6. ACT

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6.1 ACT Whole-of-Government Strategic Frameworks


The *Canberra Social Plan* was formulated as part of the *Canberra Plan*, and published by the Chief Ministers Department in 2004. It is a framework document directed towards improving wellbeing in the ACT, and includes indicators and targets which are specific to Indigenous disadvantage. One of the Plan’s seven priority areas (for 10-15 years) is ‘Safe, strong and cohesive community’, with a specified action to achieve this priority goal being a trial of circle sentencing, and the building of a new prison which will be particularly responsive to the needs of Indigenous prisoners. Moreover, the reduction of Indigenous incarceration rates is one of the key progress indicators for this priority area.

6.2 ACT Government Overarching Indigenous Justice Strategic Policy Framework

6.2.1 Aboriginal and Torres Strait Islander Justice Strategy 2003-2005

The *Aboriginal and Torres Strait Islander Justice Strategy 2003-2005* was developed by the ACT AJAC after consultation with Indigenous people and relevant ACT Government agencies. It accords (in terms of its scope) with the resolution of the Ministerial Summit on Indigenous Deaths in Custody of July 1997. It was hoped, in the long term, that the *Strategy* might reduce recidivism, arrest and imprisonment rates.

The overall objective of the *Strategy* is to effectively address the overrepresentation of ATSI people within the ACT criminal justice system to levels commensurate with the non-Indigenous population. Some context in this respect is provided in the document. In the ACT at the time of formulation of the *Strategy*, it was acknowledged that, while the numbers of ATSI people being imprisoned or arrested is relatively small compared to other more populated States, the ratio is higher in the ACT. For instance, in June 2003, the rate of Indigenous people aged 10 to 17 years in juvenile detention in the ACT was 657.9 compared to 284 nationally. Thus, it is suggested that imprisonment and arrest are not used as a last resort within the ACT, and strategies currently in place to reduce contact with the justice system are not effective.

Key **principles** underlying the *Strategy* are as follows:

- Aboriginal people are best placed to find relevant solutions;
- supporting initiatives in a co-ordinated and cooperative manner is the most appropriate way of addressing criminal justice issues;
- it is critical to recognise the cultural differences between ATSI and non-Indigenous people;
- when developing effective programs and policies, it is necessary to understand and appreciate the underlying reasons for crime (stolen generations, grief associated with dispossession, racism and discrimination).
Key actions included:

(a) establishing a community-managed facility to provide legal representation, mediation, and other relevant Indigenous-justice related services (the Aboriginal Justice Centre). The work of this facility would include that of ‘prison visitor’, to take in Belconnen Remand Centre (BRC) and Quamby Youth Detention Centre. At BRC, the Prison Visitor would assist prisoners during their time in custody. The visitor would also visit Indigenous prisoners from the ACT who are incarcerated in NSW prisons;

(b) encouraging courts to develop innovative initiatives that promote alternatives to custody. An Indigenous court system (such as that established in Nowra or the Nunga Court in South Australia), or a Fine Options/Community Work Scheme (as is operating in Adelaide) are recommended options. Home detention, or diversion into education, employment and training through the local CDEP and other agencies are also recommended alternatives (see Aim 4, Criminal Justice System Strategic Plan below); and

(c) requiring that all staff in the justice system, and, in particular, those who deal with ATSI people in custody, undergo cross-cultural training on an ongoing basis.

Key relevant recommendations for adult corrections included:

• appointing an Indigenous Official Visitor (who would also be able to access NSW prisoners);
• maintaining and enhancing the role of the Aboriginal Liaison Officer at the BRC;
• enhancing access by, and the provision of information to, family members of prisoners; and
• introducing a work release program for Indigenous peoples who may be due for release.

6.2.2 Criminal Justice System Strategic Plan 2002-2005

The Criminal Justice System Strategic Plan 2002-2005 brings together criminal justice agencies, with the common objective of making the ACT safer. A number of specific objectives, with corresponding key actions, are set out in the document. The four principal aims set out within the document include bringing offenders to justice and administering sentencing outcomes effectively and efficiently. The latter aim includes providing throughcare for offenders; providing intervention programs appropriate for offender risk and needs; implementing alternatives to imprisonment for offenders including fine defaulters; and providing rehabilitation, restoration and reparation options. Specifically, Key action # 21 refers to Correctional Services and the Youth Services Branch providing programs and interventions to meet the specific criminogenic needs of Indigenous people; and to developing strong linkages with the Indigenous community to support young people in custody.

6.2.3 ACT Corrective Services Strategic Plan 2004-2007
The *ACT Corrective Services Strategic Plan 2004-2007* has five strategic imperatives, one of which is ‘Fostering Partnerships for Growth’, which includes a strategy of establishing and maintaining relationships with Indigenous organisations.

There are no other relevant Corrective Services policies, including any Indigenous-specific policies.

**6.3 Other Relevant Initiatives, Reviews and Reports**

**6.3.1 ACT Aboriginal and Torres Strait Islander Justice Initiatives in the ACT (2008)**

The ACT Department of Justice and Community Safety published this document in April 2008, as a precursor to the development of an Aboriginal Justice Agreement in the ACT, to be developed by Government in collaboration with the Aboriginal Justice Centre. The document consists of reports by various agencies in relation to initiatives which address Indigenous justice issues.

*ACT Corrective Services*

ACT Corrective Services has indicated that the following initiatives are currently in place:

- **Indigenous Policy Officer** – provides advice and guidance to enhance programs designed for indigenous clients and offers support through networking and collaborating with other agencies and community-based organisations.
- **Indigenous Liaison Officer (ILO)** - provides welfare support for inmates at remand centres.
- **Indigenous Cross-Cultural Training** – cultural education provided for all ACTCS staff upon entry into Corrective Services. Refresher courses are provided to all staff.
- **Identified Positions** – two positions based in Probation and Parole allows ACTCS to specifically case manage Indigenous clients in both mainstream and the Circle Sentencing court.
- **Indigenous Traineeship in Community Services** – Two new identified positions under the ACTCS’s Traineeship program provide employment opportunities for Indigenous people to participate in community-based corrections.
- **Vocational Educational Training** – membership to this group allows ACTCS to contribute to a range of educational products and to address the needs of Indigenous offenders both pre and post release.
- **Employment/Recruitment** – promotes and positively encourages indigenous people to apply for positions with ACTCS.
- **Cross Border Arrangements** – arrangements for sentenced prisoners are in place to protect their rights, and offers support through protocol arrangements to allow ACT Indigenous Official Visitors to visit NSW Correctional Facilities.
The ACT’s Community Based Corrections has focused on the accommodation needs of those released from custody (to prevent re-offending); and on Throughcare for those leaving the (new) Alexander Maconochie Centre (aimed at ensuring an integrated and seamless approach to the delivery of services for offenders as they move between prison, community corrections and the community, and including a referral to re-settlement support services). The Throughcare program for the prison will offer specific culturally focused responses to areas of need, which will include input from the Indigenous community and key Indigenous organisations such as the Aboriginal Justice Centre, Winnunga Nimmityjah Aboriginal Health Service, Gugan Gulwan Youth Aboriginal Corporation, and Billabong Aboriginal Corporation. More broadly, Corrective Services is developing policy and procedures, and an overarching management plan for Indigenous prisoners, and these Throughcare initiatives form part of these new developments. Further developments include:

- Development of a workable relationship with the Aboriginal Justice Centre (AJC) with respect to the effective delivery of a range of correctional and community based services to Indigenous offenders.
- In collaboration with the AJC, exploration and development of placement and program options for Indigenous offenders placed on a court order to undertake a drug and alcohol rehabilitation program.
- In collaboration with the ACT Aboriginal Justice Centre and Auswide (Corrective Services identified tender), development of a framework (under an AMC prisoner transitional release program) that will provide sustainable long-term employment opportunities for indigenous offenders.

Health Issues
In terms of health service provision, it is noted that the Winnunga Nimmityjah Aboriginal Health Service (WNAHS) provides services to Indigenous inmates at Belconnen Remand Centre (to be replaced by the Alexander Maconichie Centre (AMC)). WNAHS runs a number of programs, including the Youth Detox Support Service for 14-18 year old Indigenous youths (including those at Quamby (to be replaced by a new youth detention centre at Gungahlin)). ACT Health has been developing an ACT Corrections Health Service Plan 2007-2010, having consulted with relevant organisations, including WNAHS. With research funding, WNAHS along with government and other stakeholders has developed a draft Holistic Model for Health Care Delivery for Indigenous Prisoners for AMC. WNAHS currently provides the following specific services to Aboriginal and Torres Strait Islander clients in the corrections system:

- weekly visits to BRC by a doctor and health worker;
- fortnightly visits to Goulburn and Cooma gaols by a doctor and health worker;
- Pharmacotherapy;
- advocacy and referral counselling
- court support and transport;
- youth diversion program;
- men’s group;
- home maintenance program;
- parenting program; and
- anger management program.
The Human Rights Commission (ACT) conducted a Human Rights Audit on the Operation of ACT Correctional facilities under Corrections Legislation (tabled in the ACT Legislative Assembly in August 2007). Some comments were made, therein, in relation to Indigenous people.

The report found that the position of the Indigenous Liaison Officer and regular offering of cultural awareness training is evidence of a serious commitment by ACT Corrective Services to create an environment that is as free as possible from racism directed towards Indigenous detainees. It was also recommended that cultural awareness training and competency-testing be improved for non-Indigenous Corrective Services officers. In addition, the audit made urgent recommendations in relation to the lack of an organised activities program for all detainees. It was further noted that the lack of meaningful activities had particular ramifications for Indigenous detainees. Other problems identified included the lack of cultural activities provided for Indigenous detainees. The Audit recommended that the Indigenous Liaison Officer be given more support and resources to enable culturally important activities for Indigenous detainees be provided. Corrective Services officers should be encouraged to play a role in Indigenous events such as NAIDOC week, with participation counted as an aspect of ongoing cultural awareness training.

Aboriginal Justice Centre
Case managers at the Aboriginal Justice Centre will work with Indigenous people at various stages of contact (or during times of risk of contact) with the justice system. The AJC has emphasised its work in relation to intensive programs with offenders who are either self-referred, or referred by police/courts/agencies; and regular meetings with the Watchhouse Committee. The importance of the AJC relates to the role of the case managers assisting agencies located within the criminal justice system. The AJC, according to its CEO, will take the lead on reducing Indigenous incarceration in the ACT by providing, or linking persons to, support and prevention programs that compliment, but do not duplicate, the role of the Aboriginal Legal Service and other service providers in education, health, employment and the like.  

Circle Sentencing
Circle sentencing was introduced with the Ngambra Circle Sentencing Court in May 2004, and is still operating with some success. It is underpinned by a relevant Practice Direction of the ACT Magistrates Court, and by the ACT Magistrates Court Act 1930. By October 2007, the Court had convened on 50 occasions and dealt with 35 offenders. The majority of offenders before the Court face offences relating to family violence attributable to long-term alcohol and drug abuse. Other offences relate to traffic matters and minor assault. The offenders must plead guilty to the offences and be prepared to submit to a panel of Elders, who recommend an appropriate sentence commensurate with

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1 Conversation, email – Rae Lacey, CEO, Aboriginal Justice Centre 24 June 2008
the gravity of the matter to the presiding Magistrate. There is a screening process by an Elders panel to assess the suitability of the offender appearing before the Circle Court. The new sentencing legislation introduced in the ACT in June 2006, the *Crimes (Sentencing) Act 2005* and the *Crimes Sentencing Administration Act 2005*, enables the Elders’ panel to recommend combination sentences which may link the offender to appropriate programs and support. It is thought that the Court has a 75% success rate, but there has not been any formal, independent evaluation of the initiative. The Circle process promotes the offender taking responsibility for their actions with the support of the community. It improves the chances of rehabilitation and healing by the offender (Department of Justice and Community Safety (DJCS) Annual Report 2006/07).^2^

**Restorative Justice**

The *Crimes (Restorative Justice) Act 2004* commenced operation (with a Restorative Justice Unit established within the Department of Justice and Community Safety) in January 2005. It is being implemented in two phases. Phase one, currently in operation, allows young offenders to be referred to restorative justice, either as a diversion from the criminal justice system, or in addition to prosecution. Phase two has not yet commenced, but will involve adult offenders becoming eligible to be referred to restorative justice. Restorative justice is available to people involved in all stages of the justice system (from point of apprehension to post-sentence). Since the scheme commenced operating, the AFP, the Office of the Director of Public Prosecutions (DPP) and the ACT Children’s Court has referred 57 young people who identify as Aboriginal or Torres Strait Islander. They represent approximately 12% of all young offenders who have been referred. The AFP uses the scheme predominantly as a diversion from the criminal justice system, while the DPP and the Children’s Court use the scheme to provide opportunities to young people to take responsibility for their actions and to make amends for what they have done. The DPP and the Children’s Court take into account the young person’s participation in restorative justice when making decisions about their case. Most of the offences are property – related (80%).^3^

6.3.2 ACT AJAC Jurisdictional Report to the National Aboriginal Justice Advisory Committee (2007)

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^3^ For further information on restorative justice in the ACT, see Department of Justice and Community Safety, *Restorative Justice Options in the Act: Options Paper (2003)*, wherein issues relevant to Indigenous offenders and victims were raised (including recommending that a circle sentencing initiative be established in the ACT; and Ministerial Review into Phase 1, including discussion of ATSI rates of participation): [http://www.jcs.act.gov.au/restorativejustice/ReportsDocuments.htm](http://www.jcs.act.gov.au/restorativejustice/ReportsDocuments.htm)
The contribution from Corrective Services in this report is the same as the detail supplied above in the ATSI Justice Initiatives in the ACT (2008) document.

6.3.3 ACT AJAC Jurisdictional Report to the National Aboriginal Justice Advisory Committee (2006)

The contribution from Corrective Services is the same as the detail supplied above in the ATSI Justice Initiatives in the ACT (2008) document.

In addition the report notes that

(a) The DHCS Homelessness Strategy was released in 2006, and will include in its focus ATSI people, including ATSI offenders. The Supported Accommodation Assistance Program will provide an important link with the Corrective Services Home Detention Program for Indigenous prisoners under this Strategy. Funding was also allocated to address (short-term) accommodation needs for Indigenous people who are exiting the justice system (under an Indigenous Boarding House Network). It is anticipated the Boarding House Network will alleviate possible future demand for temporary accommodation once the ACT Prison Project has been completed.

(b) The Aboriginal Justice Centre was incorporated in late 2005. The AJC was to assist individuals and families involved in the justice system and to liaise with correctional facilities (inter alia). It was anticipated that a case management model would be developed to coordinate existing case management services to ATSI people. The case manager would liaise with clients and service providers to maximise the opportunities for ATSI people and to support their attempts to comply with community based court orders. The case manager’s secondary role will be to deliver case management practices to this group of clients within the context of existing case management plans being delivered by existing service providers. The AJC case manager was to be a resource for criminal justice agencies, and to work closely with service providers to improve communication with the provider’s Indigenous clients and to provide advice and support to the criminal justice agency in the management of Indigenous people.

(c) The design of the new youth justice centre incorporated Indigenous – specific needs, as follows:

- involving the ATSI community in the design - there is an ATSI representative on the design panel
- monitoring of ATSI inductees at all times to meet the requirements of the Royal Commission of Aboriginal Deaths in Custody recommendations
- design of rooms and areas that are culturally appropriate eg ATSI people having a connection with the outdoors - views etc
- spaces should be sufficiently flexible so that cultural needs can be accommodated - some rooms will have connecting doors so that they can be turned into a single area as required.
Continued input from the ATSI representative and the community into the design of the centre was to be important in ensuring that it is culturally appropriate and considers ATSI children and young people’s cultural, historical, physical and spiritual wellbeing.

6.3.4 Practice Direction – Ngambra Circle Sentencing Court

The Practice Direction states that there will be a six-month trial of the Ngambra Circle Sentencing Court, commencing in May 2004. The stated aims of the Sentencing Court are as follows:
• to involve ATSI communities in, and increase confidence in, the sentencing process
• to reduce barriers between Courts and ATSI communities
• to provide culturally relevant and effective sentencing options for ATSI offenders
• to provide the offender with support services that will assist them to overcome offending behaviour
• to provide support for victims of crime and enhance the rights and place of victims in the sentencing process
• to reduce repeat offending within ATSI communities

The document then sets out directions in relation to issues such as the process of assessment of suitability for the Court, role and participants of the Court and of Court Coordinator, the conduct of the Court, and the process of resolution of matters before the Court.

6.4 Annual Reports

6.4.1 Department of Justice and Community Safety

1999/2000
ACT Corrective Services (ACTCS) is committed to placing youth in culturally specific programs, and Gugan Gulwan’s offline education program, the Aboriginal Health Service, and Aboriginal Legal Services are utilised. Quamby offers indigenous art programs and cultural programs. Identified positions in the ACTCS Community Unit provide resources for case management of Indigenous offenders, and support for young Indigenous offenders in Quamby. Targets for 2000/01 include employment of an Indigenous Liaison Officer and establishment of supported Indigenous youth accommodation (for homeless youth).

2000/01
One of the stated goals for ACTCS is to forge a strong relationship with the Indigenous community. Youth Justice Services (amalgamated with ACTCS in 1999) reported that individual tutors were now available for Indigenous residents at Quamby in the Hindmarsh Education Centre. Indigenous programs at Quamby are to be extended to include participation in Indigenous Youth Forums. In terms of adult corrections, a part-time Indigenous Liaison Officer commenced work in this reporting period. Targets for 2001/02 include employment of two Indigenous case managers within Community Corrections.
2001/02

An Indigenous Services and Cultural Diversity Unit was established in 2001. The Unit provides advice in relation to the effects of existing policy on Indigenous clients and the community, as well as convening a network of Indigenous staff within ACTCS. It has developed partnerships with Indigenous organisations and works to foster confidence within the ACT Indigenous community. The aforementioned Unit was established as part of the ACTCS’ Strategic Plan’s commitment to ‘forge a strong relationship with the Indigenous community’. Relevant strategies to achieve this goal include the following:

• continue a commitment to addressing the priorities identified in the recommendations of the RCIADIC and the Bringing Them Home report, as well as other relevant national guidelines and international standards;

• ensure the level of resources allocated to Indigenous people within ACTCS reflects their level of risk and need, and are culturally appropriate;

• continue the emphasis on building and improving Indigenous people’s access to both mainstream and Indigenous specific services and facilitating a coordinated approach to service delivery;

• facilitate joint planning processes which allow for Indigenous participation in decision making and the determination of priorities in matters which may impact on Indigenous peoples;

• ensure the transparency of, and regular reporting on, all services and programs available to Indigenous people and to ensure increased clarity with respect to the roles and responsibilities of key stakeholders;

• ensure the use of a comprehensive assessment process that allows the identification of Indigenous risks and needs, and links to the case management systems.

• recognise that cultural identity is important to Indigenous peoples and to ensure this identity is not infringed;

• provide opportunities for Indigenous people in custody to meet their cultural needs; and

• devise strategies to recruit and retain Indigenous staff.

As noted above, the Unit seeks to foster confidence within the Indigenous community, and has participated in forums organised by the local Indigenous community and agencies. It is suggested that strong working relationships with the Belconnen Remand Centre have been developed through the Indigenous Unit and the engagement of an Indigenous Liaison Officer and Indigenous Custodial Officers. The Unit assists ACTCS to ensure compliance with the recommendations of the RCIADIC, Bringing them Home, and the 1997 Ministerial Summit on Deaths in Custody (especially the development of rehabilitative and preventative programs).

It is also noted that the ACTCS Community Service Work program administers to ATSI organisations in the ACT. AJAC has responsibility for developing an Aboriginal Justice Strategic Plan (to be released in 2002 (Aboriginal and Torres Strait Islander Justice Strategy 2003-2005)).

2002/03
The Indigenous Services section of the aforementioned Unit has liaised with the Winnunga Nimmityjah Aboriginal Health Service in developing a Family Violence Program, as well as assisting the Training Unit to develop strategies around recruitment of Indigenous Custodial Officers. It has also assisted in the development of an Indigenous database utilising Court statistics to help measure recidivism and effectiveness of rehabilitation programs; participated in Indigenous forums; and worked in conjunction with the ACTCS Rehabilitation Unit to establish Indigenous Reference Focus groups (which will address issues such as sexual offending and family violence). Targets for the Unit include improving relationships with Indigenous organisation such as AJAC; collecting information on NSW Indigenous Corrective Services Programs; networking with NAJAC and related organisations; and development of guidelines for probation and parole staff who deal with Indigenous clients.

2003/04
The Unit assisted ACTCS to enhance its services by advising when cultural conflicts occur with clients; reviewed Standing Orders and Procedural Manuals in terms of their effectiveness and relevance; provided information to various Indigenous Reference Groups (such as ACT Homelessness Strategy); and sought to engage Indigenous communities in planning and consultation of the new prison project. Departmental activities included participating in the development of circle sentencing; and a commitment to appointing an Indigenous male and female as Indigenous official visitors for both male and female detainees in Belconnen Remand Centre, Periodic Detention Centre, Quamby and detainees in NSW.

2004/05
Alcohol and drug programs and case management were provided to Indigenous remandees. The Aboriginal Liaison Officer provides case management to Indigenous detainees, and also assists these clients with referral to Alcohol and Other Drugs rehabilitation programs. The aforementioned Unit continued its work.

2005/06
The aforementioned Unit continued its work, including providing assistance to family members in relation to the welfare of offenders and actively participating in the development of the Alexander Maconochie Centre. The Department also expects to negotiate a service agreement with the Aboriginal Justice Centre in the next financial year.

2006/07
The aforementioned Unit continued its work, including participating in development of the new prison in the ACT (providing input into relevant culturally appropriate programs); collecting important statistical data on Indigenous offenders population in the ACT to assist with the development of appropriate programs and to deliver effective services; and supporting strong working relationships between government and non-government organisations as part of the Department’s focus on Indigenous issues.