Australian Capital Territory

Inquiries (Board of Inquiry into Aboriginal and Torres Strait Islander deaths in custody in the Alexander Maconochie Centre) Appointment 2026 (No 1)

Notifiable Instrument NI2026-489

made under the

Inquiries Act 1991, section 5 (Appointment of board of inquiry)

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1 Name of instrument

This instrument is the *Inquiries (Board of Inquiry into Aboriginal and Torres Strait Islander deaths in custody in the Alexander Maconochie Centre) Appointment 2026 (No 1)*.

2 Commencement

This instrument commences on 25 February 2027.

3 Appointment

The Executive appoints Mr Joshua Creamer as the Board of Inquiry into Aboriginal and Torres Strait Islander deaths in custody in the Alexander Maconochie Centre to inquire into the matters specified in Schedule 1.

4 Expiry

This appointment ends on 25 August 2027.

Caitlin Tough MLA
Minister for Corrections
01 November 2026

Andrew Barr MLA
Chief Minister
01 November 2026

Schedule 1

Terms of Reference

Board of Inquiry into Aboriginal and Torres Strait Islander deaths in custody in the Alexander Maconochie Centre

This Board of Inquiry is established in the context of the over-representation of Aboriginal and Torres Strait Islander people in the ACT criminal justice system, including in detention, and the recent deaths of Aboriginal and Torres Strait Islander detainees who were in, or had been transferred from, the Alexander Maconochie Centre (AMC). It is acknowledged that over-representation is a key contributing factor in the deaths of Aboriginal and Torres Strait Islander detainees in custody and the ACT Government is seeking to address over-representation as a broader issue in responding to Final Report of the *Independent Review into the Over-representation of First Nations People in the ACT Criminal Justice System*.

The overarching purpose of this Board of Inquiry is the identification of systemic issues as a factor in the deaths of Aboriginal and Torres Strait Islander detainees in the AMC and recommendations on action the ACT Government can take to reduce the likelihood of future deaths in custody.

The focus of this Board of Inquiry on systemic issues as they relate to the ACT's adult correctional centre reflects that all deaths in custody are the subject of inquests under the *Coroners Act 1997* and it is for the coroner to making findings about causes of death, and no deaths have occurred in the Bimberi Youth Justice Centre or in police custody in the ACT to date.

The Board of Inquiry into the deaths of Aboriginal and Torres Strait Islander detainees in the ACT is required and authorised to inquire into the following matters:

The identification of any systemic issues or common themes surrounding deaths in custody of Aboriginal and Torres Strait Islander people in the AMC since 2016.

The Board of Inquiry is to have regard to the following issues:

a) health care and mental health support;

b) substance misuse;

c) disability (including cognitive impairment and neurodivergence);

d) gender and sexual orientation;

e) criminal history including any previous episodes of incarceration as an adult;

f) institutional or structural racism [i];

g) cultural safety and human rights; and

h) social, historic and economic factors.

The availability and access to supports and rehabilitation programs including the role of the non-government organisations in providing advocacy and support services

The broader legislative and policy frameworks, including the adequacy of oversight mechanisms, policies and procedures in the AMC relevant to:

a) complaints processes and accountability structures available to Aboriginal and Torres Strait Islander detainees;

b) staff training in response to the needs of Aboriginal and Torres Strait Islander detainees;

c) the use of force, isolation or other restrictive practices; and

d) the relevance and impact of organisational culture.

The matters described above where relevant to the death of the detainee who was transferred from the AMC to the custody of NSW in 2021, where he died in 2023.

The Board of Inquiry must provide a final report, including findings and recommendations to the Chief Minister no later than 25 August 2027.

Without limiting the power of the Board of Inquiry to determine the conduct of the Board of Inquiry in accordance with the *Inquiries Act 1991*, the Board of Inquiry is requested and authorised to:

I. Develop policies and procedures for the conduct of the inquiry that:

   a. are trauma-informed and culturally sensitive;

   b. support the engagement and sharing of information by Aboriginal and Torres Strait islander people with the Inquiry; and

   c. aim to make the inquiry accessible, including the provision of supports and reasonable adjustments.

II. Consult with the ACT Aboriginal and Torres Strait Islander community on matters relating to the conduct of the Inquiry, including the development of policies and procedures, through engagement with representative individuals, groups and/or organisations; and

III. Have regard to a witness's background (including cultural background), lived experience and circumstances when considering how the inquiry should engage with that witness and how the evidence should be obtained from that witness.

[i] *Refer to definition on pg 182, Closing the Gap Independent Aboriginal and Torres Strait Islander Review:*
Systemic racism is the way a society or institution's cultural norms, laws, ideologies, policies, and practices result in inequitable treatment and outcomes. Systemic racism involves entire systems, for

example, legal, healthcare, and criminal justice systems, and the various institutions and structures that support their operation. Systemic racism can also happen without specific laws, policies, or practices that keep it in place, where the legacy of those norms, laws, policies, and practices persists in systems long after they have ended (Australian Human Rights Commission, 2024, p. 36).

Institutional and structural racism are forms of systemic racism. Institutional racism is closely linked to systemic racism. It exists when racism is normalised within an organisation or institution. It includes the policies and practices that guide how organisations and institutions run.

Structural racism describes the inequalities and barriers that prevent equal access to opportunities. It refers to racism that is deep within the structures of society. This includes in laws, policies, and cultural norms. The terms systemic, institutional, and structural racism, while distinct, are often used to refer to similar phenomena and are sometimes used interchangeably