



**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL  
TERRITORY**

**STANDING COMMITTEE ON JUSTICE  
AND COMMUNITY SAFETY**

(Reference: [Inquiry into community corrections](#))

**Members:**

**MR P CAIN (Chair)**  
**DR M PATERSON (Deputy Chair)**  
**MR A BRADDOCK**

**TRANSCRIPT OF EVIDENCE**

**CANBERRA**

**WEDNESDAY, 16 FEBRUARY 2022**

**Secretary to the committee:**  
**Ms B McGill (Ph: 620 70524)**

**By authority of the Legislative Assembly for the Australian Capital Territory**

Submissions, answers to questions on notice and other documents, including requests for clarification of the transcript of evidence, relevant to this inquiry that have been authorised for publication by the committee may be obtained from the Legislative Assembly website.

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## **Privilege statement**

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*Amended 20 May 2013*

**The committee met at 11.00 am.**

**GENTLEMAN, MR MICK**, Minister for Corrections, Minister for Industrial Relations and Workplace Safety, Minister for Planning and Land Management and Minister for Police and Emergency Services

**DORAN, MS KAREN**, Acting Director-General, Justice and Community Safety Directorate

**ALOISI, MR BRUNO**, Acting Assistant Commissioner, Community Corrections, ACT Corrective Services, Justice and Community Safety Directorate

**GRAHAM, MS TAMARA**, Acting Assistant Commissioner, Offender Reintegration, ACT Corrective Services, Justice and Community Safety Directorate

**JUSTASON, MS CORINNE**, Acting Commissioner, ACT Corrective Services, Justice and Community Safety Directorate

**THE CHAIR:** Good morning, everyone, and welcome. I declare open the first public hearing of the Standing Committee on Justice and Community Safety on the community corrections inquiry. Before we begin, on behalf of the committee, I would like to acknowledge that we meet today on the land of the Ngunnawal people. We respect their continuing culture and the contribution they make to the life of this city and this region.

The Assembly commenced this inquiry in June 2021. The committee has received 29 submissions, which are available on the committee website. Today the committee will hear from seven witnesses: the Minister for Corrections, the ACT Ombudsman, ATODA and the Ted Noffs Foundation, Wellways Australia, A Gender Agenda, the ACT Law Society, and ACTCOSS.

Please be aware that the proceedings are being recorded and transcribed by Hansard and will be published. The proceedings are also being broadcast and webstreamed live. We move now to our first witness. I welcome the Minister for Corrections and accompanying officials. On behalf of the committee, thank you for appearing today.

**Mr Gentleman:** Thank you, Chair.

**THE CHAIR:** Can I remind you all of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement with you on the table. Could everyone indicate by a show of hands that you understand the privilege implications of the statement? Thank you very much. Before we proceed to questions from the committee, Minister Gentleman, would you like to make a brief opening statement?

**Mr Gentleman:** Thank you very much, Chair. I might spend a moment or two talking about the work that community corrections has been doing, particularly during COVID, and our COVID management practices. Managing the impact of COVID-19 has been challenging across this area, as it has been across the community during this time as well. Community corrections has done a great job of managing to keep the essential services running, and there have been some changes in process to allow for this at the same time.

One change has been the facilitation of detainees to attend parole hearings via audiovisual link, where they are unable to attend in person due to the COVID-19 restrictions. Another change that was put in place was the new provision in the Crimes (Sentence Administration) Act which allows corrections to take an offender to have performed community service work hours where COVID-19 restrictions have prevented them from being able to comply with those particular hours.

So a number of changes have been made. I want to congratulate all the staff that have been involved in managing the process. Of course, the AMC itself was the first testbed for rapid antigen tests for the ACT government, and we are pleased with the way that that rolled out at the same time. Thank you, Chair.

**THE CHAIR:** Thank you. I will start. Minister, I have a question about the drug and alcohol treatment orders and, in particular, what appears to me to be a rather low number of those taking up that option. Could you briefly explain how the pool of possible applicants is generated as well as perhaps ways to make the number of those under these treatment orders higher?

**Mr Gentleman:** Thank you, Chair. I think it might be relevant to go straight to the directorate officials on this. They have the working knowledge in this area, so I will pass on to community corrections.

**THE CHAIR:** Thank you.

**Ms Doran:** I will start, very quickly, on this issue and then I will pass to one of my colleagues here. In the community corrections space we play a role in supporting the drug and alcohol sentencing list. We actually help with the management of the drug and alcohol sentencing orders. In terms of the applicants who come through the court process and are identified to come into that program, that would be an issue which we could take to the session with the Attorney later in the hearings. Certainly, today, we can talk to some of the numbers that have come through and how we manage the orders at the community corrections end.

**THE CHAIR:** Okay.

**Ms Doran:** So I pass to—

**THE CHAIR:** So someone else is going to add to that?

**Ms Doran:** Yes.

**THE CHAIR:** Thank you.

**Mr Aloisi:** Thank you for the question. Just to build on the DDG's response, I can give an update since our submission. As of yesterday there were 29 people who were subject to drug and alcohol treatment orders, so that represents an increase since our submission. I believe the Drug and Alcohol Court has a capacity of 35.

I do not want to speak for all partner agencies, but I think there has been a benefit in slowly ramping up those numbers, in a way to manage them, particularly as a

relatively new service, still a few years old. I think that has actually benefitted—having this sort of gradual increase in numbers rather than launching into it.

There are some restrictions around eligibility, of course, because the referrals have to come from the Supreme Court. In terms of our role in that, community corrections will provide monitoring of the court conditions of those drug and alcohol treatment orders, supervision and referral to offence related programs.

We also have a presence in the Drug and Alcohol Court. One of the adjustments we have made recently is that we have increased our presence there. We also have recently moved. We have what is called a cultural engagement officer, which is effectively an Aboriginal liaison officer within community corrections. That person is now being placed in that space as well to ensure that we are across the cultural issues and our awareness and our responses, particularly for the Aboriginal and Torres Strait Islanders who might be subject to drug and alcohol treatment orders. This is a way of making sure that we are thorough and comprehensive in our assessments and our supervision that we provide.

**THE CHAIR:** Thank you. Are there any reviews or projects underway to actually increase the pool who can be subject to such orders?

**Ms Doran:** I think that, again, Mr Cain, we could take that on notice and refer it to the session with the Attorney later in the hearings.

**THE CHAIR:** Thank you. Dr Paterson and Mr Braddock, do you have any supplementaries? Sorry, Dr Paterson, we can't hear you.

**DR PATERSON:** Sorry. I was going to ask—in a similar vein to your question about the eligibility—about the length of sentence. I am not sure if I have it correct that it is one year, to be eligible for the program. I think there were concerns raised in some of the submissions around the fact that women, who potentially have lower sentences, may not actually be eligible for the drug and alcohol orders. I am interested to know if that is correct, and is there any scope to increase the eligibility?

**Ms Doran:** I believe the eligibility term is from 12 months to two years. Again, in terms of reviewing that, we will take that question into the latter session. Sorry; there are essentially two areas of JACS which work on these issues—the policy side of the process and then the operational side—so we have the operational team here with us today. We will, as I said, take some of those more policy questions to the later session, where the appropriate people will be at the table to talk to those issues. I will just see if Bruno has anything to add to that answer.

**Mr Aloisi:** Thank you. Probably one of the considerations is the length of the treatment program that is required in terms of the Drug and Alcohol Court. I think that may be an influencing factor in why the parameters have been set around 12 months, but, again, as the DDG mentioned, it probably would be good to defer those questions to the other sitting as well.

**DR PATERSON:** I am not sure whether this is relevant to you guys or the next sitting, but for Indigenous offenders who are referred through drug and alcohol orders,

will the new drug and alcohol rehabilitation centre that is on its way be available for Aboriginal and Torres Strait Islander offenders to use and go through that centre, when that opens?

**Ms Doran:** Yes. The new centre is being coordinated through the Health Directorate. It is a fairly early proposal. It is certainly focused on Aboriginal and Torres Strait Islander peoples and will have a model of care that covers drug and alcohol treatments, which will allow it to be available to be used for people who come through the drug and alcohol sentencing court process. At this stage the full model of care and eligibility criteria are not yet available.

**THE CHAIR:** Thank you.

**DR PATERSON:** My question is around recidivism being a primary indicator of success of the corrections system. There is lots of talk in the submissions about data collection, different ways of collecting data and also opportunities to collect more or different types of data that may better reflect recidivism rates. I am wondering what your views are on that and what is being done to ensure that we are capturing the true story of what is happening?

**Mr Gentleman:** Thanks, Dr Paterson. I might touch on this first and then pass over to corrections staff to give you some more detail. There is an interesting national discussion unfolding about the best ways to measure reducing recidivism. While our ROGS currently measures for returning to Corrective Services, meaning a return into community corrections or the AMC within two years, and returning to prison within two years, it is true that these measures alone are not really adequate in measuring other kinds of progress.

For example, we are currently unable to measure whether offenders are returning to Corrective Services for less serious offences. The most recent ROGS data shows that, while the return rate to Corrective Services remains high, the ACT is well below the national average when it comes to the rate of detainees returning to prison within two years of their release. This data suggests that in the ACT there is a greater tendency for diversion into community-based sentences and orders than custodial ones. So, relative to most other jurisdictions, I think we are doing well there. I will ask Bruno and the team to give you some more detail on this.

**Mr Aloisi:** Thank you, Minister, and thank you for the question. Yes, absolutely I would support the minister's comments. We know that the recidivism rates are an important measure. They are certainly used nationally and definitely have value in providing that overall picture. But, as the minister highlighted, these things are binary in nature. When we look at people, they are more complex and behaviour change is multifaceted; there are so many factors that influence it.

I suppose that when you look at what potential measures we might be looking at—in terms of a bit more nuanced, as the minister touched upon—you have things such as the frequency of reoffending behaviour. That is something that I think would add to the current mix of measures we have. There is a reduction in the seriousness of offending, as the minister also mentioned. There are national offender indexes which you can rely upon to compare those aspects. A reduction in the over-representation of

Aboriginal and Torres Strait Islander peoples, for example, obviously is a key consideration in these measures; and a reduction in female prison populations.

I would also say that there is a subset of measures. I call those the secondary measures, but there is also a subset of measures that I think there is value in exploring. These are the ones that span what change has actually been effected through the system—and I talk about the system broadly—in terms of those outcomes that we all strive for, whether it is employment, accommodation and housing, financial security, emotional wellbeing or physical health. I think these are the sorts of measures that also have value in this space because, again, people are multifaceted. At the end of the day, rather than just a binary measure of: “Did they or did they not come back into our system?” we want to be able to speak to: “Well, what change have we actually effected in their real lives?”

**DR PATERSON:** Thank you.

**MR BRADDOCK:** Just further on that, do we have a breakdown—whatever the measure might be; whether it is recidivism or another measure that you might prefer—for how effective the different measures or the different orders are, in terms of the drug and alcohol treatment orders versus the intensive community orders? I am just trying to get some evidence in my mind in terms of: how do we know how effective each of these elements is within our community corrections system?

**Mr Aloisi:** Yes; it is a very good question. I would say, off the top of my head: are we specifically collecting data around recidivism rates, around particular orders, whether that is an intensive corrections order or a good behaviour order? I do not think we necessarily are collecting that at the moment, but it is something that absolutely could shed light on the outcomes of those particular orders.

I think there would be challenges in comparing them, because the nature of the orders themselves imply different levels of offences and different scenarios for the individuals, so there are some challenges there. The other challenge with recidivism rates is that they are effectively always two years behind, in the sense that you need to go into the future to provide that data and sometimes it is actually not telling where you are right at this point in time. When you do them in the future, they are telling you about where you were.

**MR BRADDOCK:** So how are you measuring the outcomes from DATOs or ICOs? You say your reports are measuring outputs but not necessarily outcomes?

**Mr Aloisi:** Yes, absolutely. One of the things we look at is completion rates, for example—what proportion of those orders are actually completed successfully, where the person is not re-sentenced or returned to custody. That is one way in which we can look at those orders as well.

**THE CHAIR:** Okay. Thank you.

**Ms Doran:** I was just going to add to that, particularly in the area of the intensive correction orders. We did undertake a review of that program in 2020, after it had been introduced in 2016, just to gauge its effectiveness. That review showed that the



ICOs were an effective sentencing option and the data indicated that they did contribute to the reduction of reoffending, so that is what you might say is a static measure of the effectiveness of that program. The ability to integrate that into the ROGS measure of recidivism by components, as Bruno said, becomes more complex. I think, for us in the ACT, it is also complicated by the small database that we have.

**THE CHAIR:** Thank you. I want to now take as a substantive line what you just touched on: the intensive correction orders. I note that on page 5 of the submission—just bear with me; someone is making a really loud, distracting noise in the background. That is okay now. Firstly, how can we increase the number of offenders who are on these orders? Secondly, I am really interested in the last line at the top of that page. It says:

Since ICOs were introduced, there has been a steady increase in the use of these orders by the courts.

Do you have any explanation as to why that trend has occurred, healthy as it is?

**Mr Gentleman:** Thanks, Chair. This is probably a matter for the A-G. He is more in touch with the courts than I am, going through corrections. But I will go to staff again to see if they have any input into this.

**Mr Aloisi:** Thank you. Thank you for the question. I would make one comment. Probably one of the factors that has increased the trajectory upwards has just been the basic one of familiarity. As the courts and the services have become more aware and there has been a general awareness of the use of intensive correction orders, I think that has probably been one of the contributing factors to the steady uptake.

**THE CHAIR:** Okay. Thank you.

**Ms Doran:** There is also a positive to the steady uptake, in that one of the objectives of the intensive correction orders was to keep people out of the AMC and find an alternative route for them. So I think there are two sides to the question as well.

**THE CHAIR:** Thank you.

**DR PATERSON:** What is done to assess the living situation or the family situation of someone who has those intensive corrective orders, as in whether it is appropriate or not? Is that something that happens through the court process or is there an assessment that is conducted outside of that?

**Ms Graham:** Thank you for the question. At the pre-sentencing phase, the community corrections officers will undertake an assessment of that person's suitability for the corrections order. A component of that is doing a home visit: assessing the suitability of that accommodation, including who that person will be living with and their buy-in of the situation and the support that they will provide to that particular person. So, yes, there is an assessment and that is reported back to the court.

**DR PATERSON:** Are there supports for all the community correction orders? Are

there supports for families, as the order is carried out, to assist them with the order as well?

**Ms Graham:** Predominantly the focus is on assisting the offender, if they are successful in being sentenced to an intensive corrections order. But there is always scope for family members, or people living in that household, to reach out to community corrections and have a discussion around how that person is travelling. There is that open-ended conversation.

**DR PATERSON:** Ted Noffs talked a lot in their submission about 18 to 25-year-olds, or 22-year-olds—about them being young people and what more can be done to assist them, particularly with community corrections orders, to ensure that the recidivism rates stay low. I am interested in corrections' views on young people. Are we doing enough to stop them from engaging with the system?

**Mr Gentleman:** Thanks, Dr Paterson. I might just touch on something a little out of the box before we go to JACS to talk a bit more about that, and that is the work that we are doing with the police service model across the ACT. This is where ACT Policing, with extra resources, are able to go into the community at a much earlier time to try to make young people more aware of the justice system before they actually commit a crime, and to try to divert them from the criminal process in the first place.

This piece of work has been rolled out in a number of other jurisdictions quite successfully. Police Scotland have done it, and Birmingham. We have now funded and put it into place in the ACT, so it is rolling out with resources to manage it as well. That can have quite a dramatic effect on the lives of these young people who are touching on the justice system. If we can keep them away from that in the first place, there is less chance of them ending up in the justice system. With that, I will pass over to JACS for some more commentary.

**Mr Aloisi:** Thank you for the question. To build on what the minister was saying, definitely diversion, early intervention and prevention are the best interventions you can have in this space. In terms of young people, one of the keys is trying to access them in the way that they want to be accessed as well. I think that is important when providing alcohol and drug support. That is looking at flexible arrangements and how you can deliver these and communicate with them in the way that they want to be communicated with.

If I am allowed, I would not mind highlighting one of our programs that we commenced in community corrections as of 19 August last year, I think it was. I think it might have started in only a phone-based way because we were in the middle of lockdown. I will just describe the service. With our partners Karralika, who are well known in the alcohol and drug space, what we have got is a justice services counsellor who is physically located in our offices one day per week.

They are available to conduct alcohol and drug assessments for our clients when they present to community corrections, often in the context of them coming to report for supervision or for whatever appointment they might have in our office. The overall aim is to try to increase their access to alcohol and drug services, so really using this

as more of an opportunistic counselling model, for lack of a better word.

Their counselling is obviously very structured. It is around positive behavioural change. Definitely, from our preliminary findings, it has been very successful in terms of outcomes. As well as providing the direct service to clients, they are providing our staff with education around alcohol and drug issues, and service availability as well, so it has that dual effect. Some of the staff are being upskilled at the same time and are able to have conversations with that counsellor about potentially how they might work with individuals. We do our own training around motivational interviewing, which is key in this space.

In terms of the preliminary outcomes I mentioned previously, out of 65 appointments we have had 61 people attend. That is a very low non-attendance rate in an area where, traditionally, failing to attend or people not attending is usually quite significantly high. In this simple concept of embedding the counsellor in the service by bringing that person to the space, we have got an opportunity, when that person does attend community corrections, to then gently encourage them into this space. I think it is really powerful. Also, anecdotally, the feedback from our clients has been really positive about having that opportunity that perhaps they would not have sought in other circumstances.

**DR PATERSON:** Thank you.

**MR BRADDOCK:** I am just trying to understand the connection between community corrections and the government's plan to reduce recidivism in the ACT by 25 per cent by 2025. Do you have any sort of data or evidence or plan that demonstrates that sort of connection?

**Mr Gentleman:** I might just go straight to JACS for that; thanks, Karen.

**Ms Doran:** Thank you for the question. The reducing recidivism plan is a whole-of-justice system plan; so it really does look at all aspects across the system and how we can best have initiatives or strategies in place across the system. We have already mentioned today some components of that: for instance, the police services model and various diversionary strategies as well.

If and when people come into the community corrections part of the system, we really look at the reintegration, rehabilitation, education and employment activities that we can put in place there to support those offenders and best create the linkages for them and the transition for them back into community so that when they get back into community they are better positioned to participate within the community and hopefully not reoffend.

In terms of how we measure that and its components, that is probably one of the biggest challenges. We have already spoken a little about the national measures that are used and that have their advantages in comparison across jurisdictions but also the need to supplement those with other measures. But I might just pass to Bruno and see if he has got anything to add on that.

**Mr Aloisi:** I think the only thing I would add, and probably allude to, is that—as we

mentioned, due to the, I suppose, complex nature of all these interactions between an individual in the criminal justice system and what is happening in their social context—there are so many contributing factors to extract the importance of one or another of those interventions or programs and services, and it is actually quite challenging to do.

**THE CHAIR:** It is over to me now for a substantive. Regarding community service work, I note a range of activities are contemplated by people on these orders: graffiti removal, beautification of parklands, cleaning, admin and repairs, gardening. They are listed for various non-for-profit organisations and charities. Firstly, approximately how many not-for-profits or charities are actually a part of these programs and is consideration able to be given to these offenders actually working under the supervision of an ACT department, given the range of activities obviously relates to city services-type roles?

**Mr Gentleman:** Again it is probably more of a question for the AG, but we want to think about every option that is available, I think, to give these people some feeling of worth in the community. And that assists us to bring them back into the community at the end of their term. If there is an opportunity that we can do it within government services, I will certainly look at that and talk to the AG about it.

There is, of course, some initiative with the Suburban Land Agency, which we have been working on in an administrative role. But it still gives them a chance to work with those people that need that assistance as they go through the corrections system. As I mentioned, it is really giving them that feeling of worth and some experience as well so that when they come out they can do something. I will pass over to JACS to give you some further detail on those.

**Mr Aloisi:** Thank you, Mr Cain, for the question. In terms of those exact numbers of agencies, if we could take that on notice we will provide that to you. I will just make a comment that we are always looking for other opportunities to expand the range of community service work placements. That is something that we very much investigate, but I will provide that information perhaps after.

First, that was my general comment but, absolutely to pick up the minister's words, we really want to look at opportunities to provide meaningful engagement and meaningful work that is actually making a difference not only for that particular service and community that the work assists, but also for the individual. Do we talk about what are the primary aims of community service work? It is about restitution. By taking that, the individual has an opportunity to feel they have made good on potentially the consequences of their offending behaviour.

**THE CHAIR:** I have a supplementary along that line. I guess there would be some concerns from some of these not-for-profits or charities about taking on an offender under one of these orders. What are the usual concerns and how are those being addressed?

**Ms Doran:** I am happy to answer that. At the time of placing a client in a workplace there is a conversation had between Corrective Services and the organisation. Organisations do not have to take a particular placement. Generally, at the time that

we sign them up to the community service work program, they will have criteria stating which clients they are willing to take on and not take on. And that is specifically around the offence type. When we look at placements we will, I guess, marry a client with a particular placement. Everything is above board and transparent.

**DR PATERSON:** We had a really interesting submission from Professor Bartels from the ANU around electronic monitoring and how that has improved dramatically with technology over the last few years. There are substantial trials going on in regard to the use of it in South Australia, New South Wales and, I think, Tasmania. A lot of evidence is coming out about the effectiveness of this. She points out in her submission that 36 per cent of the detainee population in AMC is unsentenced. Is there an opportunity for electronic monitoring in the ACT and is this something that is being considered?

**Mr Gentleman:** It has been explored before, I think, but I will ask JACS and CSS to give you some more detail there.

**Ms Doran:** Looking at my colleagues, I think my knowledge is the fact that it has been explored before but we might need to take that on notice to come back to you with more details about history.

**Mr Aloisi:** I could add.

**Ms Doran:** Sorry, Bruno does have something.

**Mr Aloisi:** I could just add to that. Yes, it has been reviewed previously, probably over five years ago from my recollection. I think at the time there were a number of issues in terms of, perhaps, the technology at the time, where it was at in terms of practice and being fit for purpose, even though it was being used elsewhere, and in terms particularly of the ACT where we have got a smaller population and the need, perhaps, would justify, in a sense, the infrastructure requirements to be put in place.

But I think it is fair to say that technology has moved on, obviously quite a bit since then. As per Professor Bartels' submission, there is growing evidence, particularly for some offence types, that the use of electronic monitoring does serve a useful purpose. For example, in the domestic and family violence space there has been some evidence that it can be quite effective in reducing reoffending; so it is something that potentially we would look at, at some point.

**Ms Doran:** I suppose I would just add that, as a human rights jurisdiction, we have another dimension to consider as well when compared to some other jurisdictions.

**MR BRADDOCK:** I have a question about the justice housing program. I am after a bit more detail in terms of how effective that has been, what the waitlist for it is and is there any plan to expand the program and its criteria to incorporate more people in community corrections.

**Mr Gentleman:** There have certainly been conversations internally with my colleagues about what we might be able to do to increase numbers in justice housing and there would be some expenditures involved in that too. But I will go to JACS for

some more detail for you.

**Ms Doran:** I will start and then I will pass to Tamara. The justice housing program has been a very successful initiative in its early stages for the corrections area. We have a suite of 10 houses at the moment. I think we have been operating for nearly 18 months, and our usage rates are very good at the moment. We will provide you some statistics shortly.

I think that the program serves as a transition between AMC, or our community corrections, and the broader community. As we are settling in to how the program works, we are working closely with ACT Housing as well to understand how we best integrate into the broader models of public and social housing.

I think while there is a lot of opportunity for other uses of housing—and there is certainly a need for other forms of housing—we are really just looking at how we best do that, most effectively do that, and ensure that it is integrated with other components of the community sector so that we are, in the corrections space, operating as a transition or a link between the two worlds and not just ending up with moving people from one form of detention into another, long-term housing model. But on that basis, I will pass to Tamara who has more detail.

**Ms Graham:** In terms of the numbers, as of today we have 24 beds available for our male cohort and all 24 of those beds have been filled. Five of those current occupants identify as Aboriginal and Torres Strait Islander people.

In the women's space we have a total of six beds that are available. We currently have four women in the program, and one of those ladies identifies as Aboriginal and Torres Strait Islander. We have a waiting list in the women's space. We have three people on the waiting list but each of those women is currently in custody and either waiting a parole hearing later in the year or a bail hearing. Effectively, if any of those women were released from custody they would have a bed available for them in the JHP. In terms of the men's waiting list, we currently have 31 applicants.

**THE CHAIR:** Are there any spaces available for families—that is, women with children—where they might be able to access such housing?

**Ms Doran:** At this stage no, that is not an option we can offer, because we have multiple residents in each house. It is a single room per person model at the moment. But these are the sorts of needs that we are conscious of and we would explore if we were looking at alternative forms of housing. Particularly in the women's space and in the Aboriginal and Torres Strait Islander space, we know that that is an area of need. But our current model does not cater easily for that.

**THE CHAIR:** So currently we are not meeting that need?

**Ms Doran:** Not through the justice housing program, no.

**THE CHAIR:** Through any program?

**Ms Doran:** I think more broadly we look for other options of transitioning those

offenders back into the community through other service provisions that we have.

**DR PATERSON:** One of the recommendations of ACTCOSS was to implement a no release into homelessness policy that does not increase the length of time people are remanded in AMC. Could you speak more to the challenges of that and, I guess, the housing program designed to address that? What more can be done to ensure that people are not being released into homelessness?

**Mr Gentleman:** I guess it is a wraparound package. We need to make sure that as these people are exiting the system they have as much support as possible, and that should start within our corrections system, that wraparound support for them, so that we can ensure they do have somewhere to go at the end.

But as you have heard, the housing program is to keep them in a transitory sense. I think that JACS and the team might be able to give you a bit more detail there, but it is a difficult thing to look at. How far out after they are finished in the corrections system do we tend to look after them in the justice space? Are they then part of the community service space?

**Ms Doran:** I think that is the challenge and I think those challenges are highlighted in the ACTCOSS submission as well in that this is a whole-of-system issue, and not just a whole-of-justice system but whole-of-community system. What we do try to do, while we have people in the community corrections space, is best enable them and empower them to go back out into the community and be able to reintegrate and support themselves. Housing is an important element of that, and I think the justice housing program was a response to that very important element.

While they are in justice housing, it gives us the ability to continue supports from what they have received in community corrections into that space while they are still in that transition area. They have accommodation but we are continuing to support their employment or their other connections into community services for a period so that, hopefully, when they can then move on, it is into a more permanent sort of situation that they can sustain.

But as the minister has said, it is difficult for us once they have exited our system to continue to provide direct services to them. We do more broadly—JACS as a directorate—look to work very closely with other directorates across the government to try and connect the services and connect the various elements of the need across health, mental health, housing, drug and alcohol supports, as we mentioned, to try and ensure that there is as simple as possible a path for offenders to get the services they need once they are back in the community.

**THE CHAIR:** I do have a supplementary regarding the offenders who have sole responsibility for children—mostly females, I am assuming. What is the range of options available for the care of those children and approximately what percentage of those options are currently in evidence?

**Mr Gentleman:** I suppose this is a matter that the court must consider when they are looking at sentencing these people as well. What are their family responsibilities? And then, when they are in the system, what can we do to assist them? Of course, we need

to be aware of the influence of the justice system on young people and where that can lead them into the future as well in making those decisions. But I will ask Karen and JACS to provide some more detail for you.

**Mr Aloisi:** I suppose, in terms of direct supervision provision, that probably does not come through corrections but, like other services, frontline services, we rely on those other government and non-government services going in that space—whether that is the Community Services Directorate or other sorts of family support services.

Our role is definitely around the identification of those issues and ensuring that we are supporting those linkages with services of people requiring them. We would consider that as part of our overall assessment and duty to those people so that if these issues are identified, if they have not already got that sort of assistance or they are not in the process, we are helping link people to those services.

**THE CHAIR:** We will come to what, no doubt, will be my final substantive, and it is in regard to the charter of rights for victims of crime. I am interested in how the effectiveness of that regime is ascertained and what kind of sense do you have of, I guess, the victim cohort level of satisfaction with that scheme.

**Mr Gentleman:** I think that would sit with the Victims of Crime Commissioner and the AG. I do not know that it actually sits with our portfolio. Is there anything we can assist with? JACS, is there any comment you would like to make there?

**Ms Doran:** You are correct that, in its broader sense, that is where that responsibility sits. But Bruno can talk to some of the perspectives that he has seen in his role.

**Mr Aloisi:** In terms of the question in terms of our role, something that was introduced through the change in the victims legislation and in support of the charter of rights for victims was the introduction of a new process into community corrections whereby we would seek information from a victim if they had concerns about protection, effectively, from violence or harassment by an offender. This is in the context of us providing pre-sentence reports or intensive correction order assessment reports for the courts.

Part of that change for us has been actually using the intermediary—and we would have to express our gratitude to ACT Policing—but using ACT Policing as an intermediary to get that information out to victims on our behalf, such that victims are given that option of opting in if they want to contact us, if they want to provide input into our report writing.

This is a new experience for corrections because most of our experience is dealing with the offender side of the equation. Definitely there are things for us to learn in terms of how we manage that information and how we respond to victims. But I think the intent there, in terms of ensuring that victims rights are heard in that process, is obviously very important.

**Ms Justason:** While not obligated by those pieces of legislation, in preparation for parole hearings and stuff when detainees in custody at the AMC apply for forms of release, we also seek the feedback from registered victims so that the decision-maker



in regard to those detainee applications has the perspective, feeling, potential fears, concerns from those victims who choose to opt in and give us that information. So we also consider it in that space as well.

**DR PATERSON:** Part of the background to conducting this inquiry is that there is a lot of scrutiny on AMC. However, not so much is known about community corrections. I was interested in the Justice Reform Initiative's submission. They talk about how, when the Australian population is surveyed, ultimately people want to see convicted non-violent offenders, instead of going to prison, given community-based orders. And they suggest that more work should be done to put attention on the community corrections side of corrections. Do you think there is a need to educate and inform the community about this work that is going on in the ACT?

**Mr Gentleman:** I think it is important, yes indeed. Some of the results, as I mentioned earlier, are quite good. We generally do not proactively go out and talk about what we do in corrections, I suppose, or in the criminal justice system. They are generally reported in our ROGS data and, of course, numbers are reported of those people that are in community corrections and other forms of the justice system as well.

I think it is a discussion for governments across Australia as to what we should talk about. I suppose some of the things that we think about are—and we do not want to invite more criminals into the justice system—more about how difficult it is in the justice system for a person and why you should not go there in the first place.

I suppose it is certainly something we should consider, and I would be happy to take any recommendations the committee has on board. Any comments from JACS over there?

**Ms Doran:** Dr Paterson, I would just like to acknowledge the comments that you have made and acknowledge the very good work that does go on in this space within corrections. I think corrections is a challenging area and the focus can often be on what is maybe going wrong as opposed to what is going right. And there is an awful lot going right. We are very proud of some of the advances we have made just in the last 12 months.

Interestingly, we have more people, more offenders, coming through the community corrections system than we do have going through AMC. They receive good supports, and we are constantly looking to improve those supports in order to move forward with the government aims of reducing recidivism.

I will just take the opportunity to acknowledge the staff in these areas but I will pass to Bruno, who, I think, can add some of the good things that we are doing.

**Mr Aloisi:** It is really in addition to those initiatives that I have outlined earlier. I will probably make one comment about the way that community corrections perhaps is perceived in terms of maybe too much of a focus on the statutory requirement sides: the monitoring, the supervision. Obviously that is a key part of our role, but I think what we are working towards—and what I would hope that we would see identified in the community as well—is that we actually have a role to play in terms of seeing that person more holistically in terms of their journey through the criminal justice system.

We have opportunities if not to directly provide the particular service or assistance that person receives, to make sure they link with the appropriate service. I would like to see us become, and perhaps do more, as a recovery-focused, strength-focused organisation where it is not just viewed on the compliance side, which I think tends to get a lot of the attention.

**MR BRADDOCK:** I am interested in the mental health of offenders going through the community corrections systems in terms of what resources are available to help identify, diagnose, treat and support those offenders who do have mental health issues who might be under an ICO, a DATO or similar.

**Mr Gentleman:** Probably it is more a question for justice health, but CCS might have some answers for you on what we do in practice, I suppose.

**Mr Aloisi:** Thank you for the question. Mental health service provision is not necessarily our core service provision, but we do have, internally, access to psychological and psychosocial support services within corrections. That includes community corrections; so we do have that.

I suppose, when we identify mental health issues, it depends on what the particular issue is in terms of how we might respond to that. For example, if it is felt that the issues can be managed internally, in terms of those resources I mentioned, that is an option. We also, as much as possible, try and use those, I suppose, more conventional services that are available. We would be making sure we would be asking people to get in touch with their GPs if the issue is more serious. It might involve contacting the public mental health service or accessing mental health, for example, to gain assistance.

There are a variety of things we will do. Whilst we are not providing the bulk of the service provision, again our key role is making sure that we can identify it—and that comes through our training—and also, when we do identify it, then we make sure that we fulfil our responsibility in ensuring that person is linked with the appropriate supports.

**THE CHAIR:** Thank you for that. I think we will draw our question time to a close. Minister, would you like to take the opportunity for a brief closing statement?

**Mr Gentleman:** Just to thank staff in corrections for the amazing work they do. As I mentioned at the beginning, it has been a challenge for us during the COVID operations, but they have done extremely well and hopefully it will be a little easier this year. Thanks to the committee for the opportunity to provide you with some of these responses, and I look forward to your report.

**THE CHAIR:** Thank you, minister. On behalf of the committee, I would like to thank you and your accompanying officials for appearing before us today. When available, a proof transcript will be forwarded to witnesses to provide an opportunity to check the transcript and identify any errors in transcription.

If witnesses—and I believe this was the case—undertook to provide further

information or to provide information later during the hearing, the answers to these questions will be appreciated within one week from the date of this hearing. The committee will now break and reconvene at 1.30. Thank you, everyone.

**Hearing suspended from 11.59 am to 1.30 pm.**

**McKAY, MS PENNY**, Acting Ombudsman, ACT Ombudsman  
**MACLEOD, MS LOUISE**, Acting Deputy Ombudsman, ACT Ombudsman

**THE CHAIR:** It being 1.30, welcome back to the public hearing of the Standing Committee on Justice and Community Safety inquiry into community corrections. I will remind everyone of some housekeeping matters. The hearing is being conducted under COVID-safe protocols. The public gallery is closed to visitors, touch points at the entryway and witness table/room will be regularly sanitised during the afternoon. Masks are required, except when actively speaking during the hearing. Physical distancing and room limits apply, and hand sanitiser is readily available. Please be aware that the proceedings today are being recorded and transcribed by Hansard and will be published. The proceedings are also being broadcast and webstreamed live.

We move to the next witnesses appearing today: Penny McKay and Louise Macleod. On behalf of the committee, thank you for appearing before us and for your written submission earlier. Can I remind witnesses of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement before you on the table. Could each of you confirm for the record that you have understood the privilege implications of the statement? You have, okay. Before we proceed to questions, I might just allow, given the short time we have with you, perhaps one of you, if you wish, to make a short opening statement.

**Ms McKay:** Yes, I do. Thank you for having us today. Firstly, I would like to acknowledge the Ngannawal and Ngambri people, the traditional custodians of the Canberra region, and pay my respects to their elders past, present and emerging. I thank the committee for the opportunity to be here today to contribute to your inquiry into community corrections.

The ACT Ombudsman's role is to provide assurance that the agencies we oversee act with integrity and treat people fairly and to influence systemic improvement in public administration in the ACT. We do this by taking and managing individual complaints, conducting own-motion investigations, reaching out to ACT agencies and the ACT community to inform them about our role as the ACT Ombudsman and making recommendations to improve public administration.

In November 2020 the former Ombudsman published an investigation report into the parole processes at the Alexander Maconochie Centre. We commenced that investigation following concerns raised with our office about the information available to detainees about the parole process, the level of preparedness of detainees and the support provided to them to participate in the parole process, the natural justice afforded to detainees during the application process and their access to legal representation and the accuracy and completeness of information provided to the Sentence Administration Board. We understand that detainees are reluctant to make formal complaints about these issues because of concerns that doing so might impact their parole outcome.

The report made 15 recommendations for improvement, all of which were accepted by ACT Corrective Services, and my office is currently following up on ACT Corrective Services' progress in implementing the recommendations as part of our

biannual recommendation implementation report series, which is otherwise known as “Did they do what they said they would?”

The process of assessing the implementation of the recommendations is still underway but at this point we are satisfied that at least two of the recommendations have been fully implemented, that is, recommendation 7, which was in relation to the induction policy of new detainees, and recommendation 3, which related to the assessing of policy documents for publication. We are also satisfied that maybe the majority of the recommendations have been partially implemented.

In terms of complaints, we generally receive very few about community corrections. Of the complaints received about ACT Corrective Services, the vast majority relate to the AMC. In 2020-21 we received 116 complaints about ACT Corrective Services and so far this year, to the end of January, we have received 40 complaints. Of these 156 complaints since July 2020, only relate directly to community corrections. I am happy to take any questions you might have.

**THE CHAIR:** The procedure will be that we each have a turn at a substantive question and any of the committee members can ask subsidiary questions. But I will begin actually, and you have touched on it already. Recommendation 1, which was agreed to by the department in September 2020, would seem to me to have been perhaps the most important of your recommendations. That is the inconsistent management of the parole system. You have stated already that you do not believe they have actually delivered the integrated offender management system that was agreed to. We are looking at 18 months ago. Is that of concern to you and how is the parole system being managed now, in your understanding, compared to when you investigated and brought up some concerns?

**Ms McKay:** Thank you for the question. I think it was noted in the report—in fact, I am sure it was in the former Ombudsman’s prelim to the report—that this is a really complex piece of work and it will take some time. We recognised that when we made the suite of recommendations that we did. In fact, they covered a wide range of things, from the policy framework and transparency to record-keeping and planning, to sentence management programs, but also the parole process. There was a whole range of things from sort of the top end to the lower end, I guess. These will take time. We are satisfied at the moment that progress is being made.

We have not finished our full assessment process of the information we have been provided by ACT Corrective Services to make a final determination about where they are at in terms of implementation but we are well through that process. How that process works is basically the Ombudsman writes to the head of ACT Corrective Services and says, “We are following up on these recommendations. Can you tell us, give us your self-assessment of where you are at in terms of implementation?”

They respond to us and then, from that, we give a preliminary view about where we think they are at with the implementation, on the information we have been provided to date. We have done that process and we think that they are well progressed, noting of course they have had the implication of COVID in the meantime. But they are progressed in relation to most of the recommendations.

**THE CHAIR:** And just a supplementary on that before I move on, what examples were you finding that evidenced an inconsistent parole administration system? The point is they may still be occurring because—

**Ms McKay:** They may well be. And we have not gone back and done another investigation to see whether the parole system is working at the moment. But what we are doing is that process and following up on the implementation of the recommendations to see if they, firstly, are taking action in relation to those in a timely way but also the impact of those, we feel, will improve the system. The fact that two have been fully implemented is heartening to us. In fact, one of those was the recommendation about publishing policies and procedures around parole and other areas that ACT Corrective Services deal in. At the time of the report none of those policies were published and now there is well over 100 of those policies published, which we think is a really good step forward.

**THE CHAIR:** Sorry to make the point again, the absence of an integrated policy framework would be obvious by looking at documents, and it is just not there. But what did you find were the effects on detainees of an absence of such a policy?

**Ms McKay:** The effects were that people were kind of making it up a little—I think that is safe to say—because the consistent policy and frameworks were not there. In the report, if you have turned your mind to that, there is an example there that a detainee had developed a parole manual themselves, because there just was not that information available to the detainees about how the system worked. The report even made not a formal recommendation but the comment that maybe they could pick that up and work with that as a first step, because it seemed to be quite good.

**THE CHAIR:** Unpaid work.

**Ms McKay:** But when you do not have those policy frameworks available you get inconsistencies because everybody is working from a different song sheet.

**DR PATERSON:** In ACTCOSS's submission they say:

Though we appreciate the role that Aboriginal Liaison Officers (ALOs) play in responding to complaints from detainees, the justice system is currently structured such that these complaints are not able to be escalated. There needs to be a high level of oversight of complaints procedures and follow-through by an independent body.

Is it true that Aboriginal liaison officers cannot escalate complaints or you do not receive those complaints?

**Ms McKay:** It is our understanding that part of the policy and procedure they have in place in terms of internal management of complaints allows Aboriginal liaison officers to escalate complaints in their own internal complaint management system. Whether or not that is happening is another question, but the policy certainly allows for it.

In terms of the independent complaint mechanism, when I first read that of course I said, "Isn't that us?" But we deal with external complaints. When they come

externally from the centre they can come to us and make a complaint. In fact, they can go to a number of the oversight agencies for different types of complaints. But I think that ACTCOSS were talking about having an internal complaint management system. That is something that we could potentially look at, but it is separate from what we do.

**DR PATERSON:** In terms of complaints, I am fascinated by this issue of making complaints when you have an active parole application and that it may be detrimental to your application. Are there other jurisdictions that handle this in a different way or are there ways that you propose we could go forward with handling those really complex complaints when someone is going through parole?

**Ms McKay:** That is an interesting question. I am not sure about what other jurisdictions are doing. I might throw to my colleague about this. Ms Macleod, do you have anything?

**Ms Macleod:** I am aware that in New South Wales there are detainees or prisoners who will go through a process leading up to parole, before their own equivalent of the Sentence Administration Board, and there is capacity to make complaints. It goes to the New South Wales Ombudsman. But in terms of specific examples as to how it might be different or what you might be able to learn from that, I am sorry, I cannot give you anything further. But, yes, the New South Wales Ombudsman is the organisation that deals with those.

**Ms McKay:** I would also make the point that complaint numbers are not the only way that we see if there is an issue of concern, particularly in this area, because of those concerns that you raise. People might be reluctant to make complaints, given that it might affect their parole outcome. We keep engaging with community groups, with the other oversight agencies. We have regular meetings to try and work out what are the underlying issues and what are the concerns arising, which is where this own motion that we did in 2020 came from.

**MR BRADDOCK:** I am interested in more detail about complaints that might arise about intensive correction orders or the drug and alcohol treatment orders. Have you received any? What has been their nature? Are there any lessons to be learnt from those?

**Ms McKay:** When we had a look back at the actual complaints that we have received about community corrections, as I said in my opening, it was very few, and we have only received two in the last 18 months or so. Neither of those was in relation to those two things that you have raised.

**MR BRADDOCK:** What were they in relation to?

**Ms McKay:** Actually, I can tell you that.

**Ms Macleod:** I can explain if you like?

**Ms McKay:** Yes, please.

**Ms Macleod:** One of the complaints was about a person who was on parole and he

missed a medical appointment because he was actually working. The parole officer wanted evidence that he was working, and the complainant believed that that was a breach of privacy. I suppose what we would say there is that we are aware that those who are on parole can feel a heightened sense of wanting to preserve what they may have gone through and, if there is no, in their view, necessary need to provide information, they might be reluctant to.

When we had a look at the complaint, what the parole officer was wanting to do was reschedule the medical appointment, but the complainant said, “No, no thank you. I don’t think it is necessary because I am coming to the end of my parole anyway and it is not warranted.”

In relation to the other complaint, it was around housing arrangements for the parolee. The complainant was unhappy that he was going to be housed with what appeared to be drug users, and that was contrary to his parole requirements. He told our office that he believed he was being threatened with having his parole revoked if he raised concerns about that.

**THE CHAIR:** That is very concerning. I have a quick substantive. You say recommendations 3 and 7 have been completed. What process did you experience for you to come to that conclusion? Was this part of your investigation or was that something that was notified by the department?

**Ms McKay:** The process that I was explaining earlier is that we go back to agencies and say, “Can you provide us with evidence to support the implementation of recommendations?” Corrective Services were able to provide us with evidence that satisfied us that the recommendations had been fully implemented.

**THE CHAIR:** Is that done in a drip-feed manner or do you say, “In six months, tell us where you are up to”? I know you are doing a review. Again, it was nearly 18 months ago when the department agreed to every one of your recommendations.

**Ms McKay:** Implementation recommendation monitoring we do in a couple of ways. We do have regular meetings with ACT Corrective Services where we follow up and see how they are tracking in terms of our recommendations, but then we also have this biannual process where we go through and look at the reports that we have done over the past two years and go out to agencies in a more formal and structured manner to find out where they are at, and then we report on that.

**DR PATERSON:** You mentioned access to legal services, and it came through in a couple of submissions. I cannot remember which ones. When people are going through their parole application, if they do not have access to a lawyer or Legal Aid, there was a process by which they had to get it signed off. Sorry, I cannot remember exactly. I am referring to legal services through the parole system and your view on what we could do better.

**Ms McKay:** It was certainly something that was dealt with in our report, and there was a recommendation around it. I am trying to read them all now to work out which one it is. Ms Macleod, can you assist?



**Ms Macleod:** Certainly. The discussion in the report is on page 26, at paragraphs 3.95 through to 3.97. What we found was, particularly for those detainees who had legal representation, there may very well be better parole outcomes for them when they were supported in that way. I cannot recall, though, a specific recommendation that—

**Ms McKay:** No. I am just looking at it now and we have made some comments at 3.95 to 3.97 but we have not included them in a formal recommendation.

**THE CHAIR:** Is that something you are happy to take on notice? Just if you do notice some—

**Ms McKay:** Yes, we can come back.

**Ms Macleod:** Certainly.

**Ms McKay:** We can check and come back.

**THE CHAIR:** On behalf of the committee, I would like to thank you for appearing today on behalf of the ACT Ombudsman. When available, a proof transcript will be forwarded to witnesses to provide an opportunity to check the transcript and identify any errors in transcription. If witnesses undertook to provide further information, which I believe was the case, or took questions on notice during the hearing, answers to these questions would be appreciated within one week from the date of the hearing. Thank you again.

**Ms McKay:** Thank you.

**BOWLES, DR DEVIN**, Chief Executive Officer, Alcohol Tobacco and Other Drug Association ACT

**DEAN, MR LACHLAN**, ACT Regional Manager, Ted Noffs Foundation

**THE CHAIR:** Now we move to the next witnesses appearing today. On behalf of the committee, thank you for appearing today and for your written submissions to the inquiry. Can I remind witnesses of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement before you on the table. Could you confirm for the record that you each understand the privilege implications of the statement?

**Dr Bowles:** I confirm.

**Mr Dean:** Yes.

**THE CHAIR:** Before we proceed to questions, noting that we have half an hour with you gentlemen, would each of you like to make a really brief opening statement?

**Mr Dean:** We work most predominantly with young people between the ages of 12 and 25 across the ACT. For a lot of our young people, we work with them pretty extensively throughout their teenage years and then they transition into adulthood. At 18 often these young people are still working through a lot of the issues that they have been working through in adolescence. They end up breaking the law and get sent to adult prison and we tend to find that the treatment that we have been offering comes to an end but also that the options available to them are rather reduced in terms of appropriate treatment.

There are things like Solaris that are operating for young people. I think it really needs to be addressed that young people from 18 through to even 25, maybe 22, have very significant and differing needs to adults. At times in the justice system, these things are not taken into account.

I think the other probably really important factor is that the biggest determinant for young people as adults ending up in the adult system is their involvement in the juvenile justice system. It is a perfect point to put in interventions and to address stuff. I guess there are some resources but they are pretty stretched. The juvenile justice team here do a wonderful job, but they only have so many resources and a lot of the resources are geared towards supporting really young children who are in critical situations. There is not such a focus on the juvenile justice aspect. I think that there needs to be more done at the really early intervention stage.

**Dr Bowles:** I will talk just about the drug court or the drug and alcohol sentencing list, DASL. The ACT started this in 2019. That is commendable. Internationally, drug courts have not always been a success. We have had a good track record here in Australia, but the reason I raise that is to note that, just because you have started a drug court, you should not think: "Ha, ha! The work is done here." Internationally, the evidence strongly suggests that you need to focus not just on diverting people away from the criminal justice system but on the treatment system, to emphasise the therapeutic role that drug and alcohol services are going to play.

This is especially important here in the ACT, where the overall number of treatment places available is completely outstripped by demand. To its great credit, the ACT government—when COVID hit, the number of clients going through the DASL at times was lower than anticipated—allowed the extra spaces that were basically freed up in the treatment sector to go to other people in the community. So that was really good.

But what we would like to see is some improvement to the DASL, going forward. There are three broad areas where we think we can do this but, if I were to summarise, it would just be to shift the emphasis of the DASL more towards the therapy side and away from the court side. Broadly, I think we should be extending the eligibility and participation of people, including making sure that more women are going through it—women across Australia are the largest growth area in our prison population, which I think is something we want to avoid—and also expanding it to people with sentences of less than a year. We should be addressing the limitations that came with the really quick implementation process that got it started, where, to be honest, I think the therapeutic side was not as emphasised as it could have been. Thirdly, we need to better involve the treatment sector in planning and evaluation, going forward.

**MR BRADDOCK:** Dr Bowles, I was interested in your submission where, under recommendation No 6, you say that ATODA is aware of anecdotal concerns that referrals from mandated residential rehabilitation may be occurring. I just want to try to understand a bit more what lies behind that statement. Are we looking at a widespread problem or is this more limited in scope?

**Dr Bowles:** In someone's treatment journey, they pretty much need to have a house or an apartment or something. Early on, especially in the court, the evidence seemed to be that a whole lot of the treatment options that were being taken by the court were basically residential rehab. Residential rehab is absolutely great for people who need it. But it is expensive and there are a lot of other treatment options that can be more cost effective if someone is housed. Our impression has been that some people have been diverted to residential rehab, partly because they have a drug issue—fair enough—but there would be a range of options available to them, including counselling or day programs, and they were being put in residential rehab simply because there was no other house.

So we think teaming up with Housing ACT to make sure that people are housed, maybe separate from their drug treatment, if that is required, might be more cost effective and might also expand the range of treatment options available to people because in some cases people can find the transition from residential rehab back to ordinary life a bit abrupt. The capacity for the drug court to offer stepped care, to say, "All right; first we are going to have you in something really intensive and then we are going to step it down," seems not to be being used and we could, I think, be more effective with the taxpayer dollar that way.

**MR BRADDOCK:** What is the scale of the problem, do you know? Are we talking tens of years or—

**Dr Bowles:** It is early days and a lot of our information is anecdotal. At its peak, if

memory serves, there can only be 30 clients at a time. So you combine that with COVID and the total number of people who have gone through is not huge. I do not have specific figures and I would be hesitant to rely too heavily on that. To be fair, our impression is that that pattern is starting to change but that there is still an emphasis on day programs and not other stepped-down models of care. But the housing issue continues to seem to be a big issue for us.

**THE CHAIR:** On the same theme, earlier today we heard from the Minister for Corrections, and one thing that was brought to our attention in their submission was the relatively low number of individuals on a drug and alcohol treatment order—I think six in June 2020. That was the last figure they had. You have obviously submitted ways to improve both the eligibility and the monitoring of the scheme. Given that the courts have a pivotal role in who actually is presented, what have you noticed about—if you can comment—the court process itself and maybe the court rules and the administration of that entry point, which obviously does determine who ends up being filtered into the scheme?

**Mr Dean:** I can speak really briefly to young people. Regarding the drug court for young people, we have not had a referral for 10 years; it just does not exist. It appeared when it first happened, the first four young people—

**THE CHAIR:** Do you mind taking off your mask?

**Mr Dean:** We had the first four young people come through the drug court. For our service, we tend not to get the referral through from the courts; they tend to go to adult services. That is all I can comment on at the moment. But knowing that we can work with people up to 25, we do make note of that.

**Dr Bowles:** I think I am less able to answer that question than I would like, and I think that points to an opportunity for the court and the treatment sector to work more closely than I think they currently do. As an AOD sector, I think our visibility into the court's thinking is not always as high as we might like it to be. Similarly, regarding our ability to influence the broad thinking of the court, not so much on individual cases but on policy decisions, we feel that we have information to share that would be useful to the court but we have not really had the opportunity to share it.

From that, I would say that there is a perception among some of our members—and, I would suggest, some of the clients—that the court process is perhaps, not surprisingly, very legally focused. I think that, with time, there is an opportunity to evolve that into a focus that is more therapeutically oriented. I hope I am not sounding critical of the court. I think it is completely reasonable to expect it in the first instance, and it could be something that improves with time.

**Mr Dean:** Wherever we have noticed that young people have not been released to treatment in the past, we have reached out to magistrates in particular to talk about the service, and I think that that is probably a really simple approach, to get magistrates to come in. We can do an hour chat about the services that are on offer, which I think would give them some confidence in referring people through.

**DR PATERSON:** This inquiry is about community corrections in particular. It is my

understanding that the difference in the drug and alcohol sentencing is that, for those people who go through that, the offending has to be because of their drug or alcohol addiction, whereas there would be an awful lot of people in community corrections who have a drug and alcohol problem, even though it is not linked to their offending.

A lot of the submissions talk about rehabilitation and recovery and do recognise drug and alcohol problems. A lot of offenders would have drug testing, through their parole or their community corrections orders. I am interested in your perception of the services that are offered to those who have intensive correction orders, and if they are adequate. What more could be done to support those serving their sentence in the community with a drug and alcohol problem?

**Dr Bowles:** Correct me if I am wrong on this. You are really wise, I think, to note that some people are offending because of, or related to, alcohol or other drugs in a fairly direct way. For some, it is an issue in their lives but the line is perhaps less firm, although possibly if you had removed alcohol and other drugs from their lives the offending would not have happened.

Where drug courts have been successful internationally, they have been part of a suite of potential interventions for the justice system more broadly, ranging from a police officer saying, “Do you want a referral to an AOD service?” when someone is caught with a small amount of drugs, through to something like the DASL. One of the good things about the DASL has been that a number of places were specifically funded for the DASL.

In the ACT, where waiting lists are often really long, that is important because it allows the court to act swiftly in getting someone the medical assistance or the health assistance that they need. My understanding is that that is not the case for other diversionary programs, so people have to wait. And that, I think, is a real limitation. The sector as a whole struggles with triaging people all the time. One of the good things about the Drug and Alcohol Court is that it effectively increased the number of places that were available by adding funding.

One thing that will be really important, going forward, is that that funding remains block funding and not fee for service. Fee for service is like the court says, “Okay, we have someone. Health service X, can you please accept some money and take this person?” That is good for that person, but it effectively sets up a conflict between that person and someone from the community wanting to get in and access that service.

The bulk funding which we would advocate for increases the number of places and holds them for them, rather than putting people into conflict with each other. I think a really perverse outcome of the drug court is that it lengthens the waiting lists for people who are not going through the court and, because other diversionary systems do not have those mandated places, it can put people in the DASL in competition with people who are getting other forms of diversion.

**Mr Dean:** Yes. I would add that, rather than just being focused on the drug court, where it is about trying to support those people, for the broader court system there is a focus on the legal issues, the main issue; that is the thing on the table that everyone is focused on. Unpacking the reasons behind the crime actually takes a fair bit of time

and effort, and a bit of commitment. I think the focus is: “We have got a charge; now we have got to actually address that charge,” as opposed to: “What is happening in your whole of life? What sorts of services do you need?”

Where it works well, we have had lots of referrals through lawyers that we have worked with quite closely before. We have found people who have seen progress, all that sort of stuff, with their clients, through magistrates, through probation and parole, justice officers who have some belief in the services that are offered. I think that might be a way of being able to do it. Probably the biggest thing would be that there is a fair bit of shame around being able to put your hand up for treatment. That is still a factor around drug use. Even though someone might be before the court saying, “I have got a really big problem here and this is part of the issue,” that stigma is still there. It is a bigger issue, but it definitely plays a part.

**DR PATERSON:** Thank you.

**MR BRADDOCK:** I want to go to your submission, Mr Dean. You referred to the success rates of the PALM program. The figures there are for three months after they have done a program. Do you have the statistics over longer periods of time, and do those good results stick?

**Mr Dean:** Yes, we do. They are coming. I think we have just released a bunch of stuff through the University of New South Wales, going back over the last 15 to 20 years for those figures. The focus has some impact, so we have been able to compare that data with hospital admissions and incarcerations and police visits and all of those things. By and large, it will probably get a little bit better in terms of treatment.

Looking at the intervention for young people that we are talking about here, it is not a long-term study base. I think the research is coming next month. The University of New South Wales partnered with us last year to look at all that data. As Devin said, residential programs are expensive, but not as expensive as somewhere like Bimberi. It is also about the outcomes that you want. If you want to lock people up, jails are really good for that, but if you want people to get better or to change—

**MR BRADDOCK:** It is also good to have the evidence to be able to show, for the money invested now, what is the payoff down the track.

**Mr Dean:** Absolutely, yes.

**THE CHAIR:** Obviously, all of the individuals that are heading into incarceration or onto an order or are seeking treatment come through an education system. What are your observations on the education provided to steer them differently that is available in the ACT, and what suggestions do you have for improving that?

**Mr Dean:** I think the education institutions have a big enough role in providing education for young people. I would say that their role is not about teaching people to be good citizens. I think that is a broader community job, if that is the sort of question you are asking. I think that they can do some stuff around legal processes, things that you can do, and being able to offer more social support for young people that are struggling through the education system. They are clearly identified. If you go into

any school in the ACT and talk to the principals and vice-principals, they will be able to pinpoint the kids that are in trouble and need support. Whether that support is available is a different matter. So I would say that it is not the role of the schools to offer that support; it is a bigger society issue.

**THE CHAIR:** Okay. Dr Bowles?

**Dr Bowles:** I would support the observation that schools are great places to identify families that may need some assistance. In terms of AOD education, individual schools have a great deal of latitude. My understanding is that there is no clear visibility of what AOD education is provided in the ACT at a holistic level because of that. That is somewhat concerning, in that the literature on education is that some programs can be useful; some programs, perversely, can actually increase the risk of children trying or using illicit drugs. Like a drug court, just saying that you have education is a first step, but it is by no means the necessary step. It is obviously not going to be one of the top three priorities of any principal, so I think there could be scope for conducting an audit of what is happening and perhaps assisting principals with some clear guidance on training that has the backing in the literature.

**Mr Dean:** Just as an extra little point, we work pretty closely with Legal Aid, who support and come out and run groups for our young people who are already involved or more than likely are going to be involved in the legal system. They come out and give some guidance and education about navigating that system and about what things mean and how they seek support and stuff. If you were going to look at something that is able to provide some education, that would be a really good starting point: getting legal professionals to go in and talk about their experiences and about how to navigate those systems.

**THE CHAIR:** Thank you.

**DR PATERSON:** The next submission is from Wellways. They deliver a detention exit community mental health outreach program and, through their submission, acknowledged intensive correction orders and drug and alcohol treatment as being a key part of that. Do you engage with them? Through your expertise and drug and alcohol service provision, do you engage with other mental health focused service delivery for people who are on community correction orders?

**Mr Dean:** We work pretty closely with CAMHS, because it is child and adolescent mental health stuff. We work pretty closely with them when clients intersect. I guess those things can sometimes be seen as two very different objectives: that drugs and alcohol are this issue and mental health is this issue. It is better than it was, but I would say that there is still work to be done around being able to have some wraparound care.

**DR PATERSON:** In that intersection of the two things, when people are in the community corrections space, does there need to be more engagement with that or between the different services that are offered?

**Dr Bowles:** I think it is fair to say that there is room for improvement. In particular, the DASL specifically excludes people with mental health issues. That really limits

one of the key mechanisms available to offenders. Individual AOD services have relationships with mental health services and are looking to engage, in the interests of the individual clients, but in terms of a systemic bridge there is not a great deal.

**DR PATERSON:** Thank you.

**THE CHAIR:** On behalf of the committee, I would like to thank you both for appearing on behalf of ATODA and Ted Noffs. When available, a proof transcript will be forwarded to witnesses to provide an opportunity to check the transcript and identify any errors in transcription. I do not believe there were any undertakings to provide further information or questions on notice, so, on behalf of the committee, thank you for your attendance.

**Mr Dean:** Thank you.

**Dr Bowles:** Thank you.



**SMITH, MS JOANNE**, Outreach Coordinator, Wellways Australia

**THE CHAIR:** On behalf of the committee, thank you for appearing today and for your written submission to the inquiry. I remind the witness of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement before you on the table. That pink document.

**Ms Smith:** Yes.

**THE CHAIR:** Could you confirm for the record that you understand the privilege implications of the statement?

**Ms Smith:** Yes, I do.

**THE CHAIR:** Before we proceed to questions, would you like to make a brief opening statement?

**Ms Smith:** Yes, I would. I will try and be brief. I would like to thank you all for giving me the privilege of coming today. In trying to focus on what I really wanted to talk about today, I have come up with two areas, that being rehabilitation and not incarceration, and that there is no quick fix for what we do in this space.

The ACT government has committed to investing more than \$132 million over four years to develop and implement new programs and measures to reduce the rate of reoffending in seven focus areas. This is a step in the right direction. However, reducing recidivism does not go far enough towards preventing incarceration in the first place.

I have been working with people exiting detention now for over 15 years, leading teams both in the drug and alcohol sector and in the mental health sector. One thing that I applaud the government for is their community justice reinvestment strategy, which was first published in 2014. We are eight years down the track. It is still in its trial phase, and what concerns me is that it is not afforded to all persons in the ACT at this point. It is predominantly implemented for Aboriginal and Torres Strait Islander peoples, but now it needs to be implemented, I believe, across the board, available for everybody.

A sentence of incarceration, no matter how short it is, doesn't just deny a person their freedom for a period of time but can potentially punish a person to a lifelong sentence of shame and stigma. It can severely reduce their capacity to thrive and survive, access the necessities of life, from food, clothing and shelter to feeling safe and secure, to having a sense of belonging, love and family, esteem, purpose, community connection, health and wellbeing and the resources and networks to reach their full potential.

It is at the first point of contact for someone, in their initial interaction with the justice system, that as a community we can make the most difference. Early identification of a person's risk of incarceration due to disadvantage can and should be made at this point. Most people in detention are there for non-violent property and drug-related

offences committed by people who experience disadvantage. From my experience, these people fall into several groups: young people; those with mental illness and/or addiction; acquired brain injury; intellectual or physical disability; survivors of trauma, abuse and neglect; Aboriginal and Torres Strait Islander peoples; culturally and linguistically diverse communities; or a combination of all of these. I am sure this is nothing new to any of you.

**THE CHAIR:** Thank you. We might move to questions and you will have an opportunity, I am sure, to say the balance of your statement.

**Ms Smith:** Sure. Thank you.

**MR BRADDOCK:** I will jump now to going through that list. You did not mention foetal alcohol syndrome, so I was wondering if that is something you have noticed.

**Ms Smith:** Yes, it is. I have come across that in my experience. The one factor that I suppose became obvious was that it goes undiagnosed. It can be confused with other mental health concerns; it can be confused with having low literacy rates, whereas it is actually alcohol foetal syndrome. It is not recognised as often as it should be.

**MR BRADDOCK:** Okay. Thank you.

**THE CHAIR:** I have a question which I asked the previous witnesses as well, or touched on. What are your observations on the education system and its input into individuals in this space, and have you any suggestions for improvements?

**Ms Smith:** It is an opportunity. It is a real opportunity. I think that is the first point at which risk can be identified. But it may not be seen by educators and teachers as their responsibility. I think that we use the years that people are at school to identify lots of things, lots of risk factors. I believe that these risk factors can also be identified at that point. I was watching and listening and commenting in the other room, although you did not hear me, that I was a drug and alcohol educator in schools when the ACT used to deliver drug and alcohol education in schools. There is research and there is a lot of opinion about whether that actually works.

Going in there and saying to young people, “Don’t do this and don’t do that,” and “This does this and this does that,” does not work. We eventually ended up doing what we called party safe education. I think we all understand that young people will experiment, and it is accepted, but we want them to understand what that means. We want to educate them around how to do that safely, how to be safe, how to take care of themselves, what to do if they find themselves in trouble, where to go, that type of thing. I also believe that we could develop an assessment tool that could be delivered in schools that would identify potential risk factors, looking at social determinants for people. As was mentioned before, teachers know the kids that potentially fit into this category. If we could do that intervention at that point, hopefully I would not need to be here today.

**THE CHAIR:** You were a drug and alcohol education officer?

**Ms Smith:** Yes. I have been a drug and alcohol education officer, a counsellor.

**THE CHAIR:** When did that cease, and do you know why?

**Ms Smith:** It was when it became unfunded. It was around 2009.

**THE CHAIR:** Was that commonwealth funded or ACT funded?

**Ms Smith:** Funding is an interesting issue. The DECO program, for example, is funded by Health. They all come into different spaces. The education was, at that point, funded by the alcohol and drug policy unit.

**THE CHAIR:** ACT?

**Ms Smith:** Yes.

**THE CHAIR:** Interesting. Thank you.

**DR PATERSON:** I was very interested in your submission and the focus on community capacity building and the people and community around the offender, particularly with intensive correction orders. I asked this this morning of corrections—about how they support the family members who are living in the same house as the offender and how that whole network works. I am interested to know about your program and how you support family members. Are there further supports or funding that is needed?

**Ms Smith:** Wellways, as a service, supports not only the client, the participant, but the entire family. When you are working with this cohort you have often got the same disadvantage throughout the entire family, so it does not work to just provide support to that one person; you have to provide that to the entire family. We have a range of services, so we provide services to carers; we provide referral services to the rest of the family to access the support they need. We look at all the areas. We deliver a psychosocial model of care, a recovery model of care. It is about looking at every area of a person's life, and the family most definitely come along on that journey, if the person that we are working with wants their family to come along and if the family also want to come along.

Everything that we do is voluntary, so coming into this program, when they go in and do an initial assessment to come into this program, participants understand that it is completely voluntary. We get original referrals from the forensic clinical team in the AMC, as this is a Health program, and then it goes from there. But most definitely we provide services to all the family.

**DR PATERSON:** And how responsive are families to your services?

**Ms Smith:** It depends. Often they are estranged from their family members, but for those that still have family relationships, they are very open and very receptive to being a part of that recovery process: planning that recovery process, being involved at the coalface, and accessing services themselves. The outcomes are well worth it. The family unit can come back together.

The biggest obstacles that we face are the shame and stigma that are associated with being an offender, and trying to get people back into employment, trying to get people back into the private housing market, all of those types of things. We have managed to successfully advocate on behalf of participants to get their working with vulnerable people card. We often get down the track and they want to do what we are doing. We have successfully done that for a couple of our participants who now work on my team. That is invaluable. I cannot stress to you enough the value of peer work: having new participants come into the program and being able to work with someone who has been there and done that and successfully reunited with their family. Often what we do in that space is to help people reconnect or reunite with family after being estranged for years.

**MR BRADDOCK:** I am interested in any assistance to help people accessing the National Disability Insurance Scheme. Is that something you are also involved with?

**Ms Smith:** Yes, absolutely.

**MR BRADDOCK:** Can you tell me if that is working well or not, or what the issues are there?

**Ms Smith:** As we are a Health-funded program, we work in partnership with ACT Health and the clinical teams. With everybody that comes into the program, if they are eligible for the NDIS—and that is something that we negotiate with the clinical team—we work with the clinical team to get an application for the NDIS completed, submitted, and we follow that process until they are either approved or not approved, in which case we review it and we appeal, or if they are approved we work with them to get that implemented. A large proportion of the people that come into the program are eligible for the NDIS.

**MR BRADDOCK:** And are they being accepted by the NDIS? Are they given the supports they need?

**Ms Smith:** I would say probably 90 per cent of the time, yes.

**MR BRADDOCK:** Okay. Thank you.

**THE CHAIR:** On Wellways, as an organisation with clear goals and concerns, how well connected are you, for example, with other treatment services, other related organisations? Is there sort of an umbrella gathering in the ACT under which you could all benefit from one another?

**Ms Smith:** Certainly, having networks and knowing other services and what is available in the ACT is integral to what we do. We are a mental health organisation and, as we are all aware, our participants come with a range of disadvantage, so, yes, we have systems in place. Karralika is one of our partners, so we would refer to Karralika. We have a Karralika worker come in and we have a drug and alcohol group on a weekly basis. We also access the rehabilitation facilities.

We do go often outside the ACT for drug and alcohol rehabilitation because there is not enough here in the ACT. We certainly have a working relationship with Housing

ACT around acquiring housing. We have a relationship with EveryMan Australia. We also have a relationship with the Justice Housing Program. So, yes, we could not do what we do if we were not networking and involved with other services, most definitely—and particularly mental health, of course.

**THE CHAIR:** Thank you.

**DR PATERSON:** I am interested to know your views on intensive correction orders and how effective you think they are. Compared to detainees who go through AMC, do you see better outcomes for people who live their sentence in the community, as opposed to in an institution?

**Ms Smith:** Yes, I do. It has its challenges because they are not incarcerated, so risk factors are still there and there certainly is temptation, but it is about putting enough resources and support in place. One thing that has become very apparent to us over the years is that the people that we work with need a purpose, and that is something that we work strongly with them to achieve. If people have a reason to get out of bed in the morning, if people have a purpose, if people have things to do, they are less likely to offend, to have the room to offend. We try and create balance.

We also provide a social aspect to what we do, so we have a weekly activity where we go and do something social. I remember when we first started doing this and we decided to go down this road. One of the things that we did was go to the movies, something as simple as going to the movies, and some of the people in the program had never even been to the movies. So it is really important to us to now support our participants to be able to connect socially to the community, like the rest of us, and it is something that can often be quite foreign. Isolation is common in this cohort and that also leads to reoffending and the risk of ICOs not being successful. So it is very much a holistic approach; it is very much looking at the whole of the person and all of their needs.

**MR BRADDOCK:** I am just trying to understand how your service might be able to help people identify if they have got a mental health concern and obtain treatment and plan around that. Is that something that can be done under your service?

**Ms Smith:** Yes. It is fundamental to what we do. When the forensic team in the AMC refer somebody to our program there will already be a mental health plan in place, and we will work with the clinical team in the community to ensure that that recovery plan is implemented. Our staff are all trained; all Wellways staff are minimum mental health cert IV trained. We have therapeutic interventions, as an organisation, that we implement as well.

We support people to manage, to understand their mental illness, what it means to have bipolar, what it means to have schizophrenia, anxiety. Mild to severe mental illness we work with: how to understand that, how to manage their symptoms, how to identify when they are becoming unwell and then what to do when they recognise that they are becoming unwell. We educate about the importance of medication. We educate about the importance of keeping up with their clinical team, the importance of regularly seeing your GP. It is all written into their recovery plan and staff are trained around that.

**MR BRADDOCK:** Thank you.

**THE CHAIR:** I think we might draw this to a close. On behalf of the committee, I would like to thank you for appearing today on behalf of Wellways Australia.

**Ms Smith:** Thank you.

**THE CHAIR:** When available, a proof transcript will be forwarded to you, to provide an opportunity to check the transcript and identify any errors in transcription.

**Ms Smith:** Okay.

**THE CHAIR:** I do not believe that there were any questions on notice or pending information. We do appreciate you coming and speaking to us.

**Ms Smith:** Great. Thank you very much for your time.

**DR PATERSON:** Thank you very much for your contribution.

**SHORING, MS JENNI**, Acting Executive Director, A Gender Agenda

**THE CHAIR:** I welcome our next witness today, Jenni Shoring from A Gender Agenda. On behalf of the committee, thank you for appearing today and for your written submission to the inquiry.

**Ms Shoring:** Thank you for having me.

**THE CHAIR:** Can I remind you of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement that is before you on the table.

**Ms Shoring:** Yes, I have read it.

**THE CHAIR:** Could you confirm for the record that you understand the privilege implications of the statement?

**Ms Shoring:** Yes, I understand.

**THE CHAIR:** Thank you. Before we proceed to questions from the committee, would you like to make a brief opening statement?

**Ms Shoring:** I would. Thank you for the opportunity to meet with you today and talk about community corrections and our submission. At A Gender Agenda, we represent transgender, diverse and intersex people. We as a community certainly experience disproportionate levels of stigma and discrimination. As such, there are significant consequences that arise from that, when it comes to the justice system. Unfortunately, we are living in a world where, in a number of cases, people are cast out for trying to live their true lives. They could be made homeless, be underemployed or unemployed. This has significant challenges.

For us, and certainly in our submission, the focus is on supporting our members. We see extra support around mental health housing as the first step towards fixing the circumstances. We have some specific needs to protect our community in the corrections space. That is why we put the submission forward and why I am here today, to make sure that we are looking after and protecting our incredibly vulnerable community.

**THE CHAIR:** Thank you. I noticed that in the opening paragraph of your submission you say you have both direct and recent experience in supporting TGI people with experiences in the community corrections system in the ACT. You might want to take some of this on notice, in terms of fact digging. Firstly, roughly how many TGI people are in the community corrections system? Do you have a sense of what percentage that might be? What particular issues are facing them? Obviously, there are many environments that they can be in, with respect to the spectrum of that whole part of governance in the territory. What have you observed as particular concerns?

**Ms Shoring:** In relation to the actual percentage in custody at the moment, I would need to take that on notice, and we will respond to that.

**THE CHAIR:** Thank you.

**Ms Shoring:** With respect to concerns that we have about members that have been in custody and are in custody, it has been about access to hormones or gender-affirming treatment. It has been about discrimination through misgendering, through not being accepted as the gender identity that they specify that they are. We noted in our submission that, while it should be the case that they actually express their gender identity, there are times when that can be overridden in the justice system. We certainly believe that that should be the gender identity with which they express themselves. There is mental stress and anguish, especially when you remove someone's ability to access their hormone treatment. That is, as we see it, no different to someone that is a diabetic or has a requirement for insulin. If you are on a hormone treatment plan for correctly identifying yourself, having access to that ongoing treatment is a required part of that.

**DR PATERSON:** Given that this inquiry is around community corrections, with respect to your understanding of transgender, gender diverse and intersex people in the ACT, with the differences in experience for those that may be incarcerated in AMC versus those that go through community corrections orders, do they experience less discrimination through a community corrections order and are they less subjected to those things than at AMC?

**Ms Shoring:** Correct. With a community corrections order there is less of that because you do not have the incarceration; you do not live with the general population. While in some circumstances there may be a private shower area or what have you, you are still living with the general population for the most part, as you identify, and that comes with inherent risks.

**MR BRADDOCK:** You mentioned misgendering. How many instances do you know of that happening? I am trying to get an idea of the scale of that problem.

**Ms Shoring:** It is hard to mention that scale specifically in corrections. I know, certainly, of one case where it happened a number of times. If I go to the general population and get called "sir" frequently, even though I present like this, it is actually a significant population issue. I would think that would be the case in all circumstances, but it is highlighted when it is a guard that is doing it as a means of having power over an inmate.

**MR BRADDOCK:** That is what I was trying to clarify: how rampant is it, or is it even rampant, in the corrections system?

**Ms Shoring:** It has been mentioned in studies, so it is rampant enough.

**THE CHAIR:** What kind of notification is given to the custodial officers in a prison as to how someone identifies?

**Ms Shoring:** They are given the opportunity on their intake to identify as they identify and, with the exception of it being overridden, that is how they should be treated and seen. If I identify as female, that is how I should be treated and seen.



However, obviously, my voice is very distinguishing; my face is quite distinguishing, with the fact that I need to shave. There are those times where it is quite visible, and that can be used against you.

**THE CHAIR:** Is it possible that it is just a procedural gap, in that perhaps the officers do not actually know?

**Ms Shoring:** It could very well be that, too, and there may be a requirement for education.

**THE CHAIR:** You mentioned that sometimes the gender choice can be overridden in the justice system. Where in particular do you think that happens?

**Ms Shoring:** Excuse me while I return to my notes. ACT Corrective Services policy contains a provision that allows for a detainee's self-identification to be overridden if it is determined through risk assessments that the detainee should not be placed there. It may be that they are at the start of their journey and they feel that, for that purpose, they are not going to place them within that particular housing or group, even though that is in complete contrast with how they believe they are.

**THE CHAIR:** That is one instance. If you are aware of others, you are welcome to let us know after the hearing.

**Ms Shoring:** That is one instance that I know of, but that is actually a policy that is in place.

**DR PATERSON:** Drug and alcohol treatment orders: I am interested to know, in residential facilities, too, if you have been given a drug and alcohol treatment order, the extent of the stigma. I know that some residential facilities are gendered as well. Are there the same issues there?

**Ms Shoring:** Yes, absolutely. It is a common theme. It is a common theme with shelters, when you are released and if you are homeless. We have a case of someone who was released and who was taken to a homeless shelter. They identified as female; they were taken to a men's shelter and they were given men's clothes. That is what their ID said and that is how they were viewed; that is what happened to them.

**DR PATERSON:** Does that go to greater education of service providers and—

**Ms Shoring:** Completely; absolutely. A significant amount of education is required around gender diversity—everything from misgendering to just understanding that this is how they believe and feel that they are. When you are talking about someone that has a mental illness, that initial point of contact and being misgendered leads to a very negative pattern that we certainly see with our community, whereas if you get that part right, they are much more willing to go along with and to continue on a positive path, because they have been recognised for who they are.

**DR PATERSON:** Do you believe that is changing for the better? Are there shifts in this or is it really stuck at the moment?

**Ms Shoring:** I would suggest it is really stuck. We are certainly working as an organisation to try and get in with some of the teams. We have training booked, hopefully, with the HAART teams, the high-risk mental illness teams, to work with them around that. We have developed training with the Office for Mental Health and Wellbeing on guidance for all of the mental health guidelines around supporting trans and gender diverse people. But when we have the Prime Minister of the country come out and not recognise trans people, or they are too complex for us to deal with in a bill, unfortunately, that adds to the stigma and does not assist in any way.

**MR BRADDOCK:** Is there evidence of people taking up less effective treatment pathways in order to avoid the stigma from residential programs and the like?

**Ms Shoring:** Absolutely; or avoiding treatment, because a negative experience with the medical system will, unfortunately, lead to people not feeling confident that they can talk to a doctor. While gender dysphoria is not actually a mental illness, it goes quite hand in hand with anxiety and depression, we find, especially if it is not able to be treated.

I refer to myself, as an example. I suffered depression for years, and it was only when I started the process of transitioning that I was able to get over the depression and actually feel comfortable in who I am. That is certainly the case with a significant number of trans people; as the research shows, youth and adults suffer much higher risks of anxiety and depression than the general population and also have much higher rates of self-harm and suicidality than the general population, based on the fact that they are not able to be who they are.

**MR BRADDOCK:** Are the concerns of TGI members being considered and addressed as part of the sentencing and court processes when these are raised?

**Ms Shoring:** I do not believe our experience is that they are. We would seek for people to be recognised, certainly in the parole system, with some of these challenges that you find, especially coming out of corrections and trying to find work. That is incredibly challenging if you are a transgender person. I was in retail management for 20 years prior to this. I lost my job through COVID. I have been through five months of not being able to find a job, even with 20 years of management experience here in the ACT, simply because I am transgender and they did not want to have a transgender manager at the front of the store.

It is still significantly challenging for transgender people to find work. It is significantly challenging for transgender people to get care, whether that be mental health or medical. We are constantly seeing new people attending our Friday centre every week, looking for health care and support. The number of GPs is very minimal. Obviously, with COVID, there is huge mental health stress. There are certainly some concerns around both the intake and the exit points around that support that is required.

**THE CHAIR:** When you say you did not think you would be hired because they did not want a transgender person at the shop counter, was that something that you were told or—

**Ms Shoring:** No, because having worked in retail for many years, you would know that. But when you are told that you are the best candidate, but someone who is 15 years your junior with no management experience takes the role, you put two and two together. When you get to the point of your references being checked, the final interview being done with the state manager et cetera, and you are told, “No, sorry; we can’t give you the job,” and it is re-listed the next day, when you are completely qualified for the role, unfortunately, you do put those things together.

**THE CHAIR:** Particularly with the corrections system, obviously, that is the focus of our inquiry, have you made submissions to government about, from your point of view, disparity in treatment, lack of opportunities or other ways that the whole governance in the corrections space could deal with TGI people?

**Ms Shoring:** We are working with the Alexander Maconochie Centre around getting our peer support workers to support people in there so that we have the ability to talk to people there and get more upfront information from those people. We are also working with them around reviewing their policy and seeing whether it comes out in the next round of reviews of policy. We are certainly working with the ACT justice department around providing support in that area so that, hopefully, we can see change in order to better support people within the corrections system.

**DR PATERSON:** Our corrections system is so gendered; right?

**Ms Shoring:** Yes.

**DR PATERSON:** Can you speak about someone who is starting their transition process? If they do come into contact with corrections, how will they experience it? How do they navigate that with corrections, when so much of this is gendered?

**Ms Shoring:** That is a really fantastic question, and it is a really hard one to answer because everyone is different. There are some people that will even be at the start of their journey and not be forthcoming about it. If you are thinking about female to male, the transition is relatively quick; hormones will take effect fairly quickly, facial hair starts, the arm hair starts, leg hair starts and the voice starts to deepen. From that perspective, it can be, to some extent, easier for them to potentially blend in, in the prison. If you are going male to female, it is much harder. Also, if it is very much at the start, you may just go into the male system because that is the safer route. Unfortunately, that is not very supportive from a mental health perspective, nor is it supportive from the point of view of being your true identity. But from a safety perspective, that would seem to be the most logical way to do it.

**MR BRADDOCK:** Safety for whom? Not necessarily the person.

**Ms Shoring:** If you are in there for a short period of time and you still have access to your treatment, you are not going to see changes; the male to female transition takes a much more significant amount of time. For a sentence of less than 12 months, there will probably not be much in terms of visible changes, from a physical perspective, which is where you would probably have that concern. Obviously, if it is for a longer period of time then, yes, absolutely, that would put your physical safety at absolute risk.

**DR PATERSON:** How often do peer support workers engage with detainees?

**Ms Shoring:** At the moment we have not been able to go into the system at all. That is what we are trying to establish so that we do have the ability to do that.

**DR PATERSON:** You are advocating for that not just within the AMC but also in community corrections?

**Ms Shoring:** Yes. We are starting at one point and working from there.

**MR BRADDOCK:** Have you been given a reason why you have not been able to access the AMC yet or is it just the case that the service has not stepped up yet?

**Ms Shoring:** I have only been in the role for nine months. My director, who is on long service leave, would probably be able to talk more specifically about how we have applied in the past. However, with a change of leadership there, and based on the experience previously in Victorian prisons, they have been much more accepting of us doing that and reaching out. It is probably being driven internally, as well as by a change in staffing there.

**DR PATERSON:** Is there a jurisdiction or a country that handles this issue well?

**Ms Shoring:** No. I wish I could say there was best practice, but, no, there is not. As we would find with the consent bill, the UK certainly does not deal with it very well at all; nor does the US. At this stage there is no country that does it very well that we could use as best practice, unfortunately.

**DR PATERSON:** Maybe we can do that.

**Ms Shoring:** That is correct. That would be wonderful, yes.

**THE CHAIR:** On behalf of the committee, I would like to thank you for appearing today on behalf of A Gender Agenda. When available, a copy of the proof transcript will be forwarded to you, to provide an opportunity to check the transcript and identify any errors in transcription. There were some questions that you took on notice.

**Ms Shoring:** In relation to the population within the current system; I will find out and get back to you.

**THE CHAIR:** It would be appreciated if you could provide answers within one week of today.

**Ms Shoring:** Absolutely.

**THE CHAIR:** Thank you.

**KUKULIES-SMITH, MR MICHAEL**, Chairperson, Criminal Law Committee,  
ACT Law Society

**THE CHAIR:** I welcome the next witness appearing before us today, Michael Kukulies-Smith from the ACT Law Society. On behalf of the committee, I would like to thank you for appearing today and for your written submission to the inquiry. I draw your attention to the protections and obligations accorded by parliamentary privilege, and draw your attention to the privilege statement that is before you on the table. Could you confirm for the record that you understand the privilege implications of the statement?

**Mr Kukulies-Smith:** Yes, I am familiar with that.

**THE CHAIR:** Would you like to make a brief opening statement?

**Mr Kukulies-Smith:** The Law Society has made a submission in relation to this matter and the areas identified in the terms of reference. Principally, the submission that we have made has been around the parole system and matters we think could improve the parole system. I refer in particular to circumstances where there are shorter terms of imprisonment, and therefore shorter periods of parole, where members of the society identify that there are a number of circumstances where often the parole process appears to get frustrated by the administrative processes around it.

We think that there could be reforms. We have outlined some of those in our submission. They amount in real terms to adopting practices similar to New South Wales, and indeed the commonwealth, in relation to automatic parole for shorter terms of imprisonment, and not having the same degree of administrative process and full parole hearings as the default position in relation to what occurs now in such cases.

We think this would have the advantage of extending the period that the prisoner has on parole in the community. Sometimes it gets lost in popular reporting and in media reports; it is sometimes suggested as, and parole periods are seen as, the offender being released. But they are often very important periods of an offender's prison sentence and rehabilitation process.

I saw some of the sessions earlier today that focused a lot on drug issues and issues of that type; addiction and drug issues are often real issues. Whilst they can be treated, and there are courses in the jail, ultimately it is very significant to have people learning to live with and beat those addictions in the community. That is why periods on parole are very important.

Where there is a short sentence, and therefore a relatively short window for supervision by community corrections in the community, it is important that that be taken advantage of and not eaten up by administrative processes that mean that supervision does not happen. It is one thing to learn to live with and beat addictions in a custodial setting; it is another where the temptations et cetera are all around the person. To an extent, with the jail process, whilst we know—we are not naive—that there are drugs in jail, and there is potential for gambling et cetera to go on in

custodial facilities, the reality is that they are not all around in the same way that they are out in the community. It is important that that part of a sentence be properly realised. The resources of the government, in the Law Society's opinion, could be better spent in those instances on the actual supervision of these people in the community, rather than on the administrative burden of conducting the parole hearing, having all of the written submissions that are necessary to conduct a parole hearing et cetera, which is a significant financial burden for the state.

Those are probably the matters I wanted to raise; otherwise I rely on what is in our written submission. There are also some comments there in relation to some of the issues that have arisen over the period that intensive correction orders have been available; principal among them being the issue that section 29 of the Crimes (Sentencing) Act imposes a prohibition on a combination sentence including full-time imprisonment. It creates problems when a court is confronted with a person who has been in custody for a period of time and wants to recognise that custody. The most convenient way, usually, to make it clear to everyone is to backdate the sentence. But they may then wish to put that person on an ICO. With the way that the act is currently worded, unless they have multiple offences and you impose one period of imprisonment for the backdating in relation to one discrete offence and impose the ICO on the other discrete offences, if there is only a single offence before the court that is just not possible under the current act. It would seem desirable to have that flexibility.

**THE CHAIR:** Thank you. We might move to questions. I note your comment on page 1 of the submission about the three-month waiting time from the moment of an application to the Sentence Administration Board for parole, which, obviously, can create problems for short sentences. Why do you think it takes that long? Is it an issue to do with the complexity of the application; hence, is it being analysed? Is it the resourcing available to the SAB? Is it even how often the SAB meets to consider such applications?

**Mr Kukulies-Smith:** A combination of the latter two, I would suggest, from experience. It is the frequency, or infrequency, of the Sentence Administration Board hearings. That means there are only a limited number of slots available for matters to be heard. On top of that there is the issue that, before any matter goes there, there is a pre-release report prepared. That is fairly comprehensive, and appropriately so, in cases where it is going before the SAB. Appropriately, it is a comprehensive document that deals with the criminogenic risk factors of a prisoner in terms of their release prospects et cetera. It also deals with their time in custody et cetera. Necessarily, that requires some time to prepare because interviews need to be conducted and records need to be properly consulted and reviewed in order to prepare those reports.

Our position, though, would be that, where it is a very short period of sentence and a relatively short parole period available, it is really unnecessary to go through that whole process. It would be better for the resources to be targeted to the implementation of rehabilitation programs on parole et cetera.

**THE CHAIR:** How often does the Sentence Administration Board meet?

**Mr Kukulies-Smith:** For the exact timing I would have to take that on notice and come back to you.

**THE CHAIR:** Okay; thank you.

**DR PATERSON:** I am very interested in this automatic parole issue that you are explaining. If there was an incident in AMC, for example, how would you stop someone getting parole? If there had been an incident, or some reason why they should not get parole, if they were seen as a risk, how would that process work if it was an automatic parole period?

**Mr Kukulies-Smith:** It would depend partly on what you define as an incident. If it was a serious matter, it may well have resulted in a charge. Then they may be subject to the bail laws in relation to the fresh charge, and so automatic parole may have no practical effect. It might just turn them from being a prisoner into a remandee.

**DR PATERSON:** Yes.

**Mr Kukulies-Smith:** There are scenarios where that would be the case. There would be nothing to stop, though, a legislative regime, for example. I do not think we would have any particular issue if there was a regime that said if a person had a serious disciplinary record—and that would be a matter of threshold and definition—the automatic would not apply. But our proposition is that the default position should be automatic in those shorter sentence scenarios.

We would not have a difficulty if there was a legislative regime that allowed for other than the default to apply in specified circumstances. But the default should be the automatic release, without the need for intervention and inquiry by the Sentence Administration Board. At the moment that is not the case. At the moment they need to go through the formal processes.

**DR PATERSON:** Yes. What is the logic behind parole periods? Is it just an overarching mechanism of the system that it does not matter what you do; you go through this process? Or is there logic behind it?

**Mr Kukulies-Smith:** The long-term rationale, the historical rationale, for parole periods is that a person who has spent time in custody needs a period of reintegration into the community. The fact is that they have committed serious offences and they have ended up in custody for long enough, because very short sentences do not require parole periods.

**DR PATERSON:** Yes.

**Mr Kukulies-Smith:** It is only sentences over 12 months. The rationale is that those people who find themselves in that situation would benefit from assistance to keep them on the right path, and some of that needs to be done in the community, in supervised reintegration.

Obviously, in the extreme example, where a person has been in custody for 20 or more years, it may be a very different world that they are released into from the one

they left when they were placed in custody, so they need assistance. It is a way of enforcing that assistance so that they do not have a choice about whether they accept it or not, because their liberty is conditional. It also allows for them to be returned, if they do not abide by those conditions. They are still subject to their sentence, so they do not need to go back to court to be taken; they can administratively be returned to custody because they are still under the sentence of imprisonment.

**DR PATERSON:** If you had an automatic parole release, do you think that would change the way judges would give the sentence? Is there a chance that you may end up having people with longer sentences?

**Mr Kukulies-Smith:** I do not believe so. I mean, they are setting the sentence and the parole period on the assumption today. In my experience of appearing before judges over an extended period of time in relation to people who find themselves stuck in custody waiting for parole because of administrative delay, usually the judges express frustration or surprise or disappointment in that. I do not think it is going to change the sentence that they are imposing, because the assumption of the sentence is, firstly, that the head sentence is appropriate.

**DR PATERSON:** Remains the same.

**Mr Kukulies-Smith:** And then that the non-parole period has been arrived at relevant to the person. While there are no hard and fast rules about what a parole period needs to be, there are sort of accepted guidelines. As a rule of thumb, a non-parole period is typically around two-thirds of the sentence, in the ordinary case. In the extraordinary case, being a person's first time in custody, not having had the shock of a jail experience et cetera, often the ratio will go somewhere towards 50 per cent, rather than the two-thirds. In the case of someone who either is getting a very extended sentence or is a recidivist offender, you may see that move up perhaps to 75 to 80 per cent. They are some rules of thumb, rather than hard and fast guidelines.

**DR PATERSON:** Thank you.

**MR BRADDOCK:** With respect to intensive corrections orders and you calling for reform to allow suitable individuals to be sentenced to an ICO despite a pre-sentence of full-time custody, what does that reform look like and what limitations or constraints might be put on that reform?

**Mr Kukulies-Smith:** The reform we are asking for would simply be to take out the prohibition in section 29 around combination sentences not being able to include that, which is currently what precludes that from happening. In a practical sense, it may not necessarily change sentences that are happening today in terms of physical outcomes. There are a number of judgements that lawyers refer to and rely on, principally decisions of Justice Penfold and Justice Refshauge, that identified the issue—and we have cited those by Justice Refshauge that originally identified the issue.

There have been workarounds, for want of a better term, adopted by the court to allow an ICO to be imposed in such circumstances. The danger, though, is that—and this is identified in at least one of Justice Penfold's judgements on the issue—it can sometimes mask from the public what was the real sentence that was imposed. That



can be negative in two ways. Firstly, it affects public confidence because if, for example, a person has spent six months pre-sentence in custody and the judge has taken that into account, and it is partly because of that that they are going to consider an intensive correction order and put the person on a two-year sentence for an intensive correction order, it will appear to the public that, in the current system, they would just have to pass the two-year jail term.

The public may say that that is grossly inadequate. But it has hidden the fact that the reality was that the person also served six months in full-time imprisonment. The public may have been comforted, had they heard that it was six months full-time custody then a period under an intensive correction order. That gets masked at the moment, so there is a confidence issue.

The other is that it can blur statistics. The High Court has consistently told us that sentencing is a matter of instinctive sentences and we do not place much weight on statistics. The reality is that we do keep statistics. The ACT has a sentencing database, and courts can have some reference to it in considering an appropriate sentence.

The example I just gave will be putting false data into it because what will be captured under the current system is not the real sentence that the person served. It would be a version of it that conforms to the current requirements and has been arrived at, and lawfully arrived at, but it simply does not reflect the reality and therefore can distort statistics. Then the later sentence following it might adopt those statistics, perhaps without the individual case being identified, and it could place false downward pressure on what is actually the appropriate sentence for an offence at the time.

So there are two practical difficulties that have been identified by the courts. One is the public confidence. The other is that it can create a false precedent, as it were, or a misleading precedent that then could lead other cases undesirably into error in terms of sentencing in the future.

**MR BRADDOCK:** Okay.

**THE CHAIR:** I have a question about drug and alcohol treatment orders. We heard a bit earlier today—and in the report from the Minister for Corrections—that, as at June 2020, there were six offenders serving a drug and alcohol treatment order. I guess the point I was making then, and now, is that that is a very low number. Are you aware of any court processes that could be approved, or rules amended, to increase the pool of possible eligible offenders for these orders?

**Mr Kukulies-Smith:** At the present time, the experience of members is that the availability of drug and alcohol sentencing list matters is increasing. That is anecdotal. I cannot give you the exact numbers, but the anecdotal evidence is that it is increasing.

**THE CHAIR:** Is that due to any amendment in court process or rules?

**Mr Kukulies-Smith:** I believe that there is now a community-based part of the scheme being implemented, as well as a residential part of the scheme, and that has increased numbers. I can't speak to the percentage that each of these contributes to the

overall, but there has also been a lifting of COVID restrictions, or COVID consequences. They were not really restrictions in this context. They were just consequences of the other restrictions around COVID that limited or slowed down the implementation of the Drug and Alcohol Court. That is my understanding. As COVID restrictions have lifted and the courts have, more generally, ramped back up towards normal operation, so too the Drug and Alcohol Court work has increased. It was just happenstance, timing, that the Drug and Alcohol Court was coming into being at the same time as COVID arrived.

**THE CHAIR:** Right.

**Mr Kukulies-Smith:** So some of it, I think, is purely historical happenstance. One issue that the Law Society would like to see as an aim, at least in the long term, is to extend the drug and alcohol list to include Magistrates Court matters being capable of being referred, rather than it applying only to Supreme Court matters. It seems to follow, as a matter of common sense, that a lot of people first get themselves into a little bit of trouble around drugs before they get themselves into a lot of trouble around drugs. Therefore, getting them at the earlier stages would be desirable, and diverting them at that stage, rather than waiting until they become somewhat habitual or serious offenders before we intervene and avail them of this intervention. In the long run, it would seem a better practice to try to treat those people and deal with them through the more intensive rehabilitation that is available through the drug and alcohol sentencing list, at that earlier stage, rather than waiting until they reach a more chronic level, both of their offending and of their addiction.

**THE CHAIR:** Thank you.

**DR PATERSON:** I am really interested in access to legal representation. You brought it up in your submission. In the Ombudsman's submission it says they raised concerns about access by detainees to legal representation to support them through parole application processes. I am just wondering: do detainees have appropriate access to legal representation in our system, through parole processes?

**THE CHAIR:** If a quick answer is possible, Mr Kukulies-Smith, we will go—

**Mr Kukulies-Smith:** They certainly can avail themselves of lawyers. The Legal Aid funding issue, I would have to take on notice. Because I myself do not work for Legal Aid, I am not familiar with that. I have not ever received a grant in relation to parole.

**DR PATERSON:** I will ask them as well.

**Mr Kukulies-Smith:** I am happy to take that on notice.

**THE CHAIR:** Thank you very much.

**Mr Kukulies-Smith:** That aspect of the question.

**DR PATERSON:** Thank you.

**THE CHAIR:** We have come to a close. On behalf of the committee, I would like to

thank you for appearing today on behalf of the Law Society. When available, a proof transcript will be forwarded to you, to provide an opportunity to check the transcript and identify any errors in transcription. I note that you have taken some questions on notice. It would be much appreciated if you could provide those answers within one week of today.

**Mr Kukulies-Smith:** Certainly. I have got those as the Sentence Administration Board's sitting dates or sitting frequency, and the issue in relation to Legal Aid and parole applications.

**THE CHAIR:** Excellent. Thank you. Thank you again for your time.

**Mr Kukulies-Smith:** Thank you.

**THE CHAIR:** The committee will now suspend for a short break and reconvene at 3.40 pm.

**Hearing suspended from 3.22 to 3.41 pm.**

**KILLEN, DR GEMMA**, Head of Policy, ACT Council of Social Service  
**KELLY-CHURCH, MS RACHELLE**, Gulunga Program Manager, ACT Council of Social Service

**THE CHAIR:** I welcome the next witnesses appearing before our committee today, Ms Rachelle Kelly-Church and Dr Gemma Killen, from ACTCOSS. On behalf of the committee, I would like to thank you for appearing today and for your written submission to the inquiry. I remind witnesses of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement that you have received. Could you confirm for the record that you understand the privilege implications of the statement?

**Dr Killen:** Yes.

**THE CHAIR:** Before we proceed to questions from the committee, would one of you like to make a brief opening statement?

**Dr Killen:** I will make a really short opening statement. I want to thank the committee for the opportunity to appear today and particularly for the opportunity to appear virtually.

As you will know, the ACT Council of Social Service has long advocated for serious reform of the justice system in the territory. Engagement with the system can lead to poor health, employment and housing outcomes, and can seriously entrench poverty and disadvantage as well as lifetime engagement with the justice system.

Although community corrections are often preferable to incarceration, they should not be seen as a way to expand the reach of the justice system or to impose more punitive measures on people's lives. The number of people under community corrections orders in the ACT has been rising steadily over the last seven years, without any substantive or sustainable reduction in the number of people in prison.

The priority for this inquiry should be to figure out how to keep people out of the justice system wherever possible, by investing in services and supports that keep people safe, healthy and connected to community. Any investment in community corrections must be matched by investments in restorative justice and justice reinvestment programs, including restitution, reconciliation and mediation conferencing.

We must see a significant prioritisation of public and social housing in the ACT, as well as funding for mental health supports and drug and alcohol treatment services in the community. We also need urgent investment in Aboriginal community-controlled organisations and services. Aboriginal people are 12 times more likely than non-Indigenous people to be subject to community corrections orders in the ACT, and they have a lower completion rate of 69 per cent compared to 78 per cent for non-Indigenous people in the last reporting period.

This tells us that community corrections are not set up in a culturally appropriate or safe way and that absolutely contributes to high rates of recidivism and incarceration

for Aboriginal people in the justice system in the territory. We know that community controlled solutions, such as the circle sentencing court, are successful in reducing rates of incarceration and recidivism, when people are able to access them.

When people do come into contact with the justice system, as through community corrections, it is an ideal time to ensure that they have access to high-quality health care and support systems to lift them out of disadvantage and prevent ongoing engagement or incarceration.

Finally, I note that all of these things have been said before in previous inquiries, and we would like to see the recommendations from previous inquiries implemented.

**THE CHAIR:** Thank you. Obviously, you will have an opportunity to fill out details in response to our questions. I have a very broad question. I am sorry I had not thought of this before. Regarding the over-representation of Aboriginal and Torres Strait Islander people, where do you think this is not a problem for an Indigenous community?

**Ms Kelly-Church:** Was the question: where is over-representation not an issue?

**THE CHAIR:** Yes; either within a part of this country or even in other jurisdictions around the world.

**Ms Kelly-Church:** I do not think there is a jurisdiction that does not have over-representation, but I am not 100 per cent certain of that, and I cannot comment on other countries.

**THE CHAIR:** Are there other jurisdictions within our country, whether it is at the council or state level. or a region, where they seem to have got this right?

**Dr Killen:** We would probably agree that there is nowhere in Australia getting it right in terms of Aboriginal people in the justice system. We also note that in the ACT there are particularly high numbers of people in the justice system, and we have some of the lowest rates of community corrections completions for Aboriginal people in the country here in the ACT.

**DR PATERSON:** I read in one of the submissions about Yeddung Mura, the new parole program that will be trialled for the next six months around culturally safe reporting for people on parole. That seems like a really interesting, innovative attempt at cultural safety. What other programs could we implement in the ACT to support Aboriginal and Torres Strait Islander people in community corrections?

**Ms Kelly-Church:** I have not thought about this in great detail, but there is a lack of programs run by Aboriginal community-controlled organisations. This remote reporting has been on the cards for a very long time, and it is a shame that it is only offered at Yeddung Mura, given that it is over on the south side—whether there is a north side equivalent or whatnot.

With respect to other things, such as culturally safe mental health programs, I am not sure whether there is anything specific. With healing, that is more appropriate to our

community. With drug and alcohol, we have the Bush Healing Farm, but that is only for a select group of people who are eligible. It is not a residential rehab facility, which is something that we desperately need. With respect to education and employment, I think we are lacking in those areas as well.

**DR PATERSON:** We spoke to the minister and JACS this morning. They were saying there is hundreds of millions of dollars in investment going into innovative programs. They are very open to ideas, so I am keen to understand if there is a particular program or particular area of community corrections that may assist Aboriginal and Torres Strait Islander people to get through their sentence.

**Dr Killen:** Some things that we have noted, particularly about the Bush Healing Farm and expanding their inclusion and eligibility criteria, would be good, as well as the plans for the residential rehab. Those would be good things. There are systemic issues like housing, for example, and making sure that there is an Aboriginal community-controlled organisation that can inform housing in the ACT would be really helpful.

It is about ensuring that, whatever is done, the community is consulted readily and continuously. When we consulted for this submission, we spoke to the ACT Nannies, for example, and they had not heard about the residential rehabilitation centre. That becomes problematic when there is a lot of money going towards something like that, which we think is good, but there needs to be consultation with the community as well.

**Ms Kelly-Church:** Flexibility in terms of eligibility is crucial. Also, a lot of the things are nine to five. That does not necessarily work for our people as well.

**MR BRADDOCK:** On page 9 of your report you recommend that the ACT government adopt a cross-directorate housing first policy. Can you please paint a picture of what you envisage when you recommend that?

**Dr Killen:** We all recognise that there are not enough houses in the ACT, and that is significantly contributing to the number of people in the justice system in the ACT. Particularly when people are trying to leave incarceration, there can sometimes be lengthier stays in the AMC if they do not have a house to go back to.

What we see as a housing-first solution would be knowing and recognising that housing has an impact across all areas of life, including the justice system, employment, mental health and health in general. That is what we mean by housing-first—recognising that we need to tackle housing as an urgent priority in order to tackle some of the other problems that we are seeing in the system.

**MR BRADDOCK:** With that cross-directorate element, after talking to JACS this morning, you could start to see a potential risk with the handover points back to CSD and so forth. Could you please talk me through that point as well?

**Dr Killen:** Sure. The directorates do not necessarily always communicate with each other effectively, especially around housing. A good example is ensuring that housing is family appropriate when people are leaving incarceration. That would require significant discussion between JACS and CSD, for example, to ensure that people are

able to be reunited with their families and their children when they leave prison or if they are going through a justice system process. Does that answer the question?

**MR BRADDOCK:** It does. It definitely seemed to be a limitation this morning, when talking to JACS—those risks, particularly around offenders with children, for example, and how we provide housing for them.

**THE CHAIR:** The Justice Housing Program out of corrections: do you have any thoughts on (1) how that is administered and (2) how much is actually available?

**Ms Kelly-Church:** From my understanding, there may be 12 houses. There are not enough, and there is potential for a backlog in terms of transitioning people out of those houses into permanent, stable accommodation. That needs to be looked at. Also, what are the alternatives, if you are not eligible for Justice Housing? With the programs that are run through that Justice Housing Program, are they culturally appropriate and sensitive for Aboriginal people; if not, why not?

**DR PATERSON:** Could you speak to community corrections orders in comparison to AMC incarceration? Are they a better, more effective option for Aboriginal and Torres Strait Islander people in general? Do you hear more positive outcomes in the community about those types of orders?

**Dr Killen:** I will let Rachelle expand on this, but, as a starting point, I think it is better when people are able to stay connected to community. What we see as well is that there could be high levels of breaches, particularly if those programs that people are put in are not culturally safe, which would then mean more incarceration of Aboriginal people because of breaches.

**Ms Kelly-Church:** Absolutely, you would want to see people out in the community as opposed to in prison, but when we have people saying they would rather be in jail because they are supported, they have a roof over their head, they have food every day and they are with people that they can relate to, that is concerning to me. We need to ask ourselves what is going on in the community if people want to be in prison. I have an example of a woman who could not make the day program consistently, and she was locked up in AMC. How did that happen? How was that allowed to happen? Why is that happening and what could we have done better?

**DR PATERSON:** We have heard from others that, while these intensive correction orders are good, in that people are out in the community, they often have some quite stringent requirements on the individual. You spoke about flexibility. How do you think that could work in the Aboriginal and Torres Strait Islander context? How could it be more flexible, while acknowledging that people still have to serve their sentence?

**Ms Kelly-Church:** One thing that I would point out is training of staff—being trauma informed, understanding, responsive and compassionate. When you have people being breached for things that are not related to their offence—it might be urinalysis results or breathalysing—that is not in the spirit of reducing recidivism, I do not think, and there are alternative ways of managing that.

There is training of corrections staff, being more flexible and doing home visits where

you can; remote reporting is excellent. Having better relationships with community-controlled organisations and programs could also reduce reoffending or breaches, because sometimes they are two different things.

**MR BRADDOCK:** Again on intensive correction orders, you suggest in your submission that ICOs may be widening the net of the justice system. Is that based on the fact that you are seeing them starting to apply to offences that they would not have applied to in the past or where they would not have been involved in the justice system in the past? What are you basing that assessment on?

**Dr Killen:** In the first instance it is that those community corrections numbers are going up, without a serious reduction in numbers in the prison. We know that more people are in the justice system than have been there before, and that is really concerning for us. That would be the reason I would say that.

In terms of drugs and alcohol, we sometimes talk about the ability for the police to promote education rather than bringing someone into the justice system. Those kinds of examples perhaps become less when more community corrections options are available, if that makes sense. If it is easy to put someone into the justice system then it will become more common.

**THE CHAIR:** On behalf of the committee, I would like to thank you for appearing today on behalf of ACTCOSS. When available, a copy of the proof transcript will be forwarded to you, to provide an opportunity to check the transcript and identify any errors in transcription. I do not recall whether there were any questions taken on notice or further information; again, thank you for being with us and giving us your time and your submission.

On behalf of the committee, I would like to thank all of the witnesses who have appeared today. If members of the committee wish to lodge questions on notice, please provide them to the committee secretary within five working days of the hearing. The hearing is adjourned.

**The committee adjourned at 3.59 pm.**