Our ref: A395937

† August 2016

Mr Philip Moss AM
Inquiry into the Treatment in Custody of Detainee Steven Freeman

Via email – amcreview@act.gov.au

Dear Mr Moss

Inquiry into the Treatment in Custody of Detainee Steven Freeman

The office of the ACT Ombudsman shares the following information about its role in the event that this information assists the Inquiry into the Treatment in Custody of Detainee Steven Freeman.

The ACT Ombudsman has broad jurisdiction to investigate the administrative actions and decisions of ACT Government Directorates or agencies, including the actions and decisions made by ACT Corrective Services. We aim to resolve complaint disputes fairly and help agencies improve services.

Our investigations are conducted in private and we cannot compel agencies to follow our recommendations. If agencies do not act on recommendations, the Ombudsman may provide a report to relevant ministers, the Speaker or the Legislative Assembly, or release a public report on the matter. Our work helps people access remedies. These range from better explanations for actions through to decisions being reconsidered or actions expedited. Other remedies include apologies and changes to law, policy or practices that help others in the future.

In relation to the AMC, the Ombudsman can consider and investigate complaints from detainees at AMC who believe they have been treated unfairly or unreasonably. This does not include complaints about access to health services which are dealt with by the Health Services Commissioner. Our records of the past two financial years (2014/15 and 2015/16) show that we received 99 complaints related to AMC from 60 people in this time period. Eighty-three of the complaints were made by detainees at AMC. The ACT Ombudsman investigated 40 per cent of these complaints, which reveals a higher rate of investigation compared with the overall rate of investigation of complaints regarding ACT agencies over the same period (19 per cent).

The issues raised in complaints over this period include:

- Service issues and response to detainee requests (eg disputes over rentals of equipment, perceived attitude of corrections officers)
- Security concerns and conditions applied

OMBUDSMAN AN OFFICER OF THE ACT LEGISLATIVE ASSEMBLY
• Access to programs, health services and activities
• Concerns about facilities (heating, telephones, showers)
• Restrictions or conditions placed on visits
• Disputes over property alleged to have been lost, not recorded or seized
• The terms of, or administration of, a detainee management plan, and
• The use of force by a corrections officer on a detainee (including strip search).

While complaints made to the Ombudsman may have more than one remedy, the following summary provides a snapshot of recent complaint outcomes. Of the complaints investigated and finalised in this period, ACT Corrective Services initiated a remedy on 10 occasions and reconsidered or changed a decision in response to the Ombudsman investigation on five. The Ombudsman provided a further explanation to persons making a complaint regarding decisions or actions on at least six occasions, and considered that decision or actions complained of were reasonably open to ACT Corrective Services on 21 occasions. In four instances, the Ombudsman made comments and suggestions to ACT Corrective Services consistent with section 15(4) of the Ombudsman Act 1989 (ACT).

The Ombudsman monitors complaints to identify potential systemic issues and engages with AMC about these. In addition to its role in complaints, the Ombudsman also attends an Oversight Agency Working Group meeting convened by ACT Corrective Services every two months, along with other oversight agencies, including the prison Official Visitors, ACT Human Rights Commission, the Public Advocate of the ACT and the Public Trustee and Guardian. In this forum AMC provides updates on changes in policy or practice or emerging issues and oversight agencies can raise issues or concerns.

We note that the Human Rights Commission and ACT Audit Office have recently completed audits in relation to the conditions of women detained at AMC and men’s rehabilitation at AMC respectively. Since the conclusion of these matters, the Ombudsman is considering whether there is scope and resources available to further develop its role in relation to the AMC. This could include commencing Ombudsman inspections of AMC under the Corrections Management Act 2007 (ACT) and an increased focus on oversight of AMC policies. We envisage undertaking any increased role in consultation with the ACT Human Rights Commission, and have had preliminary discussions with the Commission to that effect. We consider that the Ombudsman is well placed to take on an inspection role, given the broader Ombudsman’s office experience in inspecting immigration detention centres.

We have also identified a need to improve the ACT Ombudsman’s cultural competencies. We are currently exploring the possibility of engaging an Aboriginal or Torres Strait Islander ACT Ombudsman officer to assist us to better communicate with the Aboriginal and Torres Strait Islander communities within the ACT, including any Aboriginal or Torres Strait Islander persons detained at the AMC.

I trust this information is of assistance. Please contact me on [redacted] should you wish to discuss these matters further.

Yours sincerely

[Signature]

Richard Glenn
A/g ACT Ombudsman