ACT Government
Justice and Community Safety

Open Access release outcome decision – Partial access granted

Document Category: Ministerial Briefs

Title of document: Attorney General – Quarter 2 2021 Ministerial Briefs

Description of the information: Question Time Briefs provided to the Attorney General between 1 April and 30 June 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
6 July 2026

ACT Government
Justice and Community Safety

OPEN ACCESS Q2 2021 SCHEDULE
PORTFOLIO: ATTORNEY-GENERAL

No.	Folio	Description	Date	Status	Reason for non-release or deferral
Question Time Briefs - Sitting Days 20-23 April 2021					
1	1-2	Question Time Briefs Index - 20-23 April 2021	April		
2	3-4	R v UG [2020] ACTCA 8 and the Crimes (Sentencing) Act 2005	April		
3	5-8	Family Violence Act Review	April		
4	9-13	Review into Whole of Justice System Interactions with Aboriginal and Torres Strait Islander People	April		
5	14-15	Positive Definition of Consent	April		
6	16-21	Covid-19 Impacts - Relief to clubs and licensed premises	April		
7	22-26	Access to Legal Assistance Services during Covid-19	April		
8	27-33	Support for Community Service Providers During Covid-19 Pandemic	April		
9	34-35	People Spitting or Coughing on Frontline Workers (Covid-19) - ACT Criminal Law Response	April		
10	36-41	Gaming Machine Harm Reduction Measures	April		
11	42-44	Diversification and Sustainability Support Fund - 20/21 Funding Round	April		
12	45-49	Updates on Incentive Applications Under Voluntary Surrender Agreements	April		
13	50-53	Community Contributions	April		
14	54-58	Club Engagement	April		
15	59-61	Resourcing of Magistrates and Coroner's Courts	April		
16	62-65	Reforms to the Operation of the Coroner's Court	April		
17	66-69	Drug and Alcohol Court/Drug and Alcohol Sentencing List	April		
18	70-71	Judge Alone Trails	April		
19	72-76	National Security and Public Safety	April		
20	77-79	Criminal Outlaw Motorcycle Gang	April	Partial	Sch 2, s2.2(a)(ii)
21	80-83	Serious and Organised Crime Response	April		
22	84-85	Assaults on Police and Frontline Community Service Providers	April		
23	86-90	Property Crime	April	Partial	Sch 2, s2.2(a)(ii)
24	91-93	Strong Connected Neighbourhoods	April		
25	94-97	2019-2028 ACT Aboriginal and Torres Strait Islander Agreement/Justice Action Plan	April		
26	98-106	Restorative Justice	April		
27	107-112	Reducing Recidivism Through Building Communities Not Prisons	April		
28	113-115	Crimes (Offences Against Vulnerable People) Legislation Amendment Act 2020	April		
29	116-122	How the ACT Liquor Act Compares to NSW Changes	April		
30	123-127	Residential Tenancies	April		
31	128-131	Review of Child Protection Decisions in the ACT	April		
32	132-134	Tenants Advice Service	April		
33	135-137	Age of Criminal Responsibility	April		
34	138-140	Cannabis Prosecution Assistance	April		

No.	Folio	Description	Date	Status	Reason for non-release or deferral
Question Time Briefs - Sitting Days 11-13 May 2021					
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36	143-144	R v UG [2020] ACTCA 8 and the Crimes (Sentencing) Act 2005	May		
37	145-148	Family Violence Act Review	May		
38	149-154	Covid-19 Impacts - Relief to clubs and licensed premises	May		
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40	160-166	Support for Community Service Providers During Covid-19 Pandemic	May		
41	167-168	People Spitting or Coughing on Frontline Workers (Covid-19) - ACT Criminal Law Response	May		
42	169-174	Gaming Machine Harm Reduction Measures	May		
43	175-177	Diversification and Sustainability Support Fund - 20/21 Funding Round	May		
44	178-182	Updates on Incentive Applications Under Voluntary Surrender Agreements	May		
45	183-186	Community Contributions	May		
46	187-191	Club Engagement	May		
47	192-193	Gaming Machine Technical Advice	May		
48	194-196	Resourcing of Magistrates and Coroner's Courts	May		
49	197-200	Reforms to the Operation of the Coroner's Court	May		
50	201-204	Drug and Alcohol Court/Drug and Alcohol Sentencing List	May		
51	205-206	Judge Alone Trails	May		
52	207-211	National Security and Public Safety	May		
53	212-214	Criminal Outlaw Motorcycle Gang	May	Partial	Sch 2, s2.2(a)(ii)
54	215-220	Serious and Organised Crime Response	May		
55	221-222	Assaults on Police and Frontline Community Service Providers	May		
56	223-227	Property Crime	May	Partial	Sch 2, s2.2(a)(ii)
57	228-230	Strong Connected Neighbourhoods	May		
58	231-234	2019-2028 ACT Aboriginal and Torres Strait Islander Agreement/Justice Action Plan	May		
59	235-240	Reducing Recidivism Through Building Communities Not Prisons	May		
60	241-243	Crimes (Offences Against Vulnerable People) Legislation Amendment Act 2020	May		
61	244-250	How the ACT Liquor Act Compares to NSW Changes	May		
62	251-255	Residential Tenancies	May		
63	256-259	Review of Child Protection Decisions in the ACT	May		
64	260-262	Tenants Advice Service	May		
65	263-265	Age of Criminal Responsibility	May		
66	266-268	Cannabis Prosecution Assistance	May		
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69	273-276	Family Violence Act Review	June		
70	277-282	Review into Whole of Justice System Interactions with Aboriginal and Torres Strait Islander People	June		
71	283-285	Positive Definition of Consent	June		
72	286-288	Recent Sentencing Decision in R v Newby	June		
73	289-294	Covid-19 Impacts - Relief to clubs and licensed premises	June		

No.	Folio	Description	Date	Status	Reason for non-release or deferral
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76	307-308	People Spitting or Coughing on Frontline Workers (Covid-19) - ACT Criminal Law Response	June		
77	309-314	Gaming Machine Harm Reduction Measures	June		
78	315-318	Diversification and Sustainability Support Fund - 20/21 Funding Round	June		
79	319-323	Updates on Incentive Applications Under Voluntary Surrender Agreements	June		
80	324-327	Community Contributions	June		
81	328-331	Community Clubs Ministerial Advisory Council	June		
82	332-333	Gaming Machine Technical Advice	June		
83	334-336	Resourcing of Magistrates and Coroner's Courts	June		
84	337-340	Reforms to the Operation of the Coroner's Court	June		
85	341-344	Drug and Alcohol Court/Drug and Alcohol Sentencing List	June		
86	345-346	Judge Alone Trails	June		
87	347-351	National Security and Public Safety	June		
88	352-354	Criminal Outlaw Motorcycle Gang	June	Partial	Sch 2, s2.2(a)(ii)
89	355-358	Serious and Organised Crime Response	June		
90	359-360	Assaults on Police and Frontline Community Service Providers	June		
91	361-365	Property Crime	June	Partial	Sch 2, s2.2(a)(ii)
92	366-368	Strong Connected Neighbourhoods	June		
93	369-372	2019-2028 ACT Aboriginal and Torres Strait Islander Agreement/Justice Action Plan	June		
94	373-379	Restorative Justice	June		
95	380-385	Reducing Recidivism Through Building Communities Not Prisons	June		
96	386-388	Crimes (Offences Against Vulnerable People) Legislation Amendment Act 2020	June		
97	389-395	How the ACT Liquor Act Compares to NSW Changes	June		
98	396-400	Residential Tenancies	June		
99	401-404	Review of Child Protection Decisions in the ACT	June		
100	405-407	Tenants Advice Service	June		
101	408-410	Age of Criminal Responsibility	June		
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102	411-412	Question Time Briefs Index - 22-24 June 2021	June		
103	413-414	R v UG [2020] ACTCA 8 and the Crimes (Sentencing) Act 2005	June		
104	415-418	Family Violence Act Review	June		
105	419-424	Review into Whole of Justice System Interactions with Aboriginal and Torres Strait Islander People	June		
106	425-427	Positive Definition of Consent	June		
107	428-430	Recent Sentencing Decision in R v Newby	June		
108	431-436	Covid-19 Impacts - Relief to clubs and licensed premises	June		
109	437-441	Access to Legal Assistance Services during Covid-19	June		
110	442-448	Support for Community Service Providers During Covid-19 Pandemic	June		
111	449-450	People Spitting or Coughing on Frontline Workers (Covid-19) - ACT Criminal Law Response	June		
112	451-456	Gaming Machine Harm Reduction Measures	June		

No.	Folio	Description	Date	Status	Reason for non-release or deferral
113	457-460	Diversification and Sustainability Support Fund - 20/21 Funding Round	June		
114	461-465	Updates on Incentive Applications Under Voluntary Surrender Agreements	June		
115	466-469	Community Contributions	June		
116	470-473	Community Clubs Ministerial Advisory Council	June		
117	474-475	Gaming Machine Technical Advice	June		
118	476-478	Resourcing of Magistrates and Coroner's Courts	June		
119	479-482	Reforms to the Operation of the Coroner's Court	June		
120	483-486	Drug and Alcohol Court/Drug and Alcohol Sentencing List	June		
121	487-488	Judge Alone Trails	June		
122	489-493	National Security and Public Safety	June		
123	494-496	Criminal Outlaw Motorcycle Gang	June	Partial	Sch 2, s2.2(a)(ii)
124	497-500	Serious and Organised Crime Response	June		
125	501-502	Assaults on Police and Frontline Community Service Providers	June		
126	503-507	Property Crime	June	Partial	Sch 2, s2.2(a)(ii)
127	508-510	Strong Connected Neighbourhoods	June		
128	511-514	2019-2028 ACT Aboriginal and Torres Strait Islander Agreement/Justice Action Plan	June		
129	515-521	Restorative Justice	June		
130	522-527	Reducing Recidivism Through Building Communities Not Prisons	June		
131	528-530	Crimes (Offences Against Vulnerable People) Legislation Amendment Act 2020	June		
132	531-537	How the ACT Liquor Act Compares to NSW Changes	June		
133	538-542	Residential Tenancies	June		
134	543-546	Review of Child Protection Decisions in the ACT	June		
135	547-549	Tenants Advice Service	June		
136	550-552	Age of Criminal Responsibility	June		

ACT Government
Justice and Community Safety

SHANE RATTENBURY MLA
ATTORNEY-GENERAL/MINISTER FOR GAMING/MINISTER FOR CONSUMER AFFAIRS
QUESTION TIME BRIEFS PACK
20-23 APRIL 2021

Hot topics	
1.	*R v UG* [2020] *ACTCA 8 and the Crimes (Sentencing) Act 2005*
2.	Family Violence Act Review
3.	Review into Whole of Justice System Interactions with Aboriginal and Torres Strait Islander People
4.	Positive Definition of Consent - Consent Legislative Reforms
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
Judicial/Courts	
14.	Resourcing of Magistrates and Coroners Court
15.	Coroner's Court Reform

ACT Government
Justice and Community Safety

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

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QUESTION TIME BRIEF

JACS2021/46-001-029

Portfolio/s: Attorney-General

R v UG [2020] ACTCA 8 and the *Crimes (Sentencing) Act 2005*

Talking points:

- I am aware of the ACT Court of Appeal decision in R v UG, to the effect that that there is no basis for taking 'a special approach [to] sentencing for family violence offences'.
- I am also aware that there are a range of approaches in other jurisdictions to sentencing for offences committed in a family violence context.
- The ACT Government is strongly committed to preventing domestic and family violence and supports measures that hold perpetrators to account.
- The ACT Government is considering whether our existing laws give the courts appropriate guidance on the factors to be considered and the weight to be given to these factors when sentencing family violence offenders.
- ACT Government officials are currently working with the legal and family safety sectors to develop legislative change.

Key Information

- Currently, ACT courts must consider 'the nature and circumstances' of an offence when sentencing the offender.
- ACT courts cannot impose a lesser sentence on the basis that:
    - the offence was a family violence offence, or
    - a family violence order was in place.

Background Information

- In *R v UG [2020]* ACTCA 8, the Court of Appeal found that there is no basis for taking 'a special approach [to] sentencing for family violence offences'.
- Consistent with MIN:2020/002422, JACSD is consulting the following stakeholders on the proposal to add family violence to the list of factors which sentencing courts must consider:
    - The ACT Bar Association

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Cleared as complete and accurate:	13/04/2021	
Cleared for public release by:	Executive Group Manager	Ext: 70674
Contact Officer name:	Patrick Dixon	MS Teams
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-029	

- ACT Courts and Tribunal
- ACT Human Rights Commission (including the VIctims of Crime Commissioner)
- ACT Policing
- The Coordinator-General for Family Safety
- The Director of Public Prosecutions
- The Domestic Violence Crisis Service
- The Law Society of the ACT
- Legal Aid ACT
- The Women's Legal Centre

- The Director of Public Prosecutions, the Office of the Coordinator-General for Family Safety, the Victims of Crime Commissioner and the Women's Legal Centre have responded to request more amendments. These stakeholders have noted a range of alternative options, including:
  - prescribing that family violence is an "aggravating" factor in sentencing, and
  - creating new "aggravated" versions of offences, carrying higher maximum sentences, where the offence occurred in the context of family violence.
- Each Australian jurisdiction has a different approach to sentencing:
  - New South Wales' Crimes (Sentencing Procedure) Act 1999 creates a presumption that family violence offenders will be sentenced to full-time detention or a supervised order.
  - Queensland's Penalties and Sentences Act 1992 states family violence is an aggravating factor in sentencing, unless there are "exceptional circumstances".
  - South Australia's Criminal Law Consolidation Act 1935 states that offences against family members (including former partners) are "aggravated".
  - Tasmania's Sentencing Act 1997 states the court cannot order home detention if the offender has perpetrated family violence, and/or if the offender would be living with the victim of the offence. For family violence offences, if a child was present at the time this may be an aggravating factor.
  - Western Australia's Sentencing Act 1995 states family violence is an aggravating factor in sentencing.
  - Northern Territory and Victorian courts have each found the need for general deterrence in family violence matters (e.g. Hardy v Rigby [2020] NTSC 42 and Laa v The Queen [2020] VSCA 136).

Cleared as complete and accurate:	13/04/2021	
Cleared for public release by:	Executive Group Manager	Ext: 70674
Contact Officer name:	Patrick Dixon	MS Teams
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-029	

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 August-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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Cleared as complete and accurate:	18/04/2021	
Cleared for public release by:	Deputy Director-General	Ext: 53504
Contact Officer name:	Maddie Rosenberg	Ext: 53310
Lead Directorate:	Justice and Community Safety	
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 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 August-September sittings this year.

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.

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Cleared as complete and accurate:	18/04/2021	
Cleared for public release by:	Deputy Director-General	Ext: 53504
Contact Officer name:	Maddie Rosenberg	Ext: 53310
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-032	

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. Some other recommendations are for actions that have already been taken (for example, the recommendations about information on the ACT Courts website) or are already under active consideration (for example, recommendation seven about information sharing, where a pilot program is already being 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.

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Cleared as complete and accurate:	18/04/2021	
Cleared for public release by:	Deputy Director-General	Ext: 53504
Contact Officer name:	Maddie Rosenberg	Ext: 53310
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-032	

QUESTION TIME BRIEF

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.

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Cleared as complete and accurate:	18/04/2021	
Cleared for public release by:	Deputy Director-General	Ext: 53504
Contact Officer name:	Maddie Rosenberg	Ext: 53310
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-032	

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 2018 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 radical 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.
- Reducing incarceration of First Nations women and men to match non-indigenous incarceration rates by 2030 is a priority action for the ACT Government, as set out in the Parliamentary & Government Agreement of the 10th Legislative Assembly.
- The Legislative Assembly motion on 9 February 2021 endorsed this approach by calling for a proposed review into the overrepresentation 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

Cleared as complete and accurate:	26/03/2021		
Cleared by:	Executive Group Manager		
Contact Officer name:	Stephen Walters	Ext: 72536	INDEX
Lead Directorate:	Justice and Community Safety		
Cleared for release	Yes		
Information Officer name:	Jennifer McNeill		
TRIM Ref:	JACS2021/46-001-017		

QUESTION TIME BRIEF

Torres Strait Islander Affairs and I hosted a Roundtable on 25 March 2021 to listen to representatives of the local Aboriginal and Torres Strait Islander community.

- The discussion at the Roundtable highlighted that, historically, many reviews have been conducted.
- Community members will now meet separately and consider how they think we can best secure reforms that have real impacts on the systemic problems that have led to the overrepresentation of Aboriginal and Torres Strait Islander people in the ACT justice system.

Cleared as complete and accurate:	26/03/2021		
Cleared by:	Executive Group Manager		
Contact Officer name:	Stephen Walters	Ext: 72536	INDEX
Lead Directorate:	Justice and Community Safety		
Cleared for release	Yes		
Information Officer name:	Jennifer McNeill		
TRIM Ref:	JACS2021/46-001-017		

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Background Information

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.
- 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:
    - 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.

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 135% increase over the same period.
- The original commitment to a Review of the rates and causes of indigenous incarceration in the ACT, to be led and informed by the Aboriginal and Torres Strait Islander community, had its genesis in a letter of 23 July 2020 from Ms Julie Tongs, OAM and CEO of Winnunga Nimmityjah to the then Attorney-General highlighting the ACT's high rate of increase in the incarceration of Aboriginal people and seeking: "a detailed, comprehensive and independent inquiry into the effectiveness of all these arms of the justice system in their contact with and response to members of the Aboriginal and Torres Strait Islander community".

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QUESTION TIME BRIEF

- On 14 August 2020, the Attorney General and Minister for Aboriginal and Torres Strait Islander Affairs replied to this letter and, in addition to continuing existing work, committed to commence consultation and planning for a community led review into the over-representation of Aboriginal Torres Strait Islander people in the ACT justice system.
- However, on 19 August 2020 Ms Tongs was quoted by *The Canberra Times* as saying: "(w)e don't need any more reviews. We know what the problems are, start to address them. Don't keep throwing money at consultants to tell us what we already know". Ms Tong implied the Royal Commission into Aboriginal Deaths in Custody recommendations provided the answers.
- 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.
- 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 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

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- 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 is to mirror 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 processes similar to 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. The community will then come back to Government on their position and preferred review approach.

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. At this stage, it is not clear that this is supported by Aboriginal and Torres Strait Islander people in the ACT.
- In any event, the ACT Government is currently pursuing conversations regarding Treaty in the ACT, and it is anticipated that this is likely to result in a truth telling process. At this stage, the issues regarding a review of overrepresentation of Aboriginal and Torres Strait Islander people in incarceration will be pursued independently of any truth telling commission, given the current momentum and need for urgent work on that issue.

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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 also for 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, in considering how to implement the PGA.
- 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.

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>

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- 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.

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).

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[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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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 urgent 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.
- 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 support them 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>

- Since June 2020, the Government has offered cash payments 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;

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  - diversification activities and initiatives; and
  - energy and water efficiency measures.
- The incentive remains available to all gaming machine licensees on a 'first come, first served' basis, ending:
  - when applications have been received for a total of $3.75 million in incentive payments (i.e. up to a total of 250 authorisations); or
  - at 11.59pm on 30 June 2021.
- To date, a total of 129 authorisations have been surrendered by clubs under this incentive, for cash payments totalling $1.935m. There are sufficient funds remaining for the surrender of further 121 authorisations.

<u>Emergency Community Purpose Contributions</u>

- 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 extended until 23 March 2021 to provide support to clubs and their 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.
- Under the *Gaming Machine (Emergency Community Purpose Contribution—Local Live Performance Industry) Declaration 2020*, clubs can claim contributions made to or for the local live performance industry for music or other live entertainment (other than sport) from 28 August 2020 until 31 August 2021 as community purpose contributions. This measure will provide support to the local live performance industry, which continues to be affected by COVID-19.

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QUESTION TIME BRIEF

Fee waivers

- The Government has waived fees for most liquor licences and permits for 12 months to put approximately $5.8 million dollars back into the pockets of licensed businesses at a time when they need it most.
    - In particular, annual liquor licence fees are 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.
    - Fees will also be waived for existing on licensees who apply for general liquor licenses to allow them to sell both in-house and take-away liquor until 30 June 2021.
    - Additionally, free commercial liquor permits were issued to on licensees for three months from 25 March 2020 to allow them to sell takeaway liquor. Fees will also be waived to extend commercial liquor permits to sell takeaway liquor for up to 12 months from the date of first issue.
- These fee waivers and reductions have and will provide support for liquor licensees' efforts to adapt their business models as we continue to adjust to the effects of the COVID-19 pandemic.

Other COVID-19 Economic Survival Package measures

- 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.

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- 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.

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

<u>DSSF emergency relief for clubs</u>

- 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.

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- 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.
- At the second Club Presidents' Forum in July 2020, clubs welcomed the former Attorney-General's announcement that the Government would continue to contribute to the DSSF despite clubs' contributions being temporarily suspended. Clubs acknowledged that the DSSF emergency relief funding had assisted clubs, including to support staff ineligible for other income support (see QTB:2021/46-001-031- Diversification and Sustainability Support Fund for further information).

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 in their compliance 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] expiring 23 March 2021.
    - The *Gaming Machine (Emergency Community Purpose Contribution—Local Live Performance Industry) Declaration 2020* [DI2020-252] expiring 31 August 2021.
- Amendments will also suspend 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 has subsequently twice extended the availability of the incentive 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.

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- The extended incentive is available on a 'first come, first served' basis, ending:
    - when applications have been received for a total of $3.75 million in incentive payments (i.e. applications have been received for the surrender of a further 121 authorisations in addition to the 129 already surrendered); or
    - at 11.59pm on 30 June 2021.
- In October 2020, one club surrendered a further 20 authorisations in exchange for a cash payment of $300,000.
- To date, the total number of authorisations surrendered under the incentive is 129, with $1.935 million in incentive payments paid to participating clubs. The surrender of these authorisations has reduced the ACT's total number of authorisations from 3,997 to 3,868. This figure was capped by the *Gambling and Racing Control (New Cap on Number of Authorisations) Notice 2020 (No 3) NI2020-762* on 1 November 2020.

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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, 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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- 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– (02) 6257 1788
    - The Consumer Law Centre – (02) 6143 0044
    - Environmental Defenders Office – canberra@edo.org.au
    - Aboriginal Legal Service NSW/ACT – (02) 6120 88 00
- 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 will deliver 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 will support the sector to have the ICT capacity to deliver services remotely, and provide for increased frontline services to meet the additional demand flowing from the COVID-19 emergency.
- This announcement was welcomed by the ACT Government.
- The frontline services funding will deliver 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;

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- 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 has 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.

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 is still providing 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.

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- 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 day time services. NTLAS is available on 02 6218 7000. Intake is done between 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. Intake is done 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 newly launched 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 is providing 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/

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QUESTION TIME BRIEF

Background Information

- On 25 March 2020, ACT Community Legal Centres issued a joint communique identifying the essential legal assistance services the sector will continue to deliver and the issues it has identified as a result of the COVID-19 outbreak.
- The ACT Government has heard from CLCs that the matters they are facing are becoming more complex following COVID-19. CLCs anticipate increased legal need in the community in early - mid 2021 in alignment with reductions to the JobKeeper payment.
- An ABC News Report about responding to family violence in the ACT on **28 September 2020** quotes the A/g Coordinator-General for Family Safety, Kirsty Windeyer, as stating the following: "after the [COVID-19] restrictions were lifted there was an increase in the number of people who were reporting experiencing violence for the first time in the home" and "there was also an increase in the brutality of the violence and in the physical violence". The article is available via: https://www.abc.net.au/news/2020-09-28/back-to-the-future-for-act-policings-family-violence-response/12709150

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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 has 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 is also administering $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 will boost frontline services to meet the additional demand flowing from the COVID-19 emergency and also support 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** – which 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. Tjillari Justice has withdrawn their contract and the existing subcontractor has been approached to delivery 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 at this current stage in the pandemic and 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.
  - Activity is increasing with 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.

Cleared as complete and accurate:	26/03/2021	
Cleared by:	Executive Branch Manager	
Contact Officer name:	Stephen Walters	Ext:x72536
Lead Directorate:	Justice and Community Safety	
Cleared for release	Yes	
Information Officer name:	Jennifer McNeill	
TRIM Ref:	JACS2021/46-001-028	

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- 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.

- ***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.

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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

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QUESTION TIME BRIEF

Summary of COVID-19 Initiatives managed by JACS					
Service Provider	**Activity Funded**	**Managed By**	**Amount Funded**	**Funding Type**	**Expiry Date**
	Resourcing to increase the capacity of the Family Violence Unit, the Older Persons ACT Legal Service and to provide an Employment Assistance Service	JACS	$314,087	Commonwealth frontline services funding (Project Agreement)	30 June 2021
	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's 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.

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  - 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 taken a flexible approach with service providers, regarding:
  - their COVID-19 planning and ability to continue to deliver on funded services, while keeping their staff and clients safe;
  - their 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 front line 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

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Cleared for public release by:	Executive Group Manager	Ext: 70674
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), most recently on 8 March 2021. 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.

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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 Ministerial Advisory 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.

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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

- Preliminary work to establish the Community Clubs Ministerial Advisory Council has commenced.
- 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 terms of reference, membership and other matters relevant to the establishment of the Council (please see QTB **JACS2021/46-001-002**).

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 1,078 (from 4,946 to **3,868)** 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 licensees (clubs and hotels) can access the *COVID-19 Economic Survival Package Gaming Machine Authorisation Surrender Incentive* until 30 June 2021. This incentive provides licensees with a cash payment of $15,000 per surrendered gaming machine authorisation, to be used towards:
    - staff employment;
    - diversification activities and initiatives; and
    - energy and water efficiency measures.

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QUESTION TIME BRIEF

Gaming Machine Tax Rebate

- The Government continued the 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, eligibility for the gaming machine tax rebate no longer takes into account gross gaming machine revenue in 2017-18. Instead, a club or club group is considered small or medium where its annual gross gaming machine revenue (GGMR) is not more than $4 million, or where it receives some amount of rebate under new 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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- 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

- There are currently **39** licensed club venues and **5** hotels in the ACT who hold gaming machine authorisations.
- The most recent figures published by the Gambling and Racing Commission (1 February 2021) state there are **3,868** authorisations and **3,579** electronic gaming machines in operation in the Territory.
- Under the COVID-19 Economic Survival Package to date, 129 authorisations have been surrendered in return for $1.935 million in incentive payments to be used towards staff employment, and (under the extended incentive) diversification activities and initiatives, and energy and water efficiency measures. The incentive

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has been extended until applications have been received for the surrender of a total of $3.75m in incentive payments (i.e. surrender of a further 121 authorisations), or until 30 June 2021, whichever occurs first.

Background information

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

- Representatives of the following organisations attended the initial stakeholder meeting on 12 February 2021:
    - ACT Council of Social Services;
    - Canberra Community Clubs;
    - Clubs ACT;
    - Gambling and Racing Commission;
    - Gambling Reform Alliance;
    - United Workers Union; and
    - Justice and Community Safety Directorate (ACT Government).
- JACS advertised the calls for nominations on the ACT Diversity Register and ACT Jobs websites, with a closing date of 26 March 2021.
- It is expected that you will convene the first meeting of the CCMAC by the end of May 2021.

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. JACS will seek expert technical advice on the implementation of this commitment.
- The *Casino (Electronic Gaming) Act 2017* includes a maximum bet limit of $2 for casino gaming machines in a redeveloped casino.

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QUESTION TIME BRIEF

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

	2018-19 $'000	2019-20 $'000	2020-21 $'000	2021-22 $'000	**Total $'000**
CMTED Directorate – Expenses	122	351	0	0	**473**
JACS Directorate – Expenses	2,206	1,105	1,105	1,105	**5,521**
Depreciation	0	45	45	45	**135**
Total Expenses	**2,328**	**1,501**	**1,150**	**1,150**	**6,129**
CMTED Directorate – Associated Capital	225	0	0	0	**225**
EPSD Directorate – Associated Revenue	-500	-1,714	-1,714	-1,714	**-5,642**

The Government is implementing measures to support the reduction of gaming machine authorisations to 4,000 by 1 July 2020 - as set out in the *Pathway to 4,000 Gaming Machine Authorisations by 2020* - and is continuing to implement the commitments outlined in our *Supporting Local Community Clubs Policy*.

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QUESTION TIME BRIEF

JACS2021/46-001-031

Portfolio/s: Gaming

Diversification and Sustainability Support Fund – 20/21 funding round

Talking points:

- In October 2020 the Diversification and Sustainability Support Fund (DSSF) Advisory Board opened a Tier 2 funding round for applications for payments from the DSSF. This was the first Tier 2 funding round completed by the Board.
- I have 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 will be distributed to successful applicants for the following activities:
    - installing solar panels, electric vehicle charging stations and solar light fittings in a venue carpark;
    - developing an Early Learning Centre;
    - upgrading and reopening a kitchen;
    - constructing sheds to store golf carts;
    - developing a strategy to diversify to alternative income streams; and
    - contributing to a Risk Analysis for a venue re-development.
- The seven clubs that will receive payments in this round of grants successfully showed that their proposed activity could meet at least one of the purposes that the DSSF was set up to achieve.
- The Government established the DSSF on 1 July 2019. The DSSF is jointly funded by industry and Government to provide funding for the following purposes:
    - assisting clubs to diversify their income to sources other than gaming machines;
    - supporting the sustainability of clubs;

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Cleared for public release by:	Executive Branch Manager	Ext:76192
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Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-031	

  - 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.

- As a COVID-19 relief measure, industry contributions to the Fund were suspended, effectively for the 12-month period April 2020 to March 2021.
- However, the Government made available for distribution in 2020-21 approximately $1 million in previously-appropriated funding.
- The availability of this Government funding allowed for grant applications to be made for this round of funding.

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.

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- While this funding was generally positively received, some clubs expressed disappointment that the funding round did not continue due to the distribution of funding for COVID-19 emergency relief. The former Attorney-General advised club representatives at the Club Presidents' Forum in July 2020 that the Government would provide its appropriated contribution for 2020-21 to the Fund, even though club contributions were suspended.

Organisations that will receive funding from the DSSF

- 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 following organisations will receive funding from the DSSF for 2020/21 as per your agreement to the Advisory Committee's recommendations.

Recipient		Tier	Amount	Purpose
1	Murrumbidgee Country Club	Tier 1	$25,000	To assist with the construction of a shed to store golf carts.
2	Belconnen Bowling Club	Tier2	$155,000	To allow the club to upgrade and reopen its kitchen.
3	Belconnen Soccer Club	Tier 2	$100,000	To develop an early learning centre on the Club's McKellar site.
4	Canberra Irish Club	Tier 2	$99,093	To install a 65,155 KWP Solar Grid Connect system at its premises.
5	Canberra Southern Cross Club	Tier 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	Tier 2	$52,200	For the development of a diversification strategy and implementation plan.
7	Hellenic Club of Canberra	Tier 2	$100,000	To contribute to the funding to engage a consultant to conduct a Full Appraisal and Risk Analysis to inform the applicant about redevelopment options for the club's main site in Woden.
	TOTAL		**$632,811**	

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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 now capped at **3,868** following the surrender of 129 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 since 23 August 2018 following the ACT Government announcement of the *Pathway to 4,000 Gaming Machine Authorisations by 2020* (the Pathway).
- The Pathway was informed by the recommendations of the *Club Industry Diversification Support Analysis* by Mr Neville Stevens AO. At that time, the number of authorisations held by clubs and hotels was 4,946.
- The previous Government's target of reaching 4,000 gaming machine authorisations was achieved ahead of time, with the cap on the number of authorisations reducing to 3,997 by 25 February 2020.
- Under the Pathway, financial and non-financial incentives were available to clubs that voluntarily surrendered gaming machine authorisations to diversify their business models. Applications for these previous incentives needed to be made to the Justice and Community Safety Directorate by 31 January 2019.
- The COVID-19 Economic Survival Package surrender incentive remains available to clubs and hotels until 30 June 2021.

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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.
- 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 $875,985.
- 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.

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QUESTION TIME BRIEF

Key Information

- The *Gambling and Racing Control (New Cap on Number of Authorisations) Notice 2020 (No 3)* NI2020-762 sets the cap on the number of gaming machine authorisations at **3,868** as at 1 November 2020.
- Under the Pathway, licensees that voluntarily surrendered gaming machine authorisations were eligible for financial incentives as follows:

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 3,868 (November 2020) 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 – 129 authorisations.

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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	$945,000	7,500
Croatia Deakin Soccer Club	Development application fees Lease variation charge	$200,000	3,485 100,000
		Total	**$875,985**

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	937,500
Hellenic Group	870,000
Vikings Group	2,100,000
Total	**$12,866,515**

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QUESTION TIME BRIEF

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

	2018-19 $'000	2019-20 $'000	2020-21 $'000	2021-22 $'000	Total $'000
CMTED Directorate – Expenses	122	351	0	0	473
JACS Directorate – Expenses	2,206	1,105	1,105	1,105	5,521
Depreciation	0	45	45	45	135
Total Expenses	**2,328**	**1,501**	**1,150**	**1,150**	6,129
CMTED Directorate – Associated Capital	225	0	0	0	225
EPSD Directorate – Associated Revenue	-500	-1,714	-1,714	-1,714	-5,642

The Government is implementing measures to support the reduction of gaming machine authorisations to 4,000 by 1 July 2020 - as set out in the *Pathway to 4,000 Gaming Machine Authorisations by 2020* - and is continuing to implement the commitments outlined in our *Supporting Local Community Clubs Policy*.

Changes to the *Gaming Machine Act 2004* established the legal framework for the voluntary and compulsory surrender of authorisations. The relevant provisions of the Act relating to the reduction to 4,000 gaming machine authorisations commenced on 11 December 2018. The voluntary surrender period ceased on 31 January 2019 and all voluntary surrender agreements providing incentives to participating licensees were required to be signed on or before 8 February 2019.

Cash incentive payments **($0.648 million)** were made to eligible licensees from the JACS' Territorial account resulting in savings in 2018-19 of $1.3 million. Clubs are also eligible for $13.7 million in incentives for land-related payments, fees and charges over the next seven years.

The voluntary surrender process and forfeitures through trading reduced the number of gaming machine authorisations in the ACT to 4,012 by 14 February 2019. The subsequent first stage of compulsory surrender on 1 April 2019 reduced that number to 4,003, and forfeitures through trading activity has since reduced the number of authorisations to 4,001.

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QUESTION TIME BRIEF

JACS2021/46-001-003

Portfolio/s: Minister for Gaming

ISSUE: COMMUNITY CONTRIBUTIONS

Talking points:

COVID-19 support measures in the community contributions scheme

- 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—Club Employees) Declaration 2020*, clubs could claim staff wages as community purpose contributions, provided the amount meets or exceeds the relevant minimum wage (including any relevant allowances) under the *Registered and Licensed Clubs Award 2010*. This measure applied to contributions made between 24 March 2020 and 23 March 2021 (inclusive) to provide support to clubs and their 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.

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- 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. This measure applies to contributions made between 27 August 2020 and 31 August 2021 (inclusive).
- Revised Guidelines for the scheme, incorporating these recent changes and providing further clarity in response to feedback, are being finalised for distribution to licensees.

<u>April 2020 changes to the scheme in response to industry feedback</u>

- In response to industry feedback, the Government introduced the *Gaming Machine Amendment Act 2020*, which was passed by the ACT Legislative Assembly in April 2020. The Act includes several refinements to support clubs' compliance and reporting obligations including:
  - removing the requirement for clubs with more than one venue to report on the community purpose contributions for each venue separately and allowing clubs with more than one venue to make community purpose contributions on a group basis;
  - introducing a transitional provision reducing the minimum monetary contribution for clubs that are not small or medium clubs or part of a small or medium club group from 6 per cent to 5 per cent for reporting years ending after 30 June 2019 and before 1 July 2021; and
  - introducing a transitional provision reducing community contributions shortfall tax from 150 per cent to 100 per cent for reporting years ending after 30 June 2019 and before 1 July 2021.

<u>2019 reforms to the scheme</u>

- Significant Government reforms to the community contributions scheme commenced on 1 July 2019.

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- The changes to the scheme:
    - increased the funds available to the broader community;
    - required greater transparency in reporting on community contributions;
    - provided more opportunities for community groups to seek community contributions; and
    - increased the minimum contribution payable from net gaming machine revenue (NGMR) by 0.8 per cent for clubs and introduced a contribution requirement for hotels.
- Hotels are required to make mandatory contributions of 0.8 per cent of their 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.
- These 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.
- 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).

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.

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- 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.
- 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
- 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 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.

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QUESTION TIME BRIEF

JACS2021/46-001-002

Portfolio/s: Minister for Gaming

ISSUE: CLUB ENGAGEMENT

Talking points:

- This 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* is to establish a Community Clubs Ministerial Advisory Council (CCMAC) with government, industry and unions to build a long-term, sustainable clubs sector in the ACT.
- Work on implementing this commitment is underway.
- 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 CCMAC, including its proposed membership and terms of reference.
- After considering feedback received from the initial stakeholder meeting, on 15 March 2021 a call for expressions of interest for CCMAC membership was advertised on the ACT Diversity Register and ACT Jobs Website. I also wrote to key stakeholders seeking nominations for appointment.
- The nomination process closed on 26 March. After Minister Cheyne and I have considered the applications received, I will announce the successful applicants.
- I intend to convene the Council for its first meeting in May of this year and envisage that meetings will be held once a month.
- I look forward to consulting with the club industry through the CCMAC to deliver the Government's commitments.

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TRIM Ref:	JACS2021/46-001-002	

QUESTION TIME BRIEF

Background Information

If asked about the composition of the CCMAC:

- On 12 February 2021, key stakeholders provided feedback on the proposed membership of the CCMAC. The CCMAC will comprise the members captured below.

Membership of the CCMAC		
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
Representative, Business/hospitality professional	To provide a perspective on business opportunities and constraints. The representative would be appointed by the Minister following a nomination process.	1
	TOTAL	**15**

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QUESTION TIME BRIEF

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 CCMAC:

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

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ACT Government

QUESTION TIME BRIEF

Recent consultation activity

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

Diversification and Sustainability Support Fund (DSSF)

Date	Document	Club Organisations	Attachment
19 October 2020	Email – information about the DSSF, advising that the Fund is open for applications with a Tier 2 funding round closing on 20 November 2020.	All club licensees, industry groups and community groups	Diversification and Sustainability Support Fund – Funding Application Form Diversification and Sustainability Support Fund – Standard Operating Procedure for Funding Applications – October 2020 *Gaming Machine (Applications for Payments out of DSSF) Guidelines 2019*
16 November 2020	Email – reminder that the DSSF Tier 2 funding round is closing on 20 November 2020.	All club licensees, industry groups and community groups	Diversification and Sustainability Support Fund – Funding Application Form Diversification and Sustainability Support Fund – Standard Operating Procedure for Funding Applications – October 2020 *Gaming Machine (Applications for Payments out of DSSF) Guidelines 2019*
20 November 2020	Email – Chair, DSSF Advisory Board – rejection of extension request for Tier 2 funding round	Austrian Australian Club	
21 - 24 December 2020	Email – request for additional information to support Tier 2 funding application	Hellenic Club Canberra Irish Club Belconnen Soccer Club Belconnen Bowling Club	
18 – 19 March 2021	Letters to successful and unsuccessful applicants for DSSF funding	Various	

Community Clubs Ministerial Advisory Council

Date	Document	Stakeholders
20 January 2021	Email – invitations to initial meeting to discuss establishment of CCMAC	Clubs industry peak bodies, United Workers Union and community groups
12 February 2021	Meeting – CCMAC Initial stakeholder meeting	As above
16 March 2021	Letter – Seeking nominations for appointment to the CCMAC 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.

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QUESTION TIME BRIEF

COVID-19 Support Measures

Date	Document	Club Organisations	Attachment
8 February 2021	Email – Further extension of the COVID-19 Economic Survival Package – Gaming Machine Authorisations	All club and hotel licensees and club industry peak bodies	Access Canberra Notification Form for Surrender of Authorisations; and COVID-19 Economic Survival Package – Gaming Machine Authorisation Surrender Incentive Extension form
19 March 2021	Email – Reminder – expiry of the *Gaming Machine (Emergency Community Purpose Contribution - Club Employees) Declaration 2020*	All club licensees and club industry peak bodies	Q and As for emergency community purpose contribution declarations – club employees and local live performance industry

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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 with the resources it needs to meet increasing demand.

Recent Magistrate appointments

- Magistrate Bernadette Boss has taken up a temporary 12-month appointment with the Commonwealth in the role of interim National Commissioner for Defence and Veteran Suicide Prevention. Dr Boss commenced in the role on 16 November 2020. I congratulate Dr Boss on this significant appointment.
- I welcome the appointment of Jane Campbell as a Special Magistrate, who is backfilling Dr Boss' 12-month absence from the Magistrates Court. Ms Campbell commenced in her new role on 11 January 2021 and brings a wealth of experience to the bench, particularly in the area of criminal law practice.
- Ms Louise Taylor has been sitting as the Territory's eighth full-time resident magistrate since 10 September 2018. This appointment supports the efficiency of the justice system and the timeliness of proceedings in the Magistrates Court.
- In addition to resourcing the eighth magistrate position, in the Government's 2018-19 budget, Legal Aid ACT received an additional $1.297 million and the Director of Public Prosecutions (DPP) received $987,000 for additional staff to support the increased capacity of the Magistrates Court.

Dedicated full time ACT Forensic Pathologist

- The 2018-19 Budget also 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.

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Family Liaison Officer

- The 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.

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.

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).

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.

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.

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QUESTION TIME BRIEF

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 2021.
- The appointment of Ms Margaret Hunter OAM as a Special Magistrate was recently extended to 30 April 2021. Special Magistrate Hunter requested this extension in order to finalise the Brayden Dillon Inquest, noting that, given the volume of evidence to consider by the parties in respect of their submissions, time for submissions was extended to April 2021. Special Magistrate Hunter expects to hand down findings by the end of April 2021.
- Magistrate Boss has been engaged by the Commonwealth for appointment as interim National Commissioner for Defence and Veteran Suicide Prevention for a term of 12 months. She commenced in the role on 16 November 2020. Jane Campbell has been appointed as a Special Magistrate for 12 months, commencing 11 January 2021, to cover Magistrate Boss' absence.

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QUESTION TIME BRIEF

JACS2021/46-001-004

Portfolio/s: Attorney-General

ISSUE: REFORMS TO THE OPERATION OF THE CORONER'S COURT

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, effective 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.
- Coronial reform is part of a broader initiative to build Canberra as a Restorative City – one where we value relationships, treat each other with care and respect, and seek to solve problems collectively.

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TRIM Ref:	JACS2021/46-001-004	

QUESTION TIME BRIEF

Key Information

Full-time dedicated Coroner's Court

- The Parliamentary and Governming 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). This 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 will support 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 the next four years for an eighth full time resident magistrate.

Background Information

Law Reform Advisory Council (LRAC) Report

- The LRAC report, *Canberra – Becoming a Restorative City,* recommended that restorative practices be trialled within the coronial system. LRAC's report was released on the Justice and Community Safety Directorate's (JACS) website on 15 November 2019, as a part of the launch of the 'Canberra as a Restorative City' website. The website includes a vision document about Canberra as a Restorative City initiative, which notes coronial reform as a priority.
- 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:
    - Developing 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.

Restorative Coronial Reform Forum

- 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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Contact Officer name:	Samantha Grundy	Ext: 52434
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-004	

- Legislation, Policy and Programs (LPP) is engaged in ongoing work with the Coroner's Court to explore further restorative coronial system reforms.

Recent legislative reforms

- In July 2020, the Legislative Assembly passed the Coroners Amendment Bill 2020 which is 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.

Strengthening Restorative Practice in the Coroner's Court

- As part of the Canberra as a Restorative City commitment, JACS organised for religious and cultural leaders from across the ACT to meet with Canberra's Coroners, Coroners' Court staff and staff from the Forensic Medical Centre to discuss different customs around death, autopsy and burial. These meetings took place on 16 & 17 November 2020.

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.

National Commissioner for Defence and Veteran Suicide Prevention

- The ACT is participating 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 key focus of the Commissioner's role will be engagement with affected families using restorative and trauma-informed principles.
- ACT Magistrate, Dr Bernadette Boss has been appointed as the interim National Commissioner for the Defence and Veteran Suicide Prevention for 12 months. Dr Boss commenced in this role on 16 November 2020.

Coronial Reform Group (CRG)

- Mrs Eunice Joliffe, Ms Rosslyn Williams, 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, Benjamin Williams and Paul Fennessy in 2010.
    - Mark Joliffe died on or about 15 February 2010. Coroner Dingwall's findings were delivered on 30 June 2015.
    - Benjamin Williams died on 28 September 2010. The Chief Coroner's findings were delivered on 17 October 2013.

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- 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.
- Ten family representatives attended the Restorative Coronial Reform forum on 19 November 2019.

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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 ACT's Drug and Alcohol Court, which is referred to by the Courts as the Drug and Alcohol Sentencing List (DASL).
- The first Drug and Alcohol Treatment Order (DATO) was made on 15 January 2020.
- The Sentencing list commenced with an intake of 10 participants and this will increase to up to 35 participants by June 2021.
- As at 26 March 2021, 56 people have been referred to the DAC, with 51 people being sent for eligibility assessments. Of this number, seven were women and 18 identified as Aboriginal and Torres Strait Islander people. As at 6 April 2021, 18 DATOS were in effect with a further 12 people awaiting assessment.
- The Drug and Alcohol Sentencing List is heard each Friday and as required on other days.
- The model is based on proposals that were developed by the DAC Supreme Court Working Group which was led by Justice John Burns and included representatives from key agencies.
- 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.

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- 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 aim of the report was to determine whether the positive results observed in the first and second evaluations of the NSW Drug Court are sustained over a period of 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. 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.
- Their sentence of imprisonment (between one and four years) will be suspended.
- Participants have individualised treatment and sentence management plans that 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.
- Justice Refshauge leads a team of representatives from various health and justice agencies to guide the participant through the DAC process.
- 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.

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.

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 has 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. A review of the ACT's approach is timely.
- 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 invited 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.
- I am aware that the Director of Public Prosecutions has 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.

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Cleared for public release by:	Deputy Director-General	Ext: 53504
Contact Officer name:	Anita Axell	Ext: 54104
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-030	

QUESTION TIME BRIEF

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 currently expires 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.

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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

Stickering at Australian National University (Chief Minister)

- I am aware of media reports over the weekend of posters and stickers belonging to ideological motivated groups appearing at the Australian National University.
- The ACT Government stands with the the ANU to condemn this sort of activity.
- Our best defence against this sort of behaviour is to maintain Canberra as a welcoming and inclusive city, where diversity is respected and celebrated.
- The ACT Government and ACT Policing continue to work to keep Canberrans safe from all forms of extremism in partnership with our Commonwealth, State and Territory colleagues.
- The ACT Government recognises communities play an important role in preventing and countering violent extremism, alongside government agencies. This is a shared challenge and requires a whole-of-society approach.
- I encourage families, friends and communities to contact authorities for help and advice if you are concerned someone may be vulnerable to violent extremism.
- Concerns can and should be reported to the National Security Hotline on 1800 123 400. Please visit the Living Safe Together website for more information.

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Cleared for public release by:	Executive Branch Manager	Ext:
Contact Officer name:	Bren Burkevics	Ext: 78628
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/47-001-031	

QUESTION TIME BRIEF

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.

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.

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TRIM Ref:	JACS2021/47-001-031	

QUESTION TIME BRIEF

- 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.

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QUESTION TIME BRIEF

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 withthe National Cyber Security Committee to monitor the cyber threat environment.
- In response to recommendations from the Auditor-General's audit on data security, the ACT has engaged a provider to undertake a thorough risk and threat assessment of the ACT's environment. This is in addition to a wide range of other activities to strengthen the ACT's cyber security resilience.
- The ACT supported the development of *Australia's Cyber Security Strategy 2020*, launched August 2020. The strategy responds to continuing malicious cyber threats and activities faced by Australians.
- 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,

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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 ready as COVID restrictions ease to host safe and enjoyable public events.
- We have expanded our CCTV Network (the Network), into areas such as Glebe Park,and make use of portable CCTV capability, vehicle protection barriers and other measures as appropriate to protect Canberrans.

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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.
- In 2016, the ACT Government provided $6.4 million over four years for the expansion of Taskforce Nemesis to target organised crime syndicates including Criminal Motorcycle Gangs. This funding included eight staff: four investigators, two intelligence officers, one Forensic Accountant and an Investigative Assistant.
- In the 2018-19 Budget, ACT Government committed a further $1.594 million over four years to bolster the capability of Taskforce Nemesis in providing funding for one Forensic Accountant, one Surveillance Team Member and associated equipment and training.
- ACT Policing will continue to ensure an appropriate police response to target and disrupt those seeking to cause harm in our community.
    - ACT Policing is also in a unique position as it can call on specialist and surge capabilities from the broader AFP to meet changing operational environments.
- 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 bring 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.

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Contact Officer name:	Sch 2, s2.2(a)(ii)	Ext:
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/47-001-021	

QUESTION TIME BRIEF

- ACT Policing has 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. The group is based on the Commonwealth NAGS model that brings a whole-of-government approach to addressing this issue.
- The confiscation of criminal assets is an effective tool to assist in the prevention and disruption of serious and organised crime and prevents the reinvestment of illegally obtained wealth into criminal activity.
- It is anticipated additional agencies will be invited to future working groups to further drive Taskforce Nemesis' ambitions to disrupt Criminal Motorcycle Gang activities.

Operational successes

Taskforce Nemesis Criminal Motorcycle Gang related figures (at 1 April 2021)	**2018**	**2019**	**2020**	**2021 (1 Jan – 31 Mar 2021)**
Criminal gang members charged *(person may be charged on numerous occasions)*	27	54	30	4
Offences charged*	78	127	87	10
Firearms seized	20	12	9	2

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

OMCGs in Canberra

- As at April 2021:
  - There are three known Criminal Motorcycle Gangs, one of which has increasingly limited influence, operating in the ACT.
  - The total number of members associated with ACT chapters of these Criminal Motorcycle Gangs is estimated at approximately 30-40 people.
  - This is a decrease from the previously reported numbers of approximately 70 members in 2018-19 and is as a result of members being deported, imprisoned or fleeing interstate.

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Contact Officer name:	Sch 2, s2.2(a)(ii)	Ext:
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	2020/000092-019	

QUESTION TIME BRIEF

- 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.

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.

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Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/47-001-021	

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 13 January 2021, there are four known OMCGs operating in the ACT, two of which have 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, 29 OMCG members were charged with a total of 47 offences. In this period, 9 firearms were seized.

Key Taskforce Nemesis figures (Criminal Motorcycle Gang related figures)	**2018**	**2019**	**2020**
Criminal gang members charged**	27	37	29
Offences charged	78	85	47
Firearms seized	20	12	9

*A person may be charged more than once in a year

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Cleared as complete and accurate:	17/03/2021	
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Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-019	

QUESTION TIME BRIEF

- 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.

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TRIM Ref:	JACS2021/46-001-019	

- 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.

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- 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.

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QUESTION TIME BRIEF

JACS2021/46-001-024

Portfolio: Police & Emergency Services

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 will improve 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.

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TRIM Ref:	JACS2021/46-001-024	

- 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.

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).

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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 four years of the Strategy. In 2019-20 there were 17,737 recorded property offences, which is 3,933 less than four years ago in 2015-16.
- However, to keep property crime rates down we must not become complacent, there is still work to be done.
- While consideration regarding a new statergy 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

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and security, to develop pro-social and law abiding community engagement.

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 Community Policing 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.
- 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.

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- 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.
- 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:
    - *Lock and hide to protect your ride* - has reached over 105,000 on Facebook with total engagement sitting around 3,500
    - *Keep out a break-in* – has reached over 120,000 people on Facebook and over 21,000 on Twitter, with engagement across the two platforms sitting around 7,800
    - 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.

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Background Information

Property Crime Rates

Offence Type	2018-19 FY	2019-20 FY	Financial YTD 01/07/2020 – 31/12/2020
Total Robbery	209	223	67
Armed Robbery	*104*	*103*	*22*
Unarmed Robbery	*105*	*120*	*45*
Total Burglary	2627	2292	989
Burglary dwellings	*1659*	*1363*	*615*
Burglary shops	*419*	*370*	*147*
Burglary other	*549*	*559*	*227*
Motor Vehicle Theft	1234	1262	658
Theft (excl motor vehicle theft)	8732	8109	3381
Property damage	4954	4175	1894
Other offences against property*	2198	1464	827
TOTAL	**19954**	**17525**	**7816**

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

Source: PROMIS as of January 27, 2021

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Further Background Information

ACT Policing reported the following property crime offences in its 2019-20 Annual Report:

TABLE 4.2: OFFENCES AGAINST PROPERTY BY OFFENCE TYPE — FINANCIAL YEAR COMPARISON

Offence type	2018–19	2019–20	Change (%)
Robbery	209	223	6.7%
Armed robbery	104	103	-1.0%
Unarmed robbery	105	120	14.3%
Burglary	2627	2292	-12.8%
Burglary dwellings	1659	1363	-17.8%
Burglary shops	419	370	-11.7%
Burglary other	549	559	1.8%
Motor Vehicle Theft	1234	1262	2.3%
Theft (excl motor vehicle theft)	8732	8109	-7.1%
Property damage	4954	4175	-15.7%
Other offences against property*	2198	1464	-33.4%
Total	**19,954**	**17,525**	**-12.2%**

Source: PROMIS as at 2 July 2020

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

Under 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.

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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:

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

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  - reducing violent crime by 50 per cent
  - 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 all 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/

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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 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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- 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, is now reviewing 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.
- The 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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- 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*, which is to be finalised early in 2021. This 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 in 2021 that are consistent with the principles inherent in the report findings.

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 as 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 (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

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needs of all eligible participants. Restorative 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 RJ 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 current satisfaction rate to end 2020 is 99%. This includes satisfaction with family violence and sexual offence matters.

Impact of COVID-19

- COVID-19 disruptions significantly impacted the delivery of the Restorative Justice Scheme.
- The office of the Restorative Justice Unit (RJU) in the Justice and Community Safety Directorate remains open with up to six staff attending on rostered days 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.
- In 2019-20, overall referrals dropped by 20% from 2018-19 and overall conferences dropped by 13%. Referrals to-date in 2020-21 have continued at lower levels.

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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 (RJU) 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 team, including two Aboriginal and Torres Strait Islander officers working as a convenor and a guidance partner, work to promote confidence in the Restorative Justice process within the local community, cultural competence and safety.

Comparing referral statistics

- In 2019-20, the RJU received 212 referrals compared to 2018-19 when the RJU received a total of 264. These statistics show a 20% drop in referrals.
- In comparing third-quarter statistics, from July to March in 2020-21 to the same period in 2019-20 a drop in referrals of 25% is evident. That is, 124 referrals involving 190 victims and 143 offenders and 291 offences were received from July to March in 2020-21. In the same period in 2019-20, 170 referrals were received comprising 289 victims and 184 offenders and 367 offences.

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TRIM Ref:	JACS2021/46-001-016	

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Referrals by financial year

	2018-19	2019-20	Difference
Referrals	264	212	-20%
Victims	439	357	-19%
Offenders	294	234	-20%
Offences	594	491	-17%

Referrals to end of Q3

	July 2019 to March 2020	July 2020 to March 2021	Difference
Referrals	170	128	-25%
Victims	289	190	-34%
Offenders	184	143	-22%
Offences	367	291	-21%

- In 2019-20, unsurprisingly, there was a 13% drop in conferences completed, with a larger percentage of indirect conferences held – due to COVID-19 restrictions. In 2019-20 the RJU managed 72 conferences to completion compared with 83 conferences for the previous financial year.
- Comparing third quarter statistics to assess for ongoing COVID-19 disruption effect, 59 conferences were held during the period of July 2019 to March 2020 (pre-COVID) whereas 33 conferences were held in the same period for 2020-21, a drop of 44%.

Restorative justice conferences by financial year

	2018-19	2019-20	Difference
Conferences	83	72	-13%
Face to face	56	45	-20%
Indirect	27	27	even

Restorative justice conferences to end of Q3

	July 2019 to March 2020	July 2020 to March 2021	Difference
Conferences	59	33	-44%
Face to face	41	17	-59%
Indirect	18	16	-11%

Aboriginal and Torres Strait Islander impacts

- The COVID-19 related reduction in face to face client contact has also impacted on Aboriginal and Torres Strait Islander clients.
- 48 Aboriginal and/or Torres Strait Islander people were included in referrals in 2019-20. These referrals were predominantly from ACT Policing (19 young people and two adults), the Magistrates Court (13) and the Galambany Court (11).
- 52 Aboriginal and/or Torres Strait Islander people were included in referrals in 2018-19, including from ACT Policing (13 young people and three adults); the Magistrates Court (10) and the Galambany Court (20).
- This reduction in referrals has continued in the first three quarters in 2020-21 just 19 referrals involving Aboriginal and/or Torres Strait Islander people being received. This reduction predominantly reflects no referrals being received from the Galambany Court during this period (see table below under heading 'Referrals including Aboriginal and Torres Strait Islander people to end of Q3').
- In the first three quarters of 2020-21, RJU convened six conferences involving eight Aboriginal and Torres Strait Islander people (these conferences included matters that were referred in 2019-20). In 2019-20 the RJU convened nine conferences involving 9 Aboriginal and/or Torres Strait Islander people.
- In response to these reductions, the RJU is in the process of reviewing all procedures and practices in relation to referrals involving Aboriginal and

QUESTION TIME BRIEF

Torres Strait Islander participants to consider ways to increase participation.

Referrals including Aboriginal and Torres Strait Islander people by financial year

Aboriginal and/or Torres Strait Islander people	**2018-19**	**2019-20**
Total referrals	52	48
ACT Policing	16	21
ACT Magistrates Court	10	13
Childrens Court	4	-
Galambany Court	20	11
Supreme Court	2	2
ACT Corrective Services	-	1

Referrals including Aboriginal and Torres Strait Islander people to end of Q3

Aboriginal and/or Torres Strait Islander people	**July 2019 to March 2020**	**July 2020 to March 2021**
Total referrals	35	19
ACT Policing	12	14
ACT Magistrates Court	11	3
Galambany Court	11	-
Supreme Court	1	2

QUESTION TIME BRIEF

Referring entity activity

- ACT Policing were the highest referring entity in 2019-20, with 110 referrals involving 101 young people and 31 adults. However, this was down by 15% compared with ACT Policing referrals in 2018-19, when 129 referrals were received involving 118 young people and 37 adults.
- The ACT Magistrates Court was the second highest referring entity with 55 referrals. This was down 30% compared with 2018-19, when 79 referrals were received.
- Referrals from all Courts were reduced in 2019-20 compared to 2018-19.
- A review of statistics to the end of the third quarter in 2020-21 reveals that ACT Policing and the Magistrates Court remain the highest referring entities and that the numbers of referrals have decreased by 25% due to COVID-19.

Referring entity activity by financial year

Referring entity	2018-19	2019-20
ACT Policing	129	110
ACT Magistrates Court	79	55
Childrens Court	22	17
Galambany Court	20	11
Supreme Court	11	10
Drug and Alcohol Court	-	2
ACT Corrective Services	-	5
Child and Youth Protective Services	-	2

QUESTION TIME BRIEF

Referring entity activity to end of Q3

Referring entity	July 2019 to March 2020	July 2020 to March 2021
ACT Policing	85	62
ACT Magistrates Court	50	41
Childrens Court	10	15
Galambany Court	11	0
Supreme Court	8	7
Drug and Alcohol Court	1	1
ACT Corrective Services	4	2
Child and Youth Protective Services	1	0

Reporting of statistics for family violence and sexual offences

Family Violence referrals

- Family violence and sexual offence matters are often complex and sensitive. Power imbalances can be significant and the impacts of offending can be traumatic for primary and secondary victims. For these reasons many such offences are assessed as not suitable to proceed to conference.
- Despite a potential increase in family violence during COVID-19, referrals for these matters dropped by 19% in 2019-20 compared to 2018-19.
- In 2019-20, 39 referrals involved family violence offences. Fourteen offences involved 'intimate partner violence' (11 being a current partner and three involving ex partners).
- In 2018-19, 48 referrals involved family violence offences.
- In 2019-20, nine (23%) family violence related referrals were managed to completion of conference. Eight conferences were conducted face to face and one was completed using indirect facilitation.
- For matters not proceeding to conference, victims and offenders are linked into support services and appropriate time is spent with victims who frequently report feeling validated and heard, despite a conference not occurring.

QUESTION TIME BRIEF

- Compliance figures for family violence related conference agreements include matters that were referred in the previous financial year. Seven young people either complied with their formal Restorative Justice agreements (three) or their participation in the conference itself fulfilled the needs of the person harmed (four). Four adults either complied with their formal Restorative Justice agreements (three) or their participation satisfied the needs of the person harmed (one).

Referrals for sexual offences

- In 2019-20, five referrals involved a sexual offence, of which three related to a family member and two were non-familial. Five referrals were also received in 2018-19.
- In 2019-20, two conferences were managed to completion, both involved non-familial circumstances. In one case the conference itself satisfied the needs of the victim and no formal Restorative Justice Agreement was necessary. The other conference resulted in a formal Restorative Justice Agreement which is still being monitored for compliance. (NB: conferences may not be concluded the same year that they are referred).

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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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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.
- 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.

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- The recidivism rate for those who have been released from prison and have returned to corrective services (prison or community corrections) is 71.3% in 2018-19 up 1.4% from 69.9% in 2017-18.
- The recidivism rate for ex-offenders returning to corrective services is 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).
  - 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.

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- 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:
    - amends 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
    - introduces 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 and 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 of the 6-page Fact Sheet have been developed.
    - 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.

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

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- 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 commences 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.
- The 6-page Fact Sheet and four 1-page Fact Sheets were shared with the Implementation Working Group and Reference Group representatives and key organisations, for distribution amongst their institutions and networks.
- LPP is exploring with JACS Media the option of making a video recording resource, as suggested by the Implementation Working Group.
- At least one further meeting of the Implementation Working Group has been convened to discuss a framework and approach to the 12-month statutory review.
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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 identified 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 take a liquor licensee's compliance history into account when determining the licensing fees that the licensee must pay.
- 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.

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- Some liquor licensees are of the view that the ACT's fees are significantly higher than licence fees in NSW. The fee frameworks of both jurisdictions are not directly comparable:
    - While both jurisdictions operate risk-based licensing fee frameworks, NSW's liquor licensing fee framework has a significant compliance history-based component. Base fees for NSW liquor licences are generally lower than those applying to the equivalent licence type under the ACT framework. However, if enforcement action is taken against a licensee, a compliance risk loading is added to their annual fee, making that fee significantly higher than the fee for the equivalent licence type in the ACT.
- The *Liquor Amendment (Night-time Economy) Act 2020* (the NSW Act) was passed by the NSW Parliament on 17 November 2020 and included a range of amendments to liquor, gaming and planning-related legislation. The Act amended 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.
- Due to inherent differences between the ACT and NSW liquor licensing fee frameworks, the integrated demerit points and incentives scheme and cumulative impact assessment framework introduced in NSW would not be easily subsumed into the current ACT framework.

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

- While a nightclub on licence has the highest 'base' annual fee of the three licence classes, a nightclub on 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.
- Under the NSW liquor licensing fees framework, all licensees pay a base fee (which varies according to licence type). Licensees trading after midnight also pay a trading hours risk loading. Compliance history risk loadings are triggered where enforcement action for a liquor-related offence has been taken against a licensee within the previous 12 months. If compliance history loadings are engaged, licensees will also be required to pay an additional patron capacity loading and location risk loading (location risk loading is only applicable to Sydney CBD and Kings Cross-based venues).
- For example, a club licensee in Queanbeyan would generally be required to pay a base annual fee of $552.00. However, if compliance history risk loadings are engaged, the annual fee payable by that licensee would increase to up to $19,252.00.

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 seeks to reward and incentivise well-run venues. Venues that maintain a clear record with no demerit points will be entitled to discounts on their annual liquor licence fees. Venues where demerit points have been incurred will not be eligible for the discount and will have to pay additional licence fees as part of the pre-existing annual compliance risk loadings.

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

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Cumulative impact assessments

- The NSW Act introduces a new framework for issuing cumulative impact assessments.
- The framework intends to help manage the density of licensed premises in areas of concern and aims to address related 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 strong presumption against the Authority granting applications for new licenses or improving more late-night trading in any identified 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 a range of 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 receiving 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

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

- Access Canberra (Licensing and Registrations) represents 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 not met for some time because of the COVID-19 public health emergency.
- 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. Due to COVID-19 delays affecting ALLAF's consideration of reform, most Australian jurisdictions have now moved ahead and are pursuing their own policy reforms in relation to online liquor sales and delivery. Victoria, Queensland and the ACT have not yet progressed reform.

Miscellaneous amendments

- The NSW Act automatically removes certain licence conditions that limit music and performance. This includes restrictions on the genre of music that may be played or performed, the number of musicians on stage, or the types of instruments used.
    - These types of restrictions do not exist in the ACT. Licensed premises must abide by the applicable noise standards. Noise is regulated by the *Environment Protection Act 1997* and the *Environment Protection Regulation 2005*, which aim to protect people from undue noise while facilitating business and social activities.
- 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 will be permitted to have minors in the company of a responsible adult during those times.
    - 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.

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QUESTION TIME BRIEF

Background Information

ACT liquor licensing fees framework

- The ACT's current liquor licensing fee framework was introduced in 2010-11 as part of a significant package of reforms.
- In the lead up to the package of reforms, an additional ACT Policing capability was established to collate policing data that allowed for a comparison of 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. The data also showed that the majority of 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 presented a series of proposals for 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 150 people or less and licensed times of 2am or earlier, 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. This reduction took effect under the *Liquor (Fees) Determination for 2020*, noting that all on-licence liquor fees are currently waived as part of the Government's COVID emergency support measures. The on-licence fee waiver is due to expire on 31 March 2021. Commencing 1 April 2021, on-licence fees will be reduced by 50% for a period of 12 months.
- 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.

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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 the harm minimisation and community safety principles. Its members represent a broad range of liquor stakeholder groups, including government, industry, and community organisations.
- Section 218 of the Liquor Act ACT requires the Board to meet at least twice a year. The Board met four times in 2020. The Board met on 16 March 2021 and its next meeting is scheduled for 27 July 2021.

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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.

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.

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 include:
    - 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;

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- a transition or grace period which commenced at the end of the moratorium on 23 October 2020 and will operate until 30 April 2021 which prevents tenants who were COVID-19 impacted from being evicted on the basis of arrears that accrued before or during the moratorium on the condition that they pay rent as it falls 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 a tenant is unable to meet their rent payments as they fall due during the transition period (23 October 2020 – 30 April 2021);
- the ability for landlords and tenants to negotiate reduced rent (to operate until 30 April 2021);
- restrictions on negative listings being made about COVID-19 impacted persons on tenancy databases (to operate until 30 April 2021);
- the ability for COVID-19 impacted tenants to terminate their fixed-term tenancy agreements early, without penalty (to operate until 30 April 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 (to operate until 30 April 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.

- Until 30 June 2021, the Government has also offered rates and land tax rebates to landlords who reduce their tenants' rent by 25%. The value of the rebate is up to 50% of the rent reduction, up to a maximum of $1300 per tax quarter (roughly $100 per week).

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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

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).

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- 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;

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- 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).

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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 decisions 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.

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- The response noted that comprehensive legislative reform would be required to respond to the Committee's recommendations and that the discreet 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

<u>Update on CSD work on the government review of CYPS decisions</u>

- Work is underway to improve internal decision making processes within Child and Youth Protection Services (CYPS) in response to stakeholder feedback about what needed to change to improve the consistency and transparency of decision making.
- There are a variety of views expressed about the best way forward for external review. Meetings have been held between Minister Stephen-Smith, the Human Rights Commission (HRC) and representatives from CSD to discuss the work currently underway and to continue discussions about a constructive and collaborative way forward.
- In partnership with the ACT Human Rights Commission, CYPS are consulting with targeted stakeholders through the hosting of roundtables. JACS officers have collaboratively participated in two roundtables to date:
    - On 22 July 2020, the experiences of other jurisdictions in establishing external merits review of child protection decisions. Guests included local ACT stakeholders and colleagues from Queensland and Victoria.
    - On 17 September 2020, the principles that will underpin the external merits review and the types of decisions that should be reviewable. Guests included local ACT stakeholders.

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QUESTION TIME BRIEF

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

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- 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 provided assistance to 4,602 individuals between 1 March 2020 and 24 February 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 28 February 2021, the clinic provided 1,046 assistance services to 840 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.

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.

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.

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- 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.

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QUESTION TIME BRIEF

JACS2021/46-001-026

Portfolio/s: Attorney-General

ISSUE: AGE OF CRIMINAL RESPONSIBILITY

Talking points:

- The ACT Government has committed to raising the minimum age of criminal responsibility as 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.
- We all know the detrimental and lasting effects that facing the courts and spending time in detention can have on children. We also know, from the evidence, that early contact with the criminal justice system is one of the key predictors of future offending.
- That is why the ACT Government is focussing on stopping children from being sentenced to detention, and instead is focusing on early intervention approaches which address the underlying causes of offending behaviour - making the community safer by changing children's pathways and reducing the likelihood of reoffending, including 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.
- The ACT is, and will continue to be, an active participant in national conversations on increasing the minimum age of criminal responsibility, and will be a leader in implementing this reform across Australia.

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QUESTION TIME BRIEF

Background Information

- The ACT Government is committed to raising the minimum age of criminal responsibility (MACR).
- This commitment 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. However, given medical evidence, the position of the United Nations and the consensus building in stakeholder consultations, it is expected that recommendations will be made to raise the minimum age of criminal responsibility to 14 years of age for endorsement in due course.
- 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) 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 a 12-month pilot of a family-centric therapeutic program that will work with children and young people coming into contact with the criminal justice system. 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.

Cleared as complete and accurate:	18/03/2021		
Cleared by:	Executive Branch Manager	Ext: 51451	INDEX
Contact Officer name:	Laura Pound	Ext: 73997	
Lead Directorate:	Justice and Community Safety		
Cleared for release:	Yes		
Information Officer name:	Jennifer McNeill		
TRIM Ref:	JACS2021/46-001-026		

QUESTION TIME BRIEF

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 also 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.
- In June 2020, a CAG Working Group finalised a report on MACR reforms, including findings and recommendations, for presentation at the July 2020 CAG meeting. Despite revisions to the report that attempted to address the concerns of some jurisdictions, the Commonwealth, New South Wales and Queensland did not endorse the report. However, the Working Group did agree that the MACR could not be raised without a clear framework for implementation and support first being in place. A majority position was determined to allow the report to be settled for discussion at CAG Senior Officials Group (CAGSOG).
- On 7 July 2020, the Western Australian Attorney General, as the sponsor of the MACR CAG agenda item, withdrew the Working Group's report and it was not considered at CAG on 27 July 2020.
- Instead participants noted the need for further work around adequate processes and services for children who exhibit offending behaviour.
- 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.
- On 20 November 2020, Attorneys-General met to discuss the future of the work that was previously progressing through CAG, including the MACR. It was agreed that the first meeting of the CAG successor body would be in March 2021. It was also agreed that this meeting would include one more discussion on MACR, but it would not be an ongoing item.
- The first meeting of the CAG successor body will be held on 31 March 2021. Given the recent Western Australia election, it is unlikely that any formal paper will be presented by the Western Australian Attorney General for discussion by Attorneys-General at this meeting. Given the expected continuation of lack of consensus at the national level, a range of interjurisdictional issues will for example with New South Wales and the Commonwealth, will be considered as part of the policy work on raising the MACR in the ACT.

Cleared as complete and accurate:	18/03/2021		
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TRIM Ref:	JACS2021/46-001-026		

QUESTION TIME BRIEF

JACS2021/46-001-001

Portfolio/s: Attorney-General

ISSUE: CANNABIS PROSECUTION ASSISTANCE

Talking points:

Can the ACT intervene in a Commonwealth prosecution for personal possession of cannabis in the ACT?

- If a defendant prosecuted under a Commonwealth law for cannabis possession in the ACT seeks to rely on the ACT law as an excuse or justification, or challenges the interpretation or validity of the ACT or Commonwealth law, the ACT Attorney-General may intervene in the proceedings.
- Section 27 of the *Court Procedures Act* 2004 (ACT) provides that the Attorney-General has a right to intervene in proceedings where the interpretation or validity of a law of the Territory or the Commonwealth is in issue.
- Whether such an intervention is justified or appropriate will depend on the circumstances of the case.

If asked

Q - *Are police arresting and charging adults, under Commonwealth laws, for possessing personal amounts of cannabis in the ACT? Are charges being prosecuted?*

- ACT Policing advise that, since the changes to ACT laws came into effect, so that it is not an offence for an adult to possess a small amount of cannabis or cultivate no more than two plants, no criminal charges have been laid.
- On 17 March 2021, ACT Policing issued a reminder to Canberrans not to exceed the two per person limit for cultivating cannabis plants following the confiscation of four plants from one man.
- Under ACT law, one person cannot be responsible for cultivating more than two plants, regardless of how many people live at the address.

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TRIM Ref:	JACS2021/46-001-001	

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QUESTION TIME BRIEF

Q – *Has anyone challenged the ACT or Cth cannabis laws?*

- ACT Policing advise they are unaware of any challenge to the interpretation or validity of the ACT law since the new laws commenced.

Q - *Do the new provisions make it easier for children to get cannabis?*

- No. Criminal penalties remain in place for the offence of supplying another person (including children) and for using cannabis in public places or around children.
- Further, it remains an offence for a person under 18 years of age to possess a small amount of cannabis.

Q – *Do the new cannabis laws apply in the Jervis Bay Territory?*

- No. The new provisions that allow a person over the age of 18 to possess or cultivate small amounts of cannabis are limited to the geographical confines of the ACT.
- A person who is an area outside of the ACT where ACT laws apply, for example in the Jervis Bay Territory, may be charged for possessing or cultivating a small amount of cannabis or issued with a simple cannabis offence notice under section 171A (Offence notices).

Key Information

- A challenge by the Commonwealth DPP or Australian Attorney-General to the validity or interpretation of an ACT law may only arise in a criminal prosecution:
    - if a person is charged with a Cwlth offence and raises a defence under division 313 of the *Criminal Code Act 1995* (Cwlth) relying on the ACT law;
    - *and* the CDPP challenges either:
        - the validity of the ACT law; or
        - whether the ACT law meets the description of the kind of law that could amount to an excuse or justification for the Cwlth offence.

Background Information

- Defences to Cwlth drug offences are provided for in div 313 of the *Criminal Code Act 1995* (Cwlth) including that the offences do not apply to conduct that is "justified or excused" by or under a law of the State or Territory in which the conduct occurs or if a person was "under a mistaken but reasonable belief" that the conduct was so justified.
- Where there is state or territory law that deals with the same conduct, the Cwlth law allows police and courts to apply the law of that state or territory when deciding how to deal with an offender. This is how the ACT and other jurisdictions have been able to decriminalise

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Contact Officer name:	Stephanie Johns	Ext: 59908
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personal cannabis possession; it also provides the basis of our current Simple Cannabis Offence Notice scheme (SCON).

- If the ACT removed an offence for cannabis possession from ACT law entirely the prohibitions on possession of cannabis in the Cth criminal code would then apply as the primary law here putting Canberrans at risk of being arrested and prosecuted under Cwlth law without a legal defence.
- To deal with this, the new provisions of the *Drugs of Dependence (Personal Cannabis Use) Amendment Act 2019* (the Act), which commenced 31 January 2020, maintains the offence of cannabis possession but removes penalties for adults cultivating and possessing a personal amount of cannabis in the ACT.
- This approach maintains an ACT-specific legal framework for dealing with cannabis possession, and therefore provides an alternative to the Cwlth law being applied.
- This does not entirely remove the risk of people being arrested under Cwlth law. The ACT is the first jurisdiction in Australia to have made these reforms and there is still some uncertainty about how these changes will unfold given the complex legal environment.
- The ACT laws aim to provide a legal defence to adults who possess small amounts of cannabis in the ACT who may be prosecuted under a Cwlth law but cannot stop an arrest and charge if an ACTP member is minded to do so, or prosecution if the Cwlth DPP considers it appropriate– the defence provided by ACT law would then be a matter for the Court.

ACT Government
Justice and Community Safety

SHANE RATTENBURY MLA
ATTORNEY-GENERAL/MINISTER FOR GAMING/MINISTER FOR CONSUMER AFFAIRS
QUESTION TIME BRIEFS PACK
11-13 MAY 2021

Hot topics	
1.	*R v UG* [2020] *ACTCA 8 and the Crimes (Sentencing) Act 2005*
2.	Family Violence Act Review
3.	Review into Whole of Justice System Interactions with Aboriginal and Torres Strait Islander People
4.	Positive Definition of Consent - Consent Legislative Reforms
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.	Coroner's Court 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.	Serious and Organised Crime Response (Policy)
22.	Assaults on Police and Emergency Services Personnel
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.	Crimes (Offences Against Vulnerable People) Amendment Bill 2020
29.	How the ACT Liquor Act compares to NSW changes
30.	Residential Tenancies
31.	Review of child protection decisions in the ACT
32.	Tenant's Advisory Service
33.	Age of Criminal Responsibility
34.	Cannabis prosecution assistance

QUESTION TIME BRIEF

JACS2021/46-001-029

Portfolio/s: Attorney-General

R v UG [2020] ACTCA 8 and the *Crimes (Sentencing) Act 2005*

Talking points:

- I am aware of the ACT Court of Appeal decision in R v UG, to the effect that that there is no basis for taking 'a special approach [to] sentencing for family violence offences'.
- I am also aware that there are a range of approaches in other jurisdictions to sentencing for offences committed in a family violence context.
- The ACT Government is strongly committed to preventing domestic and family violence and supports measures that hold perpetrators to account.
- The ACT Government is considering whether our existing laws give the courts appropriate guidance on the factors to be considered and the weight to be given to these factors when sentencing family violence offenders.
- ACT Government officials are currently working with the legal and family safety sectors to develop legislative change.

Key Information

- Currently, ACT courts must consider 'the nature and circumstances' of an offence when sentencing the offender.
- ACT courts cannot impose a lesser sentence on the basis that:
  - the offence was a family violence offence, or
  - a family violence order was in place.

Background Information

- In *R v UG [2020]* ACTCA 8, the Court of Appeal found that there is no basis for taking 'a special approach [to] sentencing for family violence offences'.
- Consistent with MIN:2020/002422, JACSD is consulting the following stakeholders on the proposal to add family violence to the list of factors which sentencing courts must consider:
  - The ACT Bar Association
  - ACT Courts and Tribunal

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- ACT Human Rights Commission (including the VIctims of Crime Commissioner)
- ACT Policing
- The Coordinator-General for Family Safety
- The Director of Public Prosecutions
- The Domestic Violence Crisis Service
- The Law Society of the ACT
- Legal Aid ACT
- The Women's Legal Centre

- The Director of Public Prosecutions, the Office of the Coordinator-General for Family Safety, the Victims of Crime Commissioner and the Women's Legal Centre have responded to request more amendments. These stakeholders have noted a range of alternative options, including:
  - prescribing that family violence is an "aggravating" factor in sentencing, and
  - creating new "aggravated" versions of offences, carrying higher maximum sentences, where the offence occurred in the context of family violence.
- Each Australian jurisdiction has a different approach to sentencing:
  - New South Wales' Crimes (Sentencing Procedure) Act 1999 creates a presumption that family violence offenders will be sentenced to full-time detention or a supervised order.
  - Queensland's Penalties and Sentences Act 1992 states family violence is an aggravating factor in sentencing, unless there are "exceptional circumstances".
  - South Australia's Criminal Law Consolidation Act 1935 states that offences against family members (including former partners) are "aggravated".
  - Tasmania's Sentencing Act 1997 states the court cannot order home detention if the offender has perpetrated family violence, and/or if the offender would be living with the victim of the offence. For family violence offences, if a child was present at the time this may be an aggravating factor.
  - Western Australia's Sentencing Act 1995 states family violence is an aggravating factor in sentencing.
  - Northern Territory and Victorian courts have each found the need for general deterrence in family violence matters (e.g. Hardy v Rigby [2020] NTSC 42 and Laa v The Queen [2020] VSCA 136).

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 August-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 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 August-September sittings this year.

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.

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TRIM Ref:	JACS2021/46-001-032	

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. Some other recommendations are for actions that have already been taken (for example, the recommendations about information on the ACT Courts website) or are already under active consideration (for example, recommendation seven about information sharing, where a pilot program is already being 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:

Cleared as complete and accurate:	18/04/2021	
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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 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

JACS2021/46-001-005

Portfolio: Minister for Gaming

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

Talking points:

- The Government has provided urgent 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.
- 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 support them 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>

- Since June 2020, the Government has offered cash payments 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 incentive remains available to all gaming machine licensees on a 'first come, first served' basis, ending:
  - when applications have been received for a total of $3.75 million in incentive payments (i.e. up to a total of 250 authorisations); or
  - at 11.59pm on 30 June 2021.
- To date, a total of 129 authorisations have been surrendered by clubs under this incentive, for cash payments totalling $1.935m. There are sufficient funds remaining for the surrender of further 121 authorisations.

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 extended until 23 March 2021 to provide support to clubs and their 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.
- Under the *Gaming Machine (Emergency Community Purpose Contribution—Local Live Performance Industry) Declaration 2020*, clubs can claim contributions made to or for the local live performance industry for music or other live entertainment (other than sport) from 28 August 2020 until 31 August 2021 as community purpose contributions. This measure will provide support to the local live performance industry, which continues to be affected by COVID-19.

Fee waivers

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

  - In particular, annual liquor licence fees are 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.
  - Fees will also be waived for existing on licensees who apply for general liquor licenses to allow them to sell both in-house and take-away liquor until 30 June 2021.
  - Additionally, free commercial liquor permits were issued to on licensees for three months from 25 March 2020 to allow them to sell takeaway liquor. Fees will also be waived to extend commercial liquor permits to sell takeaway liquor for up to 12 months from the date of first issue.

- These fee waivers and reductions have and will 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.
- At the second Club Presidents' Forum in July 2020, clubs welcomed the former Attorney-General's announcement that the Government would continue to contribute to the DSSF despite clubs' contributions being temporarily suspended. Clubs acknowledged that the DSSF emergency relief funding had assisted clubs, including to support staff ineligible for other income support (see QTB:2021/46-001-031- Diversification and Sustainability Support Fund for further information).

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Cleared for public release by:	Executive Branch Manager	Ext: 76192
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Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-005	

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 in their compliance 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] expiring 23 March 2021.
    - The *Gaming Machine (Emergency Community Purpose Contribution—Local Live Performance Industry) Declaration 2020* [DI2020-252] expiring 31 August 2021.
- Amendments will also suspend 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 has subsequently twice extended the availability of the incentive 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 is available on a 'first come, first served' basis, ending:
    - when applications have been received for a total of $3.75 million in incentive payments (i.e. applications have been received for the surrender of a further 121 authorisations in addition to the 129 already surrendered); or
    - at 11.59pm on 30 June 2021.
- In October 2020, one club surrendered a further 20 authorisations in exchange for a cash payment of $300,000.
- To date, the total number of authorisations surrendered under the incentive is 129, with $1.935 million in incentive payments paid to participating clubs. The surrender

of these authorisations has reduced the ACT's total number of authorisations from 3,997 to 3,868. This figure was capped by the *Gambling and Racing Control (New Cap on Number of Authorisations) Notice 2020 (No 3) NI2020-762* on 1 November 2020.

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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Lead Directorate:	Justice and Community Safety	
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– (02) 6257 1788
    - The Consumer Law Centre – (02) 6143 0044
    - Environmental Defenders Office – canberra@edo.org.au
    - Aboriginal Legal Service NSW/ACT – (02) 6120 88 00
- 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 will deliver 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 will support the sector to have the ICT capacity to deliver services remotely, and provide for increased frontline services to meet the additional demand flowing from the COVID-19 emergency.
- This announcement was welcomed by the ACT Government.
- The frontline services funding will deliver 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 has 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.

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 is still providing 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 day time services. NTLAS is available on 02 6218 7000. Intake is done between 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. Intake is done 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 newly launched 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 is providing 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

- On 25 March 2020, ACT Community Legal Centres issued a joint communique identifying the essential legal assistance services the sector will continue to deliver and the issues it has identified as a result of the COVID-19 outbreak.
- The ACT Government has heard from CLCs that the matters they are facing are becoming more complex following COVID-19. CLCs anticipate increased legal need in the community in early - mid 2021 in alignment with reductions to the JobKeeper payment.
- An ABC News Report about responding to family violence in the ACT on **28 September 2020** quotes the A/g Coordinator-General for Family Safety, Kirsty Windeyer, as stating the following: "after the [COVID-19] restrictions were lifted there was an increase in the number of people who were reporting experiencing violence for the first time in the home" and "there was also an increase in the brutality of the violence and in the physical violence". The article is available via: https://www.abc.net.au/news/2020-09-28/back-to-the-future-for-act-policings-family-violence-response/12709150

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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 has 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 is also administering $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 will boost frontline services to meet the additional demand flowing from the COVID-19 emergency and also support 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** – which 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. Tjillari Justice has withdrawn their contract and the existing subcontractor has been approached to delivery 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 at this current stage in the pandemic and 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.
  - Activity is increasing with 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

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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

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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's 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 taken a flexible approach with service providers, regarding:

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- their COVID-19 planning and ability to continue to deliver on funded services, while keeping their staff and clients safe;
- their 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 front line 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

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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), most recently on 8 March 2021. 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.

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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 Ministerial Advisory 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.

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

Community Clubs Ministerial Advisory Council

- Preliminary work to establish the Community Clubs Ministerial Advisory Council has commenced.
- 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 terms of reference, membership and other matters relevant to the establishment of the Council (please see QTB **JACS2021/46-001-002**).

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 1,078 (from 4,946 to **3,868)** 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 licensees (clubs and hotels) can access the *COVID-19 Economic Survival Package Gaming Machine Authorisation Surrender Incentive* until 30 June 2021. This incentive provides licensees with a cash payment of $15,000 per surrendered gaming machine authorisation, to be used towards:
    - staff employment;
    - diversification activities and initiatives; and
    - energy and water efficiency measures.

QUESTION TIME BRIEF

Gaming Machine Tax Rebate

- The Government continued the 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, eligibility for the gaming machine tax rebate no longer takes into account gross gaming machine revenue in 2017-18. Instead, a club or club group is considered small or medium where its annual gross gaming machine revenue (GGMR) is not more than $4 million, or where it receives some amount of rebate under new 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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QUESTION TIME BRIEF

- 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

- There are currently **39** licensed club venues and **5** hotels in the ACT who hold gaming machine authorisations.
- The most recent figures published by the Gambling and Racing Commission (1 February 2021) state there are **3,868** authorisations and **3,579** electronic gaming machines in operation in the Territory.
- Under the COVID-19 Economic Survival Package to date, 129 authorisations have been surrendered in return for $1.935 million in incentive payments to be used towards staff employment, and (under the extended incentive) diversification activities and initiatives, and energy and water efficiency measures. The incentive has been extended until applications have been received for the surrender of a total

of $3.75m in incentive payments (i.e. surrender of a further 121 authorisations), or until 30 June 2021, whichever occurs first.

Background information

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

- Representatives of the following organisations attended the initial stakeholder meeting on 12 February 2021:
    - ACT Council of Social Services;
    - Canberra Community Clubs;
    - Clubs ACT;
    - Gambling and Racing Commission;
    - Gambling Reform Alliance;
    - United Workers Union; and
    - Justice and Community Safety Directorate (ACT Government).
- JACS advertised the calls for nominations on the ACT Diversity Register and ACT Jobs websites, with a closing date of 26 March 2021.
- It is expected that you will convene the first meeting of the CCMAC by the end of May 2021.

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. JACS will seek expert technical advice on the implementation of this commitment.
- The *Casino (Electronic Gaming) Act 2017* includes a maximum bet limit of $2 for casino gaming machines in a redeveloped casino.

QUESTION TIME BRIEF

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

	2018-19 $'000	2019-20 $'000	2020-21 $'000	2021-22 $'000	**Total $'000**
CMTED Directorate – Expenses	122	351	0	0	**473**
JACS Directorate – Expenses	2,206	1,105	1,105	1,105	**5,521**
Depreciation	0	45	45	45	**135**
Total Expenses	**2,328**	**1,501**	**1,150**	**1,150**	**6,129**
CMTED Directorate – Associated Capital	225	0	0	0	**225**
EPSD Directorate – Associated Revenue	-500	-1,714	-1,714	-1,714	**-5,642**

The Government is implementing measures to support the reduction of gaming machine authorisations to 4,000 by 1 July 2020 - as set out in the *Pathway to 4,000 Gaming Machine Authorisations by 2020* - and is continuing to implement the commitments outlined in our *Supporting Local Community Clubs Policy*.

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QUESTION TIME BRIEF

JACS2021/46-001-031

Portfolio/s: Gaming

Diversification and Sustainability Support Fund – 20/21 funding round

Talking points:

- In October 2020 the Diversification and Sustainability Support Fund (DSSF) Advisory Board opened a Tier 2 funding round for applications for payments from the DSSF. This was the first Tier 2 funding round completed by the Board.
- I have 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 will be distributed to successful applicants for the following activities:
    - installing solar panels, electric vehicle charging stations and solar light fittings in a venue carpark;
    - developing an Early Learning Centre;
    - upgrading and reopening a kitchen;
    - constructing sheds to store golf carts;
    - developing a strategy to diversify to alternative income streams; and
    - contributing to a Risk Analysis for a venue re-development.
- The seven clubs that will receive payments in this round of grants successfully showed that their proposed activity could meet at least one of the purposes that the DSSF was set up to achieve.
- The Government established the DSSF on 1 July 2019. The DSSF is jointly funded by industry and Government to provide funding for the following purposes:
    - assisting clubs to diversify their income to sources other than gaming machines;
    - supporting the sustainability of clubs;

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  - 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.

- As a COVID-19 relief measure, industry contributions to the Fund were suspended, effectively for the 12-month period April 2020 to March 2021.
- However, the Government made available for distribution in 2020-21 approximately $1 million in previously-appropriated funding.
- The availability of this Government funding allowed for grant applications to be made for this round of funding.

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.

- While this funding was generally positively received, some clubs expressed disappointment that the funding round did not continue due to the distribution of funding for COVID-19 emergency relief. The former Attorney-General advised club representatives at the Club Presidents' Forum in July 2020 that the Government would provide its appropriated contribution for 2020-21 to the Fund, even though club contributions were suspended.

Organisations that will receive funding from the DSSF

- 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 following organisations will receive funding from the DSSF for 2020/21 as per your agreement to the Advisory Committee's recommendations.

Recipient		Tier	Amount	Purpose
1	Murrumbidgee Country Club	Tier 1	$25,000	To assist with the construction of a shed to store golf carts.
2	Belconnen Bowling Club	Tier2	$155,000	To allow the club to upgrade and reopen its kitchen.
3	Belconnen Soccer Club	Tier 2	$100,000	To develop an early learning centre on the Club's McKellar site.
4	Canberra Irish Club	Tier 2	$99,093	To install a 65,155 KWP Solar Grid Connect system at its premises.
5	Canberra Southern Cross Club	Tier 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	Tier 2	$52,200	For the development of a diversification strategy and implementation plan.
7	Hellenic Club of Canberra	Tier 2	$100,000	To contribute to the funding to engage a consultant to conduct a Full Appraisal and Risk Analysis to inform the applicant about redevelopment options for the club's main site in Woden.
	TOTAL		**$632,811**	

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 now capped at **3,868** following the surrender of 129 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 since 23 August 2018 following the ACT Government announcement of the *Pathway to 4,000 Gaming Machine Authorisations by 2020* (the Pathway).
- The Pathway was informed by the recommendations of the *Club Industry Diversification Support Analysis* by Mr Neville Stevens AO. At that time, the number of authorisations held by clubs and hotels was 4,946.
- The previous Government's target of reaching 4,000 gaming machine authorisations was achieved ahead of time, with the cap on the number of authorisations reducing to 3,997 by 25 February 2020.
- Under the Pathway, financial and non-financial incentives were available to clubs that voluntarily surrendered gaming machine authorisations to diversify their business models. Applications for these previous incentives needed to be made to the Justice and Community Safety Directorate by 31 January 2019.
- The COVID-19 Economic Survival Package surrender incentive remains available to clubs and hotels until 30 June 2021.

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QUESTION TIME BRIEF

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.
- 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 $875,985.
- 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.

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QUESTION TIME BRIEF

Key Information

- The *Gambling and Racing Control (New Cap on Number of Authorisations) Notice 2020 (No 3)* NI2020-762 sets the cap on the number of gaming machine authorisations at **3,868** as at 1 November 2020.
- Under the Pathway, licensees that voluntarily surrendered gaming machine authorisations were eligible for financial incentives as follows:

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 3,868 (November 2020) 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 – 129 authorisations.

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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	$945,000	7,500
Croatia Deakin Soccer Club	Development application fees Lease variation charge	$200,000	3,485 100,000
		Total	**$875,985**

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	937,500
Hellenic Group	870,000
Vikings Group	2,100,000
Total	**$12,866,515**

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QUESTION TIME BRIEF

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

	2018-19 $'000	2019-20 $'000	2020-21 $'000	2021-22 $'000	Total $'000
CMTED Directorate – Expenses	122	351	0	0	473
JACS Directorate – Expenses	2,206	1,105	1,105	1,105	5,521
Depreciation	0	45	45	45	135
Total Expenses	**2,328**	**1,501**	**1,150**	**1,150**	6,129
CMTED Directorate – Associated Capital	225	0	0	0	225
EPSD Directorate – Associated Revenue	-500	-1,714	-1,714	-1,714	-5,642

The Government is implementing measures to support the reduction of gaming machine authorisations to 4,000 by 1 July 2020 - as set out in the *Pathway to 4,000 Gaming Machine Authorisations by 2020* - and is continuing to implement the commitments outlined in our *Supporting Local Community Clubs Policy*.

Changes to the *Gaming Machine Act 2004* established the legal framework for the voluntary and compulsory surrender of authorisations. The relevant provisions of the Act relating to the reduction to 4,000 gaming machine authorisations commenced on 11 December 2018. The voluntary surrender period ceased on 31 January 2019 and all voluntary surrender agreements providing incentives to participating licensees were required to be signed on or before 8 February 2019.

Cash incentive payments **($0.648 million)** were made to eligible licensees from the JACS' Territorial account resulting in savings in 2018-19 of $1.3 million. Clubs are also eligible for $13.7 million in incentives for land-related payments, fees and charges over the next seven years.

The voluntary surrender process and forfeitures through trading reduced the number of gaming machine authorisations in the ACT to 4,012 by 14 February 2019. The subsequent first stage of compulsory surrender on 1 April 2019 reduced that number to 4,003, and forfeitures through trading activity has since reduced the number of authorisations to 4,001.

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QUESTION TIME BRIEF

JACS2021/46-001-003

Portfolio/s: Minister for Gaming

ISSUE: COMMUNITY CONTRIBUTIONS

Talking points:

COVID-19 support measures in the community contributions scheme

- 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—Club Employees) Declaration 2020*, clubs could claim staff wages as community purpose contributions, provided the amount meets or exceeds the relevant minimum wage (including any relevant allowances) under the *Registered and Licensed Clubs Award 2010*. This measure applied to contributions made between 24 March 2020 and 23 March 2021 (inclusive) to provide support to clubs and their 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.
- 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. This measure applies to contributions made between 27 August 2020 and 31 August 2021 (inclusive).

- Revised Guidelines for the scheme, incorporating these recent changes and providing further clarity in response to feedback, are being finalised for distribution to licensees.

<u>April 2020 changes to the scheme in response to industry feedback</u>

- In response to industry feedback, the Government introduced the *Gaming Machine Amendment Act 2020*, which was passed by the ACT Legislative Assembly in April 2020. The Act includes several refinements to support clubs' compliance and reporting obligations including:
  - removing the requirement for clubs with more than one venue to report on the community purpose contributions for each venue separately and allowing clubs with more than one venue to make community purpose contributions on a group basis;
  - introducing a transitional provision reducing the minimum monetary contribution for clubs that are not small or medium clubs or part of a small or medium club group from 6 per cent to 5 per cent for reporting years ending after 30 June 2019 and before 1 July 2021; and
  - introducing a transitional provision reducing community contributions shortfall tax from 150 per cent to 100 per cent for reporting years ending after 30 June 2019 and before 1 July 2021.

<u>2019 reforms to the scheme</u>

- Significant Government reforms to the community contributions scheme commenced on 1 July 2019.
- The changes to the scheme:
  - increased the funds available to the broader community;
  - required greater transparency in reporting on community contributions;
  - provided more opportunities for community groups to seek community contributions; and

  - increased the minimum contribution payable from net gaming machine revenue (NGMR) by 0.8 per cent for clubs and introduced a contribution requirement for hotels.

- Hotels are required to make mandatory contributions of 0.8 per cent of their 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.
- These 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.
- 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).

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.
- 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

- 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 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: CLUB ENGAGEMENT

Talking points:

- This 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* is to establish a Community Clubs Ministerial Advisory Council (CCMAC) with government, industry and unions to build a long-term, sustainable clubs sector in the ACT.
- Work on implementing this commitment is underway.
- 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 CCMAC, including its proposed membership and terms of reference.
- After considering feedback received from the initial stakeholder meeting, on 15 March 2021 a call for expressions of interest for CCMAC membership was advertised on the ACT Diversity Register and ACT Jobs Website. I also wrote to key stakeholders seeking nominations for appointment.
- The nomination process closed on 26 March. After Minister Cheyne and I have considered the applications received, I will announce the successful applicants.
- I intend to convene the Council for its first meeting in May of this year and envisage that meetings will be held once a month.
- I look forward to consulting with the club industry through the CCMAC to deliver the Government's commitments.

Background Information

If asked about the composition of the CCMAC:

- On 12 February 2021, key stakeholders provided feedback on the proposed membership of the CCMAC. The CCMAC will comprise the members captured below.

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QUESTION TIME BRIEF

Membership of the CCMAC		
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
Representative, Business/hospitality professional	To provide a perspective on business opportunities and constraints. The representative would be appointed by the Minister following a nomination process.	1
	TOTAL	**15**

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 CCMAC:

	Position-based appointments
1	ACT Gambling and Racing Commission

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1	ClubsACT	
1	Canberra Community Clubs	
1	United Workers Union	
	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

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QUESTION TIME BRIEF

Recent consultation activity

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

Diversification and Sustainability Support Fund (DSSF)

Date	Document	Club Organisations	Attachment
19 October 2020	Email – information about the DSSF, advising that the Fund is open for applications with a Tier 2 funding round closing on 20 November 2020.	All club licensees, industry groups and community groups	Diversification and Sustainability Support Fund – Funding Application Form Diversification and Sustainability Support Fund – Standard Operating Procedure for Funding Applications – October 2020 *Gaming Machine (Applications for Payments out of DSSF) Guidelines 2019*
16 November 2020	Email – reminder that the DSSF Tier 2 funding round is closing on 20 November 2020.	All club licensees, industry groups and community groups	Diversification and Sustainability Support Fund – Funding Application Form Diversification and Sustainability Support Fund – Standard Operating Procedure for Funding Applications – October 2020 *Gaming Machine (Applications for Payments out of DSSF) Guidelines 2019*
20 November 2020	Email – Chair, DSSF Advisory Board – rejection of extension request for Tier 2 funding round	Austrian Australian Club	
21 - 24 December 2020	Email – request for additional information to support Tier 2 funding application	Hellenic Club Canberra Irish Club Belconnen Soccer Club Belconnen Bowling Club	
18 – 19 March 2021	Letters to successful and unsuccessful applicants for DSSF funding	Various	

Community Clubs Ministerial Advisory Council

Date	Document	Stakeholders
20 January 2021	Email – invitations to initial meeting to discuss establishment of CCMAC	Clubs industry peak bodies, United Workers Union and community groups
12 February 2021	Meeting – CCMAC Initial stakeholder meeting	As above
16 March 2021	Letter – Seeking nominations for appointment to the CCMAC 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.

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QUESTION TIME BRIEF

COVID-19 Support Measures

Date	Document	Club Organisations	Attachment
8 February 2021	Email – Further extension of the COVID-19 Economic Survival Package – Gaming Machine Authorisations	All club and hotel licensees and club industry peak bodies	Access Canberra Notification Form for Surrender of Authorisations; and COVID-19 Economic Survival Package – Gaming Machine Authorisation Surrender Incentive Extension form
19 March 2021	Email – Reminder – expiry of the *Gaming Machine (Emergency Community Purpose Contribution - Club Employees) Declaration 2020*	All club licensees and club industry peak bodies	Q and As for emergency community purpose contribution declarations – club employees and local live performance industry

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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 is seeking advice about technical issues associated with these harm reduction measures and the possible costs for their implementation.
- 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 that the advice has a greater degree of integrity and impartiality.
- 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 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:
    - 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 Testlabs
        - QALab
        - Gaming Laboratories International.

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Contact Officer name:	Zoe Hutchinson	Ext: 76192
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-018	

QUESTION TIME BRIEF

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.

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TRIM Ref:	JACS2021/46-001-018	

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 with the resources it needs to meet increasing demand.

Recent Magistrate appointments

- Magistrate Bernadette Boss has taken up a temporary 12-month appointment with the Commonwealth in the role of interim National Commissioner for Defence and Veteran Suicide Prevention. Dr Boss commenced in the role on 16 November 2020. I congratulate Dr Boss on this significant appointment.
- I welcome the appointment of Jane Campbell as a Special Magistrate, who is backfilling Dr Boss' 12-month absence from the Magistrates Court. Ms Campbell commenced in her new role on 11 January 2021 and brings a wealth of experience to the bench, particularly in the area of criminal law practice.
- Ms Louise Taylor has been sitting as the Territory's eighth full-time resident magistrate since 10 September 2018. This appointment supports the efficiency of the justice system and the timeliness of proceedings in the Magistrates Court.
- In addition to resourcing the eighth magistrate position, in the Government's 2018-19 budget, Legal Aid ACT received an additional $1.297 million and the Director of Public Prosecutions (DPP) received $987,000 for additional staff to support the increased capacity of the Magistrates Court.

Dedicated full time ACT Forensic Pathologist

- The 2018-19 Budget also 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.

Cleared as complete and accurate:	19/03/2021	
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Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-015	

QUESTION TIME BRIEF

Family Liaison Officer

- The 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.

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.

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).

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.

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.

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Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-015	

QUESTION TIME BRIEF

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 2021.
- The appointment of Ms Margaret Hunter OAM as a Special Magistrate was recently extended to 30 April 2021. Special Magistrate Hunter requested this extension in order to finalise the Brayden Dillon Inquest, noting that, given the volume of evidence to consider by the parties in respect of their submissions, time for submissions was extended to April 2021. Special Magistrate Hunter expects to hand down findings by the end of April 2021.
- Magistrate Boss has been engaged by the Commonwealth for appointment as interim National Commissioner for Defence and Veteran Suicide Prevention for a term of 12 months. She commenced in the role on 16 November 2020. Jane Campbell has been appointed as a Special Magistrate for 12 months, commencing 11 January 2021, to cover Magistrate Boss' absence.

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TRIM Ref:	JACS2021/46-001-015	

QUESTION TIME BRIEF

JACS2021/46-001-004

Portfolio/s: Attorney-General

ISSUE: REFORMS TO THE OPERATION OF THE CORONER'S COURT

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, effective 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.
- Coronial reform is part of a broader initiative to build Canberra as a Restorative City – one where we value relationships, treat each other with care and respect, and seek to solve problems collectively.

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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 Governming 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). This 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 will support 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 the next four years for an eighth full time resident magistrate.

Background Information

Law Reform Advisory Council (LRAC) Report

- The LRAC report, *Canberra – Becoming a Restorative City,* recommended that restorative practices be trialled within the coronial system. LRAC's report was released on the Justice and Community Safety Directorate's (JACS) website on 15 November 2019, as a part of the launch of the 'Canberra as a Restorative City' website. The website includes a vision document about Canberra as a Restorative City initiative, which notes coronial reform as a priority.
- 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:
    - Developing 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.

Restorative Coronial Reform Forum

- 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.
- Legislation, Policy and Programs (LPP) is engaged in ongoing work with the Coroner's Court to explore further restorative coronial system reforms.

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QUESTION TIME BRIEF

Recent legislative reforms

- In July 2020, the Legislative Assembly passed the Coroners Amendment Bill 2020 which is 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.

Strengthening Restorative Practice in the Coroner's Court

- As part of the Canberra as a Restorative City commitment, JACS organised for religious and cultural leaders from across the ACT to meet with Canberra's Coroners, Coroners' Court staff and staff from the Forensic Medical Centre to discuss different customs around death, autopsy and burial. These meetings took place on 16 & 17 November 2020.

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.

National Commissioner for Defence and Veteran Suicide Prevention

- The ACT is participating 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 key focus of the Commissioner's role will be engagement with affected families using restorative and trauma-informed principles.
- ACT Magistrate, Dr Bernadette Boss has been appointed as the interim National Commissioner for the Defence and Veteran Suicide Prevention for 12 months. Dr Boss commenced in this role on 16 November 2020.

Coronial Reform Group (CRG)

- Mrs Eunice Joliffe, Ms Rosslyn Williams, 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, Benjamin Williams and Paul Fennessy in 2010.
    - Mark Joliffe died on or about 15 February 2010. Coroner Dingwall's findings were delivered on 30 June 2015.
    - Benjamin Williams died on 28 September 2010. The Chief Coroner's findings were delivered on 17 October 2013.
    - Paul Fennessy died on 6 January 2010. Coroner Hunter's findings were delivered on 16 December 2016.

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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.
- Ten family representatives attended the Restorative Coronial Reform forum on 19 November 2019.

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 ACT's Drug and Alcohol Court, which is referred to by the Courts as the Drug and Alcohol Sentencing List (DASL).
- The first Drug and Alcohol Treatment Order (DATO) was made on 15 January 2020.
- The Sentencing list commenced with an intake of 10 participants and this will increase to up to 35 participants by June 2021.
- As at 26 March 2021, 56 people have been referred to the DAC, with 51 people being sent for eligibility assessments. Of this number, seven were women and 18 identified as Aboriginal and Torres Strait Islander people. As at 6 April 2021, 18 DATOS were in effect with a further 12 people awaiting assessment.
- The Drug and Alcohol Sentencing List is heard each Friday and as required on other days.
- The model is based on proposals that were developed by the DAC Supreme Court Working Group which was led by Justice John Burns and included representatives from key agencies.
- 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*

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TRIM Ref:	JACS2021/46-001-007	

long-term effect of the NSW Drug Court on recidivism'. The aim of the report was to determine whether the positive results observed in the first and second evaluations of the NSW Drug Court are sustained over a period of 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. 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.
- Their sentence of imprisonment (between one and four years) will be suspended.
- Participants have individualised treatment and sentence management plans that 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.
- Justice Refshauge leads a team of representatives from various health and justice agencies to guide the participant through the DAC process.
- 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.

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.

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 has 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. A review of the ACT's approach is timely.
- The consultation process includes a roundtable with targeted justice stakeholders, including the legal profession, which was held on 22 March 2020. Written submissions have also been invited 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.
- I am aware that the Director of Public Prosecutions has 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.

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Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-030	

QUESTION TIME BRIEF

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 currently expires 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.

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TRIM Ref:	JACS2021/46-001-030	

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

Stickering at Australian National University (Chief Minister)

- I am aware of media reports over the weekend of posters and stickers belonging to ideological motivated groups appearing at the Australian National University.
- The ACT Government stands with the the ANU to condemn this sort of activity.
- Our best defence against this sort of behaviour is to maintain Canberra as a welcoming and inclusive city, where diversity is respected and celebrated.
- The ACT Government and ACT Policing continue to work to keep Canberrans safe from all forms of extremism in partnership with our Commonwealth, State and Territory colleagues.
- The ACT Government recognises communities play an important role in preventing and countering violent extremism, alongside government agencies. This is a shared challenge and requires a whole-of-society approach.
- I encourage families, friends and communities to contact authorities for help and advice if you are concerned someone may be vulnerable to violent extremism.
- Concerns can and should be reported to the National Security Hotline on 1800 123 400. Please visit the Living Safe Together website for more information.

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Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/47-001-031	

QUESTION TIME BRIEF

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.

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.

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TRIM Ref:	JACS2021/47-001-031	

QUESTION TIME BRIEF

- 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.

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Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/47-001-031	

QUESTION TIME BRIEF

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 withthe National Cyber Security Committee to monitor the cyber threat environment.
- In response to recommendations from the Auditor-General's audit on data security, the ACT has engaged a provider to undertake a thorough risk and threat assessment of the ACT's environment. This is in addition to a wide range of other activities to strengthen the ACT's cyber security resilience.
- The ACT supported the development of *Australia's Cyber Security Strategy 2020*, launched August 2020. The strategy responds to continuing malicious cyber threats and activities faced by Australians.
- 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 ready as COVID restrictions ease to host safe and enjoyable public events.
- We have expanded our CCTV Network (the Network), into areas such as Glebe Park,and 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.
- In 2016, the ACT Government provided $6.4 million over four years for the expansion of Taskforce Nemesis to target organised crime syndicates including Criminal Motorcycle Gangs. This funding included eight staff: four investigators, two intelligence officers, one Forensic Accountant and an Investigative Assistant.
- In the 2018-19 Budget, ACT Government committed a further $1.594 million over four years to bolster the capability of Taskforce Nemesis in providing funding for one Forensic Accountant, one Surveillance Team Member and associated equipment and training.
- ACT Policing will continue to ensure an appropriate police response to target and disrupt those seeking to cause harm in our community.
    - ACT Policing is also in a unique position as it can call on specialist and surge capabilities from the broader AFP to meet changing operational environments.
- 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 bring 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.

Cleared as complete and accurate:	15/04/2021	
Cleared for public release by:	Deputy Director-General	Ext:
Contact Officer name:	Sch 2, s2.2(a)(i)	Ext:
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/47-001-021	

QUESTION TIME BRIEF

- ACT Policing has 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. The group is based on the Commonwealth NAGS model that brings a whole-of-government approach to addressing this issue.
- The confiscation of criminal assets is an effective tool to assist in the prevention and disruption of serious and organised crime and prevents the reinvestment of illegally obtained wealth into criminal activity.
- It is anticipated additional agencies will be invited to future working groups to further drive Taskforce Nemesis' ambitions to disrupt Criminal Motorcycle Gang activities.

Operational successes

Taskforce Nemesis Criminal Motorcycle Gang related figures (at 1 April 2021)	**2018**	**2019**	**2020**	**2021 (1 Jan – 31 Mar 2021)**
Criminal gang members charged *(person may be charged on numerous occasions)*	27	54	30	4
Offences charged*	78	127	87	10
Firearms seized	20	12	9	2

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

OMCGs in Canberra

- As at April 2021:
  - There are three known Criminal Motorcycle Gangs, one of which has increasingly limited influence, operating in the ACT.
  - The total number of members associated with ACT chapters of these Criminal Motorcycle Gangs is estimated at approximately 30-40 people.
  - This is a decrease from the previously reported numbers of approximately 70 members in 2018-19 and is as a result of members being deported, imprisoned or fleeing interstate.

Cleared as complete and accurate:	30/11/2020	
Cleared for public release by:	Deputy Director-General	Ext:
Contact Officer name:	Sch 2, s2.2(a)(ii)	Ext:
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	2020/000092-019	

QUESTION TIME BRIEF

- 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.

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.

Cleared as complete and accurate:	15/04/2021	
Cleared for public release by:	Deputy Director-General	Ext:
Contact Officer name:	Sch 2, s2.2(a)(i)	Ext:
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/47-001-021	

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 1 April 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 1 April 2021)	**2018**	**2019**	**2020**	**2021 (1 Jan-31 Mar)**
Criminal gang members charged (person may be charged on numerous occasions)	27	54	30	4
Offences charged*	78	127	87	10
Firearms seized	20	12	9	2

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

Cleared as complete and accurate:	07/05/2021	
Cleared for public release by:	Executive Group Manager	Ext: 70674
Contact Officer name:	Maddie Rosenberg/ Rosie Solomon	Ext: 53310/56051
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-019	

- 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

JACS2021/47-001-047

Portfolio/s: Corrections

Alleged incident involving strip search of a female Indigenous detainee

Talking points:

- I am aware that in January 2021, a female Aboriginal and Torres Strait Islander detainee made allegations regarding the circumstances surrounding a strip search conducted at the Alexander Maconochie Centre.
- Let me be very clear, the ACT Government takes these allegations very seriously. As you may be aware, the ACT Human Rights Commission (HRC) is investigating the detainee's allegations. The matter has also been referred to the Inspector of Correctional Services for investigation.
- The Inspector of Correctional Services has informed that he will be completing a public joint report with the Health Services Commissioner.
- ACT Corrective Services is committed to assisting all investigative bodies during the investigative process.
- I will await the outcome of the respective investigations underway before commenting further.

Key Information

- On 11 January 2021, an Indigenous Liasion Officer (ILO) attended the SCC accommodation unit to advise the detainee that her Detainee Leave Application had been denied due to the difficulty of arranging with short notice, the distance and staffing concerns.
- The detainee became agitated and threatened self-harm, and was subsequently deemed "At Risk". The detainee was assessed by Forensic Mental Health Services and was relocated to the Crisis Support Unit (CSU).
- A Custodial Officer observed the detainee with her hands in her crotch area and was of the belief that the detainee may be attempting to secrete an item that could be used to self-harm or harm others.
- Prior to the planned Use of Force occurring, the Operations Area Manager contacted Justice Health Services to provide notification and to confirm that the Use of Force could safely proceed, taking into account the health status of the detainee.

Cleared as complete and accurate:	05/05/2021	
Cleared for public release by:	Deputy Director-General	Ext: 53507
Contact Officer name:	Karen Doran	Ext: 53507
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/47-001-007	

QUESTION TIME BRIEF

- Four female officers wearing Personal Protective Equipment (PPE) conducted a Use of Force to enable a strip search in line with the *Corrections Management Act 2007*.
- At one stage the detainee stated she could not breathe and a 'Code Pink' was called in order to have medical staff attend the area to provide medical assistance if required.
- Handcuffs were ultimately applied and the detainee became compliant. The detainee was moved to the bathroom where a compliant strip search was conducted by two (2) female officers with no other person present.
- The detainee was assessed by health staff and transported to The Canberra Hospital for further assessment, however was not admitted and returned to the AMC on 12 January 2021.
- During the incident, staff involved received various scratches, minor lacerations and bruising, with one staff member being bitten. The alleged assault on the custodial officer has been referred to the Australian Federal Police (AFP) for investiation. On 12 January 2021, welfare checks were conducted on staff involved in the incident.
- The allegations made by the detainee relating to the manner in which the strip search took place have been reviewed by ACT Corrective Services and cannot be substantiated.

Cleared as complete and accurate:	05/05/2021	
Cleared for public release by:	Deputy Director-General	Ext: 53507
Contact Officer name:	Karen Doran	Ext: 53507
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/47-001-007	

QUESTION TIME BRIEF

JACS2021/46-001-024

Portfolio: Police & Emergency Services

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 will improve 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.

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).

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 four years of the Strategy. In 2019-20 there were 17,737 recorded property offences, which is 3,933 less than four years ago in 2015-16.
- However, to keep property crime rates down we must not become complacent, there is still work to be done.
- While consideration regarding a new statergy 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.

Cleared as complete and accurate:	07/05/2021	
Cleared for public release by:	Executive Branch Manager	Ext: 51451
Contact Officer name:	Kym Copeman	Ext: 53749
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 Community Policing 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.
- 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.
- However, we all have a role to play and can take steps to safeguard our homes, businesses, cars and personal property.

Cleared as complete and accurate:	07/05/2021	
Cleared for public release by:	Executive Branch Manager	Ext: 51451
Contact Officer name:	Kym Copeman	Ext: 53749
Lead Directorate:	Justice and Community Safety	
ACT Policing cleared by:	Sch 2, s2.2(a)(ii)	
TRIM Ref:	JACS2021/47-001-023	

- 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:
    - *Lock and hide to protect your ride* - has reached over 105,000 on Facebook with total engagement sitting around 3,500
    - *Keep out a break-in* – has reached over 120,000 people on Facebook and over 21,000 on Twitter, with engagement across the two platforms sitting around 7,800
    - 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.

QUESTION TIME BRIEF

Background Information

Property Crime Rates

Offence Type	2018-19 FY	2019-20 FY	Financial YTD 01/07/2020 – 31/12/2020
Total Robbery	209	223	67
Armed Robbery	*104*	*103*	*22*
Unarmed Robbery	*105*	*120*	*45*
Total Burglary	2627	2292	989
Burglary dwellings	*1659*	*1363*	*615*
Burglary shops	*419*	*370*	*147*
Burglary other	*549*	*559*	*227*
Motor Vehicle Theft	1234	1262	658
Theft (excl motor vehicle theft)	8732	8109	3381
Property damage	4954	4175	1894
Other offences against property*	2198	1464	827
TOTAL	**19954**	**17525**	**7816**

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

Source: PROMIS as of January 27, 2021

Cleared as complete and accurate:	07/05/2021	
Cleared for public release by:	Executive Branch Manager	Ext: 51451
Contact Officer name:	Kym Copeman	Ext: 53749
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

Further Background Information

ACT Policing reported the following property crime offences in its 2019-20 Annual Report:

TABLE 4.2: OFFENCES AGAINST PROPERTY BY OFFENCE TYPE — FINANCIAL YEAR COMPARISON

Offence type	2018–19	2019–20	Change (%)
Robbery	209	223	6.7%
Armed robbery	104	103	-1.0%
Unarmed robbery	105	120	14.3%
Burglary	2627	2292	-12.8%
Burglary dwellings	1659	1363	-17.8%
Burglary shops	419	370	-11.7%
Burglary other	549	559	1.8%
Motor Vehicle Theft	1234	1262	2.3%
Theft (excl motor vehicle theft)	8732	8109	-7.1%
Property damage	4954	4175	-15.7%
Other offences against property*	2198	1464	-33.4%
Total	**19,954**	**17,525**	**-12.2%**

Source: PROMIS as at 2 July 2020

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

Under 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.

Cleared as complete and accurate:	07/05/2021	
Cleared for public release by:	Executive Branch Manager	Ext: 51451
Contact Officer name:	Kym Copeman	Ext: 53749
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

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

Cleared as complete and accurate:	05/05/2021	
Cleared for public release by:	Executive Branch Manager	Ext: 51451
Contact Officer name:	Kym Copeman	Ext: 53749
Lead Directorate:	Justice and Community Safety	
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 all 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/

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TRIM Ref:	JACS2021/46-001-027	

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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- 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, is now reviewing 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.
- The 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.

- 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*, which is to be finalised early in 2021. This 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 in 2021 that are consistent with the principles inherent in the report findings.

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

JACS2021/46-001-013

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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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.

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QUESTION TIME BRIEF

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.
- 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.

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- The recidivism rate for those who have been released from prison and have returned to corrective services (prison or community corrections) is 71.3% in 2018-19 up 1.4% from 69.9% in 2017-18.
- The recidivism rate for ex-offenders returning to corrective services is 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).
  - 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.

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- 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:
    - amends 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
    - introduces 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 and 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 of the 6-page Fact Sheet have been developed.
    - 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.

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

QUESTION TIME BRIEF

- 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 commences 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.
- The 6-page Fact Sheet and four 1-page Fact Sheets were shared with the Implementation Working Group and Reference Group representatives and key organisations, for distribution amongst their institutions and networks.
- LPP is exploring with JACS Media the option of making a video recording resource, as suggested by the Implementation Working Group.
- At least one further meeting of the Implementation Working Group has been convened to discuss a framework and approach to the 12-month statutory review.
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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 identified 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 take a liquor licensee's compliance history into account when determining the licensing fees that the licensee must pay.
- 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 are of the view that the ACT's fees are significantly higher than licence fees in NSW. The fee frameworks of both jurisdictions are not directly comparable:

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- While both jurisdictions operate risk-based licensing fee frameworks, NSW's liquor licensing fee framework has a significant compliance history-based component. Base fees for NSW liquor licences are generally lower than those applying to the equivalent licence type under the ACT framework. However, if enforcement action is taken against a licensee, a compliance risk loading is added to their annual fee, making that fee significantly higher than the fee for the equivalent licence type in the ACT.

- The *Liquor Amendment (Night-time Economy) Act 2020* (the NSW Act) was passed by the NSW Parliament on 17 November 2020 and included a range of amendments to liquor, gaming and planning-related legislation. The Act amended 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.
- Due to inherent differences between the ACT and NSW liquor licensing fee frameworks, the integrated demerit points and incentives scheme and cumulative impact assessment framework introduced in NSW would not be easily subsumed into the current ACT framework.

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

- While a nightclub on licence has the highest 'base' annual fee of the three licence classes, a nightclub on 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.
- Under the NSW liquor licensing fees framework, all licensees pay a base fee (which varies according to licence type). Licensees trading after midnight also pay a trading hours risk loading. Compliance history risk loadings are triggered where enforcement action for a liquor-related offence has been taken against a licensee within the previous 12 months. If compliance history loadings are engaged, licensees will also be required to pay an additional patron capacity loading and location risk loading (location risk loading is only applicable to Sydney CBD and Kings Cross-based venues).
- For example, a club licensee in Queanbeyan would generally be required to pay a base annual fee of $552.00. However, if compliance history risk loadings are engaged, the annual fee payable by that licensee would increase to up to $19,252.00.

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 seeks to reward and incentivise well-run venues. Venues that maintain a clear record with no demerit points will be entitled to discounts on their annual liquor licence fees. Venues where demerit points have been incurred will not be eligible for the discount and will have to pay additional licence fees as part of the pre-existing annual compliance risk loadings.

Cumulative impact assessments

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

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- The NSW Act introduces a new framework for issuing cumulative impact assessments.
- The framework intends to help manage the density of licensed premises in areas of concern and aims to address related 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 strong presumption against the Authority granting applications for new licenses or improving more late-night trading in any identified 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 a range of 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 receiving 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.

- Access Canberra (Licensing and Registrations) represents 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 not met for some time because of the COVID-19 public health emergency.
- 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. Due to COVID-19 delays affecting ALLAF's consideration of reform, most Australian jurisdictions have now moved ahead and are pursuing their own policy reforms in relation to online liquor sales and delivery. Victoria, Queensland and the ACT have not yet progressed reform.

Miscellaneous amendments

- The NSW Act automatically removes certain licence conditions that limit music and performance. This includes restrictions on the genre of music that may be played or performed, the number of musicians on stage, or the types of instruments used.
    - These types of restrictions do not exist in the ACT. Licensed premises must abide by the applicable noise standards. Noise is regulated by the *Environment Protection Act 1997* and the *Environment Protection Regulation 2005*, which aim to protect people from undue noise while facilitating business and social activities.
- 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 will be permitted to have minors in the company of a responsible adult during those times.
    - 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 current liquor licensing fee framework was introduced in 2010-11 as part of a significant package of reforms.
- In the lead up to the package of reforms, an additional ACT Policing capability was established to collate policing data that allowed for a comparison of 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. The data also showed that the majority of 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 presented a series of proposals for 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 150 people or less and licensed times of 2am or earlier, 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. This reduction took effect under the *Liquor (Fees) Determination for 2020*, noting that all on-licence liquor fees are currently waived as part of the Government's COVID emergency support measures. The on-licence fee waiver is due to expire on 31 March 2021. Commencing 1 April 2021, on-licence fees will be reduced by 50% for a period of 12 months.
- 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 the harm minimisation and community safety principles. Its members

represent a broad range of liquor stakeholder groups, including government, industry, and community organisations.

- Section 218 of the Liquor Act ACT requires the Board to meet at least twice a year. The Board met four times in 2020. The Board met on 16 March 2021 and its 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.

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.

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 include:
    - 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;

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Cleared for public release by:	Executive Branch Manager	Ext:
Contact Officer name:	Heather McAulay	Ext:
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-014	

- a transition or grace period which commenced at the end of the moratorium on 23 October 2020 and will operate until 30 April 2021 which prevents tenants who were COVID-19 impacted from being evicted on the basis of arrears that accrued before or during the moratorium on the condition that they pay rent as it falls 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 a tenant is unable to meet their rent payments as they fall due during the transition period (23 October 2020 – 30 April 2021);
- the ability for landlords and tenants to negotiate reduced rent (to operate until 30 April 2021);
- restrictions on negative listings being made about COVID-19 impacted persons on tenancy databases (to operate until 30 April 2021);
- the ability for COVID-19 impacted tenants to terminate their fixed-term tenancy agreements early, without penalty (to operate until 30 April 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 (to operate until 30 April 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.

- Until 30 June 2021, the Government has also offered rates and land tax rebates to landlords who reduce their tenants' rent by 25%. The value of the rebate is 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

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 decisions 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

discreet 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

- Work is underway to improve internal decision making processes within Child and Youth Protection Services (CYPS) in response to stakeholder feedback about what needed to change to improve the consistency and transparency of decision making.
- There are a variety of views expressed about the best way forward for external review. Meetings have been held between Minister Stephen-Smith, the Human Rights Commission (HRC) and representatives from CSD to discuss the work currently underway and to continue discussions about a constructive and collaborative way forward.
- In partnership with the ACT Human Rights Commission, CYPS are consulting with targeted stakeholders through the hosting of roundtables. JACS officers have collaboratively participated in two roundtables to date:
    - On 22 July 2020, the experiences of other jurisdictions in establishing external merits review of child protection decisions. Guests included local ACT stakeholders and colleagues from Queensland and Victoria.
    - On 17 September 2020, the principles that will underpin the external merits review and the types of decisions that should be reviewable. Guests included local ACT stakeholders.

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 4,602 individuals between 1 March 2020 and 24 February 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 28 February 2021, the clinic provided 1,046 assistance services to 840 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.

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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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 committed to raising the minimum age of criminal responsibility as 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.
- The ACT is, and will continue to be, an active participant in national conversations on increasing the minimum age of criminal responsibility, and will be a leader in implementing this reform across Australia.

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Cleared for public release by:	Executive Branch Manager	Ext: 51451
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Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-026	

QUESTION TIME BRIEF

Background Information

- The ACT Government is committed to raising the minimum age of criminal responsibility (MACR).
- This commitment builds on a motion passed by the ACT Legislative Assembly in August 2020 which called on the ACT Government to:
    - support raising the MACR, 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. However, given medical evidence, the position of the United Nations and the consensus building in stakeholder consultations, it is expected that recommendations will be made to raise the minimum age of criminal responsibility to 14 years of age for endorsement in due course.
- 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) 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 a 12-month pilot of a family-centric therapeutic program that will work with children and young people coming into contact with the criminal justice system. 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.

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TRIM Ref:	JACS2021/46-001-026	

QUESTION TIME BRIEF

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 also 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.
- In June 2020, a CAG Working Group finalised a report on MACR reforms, including findings and recommendations, for presentation at the July 2020 CAG meeting. Despite revisions to the report that attempted to address the concerns of some jurisdictions, the report itself was not agreed and on 7 July 2020, the Western Australian Attorney General, as the sponsor of the MACR CAG agenda item, withdrew the Working Group's report.
- 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.

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TRIM Ref:	JACS2021/46-001-026	

QUESTION TIME BRIEF

JACS2021/46-001-001

Portfolio/s: Attorney-General

ISSUE: CANNABIS PROSECUTION ASSISTANCE

Talking points:

Can the ACT intervene in a Commonwealth prosecution for personal possession of cannabis in the ACT?

- If a defendant prosecuted under a Commonwealth law for cannabis possession in the ACT seeks to rely on the ACT law as an excuse or justification, or challenges the interpretation or validity of the ACT or Commonwealth law, the ACT Attorney-General may intervene in the proceedings.
- Section 27 of the *Court Procedures Act* 2004 (ACT) provides that the Attorney-General has a right to intervene in proceedings where the interpretation or validity of a law of the Territory or the Commonwealth is in issue.
- Whether such an intervention is justified or appropriate will depend on the circumstances of the case.

If asked

Q - *Are police arresting and charging adults, under Commonwealth laws, for possessing personal amounts of cannabis in the ACT? Are charges being prosecuted?*

- ACT Policing advise that, since the changes to ACT laws came into effect, so that it is not an offence for an adult to possess a small amount of cannabis or cultivate no more than two plants, no criminal charges have been laid.
- On 17 March 2021, ACT Policing issued a reminder to Canberrans not to exeeced the two per person limit for cultivating cannabis plants following the confiscation of four plants from one man.
- Under ACT law, one person cannot be responsible for cultivating more than two plants, regardless of how many people live at the address.

Q – *Has anyone challenged the ACT or Cth cannabis laws?*

- ACT Policing advise they are unaware of any challenge to the interpretation or validity of the ACT law since the new laws commenced.

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TRIM Ref:	JACS2021/46-001-001	

QUESTION TIME BRIEF

Q - *Do the new provisions make it easier for children to get cannabis?*

- No. Criminal penalties remain in place for the offence of supplying another person (including children) and for using cannabis in public places or around children.
- Further, it remains an offence for a person under 18 years of age to possess a small amount of cannabis.

Q – *Do the new cannabis laws apply in the Jervis Bay Territory?*

- No. The new provisions that allow a person over the age of 18 to possess or cultivate small amounts of cannabis are limited to the geographical confines of the ACT.
- A person who is an area outside of the ACT where ACT laws apply, for example in the Jervis Bay Territory, may be charged for possessing or cultivating a small amount of cannabis or issued with a simple cannabis offence notice under section 171A (Offence notices).

Key Information

- A challenge by the Commonwealth DPP or Australian Attorney-General to the validity or interpretation of an ACT law may only arise in a criminal prosecution:
    - if a person is charged with a Cwlth offence and raises a defence under division 313 of the *Criminal Code Act 1995* (Cwlth) relying on the ACT law;
    - *and* the CDPP challenges either:
        - the validity of the ACT law; or
        - whether the ACT law meets the description of the kind of law that could amount to an excuse or justification for the Cwlth offence.

Background Information

- Defences to Cwlth drug offences are provided for in div 313 of the *Criminal Code Act 1995* (Cwlth) including that the offences do not apply to conduct that is "justified or excused" by or under a law of the State or Territory in which the conduct occurs or if a person was "under a mistaken but reasonable belief" that the conduct was so justified.
- Where there is state or territory law that deals with the same conduct, the Cwlth law allows police and courts to apply the law of that state or territory when deciding how to deal with an offender. This is how the ACT and other jurisdictions have been able to decriminalise personal cannabis possession; it also provides the basis of our current Simple Cannabis Offence Notice scheme (SCON).
- If the ACT removed an offence for cannabis possession from ACT law entirely the prohibitions on possession of cannabis in the Cth criminal code would then apply as the

primary law here putting Canberrans at risk of being arrested and prosecuted under Cwlth law without a legal defence.

- To deal with this, the new provisions of the *Drugs of Dependence (Personal Cannabis Use) Amendment Act 2019* (the Act), which commenced 31 January 2020, maintains the offence of cannabis possession but removes penalties for adults cultivating and possessing a personal amount of cannabis in the ACT.
- This approach maintains an ACT-specific legal framework for dealing with cannabis possession, and therefore provides an alternative to the Cwlth law being applied.
- This does not entirely remove the risk of people being arrested under Cwlth law. The ACT is the first jurisdiction in Australia to have made these reforms and there is still some uncertainty about how these changes will unfold given the complex legal environment.
- The ACT laws aim to provide a legal defence to adults who possess small amounts of cannabis in the ACT who may be prosecuted under a Cwlth law but cannot stop an arrest and charge if an ACTP member is minded to do so, or prosecution if the Cwlth DPP considers it appropriate– the defence provided by ACT law would then be a matter for the Court.

ACT Government
Justice and Community Safety

SHANE RATTENBURY MLA
ATTORNEY-GENERAL/MINISTER FOR GAMING/MINISTER FOR CONSUMER AFFAIRS
QUESTION TIME BRIEFS PACK
22-24 JUNE 2021

Hot topics	
1.	*R v UG* [2020] *ACTCA 8 and the Crimes (Sentencing) Act 2005*
2.	Family Violence Act Review
3.	Review into Whole of Justice System Interactions with Aboriginal and Torres Strait Islander People
4.	Justice system response to sexual assault (including positive definition of consent)
5.	Recent sentencing decision in *R v Newby* (NEW)
COVID-19 Related	
6.	COVID-19 Impacts-Relief to clubs and licensed premises
7.	Awareness of legal assistance services during COVID-19
8.	Support for community service providers during the COVID-19 pandemic
9.	Talking Points - Spitting or coughing at frontline workers (COVID-19) - ACT criminal law response
Gaming	
10.	Gaming Harm Reduction Measures
11.	Diversification and Sustainability Fund
12.	Updates on incentive applications under Voluntary Surrender Agreements
13.	Community Contributions
14.	Club Engagement
15.	Gaming Machine technical advice
Judicial/Courts	

ACT Government
Justice and Community Safety

16.	Resourcing of Magistrates and Coroners Court
17.	Coroner's Court Reform
18.	Drug and Alcohol Court
19.	Judge Alone Trials
Security and Crime	
20.	National Security Issues
21.	OMCG Incidents – Taskforce Nemesis (Copy of ACT P Brief only)
22.	Serious and Organised Crime Response (Policy)
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

JACS2021/46-001-029

Portfolio/s: Attorney-General

Family Violence Sentencing - *R v UG [2020]* ACTCA 8 and the *Crimes (Sentencing) Act 2005*

Talking points:

- The ACT Government is strongly committed to preventing domestic and family violence and supports measures that hold perpetrators to account.
- I am aware of the ACT Court of Appeal decision in R v UG, to the effect that that there is no basis for taking 'a special approach [to] sentencing for family violence offences'.
- I am also aware that there are a range of approaches in other jurisdictions to sentencing for offences committed in a family violence context.
- The ACT Government has been considering whether our existing laws give the courts appropriate guidance on the factors to be considered and the weight to be given to these factors when sentencing family violence offenders.
- ACT Government officials are now working with the legal and family safety sectors to develop legislative change.
- Given the complexities of this issue, the ACT Government will likely be taking a phased approach to change. I expect the first phase amendments to be introduced very shortly.

Key Information

- Currently, ACT courts must consider 'the nature and circumstances' of an offence when sentencing the offender.
- ACT courts cannot impose a lesser sentence on the basis that:
    - the offence was a family violence offence, or
    - a family violence order was in place.

Background Information

- In *R v UG [2020]* ACTCA 8, the Court of Appeal found that there is no basis for taking 'a special approach [to] sentencing for family violence offences'. The Director of Public Prosecutions was concerned that this decision was a departure from

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established norms and recommended legislative change to ensure that courts could have approprtiate regard to any family violence context when sentencing.

- Each Australian jurisdiction has a different approach to family violence sentencing:
    - New South Wales' Crimes (Sentencing Procedure) Act 1999 creates a presumption that family violence offenders will be sentenced to full-time detention or a supervised order.
    - Queensland's Penalties and Sentences Act 1992 states family violence is an aggravating factor in sentencing, unless there are "exceptional circumstances".
    - South Australia's Criminal Law Consolidation Act 1935 states that offences against family members (including former partners) are "aggravated".
    - Tasmania's Sentencing Act 1997 states the court cannot order home detention if the offender has perpetrated family violence, and/or if the offender would be living with the victim of the offence. For family violence offences, if a child was present at the time this may be an aggravating factor.
    - Western Australia's Sentencing Act 1995 states family violence is an aggravating factor in sentencing.
    - Northern Territory and Victorian courts have each highlighted the need for general deterrence in family violence matters (e.g. Hardy v Rigby [2020] NTSC 42 and Laa v The Queen [2020] VSCA 136).
- On 10 May 2021 Ms Elizabeth Lee MLA released a draft private members bill, the Crimes (Family Violence) Legislation Amendment Bill 2021 ('the PMB'), for public consultation. The PMB proposes amendments to the Crimes Act 1900 to create an aggravated offence scheme for some common offences when committed in circumstances of family violence. The PMB also proposes to amend the Crimes (Sentencing) Act 2005 (CSA) so as to include family violence as a factor for consideration upon sentencing.
- An amendment to the CSA to introduce family violence as a factor the Court must consider in sentencing is included in the Crimes Legislation Amendment Bill scheduled for cabinet consideration on 21 June and introduction on 24 June 2021.
- During consultation on family violence sentencing reform earlier in 2021, the Director of Public Prosecutions, the Office of the Coordinator-General for Family Safety, the Victims of Crime Commissioner and the Women's Legal Centre have pressed for additional change with options including:
    - prescribing that family violence is an "aggravating" factor in sentencing, and
    - creating new "aggravated" versions of offences, carrying higher maximum sentences, where the offence occurred in the context of family violence.
- Given complexities, JACS will consult further with key stakeholders in relation to introduction of a aggravated family violence offence scheme later in 2021.

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 August-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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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 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 August-September sittings this year.

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.

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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. Some other recommendations are for actions that have already been taken (for example, the recommendations about information on the ACT Courts website) or are already under active consideration (for example, recommendation seven about information sharing, where a pilot program is already being 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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- *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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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. 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).
- The original commitment to a Review of the rates and causes of indigenous incarceration in the ACT, had its genesis in a letter in July 2020 from Ms Julie Tongs, to the then Attorney-General highlighting the ACT's high rate of increase in the incarceration of Aboriginal people and seeking: "a detailed, comprehensive and independent inquiry into the effectiveness of all these arms of the justice system in their contact with and response to members of the Aboriginal and Torres Strait Islander community".

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QUESTION TIME BRIEF

- On 14 August 2020, the former Attorney General and the Minister for Aboriginal and Torres Strait Islander Affairs replied to this letter and, in addition to continuing existing work, committed to commence consultation and planning for a community led review into the over-representation of Aboriginal Torres Strait Islander people in the ACT justice system.
- However, on 19 August 2020 Ms Tongs was quoted by *The Canberra Times* as saying: "(w)e don't need any more reviews. We know what the problems are, start to address them. Don't keep throwing money at consultants to tell us what we already know".
- 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.
- 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.

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 also 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 (Steatthing) 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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and reforms relating to 'stealthing' are only one potential aspect of that part.

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'.

Law reform commission recommendations

- 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.

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

[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

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'). The PMB is likely to be debated in the June sittings of the Legislative Assembly.

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 deadline to appeal this sentence has not yet passed.
- It would not be appropriate for me to comment on this decision, particularly before the deadline to appeal.
- However, I can say that under ACT legislation, parole is a privilege and not a right. While a person becomes eligible to be considered for parole after the nonparole period has ended, that does not mean that parole will be granted.
- In parole decisions, the most important factor is the public interest, and the Sentence Administration Board must consider the effect of parole on the victim's family.

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.

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Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-033	

- 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 has received correspondence from two community members, including a member of Mr Prineas's family, expressing disappointment with the sentence and seeking that the sentence be appealed by the Director of Public Prosecution.

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'.
- Mr Newby and/or the Director of Public Prosecutions may appeal against the decision up to 1 July 2021, or with the leave of the Court, in accordance with r. 5405 of the Court Procedures Rules 2006.

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.

[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).

Cleared as complete and accurate:		
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TRIM Ref:	JACS2021/46-001-033	

QUESTION TIME BRIEF

Family violence

- The offence occurred in the context of family violence against Mr Newby's former partner. The upcoming Crimes Legislation Amendment Bill 2021 includes amendments to the Crimes (Sentencing) Act 2005 to 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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TRIM Ref:	JACS2021/46-001-033	

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 urgent 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.
- 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 support them 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>

- Since June 2020, the Government has offered cash payments 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 incentive remains available to all gaming machine licensees on a 'first come, first served' basis, ending:
  - when applications have been received for a total of $3.75 million in incentive payments (i.e. up to a total of 250 authorisations); or
  - at 11.59pm on 30 June 2021.
- To date, a total of 129 authorisations have been surrendered by clubs under this incentive, for cash payments totalling $1.935m. There are sufficient funds remaining for the surrender of further 121 authorisations.

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 extended until 23 March 2021 to provide support to clubs and their 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.
- Under the *Gaming Machine (Emergency Community Purpose Contribution—Local Live Performance Industry) Declaration 2020*, clubs can claim contributions made to or for the local live performance industry for music or other live entertainment (other than sport) from 28 August 2020 until 31 August 2021 as community purpose contributions. This measure will provide support to the local live performance industry, which continues to be affected by COVID-19.

Fee waivers

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

- In particular, annual liquor licence fees are 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.
- Fees will also be waived for existing on licensees who apply for general liquor licenses to allow them to sell both in-house and take-away liquor until 30 June 2021.
- Additionally, free commercial liquor permits were issued to on licensees for three months from 25 March 2020 to allow them to sell takeaway liquor. Fees will also be waived to extend commercial liquor permits to sell takeaway liquor for up to 12 months from the date of first issue.

- These fee waivers and reductions have and will 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.
- At the second Club Presidents' Forum in July 2020, clubs welcomed the former Attorney-General's announcement that the Government would continue to contribute to the DSSF despite clubs' contributions being temporarily suspended. Clubs acknowledged that the DSSF emergency relief funding had assisted clubs, including to support staff ineligible for other income support (see QTB:2021/46-001-031- Diversification and Sustainability Support Fund for further information).

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TRIM Ref:	JACS2021/46-001-005	

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 in their compliance 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] expiring 23 March 2021.
    - The *Gaming Machine (Emergency Community Purpose Contribution—Local Live Performance Industry) Declaration 2020* [DI2020-252] expiring 31 August 2021.
- Amendments will also suspend 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 has subsequently twice extended the availability of the incentive 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 is available on a 'first come, first served' basis, ending:
    - when applications have been received for a total of $3.75 million in incentive payments (i.e. applications have been received for the surrender of a further 121 authorisations in addition to the 129 already surrendered); or
    - at 11.59pm on 30 June 2021.
- In October 2020, one club surrendered a further 20 authorisations in exchange for a cash payment of $300,000.
- To date, the total number of authorisations surrendered under the incentive is 129, with $1.935 million in incentive payments paid to participating clubs. The surrender

of these authorisations has reduced the ACT's total number of authorisations from 3,997 to 3,868. This figure was capped by the *Gambling and Racing Control (New Cap on Number of Authorisations) Notice 2020 (No 3) NI2020-762* on 1 November 2020.

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.

Cleared as complete and accurate:	30/11/2020	
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Lead Directorate:	Justice and Community Safety	
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– (02) 6257 1788
    - The Consumer Law Centre – (02) 6143 0044
    - Environmental Defenders Office – canberra@edo.org.au
    - Aboriginal Legal Service NSW/ACT – (02) 6120 88 00
- 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 will deliver 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 will support the sector to have the ICT capacity to deliver services remotely, and provide for increased frontline services to meet the additional demand flowing from the COVID-19 emergency.
- This announcement was welcomed by the ACT Government.
- The frontline services funding will deliver 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 has 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.

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 is still providing 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 day time services. NTLAS is available on 02 6218 7000. Intake is done between 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. Intake is done 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 newly launched 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 is providing 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

- On 25 March 2020, ACT Community Legal Centres issued a joint communique identifying the essential legal assistance services the sector will continue to deliver and the issues it has identified as a result of the COVID-19 outbreak.
- The ACT Government has heard from CLCs that the matters they are facing are becoming more complex following COVID-19. CLCs anticipate increased legal need in the community in early - mid 2021 in alignment with reductions to the JobKeeper payment.
- An ABC News Report about responding to family violence in the ACT on **28 September 2020** quotes the A/g Coordinator-General for Family Safety, Kirsty Windeyer, as stating the following: "after the [COVID-19] restrictions were lifted there was an increase in the number of people who were reporting experiencing violence for the first time in the home" and "there was also an increase in the brutality of the violence and in the physical violence". The article is available via: https://www.abc.net.au/news/2020-09-28/back-to-the-future-for-act-policings-family-violence-response/12709150

Cleared as complete and accurate:	30/11/2020	
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TRIM Ref:	JACS2021/46-001-023	

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 has 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 is also administering $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 will boost frontline services to meet the additional demand flowing from the COVID-19 emergency and also support 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** – which 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. Tjillari Justice has withdrawn their contract and the existing subcontractor has been approached to delivery 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 at this current stage in the pandemic and 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.
  - Activity is increasing with 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

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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

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Lead Directorate: Justice and Community Safety
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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's 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 taken a flexible approach with service providers, regarding:

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TRIM Ref: JACS2021/46-001-028

- their COVID-19 planning and ability to continue to deliver on funded services, while keeping their staff and clients safe;
- their 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 front line 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

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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), most recently on 8 March 2021. 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.

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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 Ministerial Advisory 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.

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

Community Clubs Ministerial Advisory Council

- Preliminary work to establish the Community Clubs Ministerial Advisory Council has commenced.
- 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 terms of reference, membership and other matters relevant to the establishment of the Council (please see QTB **JACS2021/46-001-002**).

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 1,078 (from 4,946 to **3,868)** 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 licensees (clubs and hotels) can access the *COVID-19 Economic Survival Package Gaming Machine Authorisation Surrender Incentive* until 30 June 2021. This incentive provides licensees with a cash payment of $15,000 per surrendered gaming machine authorisation, to be used towards:
    - staff employment;
    - diversification activities and initiatives; and
    - energy and water efficiency measures.

QUESTION TIME BRIEF

Gaming Machine Tax Rebate

- The Government continued the 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, eligibility for the gaming machine tax rebate no longer takes into account gross gaming machine revenue in 2017-18. Instead, a club or club group is considered small or medium where its annual gross gaming machine revenue (GGMR) is not more than $4 million, or where it receives some amount of rebate under new 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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QUESTION TIME BRIEF

- 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

- There are currently **39** licensed club venues and **5** hotels in the ACT who hold gaming machine authorisations.
- The most recent figures published by the Gambling and Racing Commission (1 February 2021) state there are **3,868** authorisations and **3,579** electronic gaming machines in operation in the Territory.
- Under the COVID-19 Economic Survival Package to date, 129 authorisations have been surrendered in return for $1.935 million in incentive payments to be used towards staff employment, and (under the extended incentive) diversification activities and initiatives, and energy and water efficiency measures. The incentive has been extended until applications have been received for the surrender of a total

of $3.75m in incentive payments (i.e. surrender of a further 121 authorisations), or until 30 June 2021, whichever occurs first.

Background information

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

- Representatives of the following organisations attended the initial stakeholder meeting on 12 February 2021:
    - ACT Council of Social Services;
    - Canberra Community Clubs;
    - Clubs ACT;
    - Gambling and Racing Commission;
    - Gambling Reform Alliance;
    - United Workers Union; and
    - Justice and Community Safety Directorate (ACT Government).
- JACS advertised the calls for nominations on the ACT Diversity Register and ACT Jobs websites, with a closing date of 26 March 2021.
- It is expected that you will convene the first meeting of the CCMAC by the end of May 2021.

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. JACS will seek expert technical advice on the implementation of this commitment.
- The *Casino (Electronic Gaming) Act 2017* includes a maximum bet limit of $2 for casino gaming machines in a redeveloped casino.

QUESTION TIME BRIEF

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

	2018-19 $'000	2019-20 $'000	2020-21 $'000	2021-22 $'000	**Total $'000**
CMTED Directorate – Expenses	122	351	0	0	**473**
JACS Directorate – Expenses	2,206	1,105	1,105	1,105	**5,521**
Depreciation	0	45	45	45	**135**
Total Expenses	**2,328**	**1,501**	**1,150**	**1,150**	**6,129**
CMTED Directorate – Associated Capital	225	0	0	0	**225**
EPSD Directorate – Associated Revenue	-500	-1,714	-1,714	-1,714	**-5,642**

The Government is implementing measures to support the reduction of gaming machine authorisations to 4,000 by 1 July 2020 - as set out in the *Pathway to 4,000 Gaming Machine Authorisations by 2020* - and is continuing to implement the commitments outlined in our *Supporting Local Community Clubs Policy*.

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QUESTION TIME BRIEF

JACS2021/46-001-031

Portfolio/s: Gaming

Diversification and Sustainability Support Fund – 20/21 funding round

Talking points:

- In October 2020 the Diversification and Sustainability Support Fund (DSSF) Advisory Board opened a Tier 2 funding round for applications for payments from the DSSF. This was the first Tier 2 funding round completed by the Board.
- I have 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 will be distributed to successful applicants for the following activities:
    - installing solar panels, electric vehicle charging stations and solar light fittings in a venue carpark;
    - developing an Early Learning Centre;
    - upgrading and reopening a kitchen;
    - constructing sheds to store golf carts;
    - developing a strategy to diversify to alternative income streams; and
    - contributing to a Risk Analysis for a venue re-development.
- The seven clubs that will receive payments in this round of grants successfully showed that their proposed activity could meet at least one of the purposes that the DSSF was set up to achieve.
- The Government established the DSSF on 1 July 2019. The DSSF is jointly funded by industry and Government to provide funding for the following purposes:
    - assisting clubs to diversify their income to sources other than gaming machines;
    - supporting the sustainability of clubs;

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  - 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.

- As a COVID-19 relief measure, industry contributions to the Fund were suspended, effectively for the 12-month period April 2020 to March 2021.
- However, the Government continued to contribute which allowed grant applications and funding to proceed in 20220-21.
- The Government's contribution of approximately $1.08 million for the 2021-22 financial year will be available from 1 July 2021.
- The Chair of the Board has announced that the Board intends to open the next Tier 2 Funding Round on 1 July 2021, for six weeks.
- Applications for Tier 1 funding can be submitted at any time on an ongoing basis.

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.

QUESTION TIME BRIEF

- 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.
- While this funding was generally positively received, some clubs expressed disappointment that the funding round did not continue due to the distribution of funding for COVID-19 emergency relief. The former Attorney-General advised club representatives at the Club Presidents' Forum in July 2020 that the Government would provide its appropriated contribution for 2020-21 to the Fund, even though club contributions were suspended.

Organisations that will receive funding from the DSSF

- 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 following organisations will receive funding from the DSSF for 2020/21 as per your agreement to the Advisory Committee's recommendations.

Recipient		Tier	Amount	Purpose
1	Murrumbidgee Country Club	Tier 1	$25,000	To assist with the construction of a shed to store golf carts.
2	Belconnen Bowling Club	Tier2	$155,000	To allow the club to upgrade and reopen its kitchen.
3	Belconnen Soccer Club	Tier 2	$100,000	To develop an early learning centre on the Club's McKellar site.
4	Canberra Irish Club	Tier 2	$99,093	To install a 65,155 KWP Solar Grid Connect system at its premises.
5	Canberra Southern Cross Club	Tier 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	Tier 2	$52,200	For the development of a diversification strategy and implementation plan.
7	Hellenic Club of Canberra	Tier 2	$100,000	To contribute to the funding to engage a consultant to conduct a Full Appraisal and Risk Analysis to inform the applicant about redevelopment options for the club's main site in Woden.
	TOTAL		**$632,811**	

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QUESTION TIME BRIEF

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 will commence on 1 July 2021, and will be open for six weeks.

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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 now capped at **3,868** following the surrender of 129 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 since 23 August 2018 following the ACT Government announcement of the *Pathway to 4,000 Gaming Machine Authorisations by 2020* (the Pathway).
- The Pathway was informed by the recommendations of the *Club Industry Diversification Support Analysis* by Mr Neville Stevens AO. At that time, the number of authorisations held by clubs and hotels was 4,946.
- The previous Government's target of reaching 4,000 gaming machine authorisations was achieved ahead of time, with the cap on the number of authorisations reducing to 3,997 by 25 February 2020.
- Under the Pathway, financial and non-financial incentives were available to clubs that voluntarily surrendered gaming machine authorisations to diversify their business models. Applications for these previous incentives needed to be made to the Justice and Community Safety Directorate by 31 January 2019.
- The COVID-19 Economic Survival Package surrender incentive remains available to clubs and hotels until 30 June 2021.

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QUESTION TIME BRIEF

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.
- 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 $875,985.
- 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.

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QUESTION TIME BRIEF

Key Information

- The *Gambling and Racing Control (New Cap on Number of Authorisations) Notice 2020 (No 3)* NI2020-762 sets the cap on the number of gaming machine authorisations at **3,868** as at 1 November 2020.
- Under the Pathway, licensees that voluntarily surrendered gaming machine authorisations were eligible for financial incentives as follows:

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 3,868 (November 2020) 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 – 129 authorisations.

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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	$945,000	7,500
Croatia Deakin Soccer Club	Development application fees Lease variation charge	$200,000	3,485 100,000
		Total	**$875,985**

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	937,500
Hellenic Group	870,000
Vikings Group	2,100,000
Total	**$12,866,515**

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QUESTION TIME BRIEF

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

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CMTED Directorate – Associated Capital	225	0	0	0	225
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The Government is implementing measures to support the reduction of gaming machine authorisations to 4,000 by 1 July 2020 - as set out in the *Pathway to 4,000 Gaming Machine Authorisations by 2020* - and is continuing to implement the commitments outlined in our *Supporting Local Community Clubs Policy*.

Changes to the *Gaming Machine Act 2004* established the legal framework for the voluntary and compulsory surrender of authorisations. The relevant provisions of the Act relating to the reduction to 4,000 gaming machine authorisations commenced on 11 December 2018. The voluntary surrender period ceased on 31 January 2019 and all voluntary surrender agreements providing incentives to participating licensees were required to be signed on or before 8 February 2019.

Cash incentive payments **($0.648 million)** were made to eligible licensees from the JACS' Territorial account resulting in savings in 2018-19 of $1.3 million. Clubs are also eligible for $13.7 million in incentives for land-related payments, fees and charges over the next seven years.

The voluntary surrender process and forfeitures through trading reduced the number of gaming machine authorisations in the ACT to 4,012 by 14 February 2019. The subsequent first stage of compulsory surrender on 1 April 2019 reduced that number to 4,003, and forfeitures through trading activity has since reduced the number of authorisations to 4,001.

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TRIM Ref:	JACS2021/46-001-021	

QUESTION TIME BRIEF

JACS2021/46-001-003

Portfolio/s: Minister for Gaming

ISSUE: COMMUNITY CONTRIBUTIONS

Talking points:

COVID-19 support measures in the community contributions scheme

- 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—Club Employees) Declaration 2020*, clubs could claim staff wages as community purpose contributions, provided the amount meets or exceeds the relevant minimum wage (including any relevant allowances) under the *Registered and Licensed Clubs Award 2010*. This measure applied to contributions made between 24 March 2020 and 23 March 2021 (inclusive) to provide support to clubs and their 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.
- 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. This measure applies to contributions made between 27 August 2020 and 31 August 2021 (inclusive).

- Revised Guidelines for the scheme, incorporating these recent changes and providing further clarity in response to feedback, are being finalised for distribution to licensees.

<u>April 2020 changes to the scheme in response to industry feedback</u>

- In response to industry feedback, the Government introduced the *Gaming Machine Amendment Act 2020*, which was passed by the ACT Legislative Assembly in April 2020. The Act includes several refinements to support clubs' compliance and reporting obligations including:
  - removing the requirement for clubs with more than one venue to report on the community purpose contributions for each venue separately and allowing clubs with more than one venue to make community purpose contributions on a group basis;
  - introducing a transitional provision reducing the minimum monetary contribution for clubs that are not small or medium clubs or part of a small or medium club group from 6 per cent to 5 per cent for reporting years ending after 30 June 2019 and before 1 July 2021; and
  - introducing a transitional provision reducing community contributions shortfall tax from 150 per cent to 100 per cent for reporting years ending after 30 June 2019 and before 1 July 2021.

<u>2019 reforms to the scheme</u>

- Significant Government reforms to the community contributions scheme commenced on 1 July 2019.
- The changes to the scheme:
  - increased the funds available to the broader community;
  - required greater transparency in reporting on community contributions;
  - provided more opportunities for community groups to seek community contributions; and

  - increased the minimum contribution payable from net gaming machine revenue (NGMR) by 0.8 per cent for clubs and introduced a contribution requirement for hotels.

- Hotels are required to make mandatory contributions of 0.8 per cent of their 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.
- These 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.
- 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).

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.
- 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

- 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 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 first meeting of the Council on 26 May 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

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TRIM Ref:	JACS2021/46-001-002	

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
	Nominated representatives

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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 clubs is outlined below.

Community Clubs Ministerial Advisory Council

Date	Document	Stakeholders
20 January 2021	Email – invitations to initial meeting to discuss establishment of the Council	Clubs industry peakbodies, 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 peakbodies, 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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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. A procurement process for the advice has been completed and a supplier has been selected.
- The government is seeking advice about technical issues associated with these harm reduction measures and the possible costs for their implementation.
- 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 technical advice is due to the government by 31 July 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:
    - Senet Legal, a legal and advisory firm specialising in the gambling law and regulation.

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

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 with the resources it needs to meet increasing demand.

Recent Magistrate appointments

- Magistrate Bernadette Boss has taken up a temporary 12-month appointment with the Commonwealth in the role of interim National Commissioner for Defence and Veteran Suicide Prevention. Dr Boss commenced in the role on 16 November 2020. I congratulate Dr Boss on this significant appointment.
- I welcome the appointment of Jane Campbell as a Special Magistrate, who is backfilling Dr Boss' 12-month absence from the Magistrates Court. Ms Campbell commenced in her new role on 11 January 2021 and brings a wealth of experience to the bench, particularly in the area of criminal law practice.
- Ms Louise Taylor has been sitting as the Territory's eighth full-time resident magistrate since 10 September 2018. This appointment supports the efficiency of the justice system and the timeliness of proceedings in the Magistrates Court.
- In addition to resourcing the eighth magistrate position, in the Government's 2018-19 budget, Legal Aid ACT received an additional $1.297 million and the Director of Public Prosecutions (DPP) received $987,000 for additional staff to support the increased capacity of the Magistrates Court.

Dedicated full time ACT Forensic Pathologist

- The 2018-19 Budget also 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.

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QUESTION TIME BRIEF

Family Liaison Officer

- The 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.

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.

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).

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.

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.

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QUESTION TIME BRIEF

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 2021.
- The appointment of Ms Margaret Hunter OAM as a Special Magistrate was recently extended to 30 April 2021. Special Magistrate Hunter requested this extension in order to finalise the Brayden Dillon Inquest, noting that, given the volume of evidence to consider by the parties in respect of their submissions, time for submissions was extended to April 2021. Special Magistrate Hunter expects to hand down findings by the end of April 2021.
- Magistrate Boss has been engaged by the Commonwealth for appointment as interim National Commissioner for Defence and Veteran Suicide Prevention for a term of 12 months. She commenced in the role on 16 November 2020. Jane Campbell has been appointed as a Special Magistrate for 12 months, commencing 11 January 2021, to cover Magistrate Boss' absence.

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QUESTION TIME BRIEF

JACS2021/46-001-004

Portfolio/s: Attorney-General

ISSUE: REFORMS TO THE OPERATION OF THE CORONER'S COURT

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, effective 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.
- Coronial reform is part of a broader initiative to build Canberra as a Restorative City – one where we value relationships, treat each other with care and respect, and seek to solve problems collectively.

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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 Governming 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). This 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 will support 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 the next four years for an eighth full time resident magistrate.

Background Information

Law Reform Advisory Council (LRAC) Report

- The LRAC report, *Canberra – Becoming a Restorative City,* recommended that restorative practices be trialled within the coronial system. LRAC's report was released on the Justice and Community Safety Directorate's (JACS) website on 15 November 2019, as a part of the launch of the 'Canberra as a Restorative City' website. The website includes a vision document about Canberra as a Restorative City initiative, which notes coronial reform as a priority.
- 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:
    - Developing 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.

Restorative Coronial Reform Forum

- 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.
- Legislation, Policy and Programs (LPP) is engaged in ongoing work with the Coroner's Court to explore further restorative coronial system reforms.

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Lead Directorate:	Justice and Community Safety	
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QUESTION TIME BRIEF

Recent legislative reforms

- In July 2020, the Legislative Assembly passed the Coroners Amendment Bill 2020 which is 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.

Strengthening Restorative Practice in the Coroner's Court

- As part of the Canberra as a Restorative City commitment, JACS organised for religious and cultural leaders from across the ACT to meet with Canberra's Coroners, Coroners' Court staff and staff from the Forensic Medical Centre to discuss different customs around death, autopsy and burial. These meetings took place on 16 & 17 November 2020.

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.

National Commissioner for Defence and Veteran Suicide Prevention

- The ACT is participating 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 key focus of the Commissioner's role will be engagement with affected families using restorative and trauma-informed principles.
- ACT Magistrate, Dr Bernadette Boss has been appointed as the interim National Commissioner for the Defence and Veteran Suicide Prevention for 12 months. Dr Boss commenced in this role on 16 November 2020.

Coronial Reform Group (CRG)

- Mrs Eunice Joliffe, Ms Rosslyn Williams, 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, Benjamin Williams and Paul Fennessy in 2010.
    - Mark Joliffe died on or about 15 February 2010. Coroner Dingwall's findings were delivered on 30 June 2015.
    - Benjamin Williams died on 28 September 2010. The Chief Coroner's findings were delivered on 17 October 2013.
    - Paul Fennessy died on 6 January 2010. Coroner Hunter's findings were delivered on 16 December 2016.

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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.
- Ten family representatives attended the Restorative Coronial Reform forum on 19 November 2019.

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 ACT's Drug and Alcohol Court, which is referred to by the Courts as the Drug and Alcohol Sentencing List (DASL).
- The first Drug and Alcohol Treatment Order (DATO) was made on 15 January 2020.
- The Sentencing list commenced with an intake of 10 participants and this will increase to up to 35 participants by June 2021.
- As at 20 May 2021, 72 people have been referred to the DAC, with 65 people being sent for eligibility assessments. Of this number, seven were women and 18 identified as Aboriginal and Torres Strait Islander people. As at 20 May 2021, 21 DATOS were in effect with a further 10 people awaiting assessment.
- The Drug and Alcohol Sentencing List is heard each Friday and as required on other days.
- The model is based on proposals that were developed by the DAC Supreme Court Working Group which was led by Justice John Burns and included representatives from key agencies.
- 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.

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TRIM Ref:	JACS2021/46-001-007	

- 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 aim of the report was to determine whether the positive results observed in the first and second evaluations of the NSW Drug Court are sustained over a period of 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. 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.
- Their sentence of imprisonment (between one and four years) will be suspended.
- Participants have individualised treatment and sentence management plans that 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.
- Justice Refshauge leads a team of representatives from various health and justice agencies to guide the participant through the DAC process.
- 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.

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.

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 has 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. A review of the ACT's approach is timely.
- The consultation process includes a roundtable with targeted justice stakeholders, including the legal profession, which was held on 22 March 2020. Written submissions have also been invited 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.
- I am aware that the Director of Public Prosecutions has 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.

Cleared as complete and accurate:	18/04/2021	
Cleared for public release by:	Deputy Director-General	Ext: 53504
Contact Officer name:	Anita Axell	Ext: 54104
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-030	

QUESTION TIME BRIEF

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 currently expires 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.

Cleared as complete and accurate:	18/04/2021	
Cleared for public release by:	Deputy Director-General	Ext: 53504
Contact Officer name:	Anita Axell	Ext: 54104
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-030	

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

Stickering at Australian National University (Chief Minister)

- I am aware of media reports over the weekend of posters and stickers belonging to ideological motivated groups appearing at the Australian National University.
- The ACT Government stands with the the ANU to condemn this sort of activity.
- Our best defence against this sort of behaviour is to maintain Canberra as a welcoming and inclusive city, where diversity is respected and celebrated.
- The ACT Government and ACT Policing continue to work to keep Canberrans safe from all forms of extremism in partnership with our Commonwealth, State and Territory colleagues.
- The ACT Government recognises communities play an important role in preventing and countering violent extremism, alongside government agencies. This is a shared challenge and requires a whole-of-society approach.
- I encourage families, friends and communities to contact authorities for help and advice if you are concerned someone may be vulnerable to violent extremism.
- Concerns can and should be reported to the National Security Hotline on 1800 123 400. Please visit the Living Safe Together website for more information.

Cleared as complete and accurate:	27/05/2021	
Cleared for public release by:	Executive Branch Manager	Ext:
Contact Officer name:	Bren Burkevics	Ext: 78628
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/47-001-031	

QUESTION TIME BRIEF

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.

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.

Cleared as complete and accurate:	27/05/2021	
Cleared for public release by:	Executive Branch Manager	Ext:
Contact Officer name:	Bren Burkevics	Ext: 78628
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/47-001-031	

QUESTION TIME BRIEF

- 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.

Cleared as complete and accurate:	27/05/2021	
Cleared for public release by:	Executive Branch Manager	Ext:
Contact Officer name:	Bren Burkevics	Ext: 78628
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/47-001-031	

QUESTION TIME BRIEF

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 withthe National Cyber Security Committee to monitor the cyber threat environment.
- In response to recommendations from the Auditor-General's audit on data security, the ACT has engaged a provider to undertake a thorough risk and threat assessment of the ACT's environment. This is in addition to a wide range of other activities to strengthen the ACT's cyber security resilience.
- The ACT supported the development of *Australia's Cyber Security Strategy 2020*, launched August 2020. The strategy responds to continuing malicious cyber threats and activities faced by Australians.
- 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 ready as COVID restrictions ease to host safe and enjoyable public events.
- We have expanded our CCTV Network (the Network), into areas such as Glebe Park,and 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.
- In 2016, the ACT Government provided $6.4 million over four years for the expansion of Taskforce Nemesis to target organised crime syndicates including Criminal Motorcycle Gangs. This funding included eight staff: four investigators, two intelligence officers, one Forensic Accountant and an Investigative Assistant.
- In the 2018-19 Budget, ACT Government committed a further $1.594 million over four years to bolster the capability of Taskforce Nemesis in providing funding for one Forensic Accountant, one Surveillance Team Member and associated equipment and training.
- ACT Policing will continue to ensure an appropriate police response to target and disrupt those seeking to cause harm in our community.
    - ACT Policing is also in a unique position as it can call on specialist and surge capabilities from the broader AFP to meet changing operational environments.
- 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 bring 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.

Cleared as complete and accurate:	15/04/2021	
Cleared for public release by:	Deputy Director-General	Ext:
Contact Officer name:	Sch 2, s2.2(a)(i)	Ext:
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/47-001-021	

QUESTION TIME BRIEF

- ACT Policing has 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. The group is based on the Commonwealth NAGS model that brings a whole-of-government approach to addressing this issue.
- The confiscation of criminal assets is an effective tool to assist in the prevention and disruption of serious and organised crime and prevents the reinvestment of illegally obtained wealth into criminal activity.
- It is anticipated additional agencies will be invited to future working groups to further drive Taskforce Nemesis' ambitions to disrupt Criminal Motorcycle Gang activities.

Operational successes

Taskforce Nemesis Criminal Motorcycle Gang related figures (at 1 April 2021)	**2018**	**2019**	**2020**	**2021 (1 Jan – 31 Mar 2021)**
Criminal gang members charged *(person may be charged on numerous occasions)*	27	54	30	4
Offences charged*	78	127	87	10
Firearms seized	20	12	9	2

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

OMCGs in Canberra

- As at April 2021:
  - There are three known Criminal Motorcycle Gangs, one of which has increasingly limited influence, operating in the ACT.
  - The total number of members associated with ACT chapters of these Criminal Motorcycle Gangs is estimated at approximately 30-40 people.
  - This is a decrease from the previously reported numbers of approximately 70 members in 2018-19 and is as a result of members being deported, imprisoned or fleeing interstate.

Cleared as complete and accurate:	30/11/2020	
Cleared for public release by:	Deputy Director-General	Ext:
Contact Officer name:	Sch 2, s2.2(a)(ii)	Ext:
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	2020/000092-019	

QUESTION TIME BRIEF

- 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.

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.

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 1 April 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 1 April 2021)	**2018**	**2019**	**2020**	**2021 (1 Jan-31 Mar)**
Criminal gang members charged (person may be charged on numerous occasions)	27	54	30	4
Offences charged*	78	127	87	10
Firearms seized	20	12	9	2

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

Cleared as complete and accurate:	07/05/2021	
Cleared for public release by:	Executive Group Manager	Ext: 70674
Contact Officer name:	Maddie Rosenberg/ Rosie Solomon	Ext: 53310/56051
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-019	

- 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

JACS2021/46-001-024

Portfolio: Police & Emergency Services

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 will improve 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.

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).

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 four years of the Strategy. In 2019-20 there were 17,737 recorded property offences, which is 3,933 less than four years ago in 2015-16.
- However, to keep property crime rates down we must not become complacent, there is still work to be done.
- While consideration regarding a new statergy 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.

Cleared as complete and accurate:	07/05/2021	
Cleared for public release by:	Executive Branch Manager	Ext: 51451
Contact Officer name:	Kym Copeman	Ext: 53749
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 Community Policing 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.
- 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.
- However, we all have a role to play and can take steps to safeguard our homes, businesses, cars and personal property.

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ACT Policing cleared by:	Sch 2, s2.2(a)(ii)	
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QUESTION TIME BRIEF

- 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:
    - *Lock and hide to protect your ride* - has reached over 105,000 on Facebook with total engagement sitting around 3,500
    - *Keep out a break-in* – has reached over 120,000 people on Facebook and over 21,000 on Twitter, with engagement across the two platforms sitting around 7,800
    - 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.

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QUESTION TIME BRIEF

Background Information

Property Crime Rates

Offence Type	2018-19 FY	2019-20 FY	Financial YTD 01/07/2020 – 31/12/2020
Total Robbery	209	223	67
Armed Robbery	*104*	*103*	*22*
Unarmed Robbery	*105*	*120*	*45*
Total Burglary	2627	2292	989
Burglary dwellings	*1659*	*1363*	*615*
Burglary shops	*419*	*370*	*147*
Burglary other	*549*	*559*	*227*
Motor Vehicle Theft	1234	1262	658
Theft (excl motor vehicle theft)	8732	8109	3381
Property damage	4954	4175	1894
Other offences against property*	2198	1464	827
TOTAL	**19954**	**17525**	**7816**

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

Source: PROMIS as of January 27, 2021

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QUESTION TIME BRIEF

Further Background Information

ACT Policing reported the following property crime offences in its 2019-20 Annual Report:

TABLE 4.2: OFFENCES AGAINST PROPERTY BY OFFENCE TYPE — FINANCIAL YEAR COMPARISON

Offence type	2018–19	2019–20	Change (%)
Robbery	209	223	6.7%
Armed robbery	104	103	-1.0%
Unarmed robbery	105	120	14.3%
Burglary	2627	2292	-12.8%
Burglary dwellings	1659	1363	-17.8%
Burglary shops	419	370	-11.7%
Burglary other	549	559	1.8%
Motor Vehicle Theft	1234	1262	2.3%
Theft (excl motor vehicle theft)	8732	8109	-7.1%
Property damage	4954	4175	-15.7%
Other offences against property*	2198	1464	-33.4%
Total	**19,954**	**17,525**	**-12.2%**

Source: PROMIS as at 2 July 2020

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

Under 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.

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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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  - 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 all 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/

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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 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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- 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, is now reviewing 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.
- The 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.

- 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*, which is to be finalised early in 2021. This 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 in 2021 that are consistent with the principles inherent in the report findings.

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

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- 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 current satisfaction rate to the end of March 2021 is 99%. This includes satisfaction with family violence and sexual offence matters.

Impact of COVID-19

- COVID-19 disruptions 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 on rostered days 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.
- In 2019-20, overall referrals dropped by 20% from 2018-19 and overall conferences dropped by 13%. Referrals to-date in 2020-21 have continued at lower levels.

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 confidence in the Restorative Justice process within the local community, cultural competence and safety.

Comparing referral statistics

- In 2019-20, the RJU received 212 referrals compared to 2018-19 when the RJU received a total of 264. These statistics show a 20% drop in referrals.
- In comparing third-quarter statistics, from July to March in 2020-21 to the same period in 2019-20 a drop in referrals of 25% is evident. That is, 124 referrals involving 190 victims and 143 offenders and 291 offences were received from July to March in 2020-21. In the same period in 2019-20, 170 referrals were received comprising 289 victims and 184 offenders and 367 offences.

Referrals by financial year

	2018-19	**2019-20**	**Difference**
Referrals	264	212	-20%
Victims	439	357	-19%
Offenders	294	234	-20%
Offences	594	491	-17%

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Referrals to end of Q3

	July 2019 to March 2020	July 2020 to March 2021	Difference
Referrals	170	128	-25%
Victims	289	190	-34%
Offenders	184	143	-22%
Offences	367	291	-21%

- In 2019-20, unsurprisingly, there was a 13% drop in conferences completed, with a larger percentage of indirect conferences held – due to COVID-19 restrictions. In 2019-20 the RJU managed 72 conferences to completion compared with 83 conferences for the previous financial year.
- Comparing third quarter statistics to assess for ongoing COVID-19 disruption effect, 59 conferences were held during the period of July 2019 to March 2020 (pre-COVID) whereas 33 conferences were held in the same period for 2020-21, a drop of 44%.

Restorative justice conferences by financial year

	2018-19	2019-20	Difference
Conferences	83	72	-13%
Face to face	56	45	-20%
Indirect	27	27	even

Restorative justice conferences to end of Q3

	July 2019 to March 2020	July 2020 to March 2021	Difference
Conferences	59	33	-44%
Face to face	41	17	-59%
Indirect	18	16	-11%

Aboriginal and Torres Strait Islander impacts

- The COVID-19 related reduction in face to face client contact has also impacted on Aboriginal and Torres Strait Islander clients.
- 48 Aboriginal and/or Torres Strait Islander people were included in referrals in 2019-20. These referrals were predominantly from ACT Policing (19 young people and two adults), the Magistrates Court (13) and the Galambany Court (11).

QUESTION TIME BRIEF

- 52 Aboriginal and/or Torres Strait Islander people were included in referrals in 2018-19, including from ACT Policing (13 young people and three adults); the Magistrates Court (10) and the Galambany Court (20).
- This reduction in referrals has continued in the first three quarters in 2020-21 just 19 referrals involving Aboriginal and/or Torres Strait Islander people being received. This reduction predominantly reflects no referrals being received from the Galambany Court during this period (see table below under heading 'Referrals including Aboriginal and Torres Strait Islander people to end of Q3').
- In the first three quarters of 2020-21, the Restorative Justice unit convened six conferences involving eight Aboriginal and Torres Strait Islander people (these conferences included matters that were referred in 2019-20). In 2019-20 the Restorative Justice unit convened nine conferences involving nine Aboriginal and/or Torres Strait Islander people.
- In response to these reductions, the Restorative Justice unit 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.

Referrals including Aboriginal and Torres Strait Islander people by financial year

Aboriginal and/or Torres Strait Islander people	**2018-19**	**2019-20**
Total referrals	52	48
ACT Policing	16	21
ACT Magistrates Court	10	13
Childrens Court	4	-
Galambany Court	20	11
Supreme Court	2	2
ACT Corrective Services	-	1

Referrals including Aboriginal and Torres Strait Islander people to end of Q3

Aboriginal and/or Torres Strait Islander people	**July 2019 to March 2020**	**July 2020 to March 2021**
Total referrals	35	19
ACT Policing	12	14
ACT Magistrates Court	11	3
Galambany Court	11	-
Supreme Court	1	2

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QUESTION TIME BRIEF

Referring entity activity

- ACT Policing were the highest referring entity in 2019-20, with 110 referrals involving 101 young people and 31 adults. However, this was down by 15% compared with ACT Policing referrals in 2018-19, when 129 referrals were received involving 118 young people and 37 adults.
- The ACT Magistrates Court was the second highest referring entity with 55 referrals. This was down 30% compared with 2018-19, when 79 referrals were received.
- Referrals from all Courts were reduced in 2019-20 compared to 2018-19.
- A review of statistics to the end of the third quarter in 2020-21 reveals that ACT Policing and the Magistrates Court remain the highest referring entities and that the numbers of referrals have decreased by 25% due to COVID-19.

Referring entity activity by financial year

Referring entity	2018-19	2019-20
ACT Policing	129	110
ACT Magistrates Court	79	55
Childrens Court	22	17
Galambany Court	20	11
Supreme Court	11	10
Drug and Alcohol Court	-	2
ACT Corrective Services	-	5
Child and Youth Protective Services	-	2

Referring entity activity to end of Q3

Referring entity	July 2019 to March 2020	July 2020 to March 2021
ACT Policing	85	62
ACT Magistrates Court	50	41
Childrens Court	10	15
Galambany Court	11	0
Supreme Court	8	7
Drug and Alcohol Court	1	1
ACT Corrective Services	4	2
Child and Youth Protective Services	1	0

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QUESTION TIME BRIEF

Reporting of statistics for family violence and sexual offences

Family Violence referrals

- Family violence and sexual offence matters are often complex and sensitive. Power imbalances can be significant and the impacts of offending can be traumatic for primary and secondary victims. For these reasons many such offences are assessed as not suitable to proceed to conference.
- Despite a potential increase in family violence during COVID-19, referrals for these matters dropped by 19% in 2019-20 compared to 2018-19.
- In 2019-20, 39 referrals involved family violence offences. Fourteen offences involved 'intimate partner violence' (11 being a current partner and three involving ex partners).
- In 2018-19, 48 referrals involved family violence offences.
- In 2019-20, nine (23%) family violence related referrals were managed to completion of conference. Eight conferences were conducted face to face and one was completed using indirect facilitation.
- For matters not proceeding to conference, victims and offenders are linked into support services and appropriate time is spent with victims who frequently report feeling validated and heard, despite a conference not occurring.
- Compliance figures for family violence related conference agreements include matters that were referred in the previous financial year. Seven young people either complied with their formal Restorative Justice agreements (three) or their participation in the conference itself fulfilled the needs of the person harmed (four). Four adults either complied with their formal Restorative Justice agreements (three) or their participation satisfied the needs of the person harmed (one).

Referrals for sexual offences

- In 2019-20, five referrals involved a sexual offence, of which three related to a family member and two were non-familial. Five referrals were also received in 2018-19.
- In 2019-20, two conferences were managed to completion, both involved non-familial circumstances. In one case the conference itself satisfied the needs of the victim and no formal Restorative Justice Agreement was necessary. The other conference resulted in a formal Restorative Justice Agreement which is still being monitored for compliance. (NB: conferences may not be concluded the same year that they are referred).

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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.
- 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.

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- The recidivism rate for those who have been released from prison and have returned to corrective services (prison or community corrections) is 71.3% in 2018-19 up 1.4% from 69.9% in 2017-18.
- The recidivism rate for ex-offenders returning to corrective services is 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).
  - 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.

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- 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 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 poster is being developed, for institutions to display in their workplaces. This will be made available when finalised.
    - 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, including the Terms of Reference.

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 identified 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 take a liquor licensee's compliance history into account when determining the licensing fees that the licensee must pay.
- 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 are of the view that the ACT's fees are significantly higher than licence fees in NSW. The fee frameworks of both jurisdictions are not directly comparable:

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  - While both jurisdictions operate risk-based licensing fee frameworks, NSW's liquor licensing fee framework has a significant compliance history-based component. Base fees for NSW liquor licences are generally lower than those applying to the equivalent licence type under the ACT framework. However, if enforcement action is taken against a licensee, a compliance risk loading is added to their annual fee, making that fee significantly higher than the fee for the equivalent licence type in the ACT.

- The *Liquor Amendment (Night-time Economy) Act 2020* (the NSW Act) was passed by the NSW Parliament on 17 November 2020 and included a range of amendments to liquor, gaming and planning-related legislation. The Act amended 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.
- Due to inherent differences between the ACT and NSW liquor licensing fee frameworks, the integrated demerit points and incentives scheme and cumulative impact assessment framework introduced in NSW would not be easily subsumed into the current ACT framework.

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

- While a nightclub on licence has the highest 'base' annual fee of the three licence classes, a nightclub on 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.
- Under the NSW liquor licensing fees framework, all licensees pay a base fee (which varies according to licence type). Licensees trading after midnight also pay a trading hours risk loading. Compliance history risk loadings are triggered where enforcement action for a liquor-related offence has been taken against a licensee within the previous 12 months. If compliance history loadings are engaged, licensees will also be required to pay an additional patron capacity loading and location risk loading (location risk loading is only applicable to Sydney CBD and Kings Cross-based venues).
- For example, a club licensee in Queanbeyan would generally be required to pay a base annual fee of $552.00. However, if compliance history risk loadings are engaged, the annual fee payable by that licensee would increase to up to $19,252.00.

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 seeks to reward and incentivise well-run venues. Venues that maintain a clear record with no demerit points will be entitled to discounts on their annual liquor licence fees. Venues where demerit points have been incurred will not be eligible for the discount and will have to pay additional licence fees as part of the pre-existing annual compliance risk loadings.

Cumulative impact assessments

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

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- The NSW Act introduces a new framework for issuing cumulative impact assessments.
- The framework intends to help manage the density of licensed premises in areas of concern and aims to address related 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 strong presumption against the Authority granting applications for new licenses or improving more late-night trading in any identified 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 a range of 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 receiving 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.

- Access Canberra (Licensing and Registrations) represents 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 not met for some time because of the COVID-19 public health emergency.
- 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. Due to COVID-19 delays affecting ALLAF's consideration of reform, most Australian jurisdictions have now moved ahead and are pursuing their own policy reforms in relation to online liquor sales and delivery. Victoria, Queensland and the ACT have not yet progressed reform.

Miscellaneous amendments

- The NSW Act automatically removes certain licence conditions that limit music and performance. This includes restrictions on the genre of music that may be played or performed, the number of musicians on stage, or the types of instruments used.
    - These types of restrictions do not exist in the ACT. Licensed premises must abide by the applicable noise standards. Noise is regulated by the *Environment Protection Act 1997* and the *Environment Protection Regulation 2005*, which aim to protect people from undue noise while facilitating business and social activities.
- 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 will be permitted to have minors in the company of a responsible adult during those times.
    - 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 current liquor licensing fee framework was introduced in 2010-11 as part of a significant package of reforms.
- In the lead up to the package of reforms, an additional ACT Policing capability was established to collate policing data that allowed for a comparison of 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. The data also showed that the majority of 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 presented a series of proposals for 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 150 people or less and licensed times of 2am or earlier, 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. This reduction took effect under the *Liquor (Fees) Determination for 2020*, noting that all on-licence liquor fees are currently waived as part of the Government's COVID emergency support measures. The on-licence fee waiver is due to expire on 31 March 2021. Commencing 1 April 2021, on-licence fees will be reduced by 50% for a period of 12 months.
- 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 the harm minimisation and community safety principles. Its members

represent a broad range of liquor stakeholder groups, including government, industry, and community organisations.

- Section 218 of the Liquor Act ACT requires the Board to meet at least twice a year. The Board met four times in 2020. The Board met on 16 March 2021 and its 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.

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.

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 include:
    - 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;

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- a transition or grace period which commenced at the end of the moratorium on 23 October 2020 and will operate until 30 April 2021 which prevents tenants who were COVID-19 impacted from being evicted on the basis of arrears that accrued before or during the moratorium on the condition that they pay rent as it falls 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 a tenant is unable to meet their rent payments as they fall due during the transition period (23 October 2020 – 30 April 2021);
- the ability for landlords and tenants to negotiate reduced rent (to operate until 30 April 2021);
- restrictions on negative listings being made about COVID-19 impacted persons on tenancy databases (to operate until 30 April 2021);
- the ability for COVID-19 impacted tenants to terminate their fixed-term tenancy agreements early, without penalty (to operate until 30 April 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 (to operate until 30 April 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.

- Until 30 June 2021, the Government has also offered rates and land tax rebates to landlords who reduce their tenants' rent by 25%. The value of the rebate is 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

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 decisions 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

discreet 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

- Work is underway to improve internal decision making processes within Child and Youth Protection Services (CYPS) in response to stakeholder feedback about what needed to change to improve the consistency and transparency of decision making.
- There are a variety of views expressed about the best way forward for external review. Meetings have been held between Minister Stephen-Smith, the Human Rights Commission (HRC) and representatives from CSD to discuss the work currently underway and to continue discussions about a constructive and collaborative way forward.
- In partnership with the ACT Human Rights Commission, CYPS are consulting with targeted stakeholders through the hosting of roundtables. JACS officers have collaboratively participated in two roundtables to date:
    - On 22 July 2020, the experiences of other jurisdictions in establishing external merits review of child protection decisions. Guests included local ACT stakeholders and colleagues from Queensland and Victoria.
    - On 17 September 2020, the principles that will underpin the external merits review and the types of decisions that should be reviewable. Guests included local ACT stakeholders.

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 4,602 individuals between 1 March 2020 and 24 February 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 28 February 2021, the clinic provided 1,046 assistance services to 840 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.

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:	30/11/2020	
Cleared for public release by:	Deputy Director-General	Ext:
Contact Officer name:	Kelly Lokan	Ext: 51772
Lead Directorate:	Justice and Community Safety	
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.
- The ACT Government will continue to conduct consultations as we develop this important reform.

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Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-026	

QUESTION TIME BRIEF

- 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 a 12-month pilot of a family-centric therapeutic program that will work with children and young people coming into contact with the criminal justice system. 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.

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TRIM Ref:	JACS2021/46-001-026	

- JACS and CSD are developing a public Discussion Paper to support community consultation on key policy issues related to raising the MACR in the ACT. It is anticipated that the Discussion Paper will be released in late June 2021.

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
22-24 JUNE 2021

Hot topics	
1.	*R v UG* [2020] *ACTCA 8 and the Crimes (Sentencing) Act 2005*
2.	Family Violence Act Review
3.	Review into Whole of Justice System Interactions with Aboriginal and Torres Strait Islander People
4.	Justice system response to sexual assault (including positive definition of consent)
5.	Recent sentencing decision in *R v Newby* (NEW)
COVID-19 Related	
6.	COVID-19 Impacts-Relief to clubs and licensed premises
7.	Awareness of legal assistance services during COVID-19
8.	Support for community service providers during the COVID-19 pandemic
9.	Talking Points - Spitting or coughing at frontline workers (COVID-19) - ACT criminal law response
Gaming	
10.	Gaming Harm Reduction Measures
11.	Diversification and Sustainability Fund
12.	Updates on incentive applications under Voluntary Surrender Agreements
13.	Community Contributions
14.	Club Engagement
15.	Gaming Machine technical advice
Judicial/Courts	

ACT Government
Justice and Community Safety

16.	Resourcing of Magistrates and Coroners Court
17.	Coroner's Court Reform
18.	Drug and Alcohol Court
19.	Judge Alone Trials
Security and Crime	
20.	National Security Issues
21.	OMCG Incidents – Taskforce Nemesis (Copy of ACT P Brief only)
22.	Serious and Organised Crime Response (Policy)
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

JACS2021/46-001-029

Portfolio/s: Attorney-General

Family Violence Sentencing - *R v UG [2020]* ACTCA 8 and the *Crimes (Sentencing) Act 2005*

Talking points:

- The ACT Government is strongly committed to preventing domestic and family violence and supports measures that hold perpetrators to account.
- I am aware of the ACT Court of Appeal decision in R v UG, to the effect that that there is no basis for taking 'a special approach [to] sentencing for family violence offences'.
- I am also aware that there are a range of approaches in other jurisdictions to sentencing for offences committed in a family violence context.
- The ACT Government has been considering whether our existing laws give the courts appropriate guidance on the factors to be considered and the weight to be given to these factors when sentencing family violence offenders.
- ACT Government officials are now working with the legal and family safety sectors to develop legislative change.
- Given the complexities of this issue, the ACT Government will likely be taking a phased approach to change. I expect the first phase amendments to be introduced very shortly.

Key Information

- Currently, ACT courts must consider 'the nature and circumstances' of an offence when sentencing the offender.
- ACT courts cannot impose a lesser sentence on the basis that:
    - the offence was a family violence offence, or
    - a family violence order was in place.

Background Information

- In *R v UG [2020]* ACTCA 8, the Court of Appeal found that there is no basis for taking 'a special approach [to] sentencing for family violence offences'. The Director of Public Prosecutions was concerned that this decision was a departure from

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established norms and recommended legislative change to ensure that courts could have approprtiate regard to any family violence context when sentencing.

- Each Australian jurisdiction has a different approach to family violence sentencing:
    - New South Wales' Crimes (Sentencing Procedure) Act 1999 creates a presumption that family violence offenders will be sentenced to full-time detention or a supervised order.
    - Queensland's Penalties and Sentences Act 1992 states family violence is an aggravating factor in sentencing, unless there are "exceptional circumstances".
    - South Australia's Criminal Law Consolidation Act 1935 states that offences against family members (including former partners) are "aggravated".
    - Tasmania's Sentencing Act 1997 states the court cannot order home detention if the offender has perpetrated family violence, and/or if the offender would be living with the victim of the offence. For family violence offences, if a child was present at the time this may be an aggravating factor.
    - Western Australia's Sentencing Act 1995 states family violence is an aggravating factor in sentencing.
    - Northern Territory and Victorian courts have each highlighted the need for general deterrence in family violence matters (e.g. Hardy v Rigby [2020] NTSC 42 and Laa v The Queen [2020] VSCA 136).
- On 10 May 2021 Ms Elizabeth Lee MLA released a draft private members bill, the Crimes (Family Violence) Legislation Amendment Bill 2021 ('the PMB'), for public consultation. The PMB proposes amendments to the Crimes Act 1900 to create an aggravated offence scheme for some common offences when committed in circumstances of family violence. The PMB also proposes to amend the Crimes (Sentencing) Act 2005 (CSA) so as to include family violence as a factor for consideration upon sentencing.
- An amendment to the CSA to introduce family violence as a factor the Court must consider in sentencing is included in the Crimes Legislation Amendment Bill scheduled for cabinet consideration on 21 June and introduction on 24 June 2021.
- During consultation on family violence sentencing reform earlier in 2021, the Director of Public Prosecutions, the Office of the Coordinator-General for Family Safety, the Victims of Crime Commissioner and the Women's Legal Centre have pressed for additional change with options including:
    - prescribing that family violence is an "aggravating" factor in sentencing, and
    - creating new "aggravated" versions of offences, carrying higher maximum sentences, where the offence occurred in the context of family violence.
- Given complexities, JACS will consult further with key stakeholders in relation to introduction of a aggravated family violence offence scheme later in 2021.

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 August-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	

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 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 August-September sittings this year.

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.

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TRIM Ref:	JACS2021/46-001-032	

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. Some other recommendations are for actions that have already been taken (for example, the recommendations about information on the ACT Courts website) or are already under active consideration (for example, recommendation seven about information sharing, where a pilot program is already being 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:

Cleared as complete and accurate:	18/04/2021	
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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 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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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. 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).
- The original commitment to a Review of the rates and causes of indigenous incarceration in the ACT, had its genesis in a letter in July 2020 from Ms Julie Tongs, to the then Attorney-General highlighting the ACT's high rate of increase in the incarceration of Aboriginal people and seeking: "a detailed, comprehensive and independent inquiry into the effectiveness of all these arms of the justice system in their contact with and response to members of the Aboriginal and Torres Strait Islander community".

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QUESTION TIME BRIEF

- On 14 August 2020, the former Attorney General and the Minister for Aboriginal and Torres Strait Islander Affairs replied to this letter and, in addition to continuing existing work, committed to commence consultation and planning for a community led review into the over-representation of Aboriginal Torres Strait Islander people in the ACT justice system.
- However, on 19 August 2020 Ms Tongs was quoted by *The Canberra Times* as saying: "(w)e don't need any more reviews. We know what the problems are, start to address them. Don't keep throwing money at consultants to tell us what we already know".
- 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.
- 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.

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 also 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 (Steatthing) 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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and reforms relating to 'stealthing' are only one potential aspect of that part.

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'.

Law reform commission recommendations

- 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.

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

[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

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'). The PMB is likely to be debated in the June sittings of the Legislative Assembly.

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 deadline to appeal this sentence has not yet passed.
- It would not be appropriate for me to comment on this decision, particularly before the deadline to appeal.
- However, I can say that under ACT legislation, parole is a privilege and not a right. While a person becomes eligible to be considered for parole after the nonparole period has ended, that does not mean that parole will be granted.
- In parole decisions, the most important factor is the public interest, and the Sentence Administration Board must consider the effect of parole on the victim's family.

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.

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- 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 has received correspondence from two community members, including a member of Mr Prineas's family, expressing disappointment with the sentence and seeking that the sentence be appealed by the Director of Public Prosecution.

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'.
- Mr Newby and/or the Director of Public Prosecutions may appeal against the decision up to 1 July 2021, or with the leave of the Court, in accordance with r. 5405 of the Court Procedures Rules 2006.

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.

[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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QUESTION TIME BRIEF

Family violence

- The offence occurred in the context of family violence against Mr Newby's former partner. The upcoming Crimes Legislation Amendment Bill 2021 includes amendments to the Crimes (Sentencing) Act 2005 to 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 urgent 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.
- 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 support them 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>

- Since June 2020, the Government has offered cash payments 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 incentive remains available to all gaming machine licensees on a 'first come, first served' basis, ending:
  - when applications have been received for a total of $3.75 million in incentive payments (i.e. up to a total of 250 authorisations); or
  - at 11.59pm on 30 June 2021.
- To date, a total of 129 authorisations have been surrendered by clubs under this incentive, for cash payments totalling $1.935m. There are sufficient funds remaining for the surrender of further 121 authorisations.

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 extended until 23 March 2021 to provide support to clubs and their 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.
- Under the *Gaming Machine (Emergency Community Purpose Contribution—Local Live Performance Industry) Declaration 2020*, clubs can claim contributions made to or for the local live performance industry for music or other live entertainment (other than sport) from 28 August 2020 until 31 August 2021 as community purpose contributions. This measure will provide support to the local live performance industry, which continues to be affected by COVID-19.

Fee waivers

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

- In particular, annual liquor licence fees are 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.
- Fees will also be waived for existing on licensees who apply for general liquor licenses to allow them to sell both in-house and take-away liquor until 30 June 2021.
- Additionally, free commercial liquor permits were issued to on licensees for three months from 25 March 2020 to allow them to sell takeaway liquor. Fees will also be waived to extend commercial liquor permits to sell takeaway liquor for up to 12 months from the date of first issue.

- These fee waivers and reductions have and will 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.
- At the second Club Presidents' Forum in July 2020, clubs welcomed the former Attorney-General's announcement that the Government would continue to contribute to the DSSF despite clubs' contributions being temporarily suspended. Clubs acknowledged that the DSSF emergency relief funding had assisted clubs, including to support staff ineligible for other income support (see QTB:2021/46-001-031- Diversification and Sustainability Support Fund for further information).

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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 in their compliance 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] expiring 23 March 2021.
    - The *Gaming Machine (Emergency Community Purpose Contribution—Local Live Performance Industry) Declaration 2020* [DI2020-252] expiring 31 August 2021.
- Amendments will also suspend 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 has subsequently twice extended the availability of the incentive 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 is available on a 'first come, first served' basis, ending:
    - when applications have been received for a total of $3.75 million in incentive payments (i.e. applications have been received for the surrender of a further 121 authorisations in addition to the 129 already surrendered); or
    - at 11.59pm on 30 June 2021.
- In October 2020, one club surrendered a further 20 authorisations in exchange for a cash payment of $300,000.
- To date, the total number of authorisations surrendered under the incentive is 129, with $1.935 million in incentive payments paid to participating clubs. The surrender

of these authorisations has reduced the ACT's total number of authorisations from 3,997 to 3,868. This figure was capped by the *Gambling and Racing Control (New Cap on Number of Authorisations) Notice 2020 (No 3) NI2020-762* on 1 November 2020.

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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- 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– (02) 6257 1788
    - The Consumer Law Centre – (02) 6143 0044
    - Environmental Defenders Office – canberra@edo.org.au
    - Aboriginal Legal Service NSW/ACT – (02) 6120 88 00
- 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 will deliver 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 will support the sector to have the ICT capacity to deliver services remotely, and provide for increased frontline services to meet the additional demand flowing from the COVID-19 emergency.
- This announcement was welcomed by the ACT Government.
- The frontline services funding will deliver 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 has 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.

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 is still providing 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 day time services. NTLAS is available on 02 6218 7000. Intake is done between 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. Intake is done 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 newly launched 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 is providing 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

- On 25 March 2020, ACT Community Legal Centres issued a joint communique identifying the essential legal assistance services the sector will continue to deliver and the issues it has identified as a result of the COVID-19 outbreak.
- The ACT Government has heard from CLCs that the matters they are facing are becoming more complex following COVID-19. CLCs anticipate increased legal need in the community in early - mid 2021 in alignment with reductions to the JobKeeper payment.
- An ABC News Report about responding to family violence in the ACT on **28 September 2020** quotes the A/g Coordinator-General for Family Safety, Kirsty Windeyer, as stating the following: "after the [COVID-19] restrictions were lifted there was an increase in the number of people who were reporting experiencing violence for the first time in the home" and "there was also an increase in the brutality of the violence and in the physical violence". The article is available via: https://www.abc.net.au/news/2020-09-28/back-to-the-future-for-act-policings-family-violence-response/12709150

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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 has 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 is also administering $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 will boost frontline services to meet the additional demand flowing from the COVID-19 emergency and also support 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** – which 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. Tjillari Justice has withdrawn their contract and the existing subcontractor has been approached to delivery 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 at this current stage in the pandemic and 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.
  - Activity is increasing with 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

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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

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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's 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 taken a flexible approach with service providers, regarding:

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- their COVID-19 planning and ability to continue to deliver on funded services, while keeping their staff and clients safe;
- their 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 front line 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

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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), most recently on 8 March 2021. 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.

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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 Ministerial Advisory 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.

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

Community Clubs Ministerial Advisory Council

- Preliminary work to establish the Community Clubs Ministerial Advisory Council has commenced.
- 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 terms of reference, membership and other matters relevant to the establishment of the Council (please see QTB **JACS2021/46-001-002**).

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 1,078 (from 4,946 to **3,868)** 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 licensees (clubs and hotels) can access the *COVID-19 Economic Survival Package Gaming Machine Authorisation Surrender Incentive* until 30 June 2021. This incentive provides licensees with a cash payment of $15,000 per surrendered gaming machine authorisation, to be used towards:
    - staff employment;
    - diversification activities and initiatives; and
    - energy and water efficiency measures.

QUESTION TIME BRIEF

Gaming Machine Tax Rebate

- The Government continued the 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, eligibility for the gaming machine tax rebate no longer takes into account gross gaming machine revenue in 2017-18. Instead, a club or club group is considered small or medium where its annual gross gaming machine revenue (GGMR) is not more than $4 million, or where it receives some amount of rebate under new 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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- 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

- There are currently **39** licensed club venues and **5** hotels in the ACT who hold gaming machine authorisations.
- The most recent figures published by the Gambling and Racing Commission (1 February 2021) state there are **3,868** authorisations and **3,579** electronic gaming machines in operation in the Territory.
- Under the COVID-19 Economic Survival Package to date, 129 authorisations have been surrendered in return for $1.935 million in incentive payments to be used towards staff employment, and (under the extended incentive) diversification activities and initiatives, and energy and water efficiency measures. The incentive has been extended until applications have been received for the surrender of a total

of $3.75m in incentive payments (i.e. surrender of a further 121 authorisations), or until 30 June 2021, whichever occurs first.

Background information

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

- Representatives of the following organisations attended the initial stakeholder meeting on 12 February 2021:
    - ACT Council of Social Services;
    - Canberra Community Clubs;
    - Clubs ACT;
    - Gambling and Racing Commission;
    - Gambling Reform Alliance;
    - United Workers Union; and
    - Justice and Community Safety Directorate (ACT Government).
- JACS advertised the calls for nominations on the ACT Diversity Register and ACT Jobs websites, with a closing date of 26 March 2021.
- It is expected that you will convene the first meeting of the CCMAC by the end of May 2021.

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. JACS will seek expert technical advice on the implementation of this commitment.
- The *Casino (Electronic Gaming) Act 2017* includes a maximum bet limit of $2 for casino gaming machines in a redeveloped casino.

QUESTION TIME BRIEF

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

	2018-19 $'000	2019-20 $'000	2020-21 $'000	2021-22 $'000	**Total $'000**
CMTED Directorate – Expenses	122	351	0	0	**473**
JACS Directorate – Expenses	2,206	1,105	1,105	1,105	**5,521**
Depreciation	0	45	45	45	**135**
Total Expenses	**2,328**	**1,501**	**1,150**	**1,150**	**6,129**
CMTED Directorate – Associated Capital	225	0	0	0	**225**
EPSD Directorate – Associated Revenue	-500	-1,714	-1,714	-1,714	**-5,642**

The Government is implementing measures to support the reduction of gaming machine authorisations to 4,000 by 1 July 2020 - as set out in the *Pathway to 4,000 Gaming Machine Authorisations by 2020* - and is continuing to implement the commitments outlined in our *Supporting Local Community Clubs Policy*.

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QUESTION TIME BRIEF

JACS2021/46-001-031

Portfolio/s: Gaming

Diversification and Sustainability Support Fund – 20/21 funding round

Talking points:

- In October 2020 the Diversification and Sustainability Support Fund (DSSF) Advisory Board opened a Tier 2 funding round for applications for payments from the DSSF. This was the first Tier 2 funding round completed by the Board.
- I have 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 will be distributed to successful applicants for the following activities:
    - installing solar panels, electric vehicle charging stations and solar light fittings in a venue carpark;
    - developing an Early Learning Centre;
    - upgrading and reopening a kitchen;
    - constructing sheds to store golf carts;
    - developing a strategy to diversify to alternative income streams; and
    - contributing to a Risk Analysis for a venue re-development.
- The seven clubs that will receive payments in this round of grants successfully showed that their proposed activity could meet at least one of the purposes that the DSSF was set up to achieve.
- The Government established the DSSF on 1 July 2019. The DSSF is jointly funded by industry and Government to provide funding for the following purposes:
    - assisting clubs to diversify their income to sources other than gaming machines;
    - supporting the sustainability of clubs;

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TRIM Ref:	JACS2021/46-001-031	

  - 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.
- As a COVID-19 relief measure, industry contributions to the Fund were suspended, effectively for the 12-month period April 2020 to March 2021.
- However, the Government continued to contribute which allowed grant applications and funding to proceed in 20220-21.
- The Government's contribution of approximately $1.08 million for the 2021-22 financial year will be available from 1 July 2021.
- The Chair of the Board has announced that the Board intends to open the next Tier 2 Funding Round on 1 July 2021, for six weeks.
- Applications for Tier 1 funding can be submitted at any time on an ongoing basis.

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.

QUESTION TIME BRIEF

- 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.
- While this funding was generally positively received, some clubs expressed disappointment that the funding round did not continue due to the distribution of funding for COVID-19 emergency relief. The former Attorney-General advised club representatives at the Club Presidents' Forum in July 2020 that the Government would provide its appropriated contribution for 2020-21 to the Fund, even though club contributions were suspended.

Organisations that will receive funding from the DSSF

- 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 following organisations will receive funding from the DSSF for 2020/21 as per your agreement to the Advisory Committee's recommendations.

Recipient		Tier	Amount	Purpose
1	Murrumbidgee Country Club	Tier 1	$25,000	To assist with the construction of a shed to store golf carts.
2	Belconnen Bowling Club	Tier2	$155,000	To allow the club to upgrade and reopen its kitchen.
3	Belconnen Soccer Club	Tier 2	$100,000	To develop an early learning centre on the Club's McKellar site.
4	Canberra Irish Club	Tier 2	$99,093	To install a 65,155 KWP Solar Grid Connect system at its premises.
5	Canberra Southern Cross Club	Tier 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	Tier 2	$52,200	For the development of a diversification strategy and implementation plan.
7	Hellenic Club of Canberra	Tier 2	$100,000	To contribute to the funding to engage a consultant to conduct a Full Appraisal and Risk Analysis to inform the applicant about redevelopment options for the club's main site in Woden.
	TOTAL		**$632,811**	

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QUESTION TIME BRIEF

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 will commence on 1 July 2021, and will be open for six weeks.

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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 now capped at **3,868** following the surrender of 129 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 since 23 August 2018 following the ACT Government announcement of the *Pathway to 4,000 Gaming Machine Authorisations by 2020* (the Pathway).
- The Pathway was informed by the recommendations of the *Club Industry Diversification Support Analysis* by Mr Neville Stevens AO. At that time, the number of authorisations held by clubs and hotels was 4,946.
- The previous Government's target of reaching 4,000 gaming machine authorisations was achieved ahead of time, with the cap on the number of authorisations reducing to 3,997 by 25 February 2020.
- Under the Pathway, financial and non-financial incentives were available to clubs that voluntarily surrendered gaming machine authorisations to diversify their business models. Applications for these previous incentives needed to be made to the Justice and Community Safety Directorate by 31 January 2019.
- The COVID-19 Economic Survival Package surrender incentive remains available to clubs and hotels until 30 June 2021.

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TRIM Ref:	JACS2021/46-001-021	

QUESTION TIME BRIEF

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.
- 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 $875,985.
- 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.

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QUESTION TIME BRIEF

Key Information

- The *Gambling and Racing Control (New Cap on Number of Authorisations) Notice 2020 (No 3)* NI2020-762 sets the cap on the number of gaming machine authorisations at **3,868** as at 1 November 2020.
- Under the Pathway, licensees that voluntarily surrendered gaming machine authorisations were eligible for financial incentives as follows:

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 3,868 (November 2020) 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 – 129 authorisations.

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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	$945,000	7,500
Croatia Deakin Soccer Club	Development application fees Lease variation charge	$200,000	3,485 100,000
		Total	**$875,985**

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	937,500
Hellenic Group	870,000
Vikings Group	2,100,000
Total	**$12,866,515**

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QUESTION TIME BRIEF

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

	2018-19 $'000	2019-20 $'000	2020-21 $'000	2021-22 $'000	Total $'000
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JACS Directorate – Expenses	2,206	1,105	1,105	1,105	5,521
Depreciation	0	45	45	45	135
Total Expenses	**2,328**	**1,501**	**1,150**	**1,150**	6,129
CMTED Directorate – Associated Capital	225	0	0	0	225
EPSD Directorate – Associated Revenue	-500	-1,714	-1,714	-1,714	-5,642

The Government is implementing measures to support the reduction of gaming machine authorisations to 4,000 by 1 July 2020 - as set out in the *Pathway to 4,000 Gaming Machine Authorisations by 2020* - and is continuing to implement the commitments outlined in our *Supporting Local Community Clubs Policy*.

Changes to the *Gaming Machine Act 2004* established the legal framework for the voluntary and compulsory surrender of authorisations. The relevant provisions of the Act relating to the reduction to 4,000 gaming machine authorisations commenced on 11 December 2018. The voluntary surrender period ceased on 31 January 2019 and all voluntary surrender agreements providing incentives to participating licensees were required to be signed on or before 8 February 2019.

Cash incentive payments **($0.648 million)** were made to eligible licensees from the JACS' Territorial account resulting in savings in 2018-19 of $1.3 million. Clubs are also eligible for $13.7 million in incentives for land-related payments, fees and charges over the next seven years.

The voluntary surrender process and forfeitures through trading reduced the number of gaming machine authorisations in the ACT to 4,012 by 14 February 2019. The subsequent first stage of compulsory surrender on 1 April 2019 reduced that number to 4,003, and forfeitures through trading activity has since reduced the number of authorisations to 4,001.

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QUESTION TIME BRIEF

JACS2021/46-001-003

Portfolio/s: Minister for Gaming

ISSUE: COMMUNITY CONTRIBUTIONS

Talking points:

COVID-19 support measures in the community contributions scheme

- 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—Club Employees) Declaration 2020*, clubs could claim staff wages as community purpose contributions, provided the amount meets or exceeds the relevant minimum wage (including any relevant allowances) under the *Registered and Licensed Clubs Award 2010*. This measure applied to contributions made between 24 March 2020 and 23 March 2021 (inclusive) to provide support to clubs and their 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.
- 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. This measure applies to contributions made between 27 August 2020 and 31 August 2021 (inclusive).

- Revised Guidelines for the scheme, incorporating these recent changes and providing further clarity in response to feedback, are being finalised for distribution to licensees.

<u>April 2020 changes to the scheme in response to industry feedback</u>

- In response to industry feedback, the Government introduced the *Gaming Machine Amendment Act 2020*, which was passed by the ACT Legislative Assembly in April 2020. The Act includes several refinements to support clubs' compliance and reporting obligations including:
  - removing the requirement for clubs with more than one venue to report on the community purpose contributions for each venue separately and allowing clubs with more than one venue to make community purpose contributions on a group basis;
  - introducing a transitional provision reducing the minimum monetary contribution for clubs that are not small or medium clubs or part of a small or medium club group from 6 per cent to 5 per cent for reporting years ending after 30 June 2019 and before 1 July 2021; and
  - introducing a transitional provision reducing community contributions shortfall tax from 150 per cent to 100 per cent for reporting years ending after 30 June 2019 and before 1 July 2021.

<u>2019 reforms to the scheme</u>

- Significant Government reforms to the community contributions scheme commenced on 1 July 2019.
- The changes to the scheme:
  - increased the funds available to the broader community;
  - required greater transparency in reporting on community contributions;
  - provided more opportunities for community groups to seek community contributions; and

  - increased the minimum contribution payable from net gaming machine revenue (NGMR) by 0.8 per cent for clubs and introduced a contribution requirement for hotels.

- Hotels are required to make mandatory contributions of 0.8 per cent of their 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.
- These 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.
- 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).

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.
- 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

- 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 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 first meeting of the Council on 26 May 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

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TRIM Ref:	JACS2021/46-001-002	

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
	Nominated representatives

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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 clubs is outlined below.

Community Clubs Ministerial Advisory Council

Date	Document	Stakeholders
20 January 2021	Email – invitations to initial meeting to discuss establishment of the Council	Clubs industry peakbodies, 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 peakbodies, 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. A procurement process for the advice has been completed and a supplier has been selected.
- The government is seeking advice about technical issues associated with these harm reduction measures and the possible costs for their implementation.
- 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 technical advice is due to the government by 31 July 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:
    - Senet Legal, a legal and advisory firm specialising in the gambling law and regulation.

Cleared as complete and accurate:	05/05/2021	
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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 Testlabs
  - QALab
  - Gaming Laboratories International.

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 with the resources it needs to meet increasing demand.

Recent Magistrate appointments

- Magistrate Bernadette Boss has taken up a temporary 12-month appointment with the Commonwealth in the role of interim National Commissioner for Defence and Veteran Suicide Prevention. Dr Boss commenced in the role on 16 November 2020. I congratulate Dr Boss on this significant appointment.
- I welcome the appointment of Jane Campbell as a Special Magistrate, who is backfilling Dr Boss' 12-month absence from the Magistrates Court. Ms Campbell commenced in her new role on 11 January 2021 and brings a wealth of experience to the bench, particularly in the area of criminal law practice.
- Ms Louise Taylor has been sitting as the Territory's eighth full-time resident magistrate since 10 September 2018. This appointment supports the efficiency of the justice system and the timeliness of proceedings in the Magistrates Court.
- In addition to resourcing the eighth magistrate position, in the Government's 2018-19 budget, Legal Aid ACT received an additional $1.297 million and the Director of Public Prosecutions (DPP) received $987,000 for additional staff to support the increased capacity of the Magistrates Court.

Dedicated full time ACT Forensic Pathologist

- The 2018-19 Budget also 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.

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Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-015	

QUESTION TIME BRIEF

Family Liaison Officer

- The 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.

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.

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).

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.

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.

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Contact Officer name:	Sam Grundy	Ext: 52434
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TRIM Ref:	JACS2021/46-001-015	

QUESTION TIME BRIEF

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 2021.
- The appointment of Ms Margaret Hunter OAM as a Special Magistrate was recently extended to 30 April 2021. Special Magistrate Hunter requested this extension in order to finalise the Brayden Dillon Inquest, noting that, given the volume of evidence to consider by the parties in respect of their submissions, time for submissions was extended to April 2021. Special Magistrate Hunter expects to hand down findings by the end of April 2021.
- Magistrate Boss has been engaged by the Commonwealth for appointment as interim National Commissioner for Defence and Veteran Suicide Prevention for a term of 12 months. She commenced in the role on 16 November 2020. Jane Campbell has been appointed as a Special Magistrate for 12 months, commencing 11 January 2021, to cover Magistrate Boss' absence.

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Contact Officer name:	Sam Grundy	Ext: 52434
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QUESTION TIME BRIEF

JACS2021/46-001-004

Portfolio/s: Attorney-General

ISSUE: REFORMS TO THE OPERATION OF THE CORONER'S COURT

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, effective 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.
- Coronial reform is part of a broader initiative to build Canberra as a Restorative City – one where we value relationships, treat each other with care and respect, and seek to solve problems collectively.

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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 Governming 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). This 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 will support 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 the next four years for an eighth full time resident magistrate.

Background Information

Law Reform Advisory Council (LRAC) Report

- The LRAC report, *Canberra – Becoming a Restorative City,* recommended that restorative practices be trialled within the coronial system. LRAC's report was released on the Justice and Community Safety Directorate's (JACS) website on 15 November 2019, as a part of the launch of the 'Canberra as a Restorative City' website. The website includes a vision document about Canberra as a Restorative City initiative, which notes coronial reform as a priority.
- 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:
    - Developing 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.

Restorative Coronial Reform Forum

- 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.
- Legislation, Policy and Programs (LPP) is engaged in ongoing work with the Coroner's Court to explore further restorative coronial system reforms.

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TRIM Ref:	JACS2021/46-001-004	

QUESTION TIME BRIEF

Recent legislative reforms

- In July 2020, the Legislative Assembly passed the Coroners Amendment Bill 2020 which is 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.

Strengthening Restorative Practice in the Coroner's Court

- As part of the Canberra as a Restorative City commitment, JACS organised for religious and cultural leaders from across the ACT to meet with Canberra's Coroners, Coroners' Court staff and staff from the Forensic Medical Centre to discuss different customs around death, autopsy and burial. These meetings took place on 16 & 17 November 2020.

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.

National Commissioner for Defence and Veteran Suicide Prevention

- The ACT is participating 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 key focus of the Commissioner's role will be engagement with affected families using restorative and trauma-informed principles.
- ACT Magistrate, Dr Bernadette Boss has been appointed as the interim National Commissioner for the Defence and Veteran Suicide Prevention for 12 months. Dr Boss commenced in this role on 16 November 2020.

Coronial Reform Group (CRG)

- Mrs Eunice Joliffe, Ms Rosslyn Williams, 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, Benjamin Williams and Paul Fennessy in 2010.
    - Mark Joliffe died on or about 15 February 2010. Coroner Dingwall's findings were delivered on 30 June 2015.
    - Benjamin Williams died on 28 September 2010. The Chief Coroner's findings were delivered on 17 October 2013.
    - Paul Fennessy died on 6 January 2010. Coroner Hunter's findings were delivered on 16 December 2016.

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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.
- Ten family representatives attended the Restorative Coronial Reform forum on 19 November 2019.

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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 ACT's Drug and Alcohol Court, which is referred to by the Courts as the Drug and Alcohol Sentencing List (DASL).
- The first Drug and Alcohol Treatment Order (DATO) was made on 15 January 2020.
- The Sentencing list commenced with an intake of 10 participants and this will increase to up to 35 participants by June 2021.
- As at 20 May 2021, 72 people have been referred to the DAC, with 65 people being sent for eligibility assessments. Of this number, seven were women and 18 identified as Aboriginal and Torres Strait Islander people. As at 20 May 2021, 21 DATOS were in effect with a further 10 people awaiting assessment.
- The Drug and Alcohol Sentencing List is heard each Friday and as required on other days.
- The model is based on proposals that were developed by the DAC Supreme Court Working Group which was led by Justice John Burns and included representatives from key agencies.
- 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.

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TRIM Ref:	JACS2021/46-001-007	

- 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 aim of the report was to determine whether the positive results observed in the first and second evaluations of the NSW Drug Court are sustained over a period of 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. 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.
- Their sentence of imprisonment (between one and four years) will be suspended.
- Participants have individualised treatment and sentence management plans that 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.
- Justice Refshauge leads a team of representatives from various health and justice agencies to guide the participant through the DAC process.
- 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.

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.

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 has 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. A review of the ACT's approach is timely.
- The consultation process includes a roundtable with targeted justice stakeholders, including the legal profession, which was held on 22 March 2020. Written submissions have also been invited 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.
- I am aware that the Director of Public Prosecutions has 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.

Cleared as complete and accurate:	18/04/2021	
Cleared for public release by:	Deputy Director-General	Ext: 53504
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Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-030	

QUESTION TIME BRIEF

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 currently expires 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.

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TRIM Ref:	JACS2021/46-001-030	

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

Stickering at Australian National University (Chief Minister)

- I am aware of media reports over the weekend of posters and stickers belonging to ideological motivated groups appearing at the Australian National University.
- The ACT Government stands with the the ANU to condemn this sort of activity.
- Our best defence against this sort of behaviour is to maintain Canberra as a welcoming and inclusive city, where diversity is respected and celebrated.
- The ACT Government and ACT Policing continue to work to keep Canberrans safe from all forms of extremism in partnership with our Commonwealth, State and Territory colleagues.
- The ACT Government recognises communities play an important role in preventing and countering violent extremism, alongside government agencies. This is a shared challenge and requires a whole-of-society approach.
- I encourage families, friends and communities to contact authorities for help and advice if you are concerned someone may be vulnerable to violent extremism.
- Concerns can and should be reported to the National Security Hotline on 1800 123 400. Please visit the Living Safe Together website for more information.

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Cleared for public release by:	Executive Branch Manager	Ext:
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Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/47-001-031	

QUESTION TIME BRIEF

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.

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.

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Contact Officer name:	Bren Burkevics	Ext: 78628
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/47-001-031	

QUESTION TIME BRIEF

- 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.

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Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/47-001-031	

QUESTION TIME BRIEF

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 withthe National Cyber Security Committee to monitor the cyber threat environment.
- In response to recommendations from the Auditor-General's audit on data security, the ACT has engaged a provider to undertake a thorough risk and threat assessment of the ACT's environment. This is in addition to a wide range of other activities to strengthen the ACT's cyber security resilience.
- The ACT supported the development of *Australia's Cyber Security Strategy 2020*, launched August 2020. The strategy responds to continuing malicious cyber threats and activities faced by Australians.
- 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.

QUESTION TIME BRIEF

- 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 ready as COVID restrictions ease to host safe and enjoyable public events.
- We have expanded our CCTV Network (the Network), into areas such as Glebe Park,and make use of portable CCTV capability, vehicle protection barriers and other measures as appropriate to protect Canberrans.

Cleared as complete and accurate:	27/05/2021	
Cleared for public release by:	Executive Branch Manager	Ext:
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Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/47-001-031	

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.
- In 2016, the ACT Government provided $6.4 million over four years for the expansion of Taskforce Nemesis to target organised crime syndicates including Criminal Motorcycle Gangs. This funding included eight staff: four investigators, two intelligence officers, one Forensic Accountant and an Investigative Assistant.
- In the 2018-19 Budget, ACT Government committed a further $1.594 million over four years to bolster the capability of Taskforce Nemesis in providing funding for one Forensic Accountant, one Surveillance Team Member and associated equipment and training.
- ACT Policing will continue to ensure an appropriate police response to target and disrupt those seeking to cause harm in our community.
    - ACT Policing is also in a unique position as it can call on specialist and surge capabilities from the broader AFP to meet changing operational environments.
- 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 bring 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.

Cleared as complete and accurate:	15/04/2021	
Cleared for public release by:	Deputy Director-General	Ext:
Contact Officer name:	Sch 2, s2.2(a)(i)	Ext:
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/47-001-021	

QUESTION TIME BRIEF

- ACT Policing has 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. The group is based on the Commonwealth NAGS model that brings a whole-of-government approach to addressing this issue.
- The confiscation of criminal assets is an effective tool to assist in the prevention and disruption of serious and organised crime and prevents the reinvestment of illegally obtained wealth into criminal activity.
- It is anticipated additional agencies will be invited to future working groups to further drive Taskforce Nemesis' ambitions to disrupt Criminal Motorcycle Gang activities.

Operational successes

Taskforce Nemesis Criminal Motorcycle Gang related figures (at 1 April 2021)	**2018**	**2019**	**2020**	**2021 (1 Jan – 31 Mar 2021)**
Criminal gang members charged *(person may be charged on numerous occasions)*	27	54	30	4
Offences charged*	78	127	87	10
Firearms seized	20	12	9	2

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

OMCGs in Canberra

- As at April 2021:
  - There are three known Criminal Motorcycle Gangs, one of which has increasingly limited influence, operating in the ACT.
  - The total number of members associated with ACT chapters of these Criminal Motorcycle Gangs is estimated at approximately 30-40 people.
  - This is a decrease from the previously reported numbers of approximately 70 members in 2018-19 and is as a result of members being deported, imprisoned or fleeing interstate.

Cleared as complete and accurate:	30/11/2020	
Cleared for public release by:	Deputy Director-General	Ext:
Contact Officer name:	Sch 2, s2.2(a)(ii)	Ext:
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	2020/000092-019	

QUESTION TIME BRIEF

- 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.

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.

Cleared as complete and accurate:	15/04/2021	
Cleared for public release by:	Deputy Director-General	Ext:
Contact Officer name:	Sch 2, s2.2(a)(ii)	Ext:
Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/47-001-021	

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 1 April 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 1 April 2021)	**2018**	**2019**	**2020**	**2021 (1 Jan-31 Mar)**
Criminal gang members charged (person may be charged on numerous occasions)	27	54	30	4
Offences charged*	78	127	87	10
Firearms seized	20	12	9	2

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

Cleared as complete and accurate:	07/05/2021	
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Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-019	

QUESTION TIME BRIEF

- 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

JACS2021/46-001-024

Portfolio: Police & Emergency Services

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 will improve 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.

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).

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 four years of the Strategy. In 2019-20 there were 17,737 recorded property offences, which is 3,933 less than four years ago in 2015-16.
- However, to keep property crime rates down we must not become complacent, there is still work to be done.
- While consideration regarding a new statergy 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.

Cleared as complete and accurate:	07/05/2021	
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 Community Policing 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.
- 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.
- However, we all have a role to play and can take steps to safeguard our homes, businesses, cars and personal property.

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

- 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:
    - *Lock and hide to protect your ride* - has reached over 105,000 on Facebook with total engagement sitting around 3,500
    - *Keep out a break-in* – has reached over 120,000 people on Facebook and over 21,000 on Twitter, with engagement across the two platforms sitting around 7,800
    - 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.

QUESTION TIME BRIEF

Background Information

Property Crime Rates

Offence Type	2018-19 FY	2019-20 FY	Financial YTD 01/07/2020 – 31/12/2020
Total Robbery	209	223	67
Armed Robbery	*104*	*103*	*22*
Unarmed Robbery	*105*	*120*	*45*
Total Burglary	2627	2292	989
Burglary dwellings	*1659*	*1363*	*615*
Burglary shops	*419*	*370*	*147*
Burglary other	*549*	*559*	*227*
Motor Vehicle Theft	1234	1262	658
Theft (excl motor vehicle theft)	8732	8109	3381
Property damage	4954	4175	1894
Other offences against property*	2198	1464	827
TOTAL	**19954**	**17525**	**7816**

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

Source: PROMIS as of January 27, 2021

Cleared as complete and accurate:	07/05/2021	
Cleared for public release by:	Executive Branch Manager	Ext: 51451
Contact Officer name:	Kym Copeman	Ext: 53749
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

Further Background Information

ACT Policing reported the following property crime offences in its 2019-20 Annual Report:

TABLE 4.2: OFFENCES AGAINST PROPERTY BY OFFENCE TYPE — FINANCIAL YEAR COMPARISON

Offence type	2018–19	2019–20	Change (%)
Robbery	209	223	6.7%
Armed robbery	104	103	-1.0%
Unarmed robbery	105	120	14.3%
Burglary	2627	2292	-12.8%
Burglary dwellings	1659	1363	-17.8%
Burglary shops	419	370	-11.7%
Burglary other	549	559	1.8%
Motor Vehicle Theft	1234	1262	2.3%
Theft (excl motor vehicle theft)	8732	8109	-7.1%
Property damage	4954	4175	-15.7%
Other offences against property*	2198	1464	-33.4%
Total	**19,954**	**17,525**	**-12.2%**

Source: PROMIS as at 2 July 2020

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

Under 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.

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Cleared for public release by:	Executive Branch Manager	Ext: 51451
Contact Officer name:	Kym Copeman	Ext: 53749
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

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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Contact Officer name:	Kym Copeman	Ext: 53749
Lead Directorate:	Justice and Community Safety	
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 all 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/

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Lead Directorate:	Justice and Community Safety	
TRIM Ref:	JACS2021/46-001-027	

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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- 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, is now reviewing 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.
- The 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.

- 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*, which is to be finalised early in 2021. This 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 in 2021 that are consistent with the principles inherent in the report findings.

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

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- 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 current satisfaction rate to the end of March 2021 is 99%. This includes satisfaction with family violence and sexual offence matters.

Impact of COVID-19

- COVID-19 disruptions 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 on rostered days 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.
- In 2019-20, overall referrals dropped by 20% from 2018-19 and overall conferences dropped by 13%. Referrals to-date in 2020-21 have continued at lower levels.

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 confidence in the Restorative Justice process within the local community, cultural competence and safety.

Comparing referral statistics

- In 2019-20, the RJU received 212 referrals compared to 2018-19 when the RJU received a total of 264. These statistics show a 20% drop in referrals.
- In comparing third-quarter statistics, from July to March in 2020-21 to the same period in 2019-20 a drop in referrals of 25% is evident. That is, 124 referrals involving 190 victims and 143 offenders and 291 offences were received from July to March in 2020-21. In the same period in 2019-20, 170 referrals were received comprising 289 victims and 184 offenders and 367 offences.

Referrals by financial year

	2018-19	**2019-20**	**Difference**
Referrals	264	212	-20%
Victims	439	357	-19%
Offenders	294	234	-20%
Offences	594	491	-17%

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Referrals to end of Q3

	July 2019 to March 2020	July 2020 to March 2021	Difference
Referrals	170	128	-25%
Victims	289	190	-34%
Offenders	184	143	-22%
Offences	367	291	-21%

- In 2019-20, unsurprisingly, there was a 13% drop in conferences completed, with a larger percentage of indirect conferences held – due to COVID-19 restrictions. In 2019-20 the RJU managed 72 conferences to completion compared with 83 conferences for the previous financial year.
- Comparing third quarter statistics to assess for ongoing COVID-19 disruption effect, 59 conferences were held during the period of July 2019 to March 2020 (pre-COVID) whereas 33 conferences were held in the same period for 2020-21, a drop of 44%.

Restorative justice conferences by financial year

	2018-19	2019-20	Difference
Conferences	83	72	-13%
Face to face	56	45	-20%
Indirect	27	27	even

Restorative justice conferences to end of Q3

	July 2019 to March 2020	July 2020 to March 2021	Difference
Conferences	59	33	-44%
Face to face	41	17	-59%
Indirect	18	16	-11%

Aboriginal and Torres Strait Islander impacts

- The COVID-19 related reduction in face to face client contact has also impacted on Aboriginal and Torres Strait Islander clients.
- 48 Aboriginal and/or Torres Strait Islander people were included in referrals in 2019-20. These referrals were predominantly from ACT Policing (19 young people and two adults), the Magistrates Court (13) and the Galambany Court (11).

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QUESTION TIME BRIEF

- 52 Aboriginal and/or Torres Strait Islander people were included in referrals in 2018-19, including from ACT Policing (13 young people and three adults); the Magistrates Court (10) and the Galambany Court (20).
- This reduction in referrals has continued in the first three quarters in 2020-21 just 19 referrals involving Aboriginal and/or Torres Strait Islander people being received. This reduction predominantly reflects no referrals being received from the Galambany Court during this period (see table below under heading 'Referrals including Aboriginal and Torres Strait Islander people to end of Q3').
- In the first three quarters of 2020-21, the Restorative Justice unit convened six conferences involving eight Aboriginal and Torres Strait Islander people (these conferences included matters that were referred in 2019-20). In 2019-20 the Restorative Justice unit convened nine conferences involving nine Aboriginal and/or Torres Strait Islander people.
- In response to these reductions, the Restorative Justice unit 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.

Referrals including Aboriginal and Torres Strait Islander people by financial year

Aboriginal and/or Torres Strait Islander people	**2018-19**	**2019-20**
Total referrals	52	48
ACT Policing	16	21
ACT Magistrates Court	10	13
Childrens Court	4	-
Galambany Court	20	11
Supreme Court	2	2
ACT Corrective Services	-	1

Referrals including Aboriginal and Torres Strait Islander people to end of Q3

Aboriginal and/or Torres Strait Islander people	**July 2019 to March 2020**	**July 2020 to March 2021**
Total referrals	35	19
ACT Policing	12	14
ACT Magistrates Court	11	3
Galambany Court	11	-
Supreme Court	1	2

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QUESTION TIME BRIEF

Referring entity activity

- ACT Policing were the highest referring entity in 2019-20, with 110 referrals involving 101 young people and 31 adults. However, this was down by 15% compared with ACT Policing referrals in 2018-19, when 129 referrals were received involving 118 young people and 37 adults.
- The ACT Magistrates Court was the second highest referring entity with 55 referrals. This was down 30% compared with 2018-19, when 79 referrals were received.
- Referrals from all Courts were reduced in 2019-20 compared to 2018-19.
- A review of statistics to the end of the third quarter in 2020-21 reveals that ACT Policing and the Magistrates Court remain the highest referring entities and that the numbers of referrals have decreased by 25% due to COVID-19.

Referring entity activity by financial year

Referring entity	2018-19	2019-20
ACT Policing	129	110
ACT Magistrates Court	79	55
Childrens Court	22	17
Galambany Court	20	11
Supreme Court	11	10
Drug and Alcohol Court	-	2
ACT Corrective Services	-	5
Child and Youth Protective Services	-	2

Referring entity activity to end of Q3

Referring entity	July 2019 to March 2020	July 2020 to March 2021
ACT Policing	85	62
ACT Magistrates Court	50	41
Childrens Court	10	15
Galambany Court	11	0
Supreme Court	8	7
Drug and Alcohol Court	1	1
ACT Corrective Services	4	2
Child and Youth Protective Services	1	0

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QUESTION TIME BRIEF

Reporting of statistics for family violence and sexual offences

Family Violence referrals

- Family violence and sexual offence matters are often complex and sensitive. Power imbalances can be significant and the impacts of offending can be traumatic for primary and secondary victims. For these reasons many such offences are assessed as not suitable to proceed to conference.
- Despite a potential increase in family violence during COVID-19, referrals for these matters dropped by 19% in 2019-20 compared to 2018-19.
- In 2019-20, 39 referrals involved family violence offences. Fourteen offences involved 'intimate partner violence' (11 being a current partner and three involving ex partners).
- In 2018-19, 48 referrals involved family violence offences.
- In 2019-20, nine (23%) family violence related referrals were managed to completion of conference. Eight conferences were conducted face to face and one was completed using indirect facilitation.
- For matters not proceeding to conference, victims and offenders are linked into support services and appropriate time is spent with victims who frequently report feeling validated and heard, despite a conference not occurring.
- Compliance figures for family violence related conference agreements include matters that were referred in the previous financial year. Seven young people either complied with their formal Restorative Justice agreements (three) or their participation in the conference itself fulfilled the needs of the person harmed (four). Four adults either complied with their formal Restorative Justice agreements (three) or their participation satisfied the needs of the person harmed (one).

Referrals for sexual offences

- In 2019-20, five referrals involved a sexual offence, of which three related to a family member and two were non-familial. Five referrals were also received in 2018-19.
- In 2019-20, two conferences were managed to completion, both involved non-familial circumstances. In one case the conference itself satisfied the needs of the victim and no formal Restorative Justice Agreement was necessary. The other conference resulted in a formal Restorative Justice Agreement which is still being monitored for compliance. (NB: conferences may not be concluded the same year that they are referred).

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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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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.

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QUESTION TIME BRIEF

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.
- 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.

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- The recidivism rate for those who have been released from prison and have returned to corrective services (prison or community corrections) is 71.3% in 2018-19 up 1.4% from 69.9% in 2017-18.
- The recidivism rate for ex-offenders returning to corrective services is 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).
  - 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

JACS2021/46-001-006

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 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 poster is being developed, for institutions to display in their workplaces. This will be made available when finalised.
    - 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, including the Terms of Reference.

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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 identified 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 take a liquor licensee's compliance history into account when determining the licensing fees that the licensee must pay.
- 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 are of the view that the ACT's fees are significantly higher than licence fees in NSW. The fee frameworks of both jurisdictions are not directly comparable:

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TRIM Ref:	JACS2021/46-001-010	

  - While both jurisdictions operate risk-based licensing fee frameworks, NSW's liquor licensing fee framework has a significant compliance history-based component. Base fees for NSW liquor licences are generally lower than those applying to the equivalent licence type under the ACT framework. However, if enforcement action is taken against a licensee, a compliance risk loading is added to their annual fee, making that fee significantly higher than the fee for the equivalent licence type in the ACT.

- The *Liquor Amendment (Night-time Economy) Act 2020* (the NSW Act) was passed by the NSW Parliament on 17 November 2020 and included a range of amendments to liquor, gaming and planning-related legislation. The Act amended 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.
- Due to inherent differences between the ACT and NSW liquor licensing fee frameworks, the integrated demerit points and incentives scheme and cumulative impact assessment framework introduced in NSW would not be easily subsumed into the current ACT framework.

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

- While a nightclub on licence has the highest 'base' annual fee of the three licence classes, a nightclub on 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.
- Under the NSW liquor licensing fees framework, all licensees pay a base fee (which varies according to licence type). Licensees trading after midnight also pay a trading hours risk loading. Compliance history risk loadings are triggered where enforcement action for a liquor-related offence has been taken against a licensee within the previous 12 months. If compliance history loadings are engaged, licensees will also be required to pay an additional patron capacity loading and location risk loading (location risk loading is only applicable to Sydney CBD and Kings Cross-based venues).
- For example, a club licensee in Queanbeyan would generally be required to pay a base annual fee of $552.00. However, if compliance history risk loadings are engaged, the annual fee payable by that licensee would increase to up to $19,252.00.

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 seeks to reward and incentivise well-run venues. Venues that maintain a clear record with no demerit points will be entitled to discounts on their annual liquor licence fees. Venues where demerit points have been incurred will not be eligible for the discount and will have to pay additional licence fees as part of the pre-existing annual compliance risk loadings.

Cumulative impact assessments

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

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- The NSW Act introduces a new framework for issuing cumulative impact assessments.
- The framework intends to help manage the density of licensed premises in areas of concern and aims to address related 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 strong presumption against the Authority granting applications for new licenses or improving more late-night trading in any identified 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 a range of 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 receiving 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.

- Access Canberra (Licensing and Registrations) represents 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 not met for some time because of the COVID-19 public health emergency.
- 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. Due to COVID-19 delays affecting ALLAF's consideration of reform, most Australian jurisdictions have now moved ahead and are pursuing their own policy reforms in relation to online liquor sales and delivery. Victoria, Queensland and the ACT have not yet progressed reform.

Miscellaneous amendments

- The NSW Act automatically removes certain licence conditions that limit music and performance. This includes restrictions on the genre of music that may be played or performed, the number of musicians on stage, or the types of instruments used.
    - These types of restrictions do not exist in the ACT. Licensed premises must abide by the applicable noise standards. Noise is regulated by the *Environment Protection Act 1997* and the *Environment Protection Regulation 2005*, which aim to protect people from undue noise while facilitating business and social activities.
- 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 will be permitted to have minors in the company of a responsible adult during those times.
    - 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 current liquor licensing fee framework was introduced in 2010-11 as part of a significant package of reforms.
- In the lead up to the package of reforms, an additional ACT Policing capability was established to collate policing data that allowed for a comparison of 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. The data also showed that the majority of 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 presented a series of proposals for 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 150 people or less and licensed times of 2am or earlier, 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. This reduction took effect under the *Liquor (Fees) Determination for 2020*, noting that all on-licence liquor fees are currently waived as part of the Government's COVID emergency support measures. The on-licence fee waiver is due to expire on 31 March 2021. Commencing 1 April 2021, on-licence fees will be reduced by 50% for a period of 12 months.
- 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 the harm minimisation and community safety principles. Its members

represent a broad range of liquor stakeholder groups, including government, industry, and community organisations.

- Section 218 of the Liquor Act ACT requires the Board to meet at least twice a year. The Board met four times in 2020. The Board met on 16 March 2021 and its 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.

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.

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 include:
    - 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;

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- a transition or grace period which commenced at the end of the moratorium on 23 October 2020 and will operate until 30 April 2021 which prevents tenants who were COVID-19 impacted from being evicted on the basis of arrears that accrued before or during the moratorium on the condition that they pay rent as it falls 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 a tenant is unable to meet their rent payments as they fall due during the transition period (23 October 2020 – 30 April 2021);
- the ability for landlords and tenants to negotiate reduced rent (to operate until 30 April 2021);
- restrictions on negative listings being made about COVID-19 impacted persons on tenancy databases (to operate until 30 April 2021);
- the ability for COVID-19 impacted tenants to terminate their fixed-term tenancy agreements early, without penalty (to operate until 30 April 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 (to operate until 30 April 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.

- Until 30 June 2021, the Government has also offered rates and land tax rebates to landlords who reduce their tenants' rent by 25%. The value of the rebate is 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

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 decisions 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

discreet 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

- Work is underway to improve internal decision making processes within Child and Youth Protection Services (CYPS) in response to stakeholder feedback about what needed to change to improve the consistency and transparency of decision making.
- There are a variety of views expressed about the best way forward for external review. Meetings have been held between Minister Stephen-Smith, the Human Rights Commission (HRC) and representatives from CSD to discuss the work currently underway and to continue discussions about a constructive and collaborative way forward.
- In partnership with the ACT Human Rights Commission, CYPS are consulting with targeted stakeholders through the hosting of roundtables. JACS officers have collaboratively participated in two roundtables to date:
    - On 22 July 2020, the experiences of other jurisdictions in establishing external merits review of child protection decisions. Guests included local ACT stakeholders and colleagues from Queensland and Victoria.
    - On 17 September 2020, the principles that will underpin the external merits review and the types of decisions that should be reviewable. Guests included local ACT stakeholders.

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 4,602 individuals between 1 March 2020 and 24 February 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 28 February 2021, the clinic provided 1,046 assistance services to 840 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.

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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Lead Directorate:	Justice and Community Safety	
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.
- The ACT Government will continue to conduct consultations as we develop this important reform.

Cleared as complete and accurate:	09/06/2021	
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TRIM Ref:	JACS2021/46-001-026	

QUESTION TIME BRIEF

- 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 a 12-month pilot of a family-centric therapeutic program that will work with children and young people coming into contact with the criminal justice system. 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.

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- JACS and CSD are developing a public Discussion Paper to support community consultation on key policy issues related to raising the MACR in the ACT. It is anticipated that the Discussion Paper will be released in late June 2021.

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.