, any decisions about whether they withdraw funding that is provided above those minimum amounts is entirely a matter for each club.

<u>Contribution to sports</u>

- The scheme has a long-standing incentive to promote women's sport by allowing clubs to claim $4 for every $3 contributed.
- In addition to this specific incentive for claims for women's sport, clubs are able to claim a range of sports related expenses, for both men's and

women's sport, as a community contribution, including umpires, trainers, coaches, administrators and maintenance of sports facilities – except to the extent they relate to professional men's sport. In limited circumstances, the Minister may determine that costs relating to a professional sportsman or men's professional sports team may be allowable as a community purpose contribution.

Regulating compliance with the scheme

- Revised Guidelines for the scheme are being finalised for distribution to licensees.
- To provide greater transparency to the community, reporting by clubs on the scheme is now contained in the clubs' annual reports which they must make public and which the ACT Gambling and Racing Commission (the Commission) publish.
- Previously this information was provided to the Commission for verification and only summary information was made public.
- Access Canberra (on behalf of the Commission) is responsible for regulating and enforcing compliance with the scheme.
- In accordance with its Accountability Commitment, Access Canberra applies a risk based compliance approach to ensure resources are targeted to where the risks of harm, unsafe practices or misconduct are the greatest, thereby strengthening its capacity to take action where the community, workers and the environment are most at risk.
- Compliance is encouraged through education, but escalating enforcement action will be applied to those whose conduct will, or is likely to, cause harm, or those who demonstrate a disregard for the law. Conduct which contravenes the legislation is considered on a case by case basis, with consideration given to the circumstances of the conduct.

QUESTION TIME BRIEF

JACS2021/46-001-002

Portfolio/s: Minister for Gaming

ISSUE: Community Clubs Ministerial Advisory Council

Talking points:

- The Government will work with stakeholders, including the club industry, to reduce harm from gaming while supporting sustainable clubs.
- The first commitment in the *Parliamentary and Governing Agreement for the 10th Legislative Assembly* (the *Parliamentary and Governing Agreement*) is to establish a Community Clubs Ministerial Advisory Council (the Council) with government, industry and unions to build a long-term, sustainable clubs sector in the ACT.
- Earlier this year, on 12 February 2021, Minister Cheyne and I co-chaired an initial meeting with key stakeholders representing government, the clubs industry, unions and gambling harm advocacy groups to discuss the establishment of the Council, including its proposed membership and terms of reference.
- After considering feedback received from the initial stakeholder meeting, on 15 March 2021, the government issued a call for expressions of interest for Council membership on the ACT Diversity Register and the ACT Jobs website. I also wrote to key stakeholders seeking nominations for appointment. The expression of interest process closed on 26 March 2021.
- In May 2021, the Council was established and I appointed 14 members to the Council. I announced the members of the Council.
- Minister Cheyne and I attended the Council meetings on 26 May 2021, 1 July 2021,29 July 2021 and 26 August 2021. The Council will continue to meet on a monthly basis (approximately every four weeks). The Council will function mainly as a formal link between stakeholder groups and the ACT Government. I look forward to consulting with the club industry through the Council to deliver the Government's commitments.
- The Council's work will focus on important initiatives included in the *Parliamentary and Governing Agreement* such as reducing community club reliance on gaming machine revenue. These initiatives include

introducing $5 bet limits and $100 load-up limits for gaming machines in the ACT and enhancing the self-exclusion scheme.

Background Information:

If asked about the composition of the Council:

- The Council is made up of 14 members. This includes the following ex-officio members:
    - Minister for Gaming, Mr Shane Rattenbury MLA (Chair);
    - Minister for Business and Better Regulation, Ms Tara Cheyne MLA (Deputy Chair);
    - Ms Yu-Lan Chan – Chief Executive Officer, ACT Gambling and Racing Commission;
    - Ms Kim Marshall – President, ClubsACT;
    - Mr Athol Chalmers – Chair, Canberra Community Clubs;
    - Ms Lyndal Ryan – Secretary, United Workers Union; and
    - Executive Branch Manager, Justice and Community Safety Directorate.
- The Council includes seven stakeholder representatives with an interest in issues impacting Canberra's club industry. They are:
    - Ms Wendy Sandeman – Financial Counsellor, Care Inc. Financial Counselling Service and Consumer Law Centre of the ACT;
    - Mr Jeremy Halcrow – Founder and Co-chair, Canberra Gambling Reform Alliance;
    - Ms Kate Seselja – Founder, The Hope Project;
    - Mr Geoff McKay – President, Canberra Bowling Club;
    - Ms Mary Collier – President, Canberra Irish Club;
    - Mr Brian Weir – President, Canberra Labor Club; and
    - Mr Thomas Stevens – Director, Design and Communications, The Youth Coalition of the ACT.
- The roles of the members are outlined in the table below.

QUESTION TIME BRIEF

Membership of the Council		
Member	**Role**	**No.**
Minister for Gaming, Mr Shane Rattenbury MLA	Chair	1
Minister for Business and Better Regulation, Ms Tara Cheyne MLA	Deputy Chair	1
Senior Executive, Justice and Community Safety Directorate (JACS)	To advise on policy considerations from the perspective of the Directorate.	1
Representative, ACT Gambling and Racing Commission	Senior Executive, Access Canberra or member of the ACT Gambling and Racing Commission Governing Board to bring practical expertise regarding the application of gaming laws in the ACT and advise on the workability of reform proposals.	1
Chief Executive Officer or Board member, ClubsACT	To represent the views of the constituent clubs of ClubsACT.	1
Chief Executive Officer or Board member, Canberra Community Clubs	To represent the views of the constituent clubs of Canberra Community Clubs.	1
Secretary or nominated representative, United Workers Union	To represent the views of club workers.	1
Representatives, gambling harm reduction organisations or experts	To bring external harm reduction perspectives to the discussions of the Council, particularly with respect to proposed harm reduction regulatory changes. It is proposed that there would be three positions for representatives from gambling harm reduction organisations or experts. Representatives would be appointed by the Minister following a nomination process.	3
Representatives, community clubs	To represent clubs in the ACT. It is proposed that there would be three positions for representatives from clubs, or club members (with a preference for small/medium clubs). Representatives would be appointed by the Minister following a nomination process.	3
Representative, young people	To provide a youth perspective on Council discussions. While the Council's focus is clubs (it is not a broad 'gambling harm' body considering issues such as online gambling), younger Canberrans are the future of club membership. They are also a significant part of the club workforce and may be affected by diversification efforts. The representative would be appointed by the Minister following a nomination process.	1
	TOTAL	**14**

If asked about which stakeholders you wrote to seeking nominations for appointment:

- On 16 March 2021, I wrote to the following organisations advising of the call for nominations to the Council:

	Position-based appointments
1	ACT Gambling and Racing Commission
1	ClubsACT
1	Canberra Community Clubs
1	United Workers Union

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Contact Officer name:	Natasha Del Piero	Ext: 76480
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-002	

QUESTION TIME BRIEF

	Nominated representatives	
3	Representatives, gambling harm reduction organisations or experts	• Canberra Gambling Reform Alliance • The Hope Project • Care Financial Counselling • Centre for Gambling Research • Menslink • Relationships Australia • University of Canberra Professor Laurie Brown

3	Representatives, community clubs	• Canberra Community Clubs
		• ClubsACT
		• Unaffiliated clubs:
		  ○ Canberra Labor Club
		  ○ Canberra Irish Club

1	Representative, young people	• Youth Coalition of the ACT • Children and Young People Commissioner) • ANU Students Association • University of Canberra Student Representative Council
1	Representative, Business/hospitality professional	• Canberra Business Chamber • Tully Heard Consulting • Canberra Women in Business

Recent consultation activity:

- A summary of key, recent consultation activity held with the Council is outlined below.

Date	Document	Stakeholders
20 January 2021	Email – invitations to initial meeting to discuss establishment of the Council	Clubs industry peak bodies, United Workers Union and community groups
12 February 2021	Meeting – Council Initial stakeholder meeting	As above
16 March 2021	Letter – Seeking nominations for appointment to the Council and follow up emails providing Diversity Profile Form	Club industry peak bodies, United Workers Union and community groups, key gambling harm reduction organisations, unaffiliated clubs, organisations representing young people, and organisations representing business.
19 May 2021	Letter – Letters to Council members and stakeholders advising of Council's establishment	As above

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Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-002	

QUESTION TIME BRIEF

JACS2021/48-001-018

Portfolio/s: Gaming

Business and Better Regulation

Gaming Machine Technical Advice

Talking points:

- The ACT Government committed through the *Parliamentary and Governing Agreement for the 10th Legislative Assembly* to introduce $5 bet limits and $100 load-up limits for gaming machines operated in the ACT.
- The ACT Government also committed to keep pace with harm reduction measures implemented in NSW, such as cashless gaming.
- The government sought advice about technical issues associated with these harm reduction measures and the possible costs for their implementation.
- The sorts of technical issues that might arise include whether and how a game installed on a gaming machine can be reconfigured to set a lower bet limit.
- The government sought technical advice from parties removed from the actual manufacture and sale of gaming machines so as to better assure the impartiality and integrity of the advice.
- The government has received and is considering a final report from the external technical expert.
- The government remains committed to working with the ACT community, including community clubs, on how to support sustainable clubs as these harm reduction measures are introduced.

Key Information

- As at 1 August 2021 there were 3,868 gaming machine authorisations in the ACT and 31 licencees (including B and C class).
- On 3 May 2021, JACS released a Request for Quotation to a number of industry participants who are not gaming manufacturers, including advisory firms and gaming machine testing providers. These included:
    - Senet Legal, a legal and advisory firm specialising in the gambling law and regulation.

Cleared as complete and accurate:	07/09/2021	
Cleared for public release by:	Executive Branch Manager	
Contact Officer name:	Zoe Hutchinson	Ext: 76192
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TRIM Ref:	JACS2021/46-001-018	

- Gaming machine test facilities authorised by the NSW Government and used by the ACT Government for gaming machine regulatory processes:
  - BMM Australia
  - QALab
  - Gaming Laboratories International.

- JACS selected BMM Australia to provide the technical advice. The contract for this advice is a notifiable contract and has been placed on the ACT Government contracts register.

Background Information

- The ACT Government, through the *Parliamentary and Governing Agreement for the 10th Legislative Assembly*, made commitments to:
  - E.5 Introduce the harm reduction measures $5 bet limits and $100 load-up limits, following a thorough review and transitional plan to manage impacts on clubs, particularly smaller clubs that upgrade machines less regularly. A staged rollout of this reform should commence by the end of 2022 at the latest.
  - E.4 Match or exceed any further harm reduction gaming reforms commenced in NSW, such as cashless gaming.
- Industry has indicated that implementing these measures is technically costly and not technically feasible, in some cases requiring replacement of gaming machines. Some gaming machine manufacturers suggest that the cost may be between $5,000 and $25,000, depending on the age of the machine.

QUESTION TIME BRIEF

JACS2021/46-001-015

Portfolio/s: Attorney-General

ISSUE: RESOURCING OF MAGISTRATES AND CORONER'S COURTS

Talking points:

- The ACT Government is committed to providing the ACT Magistrates Court and the ACT Coroner's Court with the resourcing required to meet the community's needs.

Recent Magistrate appointments

- I welcome the appointment of Dr Anthony Hopkins as a Special Magistrate. Dr Hopkins commenced in this role on 1 May 2021 and brings a wealth of experience to the bench, particularly in the area of criminal law practice and procedure and is a leading Australian authority on therapeutic jurisprudence.

Dedicated full time ACT Forensic Pathologist

- The 2018-19 Budget provided $1.9 million over four years for the recruitment of a resident full-time ACT Forensic Pathologist which will ensure efficient and dedicated provision of pathology services to support the Coroner's Court.

Family Liaison Officer

- A new Family Liaison Officer role commenced in the Coroner's Court on 25 June 2020. The role is providing support to families and friends of loved ones who have passed, as they progress through the coronial system.

Dedicated Coroner

- The Government is committed to considering the establishment of a dedicated full-time Coroner's Court to help reduce delays, improve consistency and lift the experience of families engaging with the coronial process.

Cleared as complete and accurate:	13/09/2021	
Cleared for public release by:	Executive Branch Manager	Ext: 76192
Contact Officer name:	Kate Daly	Ext: 75285
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-015	

QUESTION TIME BRIEF

Key Information

Full-time dedicated Coroners Court

- The Parliamentary and Governing Agreement for the 10th Legislative Assembly provides that an Executive reform priority is to '*Explore the establishment of a dedicated full time Coroners Court'* (Appendix 2, Executive Reform no. 5). A business case for a full-time dedicated Coroner is under active consideration as part of the 2021-22 Budget.

Operational issues

- COVID-19 led to a range of measures being implemented by the ACT Courts and Tribunal to support social distancing and reduce the spread of the virus. Where feasible, essential court and tribunal operations continued by using a range of technologies such as video and telephone conferencing.
- The pandemic led to a slowing of the court and tribunal operations and a slowing of finalisation rates. The Chief Magistrate has publicly stated that a significant backlog has accumulated which will take many months to address. Funding has been provided to assist the Magistrates Court with reducing this backlog.
- In addition, there has been a steady increase in the number of family violence and personal violence applications to the Courts in recent years, which is impacting on the Court's ability to deliver interim orders in a timely manner. Additional funding was sought this year but the business case did not progress. JACS is working with the Courts to monitor resourcing and manage delays.

Coroners Amendment Bill 2020

- The Coroners Amendment Bill 2020 was passed in the Assembly in July 2020. The Bill amends the *Coroners Act 1997* to enhance our framework to better respond to the justice needs of families engaging in the coronial system and to make it easier for the Coroner's Court to implement restorative approaches in its daily practice.

Recent Magistrate appointments

- Magistrate James Stewart is appointed as a part-time magistrate of the ACT Magistrates Court. Magistrate Stewart has been working full-time since 1 August 2019 to support the Court to address the backlog of matters caused by the COVID-19 pandemic. The current full-time work arrangement for Magistrate Stewart will end on 30 June 2022.
- Ms Margaret Hunter OAM and Dr Anthony Hopkins were recently appointed as Special Magistrates to 30 April 2022. The Chief Magistrate had proposed to use Special Magistrate Hunter as a 'traditional' Special and Special Magistrate Hopkins one day per week on Galambany Court and Family Violence lists. However, going forward in 2021-22, they will both be listed more frequently to help address court backlogs.

Special Magistrates recruitment process

- A recruitment process will be undertaken in the second half of 2021 for Special Magistrates. This will ensure the Chief Magistrate has a suitable pool of Special Magistrates at her disposal to assist the Court when required..

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Contact Officer name:	Kate Daly	Ext: 75285
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-015	

QUESTION TIME BRIEF

JACS2021/46-001-004

Portfolio/s: Attorney-General

ISSUE: CORONIAL REFORM

Talking points:

- The Government is focused on improving the coronial system to ensure that cases are finalised as quickly and as sensitively as possible and that the benefits to the community of coronial recommendations for public health and safety improvements are realised.
- The coronial process is a vital part of the judicial system that deserves ongoing focus. Coronial inquiries are complex and time consuming.
- To make the coronial process more timely, inclusive and sensitive to the needs of grieving families, we are examining our current system and the potential for meaningful process improvements and reform.
- In 2020, having regard to feedback from the November 2019 Restorative Coronial Reform Forum, we amended the Coroners Act to explicitly recognise the impact on family and friends of the death of a loved one, and the interest that family and friends have in the coronial process.
- In addition, a new Family Liaison Officer role commenced in the Coroner's Court on 25 June 2020. The role is critical in providing support to families and friends of loved ones who have passed, as they progress through the coronial system.
- The Government is now committed to exploring the establishment of a full time dedicated Coroner. Currently, the coronial responsibilities are shared across a number of ACT Magistrates.
- I have participated in a series of forums faciliated by Relationships Australia which have provided a space for families and professionals to share their experiences of the coronial process, and to identify opportunities of further reform.

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Cleared for public release by:	Deputy Director-General	Ext:
Contact Officer name:	Kate Daly	Ext: 55285
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-004	

QUESTION TIME BRIEF

Key Information

Full-time dedicated Coroner's Court

- The Parliamentary and Governing Agreement for the 10th Legislative Assembly provides that an Executive reform priority is to 'Explore the establishment of a dedicated full time Coroner's Court' (Appendix 2, Executive Reform no. 5).
- ACT Courts and Tribunal submitted a business case as part of the recent 2021-22 Budget for a full-time dedicated Coroner, which is under active consideration.

Funding from the 2018-19 Budget

- The 2018-19 Budget provided $1.9 million over four years for the recruitment of a resident full-time ACT Forensic Pathologist. This supports the timely provision of manner and cause of death information to expedite the release of the deceased to their family and the making of findings by the Coroner.
- The 2018-19 Budget also included $3.1 million in funding over four years for an eighth full time resident magistrate.

Coronial Reform Forums – 2021

- To progress the coronial reform agenda, JACS is working with Relationships Australia (ACT Coronial Counselling Service) to organise a series of roundtable discussions with family members and professionals with lived experience of the coronial system.
- The first gathering was held of 8 July 2021 with 12 family members and their support persons. This was an opportunity for family members to share their personal experiences and ideas on how the coronial process can be improved for families.
- The next gathering with professionals who interact with the coronial system (including police officers, paramedics, solicitors, barristers and ACT Courts staff) was held on 27 August 2021. These professionals shared their experiences and ideas for reform.
- Conversations are ongoing with community advocates for coronial reform, restorative practitioners, Relationships Australia and JACS on the development of a restorative coronial reform agenda.

Background Information

Law Reform Advisory Council (LRAC) Report

- The LRAC report, *Canberra – Becoming a Restorative City,* released on the JACS website on 15 November 2019, recommended that restorative practices be trialled within the coronial system.

Restorative Coronial Reform Forum (November 2019)

- A forum was held on 19 November 2019 which reflected upon the experiences of families who had engaged with the coronial system, and explored opportunities for restorative coronial reform, in alignment with the recommendations of the LRAC Inquiry into Canberra as a Restorative City.

Legislative reforms

- In July 2020, the Legislative Assembly passed the Coroners Amendment Bill 2020 which was part of a package of reforms to better respond to the justice needs of families engaging with

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the coronial system and to make it easier for the Coroners Court to implement restorative approaches in its daily practices.

- Feedback from families with lived experience in the coronial system significantly informed the amendments to the Coroners Act, which commenced on 29 January 2021.
- The Justice and Community Safety Legislation Amendment Bill 2019 (JACS Bill), passed in June 2019, clarified that the Judicial Council can receive and examine complaints about a magistrate performing the coronial role, and made changes to require a government response to be presented to the Legislative Assembly following the release of coronial findings which identify matters of public safety.

Family Liaison Officer (FLO)

- The trial of the FLO position in the Coroner's Court commenced on 25 June 2020, with the recruitment of Ms Corinne Vale to the role. The role is currently funded up to December 2021. Positive anecdotal feedback has been received from families, which indicated that the FLO has assisted to bridge the gap for families interacting with the coronial process and increase information flow between families and the Court.

Canberra as a Restorative City

- Several initiatives are being progressed as part of the Restorative City initiative to strengthen the use of restorative practice in the Coroner's Court, including:
    - Ministerial guidelines for Government responses to coronial reports to promote transparent, respectful, and sensitive engagement between families and coronial staff during the preparation of Government responses.
    - Exploring the use of restorative conferencing to complement current and completed coronial inquiries.
    - Developing information materials to help bereaved families navigate the coronial system.
    - Facilitating discussions between religious and cultural leaders in the ACT and Coroners, Coroner's Court staff and Forensic Medicine Centre staff on different practices around death, autopsy, and burial.
    - Supporting opportunities for Coroners to discuss restorative approaches with colleagues across jurisdictions.

National Commissioner for Defence and Veteran Suicide Prevention

- The ACT continues to participate in national level discussions led by the Commonwealth Attorney-General's Department about the establishment of a National Commissioner for Defence and Veteran Suicide Prevention, and National Coronial Centre. The ACT's coronial reform program is of interest to the Commonwealth as a focus of any Commissioner's role will be engagement with affected families using restorative and trauma-informed principles.

Coronial Reform Group (CRG)

- Mrs Eunice Joliffe, and Ms Ann Finlay (Fennessy) are collectively known as the Coronial Reform Group (CRG). Members of the CRG experienced the coronial system following the death of their sons, Mark Joliffe and Paul Fennessy in 2010.
    - Mark Joliffe died on or about 15 February 2010. Coroner Dingwall's findings were delivered on 30 June 2015.

- Paul Fennessy died on 6 January 2010. Coroner Hunter's findings were delivered on 16 December 2016. The Health Minister's response to the Coroner's recommendations was tabled in the Legislative Assembly in August 2017.

- The CRG was awarded the ACT's Mental Health Volunteer of the Year Award in 2018 for their work to support a more timely, supportive and effective coronial system and better lives for people affected by mental illness through service improvements.

Alliance for Coronial Reform (ACR)

- Ms Rosslyn Williams (formerly of the CRG), Ms Janine Haskins and Ms Jacqueline Ryles recently formed the Alliance for Coronial Reform (ACR).
- Ms Williams experienced the coronial system following the death of her son Benjamin Williams in 2010.
    - Benjamin Williams died on 28 September 2010. The Chief Coroner's findings were delivered on 17 October 2013.
- Ms Haskins is currently going through the coronial system following her daughters death in 2020.
    - Brontë Haskins died on 18 February 2020. A public inquest hearing is set to take place in January 2022.
- Ms Williams was awarded the Medal of the Order of Australia (OAM) for her work in mental health and coronial reform in 2021.

QUESTION TIME BRIEF

JACS2021/46-001-007

Portfolio/s: Attorney-General

ISSUE: DRUG AND ALCOHOL COURT/DRUG AND ALCOHOL SENTENCING LIST

Talking points:

- The Government committed to establishing a Drug and Alcohol Court (DAC) in the Parliamentary Agreement for the 9th Assembly. The ACT DAC commenced operations on 3 December 2019.
- On 1 July 2020, former judge of the ACT Supreme Court, Justice Richard Refshauge was appointed as an Acting Judge to oversee the DAC, which is referred to by the Courts as the Drug and Alcohol Sentencing List (DASL).
- The DAC sits each Friday and as required on other days.
- The first Drug and Alcohol Treatment Order (DATO) was made on 15 January 2020.
- As at 19 August 2021, 25 DATOs were in effect with a further 7 people awaiting sentence.
- As at 19 August 2021, a total of 81 people have been referred to the DAC, with 73 people sent for eligibility assessments.
- A wide range of community services including health, housing, treatment and counselling programs complement and support the DAC to achieve positive outcomes for offenders and the community.
- Those outcomes include better health outcomes, reduced offending, reduced incarceration rates and improved community safety.
- In September 2020, the NSW Bureau of Crime Statistics and Research (BOCSAR) published an evaluation of the NSW Drug Court entitled '*The long-term effect of the NSW Drug Court on recidivism*'. The report considered whether the positive results observed in early evaluations of the NSW Drug Court had been sustained over more than ten years.
- The report concluded that the NSW Drug Court appears to have long term beneficial effects on the total number of reconvictions and the risk of an offender committing a further offence against another person.

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- The ACT Government will be considering this important research very carefully as it determines next steps for the drug court in the ACT.

Purpose and nature of the DAC

- The ACT DAC operates in the Supreme Court. The fitout of the court room and urinalysis suite for the DAC were included as part of the courts building project.
- Offenders are carefully assessed for eligibility and suitability for DAC participation. Criteria include that they must have pleaded guilty to an eligible offence, and be dependent on alcohol or a controlled drug that substantially contributed to their offending.
- Participants have their sentence of imprisonment (between one and four years) suspended and have individualised treatment and sentence management plans. The plans include intensive judicial supervision, frequent drug and alcohol urine and breath testing, and regular and ongoing contact with health and corrections staff.
- Case management is undertaken by both Health and ACT Corrective Services staff, with agencies working closely together to support the offender throughout the order.
- The DAC Team includes members from Canberra Health Services, ACT Corrective Services, the Director of Public Prosecutions, Legal Aid ACT and ACT Policing. Importantly, the Team may also include an Aboriginal Liaison Officer from Canberra Health Services and housing support as required.
- A scheme of rewards and sanctions supports compliance. Progress is rewarded, and breaches are sanctioned through a system of swift, certain and proportionate consequences. This sends a strong message about the consequences of continued criminal or antisocial conduct.
- The DAC deals with offending linked to serious drug and alcohol use. It provides a unique response to a group of high risk and high need offenders in the form of an alternative to full-time imprisonment.
- The DAC will promote community safety and decrease the impact of criminal activity in the Territory by reducing the likelihood of drug dependant people resorting to further offending behaviour.

- The evidence shows that drug courts are effective at achieving long-term behavioural change in offenders.

Participant requirements and cooperation

- An offender may be referred for consideration of eligibility for a DATO if they plead guilty to an eligible offence, if drugs and or alcohol was a factor in the commission of the offence and the offender is facing a sentence of one to four years.
- The offender will be assessed for eligibility and if eligible, will be referred for a suitability assessment. This involves judicial supervision, primary case management by Health staff in conjunction with Corrective Services staff and frequent drug testing or breath testing.
- The offender must give informed consent to be assessed for a DATO.
- Once an offender is sentenced to a DATO, the DAC Team manages the participant through targeted multidisciplinary treatment programs.
- All participants commence on phase one of the program. Progress through the three phases will depend on the participant and their progress on the DATO.
- Intensive supervision ensures that offenders are doing the right thing for themselves and for the community.
- By promoting the reintegration of eligible offenders into the community and taking a holistic approach to addressing key risk factors related to offending, the DAC can reduce recidivism.
- For example, when a DAC participant stops using drugs, and has stable housing and re-engages with their community, some of the risk factors for re-offending are lessened.
- This ultimately helps to reduce the burden on our health and justice systems caused by drug use and offending, and helps to maintain safety in the community.
- Drug courts in NSW, Queensland and Victoria have demonstrated the long-term cost-effectiveness of a therapeutic approach which is able to achieve continuing behavioural change.

QUESTION TIME BRIEF

Background Information

- The Parliamentary Agreement for the 9th Assembly committed to establishing a Drug and Alcohol Court and associated support programs as part of a goal to reduce recidivism by 25 percent by 2025.
- $6.83 million over 2.5 years was allocated to the DAC in the 2018-19 mid-year budget appropriation.
- An independent evaluation of the DAC is currently underway by academics from the Australian National University and will provide its final report in April 2022. In April 2021 the consultants provided the initial Process Evaluation report. The report is currently being considered by DAC partners.

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QUESTION TIME BRIEF

JACS2021/46-001-030

Portfolio: Attorney-General

ISSUE: JUDGE ALONE TRIALS

Talking points:

- The temporary amendments to the judge alone trial provisions in the *Supreme Court Act 1933*, made in response to the COVID-19 pandemic, have now lapsed. Accordingly, the ACT's judge alone provisions have returned to the pre-COVID-19 position, with specified offences excluded from being tried by a judge alone.
- ACT Courts and Tribunal has measures in place to allow jury trials to proceed safely. However, social distancing requirements mean that two court rooms are required for each jury trial, which has an impact on the capacity of the Supreme Court.
- The Government will monitor the sustainability of the current jury trial arrangements, having regard to the prevalence and inmpacs of COVID-19 in the Canberra Community.
- Earlier this year, the Government commenced consulting with stakeholders about the future of judge alone trials in the ACT, generally. It has been nearly 10 years since sexual offences and offences involving the death of a person were excluded from being heard by a judge alone.
- The consultation process has included a roundtable with justice stakeholders, including the legal profession, held on 22 March 2021. Written submissions have also been received in response to a discussion paper titled 'Judge alone trials and jury issues'.
- An assessment will be made of the temporary judge alone provisions that were in place in response to COBID-19, and I will carefully examine the views of stakeholders before reaching a position for consideration by the Government.
- I am aware that the legal profession is concerned about the constitutionality of 68BA of the *Supreme Court Act 1933* (now repealed). As there is a case currently before the courts in relation to this issue, I do not propose to comment further.
- I am aware that the Director of Public Prosecutions commented in his 2019-20 Annual Report that the temporary 'judge alone' amendments

impacted on the conviction rate. It is important to note that the data is limited as it covers a period of under 3 months. It is also important to say that the DPP will be given every opportunity to express his views through the consultation process which is underway, noting that both judge alone and jury trials have a place in the ACT.

Background Information

- In 2011, new section 68B of the *Supreme Court Act 1933* (SCA) limited the types of offences which could be heard by a judge alone. The excluded offences were sexual offences and offences involving the death of a person.
- In April 2020, section 68B of the SCA was temporarily amended in response to the COVID-19 pandemic, including by permitting previously excluded offences to be tried by a judge alone. This amendment expired on 30 June 2021.
- Section 68BA of the SCA was enacted as part of the COVID-19 measures in April 2020 but repealed in June 2020. This allowed the court to order a trial by judge alone if satisfied certain criteria were met. This provision has been challenged twice in the courts. The first challenge did not proceed and the second challenge is still before the courts. Attention has also been drawn to the provision by an article co-authored by Dr John Boersig, Jane Campbell (now Special Magistrate Campbell) and S Carmichael which expresses doubt as to the constitutionality of the provision.
- The ACT Law Society wrote to the Justice and Community Safety Directorate on 7 September 2021, advising that if consideration is being given to management of Supreme Court trials in the current ACT lockdown, the Society is supportive of reinstating the COVID-19 measures permitting trial by judge alone for ordinarily excluded offences. JACS will brief your office further in relation to this.
- The 2019-20 DPP Annual Report states that 20 trials for sexual offences were held in the Supreme Court with 11 guilty verdicts. This is a conviction rate of 55% and is broadly commensurate with the conviction rate since 2011 reforms which excluded sexual offences and offences involving the death of a person from being heard by a judge alone.
- The DPP Annual Report also states that ".. as at 30 June 2020, of the eight trials that proceeded as 'judge alone' (post COVID-19 shutdown period), seven returned verdicts of not guilty". The DPP does not specify that these were normally excluded offences and, given the timeframe it is likely that that this data includes all offence types.
- The DPP has provided information that, in relation to sexual offences, there have been 9 judge alone trials resulting in 2 guilty verdicts (conviction rate of 22%) to 30 November 2020. This does not correspond with the ACT Courts and Tribunal (ACTCT) data which indicates 6 judge alone trials for sexual offences (to end October 2020) with 3 convictions (conviction rate of 50%). The reason for the discrepancy , based on information from ACTCT, is that the DPP's data includes all matters where a not guilty plea was entered as opposed to ACTCT data which is based on matters which actually proceeded to trial. This reason has not yet been verified with the DPP.

QUESTION TIME BRIEF

JACS2021/47-001-031

Portfolio/s: Chief Minister

Police and Emergency Services

Special Minister of State

ISSUE: NATIONAL SECURITY AND PUBLIC SAFETY

TALKING POINTS

Afghanistan (Chief Minister)

- I am aware of the unfolding events in Afghanistan.
- These events have not changed the national terrorism public alert level which remains at PROBABLE. More broadly, there is no specific or credible threat to the ACT at this time.
- Our thoughts are with all Canberrans who may have family or friends in Afghanistan during this trying time. I encourage anyone needing support or assistance to reach out if needed.

New Zealand (Chief Minister)

- I am aware of the terror attack that occurred in Auckland, New Zealand on 3 September 2021. I extend my thoughts and sympathies to the community in Auckland and New Zealand more broadly and to any Canberrans with family or friends impacted by this horrific event.
- There is no specific threat to the ACT at this time. However, I can assure Canberrans that the ACT Government is continuing to work closely with ACT Policing and other law enforcement and intelligence agencies, including the Commonwealth, to combat terrorism and violent extremism.
- We will continue to do all we can to keep our community safe from those who seek to do us harm.

Ideologically motivated violent extremism and religiously motivated violent extremism (Chief Minister)

- The best defence to violent extremism is maintaining the ACT as a harmonious, inclusive and cohensive community.

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- The ACT's laws and arrangements focus on threat and criminality regardless of ideology or motivation.
    - Ideologically motivated violent extremists, specifically nationalist and racist extremists, are motivated by a wide variety of social, economic and political grievances.
    - Religiously motivated violent extremism and the violent narrative of groups – such as ISIL and al-Qa'ida – continues to appeal to a small number of people in Australia.
- Concerns about violent extremism be reported to the National Security Hotline on 1800 123 400, or ACT Policing on triple-zero if the situation is life threatening.

Fixated Threat Capability (Minister for Police and Emergency Services)

- In the ACT Budget 2019-20, the Government announced $1.08 million over three years to establish and trial a fixated threat capability for the ACT.
- This capacity has been established and is the FLAG – Fixated, Lone Actor and Grievance Fuelled Violence assessment team. The ACT FLAG has specially trained officers from ACT Policing, and mental health professionals from Canberra Health Services co-located and working closely together to assess and manage fixated individuals in the ACT. The ACT Government is also undertaking a two year review of the capability to ensure it is best practice and meets the requirements of the ACT.
- A fixated individual is a person with an unhealthy obsession or perceived grievance with another person. In many cases, a fixated individual may have undiagnosed or untreated mental health issues.
- A focus for the ACT's fixated threat capability is to reduce harm to the community by engaging (or sometimes re-engaging) fixated individuals with appropriate mental health or other community support services.
- The establishment of this capability completes the ACT's implementation of the October 2017 agreement of the Council of Australian Governments to adopt a national approach to assessing and managing fixated individuals.

QUESTION TIME BRIEF

Counter Terrorism (Chief Minister)

- The ACT is a successful and harmonious multicultural society. This is one of our greatest strengths against acts of terrorism and violent extremism occurring in Canberra.
- Our identity is defined by an overriding commitment to our nation, its democratic values and the rule of law, not by race, religion or ethnic background.
- The ACT supports community leaders and activities to promote our vibrant, inclusive and culturally diverse community while maintaining the rule of law and protecting human rights.
- We as a government reject those who seek to impose their world view on others through intimidation and violence.
- Anyone who singles out any particular group as a target for hatred plays into the hands of terrorists.
- My Government is committed to ensuring the safety and security of our community. We work closely with ACT Policing and other law enforcement and intelligence agencies to combat terrorism and violent extremism.
- We cannot eliminate the risk of terrorism any more than any other serious crime. But we will do all we can to keep our community safe from those who seek to do us harm.
- Terrorism is a national issue, and we work closely with our interstate and Commonwealth partners on the national security challenges we face. We need to keep our legislation and capabilities under constant review to meet these evolving issues.
- The Australian National Security website contains information about Australia's security threat environment and terrorism in Australia.
- Concerns about national security or terrorism should be reported immediately to the National Security Hotline on 1800 123 400.
- If a situation requires a police response, call Police Operations on 131 444. If the situation is potentially life threatening, call Triple-Zero (000).

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QUESTION TIME BRIEF

Australian Government Critical Infrastructure Reforms (Chief Minister)

- Critical infrastructure is essential to the function of our daily lives in the ACT.
- The ACT's establishment of a second power supply is one example of how the ACT is strengthening the resilience of our critical infrastructure.
- The ACT remains supportive of the focus by the Australian Government to strengthen the security of Australia's critical infrastructure by reforming the *Security of Critical Infrastructure Act 2018*. The ACT remains engaged with the Commonwealth and the state and territory governments to support the development of the reforms.
- The ACT maintains its own critical infrastructure arrangements and relationships between government and non-government owners and operators.

This relationship was used to great effect during the 2019-20 bushfire season to share information about critical infrastructure.

Cyber Security and Online Safety (Special Minister of State)

- The ACT remains an attractive target for cyber criminals.
- The cyber threat is persistent. State actors, criminal syndicates, issue motivated groups and self-motivated individuals continue to target children, families, businesses, online critical infrastructure and intellectual property.
- Cyber security remains a top priority for the ACT Government.
- Our specialist teams work to protect information managed by the ACT Government and regularly meet with the National Cyber Security Committee to monitor the cyber threat environment.
- The ACT is progressing a risk and threat assessment of the ACT Government's cyber security environment. This is in addition to a wide range of other activities to strengthen the ACT's cyber security resilience.
- The ACT remains engaged with the Commonwealth about proposed reforms to the *Security of Critical Infrastructure Act 2018*. A significant focus for these reforms is the strengthening of cyber security arrangements as they apply to critical infrastructure and systems of national significance.

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- With Canberrans primarily working and studying online due to COVID-19, the potential for online harm is increased. I encourage Canberrans to visit the eSafety Commissioner's website for ways to keep you and your family safe online.
- I encourage all Canberrans to follow the IT security advice of the Australian Cyber Security Centre available at cyber.gov.au.

Foreign Interference (Chief Minister)

- The ACT values its open and transparent international engagement with other governments to progress matters of mutual benefit.
- Unfortunately, some foreign actors are pursuing opportunities to interfere in a range of areas such as decision makers, intellectual property, and IT systems in Australia. The ACT is not immune from this interference.
- Foreign interference activities go beyond routine diplomatic influence practiced by governments. Interference may be coercive, covert, deceptive and clandestine in nature and can cause harm to the ACT's interests.
- The ACT partners with the Australian Government and other states and territories on efforts to protect our systems of government, democracy, critical infrastructure, education and media.
- Concerns about foreign interference should be reported to the National Security Hotline on 1800 123 400.

Public Spaces and Venue Safety (Minister for Police and Emergency Services)

- Canberra's public places and events remain a safe and attractive place for communities and families.
- The ACT Government and ACT Policing continually monitor the security threat environment. We must all remain vigilant to the threat of terrorism.
- The Government remains focused of promoting and supportive safe public events within the current COVID environment.
- The Government continues to expand and enhance the ACT's Public Safety CCTV Network into areas including Glebe Park. The Government also continues to make use of portable CCTV capability, vehicle protection barriers and other measures as appropriate to protect Canberrans.

QUESTION TIME BRIEF

JACS2021/47-001-021

Portfolio: Minister for Police & Emergency Services

Attorney-General

ISSUE: CRIMINAL OUTLAW MOTORCYCLE GANG

TALKING POINTS:

- The ACT Government and ACT Policing are committed to countering serious and organised crime by criminal gangs, and maintaining public safety.
- Taskforce Nemesis is focussed on combating criminal motorcycle gang behaviour in the ACT. The taskforce often collaborates across whole-of-government to create innovative strategies to disrupt criminal gang behaviour.
- Since 2016 the ACT Government has injected almost $6.4 million to help expand Taskforce Nemesis resources. A further $1.594 million over four years was pledged in 2018/19 to continue to bolster capabilities and enable ACT Policing to employ specifically skilled members, equipment and training.
- In 2017, the Federal Government provided funding to combat organised crime through the National Anti-Gangs Squad (NAGS). Taskforce Nemesis has an embedded NAGS member, enabling interoperability and liaising on matters of operational and strategic importance.
- NAGS brings together the resources and expertise of Federal and state/territory agencies to cooperate and share information to identify, target, disrupt and deter gang-related crime.
- ACT Policing is also in a unique position to call on specialist and surge capabilities from the broader AFP to meet changing operational environments.
- This approach ensures a multijurisdictional response to ACT geographically based targets, and impact felt from others within the Territory.
- ACT Policing has also established a whole-of-government interagency working group, with representatives from a number of local and Commonwealth government agencies to consider all aspects of criminal gang behaviour in the ACT.

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QUESTION TIME BRIEF

Operational successes

Taskforce Nemesis Criminal Motorcycle Gang related figures	2018	2019	2020	2021 (1 Jan – 30 June 2021)
Criminal gang members charged *(person may be charged on numerous occasions)*	45	54	30	8
Offences charged*	136	127	87	23
Firearms seized	18	14	9	1

Offence charges cleared include: by arrest, summons, caution and charged before court

Criminal Outlaw Motorcycle Gangs in Canberra

- As at 30 June 2021, there are **three** known Criminal Motorcycle Gangs operating in the ACT – one of which has increasingly limited influence.
    - The total number of members associated with ACT chapters is estimated at approximately 30-40 people.
    - This is a decrease from approximately 70 members in 2018-19, as a result of members being deported, imprisoned or fleeing interstate.
- Criminal Motorcycle Gang membership has traditionally been relatively stable, however, changes to criminal gang membership in recent years highlight a shift towards more fluid concepts of membership.
- Serious and organised crime is not limited to openly-identifiable criminal gangs and ACT Policing will continue to proactively target, prosecute and disrupt those involved in serious and organised crime in the ACT - regardless of their individual affiliations.

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QUESTION TIME BRIEF

Background information

- While 'patch-overs' have been known to occur from time to time, large numbers of patch overs have occurred in recent years. These changes to club numbers can affect the structure and strength of a Criminal Motorcycle Gang, and has had a significant impact upon the strength and rivalry between Criminal Motorcycle Gangs in the ACT.
- Appropriate legislative frameworks are an essential component to enable police to effectively disrupt and dismantle criminal organisations. A number of legislative amendments have been made to increase the tools available to police and enhance the response capacity of police officers. Most recently, these have included legislation passed on fortifications, drive-by shootings and crime scene powers.
- Recent legislative amendments to help equip ACT Policing in combating Criminal Motorcycle Gang activity have included:
    - Laws providing powers to remove fortification from dwellings;
    - Laws enabling police to establish crime scenes;
    - A tiered regime of affray offences;
    - Laws allowing police to apply to exclude individuals from working in certain industries or attending licensed premises.
- As a result of an increase of Criminal Motorcycle Gang activity in 2018, Taskforce Nemesis strengthened its surveillance and targeting of Criminal Motorcycle Gangs as well individual gang members via a combination of successful apprehensions and the confiscation of criminal assets.
- These efforts resulted in the demise of certain gangs. The reduction in member numbers severely disrupted remaining gangs' illegal functions and possible offending within the ACT.

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QUESTION TIME BRIEF

JACS2021/46-001-035

Portfolio/s: Attorney-General

Coward punch laws

Talking points:

- The ACT does not have 'one-punch' or 'coward punch' legislation.
- Random acts of violence such as 'coward punches' are serious acts of violence and are dealt with as such by the ACT's current criminal law.
- The *Crimes Act 1900* has various offences with which a person could be charged if they strike with a 'coward punch'. The exact offence, and the sentence attached to that offence, will depend on the individual circumstances of the crime and offender.
- In 2011 the ACT increased the maximum penalties for various offences. One of these was the maximum penalty for intentionally inflicting grievous bodily harm, which was increased from 15 to 20 years imprisonment.
- The ACT takes a systemic approach to community-based violence, considering causes, harms and prevention, and then taking steps to address these elements.
- Many 'coward punch' offences are alcohol-related. The ACT government introduced and implemented the *Liquor Act 2010*, an object of which is to regulate the sale, supply, promotion and consumption of liquor in a way that minimises the harm associated with the consumption of liquor – including violent or anti-social behaviour.
- The reforms in the *Liquor Act 2010* have had a significant impact on alcohol-related violence and anti-social behaviour, with ACT Policing reporting a consistent decrease in alcohol-related arrests since 2011.

Key Information

- In 2017, the Director of Public Prosecutions (DPP) proposed amendments to section 20 of the *Crimes Act 1900* to ensure that the offence of 'recklessly inflicting grievous bodily harm' captured situations where the person who inflicts the harm is reckless as to the severity of the harm caused (eg grievous vs actual). The DPP was concerned that, as currently constructed, the section 20 offence is unnecessarily difficult to prove.
- The proposed amendments did not progress due to the overwhelming concerns of the ACT Human Rights Commission and various legal stakeholders.

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- The DPP continues to advocate for an amendment of this kind.

Background Information

- There has been renewed interest in 'coward punch' sentencing and legislation since the sentencing of Zane Daniel in June 2021 for an alcohol-related one-punch attack at the Civic Pub in August 2019. You have received some ministerial correspondence relating to the perceived inadequacy of the sentence.
- The victim's injuries included a severe traumatic brain injury and post-traumatic amnesia that lasted for 38-days after the attack. The victim is also affected by moderate hearing loss, mild cognitive impairment and mental and physical fatigue.
- Mr Daniel was sentenced to an Intensive Corrections Order and 500 hours of community service.

QUESTION TIME BRIEF

JACS2021/46-001-024

Portfolio: Attorney-General

ISSUE: ASSAULTS ON POLICE AND FRONTLINE COMMUNITY SERVICE PROVIDERS (including application of bail laws)

Talking points:

- Police and frontline community service providers are regularly exposed to a risk of assault and injury as an unfortunate reality of their jobs.
- Assaults on police and emergency services personnel warrant a strong response from Government.
- The *Crimes (Protection of Frontline Community Service Providers) Amendment Act 2020* commenced on 10 June 2020. The Act created a new offence specifically for assaults against frontline workers including:
    - Police officers;
    - Protective service officers and special protective service officers;
    - Corrections workers;
    - Paramedics;
    - Firefighters and volunteer firefighters; and
    - Emergency services employees and volunteers.
- This new standalone offence sends a clear message that violence against workers providing critical frontline services will not be tolerated.
- Previously, offenders have been charged with common assault when an assault has been committed against a frontline worker. The new standalone offence improves accountability by ensuring that the true nature and seriousness of the crime is described on a criminal record.
- The Amendment Act also created new offences for driving at police and ramming police vehicles to send a clear signal that those who engage in this dangerous behaviour will be held to account.
- Emergency first responders are required to step forward to face risks that others are expected to step away from, and it is appropriate for the law to specifically reflect this and support them.
- The Government is also committed to ensuring a safe and healthy work environment through policies, procedures, and strategies to mitigate the

risk of assault and injury. This includes training all of our emergency services personnel, to assist in identifying and managing potentially high risk situations.

Incident involving police – 11 July 2021

The incident

- About 2:50pm on Sunday 11 July 2021, three police officers stopped a vehicle at the Forest Drive and Lady Denman Drive intersection.
- Shortly after, it is alleged that a driver of a Ford Laser sedan approached from the road, passed the stopped vehicle, veered left and hit the three officers. All officers sustained injuries and were treated in hospital.
- Two of the officers restrained the driver of the Ford Laser at the scene.
- At the time of the incident, the driver was on bail arising from earlier charges.
- The driver of the Ford Laser has now faced new charges, including three counts of attempted murder, and has been remanded in custody. As this matter is now before the court, it is not appropriate for me to provide comment.
- This incident highlights the risk that police officers face each and every day when working to keep our community safe. I commend their bravery and wish them the very best in their recovery.

Bail laws

- The ACT's bail laws are set out in the *Bail Act 1992* and are designed to balance the sometimes competing objectives of acknowledging that individuals charged with offences have not been convicted of those crimes and are presumed innocent, ensuring accused people attend court, keeping the accused person and community safe, and ensuring evidence and witnesses are protected.
- The ACT's bail laws provide a framework for Courts to resolve the potential tensions between these objectives on an individualised basis. Whether a Court grants bail in a particular matter will depend in many cases on whether the court considers these tensions can be adequately addressed through the imposition of bail conditions.
- The Government is reflecting on the recent incident but is not currently considering amendments to the Territory's Bail laws.

QUESTION TIME BRIEF

Hanson PMB – *Bail Amendment Bill 2021*

- The ACT Government is considering its position in relation to the Bail Amendment Bill 2021.

Key Information

Background information

Prior to the passage of the *Crimes (Protection of Frontline Community Service Providers) Amendment Bill 2020*, there were no specific ACT offences for assaulting police or emergency service workers while executing their duties.

All other jurisdictions in Australia have introduced specific offence provisions for assaulting police.

Between 30 June 2011 and 16 March 2020, ACT Policing recorded 374 instances of assaults upon police.

Bail Amendment Bill 2021

On 5 August 2021, Mr Hanson MLA introduced a private members bill that amends the *Bail Act 1992* to include the offence of assault of a frontline community service provider as one of the offences where there is no presumption in relation to bail – either for or against.

Currently the offence of assault on a frontline community service provider has a presumption for bail. The disapplication of this presumption would limit a number of rights under the *Human Rights Act 2004*, including the right to liberty and the right to equality.

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TRIM Ref:	JACS2021/46-001-024	

QUESTION TIME BRIEF

JACS2021/47-001-023

Portfolios: Attorney-General

Police & Emergency Services

ISSUE: PROPERTY CRIME (Strategy, Outsmart the Offender Campaign and rates)

Talking points:

- The final progress report on the *Property Crime Prevention Strategy 2016-2020* was tabled in the Legislative Assembly on 3 December 2020.
- The *Property Crime Prevention Strategy 2016-20* saw good results, with overall property crime rates reducing over the life of the strategy.
- The report shows that the ACT continues to be one of the safest places to live in Australia.
- The number of property offences in the ACT decreased over the past financial year. In 2020-21 there were 16,788 recorded property offences, which is 1,257 less than in 2019-20.
- However, to keep property crime rates down we must not become complacent, there is still work to be done.
- While consideration regarding a new stratergy is underway, a number of important activities are continuing to ensure a whole of government focus on property crime is maintained. For example:
    - The *Outsmart the Offender* campaign will continue to raise awareness about how the community can take steps to reduce the likelihood of becoming a victim of crime – including campaigns focusing on protecting your home, vehicle, bike and other property.
    - The *SafeHome* program will continue to improve home security for households in the ACT that are vulnerable to property crime.
    - The *Strong Connected Neighbourhoods* program will continue to run along Ainslie Ave and expand into Illawarra Court to prevent or reduce opportunities for crime, and promote community safety and security, to develop pro-social and law abiding community engagement.

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Cleared for public release by:	Executive Branch Manager	Ext: 51451
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Lead Directorate:	Justice and Community Safety	
ACT Policing cleared by:	Sch 2, s2.2(a)(ii)	
TRIM Ref:	JACS2021/47-001-023	

QUESTION TIME BRIEF

ACT Policing focus on property crime

- ACT Policing continues to develop and implement strategies to target recidivist property crime offenders, including the establishment of the Proactive Intervention and Disruption Team in October 2020.
- This team will continue the focus on reducing recidivism and calls for service, and will be aligned to the Reducing Recidivism by 25 per cent by 2025 Plan (RR25BY25) and use a whole-of-Government approach.
- ACT Policing's Community Intelligence Team analyses a variety of information sources (incidents, information reports, human source management team etc.) to identify patterns, convergences and prioritisation to maximise crime reduction opportunities and increase community safety.
- ACT Policing has also continued to target persons involved in recidivist criminal activity through intelligence-led policing. This has enabled core groups to be identified as being directly involved in the theft of motor vehicles and has provided police with opportunities to detect, disrupt and prosecute persons involved in the commission of such offences.

Outsmart the Offender campaign

- The *Outsmart the Offender* campaign is a joint ACT Government and ACT Policing initiative, in partnership with Neighbourhood Watch and Crimestoppers, aimed at raising awareness about what individuals can do to reduce the likelihood of becoming a victim to property crime.
- The campaign has been developed with longevity in mind, and will continue to be rolled out in 2021, with the final installation targeting tradie tool theft to be launched in the coming months, once it is appropriate to do so, noting the current priority is on public health messaging.
- The key messages of the campaign are based on what ACT Policing have told us about the tactics offenders are using to steal cars and our valuables, and break into our homes and businesses.
- Ideally people wouldn't need to worry about becoming a victim of property crime, and our police officers do a great job at keeping Canberra safe, tracking down and arresting offenders.

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ACT Policing cleared by:	Sch 2, s2.2(a)(ii)	
TRIM Ref:	JACS2021/47-001-023	

QUESTION TIME BRIEF

- However, we all have a role to play and can take steps to safeguard our homes, businesses, cars and personal property.
- The campaign targets important areas of prevention, including:
    - *Lock and hide to protect your ride* – targeting motor vehicle theft and theft from vehicles
    - *Keep out a break-in* – targeting home burglary
    - *Lock up, cover up* – targeting theft from apartments
    - *Lock it or lose it* – targeting bicycle theft
    - *Keep burglars out of your business* – targeting theft from small businesses.
- Since the launch of the campaign in late 2019, ACT Policing have seen some great results in social media engagement on the *Outsmart the Offender* campaign topics, which have been traditionally difficult to engage people on:
    - *Vehicle security messaging* - has reached over 105,000 on Facebook with total engagement sitting around 3,500
    - *Home security messaging* – has reached over 211,000 people on Facebook and over 37,600 on Twitter, with engagement across the two platforms sitting around 11,500
        - Note that this is because home security messaging has been promoted on social media twice during the campaign period
    - *Business security messaging* - has reached over 71,000 people on Facebook with total engagement sitting around 1,800.
    - *Bike security messaging* – has reached over 83,000 on Facebook and over 18,000 on Twitter, with total engagement sitting around 2,700.
    - *Apartment security messaging* – has reached over 100,000 on Facebook and over 18,000 on Twitter, with total engagement sitting around 5,000.

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ACT Policing cleared by:	Sch 2, s2.2(a)(ii)	
TRIM Ref:	JACS2021/47-001-023	

- *Bike security messaging* – has reached over 83,000 on Facebook and over 18,000 on Twitter, with total engagement sitting around 2,700
- Engagement across the other areas for key messages is also high, sitting at a reach between 70,000 and 100,000 people on each campaign topic.

Catalytic converters

- ACT Policing has identified catalytic converter thefts as a crime type that increased significantly in the ACT in the first half of 2021. Catalytic converters contain precious metals like platinum, palladium and rhodium, and the prices of these metals have gone up considerably in recent years.
- Catalytic converter thefts have been treated as a priority target by ACT Policing. In addition to increased operational targeting activities, police are also prioritising increasing community awareness. For example, on 24 May 2021 the Officer-in-Charge of Tuggeranong Police Station addressed the ACT community on the theft of catalytic converters via radio interviews. ACT Policing continue to strongly encourage the ACT community to report suspicious behaviours involving anyone who is seen underneath a vehicle to police on 131 444.

QUESTION TIME BRIEF

Background Information

Property Crime Rates

Offence Type	2019-20 FY	2020-21 FY	Percentage Change
Total Robbery	233	149	-36.1%
Armed Robbery	*108*	*55*	*-49.1%*
Unarmed Robbery	*125*	*94*	*-24.8%*
Total Burglary	2337	1967	-15.8%
Burglary dwellings	*1392*	*1148*	*-17.5%*
Burglary shops	*376*	*279*	*-25.8%*
Burglary other	*569*	*540*	*-5.1%*
Motor Vehicle Theft	1296	1372	5.9%
Theft (excl motor vehicle theft)	8250	7666	-7.1%
Property damage	4248	3931	-7.5%
Other offences against property*	1681	1703	1.3%
TOTAL	**18045**	**16788**	**-7.0%**

*Other offences against property include fraud, traffic, drug and weapon offences and other offences not classified elsewhere

Source: PROMIS as of 2 July 2021

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ACT Policing cleared by:	Sch 2, s2.2(a)(ii)	
TRIM Ref:	JACS2021/47-001-023	

QUESTION TIME BRIEF

Further Background Information

In the final progress report for the Property Crime Prevention Strategy 2016-20, four of the five targets were achieved:

- The ACT was below the national rate of 683 victims of unlawful entry with intent per 100,000 population, with an ACT rate of 613 in 2019.
- The year on year increase in the 'other' theft rate has been stopped. The ACT recorded 139 per 100,000 population in 2019-20, 82 less than in 2015-16.
- There were small increases in property damage in 2016-17 and 2018-19, however in 2019-20 the rate of property damage was 94 per 100,000 population, 31 less than 2015-16.
- The bicycle theft rate has remained steady at 17 thefts per 100,000 population.
- The main challenge for the ACT in relation to property crime continues to be motor vehicle theft. The target to date has not been achieved, with the ACT remaining above the national rate and seeing a 2.3% increase from 2018-19 to 2019-20.

Updated data from the most recent Australian Bureau of Statistics – Recorded Crime Victims 2020:

- The ACT was below the national rate of 521 vicitms of unlawful entry with intent per 100,000 population, with an ACT rate of 458 in 2020.
- Victimisation for motor vehicle theft remains higher in the ACT compared to the national rate. The ACT had a rate of 260 per 100,000 population compared to the national rate of 187.

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TRIM Ref:	JACS2021/47-001-023	

QUESTION TIME BRIEF

JACS2021/46-001-027

Portfolio/s: Attorney-General

ISSUE: STRONG CONNECTED NEIGHBOURHOODS

Talking points:

- The *Strong Connected Neighbourhood* program is one of the ACT Government's targeted place-based Justice Reinvestment initiatives. It commenced in 2008, as a service facilitation initiative, and continues to support the local community today.
- In the 2018-19 Budget Review, the ACT Government committed over $500,000 annually to sustain and expand the program which currently operates on Ainslie Avenue, to also provide support services to Illawarra Court in Belconnen on an ongoing basis.
- This multi-agency initiative includes the Justice and Community Safety Directorate, Housing ACT, ACT Health, ACT Policing.
- The program targets support to high and complex needs residents including:
  - socially disengaged or isolated people
  - Aboriginal and Torres Strait Islander peoples
  - women (including mothers), children and youth, and
  - residents who have had contact with or are at risk of becoming involved in the criminal justice system.
- The program has the objectives of:
  a. preventing or reducing opportunities for crime
  b. promoting community safety
  c. developing pro-social and law-abiding community engagement, and
  d. facilitating access to services that are related to justice, health, mental health, education and employment.
- The 2018 evaluation of the program by the Australian Institute of Criminology (AIC),[1] reported that it met its objectives by:
  - reducing violent crime by 50 per cent

[1] https://aic.gov.au/publications/rr/rr6

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TRIM Ref:	JACS2021/46-001-027	

- reducing property crime by 60 per cent
- reducing disturbance incidents by 49 per cent
- increasing levels of social cohesion among residents at public housing sites across Ainslie Avenue, and
- providing a realised saving to government (of police time alone) through reduced crimes of at least $0.42 to $0.51 for every $1 invested.

- Reclink Australia is currently funded to deliver the program through a range of structured and informal programs, to promote and deliver health, social and economic benefits to the residents of these public housing sites. This can include activities, where it is COVID-safe to undertake them, such as building and maintaining community gardens, neighbourhood chats and a monthly Run, Roll or Walk event at Lake Burley Griffin.
- The value of the program has also been recognised nationally (in 2013), with a National Crime and Violence Prevention Safety Award through the Australian Institute of Criminology.

Impact of COVID-19 (Ainslie Ave)

- The *Strong Connected Neighbourhoods* program has been modified to respond to the current COVID 19 restrictions.
- Currently, the program is only operating out of Kangara Court with a focus on essential support for vulnerable residents in the Ainslie Ave precinct.
- JACS will continue to work with the provider of the program (Reclink) to monitor the evolving COVID crisis and continue to adapat as required.

Illawarra Court (Belconnen)

- Reclink has commenced engagement with tenants residing at Illawarra Court, on the expansion of the program to Illawarra Court in Belconnen on an ongoing basis.
- Work is underway, with Housing ACT to set up a community room and shipping container workshop, to be a hub for programs and support services.

QUESTION TIME BRIEF

Background Information

- A new CEO was appointed to Reclink at the end of 2020 and JACS is engaging in discussions with the Reclink to improve reporting, program delivery and to address the delays to commencing program formal delivery at Illawarra Court, including the installation of the shipping container at that site.
- In 2018-19 Budget funding was provided to expand the program to Illawarra Court, Belconnen considering the recommendations provided by Australian Institute of Criminology (AIC) in its recent evaluation.
- The 2018-19 midyear Budget provided the program recurrent funding and changed the name of the program to '*Strong Connected Neighbourhoods*' to reflect the key outcomes sought and achieved by the program.
- There has been positive media coverage on ABC radio and in *The Canberra Times* about the program and its successes over the last 10 years. Three examples in mid-2019 and mid-2020 are:

  https://www.abc.net.au/news/2020-08-23/inside-canberras-kanangra-court-and-the-impact-of-reclink/12580084

  https://www.canberratimes.com.au/story/6118437/program-is-a-proactive-way-to-cut-crime-in-canberra/

  https://www.canberratimes.com.au/story/6111795/canberras-new-community-guardian-is-already-saving-lives/digital-subscription/

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QUESTION TIME BRIEF

JACS2021/46-001-025

Portfolio: Attorney-General

ISSUE: 2019-2028 ACT ABORIGINAL AND TORRES STRAIT ISLANDER AGREEMENT/JUSTICE ACTION PLAN

Talking points:

- The *ACT Aboriginal and Torres Strait Islander Agreement 2019-2028 (Agreement)* provides a commitment by the ACT Government to recognise self-determination as a key platform to progress initiatives that are important to Aboriginal and Torres Strait Islander people.
- The *Agreement* enables Aboriginal and Torres Strait Islander people to contribute solutions to challenging and complex issues in our local community.
- The *Agreement* is a 10-year plan that provides a policy framework for issues affecting Aboriginal and Torres Strait Islander people in the ACT to ensure all stakeholders work together to deliver equitable outcomes for Aboriginal and Torres Strait Islander peoples in the ACT.
- The *Agreement* aligns with the ACT's commitments under the *National Agreement on Closing the Gap*.

Implementation of the Agreement

- In 2020, parties to the *Agreement* agreed to change implementation timelines in response to the impact of the COVID-19 pandemic.
- Implementation of the *Agreement* occurs over four phases which are aligned with the timing of the Aboriginal and Torres Strait Islander Elected Body (ATSIEB) elections.
- In 2020, the term of the current ATSIEB was extended by one year (to July 2021) due to the challenges of holding an election during the COVID-19 pandemic.
- Adjustments were made to the timing of *Agreement* phases to reflect new dates for ATSIEB elections. The Minister for Aboriginal and Torres Strait Islander Affairs and ATSIEB agreed the following new dates:
    - Phase One: February 2019- December 2021
    - Phase Two: January 2022- December 2024
    - Phase Three: January 2025- December 2027
    - Phase Four: January 2028- December 2028.

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TRIM Ref:	JACS2021/46-001-025	

QUESTION TIME BRIEF

Justice Action Plan

- Under the terms of the *Agreement*, Directorates, including the Justice and Community Safety Directorate, developed Action Plans with reportable actions aligned with the specific focus areas.
- Key targets under the Justice Action Plan are to:
  - reduce the overrepresentation of Aboriginal and Torres Strait Islander people in the ACT criminal justice system;
  - increase the number of staff undertaking cultural competency training;
  - increase procurement from Aboriginal and Torres Strait Islander community organisations.
- Progress against the *Justice Action Plan* was addressed in the October 2020 release of the Elected Body Hearings Report.
- Implementation of Phase One of the *Justice Action Plan* is well underway.
- The Aboriginal and Torres Strait Islander Justice Caucus (Justice Caucus) provides advice to the ACT Government to inform justice related policy. The Justice Caucus enables the Aboriginal and Torres Strait Islander community to closely monitor progress under the *Agreement*, set community priorities for action and drive positive outcomes.
- Noting that COVID–19 restrictions have resulted in some impediments for the Justice and Community Safety Directorate in implementing measures under the *Justice Action Plan*, the Directorate, like all other Directorates, has reviewed the Report from the Elected Body and recent impediments and is pushing for accelerated progress on cross-Directorate initiatives and renewed action through the *Justice Action Plan*.
- Work has been undertaken for the audit and acquittal process which has informed the development of the Phase One (extension) Plan and accelerated progress efforts against the *Agreement* for the remainder of 2021.
- Work is currently underway to consult on, and draft Phase Two of the *Justice Action Plan 2022-2024*.
- The justice targets from the 2020 *National Agreement on Closing the Gap* have informed the development of the draft Outcomes Framework

for the *Agreement* and informed the implementation plan.

Key Information

- Phase One of the *Justice Action Plan* was developed in 2018 by a Steering Committee with Aboriginal and Torres Strait Islander representatives from across the Directorate and portfolio, including:
    - JACS - ACT Corrective Services (ACTCS)
    - JACS - ACT Courts and Tribunals (ACTCT)
    - ACT Policing (ACTP)
    - CSD – Children and Young People Services (CYPS)
    - CSD – Victim Support ACT
- The Steering Committee focused on identifying specific, measurable, achievable and relevant targets aimed at improving service outcomes for the ACT Aboriginal and Torres Strait Islander community.
- The Justice Caucus which acts as a critical input to the *Justice Action Plan* last met on 26 July 2021, and will meet again in October 2021. The Caucus' views will inform the Justice Advisory Group, being re-established as the second level of governance and reporting to the Inter-Departmental Committee.
- The incoming Elected Body with the new Chair, Lynnice Church, and Justice Representative, Jo Chivers, represents a further opportunity to work with the ACT Aboriginal and Torres Strait Islander community on the actions and measures in the *Justice Action Plan*.
- Work being undertaken as part of the ACT Government's commitment to overrepresentation of Aboriginal and Torres Strait Islander people in the justice system will also contribute to the actions and measures in the *National Agreement on Closing the Gap* and the *Agreement's Justice Action Plan.*

QUESTION TIME BRIEF

JACS2021/46-001-016

Portfolio: Attorney-General

ISSUE: RESTORATIVE JUSTICE

Talking points:

- Since January 2005 the ACT Government's world class Restorative Justice scheme has given people most affected by a crime - the victim, their family and friends - the opportunity to meet with an offender to discuss the harm caused, and work together to determine what needs to be done to repair that harm.
- Restorative Justice is an expression of 'restorative practice' which promotes values of respect, fairness, inclusiveness and empowerment through participation.
- Restorative Justice is a voluntary and respectful process that provides those harmed with an opportunity to talk about how the offence has affected them and others close to them. It provides a forum for offenders to accept responsibility for their actions and to actively contribute to make amends.
- Expert evidence has shown that Restorative Justice participants are less likely to reoffend or to reoffend as often, compared with non-participants. Evidence also shows a positive reduction in the risk of recidivism for Restorative Justice participants and a reduction in the experience of trauma.
- Since Phase Three of the Restorative Justice Scheme commenced on 1 November 2018, victims of *any* offence (in ACT Legislation), including family violence and or sexual offences, have been able to access restorative justice.
- This 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 ACT Restorative Justice Scheme is a victim-centred response which prioritises the safety and interests of people who have been impacted by crime. Participants and processes are carefully assessed by convenors in order to facilitate a restorative process which addresses the unique needs of all eligible participants. Restorative justice conferencing can

only proceed if it is safe to do so and meets the needs of the victim of crime.

- In family violence and sexual offence referrals, professional supporters are able to assist participants to be emotionally and psychologically prepared for the restorative justice process.
- Local support agencies such as Everyman Australia, Victim Support ACT, Family Tree House, ACT Together and the Women's Health Centre help prepare victims and offenders to participate in restorative justice conferences in ways that are safe and satisfying for participants.
- Participants in restorative justice are asked, through a survey administered by an independent agency, to provide feedback on the experience and their satisfaction with the process.
- The satisfaction rate for 2020-21 is 99%. This includes satisfaction with family violence and sexual offence matters.

Impact of COVID-19

- COVID-19 disruptions have significantly impacted the delivery of the Restorative Justice Scheme.
- The Restorative Justice Unit in the Justice and Community Safety Directorate remains open, with up to six staff attending the office at any one time to ensure coverage for services. The remainder of the staff are working from home but attend the office as required.
- A Workplace Health and Safety Risk Assessment Plan is in place, and all staff adhere to COVID-19 safety requirements. Convenors utilise a combination of face-to-face and indirect methods of contact with clients to engage in assessment and preparation for conferencing. Face-to-face client contact occurs where a COVID-19 specific safety assessment has appropriately addressed any health risk factors.

QUESTION TIME BRIEF

Background information

- Between 2005 and 2016, the Restorative Justice Scheme involved only referrals for young people and less serious offences.
- However, in late February 2016, the scheme moved into a Phase two rollout and the Restorative Justice Unit began accepting referrals for adult offenders and serious offences for adults and young people.
- From 1 November 2018, Phase three commenced allowing any person who has been impacted by any category of offence, including where an offence has resulted in the death of a victim, to seek a referral to restorative justice at the appropriate point in the system. (Note: this does not include Commonwealth offences).
- The *Crimes (Restorative Justice) Sexual and Family Violence Offences Guideline 2018*, is a disallowable instrument which outlines the application of Restorative Justice for sexual and family violence offences for victims, offenders, the criminal justice system and the community.
- The dedicated Restorative Justice Unit, including two Aboriginal and Torres Strait Islander officers working as a convenor and a guidance partner, work to promote cultural safety and confidence in the Restorative Justice process within the local community.

Comparing referral statistics

- In 2020-21, the RJU received 173 referrals involving 258 victims, 194 offenders and 400 offences. This represents a 18% decrease in the number of referrals received when compared to 2019-20.
- The ongoing impact of COVID-19, including the drop in reported crimes in the ACT, and impacted functioning of some referrers has contributed to a reduction in restorative justice referral rates.

Referrals, victims, offenders and offences referred to RJU in 2019-20 and 2020-21

	2019-20	**2020-21**	**Difference**
Referrals	212	173	-18%
Victims	360	258	-28%
Offenders	234	194	-17%
Offences	494	400	-19%

Cleared as complete and accurate:	17/08/2021	
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TRIM Ref:	JACS2021/46-001-016	

QUESTION TIME BRIEF

- In 2019-20, 73 conferences were convened, 45 were face-to-face, and 28 facilitated indirectly. Conferences in 2019-20 included 74 victims and 81 offenders.
- In 2020-21, the RJU convened 47 conferences involving 56 victims and 49 offenders, a reduction of 36% compared with the year before. Of these, 29 were face-to-face and 18 were indirect.

Conferences and conferences types in 2019-20 and 2020-21

Conference Types	2019-20	2020-21	Difference
Face-to-face	45	29	-36%
Indirect	28	18	-36%
Total	73	47	-36%

- The rate at which referrals are subject to conferences has dropped at a higher rate than the drop in referrals. Matters may not proceed to conference for a number of reasons, including offenders and victims declining to participate and also due to an assessment by RJU convenors that the matter is not suitable to conference.
- Preliminary analysis reflects that the rate at which referrals are being conferenced has been most impacted by participants declining to participate and being unable to be contacted. With no obvious drop in satisfaction with RJU services, further analysis is warranted and will be conducted in the near future to help inform remediation activities.
- In 2020-21, 47 agreements were formed (one conference may involve more than one agreement) and of these, seven are currently being monitored, 11 were complied with, 28 related to the conference satisfying the victims' needs and one was not completed. Excluding those agreements still being monitored, 98% have complied with their agreements.

RJU compliance figures in 2019-20 and 2020-21

Agreement Status	2019-20	2020-21
Complied	42	14
Substantially Complied	2	0
Conference Satisfied Victims Needs	38	28
Not Complied	7	1
Monitoring	0	7
Total Agreements	89	50
Compliance Rate	91%	97%

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QUESTION TIME BRIEF

Referring entity activity

- In 2019-20 and 2020-21, ACT Policing, Magistrates Court and Childrens Courts remained the main source of referrals to the RJU. In 2020-21, ACT Policing made the highest number of referrals (87 young people's matters and 16 adults), followed by the ACT Magistrates Court (52) and Childrens Court (21).
- The RJU is engaged in dialogue with referrers in order to better understand the reasons for declines in referrals.

Offenders referred to RJU by referrer in 2019-20 and 2020-21

Referrer	2019-20	2020-21	Difference
ACT Policing	132	103	-22%
ACT Magistrate Court	55	52	-5%
Childrens Court	17	21	+24%
Supreme Court	10	6	-40%
Galambany Court	11	5	-55%
ACT Corrective Services	5	4	-20%
Drug and Alcohol Sentencing List	2	3	+50%
Children and Youth Protection Services	2	0	-100%
Total offenders	234	194	-17%

Aboriginal and Torres Strait Islander impacts

- Factors impacting on overall referrals in 2020-21 appear to have disproportionately impacted on referrals involving Aboriginal and Torres Strait Islander peoples.
- In 2020-21, ACT Policing referred 14 young people and two adult Aboriginal and/or Torres Strait Islander people to the RJU. A further five were referred by the Galambany Court and one by the ACT Magistrates Court.

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Referrals involving Aboriginal and Torres Strait Islander people in 2019-20 and 2020-21

Referrer	2019-20	2020-21	Difference
ACT Policing	22	16	-27%
ACT Magistrate Court	13	4	-69%
Galambany Court	11	5	-55%
Supreme Court	2	2	0%
ACT Corrective Services	1	0	-100%
Total offenders	49	27	-45%

- In 2019-20, the Restorative Justice Unit convened nine conferences involving four young offenders and five adults. However, in 2020-21, RJU convened eight conferences involving six young people and four adults (these conferences included matters that were referred in 2019-20). There was a slight decrease in conferences when compared to 2019-20 but the rate of participation increased by 12 percent potentially reflecting enhanced service provision practices by the RJU.

Conferences and conferences types involving Aboriginal and Torres Strait Islander people in 2019-20 and 2020-21

Conference Types	2019-20	2020-21
Face-to-face	7	3
Indirect	2	5
Total	9	8

- In response to these reductions, RJU is in the process of reviewing all procedures and practices in relation to referrals involving Aboriginal and Torres Strait Islander participants to consider ways to increase participation.

Reporting of family violence and sexual offence statistics

Family Violence referrals

- A total of 31 offenders involving 55 offences and 36 known family members (victims) were referred to RJU in 2020-21. Of the 31 offenders, 14 people are still under assessment and 17 did not want to participate in RJ process.
- In 2019-20, the RJU received referrals for 39 offenders involving 81 family violence offences and 59 victims. Of the 39 offenders, nine participated in conferences and 30 did not.
- Three conferences have been convened this financial year all of which were referred in the previous financial year.

- Three formal agreements have been made. Excluding one agreement still being monitored, one adult offender completed the agreement within the required time frame and one young offender did not comply with the agreement.
- Since Phase Three of the Restorative Justice Scheme began on 1 November 2018, three young offenders have either completed their Restorative Justice agreement and for five offenders, their participation in the conference itself satisfied the needs of the victim. For adults, five complied with their Restorative Justice agreements, one conference itself satisfied the victim's needs and one did not comply. The overall agreement compliance rate for family violence matters since 2018 is 87%.

Referrals for sexual offences

- In 2020-21, the RJU received two sexual offence referrals involving two offenders and two victims. These referrals involved three sexual offences, one less serious and two more serious.
- One adult offender who was referred in 2019-20 participated in a face-to-face conference in 2020-21. One agreement was reached during the conference and is still being monitored for compliance.
- Since Phase Three began on 1 November 2018, the RJU has convened three face-to-face conferences. Excluding one agreement still being monitored, one conference itself satisfied the needs of the victim and one agreement has been fully complied with. The overall agreement compliance rate is 100%.

QUESTION TIME BRIEF

JACS2021/46-001-013

Portfolio: Attorney-General

ISSUE: REDUCING RECIDIVISM THROUGH BUILDING COMMUNITIES NOT PRISONS

Talking points:

- Since 2018, the ACT Government has committed to Building Communities Not Prisons (BCNP), by engaging in a broad Justice Reinvestment approach.
- Key pillars of the ACT Government's BCNP initiative include:
    1. reducing the over-representation of Aboriginal and Torres Strait Islander people in custody;
    2. responding to justice housing needs;
    3. supporting people who are in contact with the justice system with substance use disorders;
    4. supporting people living with a mental illness or disability who are in contact with the justice system;
    5. supporting detainee reintegration;
    6. developing community capacity; and
    7. responding to the needs of women in the justice system.
- These pillars are critical to meeting the ACT Government's 2020 target to reduce recidivism rates in the ACT by 25% by 2025 (RR25BY25). By addressing factors such as inadequate housing, drug and alcohol dependence, poor mental health and social isolation, these pillars focus on the underlying causes of repeat offending. The ACT Government is pursuing a range of targeted initiatives, interventions and programs under each pillar.
- Addressing these underlying causal issues will also be critical in achieving parity in the incarceration rates between Aboriginal and Torres Strait Islander and non-Indigenous Canberrans by 2030.
- To achieve these ambitious goals, the ACT Government must collaborate closely across justice and human service systems and with the local community, particularly Aboriginal and Torres Strait Islander community members.

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TRIM Ref:	JACS2021/46-001-013	

QUESTION TIME BRIEF

Justice Reinvestment

- Justice Reinvestment 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. It can help keep families together and build a safer, more secure ACT community.
- The ACT Government provided an initial $14.6 million in funding for new and expanded community programs as part of the 2018-19 ACT Budget Review. This funding included:
    1. a family-centric model of support for Aboriginal and Torres Strait Islander families in contact with the justice system;
    2. a bail accommodation transition support service;
    3. sustaining and expanding an 'on-the-ground' service support model to public housing residents;
    4. support for victims of crime.
- A further $70.9 million was allocated in the 2019-20 ACT Budget to bring together strengths-based supports and inclusive pathways that lead to better life outcomes for people in and out of prison. This includes:
    1. providing more supported housing for better justice outcomes, particularly for women and Aboriginal and Torres Strait Islander detainees;
    2. expanding the ACT Bail Support Programs to support accused people to comply with bail to keep them and the community safe;
    3. improving rehabilitation options for detainees at the Alexander Maconochie Centre, including through a purpose built Reintegration Centre that will support detainees transitioning back to the community; and
    4. boosting staff capacity at the Alexander Maconochie Centre to strengthen our focus on rehabilitation.

Reducing Recidivism

- The RR25by25 Plan (the Plan) expands on the ACT's commitment to Build Communities Not Prisons (BCNP), and includes many of the Justice Reinvestment initiatives.

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QUESTION TIME BRIEF

- A key component of the RR25by25 Plan is a Reducing Recidivism Research Collaboration with the Australian National University (ANU) to examine and evaluate the impact of initiatives and how the ACT is tracking against targets related to RR25BY25. The Research Collaboration with the ANU was signed in August 2020.
- The Research Collaboration is overseen by an Advisory Committee with representatives from the ACT Government and the ANU Centre for Social Research and Methods (CSRM). The Advisory Committee informs and directs the Research Collaboration and makes recommendations to the Director-General of the Justice and Community Safety Directorate on research and evaluation-based initiatives.
- The RR25BY25 Plan is also driven forward by the Reducing Recidivism Advisory Group, which consists of a cross-section of stakeholders from government, academia and the community.
- An Executive Coordination Group and Human Services Cluster Inter-Directorate Committee provides high-level oversight from key government senior executives.
- The ACT's Justice Reinvestment approach marks some of the most ambitious justice work underway in Australia.

Background Information

Building Communities Not Prisons (BCNP)

- The overall aim of BCNP is to deliver a range of initiatives that are designed to reduce reoffending, reduce the prison population as appropriate, improve the lives of offenders and their families, and improve community safety.
- 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 peoples.
- Initiatives are intersecting and overlapping with initiatives that address key opportunities in the human services system to reduce recidivism and incarceration, and align with the ACT Government's strategic priorities.
- BCNP aims to:
    1. reduce trauma and costs for victims and their families associated with crime and related costs for government and the broader community
    2. reduce overcrowding at the Alexander Maconochie Centre (AMC)

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3. use restorative, cultural and evidence informed approaches that transform people's contact with the justice system, particularly prison
4. 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*
5. reinvest funds from the criminal justice system that might be otherwise used for detaining people in a correctional centre, into homes and community supports, making the ACT a safer and more inclusive city.

The ACT's recidivism rate

- Recidivism is also a critical measure of the BCNP in initiative. While measuring the rate at which adult offenders return to custody is an important indicator, which is reported on annually by the Australian Government Productivity Commission, there are several other indicators that are important for measuring the success of the ACT's recidivism reduction priority.
- According to the Report on Government Services 2021 released on 20 January 2021, the percentage of adults released from prison who returned to prison with a new sentence within two years had reduced from 42.4 percent in 2018-19 to 37.1 percent in 2019-20.
- However, this figure is not expected to have reduced so significantly due to existing initiatives in this short time period. Rather, there have been various government restrictions implemented across states and territories as a result of COVID-19 since March 2020. These restrictions over the last four months of 2019-20 may have had an impact on criminal activity and the justice system, as well as this figure and data in future years.
- In 2018-19, the percentage of adults released from detention who were re-sentenced and returned to prison within two years fell by 1.8% (42.4%) as compared to 2017-18 (44.2%).
- Of note, the recidivism rate for offenders in 2025 will not be measurable until 2026/27. Achieving the target measurement of a reduction in the recidivism rate by 2025 would mean a reduction of the recidivism rate from 42.4% to 31.7%; a reduction of 146 detainees returning to custody.
- The recidivism rate for those who have been released from prison and have returned to corrective services (prison or community corrections) was 71.3% in 2018-19 up 1.4% from 69.9% in 2017-18.
- The recidivism rate for ex-offenders returning to corrective services was 19.1% in 2018-19 – this is up 2.3% from 16.8% in 2017-18.
- However, these headline figures are a crude indicator for measuring success, as they do not show slowing in reductions in otherwise expected increases to 2025. Data also does not take into consideration a range of qualitative factors, for example, reductions in the seriousness or frequency of offending, meaning this data is not the only relevant indicator of success of the RR25by25 initiative.

QUESTION TIME BRIEF

Data

- Key ACT data driving the RR25by25 commitment includes the following, noting that given the comparatively small numbers of offenders in the ACT, even minor fluctuations in figures from year to year can significantly affect rates from year to year particularly for certain cohorts:
  - 60% increase in the ACT prisoners between December 2012— (268 detainees) and December 2019 (429 detainees).
  - 10% increase in adult prisoners in ACT prisons in 2018 (from 449 in 2017 to 493 in 2018).
  - In 2018, three-quarters of prisoners had previously been imprisoned (75% or 369 prisoners). This was the largest proportion of any state or territory (noting the national average was 57%).
  - 36.3% (177 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 (which was 33.5% nationally).
  - 1.9 % of the ACT population is Aboriginal and Torres Strait Islander but they make up 22 per cent of the ACT's prison population.
  - Aboriginal and Torres Strait Islander people are 14.6 times more likely to be incarcerated than non-Indigenous people in 2018 in the ACT (11.3 times nationally).
  - 91% of the ACT Aboriginal and Torres Strait Islander male detainees at the AMC have a previous history of incarceration in ACT (77.3% nationally).
  - 92% (454 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%.
  - 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.

QUESTION TIME BRIEF

JACS2021/46-001-036

Portfolio/s: Attorney-General

Recision of contracts in the Vivace development in Throsby

Talking points:

- The ACT Government is aware that a property developer has exercised its contractual rights to rescind off-the-plan property purchase contracts due to delays in development.
- The Government understands these contracts may have been rescinded lawfully in accordance with contractual terms. However, it is acknowledged that there are significant impacts on the affected purchasers.
- The ACT Government is exploring whether restrictions on the use of these clauses should be implemented in the ACT as a consumer protection measure.
    - NSW and Victoria currently limit the use of recision clauses due to delays in the development by requiring that the property developer first obtain either the consent of the purchaser or a Supreme Court order before they can rescind. The ACT will consider whether such an approach is appropritate in the ACT.
- The Government urges anyone considering entering into a contract to purchase a property off-the-plan to seek legal advice about that contract, including any potential risks associated with the contract.

Key Information

- A contract to purchase off-the-plan is an agreement to purchase a property which has not yet been built. As many things can go wrong during the building process, many developers bear significant risk when undertaking a development project.
- To mitigate some of this risk, recission clauses are often included in contracts affording one or both parties the option to cancel the contract, provided the terms of the clause are met. The general intention of recision clauses is to put the parties back in the same situation they would have been in had the contract not been entered into. If a developer wants to rescind the contract, this will generally mean they must refund the deposit to the purchaser and comply with any other terms set out in the contract.
- A sunset clause is a type of recsission clause which provides the developer with a period of time to complete the development (a sunset date) and creates a right to rescind or extend if the susnet date is passed.
- The ACT does not currently limit the use of, or exercise of, recission clauses. This means there is no legislative impediment to a developer exercising a right of recission under a sunset clause.

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QUESTION TIME BRIEF

- The ACT Government is aware of a number of individuals in recent months who have had their contracts rescinded using sunset clauses and have called for government intervention.
- The ACT Government is considering reform in this area which would amend the *Civil Law (Sale of Residential Property) Act* to include additional safeguards for consumers. Both New South Wales and Victoria have taken steps to limit the use of sunset clauses in residential developments. The ACT Government will consider the approach of these other jurisdictions, taking into account the views of consumers and stakeholders and any policy implications that may arise for the ACT to determine whether legislative intervention is warranted.
- NSW and Victoria prevent developers from rescinding a contract under a sunset clause without first obtaining either the consent of the purchaser or a Supreme Court order permitting them to do so.

Background Information

- In recent months, 3 Property Group has been the subject of a number of media reports because they rescinded several off-the-plan contracts to purchase townhouses in the Thorsby Vivace development. A constituent letter has also indicated 3 Property Group may have exercised sunset clauses in another development in Wright as recently as August 2021.
- From the media reports, and several letters received by your office, it is understood these contracts were rescinded under a sunset clause.
- It is understood that the reasons the developer cited when exercising the sunset clause were delays due to the 2019 bushfires and ongoing delays due to COVID-19.
- While the developer's financial position in relation to the development is not known, many buyers have expressed scepticism on the reasons for recission. Constituents have indicated the properties were offered for sale after recission at amounts exceeding $200,000 more than the original purchase contract.
- Prior to this, there is limited evidence to suggest the practice of recsision using sunset clauses was widespread in the ACT. The ACT Government is aware of one case which was the subject of an ACT Civil and Administrative Tribunal decision in 2016, *Tummala v Tiger Property Group Pty Ltd (Civil Dispute) [2016] ACAT 118.*
- The Vivace recissions have resulted in a call for the ACT Government to consider reforming legislation to limit the right to recission under sunset clasues in off-the-plan contracts in a similar way to NSW and Victoria.

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QUESTION TIME BRIEF

JACS2021/46-001-006

Portfolio/s: Attorney-General

ISSUE: CRIMES (OFFENCES AGAINST VULNERABLE PEOPLE) LEGISLATION AMENDMENT ACT 2020

Talking points:

- The *Crimes (Offences Against Vulnerable People) Legislation Amendment Act 2020* commenced on 20 April 2021, having passed the Legislative Assembly in August 2020.
- The delayed commencement of the Act has allowed for the development of education and training materials to ensure that people affected by the new laws are aware of them.
- The Act:
    - amended the *Crimes (Sentencing) Act 2005* to introduce new factors for the Court to consider when sentencing if the victim of a crime was a vulnerable person; and
    - introduced three new offences to the *Crimes Act 1900*, being:
        - abuse of a vulnerable person;
        - failure to protect a vulnerable person from a criminal offence; and
        - neglect of a vulnerable person.
- A vulnerable person has been defined to mean:
    - an adult of any age with a disability as defined under the *Disability Services Act 1991*; or
    - someone 60 years old or older to whom one of the following additional elements of vulnerability applies:
        - a disorder, illness or disease that affects the person's thought processes, perception of reality, emotions or judgement or otherwise results in disturbed behaviour;
        - an intellectual, psychiatric, sensory or physical impairment and that impairment results in a substantially reduced capacity of the person for communication, learning or mobility; or

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- the person is, for any other reason, socially isolated or unable to participate in the life of the person's community.

- The purpose of the Act is to provide additional protections for vulnerable adults in the ACT and ensure that those who abuse vulnerable people are subject to appropriate criminal sanctions.
- The Justice and Community Safety Directorate has worked closely with two stakeholder groups to support the implementation of the Act.
- In consultation with members of both groups, a range of information material has been developed, including material in Easy English and languages other than English.
    - A 6-page Fact Sheet and four nuanced 1-page Fact Sheets for institutions and employees, families and carers, people with disability, and people over 60 years old to whom an element of vulnerability applies, have been developed.
    - An Easy English translation of the 6-page Fact Sheet has been developed. Easy English translations of the three 1-page Fact Sheets for families and carers, people with disability, and people over 60 years old to whom an element of vulnerability applies, are in progress, and will be made available when finalised.
    - Foreign languages translations (Arabic, Chinese, Farsi, Hindi, Italian, Spanish and Vietnamese) of the 6-page Fact Sheet have been developed.
    - A poster has been developed for institutions to display in their workplaces.
    - A Vulnerable People website has been constructed as a reference point to house all the resources developed. The website address is https://justice.act.gov.au/vulnerablepeople.
    - A promotional video is being developed to raise awareness of the new laws. This will be made available when finalised.

How do the offences interact with existing laws?

- The Act complements existing legislative and non-legislative protections for vulnerable people.

- The new offences do not prevent the use of any other existing criminal offences if those offences better capture the scope of the offending.
- The penalties have regard to the seriousness of the new offences, relative to existing offences and the continuum of penalties for ACT offences.

Background Information

- In 2019, the ACT Government invited public submissions on the potential for legislative reform to address elder abuse in response to the 'A Proposed Response to Elder Abuse in the ACT' discussion paper. Community feedback highlighted the need for a range of protections (including legislative protections) not only for older people, but also adults who have vulnerabilities arising from non-age related factors, such as disability.
- The Crimes (Offences Against Vulnerable People) Legislation Amendment Bill 2020 (the Bill) was introduced to the Legislative Assembly on 7 May 2020.
- As a result of stakeholder feedback, the Bill was amended to:
    - include an eight-month delay in the commencement of the new provisions; and
    - bring forward the requirement for a statutory review mechanism to 12 months post-commencement.
- On 13 August 2020, the Bill was debated and passed (as amended) by the Assembly.
- The *Crimes (Offences Against Vulnerable People) Legislation Amendment Act 2020* was notified as an amending Act on 20 August 2020. It commenced on 20 April 2021.
- JACS established an Implementation Working Group and a Reference Group to support implementation of the Act, including the identification of any unanticipated issues or unforeseen consequences. The Implementation Working Group comprises representatives of: relevant government agencies; ministerial advisory bodies; and the Reference Group. The Reference Group is comprised of representatives of community stakeholder organisations and individuals with an interest in contributing to the implementation arrangements for the new legislation.
- At least one further meeting of the Implementation Working Group will be convened to discuss a framework and approach to the 12-month statutory review, due to commence after 20 April 2022. Draft Terms of Reference are being prepared as part of a brief package to you and will be the subject of discussion at the next Implementation Working Group meeting, pending your agreement to this approach.

QUESTION TIME BRIEF

JACS2021/46-001-010

Portfolio/s: Attorney-General

Economic Development

How the ACT Liquor Act compares to NSW changes

Talking points:

- The sale and supply of liquor in the ACT is regulated under the *Liquor Act 2010* (the ACT Liquor Act) and the *Liquor Regulation 2010*. Decision-making under the Act must have regard to the harm minimisation and community safety principles under section 10 of the Act.
- The ACT applies a risk-based liquor licensing fee framework that links annual fees to three risk factors to create a consistent, scalable and transparent fee framework that reflects the relative risk of alcohol-related harms associated with particular types of licensed premises, while supporting a vibrant ACT nightlife.
- In the ACT, annual liquor licence fees are based on:
    - the class/subclass of the licence (i.e. the type of venue that will be operating under the licence);
    - the maximum permitted occupancy loading for the venue (i.e., the density of a venue, or how many people can be in a venue); and
    - the venue's trading hours (license times, i.e., how late they serve liquor).
- The ACT framework does not account for a liquor licensee's compliance history when determining an annual licence fee.
- The ACT liquor licensing fee framework considers the expected costs associated with regulatory and police enforcement at licensed premises, and alcohol-related anti-social or violent behaviour.
- Some liquor licensees believe the licence fees are significantly higher in the ACT than in NSW. The fee frameworks of both jurisdictions are not directly comparable:
    - Both jurisdictions have risk-based licence fees, but NSW has a compliance-based fee component. Base fees for a liquor licence in NSW are generally lower than the equivalent licence fee in the ACT.

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  - However, if a NSW licensee has a compliance offence in the past year, an additional risk loading is added to their annual fee. This can make the overall licence fee higher in NSW than in the ACT.
  - Some higher-risk licence types, such as nightclubs with high occupancy loadings and late trading hours, pay higher licence fees in the ACT than in NSW even after accounting for the additional compliance risk loading.

- The *Liquor Amendment (Night-time Economy) Act 2020* (the NSW Act) was passed by the NSW Parliament on 17 November 2020. It makes amendments to liquor, gaming and planning-related legislation. The Act amends the *Liquor Act 2007* (NSW) and *Liquor Regulation 2018* (NSW) to:
  - replace existing sanctions schemes and disciplinary systems with an integrated demerit points and incentives scheme;
  - provide for cumulative impact assessments;
  - regulate same day deliveries of liquor; and

    make miscellaneous amendments of an administrative or minor nature.
- Under the ACT Liquor Act, offences are not integrated with licence fees. There is no discount on licence fees when licensees have no offences, and there is no surcharge on licence fees when licensees do have offences on record.
- Cumulative impact assessments are not expressly part of the assessment of liquor licence applications in the ACT Liquor Act.
- The ACT Liquor Act does not expressly regulate online liquor sales or same day deliveries of liquor. There are a number of supply offences that capture conduct at licensed premises but may not apply to online liquor sales, where the supply occurs away from the licensed premises or via a third-party delivery agent.

QUESTION TIME BRIEF

Key Information

- The table below illustrates scalability of licence fees under the ACT framework:

Licence class	Occupancy loading of 80 or less trading at standard licence times[1]	Occupancy loading of 80 or less trading until 5.00 am	Occupancy loading greater than 350 trading at standard licenced times	Occupancy loading of greater than350 trading until 5.00 am
Nightclub licence	$3,363.00	$7,473.00	$8,969.00	$31,404.00
Bar / general / club licence	$2,240.00	$4,981.00	$5,977.00	$20,935.00
Restaurant and café licence	$1,117.00	$2,488.00	$2,986.00	$10,465.00

- While a nightclub licence has the highest 'base' annual fee of the three licence classes, a nightclub licence with a small occupancy loading, trading at standard licence times will pay less than a restaurant/café licence with a large occupancy loading and trading until 5.00am.
- In NSW, all licensees pay a base fee which also varies by licence class. Licensees trading after midnight also pay a trading hours risk loading. To this point, the NSW fee framework is similar to the ACT's.
- In NSW, compliance risk loadings are triggered where a licensee committed a liquor-related offence in the previous 12 months. If compliance risk loadings are applicable, licensees will also be required to pay a patron capacity loading and location risk loading (location risk loading is only applicable to Sydney CBD and Kings Cross-based venues). In the ACT, patron capacity risk is built into all licence fees regardless of compliance history.
- For example, a club licensee in Queanbeyan with occupancy loading of 750 occupants and trading hours until 4am would generally be required to pay a base annual fee of $6092. However, if compliance risk loadings are applicable, the annual fee payable by that licensee could increase to up to $24,935 depending on the number of offences in the past year.

Liquor Amendment (Night-time Economy) Act 2020 (the NSW Act)

Integrated demerit points and incentives scheme

- The NSW Act introduced a single, integrated system based on demerit points. The new system will incentivise compliance from venues by offering a 5 per cent discount on annual licence fees for venues with no demerit points after three years, and a 10 per

[1] *Standard license times*: no later than 12.00 am.

cent discount after five years. Venues where demerit points have been incurred will not be eligible for the discount and will pay the additional risk-loading fees as per the current system.

Cumulative impact assessments

- The NSW Act provides a framework for cumulative impact assessments, which are to help manage the density of licensed premises in areas of concern and address cumulative impacts that may arise in the community, including the risks of alcohol-related violence and antisocial behaviour.
- The NSW Act empowers the Independent Liquor and Gaming Authority to publicly issue a cumulative impact assessment if, due to existing issues or risks, it considers that granting further licenses or late-night trading in that area is likely to be inconsistent with its existing duty under the *Liquor Act 2007* (NSW) to ensure community wellbeing.
- Issuing a cumulative impact assessment will create a presumption against the Authority granting applications for new licenses or approving late-night trading in cumulative impact areas, but the Authority is not automatically prevented from approving these applications.
- The ACT Liquor Act and Liquor Regulation do not contemplate a framework for cumulative impact assessments or similar.

Regulation of same-day liquor deliveries

- The NSW Act introduced restrictions on same-day liquor deliveries, including:
    - interstate liquor licensees (including ACT liquor licensees) will be required to hold an NSW liquor licence if delivering alcohol stored in NSW to NSW residents on the same day that the order is placed;
    - additional requirements for same day delivery people to check identity upon delivery, and for online delivery providers to use an accredited identity service provider to verify age at purchase;
    - same-day deliveries must not be made after midnight (or 11pm on a Sunday);
    - same-day alcohol deliveries must not be left unattended;
    - same-day alcohol must not be delivered to an intoxicated person;
    - all people making same-day deliveries must complete mandatory training (unlike RSA training, a specific course is not prescribed, allowing industry to create its own training courses); and
    - customers must be able to self-exclude from same-day alcohol deliveries.
    - delivery people must not be financially penalised for refusing a same day delivery to minors or intoxicated people. This includes witholding payment for a refused delivery.

- delivery providers must report online liquor sales delivery data every six months to Liquor & Gaming NSW including volume, type and postcode of liquor deliveries.

- The ACT Liquor Act does not expressly regulate online liquor sales and same-day deliveries. It includes a range of offences relating to the supply of liquor to children, young people and intoxicated people and supply without a current Responsible Service of Alcohol (RSA) certificate. However, these offence provisions only capture conduct at licensed premises and may not apply to online liquor sales, where the supply occurs away from the licensed premises and potentially via a third party.
- Access Canberra (Licensing and Registrations) represented the ACT at the Australasian Liquor Licensing Authorities Forum (ALLAF), a forum intended to consider the regulation of online liquor sales to facilitate cross jurisdiction consistency. ALLAF has been largely disbanded following disruption by the COVID-19 public health emergency, and now that most other jurisdictions have introduced their own regulations for online liquor sales
- JACS and Access Canberra have previously recommended that any reform in relation to online liquor sales should be informed by the work undertaken by ALLAF. Now that most Australian jurisdictions have introduced their own reforms to online liquor sales, and jurisdictions are unlikely to land on a harmonised policy, JACS intends to seek the views of the Liquor Advisory Board and form an updated recommendation on developing online liquor sales policy in the ACT.

Miscellaneous amendments

- The NSW Act removes certain licence conditions that limit music and performance, including restrictions on music genre, number of musicians, and types of instrument.
    - These restrictions do not exist in the ACT. Licensed premises must abide by the noise standards in the *Environment Protection Act 1997* and the *Environment Protection Regulation 2005*.
- The NSW Act enables small bars to offer family-orientated and diverse services for customers. Small bars that regularly provide meals in seated areas from their opening time until 10pm are permitted to have minors in the company of a responsible adult.
    - This is not an issue in the ACT. Under the ACT Liquor Act, areas within licensed premises can be designated 'adult only areas'. It is an offence for a child or young person to be in an adults-only area unless they are in the care of an adult (parent or guardian etc.).
- The NSW Act streamlines the application process for a low-risk small bar licence by introducing an interim small bar authorisation, to reduce the level of public consultation required.

    Under the ACT Liquor Act, a public consultation period of 30 days is required when an application is made for a new liquor licence.

QUESTION TIME BRIEF

Background Information

ACT liquor licensing fees framework

- The ACT's liquor licensing fee framework was introduced in 2010-11.
- In the lead up to the reforms, an additional ACT Policing capability was established to collate policing data to compare alcohol-related incidents at restaurants and cafes, clubs, bar and taverns, and nightclubs. The data showed that the highest number of alcohol-related incidents occurred at nightclubs, followed by clubs, bars and taverns and, after that, restaurants and cafes. Data showed that most alcohol-related incidents occurred at larger venues (61 percent of incidents occurred at venues with occupancy loadings of more than 350 people) and during late-night trading (80 percent of incidents occurred at venues trading to 4.00am or 5.00am).
- The ACT Government was clear in establishing the fee framework that a factor in fee levels was the cost associated with regulatory and police enforcement associated with licensed premises and alcohol-related anti-social or violent behaviour. ACT liquor licensing fees support the cost of ACT Policing's Territory Targeting Team which enforces the ACT's liquor laws and provides policing in the ACT's nightlife precincts.
- The effectiveness of the 2010 liquor reforms was the subject of review in 2013 and 2016. The first review was undertaken by ACIL Allen Consulting and concluded that:
    - most stakeholders consider the reforms have made a positive contribution to community safety; and
    - the adoption of the risk-based approach was a positive step.
- The second consultative review proposed further reforms in the *Building on Liquor Reform: White Paper*. The White paper retained the risk-based license fee framework and delivered a 25 percent annual fee reduction for licensees with an occupancy loading of fewer than 150 people and licensed times up to 2am, to encourage small bars and restaurants.
- A further review of liquor licensing fees for small and medium clubs was undertaken in 2019-20. Following this review the Chief Minister agreed to a 25 percent reduction in annual fees for club licensees trading within standard license times and with occupancy loadings of over 150 people.
- Please also see QTB 'COVID-19 Impacts-Relief to clubs and licensed premises' (JACS2021/46-001-005) for information about fee waivers and measures to support liquor licensees during the COVID-19 public health emergency.

Liquor Advisory Board

- The Liquor Advisory Board (the Board) is established under section 215 of the Act to provide advice to the Minister on matters associated with the Act, including measures that support harm minimisation and community safety principles. Members represent a broad range of liquor stakeholder groups, including government, industry, and community organisations.

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Cleared for public release by:	Executive Group Manager	Ext: 76244
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Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-010	

QUESTION TIME BRIEF

- The Board's next meeting is scheduled for 23 November 2021.

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QUESTION TIME BRIEF

JACS2021/46-001-018

Portfolio: Attorney-General

ISSUE: REVIEW OF CHILD PROTECTION DECISIONS IN THE ACT

Talking points:

Government review of decision-making by CYPS

- The Government is continuing to progress its review of child protection decision-making in the ACT.
- A public consultation process on the discussion paper, *Review of child protection decisions in the ACT* was undertaken from May to June 2019, seeking views from the community, and in particular those who provide support and advocacy for children and young people. An independent consultant was engaged to report on the key themes from submissions.
- The report, titled *Stakeholder Feedback on the Discussion Paper: Review of Child Protection Decision in the ACT* (the Report) was finalised in October 2019 and can be found on the JACS website.
- In April 2020, the Minister for Children, Youth and Families provided an update to the Assembly on the progress and outcomes of the Report.
- The Minister noted that the Report had highlighted three over-arching pieces of work that are currently being progressed in order to strengthen and ensure a robust child protection decision review framework:
    - working to improve internal decision-making processes
    - working to provide a more transparent and consistent internal merits review processes
    - consideration of an external merits review process for child protection in the ACT
- On 30 July 2020, the Standing Committee on Health, Ageing and Community Services tabled in the Assembly its report on its Inquiry into information sharing in the child protection system.
- The Minister for Families and Community Services tabled the Government Response to the Standing Committee on 3 December 2020.
- The response noted that comprehensive legislative reform would be required to respond to the Committee's recommendations and that the

discrete elements of legislative reform would be subject to future Government funding decisions.

Sharing of information in the child protection system

- Concerns have been raised recently about the legal regime for the disclosure of sensitive information relating to children and young people in the care and protection system.
- The Government is conscious of striking the right balance between ensuring transparency of Government decisions, and protecting information that is highly sensitive in nature.
- In June 2019, the Legislative Assembly passed a law which made a minor amendment to the *Freedom of Information Act* to ensure that there is a single set of rules governing access to sensitive information in child protection cases.
- This was a minor 'technical amendment'. It does not change the way in which information about child protection cases can be accessed in practice.

Key Information

Update on CSD work on the government review of CYPS decisions

- The ACT Government is working with the ACT Human Rights Commission and the community to establish a mechanism for the external merits review of some child protection decisions in the ACT.
- This work is driven by community expectation and government understanding that more child protection decisions should be subject to external review.
- In July and September 2020, the Community Services Directorate and the ACT Human Rights Commission held two roundtables with ACT stakeholders and colleagues from Queensland and Victoria. The roundtables provided insights regarding the mechanisms those States use to make child protection decisions, and lessons learnt from implementing those models.
- ACT stakeholders at the roundtables welcomed the ACT Government's commitment to improve child protection decision-making processes, including with an external review mechanism. This input provides a valuable foundation for developing a model.
- To progress this work, the ACT Government is providing $100,000 for an independent consultant to devise a model for an external merits review process appropriate for the ACT.
- The Community Services Directorate is currently seeking a consultant to undertake this work.
- The consultant will work with the Community Services Directorate, our community partners, and our communities to develop options for an external merits review mechanism.

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Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-018	

- On 3 May 2031, the Community Services Directorate invited 15 consultants to submit a project proposal, based on their expertise and experience. Submissions closed on 28 May 2021.
- A successful provider was notified in mid-July 2021, but has since withdrawn from the process. The Community Services Directorate is now in the process of issuing new requests for proposals.
- The project will propose options and recommendations for a model of external merits review of child protection decisions that aligns with internal merits review processes and incorporates family-led, trauma-informed, strengths-based, transparent, and restorative approaches.

Information sharing and amendment to the FOI Act

- Separately to the review, minor changes to the *Freedom of Information Act 2016* (FOI Act) concerning sensitive information held by CYPS were passed in the *Justice and Community Safety Legislation Amendment Act 2019*, which commenced on 21 June 2019.

Background Information

Government review of CYPS decisions

History of the government review

- In April 2016, the *Report of the Inquiry: Review into the system level responses to family violence in the ACT* (the Glanfield Report) made a number of recommendations relating to the operations of Child and Youth Protection Services (CYPS). Recommendation 12 of the Glanfield Report was that a review should be undertaken (chaired by JACS) "of what decisions made by CYPS should be subject to either internal or external merits review." The review is being conducted at present.
- In December 2016 a working group with representatives from JACS and CSD was established to address this recommendation. In May 2019, a discussion paper, 'Review of child protection decisions in the ACT' was published for public consultation until 28 June 2019.
- On 16 October 2019, a report was finalised by an independent consultant based on the submissions received. JACS published the report and submissions where consent had been given to do so. Some parts of submissions were redacted to comply with secrecy provisions in the *Children and Young People Act 2008* (ACT), and the right to privacy in the *Human Rights Act 2004* (ACT).

Assembly motion

- On 18 September 2019 the Assembly passed a motion calling on the Minister for Children, Youth and Families to update the Assembly no later than March 2020 regarding:
    a) How the voices of children and young people are included in this consultation process;
    b) The progress and outcomes of this review and the consultation process; and
    c) What steps will follow, and when these are expected to conclude.
- The ministerial statement in response to this motion was noted by the Assembly on 2 April 2020.

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TRIM Ref:	JACS2021/46-001-018	

QUESTION TIME BRIEF

Information sharing in the child protection system

Standing Committee Inquiry

- On 16 May 2019, the ACT Legislative Assembly asked the Standing Committee on Health, Ageing and Community Services to inquire into CYPS, and specifically:
    - first, "to provide an analysis of the decisions of the ACT Court of Appeal in the case of *CP v Director-General of Community Services Directorate* (ACTA 32) and to identify potential systemic issues that may need to be addressed" (Part 1), and
    - secondly, "to inquire into the ability to share information in the care and protection system in accordance with the *Child and Young People Act 2008*, with a view to maintain community confidence in the ACT's care and protection system (Part 2)."
- The Committee's final report for Part 1 of the inquiry was tabled in the Assembly on 27 August 2020, and Part 2 was tabled on 30 July 2020. The Part 2 inquiry report provides 44 recommendations, including the following specific to the Attorney-General.
    - Recommendation 15: that the Attorney-General should remind all directorates that any amendment(s) to legislation that removes a fundamental right should not be brought forward in an omnibus bill; and
    - Recommendation 33: that the Attorney-General update the Assembly by the last sitting day in August 2020 on the identification of specified proposals as to how a therapeutic justice approach in the care and protection jurisdiction would work in the ACT
- The Minister for Families and Community Services tabled the Government Response on 3 December 2020. The response 'notes' recommendation 15 and 'agrees in principle' to recommendation 33.

FOI Act amendment

- The amendment to the FOI Act made through the *Justice and Community Safety Legislation Amendment Act 2019* makes clear that a person cannot apply for the release of "protected information" that is also "sensitive information" under the *Children and Young People Act 2008* (CYP Act). This fixed a drafting anomaly in the FOI Act. The disclosure of sensitive information is regulated by the CYP Act, and its release other than in limited circumstances is prescribed to be an offence under that Act.
- The amendment ensures the FOI Act operates consistently with the CYP Act. In practice, the amendment will see no change to the way in which CYPS processes FOI requests, as CYPS has always interpreted the FOI Act consistently with the CYP Act, and so did not release sensitive information under the FOI Act prior to the amendment.

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QUESTION TIME BRIEF

JACS2021/46-001-020

Portfolio/s: Attorney-General

ISSUE: TENANTS ADVICE SERVICE

Talking points:

- On 28 February 2020, the Justice and Community Safety Directorate (JACS) entered into a contract with Legal Aid ACT to provide the Tenants Advice Service ACT (TAS) until 30 June 2023.
- Canberrans are actively accessing and seeking support from the TAS. The Tenancy Advice Service hotline provided assistance to 5,334 individuals between 1 March 2020 and 30 June 2021.
- As a part of the TAS, Legal Aid ACT also provides a weekly clinic to support tenants and occupants to understand their rights and obligations under the law and respond to the legal problems that they are facing. Between 1 March 2020 and 30 June 2021, the clinic provided 1,408 assistance services to 1,161 individuals.
- If you need support to respond to a tenancy or occupancy law issue, the TAS service is available to help you. The Tenancy Advice Line is open and taking calls from 8.30 am – 7pm four nights a week (Monday to Thursday) as a result of COVID-19. It also takes calls on Fridays from 8.30 am – 5pm.
- The TAS also provides factsheets on the Legal Aid website, which address common tenancy matters.

If asked how you can access the TAS:

- The TAS can provide free and confidential support for all tenants and occupants in the ACT.
- You can find out more about the service through its website www.tasact.org.au
- The phone number of the Tenancy Advice Line is 1300 402 512.
- Legal Aid ACT have been providing tenancy advice services for many years.

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If asked about community legal education and campaigning for tenants rights:

- The contract requires Legal Aid ACT to undertake law and policy reform activities. Since the contract commenced, Legal Aid ACT has provided comprehensive and detailed submissions to government about matters affecting tenants and occupants in the ACT.
- Legal Aid ACT's TAS has been an active participant in all stakeholder consultations with JACS in relation to residential tenancies reform since the service commenced. This includes several consultations in relation to COVID-19 residential tenancy response measures and in relation to amendments to the *Residential Tenancies Amendment Bill 2020.*
- Independent of consultation invited by JACS, Legal Aid ACT's TAS service also provided a submission to and appeared before the Select Committee on the COVID-19 pandemic response.
- Legal Aid ACT is conducting an extensive social media program about rights and responsibilities under tenancy law, focusing on the COVID-19 pandemic. You can access this information through Legal Aid ACT's Facebook page.
- Between March 2020 and June 2021, TAS conducted 131 community legal education activities, including 16 presentations, 78 website publications and 35 posts on the Legal Aid facebook page.

Key Information

General

- JACS signed a contract with Legal Aid ACT to provide the TAS on 28 February 2020. The contract will run until 30 June 2023. The contract price for this period is $1,621,995 (GST exclusive) which includes an additional payment of $40,000 which supported Legal Aid ACT to commence providing the service in March 2020 as a result of the closure of the Tenants Union ACT's office on 28 February 2020.
- The TAS ACT is a weekday advice and information service for tenants and occupants, which assists them to understand their rights and obligations under the Residential Tenancies Act 1997, understand the legal problems they are facing and the steps they can take to resolve them, and where appropriate assist in the resolution of those legal problems.
- Legal Aid ACT also provides casework and legal representation services as a part of the TAS service. These services will be targeted towards those persons who would be considered priority clients under the National Partnership Agreement on Legal Assistance Services.

- Legal Aid ACT and JACS have quarterly operational meetings to discuss and review the operation of, and reporting about, the service. These include six monthly reviews to consider what improvements could be made to enhance the TAS.

Matters involving Tenants Union ACT

- The Tenants Union ACT closed their offices on 28 February 2020.
- Their final report was provided to JACS on 10 June 2020.
- The Tenants Union's most recent grant to provide the Tenants Advice Service was signed on 10 September 2019. This grant funded the Tenants Union ACT **$348,171** (GST exclusive) from the ACAT Trust to provide the Tenants Advice Service from July 2019 – March 2020.
- Whilst operated by the Tenants Union ACT, the Tenants Advice Line was closed for new calls on 67 per cent of working days between 1 January and 14 November 2019. This data was sourced from the Tenant's Union's Twitter Feed on 15 August, 24 September, 23 October and 14 November 2019.
- The Justice and Community Safety Directorate has invited the Tenants Union ACT to participate in consultation about residential tenancies reform. The Tenants Union ACT has provided written input in response to a stakeholder consultation paper and has also appeared before the Select Committee on the COVID-19 pandemic response.
- The Tenants Union ACT has recently relaunched its website as a subscriber only service which provides information resources for tenants and occupants in the ACT. The Tenants Union ACT's 2019-20 annual report is paywalled, and has not been reviewed by JACS.

Canberra Times article regarding Tenants Union ACT (5 January 2021)

- The Canberra Times published an article on 5 January 2021 about the Tenants Union ACT and its future as an independent organisation. The article noted that the Tenants Union ACT is in talks to see if it could be combined with or subsumed into another territory organisation, like ACT Shelter.
- The article comments on the tender process which resulted in the TAS service being provided by Legal Aid ACT. The article contains factual inaccuracies.
- The ACT Government's 2020-21 Budget provided $700,000 over four years for systemic advocacy through ACT Shelter to increase its capacity as the peak body advocating for the interests of people living in and looking for affordable and social housing. A copy of the Canberra Times article can be provided upon request.

QUESTION TIME BRIEF

JACS2021/46-001-026

Portfolio/s: Attorney-General

ISSUE: AGE OF CRIMINAL RESPONSIBILITY

Talking points:

- The ACT Government has made clear that raising the minimum age of criminal responsibility is one of the key legislative reform priorities for the 10th ACT Legislative Assembly.
- As Attorney-General, this issue is a very high priority for me.
- Medical evidence tells us children and young people under the age of 14 who display harmful, risky, unsafe, and sometimes violent behaviour often do so as a result of trauma. This same evidence tells us that early involvement with the criminal justice system significantly impacts the neurological and social development of children and young people, which often leads to further offending.
- For this reason, the ACT Government is committed to developing early intervention approaches for these children and young people that address the underlying causes of offending behaviour - making the community safer by changing children's pathways and reducing the likelihood of reoffending as those children become adults.
- Raising the minimum age of criminal responsibility is an essential building block for this reform.
- We will be working across the ACT Government to make sure we have the right systems in place to support children who exhibit harmful behaviours.
- Work is underway to consider how a higher minimum age of criminal responsibility would be implemented in the ACT, taking into account the specific needs of the Territory's at-risk children and young people, and their families, and the characteristics of our criminal justice, and youth and family service sectors.
- As part of this, the ACT Government commissioned an independent review to identify what reforms will be needed to support a higher minimum age of criminal responsibility in the ACT. The final report of the review was delivered to JACS in August 2021 and is being carefully considered by the ACT Government.

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TRIM Ref:	JACS2021/46-001-026	

- The ACT Government also released a public Discussion Paper seeking community views on key legal, policy and service system issues on YourSay on 24 June 2021. Submissions on the Discussion Paper closed on 5 August 2021. The ACT Government has received over 50 responses including submissions from Legal Aid, the ACT Law Society, ACT Policing, ACT Council of Social Services , the Aboriginal Legal Service and the ACT Human Rights Commission. A Listening Report will be published in coming weeks. Initial indications are that stakeholders are generally supportive of this reform.
- As a leader in implementing this reform across Australia, the ACT is, and will continue to be, an active participant in any national conversations on increasing the minimum age of criminal responsibility.

Background Information

- The ACT Government has made raising the minimum age of criminal responsibility (MACR) a key legislative priority.
- This builds on a motion passed by the ACT Legislative Assembly in August 2020 which called on the ACT Government to:
  - support raising the MACR to 14 years of age, taking into account medical and other relevant evidence, and with consideration given to exemptions for serious offences;
  - ensure that reform in this complex area engages with and enhances support services identified through a gap analysis, noting that keeping young people safe and diverting them from the justice system is a whole-of-government and whole-of-community responsibility; and
  - continue to progress policy work, and consider programs and resources that may be required in order for the tenth Assembly to consider legislation raising the age.
- The age of 14 years has not been specifically referenced in the Parliamentary and Governing Agreement.
- The 2020 motion and subsequent Government commitment has been reported favourably in media across Australia.
- The Justice and Community Safety Directorate (JACS) is working with other Directorates (primarily the Community Services Directorate (CSD)) to develop the approach for raising the MACR in the ACT. The ACT Government's vision is to build Canberra as a Restorative City, and raising the MACR supports the integration of preventative and rehabilitative approaches into our justice system.
- As part of the work to raise the MACR, an independent review of the service system needs and implementation requirements for raising the MACR in the ACT was commissioned using $120,000 from the Confiscated Assets Fund. This review commenced in February 2021, led by Emeritus Professor Morag McArthur in consortium with Aboriginal consultancy Curjio and Dr Aino Soumi. They consulted across the ACT community to identify what reforms are needed in the ACT service system to support a higher MACR, including what restorative and

therapeutic services need support to care for children who are at risk of harming themselves or others. The final report was delivered on 10 August 2021 and is being closely considered by JACS and CSD.

- So far, 51 submissions have been received from across the government, legal and community sectors in response the Discussion Paper on YourSay.
    - Most submissions in response to the Discussion Paper were from advocacy groups (39%) and child and youth community service providers (16%). Academics and community members also provided feedback on the Discussion Paper making up 6% and 19% respectfully.
    - Key justice bodies, including ACT Policing, Aboriginal Legal Service ACT/NSW, Legal Aid ACT, ACT Human Rights Commission, and the ACT Law Society, also provided written submissions.
    - Over 90% of submissions were in strong support of raising the MACR.
    - 67% of submissions strongly supported raising the MACR without the use of exceptions, while 6% (3 submissions) supported the use of exceptions. The remaining 30% of submissions did not address the use of exceptions.

- A further $380,000 of funding from the Confiscated Assets Trust Fund is supporting the continuation of a family-centric therapeutic program that will work with children and young people coming into contact with the criminal justice system in 2021-22. The program has a priority focus on children and young people up to 14 years of age, and Aboriginal and Torres Strait Islander children and young people, and their families.

National Consideration of the MACR

- In all Australian jurisdictions, including the ACT, the MACR is 10 years old. However, children aged under 14 years cannot be held criminally responsible unless the prosecution proves they knew what they were doing was wrong (*doli incapax* principle).
- The Northern Territory has publicly committed to raising the MACR to 12 years of age. This commitment was made in 2018 in response to the recommendations of the Royal Commission into the Protection and Detention of Children in the Northern Territory in 2017.
- The MACR was previously being considered at the national level through the Council of Attorneys-General (CAG) in response to the United Nations Committee on the Rights of the Child recommendation in 2019 that the MACR be raised to at least 14 years of age and children under 16 years not be placed in detention. A CAG Working Group determined that the MACR could not be raised without a clear framework for implementation and support first being in place.
- On 23 October 2020, National Cabinet agreed to the new ministerial forums structure as part of the recommendations of the Conran Review of Former COAG Councils and Ministerial Forums. As a result, CAG has been replaced with 'time-limited' and 'when needed' forums for select issues. Raising the MACR is not one of the limited priorities for the new Meetings of Attorneys-General.