

# Arrangements between ACT Corrective Services (Community Corrections) and the ACT Sentence Administration Board

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**Parties:**      **ACT Corrective Services, JUSTICE AND COMMUNITY SAFETY DIRECTORATE**, Australian Capital Territory  
**ACT Sentence Administration Board**, Australian Capital Territory

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## Purpose

This Protocol sets out key arrangements between ACT Corrective Services (ACTCS) Community Corrections (CCs) and the ACT Sentence Administration Board (SAB) to support each of them to carry out their legal responsibilities and inter-dependent roles, including to perform statutory functions, provide services, produce reports, meet time frames, enhance communications, and facilitate problem-solving.

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## 1. Application and scope of this Protocol

- 1.1 This Protocol concerns arrangements between ACTCS Community Corrections (CCs) and the SAB. Arrangements between the SAB and other service areas of ACTCS or the Justice and Community Safety Directorate may be informed by this Protocol, but it does not bind any other parties.
- 1.2 The scope of this Protocol relates to agreed arrangements for key areas of inter-dependency between the parties including:
  - 1.2.1 Report content, provision and time frames, specifically in relation to pre-release parole reports, supplementary and update reports, breach reports, Intensive Correction Order (ICO) reinstatement reports, progress reports for management of parole hearings, and other reports required by the parties or by law.
  - 1.2.2 Preparation for SAB proceedings and follow-up of SAB decisions and directions and requests, including assisting or facilitating offenders to prepare and follow-up as appropriate.
  - 1.2.3 Community Corrections Officer (CCO) conduct during hearings, and assistance after SAB proceedings by following up as required, including to communicate and implement SAB decisions.
  - 1.2.4 Identifying and managing safety and security considerations and issues,
  - 1.2.5 Other aspects of the relationship between the parties, including information sharing, CCO requests for management hearings or warrants, collaboration on problem-solving and review of arrangements to improve documentation, processes, and clarification and understanding of legal issues.

## 2. Term of this Protocol

- 2.1 This Protocol will commence on the last date the parties exchange letters of agreement to execute this protocol as a stand-alone document.
- 2.2 This Protocol can be amended at any time via mutual agreement in writing between the parties but will be subject to a review at least every two years.

### **3. Governing Legislation**

- 3.1** Arrangements and activities performed under this Protocol will be conducted as required or authorised under all relevant legislation, noting that the key legislation is the *Crimes (Sentence Administration) Act 2005* and the *Victims of Crime Act 1994*.

### **4. General principles under this Protocol**

- 4.1** The parties agree to perform their functions with a view to promote community safety, offender rehabilitation, and human rights including the rights of victims.
- 4.2** The parties recognise the SAB's independence from the ACT Government and ACTCS, and the independent management of the SAB secretariat by the SAB Chair outside of the ACTCS governance structure.
- 4.3** The parties agree to facilitate and promote timely and efficient provision of critical information required to ensure and enhance community safety and to support effective decision making. If critical information is not available or there are scheduling changes, then this occurrence will be notified to the relevant party so that unnecessary adjournment, attendance, or work, can be avoided.
- 4.4** The parties agree that the core statutory role of CCs relevant to the Protocol is to provide sound advice, information and reports to the SAB, to implement decisions and directions from the SAB as appropriate, to assist and facilitate the offenders' understanding of SAB proceedings and decisions, and to assist and facilitate offenders prepare for SAB proceedings.
- 4.5** The parties agree that the core statutory role of the SAB relevant to the Protocol is to consider material provided by CCs and to make decisions in accordance with legislation, which requires the SAB to consider other material including victims' evidence that may be "in-confidence" and therefore not shared with CCs.
- 4.6** The Protocol is underpinned by therapeutic and problem-solving methods of working, which recognise that community safety and offender rehabilitation can be best achieved through communication and processes that support and build the offender's motivation to change.
- 4.7** The Protocol recognises the 'Risk Needs Responsivity' model of offender management and rehabilitation, offender initiative and the importance of offender preparation, their rights to procedural fairness, their inherent dignity, and their human rights.
- 4.8** The parties are committed to a working relationship based on open and timely communication, consultation, and mutual respect for and understanding of each party's autonomy and responsibilities. When a matter is not dealt with explicitly by this Protocol, the parties will discuss and resolve the matter in accordance with the principles of openness and respectful communication and cooperation.

### **5. Arrangements for reports**

- 5.1** The Protocol recognises the importance of information quality and accuracy to inform SAB decision making. To this end, the parties agree that CCs will undertake to provide reports that:
- 5.1.1** are factual, in that content is linked to factual evidence and sources are identified.
- 5.1.2** are complete, in that CCs will notify the SAB prior to a hearing of any significant information missing from the relevant report. This approach will allow the SAB to make decisions prior to a hearing, particularly about whether a matter needs to be adjourned until the relevant information can be provided.

- 5.1.3** identifies accurately the offence(s) that the offender is subject to in the SAB proceedings, including the relevant sections of the law, for example, the *Crimes Act 1900* and whether a Commonwealth, State or Territory offence(s) are involved.
  - 5.1.4** are relevant to the purpose of the report, noting that supplementary reports in a proceeding can focus on specific issues identified by the Board, and update reports can focus on updating information since the last hearing.
  - 5.1.5** in the case of pre-release parole reports, address the relevant matters in the *Crimes (Sentence Administration) Act 2005* (for example section 120), and if the report is in relation to a sex offender, then briefly reference and attach the report(s) from any sex offender programs, for example, the Progress or Exit Report including any Post Release Relapse Prevention Plan.
  - 5.1.6** in the case of progress reports for management hearings or breach reports, when the offender is subject to Child Sex Offender Register requirements the CCO seek input from the Child Sex Offender Register Team (CSORT) at ACT Policing, particularly about non-compliance with CSORT requirements.
  - 5.1.7** identifies the person’s criminogenic risks and needs, and responsivity issues are assessed and addressed through proposed post-release interventions. This requirement could include risk ratings such as Level of Service Inventory - Revised (LSI-R) scores with the date of last assessment.
  - 5.1.8** includes realistic plans for transition to the community and prevention of relapse and reoffending, including evidence of the offender’s motivation and engagement in addressing challenges presented by community reintegration.
  - 5.1.9** suggest or recommend the type(s) of additional parole order conditions that would be applicable and consider whether they are lawful and human rights compliant, for example, an offender cannot be forced to undergo medical treatment. It is not necessary for the CCO to draft the actual condition/s.
  - 5.1.10** are of a high quality, including, but not limited to, being succinctly written in plain English, with headings and subheadings, and using tables if useful, and all key documents referred to are attached, including a clear indication of an author’s opinion (in contrast to facts presented), and avoiding ‘cutting and pasting’ from previous reports.
- 5.2** The principle of procedural fairness applies to all material before the Board and so offenders need to be assisted by CCOs to understand the content and opinions expressed in the reports and any material provided by CCs to the SAB. This requirement will include:
- 5.2.1** When the CCO recommends against release, the rationale will be explained to the offender, including what they could do to achieve a different recommendation.
  - 5.2.2** CCOs reading pre-release reports with or to the offender (in person or via audio-visual link) prior to the SAB inquiry (i.e., prior to the SAB’s first consideration of the offender’s matter). CCOs will case note the action and confirm the offender’s understanding of the content of the report itself, and not just email them to offenders in prison.
  - 5.2.3** Where literacy or comprehension is an issue (deriving from any cause), CCOs will support the offender in understanding the content of reports and Parole Orders and ICOs and advise the SAB of these issues.



- 6.2.3** framing of breaches as an opportunity for learning and positive change and encouraging and supporting the offender to show initiative.
- 6.3** The parties acknowledge the opportunity for SAB hearings to promote a positive relationship between the CCO and the offender, and therefore should be non-adversarial in nature.
- 6.4** The role of CCOs is to provide information, advice and make recommendations in accordance with this Protocol and to ensure that offenders are adequately prepared for the hearing.
- 6.5** The role of the SAB is to be the decision maker and accordingly it will investigate issues related to parole, ICO re-instatement, or breaches, especially if they are contested and critical to the SAB decision. This approach can reduce the extent that the CCO must actively prosecute an issue, and so reduce negative impacts of SAB proceedings on the relationship between the CCO and offender.
- 6.6** Safety and security of all participants in a SAB hearing will be promoted through the following:
- 6.6.1** CCs will provide the SAB with the current internal safety planning and management procedures. The procedures include CCOs alerting the SAB secretariat of any safety or security concerns relevant to SAB proceedings and the recommended mitigating actions and plans, particularly concerns about violence and aggression and alerts for specific offenders including known triggers and behavioural issues. The SAB secretariat will ensure the sitting SAB members are aware of any safety concerns raised and the recommended mitigating actions and plans.

## **7. Role of the SAB Secretariat**

- 7.1** The SAB Secretariat is recognised by both parties as the central point of information transfer between CCs and the SAB.
- 7.2** Any correspondence or requests for information from the SAB Secretariat to CCs is assumed to be an official request, at the behest of the SAB Chair or Board. To this end, all requests should be official SAB business. Any communications may be subject to sharing with all parties in a matter due to procedural fairness or be required to be released under a court order or under a freedom of information application.
- 7.3** The parties agree to advise the SAB early if there is a community safety concern about an offender subject to a Parole Order or ICO, noting that the CCO may seek that a warrant be issued.
- 7.4** In the event that the SAB decides to make a decision public, the SAB will ensure that the CCO is aware of this decision, who will be responsible for notifying the Senior Director of Community Corrections.

## **8. Privacy and Confidentiality**

- 8.1** Privacy requirements do not apply to the SAB when it is undertaking its deliberative role, for example during proceedings. Any information provided to the SAB by CCs in relation to a matter becomes part of the SAB proceedings and will be shared with all parties to the matter, unless CCs specifically requests that it be made “in-confidence” and a SAB judicial officer authorises it to be made “in-confidence”. Any communications provided to the SAB may be subject to sharing with all parties in a matter due to procedural fairness, or be required to be released under a court order or under a freedom of information request.

**9. Monitoring and evaluation of the operation of this Protocol**

- 9.1** Where possible, both parties agree to take a collaborative approach to the development of relevant templates, procedures, policy, law reforms, and resolution of issues.
- 9.2** Both parties will ensure timely notice is given to the other party of any changes, or proposed changes, to procedures, policies or laws that may affect the arrangements between them.
- 9.3** Senior representatives from each of the parties will meet as required, and at times and locations agreed, to:
  - 9.3.1** review processes, legislation and practices connected to the operation of this Protocol;
  - 9.3.2** discuss issues around workload pressures, timeframes, or processes relating to SAB business
  - 9.3.3** identify opportunities for increased interoperability, efficiencies, and better practices between the parties.