

Healthy Prison Review of the Alexander Maconochie Centre: Joint submission from Hepatitis Australia and Hepatitis ACT

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Submitted by:

Hepatitis Australia, incorporated in 1997, is the peak community organisation progressing national action on issues of importance to people affected by hepatitis B and hepatitis C. Our mission is to provide leadership and engagement on viral hepatitis and support partnerships for action to ensure the needs of Australians affected by, or at risk of viral hepatitis, are met. Our members consist of the eight state and territory community hepatitis organisations. Our vision is to see an end to viral hepatitis in Australia. For more information, please visit our website <https://www.hepatitisaustralia.com/> .

Hepatitis ACT is the leading community organisation providing testing, treatment, education, support, and advocacy for people affected by or at risk of viral hepatitis in the ACT. Our mission is to eliminate viral hepatitis and promote better liver health through harm reduction, testing, treatment access, and community education. We work in partnership with government agencies, health providers, and community organisations to deliver high-impact programs and services. For more information, please visit www.hepatitisact.org.au

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Summary

Hepatitis Australia and Hepatitis ACT welcome the ACT Inspector of Custodial Services third Healthy Prison Review of the Alexander Maconochie Centre. We are especially grateful to the ACT Custodial Inspector for granting us an extension for our submission.

Hepatitis ACT has a long-standing working relationship with the Alexander Maconochie Centre (AMC), recently conducting high-intensity testing campaigns and ongoing health promotion work within the facility. Hepatitis ACT collaborates with Justice Health, Corrective Services, and community partner organisations to help ensure that detainees have access to education (on prevention, transmission risks, and harm reduction) and testing opportunities while incarcerated, and are supported in linking to treatment and other services post-release.

Our submission is informed by our deep knowledge of viral hepatitis, the national and local responses, prisons as priority settings, people in prisons and people who inject drugs as priority populations, examples of success and failure, gaps and opportunities, and the various histories behind progress or lack there-of in matters addressed in our submission.

We appreciate the wide-ranging scope of the Review and in our submission seek to address only matters within our areas of expertise. Matters we seek to highlight include:

- Prisons are priority settings for the national hepatitis C response because they are high-risk environments for hepatitis C transmission. Detainees are over-represented nationally in terms of new hepatitis C cases, total cases, reinfections post-treatment, and other injecting-related harms.
- In previously committing to implement a needle and syringe program (NSP) at the AMC, the ACT Government adopted an evidence-based policy position in favour of prison NSP. It is unclear whether and on what grounds the ACT Government has adopted any contrary policy position.
- The failure to ensure the many people who inject drugs in the AMC have access to preventive health programs and products on an equivalent basis to those available in the ACT community appears to contravene important human rights obligations and ACT Standards for Adult Correctional Services.

We urge the Healthy Prison Review to consider these matters, and our submission more broadly, and include in formal recommendations the introduction of an NSP at the AMC to improve health outcomes, make the prison safer, better meet human rights obligations, and deliver on Government policy that remains unfulfilled.

Policy Context

The policy context for our submission includes a range of relevant international, national and local materials. This list whilst not exhaustive includes:

- United Nations Standard Minimum Rules for the Treatment of Prisoners (The Mandela Rules)
- Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT)

- Drug use, harm reduction and the right to health: Report of the UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Tlaleng Mofokeg
- United Nations Office on Drugs and Crime. A handbook for starting and managing needle and syringe programmes in prisons and other closed settings.
- National Hepatitis C Strategy
- National Aboriginal and Torres Strait Islander BBV/STI Strategy
- National Drug Strategy
- Guiding Principles for Corrections in Australia
- ACT Standards for Adult Correctional Services
- ACT Drug Strategy Action Plan
- The Hepatitis B, Hepatitis C, HIV, Sexually Transmissible Infections: ACT Statement of Priorities
- ACT Government Sexually Transmissible Infections and Blood Borne Viruses Services Grant Guidelines V2

About hepatitis C

Hepatitis C is a preventable yet potentially life-threatening blood-borne virus. Risk factors include unsterile injecting drug use and incarceration. All Australian governments have committed to the elimination of hepatitis C by 2030.

Effectively managing hepatitis C in any setting requires prevention, testing, treatment, and post-treatment care. This is well known to governments who, in all relevant strategies and plans, variously identify:

- prevention, testing, treatment and care as key activity areas
- people in prisons and people who inject drugs among priority populations, and
- prisons and other places of held detention among priority settings.

Preventing hepatitis C

Hepatitis C can be transmitted when the blood of an infected person enters the bloodstream of another person. The importance of harm reduction strategies (including NSPs) to the prevention of hepatitis C and to achieving hepatitis C elimination goals is inarguable. This is well known to governments. For example:

- In 2022/23 Australian governments funded the distribution of 50.8 million sterile needles and syringes nationally at an average of 698 units per person who injects drugs. This is the standard of health care and prevention available to people in the community.
- The ACT Government's *Hepatitis B, Hepatitis C, HIV, Sexually Transmissible Infections: ACT Statement of Priorities*
 - recognises people in custodial settings and people who inject drugs are priority populations
 - aligns with National targets committing "For Aboriginal and Torres Strait Islander people, increase the use of sterile injecting equipment for every injecting episode"

- acknowledges that people in custodial settings are more likely to engage in high-risk activities like sharing injecting equipment and are less likely to have ready access to infection prevention measures.
- The ACT Government previously committed to implement an NSP at the AMC. It is unclear whether this remains ACT Government policy.

Prisons and hepatitis C

One in seven people nationally injects drugs whilst imprisoned, some for the first time. Australian prisons feature higher rates of blood-borne viruses than the general population and people who use drugs are over-represented. Hepatitis C remains a significant public health concern in custodial settings due in no small part to barriers in accessing evidence-based harm reduction measures including sterile injecting equipment. People in prisons are the population most at risk of hepatitis C.

Human rights and standards for treatment of prisoners

Governments variously recognise their human rights obligations to people in prisons:

- Australia is a signatory to the *United Nations Standard Minimum Rules for the Treatment of Prisoners* (The Mandela Rules), and the *Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (OPCAT), and
- These commitments are generally reflected in the *ACT Standards for Adult Correctional Services* which detail the conditions, treatment and care to be examined by the Review to promote continuous improvement in correctional facilities through preventative oversight.

Here we again note *Drug use, harm reduction and the right to health: Report of the UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Tlaleng Mofokeg*. The report says “The obligation to respect the right to health includes providing persons deprived of their liberty with the necessary medical care and appropriate regular monitoring of their health and to refrain from denying or limiting their equal access to preventive, curative and palliative health-care services.”

We comment here on two ACT Standards in particular:

- Standard 67 - All appropriate precautions are in place to reduce the risk of detainee exposure to infection and disease.
- Standard 71 - Detainees have access to preventive health programs and products on an equivalent basis to those available in the ACT community.

With regard to Standard 67, we suggest all appropriate precautions are not in place to reduce the risk of detainee exposure to infection and disease. We assert this noting:

- prison NSP is current Australian Government policy

- NSPs are key elements of health care and prevention programs supported by all Australian governments and available to people who inject drugs in the community
- the list of international and Australian bodies and organisations recommending implementation of prison NSPs is long and distinguished, including the World Health Organization, the United Nations, and UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, and
- where available prison NSPs are feasible, reduce infection, improve safety for detainees and staff alike, and increase health-promoting behaviours.

Regarding Standard 71, we highlight the ACT Inspector of Custodial Services second Healthy Prison Review of the Alexander Maconochie Centre made observations about “prevention” with regard to education, screening, treatment, condoms, lubricant, and dental dams. The report recommended strengthening access to prevention measures for sexually transmissible infections but not blood-borne viruses.

Standard 71 goes to equivalence in access to preventive health programs available in the ACT community. Just as NSPs are available in the general community, so too should they be available to prison populations. The 2025 Healthy Prisons Review should include recommendations to address the unavailability of sterile injecting equipment for people in the AMC who inject drugs.

Non-equivalent access to preventive health programs and products

Australia’s response to blood-borne viruses, including in hepatitis C is world leading. Subsidised and unrestricted access to direct-acting antiviral HCV cures, including for people in prisons, offers potential for hepatitis C elimination.

Whilst community NSPs are critical for disease prevention, in prisons there are no NSPs despite need, evidence, national policy commitments and international obligations. Barriers include misinformation, insufficient political will, and absence of leadership.

In 2015 community implored Government for unrestricted access to DAAs including in prisons because HCV elimination would be impossible otherwise. We are aware that unrestricted access to DAAs in prisons is touted by some as an alternative to prevention. It is not without a degree of irony that governments recognised access to direct-acting antiviral treatments in prisons was necessary to achieve elimination, but not the means of preventing transmission and reinfection.

Failing to ensure people who inject drugs in prisons have access to means of prevention causes significant harms, undermines Australia’s progress on Closing the Gap and on HCV elimination, and creates considerable expense for governments. For example:

- Aboriginal and Torres Strait Islander people represent 3.9% of the population nationally but one-third of Australia's prison population. In hepatitis C "the Gap" is widening. In 2015 Aboriginal and Torres Strait Islander people comprised 12% of all people living with HCV nationally but 18% in 2020. Hepatitis C notification rates are six times higher for Aboriginal and Torres Strait Islander people than non-Indigenous Australians. Justice Health New South Wales has treated an Aboriginal man for hepatitis C in prison for the sixth time.
- Queensland's Lotus Glen Correctional Centre (near Cairns, capacity ~ 1,000 men, mostly Aboriginal and Torres Strait Islander people) in 2018 was the first Australian prison to herald the micro-elimination of hepatitis C following an intensive campaign of testing and direct-acting antiviral treatment. In the following 16 months there were 250 new and reinfected cases of hepatitis C reported. Such outbreaks are inevitable when relying on testing and treatment to control or eliminate hepatitis C in high-risk settings with an absence of harm reduction strategies. This is inefficient and unsustainable.
- Progress or otherwise for Aboriginal and Torres Strait Islander peoples in the national response to hepatitis C (including in prisons) accords with the Report of the UN Special Rapporteur on drug use, harm reduction and the right to health in which "she examines gaps in harm reduction care, including in contexts in which it fails to meet the needs of those who have borne the brunt of punitive drug laws and policies over decades, such as persons of African descent and Indigenous Peoples."
- On any given day around 5% of Australians living with hepatitis C are prisoners. Prisons house 44,000 people nationally yet are the primary site of HCV transmission. In 2023 some 42% of all HCV treatment in Australia was delivered in prisons. It is inefficient and unsustainable to continue to deny from people who inject drugs in prisons the means of preventing infection.
- Whilst non-blood-borne virus injecting-related infections and injuries are commonplace in the context of needle re-use and sharing, including in the AMC, novel outbreaks of *Burkholderia cepacia* (invasive life-threatening infections) have been reported in multiple prisons in Queensland and subsequently Western Australia. These highly antibiotic-resistant environmental bacteria cause serious infections of bones and joints, heart valves and severe limb-threatening soft tissue infections among people who inject drugs who are exposed. Treatment requires prolonged and costly hospital stays, repeated surgeries and high-cost, toxic antimicrobial agents. This reminds us that the risks and harms of injecting drug use are various and simply testing and treating people for hepatitis C infection is insufficient.
- The targets of the next *National Hepatitis C Strategy* contain 'equity thresholds.' The targets can be considered 'achieved' when they are met for all priority populations (including Aboriginal and Torres Strait Islander people and people in custodial settings). Failing to eliminate hepatitis C for people in prison or for Aboriginal and Torres Strait Islander people means failing to eliminate hepatitis C.

Recommendations

We respectfully urge the ACT Inspector of Custodial Services to:

- improve on the observations and recommendations made in the report of the second review regarding prevention and access to prevention measures by acknowledging the absence of an NSP at the AMC in the context of obligations under Standards 67 and 71, and
- make a recommendation to introduce an NSP at the AMC to improve health outcomes, reduce hepatitis C transmission and other infections, make the prison safer, bolster ongoing testing and treatment efforts, better meet human rights obligations and relevant standards, and deliver on Government policy that remains unfulfilled.

In conclusion

The evidence for NSPs in prison is compelling and the policy context is enabling. We suggest that the third Healthy Prison Review of the Alexander Maconochie Centre is an opportunity to revisit the issue, explore available and new evidence, and make appropriate assessments and recommendations acknowledging that people who inject drugs in the AMC have a right to access preventive health programs and products on an equivalent basis to those available in the ACT community.

If it would assist the ACT Inspector of Custodial Services and the Healthy Prison Review of the Alexander Maconochie Centre, we are available to discuss our submission or provide further information.