

ACT Policing’s administrative framework for engagement with the ACT Aboriginal and Torres Strait Islander community

MARCH 2021

Report by the Commonwealth and ACT Ombudsman,
Michael Manthorpe PSM, under the *Ombudsman Act 1976* (Cth)
and the *Ombudsman Act 1989* (ACT)

REPORT NO. **1 | 2021**

ACKNOWLEDGEMENT OF COUNTRY

We would like to acknowledge the Ngunnawal and Ngambri peoples, the traditional custodians of the Canberra region and pay our respects to Elders past and present.

Terminology in report

We recognise that there are many Aboriginal and Torres Strait Islander peoples from across Australia who have made Canberra their home, and that Aboriginal and Torres Strait Islander communities are non-homogenous.

For the purpose of this report, we use the term 'ACT Aboriginal and Torres Strait Islander community' when referring to Aboriginal and Torres Strait Islander people residing in the ACT, in line with terminology used as part of the ACT Aboriginal and Torres Strait Islander Elected Body *Protocols for working with Aboriginal and Torres Strait Islander peoples*.¹

¹ Aboriginal and Torres Strait Islander Elected Body, Protocols for working with Aboriginal and/or Torres Strait Islander peoples - <https://atsieb.com.au/wp-content/uploads/2015/10/Protocols-for-working-with-Aboriginal-and-Torres-Strait-Islander-peoples.pdf>

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FOREWORD

This report is the result of an investigation I commenced under my own motion powers to examine the policies and procedures ACT Policing has in place to support its engagement with the ACT Aboriginal and Torres Strait Islander community.

Since the *Royal Commission into Aboriginal Deaths in Custody* Report was published in 1991, it has been widely acknowledged that Aboriginal and Torres Strait Islander peoples are over-represented in the criminal justice system. The Commission details how, since colonisation, police have been the most consistent point of contact between Aboriginal people and colonial power, carrying out dual roles of enforcer and protector under various government policies. The Commission acknowledged that, due to this history, a deep animosity and often hatred developed between Aboriginal people and police.²

These historic issues continue to have contemporary relevance. Incarceration rates of Aboriginal and Torres Strait Islander people within Australia continue to be high. In 2019, Aboriginal and Torres Strait Islander people comprised 1.9 per cent of the ACT population but made up 21.9 per cent of the ACT’s prison population.³

In recent years, ACT Policing has publicly committed to achieving a number of justice targets as part of the *ACT Aboriginal and Torres Strait Islander Agreement 2019–28*.⁴ These targets are reflected in *Australian Federal Police’s Reconciliation Action Plan 2018–2020*, which include a commitment to working with the ACT Aboriginal and Torres Strait Islander community to reduce arrest and incarceration rates of Aboriginal and Torres Strait Islander people in the ACT. These are positive developments, and ACT Policing, the AFP and the ACT Government are to be commended for these clear commitments.

However, through complaints from individuals, as well as broader interactions my Office has had with both the ACT Aboriginal and Torres Strait Islander community and ACT Policing, we have heard examples of poor practice as well as examples of excellent and respectful community engagement.

Guided by these examples, I considered that an investigation focusing on ACT Policing’s current administrative arrangements was a crucial first step for my Office to better understand how ACT Policing approaches its engagement with the ACT Aboriginal and Torres Strait Islander community.

We assessed whether the programs, policies, procedures and training ACT Policing has in place to manage its engagement with the ACT Aboriginal and Torres Strait Islander community are appropriate. We looked at whether ACT Policing officers are supported

² 1.4.17 Royal Commission into Aboriginal Deaths in Custody Report
<http://www.austlii.edu.au/au/other/IndigLRes/rciadic/national/vol1/>

³ Shane Rattenbury, MLA Media release, *\$1.35m in Justice Reinvestment funding to help address Indigenous incarceration rates*, 17 October 2019
[https://www.cmtedd.act.gov.au/open_government/inform/act_government_media_releases/rattenbury/2019/\\$1.35m-in-justice-reinvestment-funding-to-help-address-indigenous-incarceration-rates](https://www.cmtedd.act.gov.au/open_government/inform/act_government_media_releases/rattenbury/2019/$1.35m-in-justice-reinvestment-funding-to-help-address-indigenous-incarceration-rates)

⁴ ACT Aboriginal and Torres Strait Islander Agreement 2019–2028, Community Services ACT
https://www.communityservices.act.gov.au/_data/assets/pdf_file/0015/1323132/ACT-Aboriginal-and-Torres-Strait-Islander-Agreement-2019-2028.pdf

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by a program and policy framework that enables consistent, appropriate and effective decision making in a transparent and accountable manner.

We considered how ACT Policing ensures its strategies and policies for change are enduring, and not only reliant on the efforts of the individual officers. We also look at how ACT Policing measures the impact and overall success of its programs designed to reduce arrest and incarceration rates of Aboriginal and Torres Strait Islander people within the ACT.

I have made nine recommendations aimed at improving ACT Policing’s approach to supporting ACT Policing members to engage in a positive and respectful manner with the ACT Aboriginal and Torres Strait Islander community. These recommendations go to four themes of good administration:

- a strong governance framework that supports the delivery of program commitments
- policies and procedures that clearly articulate expectations
- transparency and accountability with the community
- the ability to measure and evaluate success.

Each recommendation provides an administrative solution to assist ACT Policing to bridge the gap between high-level justice targets and day-to-day community policing activities.

As this investigation focuses on the internal administrative processes of ACT Policing, rather than individual experiences, we did not undertake a formal consultation process with the ACT Aboriginal and Torres Strait Islander community. This Report does not seek to reflect the lived experiences or perspectives of the ACT Aboriginal and Torres Strait Islander community. It is, however, informed by complaints to this Office by Aboriginal and Torres Strait Islander people, and our on-going engagement with the community. Rather, it examines the administrative approaches that form the foundation of ACT Policing’s approach to engagement.

The recommendations I’ve made to ACT Policing are informed by this approach. Many of our recommendations explicitly outline that actions should be taken by ACT Policing *in consultation with* the ACT Aboriginal and Torres Strait Islander community. This recognises and acknowledges that meaningful consultation with the ACT Aboriginal and Torres Strait Islander community is a crucial preliminary step towards embedding trust and ensuring solutions are where possible, jointly owned by ACT Policing and the community.

I acknowledge the historical realities of engagement between Aboriginal and Torres Strait Islander people and the police. Addressing this mistrust will be a long journey, requiring public commitments and demonstrated action over many years.

I am confident, however, that these recommendations will support success for ACT Policing in its journey to build mutually respectful and beneficial relationships with the ACT Aboriginal and Torres Strait Islander community, and to build institutional trust in ACT Policing.

Michael Manthorpe PSM
Commonwealth and ACT Ombudsman

RECOMMENDATIONS

RECOMMENDATION ONE: OVERARCHING STRATEGIC PLAN

We recommend ACT Policing develops an overarching strategic plan to manage the development and delivery of ACT Policing’s roles and responsibilities in relation to ACT Aboriginal and Torres Strait Islander community specific justice programs.

ACT Policing should adopt a program management approach to delivering new Police Services Model objectives, community policing programs and related commitments to justice targets for the ACT Aboriginal and Torres Strait Islander community under the plan.

RECOMMENDATION TWO: STANDARD OPERATING PROCEDURES

We recommend ACT Policing develops standard operating procedures for community policing activities and complementary programs to ensure contact with ACT Aboriginal and Torres Strait Islander community members is consistent with legislative requirements and appropriately facilitates access to community diversionary and support programs.

Procedures should:

- provide guidance to ACT Policing members to support decision making, including the administrative application of relevant legal requirements
- include triggers for the review or update of procedures to ensure they reflect the current operating environment.

Without limiting the procedures required:

- existing procedures relating to use of cautions, national custody guidelines, interviews, Sobering Up Shelter, and Alcohol and Drug diversions should be amended in accordance with the above
- new procedures should be developed for field contacts, arrests, Front Up and referrals to Police Community Youth Club.

RECOMMENDATION THREE: INDIGENOUS IDENTIFYING INFORMATION

We recommend ACT Policing consults with the ACT Aboriginal and Torres Strait Islander community, our Office, the Justice and Community Services Directorate, the Aboriginal Legal Service and any other relevant stakeholders to determine when and how it will ask members of the public whether they identify as Aboriginal or Torres Strait Islander.

The position developed as an outcome of this consultation should be included in each of ACT Policing’s relevant policies and procedures for members.

RECOMMENDATION FOUR: PROGRAM EVALUATION AND DATA ANALYSIS

We recommend ACT Policing establishes performance measures and conducts regular and ongoing evaluation of community policing activities and complementary programs to enable it to measure success against justice targets and strategic objectives.

Demographic data should be analysed and used to inform evaluation activities and continuous improvement.

RECOMMENDATION FIVE: ENGAGEMENT AND CONSULTATION STRATEGY

We recommend ACT Policing develops an engagement and consultation strategy to manage its relationship with the ACT Aboriginal and Torres Strait Islander community. The strategy should:

- link engagement and consultation activities to strategic objectives
- provide clear outcomes that are measured and reported on publicly by ACT Policing
- be developed in consultation with the ACT Aboriginal and Torres Strait Islander community.

RECOMMENDATION SIX: EVALUATION OF ABORIGINAL LIAISON OFFICER ROLE

We recommend ACT Policing evaluates and clearly defines the roles and responsibilities of Aboriginal Liaison Officers (ALO), to clarify expectations and ensure the ALOs are enabled to support effective communication between the ACT Policing members and the ACT Aboriginal and Torres Strait Islander community.

Evaluation should:

- be conducted in consultation with the ACT Aboriginal and Torres Strait Islander community
- take place on a regular basis to ensure the roles remain aligned with program outcomes.

RECOMMENDATION SEVEN: CULTURAL TRAINING STRATEGY

We recommend ACT Policing develops a strategy to support the development, delivery and ongoing evaluation of cultural training. The strategy should be informed by best practice in cultural training and include regular and ongoing evaluation so that training is best placed to achieve intended outcomes and is responsive to current issues and emerging risks.

RECOMMENDATION EIGHT: RECORD MANAGEMENT POLICY

We recommend that ACT Policing amends its records management policy and procedure to ensure records relevant to engagement with the ACT Aboriginal and Torres Strait Islander community are created, stored and accessible to ACT Policing staff.

RECOMMENDATION NINE: COMPLAINT HANDLING GUIDELINES

We recommend AFP and ACT Policing amends current complaint handling guidelines to include prompts for complaint handlers to request and record Aboriginal and Torres Strait Islander status during the complaint process.

The guidelines should support ACT Policing to identify risks and issues affecting the ACT Aboriginal and Torres Strait Islander community.

Part 1: INTRODUCTION AND SCOPE OF INVESTIGATION

Environmental context

Police services in the ACT

1.1. The Australian Federal Police (AFP) delivers community policing services to the ACT through its community policing arm, ACT Policing under the *Agreement between the ACT Minister for Police and Emergency Services, Australian Federal Police Commissioner, and the Chief Police Officer for the ACT for the provision of policing services to the Australian Capital Territory 2017–2021* (Purchase Agreement 2017–2021).⁵

1.2. The Purchase Agreement 2017–2021 sets out expected outcomes, performance measures and targets for the benefit of the ACT community. The Agreement outlines several high level outcomes relevant to ACT Policing, including reducing crime, increasing public safety and engaging with community and partners. Under current administrative arrangements, the Minister for Police and Emergency Services may furnish Ministerial Directions to ACT Policing regarding policy, priorities and goals for the provision of police services.

ACT Aboriginal and Torres Strait Islander community information

1.3. According to the most recent Australian Census data, within the ACT, 7,113 residents identify as Aboriginal, 196 residents identify as Torres Strait Islander and 204 residents identify as both Aboriginal and Torres Strait Islander.⁶

1.4. The total resident population of the ACT Aboriginal and Torres Strait Islander community accounts for 1.9 per cent of the total ACT resident population.⁷

The Commonwealth and ACT Ombudsman’s role

1.5. The Commonwealth Ombudsman is also the ACT Ombudsman. The role of the ACT Ombudsman is to influence systemic improvements in public administration in the ACT, as well as providing assurance that ACT government agencies and other designated entities that fall within our jurisdiction act with fairness and integrity. Our Office works with agencies to ensure they provide accessible and effective complaint handling processes to the public.

1.6. The ACT Ombudsman’s oversight role of ACT Policing is delivered by the Commonwealth Ombudsman under a service agreement with the ACT Government, which outlines the services our Office provides on behalf of the ACT Government.

⁵ Agreement between the ACT Minister for Police and Emergency Services, Australian Federal Police Commissioner, and the Chief Police Officer for the ACT for the provision of policing services to the Australian Capital Territory 2017-2021, http://cdn.justice.act.gov.au/resources/uploads/JACS/PDF/2017-2021_Purchase_Agreement_Signed.pdf

⁶ Australian Bureau of Statistics, Estimates of Aboriginal and Torres Strait Islander Australians, Estimated resident population, Indigenous status, 30 June 2016, <https://www.abs.gov.au/statistics/people/aboriginal-and-torres-strait-islander-peoples/estimates-aboriginal-and-torres-strait-islander-australians/jun-2016>

⁷ Australian Bureau of Statistics, Estimates of Aboriginal and Torres Strait Islander Australians, Estimated resident population, Indigenous status, 30 June 2016

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1.7. The service agreement specifies that activities undertaken by the ACT Ombudsman with respect to ACT Policing includes:

- investigation of individual complaints
- conduct of own motion investigations
- inspection of AFP records relating to the handling of complaints
- provision of summary statistics relating to ACT community policing services complaints inspected by the Ombudsman under the *Australian Federal Police Act 1979* (AFP Act).

1.8. As Commonwealth Ombudsman, my Office takes complaints about the Australian Federal Police and performs a growing portfolio of inspectorial and reporting roles about the way in which Federal and (at times) state law enforcement bodies exercise covert or intrusive powers under Commonwealth legislation. This includes statutory responsibility for inspecting ACT Policing’s use of covert and intrusive powers under ACT and Commonwealth legislation. My Office oversees the following covert powers:

- surveillance devices such as listening devices and tracking devices
- controlled operations which police use to get evidence that may lead to the prosecution of a person
- assumed identities which police use for intelligence gathering in relation to criminal activity.

Our investigation

Objective and scope

1.9. The objective of this investigation was to consider ACT Policing’s administrative and governance arrangements in support of its engagement with the ACT Aboriginal and Torres Strait Islander community.

1.10. Our expertise is in reviewing the administrative actions of government agencies. The focus of this investigation is the appropriateness of ACT Policing’s administrative policies and procedures, and the governance arrangements that support those policies and procedures. Through this investigation we aim to provide assurance over, and where appropriate, improve the administrative framework ACT Policing currently has in place to support its officers when making decisions that impact on members of the ACT Aboriginal and Torres Strait Islander community.

1.11. This investigation did not consider the following:

- ACT Policing’s individual engagement with the ACT Aboriginal and Torres Strait Islander community in practice. This means we did not consider individual examples of practical actions or decisions of ACT Policing officers when engaging with members of the ACT Aboriginal and Torres Strait Islander community.
- The administrative framework to support engagement with members of the public who do not identify as ACT Aboriginal or Torres Strait Islander.
- Organisations other than ACT Policing within the ACT Government justice sector, including those organisations or entities that may have responsibility for delivery of, or are a stakeholder in, programs we considered as part of this report.

Methodology

1.12. We conducted a desktop investigation to inform our understanding of the policies, procedures, guidelines and practices that ACT Policing has in place to support its members when engaging with members of the ACT Aboriginal and Torres Strait Islander community.

1.13. This investigation considered topics that align with ACT Policing’s administration of community policing and complementary program activities, its community focused engagement, and its internal program governance and administration.

1.14. As our focus was on the framework governing these programs, rather than individual on-the-ground experiences, we did not consult with the ACT Aboriginal and Torres Strait Islander community as part of our investigation. We have, however, identified where such consultation is crucial to the successful implementation of our recommendations.

1.15. To guide us in our consideration of the issues raised in this Report, we were informed by better practice approaches to engagement with Aboriginal and Torres Strait Islander people, and standard principles for best practice engagement with all stakeholder groups. We also identified applicable legislation and policy, as well as public commitments ACT Policing has made relevant to improved outcomes for Aboriginal and Torres Strait Islander peoples, and recommendations accepted by government as part of reviews including the Royal Commission into Aboriginal Deaths in Custody.

1.16. We requested information from ACT Policing across a number of topics, and sought supporting documentation and briefings on a number of specific issues. As part of our investigation, we also met with ACT Policing personnel in the Community Safety team, including the current Aboriginal Liaison Officers.

1.17. We formulated preliminary views based on the information we had received and provided these to ACT Policing for comment.

1.18. We thank all staff from ACT Policing and the AFP who provided information to assist with this investigation.

Part 2: OVERVIEW OF ACT POLICING’S OPERATING ENVIRONMENT

Community focused policing services model

2.1. In the 2019–20 Budget, the ACT Government announced a \$33.9 million investment into ACT Policing over four years for it to transition to a new Policing Services Model (PSM). ACT Policing advised that the new PSM will address the rising complexity of crime, increased demands on ACT Policing and the lack of a systemic approach to engaging vulnerable members of the community, including the ACT Aboriginal and Torres Strait Islander community. From 2019–20, the PSM will provide for 60 new staff over four years, including an additional full time Aboriginal Liaison Officer.

ACT’s policing strategy

2.2. ACT Policing is yet to develop an overarching strategy for supporting and engaging with the ACT Aboriginal and Torres Strait Islander community as part of the new PSM, including for the management of early intervention or diversionary strategies. To date, ACT Policing has developed ‘The Four Pillars of ACT Policing’s PSM’ to inform its rollout:

| The Four Pillars of ACT Policing’s PSM ⁸ | | | |
|---|---|--|--|
| Systematic approach | Intelligence led | Evidence-based | Mobility driven |
| Collaborate with other agencies to share information and identify intervention opportunities. | Using intelligence to inform systematic decision making at both the tactical and strategic level. | Generate and use data, research and evidence to inform and challenge policing practices and decisions. | Increasing responsiveness and efficiency through technology, governance and processes. |
| Members will be supported by more effective processes and will see greater collaboration with other agencies. | Members will have access to the right information to most effectively complete a job and prevent crime. | Members will have access to the right training and the right technology to inform evidence-based policing practices and decision making. | Better systems will ensure members can spend more time in the field, and allow effort to be put where it is most needed. |

2.3. ACT Policing advised that the development of a strategy for its PSM is a priority action. In our view, noting the ACT Government’s significant investment, applying a formal program management approach is essential to ensuring ACT Policing can:

- ensure the PSM meets its overall objectives and outcomes
- monitor implementation, manage risks, and evaluate success

⁸ ACT Policing website, Police Services Model, <https://www.police.act.gov.au/about-us/police-services-model>

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- lead through change and adapt from experience, to deliver an enduring program.

Diversions program commitments

2.4. ‘Diversions programs’ are designed to divert offenders, and those at risk of offending, from the criminal justice system in order to address underlying causes of criminal behaviour prior to arrest, trial or sentencing. Diversions programs offer an alternative to traditional policing approaches. Diversions programs may focus on preventing first time offenders from entering the justice system or reducing recidivism.

2.5. Diversions programs in the ACT are a government-wide initiative, with multiple entities responsible for delivering elements of diversions programs. This includes health services, housing, education services, community sector agencies and justice services, such as courts and legal services.

2.6. Police services are uniquely placed to identify where diversions options may assist offenders and to facilitate referrals to appropriate programs. In 2019, the Minister for Police and Emergency services released a Ministerial Direction⁹ which set the ACT Government’s expectations and priorities for ACT Policing including:

- transitioning to a new policing service model that will see ACT Policing provide a proactive community focused policing service
- increase early intervention and diversion strategies and continue to work with the Aboriginal and Torres Strait Islander community to identify ways to reduce the over-representation of Aboriginal and Torres Strait Islander peoples in the criminal justice system
- continue to improve responses to vulnerable groups including Aboriginal and Torres Strait Islander peoples
- drug harm minimisation by continuing to focus on diverting lower level drug offenders from the criminal justice process in accordance with the National Drug Strategy and the Government’s policy settings such as the ACT Drug Strategy Action Plan.

Commitments to justice targets for the ACT Aboriginal and Torres Strait Islander community

ACT Whole-of-Government initiatives

2.7. The ACT Government’s *ACT Aboriginal and Torres Strait Islander Agreement 2019–28* provides for specific outcomes and ‘justice targets’ relevant to the ACT Aboriginal and Torres Strait Islander community. The Agreement provides that Aboriginal and Torres Strait Islander peoples, their families and communities should ‘thrive in a safe environment and

⁹ Ministerial Direction, Minister for Police and Emergency Services, 28 October 2019, http://cdn.justice.act.gov.au/resources/uploads/JACS/Ministerial_Direction_2019-ACT_Policing.PDF

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have equitable access to justice and culturally safe restorative justice, prevention and diversion programs’. The Justice Action Plan commits to the following target:

At least 25 per cent of all eligible 18-25 year old Aboriginal and Torres Strait Islander people will be referred to Restorative Justice by ACT Policing as a diversion from the formal criminal justice system.¹⁰

2.8. In addition, there are number of other ACT Government strategies that include a commitment to diversionary programs for which ACT Policing has a role:

- The ACT Government *Reducing Recidivism by 25 per cent by 2025*¹¹ plan aims to reduce the rate of recidivism in the ACT by 25 per cent by 2025. In practice this means 146 fewer detainees returning to custody, or a reduction from 42.4 per cent to 31.7 per cent of adults released from prison who are re-sentenced and returned to prison within two years.
- The *Blueprint for Youth Justice in the ACT 2012–22*¹² is designed to improve prospects for young people in the ACT, aimed at minimising contact with the justice system and providing appropriate support.
- Under the *ACT Drug Strategy Action Plan 2018–2021*, ACT Policing has responsibility to ‘*design and deliver a range of interventions using a number of models to meet the diverse needs of people involved in, or at risk of being involved in, the criminal justice system. This includes exploring ways to increase diversion and treatment and support options available as part of an integrated system in the ACT, through either policy or legislative reform.*’¹³

AFP and ACT Policing initiatives

2.9. ACT Policing has also committed to deliver better outcomes ACT Aboriginal and Torres Strait Islander people through access to diversionary programs:

- *AFP Reconciliation Action Plan 2018–2020*—with specific deliverables for ACT Policing to reduce arrests and increase use of diversionary programs for the ACT Aboriginal and Torres Strait Islander community.¹⁴

¹⁰ ACT Aboriginal and Torres Strait Islander Agreement 2019–28—Justice Action Plan https://www.communityservices.act.gov.au/_data/assets/pdf_file/0006/1325670/Significant-Focus-Area-Justice.pdf

¹¹ ACT Government, Reducing Recidivism Plan, <https://justice.act.gov.au/justice-programs-and-initiatives/reducing-recidivism>,

¹² ACT Government, Blueprint for Youth Justice in the ACT 2012–22, https://www.communityservices.act.gov.au/_data/assets/pdf_file/0009/337590/Blueprint_for_Youth_Justice_in_the_ACT_2012-22.pdf

¹³ Action 33, ACT Drug Strategy Action Plan 2018–2021, https://s3.ap-southeast-2.amazonaws.com/hdp.au.prod.app.act-yoursay.files/6815/4527/8063/ACT_Drug_Strategy_Action_Plan_2018-21.pdf

¹⁴ AFP Reconciliation Action Plan 2018–20, <https://www.afp.gov.au/sites/default/files/PDF/afp-reconciliation-action-plan.pdf>

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- *ACT Policing Purchase Agreement 2017–21*— commitment to refer 100 per cent of eligible young people to restorative justice and to refer 80 or more people to drug diversion programs.¹⁵
- *ACT Policing Business Plan 2019–2020* outlines ACT Policing’s focus areas for the financial year 2019–2020 including performance measures and targets.¹⁶

An overarching strategic plan

2.10. ACT Policing has a number of specific responsibilities to deliver programs or program elements designed to meet specific justice targets relevant to the ACT Aboriginal and Torres Strait Islander community. However, it does not currently have a single strategic plan to bring these programs together, to ensure program elements are coordinated, aligned with operational priorities, and deliver the expected benefits.

2.11. In our view, ACT Policing would benefit from developing an overarching strategic plan to bring together and manage its community policing activities, its role in diversionary programs and actions under the new PSM. This strategic plan should directly link ACT Policing’s public commitments to justice targets for the ACT Aboriginal and Torres Strait Islander community with the activities it undertakes.

2.12. To be effective, the plan should be supported by a program management approach, through which the activities are directly referenced to the outcomes they are intended to achieve, and accompanied by clear measures of success which are reported on.

2.13. The strategic plan, and taking a program management approach to implement it, will support ACT Policing’s engagement with the community and delivery of community policing programs by:

- more closely aligning programs and activities designed to manage ACT Aboriginal and Torres Strait Islander participation in the criminal justice system with ACT Policing’s corporate strategy, operational priorities and capabilities
- providing a structured approach to enabling beneficial and enduring change to programs and activities in response to changes in funding, strategic direction or leadership
- supporting positive engagement with program stakeholders, including the ACT Aboriginal and Torres Strait Islander community and other entities responsible for delivering diversionary programs
- enabling ACT Policing to monitor and report on program success by focussing on the strategic value of activities and any risks to their success.

¹⁵ ACT Policing Services Purchase Agreement 2017–21,
https://justice.act.gov.au/sites/default/files/2019-09/2017-2021_Purchase_Agreement_Signed.pdf

¹⁶ ACT Policing Business Plan 2019–2020,
<https://police.act.gov.au/sites/default/files/PDF/ACT%20Policing%20Business%20Plan%202018-19-%2028%20Nov%202019.pdf>

RECOMMENDATION ONE: OVERARCHING STRATEGIC PLAN

We recommend ACT Policing develops an overarching strategic plan to manage the development and delivery of ACT Policing’s roles and responsibilities in relation to ACT Aboriginal and Torres Strait Islander community specific justice programs.

ACT Policing should adopt a program management approach to delivering new Police Services Model objectives, community policing programs and related commitments to justice targets for the ACT Aboriginal and Torres Strait Islander community under the plan.

Part 3: ADMINISTRATION OF COMMUNITY POLICING ACTIVITIES AND COMPLEMENTARY PROGRAMS

Community policing duties and diversionary programs

3.1. ACT Policing members come into contact with members of the ACT Aboriginal and Torres Strait Islander community on a daily basis as part of their operational community policing duties. Our investigation considered ACT Policing’s administration and management of five of these activities:

- field contacts
- arrests
- use of cautions
- interviews
- custody.

3.2. Our investigation has also considered ACT Policing’s management of referrals to six diversionary programs to assess how ACT Policing facilitates access for members of the ACT Aboriginal and Torres Strait Islander community to diversionary programs consistent with commitments to justice targets:

- Restorative Justice conferencing
- Alcohol and drug diversions
- Front Up program
- Use of cautions through police discretion
- Police Community Youth Club
- Sobering Up Shelter.

3.3. We assessed the policies, procedures and guidelines ACT Policing has in place to support operational and administrative decision making, as part of both its community policing mandate and under each diversionary program. Our detailed assessment of each individual activity is set out in Volume Two of this Report.

Strengthening policy and procedural guidance

3.4. ACT Policing has developed a number of policies and procedures designed to support ACT Policing members to make operational decisions. We observed a number of gaps in ACT Policing’s policy framework where either no policy or procedure exists, or where an existing policy or procedure was incomplete.

3.5. There are currently no written policies or procedures for member to reference when conducting a field contact, carrying out an arrest or referring an individual to the Front Up program or the Police Community Youth Club.

3.6. Policies and procedures for ACT Policing members exist in relation to the use of cautions, interviews, custody guidelines (including the National Custody Guideline and Watch House procedures), referrals to Alcohol and Drug Diversions. However, these would benefit from revision to ensure they appropriately support officers to effectively administer legislation and implement ACT Policing’s commitments to justice targets at an operational level. Our suggestions for how each of these policies and procedures could be improved are set out in Volume Two.

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3.7. In our view, the robustness of ACT Policing’s policy and procedural framework has the potential to significantly impact ACT Policing’s ability to effectively carry out its community policing responsibilities effectively.

3.8. Critically, strengthening policies, processes and procedures will ensure officers are appropriately supported to effectively administer legislation and obligations consistent with ACT Policing’s diversionary program commitments. Ensuring officers are appropriately supported in their operational decision making will also:

- assist with the implementation of activities on the ground in accordance with agreed priorities
- ensure strategies and policies for change are enduring, and not reliant on the efforts of the individual officers
- enable ACT Policing to have confidence that officers are acting consistently
- ensure training of officers is founded on a basis of clear expectations regarding responsibilities and behaviour.

3.9. Addressing identified policy gaps will enable ACT Policing to provide assurance that Aboriginal and Torres Strait Islander peoples have access to diversionary programs in all appropriate circumstances—that is, that members of the public who should have access to these programs actually do.

3.10. Policies and procedures should be reviewed regularly to ensure they are consistent with legislation and policy and internally consistent. Any variations in procedures between business areas should be appropriately tailored and supported by clear rationale.

RECOMMENDATION TWO: STANDARD OPERATING PROCEDURES

We recommend ACT Policing develops standard operating procedures for community policing activities and complementary programs to ensure contact with ACT Aboriginal and Torres Strait Islander community members is consistent with legislative requirements and appropriately facilitates access to community diversionary and support programs.

Procedures should:

- provide guidance to ACT Policing members to support decision making, including the administrative application of relevant legal requirements
- include triggers for the review or update of procedures to ensure they reflect the current operating environment.

Without limiting the procedures required:

- existing procedures relating to use of cautions, national custody guidelines, interviews, Sobering Up Shelter, and Alcohol and Drug diversions should be amended in accordance with the above
- new procedures should be developed for field contacts, arrests, Front Up and referrals to Police Community Youth Club.

Requesting demographic information from members of the public

3.11. ACT Policing has a legislative obligation to allow members of the public to identify as Aboriginal or Torres Strait Islander during the suspect interviewing process under Part 1C of the *Crimes Act 1914* (Cth), which applies to most ACT offences. Where ACT Policing interacts with a member of the public during a field contact—that is, prior to proceeding to formal interview or intake at the watch house—ACT Policing does not currently enquire as to Aboriginal and Torres Strait Islander status. How ACT Policing manages this in specific circumstances is discussed in further detail in Volume Two.

3.12. As part of its PSM, ACT Policing has committed to strengthening early intervention and diversion strategies by strengthening collaboration with community support services, including social workers, domestic violence support services and mental health facilities to improve outcomes for vulnerable community members, including Aboriginal and Torres Strait Islander persons. This includes assisting ACT Policing officers to facilitate access to diversionary programs in situations that might usually result in an arrest.

3.13. In our view, to achieve this outcome, ACT Policing needs to know when a person with whom it is dealing identifies as an Aboriginal or Torres Strait Islander person. By only requesting this information in formal settings, it may miss opportunities to consider alternatives to traditional community policing options at any earlier stage.

3.14. ACT Policing has noted the sensitivities of requesting demographic identifying information from members of the public, particularly against the backdrop of complex relationships between police forces and Aboriginal and Torres Strait Islander peoples.

3.15. We acknowledge, due to these sensitivities, that the approach taken to collect this information needs to be carefully managed. Clear guidance for ACT Policing officers is necessary to assist officers to carry out this task in a manner that demonstrates cultural awareness and sensitivity. Members of the public, and especially members of the Aboriginal and Torres Strait Islander community, need to understand the purpose for which information is being collected. Information needs to be seen to be used in a manner which facilitates positive outcomes, rather than penalises people.

3.16. ACT Policing should work with the ACT Aboriginal and Torres Strait Islander community, and other relevant stakeholders including our Office, to develop policy guidance for its officers to appropriately request Aboriginal and Torres Strait Islander identifying information outside of formal settings. ACT Policing’s approach to this issue should be informed by a formal consultation and engagement plan, and supported through cultural awareness training. These two considerations are discussed further later in the report.

RECOMMENDATION THREE: INDIGENOUS IDENTIFYING INFORMATION

We recommend ACT Policing consults with the ACT Aboriginal and Torres Strait Islander community, our Office, the Justice and Community Services Directorate, the Aboriginal Legal Service and any other relevant stakeholders, to determine when and how it will ask members of the public whether they identify as Aboriginal or Torres Strait Islander.

The position developed as an outcome of this consultation should be included in each of ACT Policing’s relevant policies and procedures for members.

Data analysis and program evaluation

Performance data

3.17. ACT Policing records data on referrals it makes to restorative justice, alcohol and drug diversionary programs, including numbers of Aboriginal and Torres Strait Islander people referred to these programs. ACT Policing advised that it monitors these referrals against Key Performance Indicators (KPI), such as the 25 per cent referral of eligible Aboriginal and Torres Strait Islander offenders to Restorative Justice Conferencing under the ACT Aboriginal and Torres Strait Islander Agreement—Justice Action Plan. Where KPIs for referrals are not met, there is no established avenue for action or review by ACT Policing.

Systemic issue and trend identification

3.18. Where information regarding Aboriginal and Torres Strait Islander status is captured by ACT Policing, there is currently limited analysis of this data to support the identification of trends or risks, including for the purpose of evaluating the effectiveness of programs against justice targets. In our view, strengthening trend and systemic analysis of Indigenous status data would allow ACT Policing to better plan and deliver appropriate services to, and assess the impact of services on, Aboriginal and Torres Strait Islander people.

3.19. Strengthening approaches to data collection and analysis is consistent with the ‘intelligence led’ and ‘evidence based’ Community Focused Policing Services Model objectives, which provide that ACT Policing should use intelligence to inform systematic decision making at both the tactical and strategic level and generate and use data, research and evidence to inform and challenge policing practices and decisions.

Improving approaches to evaluation of community policing activities and complementary programs

3.20. ACT Policing does not evaluate programs (or elements of the programs it has responsibility for delivering) to ensure that it is meeting program outcomes. This makes it difficult for ACT Policing to provide assurance that operational activities and decisions are consistent with, and will effectively meet, justice targets for the ACT Aboriginal and Torres Strait Islander community.

3.21. In our view, regular and ongoing evaluation of community policing activities and diversionary programs, conducted in consultation with the ACT Aboriginal and Torres Strait Islander community, will assist ACT Policing to provide assurance that its operational activities and programs are effective in practice. Developing clear performance indicators and conducting regular review of activities, will enable ACT Policing to gain insight into operational effectiveness and efficiency of funded activities under the PSM.

3.22. In October 2020, the Productivity Commission released its *Indigenous Evaluation Strategy*,¹⁷ with a view to providing a whole-of-government framework for Australian Government agencies to evaluate both Indigenous-specific and mainstream policies and programs affecting Aboriginal and Torres Strait Islander people. The strategy emphasises the centrality of drawing on the perspectives, priorities and knowledge of Aboriginal and Torres Strait Islander people when deciding what to evaluate and how

¹⁷ Productivity Commission, *Indigenous Evaluation Strategy*
<https://www.pc.gov.au/inquiries/completed/indigenous-evaluation/strategy/indigenous-evaluation-strategy.pdf>

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to conduct an evaluation. The strategy recommends that evaluations be guided by a set of best practice principles, which it groups under four broad criteria: relevant, robust, credible and appropriate.

3.23. Applying the best practice principles outlined in the *Indigenous Evaluation Strategy* may assist ACT Policing to:

- better understand what policies and programs work, why, when and for whom—to support evidence-informed policy development, program design and implementation
- inform improvements in policies and programs—to support learning by doing
- support accountability to funders and the community—shedding light on how best to use public money, including whether policy and program funds are properly spent, are delivering value for money and are meeting recipients’ needs
- build trust between government and Aboriginal and Torres Strait Islander peoples.

RECOMMENDATION FOUR: PROGRAM EVALUATION AND DATA ANALYSIS

We recommend ACT Policing establishes performance measures and conducts regular and ongoing evaluation of community policing activities and complementary programs to enable it to measure success against justice targets and strategic objectives.

Demographic data should be analysed and used to inform evaluation activities and continuous improvement.

Part 4: COMMUNITY ENGAGEMENT

4.1. As part of our investigation, we considered the administration and management of ACT Policing’s engagement with the community. ACT Policing has identified and progressed a number of initiatives in the past few years to facilitate and encourage positive engagement with the ACT Aboriginal and Torres Strait Islander community. As part of our investigation, we considered the administration and management of four engagement approaches with the ACT Aboriginal and Torres Strait Islander community:

- CPO Community Forums
- the ACT Aboriginal and Torres Strait Islander Advisory Board to the Chief Police Officer (CPO)
- attendance at Aboriginal and Torres Strait Islander community events
- Aboriginal Liaison Officers (ALOs).

4.2. Our specific findings in relation to ACT Policing’s management of each of the above engagement initiatives are set out in detail in Volume Two of this report.

Improving ACT Policing’s approach to community engagement

4.3. Consultation with the ACT Aboriginal and Torres Strait Islander community is crucial to ensuring the success of policies, procedures and engagement activities designed for the community, and ACT Policing’s commitment to engaging with ACT Aboriginal and Torres Strait Islander community is positive.

4.4. ACT Policing does not currently have a strategy in place to manage its involvement in these engagement activities with the ACT Aboriginal and Torres Strait Islander community. Currently, each of these initiatives are managed separately and there are no clear outcomes or measures for success that have been agreed upon by ACT Policing and the ACT Aboriginal and Torres Strait Islander community.

4.5. ACT Policing does not have an agreed approach to recording and disseminating records—either internally or externally—for the purpose of consulting with or sharing information as part of community engagement activity.

4.6. We consider these individual engagement activities would be assisted by the development of an overall engagement strategy to inform, co-ordinate and link these activities to strategic objectives. Such a strategy may assist ACT Policing to ensure engagement is meaningful, and informs the joint ownership of outcomes between the police and the community.

4.7. As part of the engagement strategy we have proposed, ACT Policing should identify and prioritise consultation with the ACT Aboriginal and Torres Strait Islander community on the design of any engagement activity that will affect the community. Appropriate consultation with the ACT Aboriginal and Torres Strait Islander community increases the likelihood that engagement will be effective by enabling solutions that are designed with, rather than for, the community. This approach also ensures ACT Policing’s engagement initiatives are meaningful and less like to be perceived as just ‘lip service’.

4.8. This consultative, co-design approach should be adopted in the development of the engagement strategy itself. Engaging with the ACT Aboriginal and Torres Strait Islander

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community during the development of the strategy will assist ACT Policing to ensure the ‘success’ of engagement activities are defined not just by ACT Policing, but by the experiences of all stakeholders.

4.9. The engagement principles set out in the ACT Aboriginal and Torres Strait Islander Elected Body’s *Protocols for working with Aboriginal and/or Torres Strait Islander peoples* highlight the importance of public agencies being clear on the purpose, objectives and outcomes when engaging with the ACT Aboriginal and Torres Strait Islander community. The Protocols set out several factors as critical to the success of community engagement with Aboriginal and Torres Strait Islander people:

- Setting transparent parameters for the engagement activity through clearly defined inclusions and exclusions.
- Allowing appropriate lead-in time before the engagement occurs to ensure community members have sufficient time to engage in the process.
- Communicating outcomes and action items arising from meetings to the community would provide assurance to community members’ views understood and accurately recorded.
- Providing feedback to the community and following-up agreed action items with the community following consultation.¹⁸

4.10. Positive engagement with the community and transparency go hand in hand. In our view, the engagement strategy should also include a process for ACT Policing to publicly report on the outcomes of engagement activities with the ACT Aboriginal and Torres Strait Islander community. This is vital for the ACT Aboriginal and Torres Strait Islander community to have confidence that engagement and consultation with the community is taken seriously.

4.11. In our view, ACT Policing would also benefit from developing a clear process for the internal dissemination of records as part of an engagement and consultation strategy. Ensuring feedback provided at meetings and events is captured, and actioned, enables all ACT Policing members to benefit from engagement and allows any ‘lessons learned’ to be used to inform, and build on, good operational and administrative practice.

RECOMMENDATION FIVE: ENGAGEMENT AND CONSULTATION STRATEGY

We recommend ACT Policing develops an engagement and consultation strategy to manage its relationship with the ACT Aboriginal and Torres Strait Islander community. The strategy should:

- link engagement and consultation activities to strategic objectives
- provide clear outcomes that are measured and reported on publicly by ACT Policing
- be developed in consultation with the ACT Aboriginal and Torres Strait Islander community.

¹⁸ ACT Aboriginal and Torres Strait Islander Elected Body, ‘Protocols for working with Aboriginal and/or Torres Strait Islander peoples’, September 2015

Aboriginal Liaison Officers

4.12. Police services in all Australian states and territories employ liaison officers to work with specific community groups, including Aboriginal and Torres Strait Islander communities. While the specific responsibilities of Aboriginal Liaison Officers (ALOs) varies across jurisdictions, the purpose of the role is generally to advance effective communication and relations between police and Aboriginal and Torres Strait Islander communities.¹⁹

Roles and responsibilities

4.13. For two decades, ACT Policing has employed ALOs as a link between ACT Policing and the ACT Aboriginal and Torres Strait Islander community. ACT Policing currently employs two ALOs who are formally responsible for a range of duties, and are expected to draw on advice from their networks in other parts of Australia in recognition that there are multiple First Nations Peoples represented in the ACT.

4.14. ALOs are in a unique and challenging position, in that they are responsible for managing the intersecting and sometimes conflicting interests of ACT Policing and the ACT Aboriginal and Torres Strait Islander community. Examples of some of the duties performed by ALOs include:

- providing advice and support to ACT Policing members to assist members to manage interactions with the ACT Aboriginal and Torres Strait Islander community in a culturally secure manner
- instructing ACT Policing members on Aboriginal and Torres Strait Islander culture, heritage, behaviour and traditions, including developing and delivering training to ACT Policing members
- assisting with the implementation of crime prevention strategies that impact the Aboriginal and Torres Strait Islander community for which ACT Policing is a stakeholder, for example, ACT Policing’s Family Violence Intervention Program
- representing the ACT Aboriginal and Torres Strait Islander community internally to contribute to administrative decision making
- consulting with government and non-government agencies, community groups and businesses within the ACT, concerning crime prevention strategies relating to the Aboriginal and Torres Strait Islander community
- assisting members of the ACT Aboriginal and Torres Strait Islander community upon request.

4.15. ALOs also represent ACT Policing at public events and attend a number of public forums where they may be responsible for providing advice, support and hear feedback from the community. For example, ALOs may attend Circle Sentencing Court²⁰ pre-sentencing conferences to assist Aboriginal and Torres Strait Islander adults with culturally relevant sentencing options, and Warrumbul Circle Sentencing Court²¹ hearings

¹⁹ Australian Institute of Criminology, Community policing in Australia, AIC Reports Research and Public Policy Series 111, 2010, p42 <https://www.aic.gov.au/sites/default/files/2020-05/rpp111.pdf>

²⁰ ACT Magistrates Court website, Galambany Circle Sentencing Court, https://www.courts.act.gov.au/magistrates/o/courts/galambany_court/1363

²¹ ACT Magistrates Court website, Warrumbul Circle Sentencing Court, <https://courts.act.gov.au/magistrates/about-the-courts/areas-in-the-act-magistrates-court/warrumbul-circle-sentencing-court>

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to make recommendations on the available and appropriate diversionary programs for young people.

4.16. The ALO position description is broad-ranging and places high expectations on ACT Policing members performing the role. There is a lack of clarity around ACT Policing’s expectations of the ALO role, and we noted some confusion among ACT Policing members regarding the process for seeking advice from ALOs. In particular, we were unable to determine:

- what tasks ALOs are primarily responsible for delivering
- how ALOs should prioritise requests for assistance, both internally from ACT Policing members, and externally from members of the ACT Aboriginal and Torres Strait Islander community
- when ACT Policing officers should consult with ALOs as part of day-to-day operational activities, and what action ACT Policing officers should take following ALO advice
- when ALOs should consult with the ACT Aboriginal and Torres Strait Islander community, and what action ACT Policing should take in relation to consultation feedback.

Role effectiveness

4.17. The ALO role is the primary communication mechanism by which ACT Policing manages day to day operational and administrative decisions that impact the Aboriginal and Torres Strait Islander community. Because of the lack of role clarity, the success of the ALO role depends heavily on the commitment of the individual ALOs, and the support of senior ACT Policing members in the Community Safety Team.

4.18. ACT Policing has not yet evaluated whether the ALO role remains an appropriate and effective mechanism for engaging with the Aboriginal and Torres Strait Islander community, nor has ACT Policing sought feedback from the community regarding the operation of the role. ACT Policing advised that while no formal evaluation has taken place, in practice the ALO role has evolved over its 19 years of operation in response to ACT Policing’s operational environment and the needs of the ACT Aboriginal and Torres Strait Islander community.

4.19. ACT Policing provided a number of anecdotal examples of where positive interactions with ACT Aboriginal and Torres Strait Islander community had resulted from the advice and involvement of ALOs. It is unclear how such examples of positive interactions between the ALOs and the Aboriginal and Torres Strait Islander community are shared as examples of better practice or used to inform future operational activity.

Improving role clarity and effectiveness

4.20. The ALO role is a positive initiative in support of strengthening engagement and trust between ACT Policing and the ACT Aboriginal and Torres Strait Islander community. ACT Policing’s ALOs carry out an important role and are key to ACT Policing’s ability to build trust and support positive engagement between ACT Policing and the Aboriginal and Torres Strait Islander community.

4.21. In recognition of the extensive role and significant contribution of ALOs, ACT Policing advised it plans to fund an additional ALO position as part of the rollout of the community-focused PSM.

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4.22. The addition of a third ALO position provides an opportunity for ACT Policing to review the ALO role to provide greater clarity, noting the broad range of tasks for which ALOs are responsible. Particularly noting the dual hat worn by ALOs as representatives of both the community and ACT Policing, we consider that the holders of these roles would be better set up for success if responsibilities were clearly articulated and understood within ACT Policing, and in the community. Clarifying role expectations may also assist ACT Policing to manage the risk related to the potential loss of corporate knowledge should staff move on from the ALO role.

4.23. ACT Policing and the ACT Aboriginal and Torres Strait Islander community would benefit from evaluating the ALO role on a regular basis to ensure that the role meets the needs of the ACT Aboriginal and Torres Strait Islander community and remains aligned to ACT Policing’s operational priorities, including community policing initiatives. ACT Policing may also benefit from considering whether the role requirements for ALO officers are appropriate with respect to level, expertise and background.

4.24. To ensure the ALO role appropriately takes account of community needs, any evaluation of the ALO role or responsibilities should occur in consultation with the ACT Aboriginal and Torres Strait Islander community. Involving the community in evaluation will assist ACT Policing to ensure ACT Aboriginal and Torres Strait Islander perspectives, priorities and knowledge is appropriately taken into account—a critical requirement noting the central importance of the ALO role in building and maintaining trust between the ACT Aboriginal and Torres Strait Islander community and ACT Policing.

RECOMMENDATION SIX: EVALUATION OF ABORIGINAL LIAISON OFFICER ROLE

We recommend ACT Policing evaluates and clearly defines the roles and responsibilities of Aboriginal Liaison Officers (ALO), to clarify expectations and ensure the ALOs are enabled to support effective communication between the ACT Policing members and the ACT Aboriginal and Torres Strait Islander community.

Evaluation should:

- be conducted in consultation with the ACT Aboriginal and Torres Strait Islander community
- take place on a regular basis to ensure the roles remain aligned with program outcomes.

Part 5: INTERNAL GOVERNANCE

5.1. As part of our investigation, we considered ACT Policing’s cultural awareness training, and its records management and complaints management systems. These functions are common to most Australian Government agencies that impact users of government services, including Aboriginal and Torres Strait Islander people.

5.2. These supporting functions are essential to support ACT Policing’s relationship with the ACT Aboriginal and Torres Strait Islander community. They form the basis of, and act as a control to support, accountability and transparency in government administration. The legitimacy of ACT Policing as a service delivery body rests on confidence that ACT Policing members are responsible and accountable for their actions, and transparent in their dealing with members of the public.

Cultural awareness training

5.3. Our investigation considered the development, delivery and evaluation of ACT Policing Aboriginal and Torres Strait Islander cultural training courses to assess how ACT Policing personnel are supported to enable appropriate engagement with the ACT Aboriginal and Torres Strait Islander community.

The Development Program Training

5.4. The Development Program Training (DPT) is a mandatory Aboriginal and Torres Strait Islander cultural training course for AFP recruits at the AFP College, and is offered as an optional refresher for AFP members. The DPT is delivered in two tiers: the first consists of two online modules from the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) online suite of training, the second face-to-face delivery from members of the AFP’s Mulanggang Indigenous Officers Network (MION).²² Since 2015, DPT has been delivered to approximately 400 recruits.

Cultural Connections training

5.5. Cultural Connections training is developed and delivered face-to-face by ACT Policing’s ALOs, with training content sourced from the AIATSIS, the Australian Federal Police MION and ACT Aboriginal and Torres Strait Islander Elders. Training covers the following topics:

- Police and cultural protocols when attending the Aboriginal Tent Embassy
- The role of the ACT Aboriginal and Torres Strait Islander community Elders
- The importance of using appropriate terminology.
- The roles of ALOs
- How to achieve effective communication with the ACT Aboriginal and Torres Strait Islander community
- Interviews and discussions (Interview Friends).

5.6. Cultural Connections training does not include information on identifying and overcoming unconscious bias to equip police with the awareness, skills and knowledge to enable them to identify and address how their own biases, both learned and unconscious,

²² The MION is a voluntary employee network that supports Aboriginal and Torres Strait Islander staff and provides advice to the AFP Executive on Aboriginal and Torres Strait Islander matters.

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impact decision-making and behaviour.²³ ACT Policing advised that content was developed in consultation with ACT Aboriginal and Torres Strait Islander Elders, but it does not have any records of this consultation.

5.7. ACT Policing does not have a regular training schedule, but delivers Cultural Connections training to ACT Policing members when operational requirements allow. Training was not delivered during 2020 due to COVID-19. Cultural Connections Training has been delivered to 180 ACT Policing frontline members since 2015.

5.8. ACT Policing advised it does not keep any data regarding which ACT Policing members have completed Cultural Connections training. This limits ACT Policing’s ability to provide assurance that members are adequately supported to manage interactions with the ACT Aboriginal and Torres Strait Islander community in a culturally capable manner.

Training assessment and evaluation

5.9. At the completion of both DPT and Cultural Connections courses, participants complete feedback forms which ACT Policing and the AFP use to inform future training. Copies of feedback forms were not provided to our Office as part of this investigation, although we received examples of comments from participants following a Cultural Connections training session which primarily related to how relevant or interesting participants found the training. This feedback does not appear to form part of any broader assessment regarding whether learning outcomes are achieved.

5.10. ACT Policing advised that while Cultural Connections training is currently under review, it does not routinely assess or evaluate its cultural training courses to ensure training content and delivery is consistent with best practice principles, or to reflect contemporary issues or risks relating to the ACT Aboriginal and Torres Strait Islander community as they arise.

Improving approaches to cultural training

5.11. In our view, ACT Policing would benefit from developing an Aboriginal and Torres Strait Islander cultural training strategy for the development, delivery and evaluation of cultural awareness training. This strategy should include a process to record officer completion of cultural training. Strengthening approaches to Aboriginal and Torres Strait Islander training may assist ACT Policing’s ability to:

- develop, monitor and sustain mutually beneficial and culturally capable relationships with the ACT Aboriginal and Torres Strait Islander community
- embed cultural diversity principles into ACT Policing’s culture, including assisting members to identify and address how learned and unconscious bias can impact operational decision-making and behaviour
- ensure regular review and continuous improvement of training content so it is responsive to current issues or emerging risks.

²³ Principle 7, *Australia New Zealand Policing Advisory Agency (ANZPAA) Anti-Racism and Cultural Diversity Principles* <https://www.anzpaa.org.au/publications/general>

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5.12. ACT Policing may wish to consider the following principles or approaches to Aboriginal and Torres Strait Islander training in its development of its training strategy:

- *Australia New Zealand Policing Advisory Agency (ANZPAA) Anti-Racism and Cultural Diversity Principles*²⁴
- APSC’s Aboriginal and Torres Strait Islander Cultural Capability Framework²⁵

5.13. ACT Policing may also wish to consider other state police forces’ approaches to Aboriginal and Torres Strait Islander cultural training, for example the Western Australia Police’s 2018 *Cultural Security Audit*.²⁶

RECOMMENDATION SEVEN: CULTURAL TRAINING STRATEGY

We recommend ACT Policing develops a strategy to support the development, delivery and ongoing evaluation of cultural training. The strategy should be informed by best practice in cultural training and include regular and ongoing evaluation so that training is best placed to achieve intended outcomes and is responsive to current issues and emerging risks.

Record keeping

5.14. ACT Policing does not currently have any general record keeping policies or procedures in relation to managing the creation, storage and destruction of records. ACT Policing advised that due to sensitivities in its relationship with the ACT Aboriginal and Torres Strait Islander community, it was not always appropriate to store a record relating to engagement with the community in ACT Policing’s digital record keeping system, Police Realtime Online Management Information System (PROMIS).

5.15. During the course of our investigation, we observed ACT Policing did not have an agreed approach in relation to:

- requirements for officers to make formal or informal record of interactions with the community, including feedback, during formal engagements such as the CPO Community Forums or during meetings with ACT Aboriginal and Torres Strait Islander community members or services
- whether sensitive issues raised by the community with ACT Policing members, including ALOs, should form a formal record
- which types of interactions with members of the ACT Aboriginal and Torres Strait Islander community should be recorded and entered into ACT Policing’s information management system PROMIS.

²⁴ Principle 7, Australia New Zealand Policing Advisory Agency (ANZPAA) Anti-Racism and Cultural Diversity Principles <https://www.anzpaa.org.au/publications/general>

²⁵ APSC Aboriginal and Torres Strait Islander Cultural Capability – a Framework for Commonwealth Agencies <https://www.apsc.gov.au/sites/default/files/aboriginal-and-torres-strait-islander-cultural-capability-framework.pdf>

²⁶ Cultural Security Audit for WA Police, University of Notre Dame – Aboriginal Research, Programs and Partnerships, March 2018, [https://wdpapers.nsf/displaypaper/4012653c01bab44b86124212482583f400099cdd/\\$file/tp-2653.pdf](https://wdpapers.nsf/displaypaper/4012653c01bab44b86124212482583f400099cdd/$file/tp-2653.pdf)

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5.16. During our investigation, we observed that ACT Policing at times had difficulty locating and producing records relevant to its engagement with the ACT Aboriginal and Torres Strait Islander community. This suggests that where records do exist, they are not easily accessible or searchable in ACT Policing’s record management systems.

Improving records management

5.17. Sound record keeping, including documented rationales for key decisions, can assist in providing transparency and accountability of decision making. ACT Policing would benefit from enhancing its records management so that records are created and stored on its systems in keeping with good record keeping practice. The development of a clear policy and procedure setting out record keeping requirements, including the creation, storage and destruction of records relating to engagement with the ACT Aboriginal and Torres Strait Islander community will assist ACT Policing to ensure compliance with whole-of-Government record keeping requirements, including National Archives of Australia guidance.

RECOMMENDATION EIGHT: RECORD MANAGEMENT POLICY

We recommend that ACT Policing amends its records management policy and procedure to ensure records relevant to engagement with the ACT Aboriginal and Torres Strait Islander community are created, stored and accessible to ACT Policing staff.

Complaints management framework

5.18. Our investigation considered the accessibility of ACT Policing’s complaints management framework for Aboriginal and Torres Strait Islander peoples, the policies and procedures in place relevant to ACT Policing’s engagement and interactions with Aboriginal and Torres Strait Islander complainants, and the training and information provided to ACT Policing complaints staff to enable appropriate engagement with the ACT Aboriginal and Torres Strait Islander community.

Oversight of ACT Policing complaints management

5.19. ACT Policing is subject to the AFP’s professional standards framework which is set out in the *Australian Federal Police Act 1979*,²⁷ the *AFP Commissioner’s Order on Professional Standards*,²⁸ and the *AFP National Guideline on Complaint Management*.²⁹ Specifically, Part V of the AFP Act governs the way in which complaints about AFP member conduct and practice are raised and dealt with.

5.20. Our Office provides assurance that the AFP, including ACT Policing, acts in accordance with legislative requirements and best practice standards in complaint handling through annual reviews and ad hoc reviews of the operation of Part V of the Act. Our Office may make recommendations and suggestions, including to update guidance material, practices and procedures where appropriate. Our Office follows up on the AFP’s

²⁷ *Australian Federal Police Act 1979* (Cth)

²⁸ *AFP Commissioner’s Order on Professional Standards* (CO2)

https://www.afp.gov.au/sites/default/files/PDF/IPS/AFP%20Commissioners%20Order%20on%20Professional%20Standards%20CO2_0.pdf

²⁹ AFP National Guideline on complaint management,

<https://www.afp.gov.au/sites/default/files/PDF/IPS/AFP%20National%20Guideline%20on%20complaint%20management.pdf>

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implementation of remedial actions at future reviews. These reports are made publically available on our website.³⁰

5.21. During 2019, we reviewed the AFP and ACT Policing’s complaint handling processes as part of our Complaints Assurance Program (CAP). The CAP is a collaborative process between the Office and agencies, designed to support and improve agencies’ complaint handling. The CAP made a number of suggestions for action by ACT Policing and AFP to complaint handling services to ensure they are accessible and effective. In February 2020, the Office published a summary of these findings in our *Lessons in good complaint handling: Findings from the 2019 Complaint Assurance Project report* (the CAP report).³¹ ACT Policing is currently actioning these suggestions, in consultation with our Office.

Management of complaints from Aboriginal and Torres Strait Islander persons

5.22. ACT Policing’s investigation of complaint matters are undertaken in accordance with the *AFP National Guideline on Complaint Management* (the National Guideline). The National Guideline does not distinguish the handling of complaints according to the complainant’s background or whether someone is a member of a vulnerable group, but outlines complaint management methodology and processes, and roles and responsibilities of complaints teams.

Lodging a complaint

5.23. ACT Policing provides generic information on how to lodge a complaint and the complaint process on its website. The website also includes information about the AFP Professional Standards framework, with links to internal governance documents including the National Guideline. ACT Policing also makes this information available in hard-copy at ACT Policing stations. An information booklet ‘*Feedback about the Australian Federal Police*’ available on the AFP website is available in 10 languages.³²

Language services

5.24. The Office’s CAP report suggested AFP and ACT Policing could improve engagement with people from culturally and linguistically diverse backgrounds by including additional information on the AFP and ACT Policing complaints webpages about how to use the Translating and Interpreting Service (TIS), Text Telephone (TTY) and the National Relay Service to lodge a complaint. This information, with links to relevant websites, is now available on the ACT Policing website page. Where a person makes a complaint without the assistance of TIS National or NRS, and AFP or ACT Policing determines that translation services are required, this is facilitated.

Complaints training

5.25. Although Aboriginal and Torres Strait Islander peoples are major users of Australian government services, they may face significant barriers in practice when exercising their right to complain or providing feedback when government services do not deliver

³⁰ Commonwealth Ombudsman website, <https://www.ombudsman.gov.au/publications>

³¹ Commonwealth Ombudsman - Lessons in good complaint handling - FINDINGS FROM THE 2019 COMPLAINT ASSURANCE PROJECT - February 2020, https://www.ombudsman.gov.au/data/assets/pdf_file/0023/110597/Lessons-in-good-complaint-handling.pdf

³² Australian Federal Police website, Professional Standards, <https://www.afp.gov.au/about-us/our-organisation/professional-standards>

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appropriate outcomes for them. Specific cultural training to staff who take complaints from vulnerable community members, including Aboriginal and Torres Strait Islander persons, is a valuable tool to ensure accessibility needs are understood and met by the agency or organisation responsible for handling the complaint.

5.26. ACT Policing requires all members to complete Cultural Connections Training (including those involved in complaint management). ACT Policing advised it is currently prioritising the delivery of this training to frontline members, and anticipates that all members involved in complaint management will have undertaken complaint management and administrative investigations training prior to the end of 2020.

5.27. The Office’s CAP report noted that complainants may come from a diverse range of cultural backgrounds. The CAP report suggested that the AFP and ACT Policing improve engagement with people from culturally and linguistically diverse backgrounds by requiring complaint investigators to participate in Cultural Competency training.

5.28. In our view, the implementation of CAP report suggestions, and our recommendation above relating to cultural awareness training, will assist AFP and ACT Policing support staff who interact with complainants to work sensitively and effectively with people from different backgrounds and cultures, including Aboriginal and Torres Strait Islander complainants. It may also assist the AFP and ACT Policing to address some of the cultural barriers to complaining.

5.29. We also consider that complaint-specific content should be included in any cultural awareness training provided to complaints management staff.

Capturing identifying data

5.30. All complaints made to the AFP and ACT Policing are assessed on the information provided by the complainant. Where the information provided is insufficient or unclear, the AFP or ACT Policing will seek further information in order to properly assess the complaint. The AFP and ACT Policing do not currently collect information about the cultural or social identities of a complainant in matters of complaint management, including whether someone identifies as Aboriginal or Torres Strait Islander.

5.31. As outlined in our Office’s *Better Practice Guide to Complaint Handling*,³³ complaints provide a rich source of information about how well an agency is performing and what improvements it might make. Complaint information can provide a picture of weaknesses in existing programs, policies, and service and program delivery. This is, however, only possible if agencies keep good records and regularly analyse complaint information.

5.32. The Australian Institute of Health and Welfare’s (AIHW) *National best practice guidelines for collecting Indigenous status in health data sets* provides that the identifying question ‘should be asked of all clients irrespective of appearance, country of birth or whether the staff know of the client or their family background’.³⁴

³³ Commonwealth Ombudsman, *Better Practice Guide to Complaints Handling* https://www.ombudsman.gov.au/data/assets/pdf_file/0020/35615/Better-practice-guide-to-complaint-handling.pdf

³⁴ Australian Institute of Health and Welfare’s *National best practice guidelines for collecting Indigenous status in health data sets*, page 9, <https://www.aihw.gov.au/getmedia/ad54c4a7-4e03-4604-a0f3-ccb13c6d4260/11052.pdf.aspx?inline=true>

Commonwealth and ACT Ombudsman—ACT Policing’s administrative framework for engagement with the ACT Aboriginal and Torres Strait Islander community

5.33. In our view, AFP and ACT Policing would benefit from amending the current complaint handling guidelines to provide for the collection and assessment of Aboriginal and Torres Strait Islander status identifying data. Collecting and assessing more demographic data during the complaint process, at a high level, may assist the AFP and ACT Policing to:

- enable complaints officers to take into consideration any cultural or assistance needs the complainant may require for accessing its services
- identify and address systemic issues relating to interactions between ACT Policing members and members of the ACT Aboriginal and Torres Strait Islander community
- at a systemic level, ensure that complaints systems are accessible and meaningful for all users, including Aboriginal and Torres Strait Islander people
- ensure complaints and feedback inform systemic improvements to service delivery and policy development.

RECOMMENDATION NINE: COMPLAINT HANDLING GUIDELINES

We recommend AFP and ACT Policing amends current complaint handling guidelines to include prompts for complaint handlers to request and record Aboriginal and Torres Strait Islander status during the complaint process.

The guidelines should support ACT Policing to identify risks and issues affecting the ACT Aboriginal and Torres Strait Islander community.

ANNEXURE A – ACT POLICING RESPONSE TO THE REPORT

Commonwealth and ACT Ombudsman—ACT Policing’s administrative framework for engagement with the ACT Aboriginal and Torres Strait Islander community



Chief Police Officer for the ACT
GPO Box 401 Canberra ACT 2601
www.afp.gov.au ABN 17 864 931 143

Our reference: STAR-230

11 February 2021

Michael Manthorpe PSM
Commonwealth Ombudsman and ACT Ombudsman
GPO Box 442
CANBERRA, ACT 2601

Dear Mr Manthorpe

**Draft report into ACT Policing’s administrative framework for engagement with the ACT
Aboriginal and Torres Strait Islander community**

Thank you for providing us the opportunity to review and respond to your draft report into ACT Policing’s administrative framework for engagement with the ACT Aboriginal and Torres Strait Islander community.

Over the past year whilst your review was being conducted, ACT Policing have taken numerous steps to improve our relationship with the Aboriginal and Torres Strait Islander communities. In 2020 we established the Community Safety portfolio to facilitate our engagement with and response to the needs of vulnerable members of the ACT community.

As part of this portfolio, ACT Policing has recently launched the Education, Diversion and Evidence Based Policing Team which will comprise an Evidence based Policing Practitioner and research analyst roles. The team will regularly analyse crime data, community policing activities and criminal justice programs to determine the most effective ways in which to target crime and reduce recidivism. We will also be conducting a review of current procedures and policies relating to our engagement with vulnerable groups and updating them where appropriate.

Prior to implementing your recommendations we will consult closely with the Aboriginal and Torres Strait Islander communities and be guided by their response. Any implementation will be done in close consultation with all relevant agencies and will only occur if supported by the Aboriginal and Torres Strait Islander communities.

Please find below our response to each recommendation.

Recommendation One: We recommend ACT Policing develops an overarching strategic plan to manage the development and delivery of ACT Policing’s roles and responsibilities in relation to ACT Aboriginal and Torres Strait Islander community specific justice programs.

ACT Policing should adopt a program management approach to delivering new Police Services Model objectives, community policing programs and related commitments to justice targets for the ACT Aboriginal and Torres Strait Islander community under the plan.

ACT Policing accepts the recommendation.

This recommendation, particularly as it relates to restorative justice, requires an integrated approach from ACT Policing and the ACT Government. In 2020, the ACT Government committed to improving diversion rates for Aboriginal and Torres Strait Islander peoples, either by expanding existing restorative justice options or creating new diversionary programs tailored for Aboriginal and Torres Strait Islander peoples. ACT Policing has committed to working with the ACT Government in the development of these programs.

Additionally, ACT Policing will be launching a Vulnerable Persons’ Hub this year to allow for the specialised and individualised case management and referral of at risk individuals and recidivist offenders. The details of the Hub are still in development and may be expanded to include a framework for specialised and targeted services relating to Aboriginal and Torres Strait Islander peoples in response to this recommendation.

Recommendation Two: We recommend ACT Policing develops standard operating procedures for community policing activities and complementary programs to ensure contact with ACT Aboriginal and Torres Strait Islander community members is consistent with legislative requirements and appropriately facilitates access to community diversionary and support programs.

ACT Policing accepts the recommendation.

As part of the development of the Vulnerable Persons’ Hub, ACT Policing will review and update existing procedures, guidelines and programs relating to community engagement and vulnerable people, including Aboriginal and Torres Strait Islander peoples.

Recommendation Three: We recommend ACT Policing consults with the ACT Aboriginal and Torres Strait Islander community, our Office, the Justice and Community Services Directorate, the Aboriginal Legal Service and any other relevant stakeholders, to determine when and how it will ask members of the public whether they identify as Aboriginal or Torres Strait Islander.

The position developed as an outcome of this consultation should be included in each of ACT Policing’s relevant policies and procedures for members.

ACT Policing will undertake consultation with relevant stakeholders and the Aboriginal and Torres Strait Islander communities to determine how to best implement this recommendation.

Currently, four jurisdictions in Australia collect data regarding the cultural identity of victims and provide this data to the Australian Bureau of Statistics for their crime victimisation reporting. From a policing perspective, collecting this information will allow officers to identify at risk individuals and provide additional support to victims and offenders.

ACT Policing’s case management system, PROMIS, currently enables police to record the cultural status of victims of crime but it is not standard practice to do so. The historic distrust between the Aboriginal and Torres Strait Islander communities and police may result in people being reluctant to divulge their cultural status to police.

Any procedures and policies relating to collecting this information will only occur with the support of the Aboriginal and Torres Strait Islander communities and will require a whole of government approach to successfully implement. The decision to divulge this information would be entirely voluntary and the accuracy of any data collected would be dependent on cooperation from the community.

Recommendation Four: We recommend ACT Policing establishes performance measures and conducts regular and ongoing evaluation of community policing activities and complementary programs to enable it to measure success against justice targets and strategic objectives.

Demographic data should be analysed and used to inform evaluation activities and continuous improvement.

ACT Policing notes the recommendation, having regard to the concerns and limitations identified in response to recommendation three.

Recommendation Five: We recommend ACT Policing develops an engagement and consultation strategy to manage its relationship with the ACT Aboriginal and Torres Strait Islander community.

ACT Policing partially accepts the recommendation.

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This recommendation will be partially addressed in the establishment of the Vulnerable Persons’ Hub. The Hub will formalise agreements, workflows and relationships with government and non-government services supporting the ACT Aboriginal and Torres Strait Islander communities.

As part of this formalisation, ACT Policing will develop a high-level strategy to manage our relationship with Aboriginal and Torres Strait Islander communities. However, the establishment of rigid guidelines, particularly relating to community and one-on-one engagement, will limit the ability of police to build trust and effective relationships with individuals. Any strategy relating to community engagement will acknowledge the diversity of the Aboriginal and Torres Strait Islander communities and retain officer discretion to ensure meaningful relationships are developed.

Recommendation Six: We recommend ACT Policing evaluates and clearly defines the roles and responsibilities of Aboriginal Liaison Officers (ALO), to clarify expectations and ensure the ALOs are enabled to support effective communication between the ACT Policing members, and the ACT Aboriginal and Torres Strait Islander community.

ACT Policing accepts the recommendation.

We are currently undertaking a review of the ALO program in close consultation with the Chief Police Officer’s Advisory Board.

Recommendation Seven: We recommend ACT Policing develops a strategy to support the development, delivery and ongoing evaluation of cultural training. The strategy should be informed by best practice in cultural training and include regular and ongoing evaluation so that training is best placed to achieve intended outcomes and is responsive to current issues and emerging risks.

ACT Policing accepts the recommendation.

Community Safety are currently working with the Chief Police Officer’s Advisory Board and the recently established Aboriginal Development Board within the AFP to update ACT Policing’s cultural awareness training.

Recommendation Eight: We recommend that ACT Policing amends its records management policy and procedure to ensure records relevant to engagement with the ACT Aboriginal and Torres Strait Islander community are created, stored and accessible to ACT Policing staff.

ACT Policing partially accepts the recommendation.

As noted in our initial input to your review, consultation with the Aboriginal and Torres Strait Islander communities has largely been informal at the request of community leaders. Creating formal record management procedures for this engagement will occur in close consultation with the Aboriginal and Torres Strait Islander communities and only if supported by the community.

Additionally, this recommendation would require changes to the broader AFP’s record management procedures. Whilst ACT Policing and the AFP will consider general improvements to record management processes, any significant changes will need to adhere to legislative obligations and the Australian Privacy Principles.

Recommendation Nine: We recommend AFP and ACT Policing amends current complaint handling guidelines to include prompts for complaint handlers to request and record Aboriginal and Torres Strait Islander status during the complaint process.

The guidelines should support ACT Policing to identify risks and issues affecting the ACT Aboriginal and Torres Strait Islander community.

ACT Policing and the AFP accepts the recommendation.

Professional Standards are in the process of updating the online complaint form and have advised that implementing this recommendation is currently underway. However, updating the broader complaints program to incorporate these fields is a more complex task that will take some time to complete.

Thank you for the opportunity to provide ACT Policing’s response to your report. I look forward to working closely with you on the implementation of these recommendations.

Yours sincerely



Deputy Commissioner Neil Gaughan APM
Chief Police Officer for the ACT