LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON JUSTICE AND COMMUNITY SAFETY

(Reference: Inquiry into the Administration of Bail in the ACT)

Members:

MR P CAIN (Chair)
DR M PATERSON (Deputy Chair)
MR A BRADDOCK

TRANSCRIPT OF EVIDENCE

CANBERRA

TUESDAY, 18 JUNE 2024

Secretary to the committee:
Mr Hamish Finlay (Ph: 6205 0171)

By authority of the Legislative Assembly for the Australian Capital Territory

Submissions, answers to questions on notice and other documents, including requests for clarification of the transcript of evidence, relevant to this inquiry that have been authorised for publication by the committee may be obtained from the Legislative Assembly website.

WITNESSES

ALOISI, MR BRUNO, Acting Commissioner, ACT Corrective Services, Justice and Community Safety Directorate **20**

ATYEO, MR LACHLAN, Regional Manager ACT and SENSW, Wellways Australia Limited **46**

BOERSIG, DR JOHN, Chief Executive Officer, Legal Aid ACT **1**

BOUDRY, MR DOUG, Deputy Chief Police Officer, ACT Policing **38**

DAVIDSON, MS EMMA, Minister for Community Services, Seniors and Veterans, Minister for Corrections and Justice Health Minister for Mental Health and Minister for Population Health **20**

de BRUIN, DR JAN, Head of Practice, Legal Aid ACT **1**

HASKINS, MS JANINE, Community advocate **50**, **55**

HICKMAN, MS JACQUELINE, Manager, Victim Rights and Reform, Victim Support, ACT Human Rights Commission **12**

JOHNSON, MR RAY, Acting Deputy General-General, Community Safety, Justice and Community Safety Directorate **20**

KUKULIES-SMITH, MR MICHAEL, Partner, Kamy Saeedi Law **1**

LEE, MR SCOTT, Chief Police Officer, ACT Policing **38**

MATHEW, DR PENELOPE, President and Human Rights Commissioner, ACT Human Rights Commission **12**

McCOSKER, MS JANE, Human Rights Legal Adviser, ACT Human Rights Commission **12**

MILLINGTON, MR CHRIS **55**

NUTTALL, MS AMANDA, Chief Executive Officer and Principal Registrar, ACT Courts and Tribunal, Justice and Community Safety Directorate **20**

RATTENBURY, MR SHANE, Attorney-General, Minister for Consumer Affairs, Minister for Gaming and Minister for Water, Energy and Emissions Reduction **20**

ROWE, MS MARGIE, Senior Director, Victim Support ACT, ACT Human Rights Commission **12**

RUTHERFORD, MR DEAN, Managing Solicitor, Criminal Law, Aboriginal Legal Service (NSW/ACT) Limited **1**

SENGSTOCK, MRS ELSA, Senior Policy Officer, ACT Law Society **1**

WHOWELL, MR PETER, Executive General Manager, Corporate, ACT Policing **38**

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Amended 20 May 2013

The committee met at 11.00 am.

SENGSTOCK, MRS ELSA, Senior Policy Officer, ACT Law Society
KUKULIES-SMITH, MR MICHAEL, Partner, Kamy Saeedi Law
BOERSIG, DR JOHN, Chief Executive Officer, Legal Aid ACT
RUTHERFORD, MR DEAN, Managing Solicitor, Criminal Law, Aboriginal Legal Service (NSW/ACT) Limited
de BRUIN, DR JAN, Head of Practice, Legal Aid ACT

THE CHAIR: Good morning and welcome to this public hearing of the Standing Committee on Justice and Community Safety for its inquiry into the administration of bail in the ACT. The committee will today hear from Legal Aid ACT, the Aboriginal Legal Service, the ACT Law Society, the ACT Human Rights Commission, the ACT government, ACT Policing, Wellways, and Janine Haskins.

The committee wishes to acknowledge the traditional custodians of the land we are meeting on, the Ngunnawal people. We acknowledge and respect their continuing culture and the contribution they make to the life of this city and this region. We would also like to acknowledge and welcome other Aboriginal and Torres Strait Islander People who may be attending today's event.

These proceedings are being recorded and transcribed by Hansard and will be published. Proceedings are also being broadcast and webstreamed live. When taking a question on notice, it would be useful if witnesses used these words: "I will take that question on notice." This will help the committee and witnesses to confirm questions taken on notice from the transcript.

This morning we welcome witnesses from Legal Aid ACT, the Aboriginal Legal Service and the ACT Law Society. I remind witnesses of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement. Witnesses must tell the truth. Giving false or misleading evidence will be treated as a serious matter and may be considered a contempt of the Assembly. Could you each please confirm the implications of the statement and that you have agreed to comply with it.

Mrs Sengstock: Yes.

Mr Kukulies-Smith: Yes; I acknowledge I have read it and agree to comply.

Dr de Bruin: Yes.

Dr Boersig: So have I—yes.

Mr Rutherford: Yes.

THE CHAIR: Thank you very much. We are not inviting opening statements, so I will start with some questions. I will open with some very well-reasoned thoughts from Legal Aid but invite comment from any of the participants. Dr Boersig, to my understanding, you are arguing that the presumption in favour of bail should be a universal presumption rather than having the presumption of a neutral position or

even presumption against bail, as is currently in the legislation. Are you confident that the restrictions within the sentencing act would be a message that the community would be comfortable with, in terms of keeping serious offenders—those who have been charged with particularly violent crimes and are awaiting trial—on remand rather than in the community?

Dr Boersig: Mr Cain, we were talking about this very issue in relation to serious offenders and the concern that the committee might have in relation to that. Certainly, that was the context in which we prepared our submission. The bottom line is that we think the Bail Act works and that the discretion of the judicial officers works appropriately. There are always exceptions to that and we acknowledge that, from time to time, offenders do offend whilst on remand.

The balance, from my point of view, relates to the operation, and sometimes the particularly adverse operation, in relation to minorities. What we have seen in relation to legislation that tightens the bail provisions is an inevitable increase in the number of people on remand. That has, in our submission, a particularly adverse effect. We have seen in, say, Queensland and Victoria an increase in the number of women, for example, who are refused bail, and certainly in relation to Aboriginal and Torres Strait Islanders. The impact of this on particular groups is something that we recognise.

That is not to say that there are not very real and legitimate concerns when, as you said, Mr Cain, members of the public see people reoffend when they are on bail. However, that is the nature of our justice system. There are other presumptions in the Bail Act about, for example, the presumption of innocence and essentially making sure people turn up, which is what the Bail Act is intended to do. I turn to my colleague to see if he wants to address that more specifically.

THE CHAIR: If other representatives have a comment, that would be appreciated.

Dr de Bruin: The presumptions are at the beginning of a bail application and, as we said in our submission, are of little or no assistance. To answer your question, sections 22 and 23 of the Bail Act are more on point and will determine if someone should be granted bail. Often, in my experience—and other practitioners can speak to this as well—the presumptions provide no assistance in the determination of the criteria in sections 22 and 23. If someone presented a risk to the community, section 22 would determine that outcome and that person would be refused bail. It is not that we say someone is entitled to bail and that is the end of the inquiry. Section 22 of the Bail Act is the beginning of the inquiry, and that will determine if someone should be granted bail.

THE CHAIR: I am keen to hear whether representatives of the Aboriginal Legal Service or the Law Society have a comment; otherwise, we can move to the next substantive question.

Mr Rutherford: I would support what my colleagues from Legal Aid have said. What I would also say is in relation to the presumption against bail—in particular, section 9D of the Bail Act and its operation in relation to children in the Childrens Court. The reason I raise that is that our office serves the ACT but also surrounding New South Wales, so we service Yass, Goulburn and Cooma local courts. I have a lot

of experience in appearing in New South Wales. We go across the border. Effectively, the equivalent of 9D in New South Wales is a show-cause provision under the Bail Act, which does not apply to children. So we have an anomaly where we can have a child on this side of the border who has to show special exceptional circumstances, whereas there is no such provision in New South Wales, and that obviously increases the rate of incarceration. It makes it a lot more difficult to get bail when you have that presumption that you are starting against.

THE CHAIR: The Law Society?

Mr Kukulies-Smith: I echo what has been said in relation to section 22. Even where there is a presumption in favour of bail, it is really the section 22 criteria that inevitably take up the court's time and attention. That is appropriate because they go to the substantive inquiry into the circumstances of the offending, the circumstances of the individual, the circumstances of the victim et cetera, the living arrangements and the like that can be proposed or made, and how risk can be assessed. Then the risk that is assessed to exist can be managed. That is done through that section of the Bail Act.

DR PATERSON: We have seen New South Wales go in almost the opposite direction lately, particularly in relation to domestic and family violence. Do you see another model or another way of working? I feel that arguing that there should be a presumption for bail and that the court's determination is sufficient to assess bail for everyone is not going to cut it in the current climate, where we are seeing really serious offences occurring when someone is on bail or parole. Is there another model or another framing of bail that you think would be appropriate and could address the concern? There are some crimes that are very, very serious and, as legislators representing community views, we view these as being the crimes of serious offenders for whom the court should take further consideration in bail determinations.

Mr Kukulies-Smith: Could I respectfully suggest that an evidence-based approach—which section 22 is really about—is the correct approach. What a presumption-based approach tends to lead to is a lazy approach to bail. I say that in circumstances where, over the 20 years I have been in legal practice, the attendance of police officers to oppose bail has changed. It was universally the case. When I first went into practice, if bail was opposed, police officers relevant to the case, with the understanding that the case officer has, would be present at court opposing bail. Now they virtually never attend.

With some very limited exceptions, they leave their opposition to a piece of paper and, depending on the quality of the writing in that, that may be of more or less assistance to the court. I suspect there are resourcing issues. I would suggest that it may be a matter the inquiry may wish to take up with police when they give evidence: whether police accept that that is the case—and I totally believe it to be true from my own observations—and, also, what the reasons for that might be. Ultimately, that is the best way because a court can then be properly informed.

A prosecutor at the bar table can only know so much, and they will inevitably be dealing with multiple matters. They will have a statement of facts and limited time to read it et cetera, so they will not necessarily be in the best position to advance the

reasons why bail should or should not be granted, or, if it is granted, the particular risks in the case and the relevant specific conditions. What tends to happen as a result, in my experience, is that we get cookie-cutter opposition to bail, where a common set of things is put up that is not evidence based to the case. I would suggest it comes back to laziness, borne out of the approach where there are presumptions, particularly against, and it becomes a default: no inquiry necessary.

That means we are ending up in circumstances where we have a very high rate of remandees in the ACT relative to other jurisdictions, and that obviously should be of concern to everybody. The substantial number of remandees is compounding overcrowding issues in the AMC. We have issues. We know from the prison reports that it is causing issues in the inability of the AMC to segregate and divide those on remand from those who are sentenced prisoners, which should be the aim of the custodial system, but it is has fallen short. That is largely due to the overcrowding issue, as I understand the situation.

If we had an evidence-based approach, that would necessitate police coming back to court in the way they did in the first five to 10 years that I was a legal practitioner. They are not doing that now. That would ensure evidence was given to the court. Those officers used to be called and they would explain to the magistrate the circumstances they had observed or the extent of their inquiries. Inevitably, there are things that police officers will know from their inquiries that do not form part of the statement of facts, because they go to background intelligence and things of that nature, or maybe they have comments that were made to them by witnesses or potential witnesses after the statement of facts was drafted. That is important information that the court can utilise to make an informed assessment.

Ultimately, that is what the Law Society would advocate for: an approach to bail that puts the onus on all parties—that is, the police and the defendants—to put evidence before the court so that a court can make a properly informed decision. Ultimately, that is going to ensure the protection of victims and the protection of the community, and it is also going to ensure that the people who ought to be on bail and need not languish in custody pending hearings are not doing so needlessly. Essentially, one of the concerns is that, when you have that presumption, it leads to—and I suspect the feed-in of resourcing as well leads to this—what I have described as a lazy approach to bail, and that is one that is not based on evidence. Ultimately, whatever the legislation says, it has to be evidence based if it is going to reach the right conclusions.

THE CHAIR: Lazy by whom?

Mr Kukulies-Smith: In part, by the system. My criticism is that the police are not attending.

THE CHAIR: Who do you think are the actors in the system that—

Mr Kukulies-Smith: The police are the ones who are not coming to court. I do not know—it is a question for them—whether that is a resourcing thing, whether they are taking a forensic decision not to come to court because of the current presumptions or whether that is a decision taken in consultation between police and the DPP. I do not know the answer. That is a question you would have to ask them. All I can observe

from my side of legal practice is that, 20 years ago and probably up to about 10 to 15 years ago, in every single bail application that was opposed, the police would turn up and give evidence. In the more recent 10 to 15 years, that has dwindled away to the point where now it is a very rare exception, not the rule.

THE CHAIR: Of course, they could call for such evidence if they wanted it, if it were needed.

Mr Kukulies-Smith: In one sense, the court could. In another sense, it is an adversarial system. It is not necessarily an adversarial system for the court to require further evidence to be put. The court can make comments. Judicial officers in a number of bail applications I have been a party to have noted that they "have not been assisted by the presence of a police officer", or words to that effect. Beyond that, in an adversarial system, it would be unusual for the court to, effectively, seek further evidence.

On occasion, they do, though. That is not to say they will not if the evidence is able to be made available. I have been at bail applications where prosecutors indicated they wanted the opportunity to get in contact with an informant, the police officer in charge of the investigation, to get further material, and the court stood the matter down for a period of time to allow that to happen. I would not suggest at all that the court is in any way opposed to having more evidence in this regard. I would strongly suspect the court would be grateful to have more evidence in this regard.

THE CHAIR: Thank you.

Mrs Sengstock: May I follow up? I am conscious of your questions and time. Dr Paterson, you were talking about how we meet those community expectations and concerns. Part of the challenge is understanding that human rights are front and centre in making bail decisions. There is a general rule against detention for persons awaiting trial. The presumption is partly where it starts to intersect with those human rights. Having presumptions against bail can actually be contrary to those human rights. People have an expectation that we should just stop bail, but, actually, it should be evidence based, as Michael said.

It is an evidence-based decision. Ultimately, the court is trying to determine risk and how to mitigate that risk. It may help for the public to understand that the risk assessment part is the most critical part, rather than the presumptions that look like a single fix but actually do not operate that way in practice. Part of that is about helping to educate the community around how these decisions are made. Then we can pinpoint the precise problems if things are going wrong and how we can fix them with the evidence base. It is obviously a very difficult area because you want to achieve the goal of protecting victims, witnesses and the defendants themselves, particularly when they have vulnerabilities. You may have questions about this, but, while the bail decision process is obviously a big part of that, it is also about what comes next: the supervision and support that means the bail decisions are going to be most effective.

THE CHAIR: We might move to a fresh substantive. This is something we could probably talk about for the whole session, but I am mindful of other members. Dr Paterson, a substantive?

DR PATERSON: A lot of submissions go to the fact that this is essentially about human rights, and you just touched on it. There have been significant calls for victims' rights to be recognised under the Human Rights Act. Do you think that would have a significant impact or would change the lens by which we view bail if victims' rights were treated as human rights, from the perspective of developing legislation relating to bail? We do not have victims' rights recognised in the Human Rights Act. Do you think that is problematic and leads to a skewed bail system?

Dr Boersig: On the face of it, no, I do not. We do have acknowledgement of victims in various ways through court proceedings; in particular, victim impact statements. I would have to consider your position more. On the face of it, I think not, because, if it were evidence based, it would still take into account their views, irrespective of a change in the legislation in relation to victims.

Dr de Bruin: I could add to that point. Usually, when the informant was called, as Michael referred to happening many years ago, the victim's views were put forward through the informant, who could say, "I have some concerns in relation to X being granted bail." Those concerns were voiced as part of an evidence-based approach.

DR PATERSON: What concerns me when we look at the human rights is that they go to the right of a fair trial and the right of being innocent until proven guilty. These are all very clearly the defendant's rights in the Human Rights Act. Later, in the evidence, victim impact statements and voices might come into the play. But, if victims' rights were placed in equal standing to the right of a fair trial, criminal proceedings and all those things, do you not think that it would alter the lens by which we view bail?

Mr Kukulies-Smith: Perhaps in the way it is framed, but not in the way it plays out. How the presumptions interact as a matter of law—and there are cases such as Islam, in terms of the finding of incompatibility between the Bail Act and the Human Rights Act that was made by Justice Penfold—is that they are not features of day-to-day decisions of bail. I do not know that it changes the individual decision and the individual experience of any victim. There are quite strict procedural impediments to raising a claim of human rights under the Human Rights Act. You need to give notice et cetera. It does not happen in bail proceedings. It is not a routine feature. Cases like Islam are the exception in that regard, where the issue was fully ventilated and taken to that point. That is not the routine bail application, of which there are 10 to 20 on most days of the week in the ACT Magistrates Court.

I note that section 23A requires the prosecutor to tell the court about any concern a victim has with respect to bail, so, in that sense, whilst I accept it is not in the Human Rights Act, the rights of the victim are enshrined in the act. There is nothing the court must hear with respect to a defendant, but there is something they must hear with respect to the victim. It effectively creates a positive obligation on prosecutors to advance that, and that occurs even to the point where there are applications for bail that are not opposed by the prosecution. They still put on the record the fact that the victim's view is that the individual should not get bail or should not have a particular variation, or whatever the application is that day, and that is by virtue of section 23A. So there already is a mechanism and that works on the individual case. I do not say it

does not have an effect, but it is not operative in the day-to-day sense on individual determinations of bail.

THE CHAIR: We could have supplementaries around this theme forever, I think. Mr Braddock, a fresh substantive?

MR BRADDOCK: Thank you. Dr Boersig, at the back end of your submission, you talk about police powers to deal with minor breaches of bail. I want to make sure I understand what you foresee when you call for that and whether you might have also considered the risks that might be associated with that, in terms of whether it is possible to over-police or whether there is some other consequence to that?

Dr de Bruin: If I may answer that question, we often appear for defendants who were granted bail on strict conditions, such as having to report to a police station between the hours of 8 am and 8 pm. If the defendant arrives five or seven minutes late, the police cannot deal with the situation. It means that the defendant is returned to court the next morning. He would appear before the court and the court would then continue bail because some good reasons were put forward as to why he was seven or eight minutes late.

You would want police to have powers to deal with a minor breach like that, because you want the defendant to answer bail and not wait until the next morning to turn up to court, where he can then, I suppose, hand himself in, the matter can be listed and the court can be asked to continue bail as before. We are talking about minor breaches like that, not something significant where, for example, there was a condition not to approach the complainant in the matter and the defendant has done so. We often see these minor types of breaches that could easily be dealt with in a less formal way than a court application.

MR BRADDOCK: You are talking about the discretion of police to not have to arrest someone when they might have been seven or eight minutes late and instead saying, "On the whole, we are of the view that this is minor and bail conditions could continue"?

Dr de Bruin: Yes.

MR BRADDOCK: Thank you.

Mr Rutherford: On that point, I could add something quickly. From my interactions and speaking with police, one of the ideas—and I am not sure whether they are doing this across the board—was to effectively keep a register of these things. The police would say, "If it is one time and they were five to seven minutes late, then obviously no-one thinks that they should be locked up, but if it is the ninth or 10th time that they have been late or they have not reported, that might be a different situation."

MR BRADDOCK: How would that be subject to the court's oversight or supervision to ensure that it is not being abused or that it is serving the court's interests? I do not know whether there was actually a question in that. Would that be part of the process?

Dr Boersig: It is about checks and balances. I got the direction you were going. It is

still reportable. You just want to be clear about the protocols and how the police are exercising their discretion. It is about training. It is about being clear about when they would and when they would not do it. We think that would be efficient financially, but also efficient from the court's point of view, because it is so busy, particularly when they are just going to be let out again.

MR BRADDOCK: And it is also better in terms of outcomes for the individual, in that they are not going to be locked up overnight and let out again the next morning.

Dr Boersig: Yes.

THE CHAIR: I now refer to the Aboriginal Legal Service's submission. Thank you for that. You mention the Ngurrambai Bail Support Program as a wraparound service. At least one of the submissions says that, for bail support in general, there is no really coordinated approach to monitor and support people who are on bail and may have various issues, whether that is mental health or drug use. Could you tell us a little bit more about the Ngurrambai Bail Support Program—why you think it is a successful program for our First Nations people and whether there is the prospect of it being the broader approach of government?

Mr Rutherford: The Bail Support Program has been in place for close to 10 years.

THE CHAIR: Sorry; what did you call it?

Mr Rutherford: The Bail Support Program. It is the Ngurrambai Bail Support Program.

THE CHAIR: Okay; got it.

Mr Rutherford: We have that program. We also have the Front-Up program. The Bail Support Program is basically designed, as we said in our submission, as wraparound support to help people succeed in complying with their bail conditions. It has been a success. It is twofold. It is at the start of bail proceedings. Effectively, we have a team of three in the bail support space. Our bail support officers will attend court with our duty solicitor or solicitors when we are doing bail applications. It saves a lot of runaround time for the solicitors. If the person is in custody, officers will do things like call rehabs or other support services, such as Justice Housing, for instance. They will do things to assist the solicitors to, firstly, help get people on bail. We find that the magistrates are quite familiar with our bail support staff.

We have heard comments such as: "If it wasn't for bail support, that person may not have been granted bail." There is confidence from the bench in the Bail Support Program and the way it is operating. Having bail support people in court is a big factor. Once people are on bail, it is also designed to try to help them succeed and comply with their bail conditions. We can do all sorts of things. We can pick up people to take them to appointments, ring people to remind them that they have court, pick up people to bring them to court—whatever support they need.

THE CHAIR: Do you think that possibly has broader application in our system?
Mr Rutherford: At this stage, it just applies to Aboriginal and Torres Strait Islander

people. I will touch very briefly on our Front-Up program, which is specific to our organisation. There was basically an understanding between police and the courts. Our Front-Up people, who do bail support as well, get a list of outstanding warrants from the police for Aboriginal and Torres Strait Islander people and then we will make efforts to get those people to come directly to court. That started specifically for the Aboriginal Legal Service, but now it is across the board. Basically, anyone can now front up, rather than go to the police station and be locked up unnecessarily. It is saving the resources of the police and Corrective Services. That started just for us and then expanded, and it has been a great success. I do not see any reason why it should not be expanded across the board and to Legal Aid.

DR PATERSON: The ACT government's submission goes a bit to what you were saying in your submission about the Bail Support Program for young people. The ACT government's submission has a table that goes to "Apprehensions by ACT Policing with a breach of bail charge". Close to 20 per cent of those breaches of bail are by people under the age of 18. There is clearly an issue. I would imagine that a really high proportion of young people who have offended are breaching bail conditions. There is the issue around Aboriginal and Torres Strait Islander young people, but also, more broadly, young people having contact with our criminal justice system. What needs to be done to support young people who are clearly breaching bail very regularly?

Mr Rutherford: I could start, from the ALS perspective. Because we have specific funding for the Bail Support Program that does not apply to young people—as I understand it, because they come under the banner of the Community Services Directorate—the obvious answer, to us, would be to have funding that also applies to young people. That would be the position of the ALS. That is the obvious answer, to us.

Dr de Bruin: I can think of a number of clients that I have represented over the years. One specifically comes to mind. She was arrested for a burglary that was actually just a minor trespass. She was homeless. She was then granted bail and forced back into a situation of family violence, but that was not acceptable to her and she ended up at the Legal Aid office on a late Friday afternoon. The first thing that you need to fix is providing suitable accommodation for a person like that. That was a really big struggle for us on a Friday afternoon. We managed to get her in a refuge. From there, she was able to obtain housing.

The last time I saw her, she was employed. She had never been before a court. If she were not homeless, she would not have ended up sleeping rough and in that situation. The charges were downgraded from burglary to trespass. She got a section 17 non-conviction order for that. As I said, the last time I saw her she was employed, happy and doing quite well. In fact, she came to say hello to me and to thank me for the support provided.

Homelessness is often the biggest issue for clients who are experiencing mental health issues, and young people who are forced out of their home, for many reasons, need to be supported. Once they have a place where they are safe, you can do so much for them.

Dr de Bruin: The MERIT program in New South Wales is a kind of direction. It responds to what you were getting at: how do you stop reoffending; how do you address the drivers in the first place that lead to offending? Those kinds of programs are trying to do that.

DR PATERSON: We need more programs on earlier intervention and, broadly, for the whole community?

Dr de Bruin: Yes.

Mr Kukulies-Smith: There is also an inevitable incentive. It is a good time to have those programs early. After a person has received their sentence, while certain incentives can be written into the sentence, there is not a sword of Damocles of proceedings hanging over them. In Up-Front there is. While we might prefer that people were self-motivated to do those things, the reality is that a lot of people who come in contact with the criminal justice system are not self-motivated, in the traditional sense of that word. That may be because of other factors going on in their lives that need assistance of the type that Jan has talked about. But, whilst the proceedings are there, that is a strong incentive for them. It is a good opportunity to get them to take the first step of seeing people when they might not have otherwise taken that step. That is another reason it is particularly important, because it is an opportune moment to get their attention and get them through the door of a service. That is often the hardest step. Once they have taken that step, the services themselves can take over and address issues with the person and then bring about change.

DR PATERSON: In all the submissions and in what Michael was saying about an evidence based system, no-one ever talks about the bail conditions. There does not appear to be any analysis of the conditions that are actually placed on people, and there is no data in any of the submissions around what they are. If we do not understand what the conditions are, how do we understand where the gaps are in terms of people—young people in particular—breaching them?

Mr Kukulies-Smith: I agree and the Law Society agrees: there is a dearth of material available to objectively assess, after the fact, the success or otherwise or what the problem is when there has been a breakdown and there has been reoffending. Often there was a knee-jerk reaction and a person should not have had bail at all. That is the easy knee-jerk reaction. That may be the case in some cases, but in others it may be that they ought to have had a particular condition or particular support. Without going back to the individual file, there is no way to look on a more global basis and say, "Of the 20 per cent of children who reoffended, the majority of them did not have a certain condition, whereas 80 per cent did," or whatever it might be.

Mrs Sengstock: What was the breach? Say 20 per cent breached bail. Does that mean they committed an offence or they decided that the place that they were living at was not tenable for them, but they had no other option so they chose to not stay at the residence they were supposed to? Having that data and that evidence base would allow us to support better informed policy decision-making that goes to the objective of the community. Whilst one very tragic event has quite a visceral emotional effect—and it should; this should open our eyes to the issues—what does the data say is the problem and what are the research-backed solutions that we can implement? In the

absence of that, having a better evidence base before the court to make the decision and having those wraparound support programs are probably the more straightforward places to start.

MR BRADDOCK: In your anecdotal experience, how many of those breaches of bail would be minor administrative matters versus actually committing an offence?

Mrs Sengstock: In relation to children or generally?

MR BRADDOCK: For young people, I would say.

Mr Kukulies-Smith: It would be fifty-fifty, really.

Dr de Bruin: I think fifty-fifty is fair. It is often a problem with housing and not being placed at the right place. If you encourage them to talk about it early then you can approach the court, CYPS can get involved and you can have a wraparound service with which you can easily fix the problem. They are often minor technical breaches—for example, a non-association order that may create some difficulties with the court for good reason—and initially you would have the sort of breach they do not understand.

Mr Kukulies-Smith: That risk for young people is greater than for adults, in terms of the snowballing effect of the breach. Young people are perhaps more prone to, in my experience, panic when they realise they have breached because of a technical breach, whereas an adult client of mine might call me and say, "I've failed to sign in," and they will make arrangements with me to come and see me the next day and hand themselves in. A young person does not necessarily think through it as clearly and, all of a sudden, in their own mind, they are on the run. In my experience, there is a bit more snowballing with young people. What might start as a technical breach might end up with further offending that is felt necessary, because they have, at that point, an on-the-run mindset. It is critical for support services to assist them through those issues.

THE CHAIR: Unfortunately, we will have to draw this to a close. We could talk all day. I thank each of you for your submissions. You have given us lots to think about. We might have some follow-up thoughts to pursue with you, but we can do that through other means. On behalf of the committee, I thank you all for your attendance today. I do not think any questions were taken on notice. If there were any, please provide your answers to the committee secretary within five business days of receiving the uncorrected proof *Hansard*. Thank you all for your attendance.

Short suspension.

McCOSKER, MS JANE, Human Rights Legal Adviser, ACT Human Rights Commission
MATHEW, DR PENELOPE, President and Human Rights Commissioner, ACT Human Rights Commission
ROWE, MS MARGIE, Senior Director, Victim Support ACT, ACT Human Rights Commission
HICKMAN, MS JACQUELINE, Manager, Victim Rights and Reform, Victim Support, ACT Human Rights Commission

THE CHAIR: We welcome witnesses from the ACT Human Rights Commission. I remind witnesses of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement. Witnesses must tell the truth. Giving false or misleading evidence will be treated as a serious matter and may be considered contempt of the Assembly. Could you each please confirm that you understand the implications of the statement and that you agree to comply with it?

Ms McCosker: I understand.

Dr Mathew: I understand.

Ms Rowe: I understand. I advise that I am here on behalf of Heidi Yates, the Victims of Crime Commissioner, who is chairing a conference today.

Ms Hickman: I understand.

THE CHAIR: Thank you. We are not having opening statements, so we will move to questions.

MR BRADDOCK: The previous witnesses described how the Supreme Court's declaration around 9C and the Islam decision was the case where it was fully ventilated in terms of all the legal arguments. I am just trying to understand: how does that still have an ongoing repercussion on other cases that are happening every day here in the ACT?

Dr Mathew: I cannot necessarily speak to all of the cases that are happening, but we did intervene in two cases recently, one of which involved 9C and one which involved 9D. In those cases we successfully argued that the fact that remand persons were not separated from convicted persons in the AMC meant that the bar fell away.

We have two submissions here: one made by me and my sister commissioners, who deal with children and young people, health discrimination and disability and so on, and then one for victims of crime. The issue for us—and, I think, the point we have made in our submission—is that the presumption against bail is really against the presumption of innocence.

The logic of Her Honour's decision in Islam is compelling. It is consistent with international jurisprudence, whether we are talking about the UN Human Rights Committee or the European Court of Human Rights, and nothing has been done to respond to that declaration in terms of revising the legislation. So, in the cases we intervened in, had we not been making those arguments about the rights of remanded

versus sentenced prisoners within the AMC, the bar against bail would have applied and the judges would not have been able to look at the normal bail criteria set out in section 22. Those criteria—as we have listened to a little bit of the evidence proceeding us—are relevant and appropriate criteria. Her Honour's reasoning was really that it is not about the categories of offences; it is about the risks that an individual poses.

MR BRADDOCK: I am assuming that, although you have been involved in two cases, that is not necessarily all of the cases that those situations may apply to?

Dr Mathew: No; absolutely not. I cannot speak to all of those cases. I think some of the practitioners you have been hearing from who are really at the coalface of the criminal justice system would be much better placed to speak to that than I am. I do not know if Margie wants to add anything from a victims of crime perspective on that question?

Ms Rowe: No, thank you.

THE CHAIR: I noticed you made some recommendations. You note that there is no clear reference to disability in consideration of whether bail should be granted or not. I quote from page 4:

> In particular, we recommend that the accused person's health needs and circumstances be included as a mandatory consideration in the Bail Act …

Surely, that is what the court considers when it is looking at any bail application? Is that a naïve understanding of the process? Why would you say this is something that needs to be inserted when, surely, when the provisions of the Bail Act are being considered by the court, a person's circumstances are explored fairly broadly?

Dr Mathew: I think that comes from my sister commissioner for health services. Really, we are saying that it would be helpful to spell out some of those considerations. Similarly, with respect to Aboriginal people and Torres Strait Islanders, it would be helpful to spell out some of the things that should be taken into account, and then it really is a question of the evidence that is put before the judiciary. Some of the concerns we are expressing in our submission are about the extensive criteria that might be imposed—conditions trying to mitigate the risk, which is a good thing when granting bail—and whether the person is able to comply with those conditions because of an issue of disability or mental health, for example.

THE CHAIR: Are you making an observation on actual processes where you feel that the circumstances relevant to the person's state are not being argued by their advocate or are you observing that there is not enough said about those particular circumstances?

Dr Mathew: I think it is that there is not enough attention. There is a kind of Chinese wall between us in terms of the kinds of matters and complaints that might come to the Health Services Commissioner. It is not necessarily just across bail. There are other contexts in which there are protection considerations that she may well be aware of that are driving the concern that the ability of someone to comply with the

conditions has not been taken into account.

THE CHAIR: Do you think the legislation would need to be addressed to bring those to the forefront, or is it more of a procedure to ensure that the circumstances are considered?

Dr Mathew: It is always helpful to put those things in legislation, I think.

DR PATERSON: In the previous hearing I was asking the Law Society and the Bar Association in particular, because they refer specifically to human rights, about the human rights of defendants and rights to a fair trial in criminal proceedings. We have discussed in previous hearings the rights of victims and how victims' rights should be part of the Human Rights Act. We heard in the previous hearing that you start with the bail determination and that victims' voices are heard and victim impact statements made, but they are through that proceeding, rather than being held up as equal with the right to a fair trial—innocent until proven guilty; that type of thing. If victims' rights were up there and recognised under the Human Rights Act, do you think that would change the framing of the way that we would determine bail and sentencing and things like that in the ACT?

Ms Rowe: We would support the inclusion of victims' rights in the Human Rights Act because I think there are some rights in there that we rely on in advocating for victims' rights—the right to life for example, but that is quite narrow. I think it would be better to have it explicitly there so that the balancing of rights that occurs ordinarily in the Human Rights Act is clearer. I think that also would reflect the jurisprudence coming out of our Supreme Court, in R v QX, where Justice Loukas-Karlsson talked about a triangulation of rights; that is, the community's rights, the victim's rights and the accused's rights. So the inclusion of victims' rights in the Human Rights Act does not denigrate from the rights of the accused but it reflects the balancing of rights that the Human Rights Act does in any case.

As to the second part of your question—do I think it would make a difference in relation to bail—I do not think it should. I do not think it should because I think the considerations in section 22 should allow for the consideration of victims' rights. In fact, section 23A provides explicitly that the victim's fears for safety, where the prosecutor is aware of them, should be put before the court, and the charter of victims' rights gives victims a right to have their feelings about bail put before the court.

In that context, and overall, the substance of our position today is that we are not sure whether that is happening consistently, and we would like to see a better evidence base for assessing whether the legislative framework is actually working as intended. We do think that risk assessment, particularly in family violence cases, where a lot of our victim-survivors are, is not necessarily carried out using the expert evidence that is available to inform risk assessment. The assessment of bail is one of the most important risk assessments that occurs in the criminal justice system. There has been a lot of work done about risk assessment by a lot of expert organisations and death reviews in all the states and territories. We do not necessarily believe that that evidence, that information and those structured risk assessments are being used by the courts.

DR PATERSON: Do you think that is why it is necessary to have neutral presumptions of bail or presumptions against bail—because the adequacy of the risk assessments is not up to scratch?

Ms Rowe: We have supported neutrality in relation to bail in some sexual offences. I think our position would be that we would prefer to see the evidence being used before we made a final decision about our position on changes to the legislative framework. It may be that the legislative framework is sufficient. It is the way it is being operationalised. You are probably absolutely aware from the previous speakers that bail is often done in a hurry. There are some bail decisions that I think need more consideration. They may need to remand the accused in custody overnight. There may be a need in terms of process to ensure that there is enough time to put that evidence in.

You are probably aware that Victim Support houses the high-risk family violence team, the Family Violence Safety Action Program. They have been working with the family violence prosecutors to try and ensure that information, both the victim's concerns about bail as well as expert information informing the court's risk assessment, is passed through to the prosecutors to bring before the court. That can operate in cases where the victim is not necessarily called on to express their views, because sometimes that can be a very difficult position to put victims in.

Really, what you are tapping into there is an expert assessment of the risks in granting bail, informed by all of the research that exists. That is a positive, and I think that can be successful. I think we would like to see a more structured approach to that before taking a position on changes to the legislative framework. The courts also have a domestic and family violence bench book that they can refer to and that has information in it. I do not think it has the most recent ACT death review in it, but there is a lot of really expert information that the courts could call on. I think they feel pressed for time, often, in being able to do that.

THE CHAIR: Obviously, under the presumption of innocence, someone is innocent until proven guilty, but you would support the neutral presumption of bail in some circumstances, some accusations?

Ms Rowe: We do not have a position on that at present.

THE CHAIR: I thought you said you supported that.

Ms Rowe: We have supported the neutral presumption on bail in relation to some serious sexual offences.

THE CHAIR: So why would you not support presumption against bail for someone who has violently assaulted a partner and the police have caught them and had to take them from that situation?

Ms Rowe: We have not come to a position on that. I think we would be wanting to see whether the section 22 considerations are sufficient to deal with that situation, without necessarily going to the extent of taking into account the Human Rights Act of having a presumption against bail. Is that necessary? That is, to my mind, the

approach you would take if nothing else that you do is working. I suppose our position is that we do not think the evidence base is there to tell us what the problem is. Is the problem the legislative framework; is it the way that it is applied; is it the processes; is it the lack of evidence; is it the conditions that are imposed; is it the supervision of the conditions? There are human rights constraints in going down that path that should be observed. If that is the only alternative then that is the balancing of rights, but our position at the moment is that we would like to see evidence about how the whole bail system is working before we came to a position on presumptions.

THE CHAIR: But you do support neutral presumptions for certain—

Ms Rowe: We have in the past, yes.

THE CHAIR: And you do now?

Ms Rowe: It would, I think, depend on what it was. I do not mean to be—

THE CHAIR: You either do or you do not.

Ms Rowe: I do not mean to be hedging, but I think our position is that we do not support a change to the legislative framework without a prior consideration of whether it is working, or whether it is not working because of features other than the legislation itself. If there was the evidence that I have just described put before the court routinely in, say, family violence cases, perhaps that is enough and perhaps we would then see that the framework, as it stands, without a neutral presumption or without a positive presumption against bail, is working sufficiently, allowing the court the discretion, based on evidence before it, to make correct risk-based decisions.

THE CHAIR: Obviously, the legislation includes a presumption against bail, so you are saying that is not to be interfered with until you have built up some evidence to say it should be otherwise.

Dr Mathew: I would not be saying that. The legislation includes a presumption against bail by authorised officers at sections 9F and 9C.

THE CHAIR: That is right. That is the current framework. You are saying: do not interfere with that until we have some evidence to support other changes, is that right?

Ms Rowe: Yes, that is right.

MR BRADDOCK: In terms of rights for people with a disability, I am interested in understanding why the current legislative framework, particularly around the Disability Discrimination Act, is not achieving the effect you would want to see under the Bail Act, as you describe in your submission. What changes need to be made to the Bail Act to ensure that people with a disability are appropriately addressed through the bail process?

Dr Mathew: I think, as submitted earlier, it is really just a matter of spelling it out in relevant legislation and drawing it to the attention of the judiciary and other authorised decision-makers that there must be reasonable accommodations made. I

think that is a helpful thing to have in the legislative framework that does not stand against something like the presumption of innocence.

MR BRADDOCK: When it comes to—and you mentioned it in your submission—personal health information potentially going onto the public record and violating court processes, how do you ensure they have the confidence to provide private health information to the court so that it can be taken into consideration, without it being to their future detriment to have that information in the public domain? Do you have any proposals as to how to do that?

Dr Mathew: We have not made any specific recommendations, but I guess there are things that could be looked at, such as whether that kind of evidence was given in closed court in order to protect the person's privacy in a better way.

DR PATERSON: One of the things that I asked in the previous session as well that has really struck me in all the submissions is the lack of engagement around the conditions of bail and the lack of data on it or assessment of the conditions. I am wondering also, with the human rights lens, how far do you extend and look to the conditions that are put on people in terms of bail and whether people are being set up to fail, which you would imagine would be against human rights. What is the balancing there of a condition of bail?

Dr Mathew: It is a really difficult one. I sat in a couple of bail applications recently, where in one case bail was granted and it was subject to very extensive bail conditions in an effort to keep the community safe. How that is going to work out in practice I do not know. It would be good to be able to follow up what actually happened after those conditions were imposed.

MR BRADDOCK: Ms Rowe, people who are often on bail can sometimes also be victims of other crimes. How do you manage that sort of intersection, where you balance their rights as victims through a process where they are also a potential alleged offender? How do you balance those two competing rights frameworks?

Ms Rowe: I think that balance is a requirement. I agree with you: it is absolutely the case that some offenders are also victims of crime. In fact, some offenders are victims of significant family violence. The fact that that exists is part of what informs our reservations about neutrality in presumptions or presumption against bail because it does mean that the court's discretion is restricted. I think that section 22 considerations working as intended and working with the correct evidence is where you would hope to see that balance achieved. Again, with the appropriate evidence before the court, the risk assessment that needs to be taken by the court could properly be carried out.

MR BRADDOCK: That would include consideration of the fact that the person was also a victim of a crime?

Ms Rowe: If that is relevant in the section 22 considerations. It may be relevant in the sense of: if that has led to homelessness and homelessness has led to offending, it gives you a context for assessing risk that is probably much more predictive of the risk to the community, the risk of answering bail et cetera. Dr Paterson, that probably

goes back to your comment about conditions as well, because it would also inform what conditions are necessary to be placed on that person.

Just to add to that, one of the considerations we have to have in looking at this—it is well understood and is reported in death reviews—is that there can be misidentification of who is a predominant perpetrator in family violence incidents. Aboriginal and Torres Strait Islander groups have particularly been affected by that. For example, one of the death reviews found that, of Aboriginal women killed, a high proportion had been previously identified as perpetrators. That informs to some extent our reservations about presumptions and about doing anything with the legislative framework, because you may very well have somebody presenting before the court as an offender who in fact is either mistakenly characterised as that or has a history of violence, or a relevant history, that informs the offending.

Dr Mathew: Both the Victims of Crime Commissioner and I are on the Law Reform and Sentencing Advisory Council, and we hope that we will get time and space to consider these matters more fully. From my perspective, looking at the regime in the Bail Act, it is quite complicated. It is quite hard to understand—and other submitters have said this—with the neutral presumption. I think what Margie has just said is that there is a risk of unintended consequences.

Mr Cain raised earlier a very compelling example where you would not want to grant bail. Indeed, Chief Justice Penfold, at the time, pointed out that those particular provisions about domestic violence were very clearly related to the risk of that offender. But you could have a situation where it is the wrong person being accused of the violence. I do think that is what the council is meant to be looking at: the way those presumptions—for, against, neutral—are set out and to think about them more closely.

DR PATERSON: The Law Society's submission suggested that we look at Sunday bail and weekend bail supports. There was one case in New South Wales, I think, where a woman was murdered and the court assessed the bail application. It was a registrar or something. Do you think there is a risk with going to weekend or extending bail hearings that we end up with subpar hearings that end up not assessing the risk adequately and mistakes or serious things happening as a consequence?

Ms Rowe: It would depend on how that was approached. I know the case that you are referring to. It is Molly Ticehurst in Forbes, who appeared before a registrar, but I know also that bail was confirmed on the following Monday by the magistrate. Having read a media report of what the prosecutor—or I think it was a police sergeant; in New South Wales they have sergeants—put before the court, I really felt that what they were trying to say was that the recognised risk factors were there, but it was said in a very indirect way. I reflected on that, because I think it is a really good example of where the sergeant or the prosecutor tried to call on the evidence that exists to convince the registrar but did not really do so in a direct enough way.

If they had said, "In this case there was a sexual assault; there was cruelty to a pet; there were all these risk factors established by death reviews as creating a high risk of lethality," that decision might have been different. It was confirmed by a magistrate, so, to my mind, that says that the evidence was not properly put. My concern about

weekend bails, I suppose, is the same as to some extent on weekdays, but they are done under even greater time pressures. A decision to hold somebody over on a Saturday means, in order to get the evidence that you need to properly make that risk assessment, holding them over to the Monday.

Dr Mathew: A longer period in detention: that is the other human rights angle there.

THE CHAIR: Thank you so much. Unfortunately, we have to draw to a close. I thank you for your attendance today and for your submission. It is a shame that this justice review of the bail system is not due until November. If there were any questions taken on notice, please provide answers to the committee secretary within five business days of receiving the uncorrected proof *Hansard*. Thank you again for your attendance and your submission.

Short suspension.

RATTENBURY, MR SHANE, Attorney-General, Minister for Consumer Affairs, Minister for Gaming and Minister for Water, Energy and Emissions Reduction
DAVIDSON, MS EMMA, Minister for Community Services, Seniors and Veterans, Minister for Corrections and Justice Health Minister for Mental Health and Minister for Population Health
ALOISI, MR BRUNO, Acting Commissioner, ACT Corrective Services, Justice and Community Safety Directorate
JOHNSON, MR RAY, Acting Deputy General-General, Community Safety, Justice and Community Safety Directorate
NUTTALL, MS AMANDA, Chief Executive Officer and Principal Registrar, ACT Courts and Tribunal, Justice and Community Safety Directorate

THE CHAIR: We now welcome Mr Shane Rattenbury, Attorney-General; Ms Emma Davidson, Minister for Corrections and Justice Health; and officials to our committee hearing. I remind witnesses of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement. Witnesses must tell the truth. Giving false or misleading evidence will be treated as a serious matter and may be considered a contempt of the Assembly. Could you each please confirm that you understand the implications of the statement and that you agree to comply with it.

Mr Rattenbury: Yes.

Ms Davidson: Yes.

Mr Aloisi: Yes.

Mr Johnson: Yes.

THE CHAIR: Thank you very much. I will start with a question. I make reference to the Law Society's submission, which calls for "greater maintenance and publication of criminal justice related data" which "would also be beneficial". This is to assist with the formation of evidence-based review and reform. Also, during the previous session with the Human Rights Commission, we heard about the need for strong evidence to support any variation to the current legislative framework or to even justify the current legislative framework—in particular, the presumption against bail and the presumption of a neutral position on bail. Minister, could you describe what evidence is available to our professional societies and agencies like the Human Rights Commission? What evidence do they have to draw upon to see how well our bail system is working, in light of current legislation?

Mr Rattenbury: As the committee will have seen from the submissions that have been made, there are a range of datasets available. For example, the ACT government submission contains some, and the police submission has extracted data from PROMIS. So there are a range of data sources. With that said, there are questions that come up about where the data is not as crisply available. It is an issue that I have reflected on.

One of the reasons we established the Law Reform and Sentencing Advisory Council is that they have a remit to seek additional data. I note that, with their current inquiry,

that is certainly something they have had a focus on: looking for new sources of data and different ways of looking at data. The short answer to your question is that there are a range of sources, but there are always going to be other ways to cut it which will help us understand particular questions better.

THE CHAIR: It seems to be the view of at least the Law Society and, I think, the Human Rights Commission that it could be implied that there is not quite enough there to really see how well the system is working in practice. Is that a criticism you accept?

Mr Rattenbury: There are a range of datasets available. A broad comment like that is not particularly enlightening, in the sense that, if there are specific questions, yes, we should look into them—I am not disputing that at all—but, as I say, I think there is better work to be done. That is why the government has briefed the Law Reform and Sentencing Advisory Council to have a specific inquiry on bail, in order to drill down. I do not want to pre-empt their work at all, but they might come back with a recommendation to government around the need for particular datasets. If that is a recommendation they make, that is something we can follow through on. Certainly, at the moment, the ACT government are meeting all the reporting requirements we have under the *Report on Government Services*, so we are consistent with other jurisdictions in that sense.

Ms Davidson: When it comes to data, it is worth considering qualitative data as well as quantitative data. The numbers might let you know that there is something happening, but qualitative data actually explains why it is happening. That is why things like inquiries to look into these particular issues can help you really understand what we might need to change to improve community safety.

DR PATERSON: Attorney, you say we should wait and see what the Law Reform and Sentencing Advisory Council come up with and whether they recommend particular datasets or data improvements. From the committee's perspective, we have had recommendations in almost every report that has been put to government around improving the data that the ACT government produces on the criminal justice system. It is repeatedly said that it is inadequate. I take your point, Minister Davidson, that the numbers are just one side of the story, but—and we have had this discussion before—if we do not have the numbers to know where the issues are in the system, how are we actually making evidence-based policy? In the government's submission there are only a couple of tables and they tell you very little, really, about the situation of bail in the ACT. It is quite urgent that we improve our datasets. Would you agree with that?

Mr Rattenbury: Yes; there is room to improve datasets. If you look at, for example, the government's justice reinvestment agenda, you will see we have established a series of evaluations, conducted by the ANU, to make sure we actually have good quantitative and qualitative data to examine programs. There is a constant effort to improve the data. There is more work to be done. I certainly agree with you on that.

MR BRADDOCK: In the ACT Policing submission, justice procedures make up about 70 per cent of the total charges laid by ACT Policing. What are those procedures, and how significant are they as a cause for concern?

Mr Rattenbury: I think it is fair to reflect that those charges can be quite broad in their scope and in their seriousness. That is probably the way to describe it. For example, possible reasons for breaching or cancelling of bail can range from a failure to attend appointments; refusing to provide a sample for drug or alcohol testing; returning a positive drug or alcohol test; failing to comply with a specific condition; not residing at a specifically stated address; through to committing a further offence, and that further offence could vary in seriousness. It is quite a spectrum. It is a large number. This probably goes to Minister Davidson's point that the qualitative analysis of that is quite important to understand any particular trends. Certainly, there would be a material number of those that are listed in that data that go to the sorts of matters I have just described.

MR BRADDOCK: These are just charges in this table. Do we know how many actually resulted in convictions as a result of that process?

Mr Rattenbury: I do not have that data to hand. I will take that on notice, Mr Braddock, and check for you.

MR BRADDOCK: Thank you.

DR PATERSON: I do not know whether to ask you or ACT Policing to take on notice a breakdown of the justice procedures.

Mr Rattenbury: I do not know if they are able to extract that from PROMIS, but I am happy to take it on notice and the government will coordinate with ACT Policing to provide an answer.

DR PATERSON: Great. Thank you.

Mr Rattenbury: I do not know what the answer will be and whether they have it, but we will check.

DR PATERSON: The government submission says that 2,008 applications for bail were granted, but, above that, table 1 says that there were 986 apprehensions by ACT Policing with a breach of bail charge. Is that suggesting that 50 per cent of bail applications in the ACT are breached in a year, if 2,000 bail applications were granted and the number of breaches was 986?

Mr Rattenbury: I am just pondering whether that is a direct comparison. Colleagues may be able to assist.

Mr Johnson: I think we would need to look into that one further. I think you will find that the direct comparison will not be there, because the 2,008 are effectively court decisions about bail. There could be multiple decisions about bail for somebody who is already on remand in the AMC, for example. They are looking at different things. It is an apples and oranges argument, to a degree. They are looking at different parts of the system.

Mr Rattenbury: Shall we take that on notice, Dr Paterson, and provide you with an answer that goes to the heart of your question?

DR PATERSON: Yes. The question is: what percentage of the bail applications that were granted were breached over, perhaps, a year?

Mr Rattenbury: I understand.

MR BRADDOCK: As a supplementary to that, would it be possible to know how many of those were minor administrative breaches versus actual offences?

DR PATERSON: Any detail.

Mr Rattenbury: It goes back to the previous question. We will see what data we can extract in that space.

THE CHAIR: Thank you. Mr Braddock, a substantive?

Mr Rattenbury: Before you move on, Chair, Ms Nuttall is here from ACT Courts and Tribunal and I suspect she will have some additional information that might be of assistance.

THE CHAIR: Regarding which question?

Mr Rattenbury: The question around data.

THE CHAIR: Okay. Thank you.

Ms Nuttall: I acknowledge the privilege statement.

THE CHAIR: Thank you very much.

Ms Nuttall: I think the problem with you analysing the data in that way is that bail is issued at two potential points: one is by the police and one is by the court. The court will not necessarily have any data on police breaches. The other issue is that, when somebody breaches their bail, it is not a criminal offence unless there is a fresh offence. The only criminal offence for breaching bail is when somebody fails to attend court when they are required to attend.

If somebody is brought before the court for breach of bail, it is usually on the basis that the police or the DPP are seeking to either have bail revoked or have bail conditions varied. We do not capture whether there is a finding of guilt as such on a breach of bail; it is that the matter has been re-listed and the bail is revoked or there has been a variation. Our system does not cover the reasons something may have been varied. For example, the magistrate will not indicate that there has been a finding of a breach; they will simply say that bail was varied and new bail conditions were put in place. I do not think that data is going to be available.

DR PATERSON: Does an individual have to reappear if they have reoffended? For example, does that breach go under the previous breach?

Ms Nuttall: The previous follow-up. Again, if there is a fresh offence, it comes in as a

new matter. It is not necessarily connected, but, if there is also a breach of bail, there will be a consideration of bail again at that point in time. Bail will be considered across the range of offences before the court—the previous offence where there was bail in place and the fresh offence—and it might be that the aggregate of that results in a different bail decision on the previous matter.

DR PATERSON: The court does not record any data in relation to the offences for which the breaches of bail are occurring?

Ms Nuttall: As I said, the only offence where there is a breach of bail is where somebody has failed to attend. So the only time that we will record that there is an offence, and it is against the previous file, is where they have failed to attend on that matter.

DR PATERSON: Are you able to provide the number of breach offences in courts?

Ms Nuttall: I can provide those. I will have to take them on notice, though. I do not have them with me.

THE CHAIR: Where they failed to appear in court?

DR PATERSON: Yes.

Ms Nuttall: Where they failed to appear. Where there is a fresh charge for failing to appear, we will be able to provide those numbers.

THE CHAIR: If they fail to appear, does that then create a presumption against bail or doesn't it interfere with the presumption at all?

Ms Nuttall: I am not across the legislation, Mr Cain. Whether there is a presumption is a matter in the legislation. I think it would depend on the offence.

THE CHAIR: Take that on notice, then.

Ms Nuttall: Sure.

THE CHAIR: Thank you, Ms Nuttall.

MR BRADDOCK: Is there any analysis of the level of vulnerable populations placed on remand and not granted bail? We have some information in your submission about Aboriginal and Torres Strait Islanders, but, in terms of women, people with disability or people with mental health concerns, are the outcomes necessarily worse for those groups?

Ms Davidson: I can tell you what is happening right now. As at 11 June, we had 419 people in the Alexander Maconochie Centre and 50 per cent were on remand, but it is not 50 per cent spread evenly across the entire population there. The percentage of women who were in there on remand was 73 per cent, compared to 47 per cent for men. For women who are Aboriginal or Torres Strait Islander, 82 per cent were on remand as at 11 June. It has been as high as 90 per cent in recent times, but it is worth

keeping in mind that we are talking about very small numbers. When you are talking about a very small group of about nine people on remand and two sentenced people—that kind of thing—the difference in one person being on remand versus sentenced makes a big difference to the proportion.

What this is telling us is that something is not working in our systems in the community to prevent women, especially Aboriginal and Torres Strait Islander women, from being bailed, staying safely in the community and meeting the conditions of their bail requirements, because we have such a high proportion that end up on remand. We also know that there are other factors that are affecting people's capacity to comply with bail conditions, and that is also reflected in the number of people who end up on remand and actually end up in the AMC after being sentenced.

We know that, for example, 24 per cent of people who come into the AMC during the intake identify as having a disability, and 68 per cent say that they do not have a disability, but we also know that 39 per cent of people say that they have an urgent need that relates to a disability. There are clearly people coming in who actually need support but do not necessarily identify that they have a disability. This is why it is so important that we continue the work of the Disability Justice Strategy, for example, to be able to provide the right supports to people. Sometimes coming in contact with the justice system is their opportunity to find out that they have a support need, and we can ask, "How can we provide that in the community so that people can comply with bail conditions and we can achieve better outcomes in the long term?"

MR BRADDOCK: We had the Human Rights Commission here earlier. To paraphrase their argument, people with a disability are more likely to end up in remand. Do we have the statistics to demonstrate that?

Ms Davidson: Yes; we do. This is why we have a Disability Justice Strategy and why we have put so much work into the first action plan and are working towards the second action plan. We know that people with disability are more likely to have a difficult time if they come in contact with the justice system. It is really important to keep in mind that people with disability who come in contact with the justice system are actually more likely to come in contact as a victim of crime than a person who has committed an offence. Where that does happen, the work that we do to provide supports for disability and identify what people need is really important in achieving good outcomes for the long-term. That goes to making our community a safer and more inclusive place for everyone.

THE CHAIR: There is a table in the ACT Policing submission. It is a table of a case study. Very briefly, a man was arrested for property damage and threatening phone messages. The victim was granted a family violence order. The man breached that violence order. The first charge was in September 2021, and then in January 2022 he breached the family violence order. He was granted bail in March after attempting to choke the victim, and then in April he murdered the victim. Attorney, I know you had discussions with the then Acting DPP after you said you had concerns expressed to you about the rate of prosecutions in claims of sexual assaults. Have you had any conversations with the Chief Justice or the DPP about a case like this, which is surely a failure in the administration of bail in the ACT?

Mr Rattenbury: I think it is fair to reflect, Mr Cain, that this is a harrowing example and one that had consequences that nobody wanted to see. That is the first point to make here. In terms of conversations with various independent officers, I have not discussed specific matters like this with them. I think it is fair to reflect from a government point of view that these are the sorts of case studies that very clearly motivate us and guide us on the reforms that need to be made. At the same time, this also reflects the difficulty that police and judicial officers face in making bail decisions. I have not spoken to a judicial officer linked to this matter, but they would have made a decision on the evidence before them that bail was appropriate. Clearly, time now tells us it was not.

THE CHAIR: I am surprised to hear your answer, because you said that concerns had been raised with you about the rate of prosecutions in claims of sexual assault which generated an out of sequence conversation between you and the then Acting DPP. In an episode like this, you say it is unfortunate, and I am sure we all agree with that, but, apart from waiting for a review, you have taken no action.

Mr Rattenbury: I do not think that is a fair characterisation, Mr Cain. The government is undertaking extensive work in the space of family and domestic violence. There have been a number of legislative changes and there are broad-ranging policy discussions across government, including with courts and the DPP. They are regular contributors to these discussions. I think your characterisation is not appropriate.

THE CHAIR: Yet one circumstance of concern expressed to you about the rate of prosecution in sexual assault claims led you to have a conversation with the then Acting DPP. In this case—

Mr Rattenbury: Yes, and your party criticised me for doing so.

THE CHAIR: You chose to do so, but in a case like this you have chosen to wait for a review of the Bail Act. It seems you have not chosen to have a conversation with any senior legal officer in the ACT judicial system.

Mr Rattenbury: Mr Cain, I think that is highly inappropriate. You are drawing false equivalents. We are working—

THE CHAIR: I am simply describing your response.

Mr Rattenbury: We are working on these matters all the time. I reject your characterisation.

THE CHAIR: I am describing your response to a situation like this, compared to your response to allegations of a low rate of prosecution in sexual assault accusations.

Mr Rattenbury: That is your comment.

THE CHAIR: I am describing what has happened.

Mr Rattenbury: Yes. Is there a question?

THE CHAIR: Do you believe that it is adequate for you to simply do nothing in response to such a case, when in one situation you created a special meeting with the then Acting DPP and in this example you simply wait for an outcome of a review, due in November?

Mr Rattenbury: That is not true, Mr Cain. You have said I have done nothing. We have not done nothing; we are doing a lot of work in this space to try to avoid these circumstances.

THE CHAIR: Have you spoken to any senior judicial officers about this particular case?

Mr Rattenbury: No, I have not.

Ms Davidson: I note that the conversation that the Attorney-General said he had with the DPP was about some policy settings around cases more generally, rather than individual specific cases, and that that conversation occurred after there had already been a quite extensive review of sexual assault cases in particular. There was already quite a bit of material to draw on to understand what needs to actually happen.

THE CHAIR: Minister, were you involved with these other discussions yourself?

Ms Davidson: No, I was not.

THE CHAIR: You are just repeating the Attorney's report of that. Is that correct?

Ms Davidson: I thought he made a good point that was worth repeating.

THE CHAIR: You are just repeating his point?

Ms Davidson: I am making sure that you—

THE CHAIR: You have no extra experience of your own to contribute to this?

Mr Rattenbury: Let's move on.

THE CHAIR: Sorry, but that is for me or the members of the committee to decide, Attorney.

DR PATERSON: Attorney, you just said, in relation to that case, that it presents a difficulty in assessing bail. This is a national conversation as well, in that this should not be difficult in terms of the risk assessments that should be undertaken by the courts for particularly violent perpetrators. What we heard in this morning's evidence was that there is a lack of risk assessments being applied in bail applications. What do you think we should do or need to do to improve the risk assessments and improve the outcomes of the courts in terms of bail?

Mr Rattenbury: As the committee knows, section 22 of the Bail Act sets out a range of factors that the court is required to take into account. That includes the likelihood

of somebody committing an offence or the likelihood of somebody harassing or endangering the safety or welfare of anybody. These are strong considerations that are already there. That currently relies on information presented by the prosecution and the police. As you would appreciate, these matters often come to court quite quickly. The point I was making around the difficulty is that the judicial officer or the police officer making that bail decision is weighing up a series of competing factors. Where somebody is clearly recognised as being a violent perpetrator, they would be unlikely to get bail. The presumptions in the act reflect that to an extent.

DR PATERSON: The evidence that we heard this morning was around the fact that police, for example—and we will put this question to police when they come in—are opposing bail across the board and not turning up to hearings, and whether there is an agreement between the DPP and police. They were wondering what is going on and that police do not tend to present at bail hearings. Again, do you feel that there is more that we need to do in this space in terms of the risk assessment? One of the previous witnesses mentioned the bench book and that it has not been updated for family and domestic violence recently. It does not include the death review. When we are talking about very serious crimes of violence, and we have domestic violence on the national stage, it concerns me that it is not being viewed as a priority to understand the risk assessments undertaken through the bail process.

Mr Rattenbury: I have not had a chance to hear the evidence that was given this morning, so it is best I look at the *Hansard* and reflect on that.

DR PATERSON: Would you be able to take on notice a response to what we could be doing in the ACT to improve our risk assessments?

Mr Rattenbury: I would be happy to seek advice on that.

DR PATERSON: Thank you.

THE CHAIR: And you will take it on notice?

Mr Rattenbury: Yes, Mr Cain. I will take that on notice.

THE CHAIR: Thank you. That is what the standing orders have asked you to say.

MR BRADDOCK: I am interested in the ACT government's trial of electronic monitoring and its applicability in bail, particularly for violent offenders. Is that something that is under active consideration as part of that trial?

Mr Rattenbury: It is, Mr Braddock. The purpose of the work that is being done at the moment is to look at the appropriate use case for electronic monitoring. There are a broad spectrum of ways that one can use electronic monitoring, from simply understanding where somebody is meant to be at a certain time and measuring breach of curfew—and that can be assessed later by, say, the Sentence Administration Board or as part of a potential bail consideration—through to what might be considered a more live tracking model. Where a family violence person is on bail, they would be required to wear the ankle bracelet and the victim might have a commensurate tag so that, when those two come close together, it triggers an alarm and triggers a police

response. That is the spectrum of potential use cases, and you can imagine the range of scenarios between.

The work the ACT government is doing at the moment is on thinking about the most pressing use case in the ACT and what would be most important in filling the gaps in our current system, while potentially increasing community safety most effectively.

MR BRADDOCK: Has the ACT government yet come to a view as to what the most pressing use case is?

Mr Rattenbury: No. That report is due back to government very soon. It was funded in last year's budget. There has been the development of a range of research and consultancy reports and we are due to get an update on that quite soon.

MR BRADDOCK: Thank you.

THE CHAIR: Attorney, it is a bit of a surprise that the ACT is the only jurisdiction, from my understanding, that does not have electronic bracelet monitoring. Could you explain why that is the case? Why are we simply doing another feasibility study, when it seems to be accepted and demonstrated as an effective way to increase the frequency of bail approvals, subject to such a condition?

Mr Rattenbury: It is fair to reflect, Mr Cain, that across the country the use amongst the different jurisdictions is quite varied. The research that the Justice and Community Safety Directorate has done so far, on behalf of the government, reflects quite a different set of experiences. There is not a single uniform model. That is why further work is being done now to identify what would be most appropriate for the ACT.

Ms Davidson: It is also worth considering that electronic monitoring is not necessarily the whole answer. Other wraparound supports can also have a big impact on a person's ability to comply with bail conditions. For example, we know that there is a much higher proportion of people who end up in the AMC than in the general community who are receiving treatment or support for a mental health issue or where the use of drugs or alcohol or a gambling addiction have contributed to where they have ended up.

Continuing to invest in wraparound supports that enable people to comply with bail conditions is really important. For example, the DECO Program, the Detention Exit Community Outreach Program, has a recidivism rate of around 18 per cent, which is significantly lower than for people who are not participating in those kinds of programs.

I had a conversation with someone who was in the Victorian system recently, about a month ago, who was wearing one of those electronic monitoring ankle bracelets. The things that he talked about that were making the difference for him in finally being able to get back into the community and participate safely in things that would reduce his chances of reoffending were the wraparound supports that were being provided to him, including housing. Things like the Justice Housing Program are also very helpful in that respect.

THE CHAIR: The Aboriginal Legal Service mentioned the success of the Ngurrambai Bail Support Program for our Indigenous community, which includes court-based bail support, outreach bail support, AMC centre support and after-hours bail support. Is there an intention to broaden what appears to be a successful program for bail support to the broader accused community?

Ms Davidson: Are you talking about other than Aboriginal and Torres Strait Islander people?

THE CHAIR: Correct. If the program is successful for part of our community, perhaps it is worth trialling for the broader issue of bail and bail support.

Ms Davidson: Certainly, we have introduced a greater level of case management and support for people who are on bail for longer than four weeks with supervision. We are improving what we are offering to people in terms of case management and support there.

The Aboriginal and Torres Strait Islander program that you are talking about very specifically addresses some needs around cultural safety and culturally appropriate bail reporting locations, and what other supports they can get access to while they are there. It will be different for different groups of people.

THE CHAIR: Can you describe these changes and roughly when they were implemented?

Ms Davidson: I will ask Bruno to talk about the improvements to bail operations.

Mr Aloisi: I will talk about a number of the improvements we have made in our bail processes. These are only those people who are subject to community corrections supervision. We are not talking about the whole spectrum of people who might be on bail, just to clarify.

As part of developing a case management model for community corrections, we had a very in-depth review of our bail processes, acknowledging that there was room for improvement. The first point I would make about our approach to bail is that I think there has been a shift. Bail traditionally has been monitored in more of a compliance framework. We have deliberately made a move to a more holistic case management model. We are considering the person in totality, and we are considering all of those socio-economic determinants that relate to offending behaviour—things like their accommodation, housing, finance, connection to family, employment and education. It is about looking at the person more broadly.

In terms of the specific changes that we have made, we introduced an additional bail officer. That was in response to a couple of things: our own identified need and in regard to the Brontë Haskins coronial process. We introduced an extra bail officer, basically to reduce the case load demand on bail officers. We also introduced our bail support plan. These go to the nub of that philosophical change that I was referring to. It is about having more of a focus on that person holistically. These bail support plans look at that initial point of contact, and at those criminogenic and non-criminogenic needs that will impact not only their rehabilitation and progress but also meaningful

change in terms of their safety in the community.

In August 2023 we reviewed our bail supervision and support policy. That included the introduction of the bail support plans. Also, in terms of bail support, since January this year we have introduced the opening of our alternative bail reporting sites. These are alternative reporting sites which Aboriginal and Torres Strait Islander clients attend in the community, for community-based orders. We have now opened up the eligibility to include people who are on bail as well.

As of 1 July we will be expanding those alternative reporting sites to include Aboriginal and Torres Strait Islander clients, who would normally report to police, to be able to report to corrections as well. That is incredibly useful in helping that person to establish those links with Aboriginal and Torres Strait Islander and culturally appropriate services, including those linkages to those socio-economic determinants that I spoke about earlier, as well as developing our relationships with Aboriginal and Torres Strait Islander community organisations. It will also help to upskill our correctional officers in culturally appropriate behaviour. There is a multi-pronged approach. That connection to culture is one of the key aims of that initiative.

THE CHAIR: Regarding the radio frequency identification devices that have been used previously at AMC, could you tell us about those and why that program was discontinued?

Mr Aloisi: This was operational at AMC from around October 2009 until its removal in October 2011. The radio frequency identification system was used for the management, protection and safety of detainees, staff and visitors at the correctional centre. It was not a community-based electronic monitoring system. I need to point out that distinction. From my understanding, that system was removed because there were problems with the operation of the system—battery life issues and such—which we were basically unable to resolve to our satisfaction, so that system was effectively decommissioned.

THE CHAIR: It was not deemed to be worthy of getting better batteries so that it could keep working?

Ms Davidson: Mr Cain, you would find that an RFID system is quite a different technological solution from the electronic monitoring bracelets that we are talking about.

THE CHAIR: They are for people on bail; this is within the AMC.

Mr Aloisi: Yes, this is within the AMC.

DR PATERSON: I believe that last time we had a discussion there were two bail officers in the ACT?

Mr Aloisi: Yes; that is right.

DR PATERSON: Now there are three; is that correct?

Mr Aloisi: Correct.

DR PATERSON: I still have concerns when we are talking about hundreds of people who are on bail. You were speaking about bail support plans and wraparound supervision; how can three people do that job effectively?

Mr Aloisi: Probably, over time, the number of bailees that are being supervised has reduced. Over the last few years, we have seen a reduction in the number of bailees.

DR PATERSON: What do you mean? They are not supervised anymore?

Mr Aloisi: No; the number of people who have been referred to community corrections for supervision who are subject to bail has reduced over time. I am talking about those who are supervised solely by the bail officers. We also have supervision of bailees by people who might have a concurrent community order. Those cases are also distributed across our community corrections teams.

DR PATERSON: Can you provide insight into those who are unsupervised? Are they the ones breaching bail? What proportion of people who are supervised or unsupervised are breaching bail?

Mr Aloisi: That speaks to a larger database outside corrections. That would be looking at those people who might just have police reporting. When I am talking about people supervised by community corrections, they are the people who will need to attend community corrections, for example, who might be subject to conditions that ask specifically for our supervision. For me to determine the difference, I would have to look at a broader dataset.

DR PATERSON: Is it possible, Attorney-General, to have this broader understanding of where the breaches are occurring, in terms of who is supervising whom and—

Ms Davidson: What is it that you are looking for here? Are you looking for a breakdown of breaches of bail conditions between people who are supervised on a community corrections order while on bail, versus people who are supervised by a bail officer, versus people who are unsupervised and are not on a community corrections order that would otherwise have addressed the supervision?

DR PATERSON: I would like to know: of all those people who are on bail, which ones have conditions that require supervision, either by corrections or by police, and what proportion of those breaches are under those supervision arrangements or non-supervision?

Ms Davidson: The only reason I am asking for clarification is to ensure that, if any data is able to be provided, we are providing the data that answers the heart of your question. I am wondering whether it is possible that there are people who are on a community corrections order already and are then bailed but do not have bail supervision orders in their bail—

DR PATERSON: I feel like you are complicating things.

Ms Davidson: because they are on a community corrections order.

DR PATERSON: I would just like to know: of the 1,000 or however many people are on bail—2,000, I think was said—how many are supervised, and supervised by whom, how many are unsupervised? Then, in those categories, where are the breaches occurring? To me, that would be your evidence base for showing that there is a clear issue with unsupervised people breaching bail or unsupervised young people breaching bail. Perhaps we need to supervise them, or perhaps it is all happening under supervision, in which case why isn't supervision working?

Mr Rattenbury: We will take that request on notice.

DR PATERSON: Thank you.

MR BRADDOCK: Witnesses this morning—Legal Aid and others—described the first critical step that they looked for as being safe and secure accommodation in order to support people through the bail process. Is the Justice Housing Program adequate or does more need to be done to ensure that people who are on bail are set up for success, with appropriate accommodation?

Ms Davidson: The recent review of the Justice Housing Program certainly showed that it does make a real difference to people. That is absolutely why it needs to continue. It also pointed out some areas where consideration could be given to expansion in the future—for example, a justice housing program that had more one and two-bedroom properties available so that people for whom the current properties are not suitable would be able to participate in the program. You might find that people are able to be paroled sooner or be out on bail in that program.

We know that around 38 per cent of the people who come into AMC at the moment either know that they will need support or are unsure if they are going to need support with their accommodation on release. These kinds of housing programs do make a real difference. Some people that I spoke to just recently in the Victorian system talked about housing making an absolute difference in their ability to be paroled and to be able to successfully reintegrate back into the community. Housing was their biggest worry. Yes, absolutely; this is a program that is doing some good work and it should continue.

MR BRADDOCK: What sections of the community are not being serviced by the current program that the one and two-bedroom accommodation might be able to provide?

Ms Davidson: It might make a big difference for people with children, who they might want to have visits with regularly, and women, for example. There might be a range of different needs and reasons why people might not be able to go into the existing housing on offer through the Justice Housing Program, but if there was a one or two-bedroom property, that might work for them. There are a range of different needs that might mean someone cannot go into the same shared housing that we currently have.

DR PATERSON: The submission says that in 2003 the Justice Housing Program

supported 33 people on bail. Again, that is obviously a very small proportion of the number of people who are on bail. As you have said, and as we heard from other witnesses this morning, housing is one of the number one things. What are you doing to advocate for more housing to be available through the Justice Housing Program?

Ms Davidson: One of the other pressures that we are seeing with housing is that, once someone goes into a temporary housing situation like the Justice Housing Program, there needs to be more public housing available for them to move into for long-term housing needs. That will make a big difference to them as well.

DR PATERSON: You are saying that people are getting stuck in the Justice Housing Program because there is no public housing available for them?

Ms Davidson: This is something that we see happening across all sorts of crisis and transitional short-term housing programs, whether that is related to crisis housing for domestic and family violence, justice housing programs, supported mental health housing or disability accommodation. There is a fundamental need for more public housing for people to go into for long-term needs.

DR PATERSON: There are people that are stuck in the Justice Housing Program that are not transitioning out because there is no public housing available for them?

Ms Davidson: We are doing our very best to make sure that people continue to move through those programs, so that transitional housing does not become long-term housing. But this requires a number of different directorates to be able to work well together. It is really helpful that we now have a Coordinator-General for Housing who can be part of making sure that these things are connected up.

DR PATERSON: Are you able to provide the committee with the average length of time that someone is in justice housing?

Mr Rattenbury: In the evaluation, I believe the number was 68 days. If it is not that, I will provide the correct answer on notice, but it is certainly of that magnitude.

DR PATERSON: That seems to be the way it should be working; it sounds like it is transitional. Would that be deemed to be a success, or is that too long in—

Ms Davidson: For those people who are able to access the Justice Housing Program and then move through that to stable, long-term housing, that is successful. We are saying, though, that this program is working really well. It would be great to see it expanded and to have a greater diversity of housing options so that more people can get into that program and achieve that same success in moving through to long-term housing.

DR PATERSON: That goes back to my original question: what have you been doing to advocate for more justice housing places?

Mr Rattenbury: As the minister responsible for putting the program in place in the first place, we created it and we fought hard to get it established. Having the evaluation done is an important part of creating the evidence base to make the case,

through budget processes and the like, for an expansion of the project. Given the success we have now seen, that will provide the platform to make that case.

DR PATERSON: The case has not been made yet?

Mr Rattenbury: The case has been made, yes.

DR PATERSON: How many further places are needed to adequately expand that program?

Ms Davidson: As the Attorney-General was just explaining, when we have an evaluation like this of a program that is achieving success, and there are a number of points around its expansion and the diversity of options available, we make a case to the Treasurer. It is then subject to normal budget processes as to how that is resourced.

DR PATERSON: What extra resourcing is needed? The committee can make recommendations, so it would be good to know what level of housing is required to adequately address the needs of people who are on bail.

Mr Rattenbury: The evaluation did not specify the number of houses needed. It focused on some of the wraparound services being the priority for the next focus of resource injection, if you want to describe it in that way. To pick up the point that Minister Davidson made earlier, there are a few pressure points. One is long-term housing, out the other side of it. At this stage they are probably the focal points—those wraparound supports and longer term housing options.

MR BRADDOCK: Is it possible to track how many people actually received bail as a result of the Justice Housing Program being available; hence they were not required to be remanded in custody?

Mr Rattenbury: Let us take that one on notice, Mr Braddock, and check whether it is tracked in the specific way that you have asked about. I cannot think, off the top of my head.

MR BRADDOCK: The government's submission talks about the Community Services Directorate having two houses to accommodate young people. Has there been any evaluation done of whether that is sufficient to meet demand?

Ms Davidson: Two houses to accommodate young people who need bail?

MR BRADDOCK: Exiting from custody or otherwise on youth justice supervised orders, including bail.

Ms Davidson: In relation to young people needing bail, we have such a small number of young people who are in that situation that we really need to address their individual circumstances, which can be quite diverse within a small number of people. It may not just be around housing; it may also be around intensive case management and access to other therapeutic supports to address the causes of the harmful behaviour that they may have been engaged in. Housing can sometimes be part of that, but I do not know that I could tell you, off the top of my head, how many young

people might need housing in addition to other supports.

DR PATERSON: On the young people aspect, in the government's submission table 1 shows "apprehensions by ACT Policing with a breach of bail charge". It suggests that 20 per cent of bail breaches and apprehensions by ACT Policing involve people under the age of 18. Do you view that as a crisis of bail and young people in the criminal justice system, in that they are significantly, proportionally, more represented in bail breaches and in having contact with police, compared to their adult counterparts?

Mr Rattenbury: It certainly points to a significant need. The changes that the government is implementing as a result of raising the age of criminal responsibility, where there are a range of new support mechanisms being put in place, broadly recognise the point that you are making. I think it is a particularly important time to intervene because there is that whole notion of young people tending to graduate to become adult criminals if there is not an intervention point. We believe that the changes that have been made through raising the age of criminal responsibility will impact in this space.

DR PATERSON: Even though those changes really go to the age of 14?

Mr Rattenbury: Not entirely. Some of the new mechanisms and the new therapeutic support panel approaches can be applicable to young people all the way up to 18. Whilst they are focused on that particular group—you are right about that—a number of them flow through the entire under-18 age group, so they will pick up a more comprehensive group.

Ms Davidson: That includes things like the therapeutic corrections orders. It is also worth noting that, if we pick up that a young person and their family might need additional supports in order to reduce the risk of harmful behaviour at an earlier point in their life, that may be something that supports a young person to not be engaged in the justice system under the age of 14. It may be that you also pick up someone who might have started engaging in harmful behaviour that did not actually bring them into the justice system until after they were over that age but still under 18. So it will still have a significant impact.

DR PATERSON: We heard from the Law Society that their experience with young people is that it is very much a snowballing effect. They do not necessarily understand the implications of breaching their bail; they tend to think that they are out now, then end up reoffending. There is a cycle of misunderstanding, really. What do you think we could be doing in that space to support young people? Do they need more supervision on bail to support them to meet their conditions?

Ms Davidson: That is why having programs like Functional Family Therapy in Youth Justice are so helpful, because you are looking at not just the young person but also the family and carers that are supporting that young person, to make sure that any factors that might be making it harder for them to comply with a community order or bail conditions can be addressed. That is why these things have been continued.

DR PATERSON: How many young people participate in that Functional Family

Therapy program each year?

Ms Davidson: That is probably a question better directed to the minister with responsibility for youth justice. I could not tell you at the moment.

DR PATERSON: Are you able to take it on notice?

Ms Davidson: I would be passing it on to the minister for youth justice to answer, because I am no longer the youth justice minister.

THE CHAIR: But you can take that on notice if you so choose.

Mr Rattenbury: Yes, we will take it on notice. We will be able to coordinate across government on it.

Ms Davidson: Yes, we will take it on notice.

THE CHAIR: Thank you. On behalf of the committee, I would like to thank our witnesses for your attendance today. If you have taken any questions on notice, please provide your answers to the committee secretary within five business days of receiving the uncorrected proof *Hansard*. The committee will now suspend proceedings for lunch.

Hearing suspended from 1.11 to 1.41 pm.

LEE, MR SCOTT, Chief Police Officer, ACT Policing
BOUDRY, MR DOUG, Deputy Chief Police Officer, ACT Policing
WHOWELL, MR PETER, Executive General Manager, Corporate, ACT Policing

THE CHAIR: Welcome back to the public hearing for the committee's inquiry into the administration of bail. The proceedings today are being recorded, transcribed by Hansard and will be published. The proceedings are also being broadcast and webstreamed live. When taking a question on notice, it would be useful if witnesses use these words: "I will take that as a question on notice." This will help the committee and witnesses to confirm questions taken on notice from the transcript.

This afternoon we welcome witnesses from ACT Policing. I remind witnesses of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement. Witnesses must tell the truth. Giving false or misleading evidence will be treated as a serious matter and may be considered contempt of the Assembly. Could you each please confirm that you understand the implications of the statement and that you agree to comply with it?

Mr Lee: I understand and will comply with the statement and my obligations.

Mr Boudry: I understand the statement and agree to comply with the statement.

Mr Whowell: I understand and agree to comply with the statement.

THE CHAIR: Thank you very much. We are not taking an opening statement. Before I start with a question, I want to congratulate you, Mr Lee, on your appointment as the CPO. I think this is the first time the committee has had an opportunity to be in your company.

Mr Lee: Thank you, Chair; much appreciated.

THE CHAIR: Congratulations and all the best. I want to thank you for, and draw your attention to, your submission and to the very tragic case study you have highlighted. It does not have a page number reference but is under the heading "Presumption against bail". I think you know what I am talking about. The table from the bottom of that page to the top of the next shows the sequence: an accused male and threatening phone messages, a victim, a family violence order which was breached, hands around neck—threatening behaviour—to bail, and then, unfortunately, the victim was murdered in April of 2022. Noting the position you are in and the role that you have, do you have any recommendations to the ACT government as to how to prevent such a tragedy from occurring again?

Mr Lee: Thanks for your question and thanks for the opportunity to appear before the committee this afternoon. From our perspective, as you say, this case is extremely tragic. There are also other cases, including another case that we have highlighted which I think outlines the complexity of these types of situations. From our perspective, there are a number of considerations that we have put in our submission. We would be supportive of the review of the bail provisions within the ACT as they relate to presumption against bail, certainly where you have instances where there is

recidivism or repeat offenders—those considerations which balance the right of the individual but also the right of the victim-survivors and the potential risks to those individuals.

We also outlined within our submission that, where bail is granted, while there would be a suite of measures that might be available where bail is provided, they would also provide some other protections. What I would highlight there, in particular, is in relation to the consideration of electronic monitoring within the ACT. Where there is an escalation of behaviour or a perpetrator coming into the proximity of a victim-survivor, it would provide another mechanism for the police to become aware of that and undertake earlier intervention.

In terms of the specific details of that case, if I can, Chair, I will pass to the Deputy Chief Police Officer to see if there is anything additional.

THE CHAIR: In particular, I am interested in when the bail application was made. Was the state of the charge such that it was in the category of presumption in favour of bail, neutral presumption or against bail?

Mr Boudry: My understanding is that it will be neutral. If you have a look at family violence offences, it is generally neutral under the Bail Act. I think it is section 9F.

THE CHAIR: That was the case in this particular circumstance?

Mr Boudry: That is my understanding. Section 9F provides for where there should be the presumption against bail for family violence offences. That was the case in this one. However, obviously, through the court, he was granted bail conditions.

THE CHAIR: Do you recall what those conditions were, in particular? It is a tragic case. I am not trying to highlight it for any reason other than to understand how the process can be improved. Do you recall what the conditions were on that bail or are you happy to take that on notice?

Mr Boudry: Yes, I can take that on notice.

DR PATERSON: I think your submission is about the only one that references bail conditions, but, again, it is under other considerations. I have been asking all witnesses today why there is so little emphasis or data on bail conditions, when we are talking about the breaching of them. That is our central point of inquiry, really. I find it interesting that there is nothing much on what the conditions are. One of the things you say in your submission is that bail conditions are often unenforceable. When we are seeing bail conditions being breached, what is the difference between unenforceable bail conditions and enforceable ones?

Mr Lee: I think in our submission we highlight some instances where—and there are examples there—we suggest that, where bail conditions are sometimes issued, they are unenforceable. As we have highlighted in a couple of those instances, one example is where there may be a curfew that is put in place, but when police seek to enforce that curfew the bail conditions do not contain a requirement for the person to present to the police. In that situation there is no obligation on the person to present to

the police officers if we attended the premises. That is not the case in all circumstances. In the other case study that we have in our submission you can see that there are those provisions in that particular circumstance. The other example that we highlight is where there is a bail condition for the person not to undertake any alcohol or drug use but there is no ability for us to actually undertake alcohol or drug testing to see whether the person is complying with those conditions. They are the types of examples we have within our submission, in broad terms.

You were correct: we have not undertaken a breakdown of that to any great detail. I note, though, that we also have other data, which I can pass to the Deputy Chief Police Officer to talk about. We have additional data that talks about the breach of bail that we see within the ACT. Some of that detail is in here by offence type, but there are some additional breakdowns that we have undertaken, particularly as it relates to where we see instances of breach of bail in domestic and family violence situations. If that would be helpful, we could certainly go through some of that data for you.

DR PATERSON: I have one quick question relating to what you were saying. With the curfew example, if someone has an 8 pm till 8 am curfew, unless it is written in the bail condition that the police attend and you are not there, there is a problem.

Mr Lee: That is right.

DR PATERSON: Unless that is specified, there is not necessarily any problem with someone being out at that time?

Mr Lee: No. If they comply with the curfew, obviously it is not a breach of bail, but if it is a situation where, when we attend the premises, they do not need to present to the police then we are in a situation where, in all circumstances, we may not know whether they are compliant with the bail or not.

DR PATERSON: So would you define that as a police supervision? Is that police supervision, where they would have to present to police on curfew times or present to police for alcohol and drug testing?

Mr Lee: I think the way we would characterise that is that it is simply having bail conditions that allow us to ensure that we can monitor compliance with bail. The other point I would make, particularly when we are talking curfew and those sorts of things with our recidivist offenders—and why we have been strong, I think, in our advocacy and support of government in undertaking the considerations around electronic monitoring—is that when you look at the number of individuals that are on bail within the ACT, obviously with the other demands that are on our policing resources, we cannot undertake compliance on all those individuals in a manual sense. Having some technology that allows us to do that—where the use of electronic monitoring is considered reasonable and appropriate in the circumstances of the offending; there has to be proportionality—would certainly assist us with undertaking our functions, yes.

MR BRADDOCK: Legal Aid, in their submission, have raised the idea that ACT Policing take responsibility for dealing with minor breaches of bail. I wanted to test that idea with you and get your response or thoughts about that idea.

Mr Lee: Mr Braddock, I might pass to the Deputy Chief Police Officer on that question.

Mr Boudry: When it comes to minor transgressions of breach of bail, obviously police have discretion in terms of whether they arrest or caution. When you do have certain transgressions, the police officer might sit there and say, "Righto. I will give that person a caution." When that caution is issued, it is then put as an alert or notification on our PROMIS system—Police Realtime Online Management Information System—so that other police officers know that that person has already been given a caution in relation to that. Obviously, if there is a serious transgression of bail, that generally would result in an arrest and then taking that person back before the court for the breach of bail.

MR BRADDOCK: So you are saying that you already have the discretion available to deal with these minor breaches?

Mr Boudry: Yes; that is correct.

THE CHAIR: I am making reference now to the submission from Ms Janine Haskins, in particular the addendum to her submission. She stated the following, as part of the coronial inquiry into her daughter's death:

> … an AFP officer stated, under oath, that officers do not have the authority to drug test people in their places of residence.

Can you confirm if that statement is accurate?

Mr Lee: I might pass to the DCPO on that. I think it would depend. We would need to understand the full circumstances of that, I think.

THE CHAIR: Again, that is a statement that she is claiming an AFP officer said under oath during the coronial inquiry. We are trying to see if that statement is true.

Mr Whowell: My understanding is that it is true, but I will take it on notice to check. Where we use drug testing and alcohol testing is largely limited to our road safety responsibilities and the testing of drivers.

THE CHAIR: Largely limited. Does that mean that—

Mr Whowell: They are the only powers that I am aware of that we have under the—

THE CHAIR: So you will take that on notice?

Mr Whowell: Absolutely.

THE CHAIR: Just to confirm: I am trying to find out whether that is an accurate statement or not. As you would see—and her submission is public; it is available to you, as well as to anyone—she does state that she had been advised by someone who was actually drug tested in 2018, at his place of residence, by the AFP. Again, that is

something I am just reading from her submission and the addendum, so that is something you can refer to. I just want some clarity as to whether there is accuracy or otherwise in what is being said there.

Mr Lee: Yes, we will take that as a question on notice.

Mr Whowell: I am not aware that we have that power.

DR PATERSON: The ACT government submission shows under 18 and over 18 apprehensions by ACT Policing with a breach of bail charge, in table 1, on page 4. Under the age of 18 is about 20 per cent of apprehensions by ACT Policing. I note in your submission you talk about support services and access to restorative justice and support services for young people who police come in contact with. Can you speak to the challenges you experience in that space with people under the age of 18?

Mr Lee: Certainly, from our perspective, there are a range of support services that we have access to and regularly engage with here in the ACT. What I would also offer is that, since the introduction of the minimum age of criminal responsibility, we have the Therapeutic Support Panel. In some circumstances we are also undertaking referrals now to that panel where people are above the age of minimum age of criminal responsibility, to use that as a case management mechanism across the ACT government agencies and also to look at how then we coordinate our engagement with some of those support services, particularly for younger vulnerable individuals.

I think we have some strong relationships across the ACT between us and those support mechanisms, but it is fair to say that there are certainly some challenges in terms of the accessibility to some of those support services. Notwithstanding that, it is certainly not for any lack of intent; it is just simply in terms of some of the demand and the volume. On those specific instances, I might pass to the Deputy Chief Police Officer to outline some of that in a little bit more detail, if that is okay.

Mr Boudry: Some of what we are seeing, particularly with youth and breach of bail, is generally around those curfews and locations. The breach of bail might relate to a time frame and a location that they are not to be at. That is proving challenging because what we end up with is an interesting cycle of catch and release. As the CPO said, sometimes the demand is outstripping some of the services. When we come into contact with a young person, being able to get them into an appropriate service at the appropriate time becomes quite difficult for us. We might end up finding that they are bailed out and it goes back around in a circle without us actually getting them into the service that is probably best suited for them in terms of immediacy.

DR PATERSON: On the example of the curfew you used, it sounds like it is an ineffective bail condition, given the fact that multiple young people are breaching that. Are there other conditions or things that the police think would be more appropriate as conditions on bail to protect the community or any victims involved, but to also not have that continuous contact with police?

Mr Boudry: That is quite a difficult one to answer because it comes down to specifics. This is where, I think, you need a more holistic view of an individual, particularly our young people, because there are certain things which an individual might respond to

better than others, and we have seen that. I think we get the generic bail conditions, such as curfews and locations. They will always be there, but there are other opportunities that we see where bail could be referring someone to a specific service and that they are to engage with that specific service.

DR PATERSON: We have heard a lot about the Aboriginal and Torres Strait Islander bail program that has been particularly effective. We have also heard from corrections about how they are changing more to case management type bail management. My question is: why has the focus not been on young people, particularly when we know the long-term impacts of continuous contact with the criminal justice system? Do you think we need special under-18 bail support programs with specialised case management workers in that space who are experienced at working with young people?

Mr Lee: When you look at the restorative justice pathways and some of the other referral pathways, the conversations we are having at the moment are that it should not be that, once you are on a certain pathway, that should be the only pathway. At the moment, certainly from our perspective, those things can operate concurrently or in parallel. Even if a person is in the criminal justice system because of the nature of the offending, the case management approach, in terms of the long-term benefit for that young person, is ultimately known. None of us want that person in the criminal justice system. How do we look at interventions while we are dealing with the offending? Obviously, some of it is significant and extremely impactful on victims. There is action that is required by the police. But, certainly, from our perspective, it should be that there are some dual processes.

In terms of some of those case management processes, I think that is where the relevant experts from those support agencies need to play a key role. That is broader than just policing, in terms of where they bring their specialist expertise as to what potential interventions or support can be provided to those young people. From our perspective, we think that is our strategy, moving forward. That is certainly how we are engaging with other parts of the ACT government and some of those community support mechanisms.

DR PATERSON: We are seeing some pretty catastrophic effects of young people in vehicles who are on bail and have had contact with the criminal justice system. We had this discussion in the dangerous driving inquiry around high-risk offender types or targeting particular groups in the community. Do you still see this as a major issue: young people who are breaching bail in relation to engagement with motor vehicles and dangerous driving?

Mr Lee: Yes. I would say it is a significant issue for us. We still continue to respond to that under Operation TORIC, and it is something that, from our perspective, remains a significant issue. Without talking about a particular case, given the impacts on people in the community, we have had a recent tragic example of that.

Bail is a punitive mechanism, but obviously there are mechanisms that you need to put in place and sometimes these are protective mechanisms that can help these young people, as we are trying to provide them with additional support. Certainly, from our perspective, it is still a significant issue for us. It is something we are continually

challenged by. Our people tell us that the actual stolen motor vehicle in and of itself is not the predicate offending.

The other significant offending goes to aggravated burglaries and other sorts of things that we are continuing to see significant examples of around the ACT—multiple per week, regularly. You have home invasions, people being assaulted in their homes, and young people disposing of certain stolen motor vehicles, reacquiring used stolen motor vehicles and continuing the offending.

We see that, in a lot of cases, they end up in pursuits that we need to terminate because they just simply will not stop. From our perspective, driving on the wrong side of the road and putting other people at serious risk of harm and injury in the community is why we need to look at other mechanisms that may be available to us. I will open up to my colleagues to see if there is any additional comment they have.

Mr Boudry: Yes. Dangerous driving has been something that we have been working through with the Law Reform and Sentencing Advisory Council, with that review into dangerous driving—actually defining what dangerous driving is and then how that relates to what we see. A lot of the time we are looking at not necessarily what would be classified as dangerous driving but risky behaviours when it comes to driving, in terms of overall road use and how that relates to our young people. As the CPO said, what we have found is that a lot of the time it is not the predicate offending; it is just part of other offences. Obviously, we do have an issue and will continue to work on the issue of organised hooning. As we have stated before in different forums, we do need to continue to work on that, and that is generally linked to our youth.

MR BRADDOCK: In your submission you talk about training in family violence risk in the courts and an inconsistent body of practice. I am concerned that it appears that the courts have an evidence-based risk model they are working to, let alone being consistent with what the police are working to, in order to ensure that the community is kept safe. Is that correct? Is that the state of play?

Mr Lee: The Deputy Chief Police Officer is the chair of the Australian Family Violence Network for the Board of Policing Jurisdictions, so I will pass to Doug in a minute, but what I would say is that some of the work we are doing internally in the ACT is updating our own risk assessment models.

We are also in discussions with other parts of the ACT government around a multi-agency domestic and family violent risk assessment process for the ACT. That is not only about the ACT Policing response; it also is a sort of cross-agency risk assessment model. It would also, hopefully, support the courts in some of their deliberations on the risk that is posed by an individual. I might pass to Doug on that one for a bit more detail.

Mr Boudry: Anything to do with risk assessment is predicated on the information that you have at hand. When you have a look at domestic and family violence, police only have certain information that is available to them. When we talk about that broader risk assessment model, that is something that we need to work on. If you have a look at our partners at DVCS and CRCC and Victim Support ACT, they hold different datasets than we do. As the CPO said, we need to make sure that those risk

assessment tools are developed across all government agencies so that you have as much information as possible to provide to the courts—not just from a policing perspective, but other information that might be held about victim-survivors and the perpetrators of domestic and family violence.

THE CHAIR: We have come to the close of this session. On behalf of the committee, I thank you for your attendance today. On behalf of the committee, too, I thank you for the work that you do in our community. Being in harm's way for the sake of others is very laudable and a worthy aspiration, and I thank you and your colleagues for your work in our community. If there were questions taken on notice, please provide your answers to the committee secretariat within five business days of receiving the uncorrected proof *Hansard*.

Short suspension.

ATYEO, MR LACHLAN, Regional Manager ACT and SENSW, Wellways Australia Limited

THE CHAIR: We welcome Mr Atyeo from Wellways.

Mr Atyeo: We deliver the Detention Exit Community Outreach program in the ACT.

THE CHAIR: Thank you. I remind you of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement. Witnesses must tell the truth. Giving false or misleading evidence will be treated as a serious matter and may be considered a contempt of the Assembly. Could you please confirm that you understand the implications of the statement and that you agree to comply with it?

Mr Atyeo: I do understand it, and I will comply.

THE CHAIR: Thank you. We are not taking an opening statement, so we will go straight to questions. I could have started every session with this: if you could get the government to do one thing right now in the area of bail administration, what would that be and why?

Mr Atyeo: I think that a program similar to DECO should be made universally available to everybody who is in contact with the criminal justice system, regardless of whether they are on remand, being bailed or paroled or have completed a sentence. Programs like DECO are shown to be highly effective at reducing recidivism. Our program has a recidivism rate of 18 per cent, which is significantly lower than the territory average. The programs are effective at supporting positive outcomes. Also, they are not very expensive to deliver. They are quite cheap for the benefit that you get. In the time that we have been delivering this program, which is more than 10 years, we have supported 295 individuals in our program and 82 per cent have not reoffended or breached conditions while being in our program.

THE CHAIR: Thank you. Here you are; you are presenting to us as a committee. Have you had conversations with the ACT government about this program and presented the same argument or is this—

Mr Atyeo: Yes. We deliver this program on behalf of the ACT government. They are the funder of the program. We provide regular data reporting to them as part of our contract which shows the outcomes that we have achieved in the program, and we have previously made bids to have an expansion of the program.

THE CHAIR: An expansion into what areas? Obviously, the program is running and you are pleased with it. What extra things do you think could be happening?

Mr Atyeo: Currently, the program caters to people exiting prison or in contact with the system who have a diagnosed mental illness. We believe that a universal support program would be highly effective at supporting people, regardless of their mental health status or diagnosis. The expansion request is to consider a similar type of program for anyone who is exiting from prison or, again, may be on remand or bail.

MR BRADDOCK: You say it is not that expensive. What would be the cost per participant in the program?

Mr Atyeo: The program, in its current guise, supports up to 30 people in the community at any time, and the budget for our program is about $600,000 a year.

THE CHAIR: Do you have an estimated cost for the broader program?

Mr Atyeo: We think that the cost would be largely equivalent, regardless of the cohort. It would be somewhere around $600,000 for every 30 or so people that we support. If the program were funded to a higher level then an economy of scale would be available and we could potentially support more people on a lower per-head value.

DR PATERSON: You were talking about your detention exit program. When people leave detention, they are not necessarily free. They might have parole conditions et cetera placed on them, which would be, I imagine, quite similar to some of the conditions that might come through bail processes. What do you see working in your engagement with people managing parole conditions, as opposed to what we have heard today about the serious issue of people breaching bail conditions?

Mr Atyeo: The evaluation of the program shows that one of the highly important factors is the relationship that the client of the program has with the worker. That relationship can be really influential in supporting the person to make different choices and seeing a reduction in reoffending. We would argue for a program that provides a similar kind of support. It is important that it comes from someone who is a community support worker, rather than part of the system of compliance and enforcement that may be around that person. It creates a degree of psychological safety where the individual can talk about the challenges and struggles that they might be having with maintaining the conditions of their parole or their bail. It is done in a way that is safe and is not necessarily perceived as potentially being reported as evidence for future use against them.

The other important aspects of the relationship are that it supports people to help navigate the transition through the system and often helps them to navigate complex arrangements around medical care, health care or meeting any legal requirements that they have. The relationship can also support the individual to focus on building a hopeful future where they can have the capacity to change for the better and lead a crime-free life.

DR PATERSON: This is a kind of continuation. I imagine that, when someone leaves detention, in your work of engaging with them, you would instil hope and work with them on different pathways and, hopefully, a better life. How would you do that in the context of bail, when someone does not necessarily have that hope and they are potentially facing imprisonment? How would that change how your program works and is orientated?

Mr Atyeo: For someone who is potentially facing imprisonment, much of the work still remains the same. It is about supporting that person to manage a difficult period of transition. It is about equipping them with the skills and tools to help manage their emotional response, their feelings. There may also be a lot of support that we could

provide to the friends and family of that person. Particularly when there is a likelihood that they are going to be removed from the community for a period of time, there is support around how they are going to manage that transition, manage those relationships and maintain a supportive network of people so that when they are back in the community they have those resources to draw upon.

When we have worked with people in the program who have been on bail, we have seen that often, as a result of the work and the support that we have provided to the person and the changes they have made, they receive a non-custodial sentence and stay in the community. There is also an opportunity to consider how we, through supports like this program, can help avoid the trauma of being in detention and the further compounding effects that that can have on individuals.

DR PATERSON: From other hearings and engagements with the government around justice health and mental health within the AMC, it seems that there are a lot of issues in that respect. I am interested in the fact that your program specifically engages with people with mental illness who are coming out of detention. How would you support someone going into detention, in terms of mental health support and advocating for them on that side of things?

Mr Atyeo: That is a good question. It still comes down to the position that a lot of the work that we do with people is around equipping them with skills and tools so that they can manage how they respond to situations and how they feel about things—supporting them with their own emotional regulation. The context does not necessarily matter much; it is about supporting that person to have the capacity to manage it themselves. That may also be about engaging them with other health professionals, mental health supports and clinical supports. It may also be about working with their families and engaging them with health professionals as well to support the whole unit in managing a period of difficulty.

DR PATERSON: Your program sounds amazing for people coming out—and also would be if it were funded for people going in. Would you ever see a case where your program would work with people who are in detention, while they are in the AMC?

Mr Atyeo: Sure. Over the 11 years that we have developed the program and run it, what we have seen is that, when we have the opportunity to engage with someone before release, the transition back into community is a lot smoother for that individual. Programs like this are most effective when there is an opportunity for early engagement and early support. In part, that can be because developing a therapeutic relationship with an individual can sometimes take time. The longer that we have to do that before that person is in the community, for example, the greater the opportunity to work with them and support them.

THE CHAIR: Thank you. Could you please pass on our appreciation to Ms Smith for her testimony?

Mr Atyeo: Absolutely.

THE CHAIR: Is there anything you would like to say, very briefly, in closing?

Mr Atyeo: In closing, I would reinforce that a program that is going to provide a community support worker for someone, regardless of their level of engagement in the system, is likely to have better benefits for people in the community. It is likely to help sustain a reduction in reoffending. It is also important that these types of programs provide a flexible approach that can be tailored to an individual and do not have to be limited to a set period of time. That means that, for more complex individuals, a longer support period can be provided to help sustain long-term outcomes. For people who have more straightforward needs, again, that flexible approach allows it to scale up or scale down.

THE CHAIR: Thank you very much. On behalf of the committee, I thank you for your attendance today and for your submission, and for the submission of Ms Smith. I do not believe you have taken any questions on notice. Thank you. Enjoy the rest of your day.

Mr Atyeo: Thank you for your time today.

Short suspension.

HASKINS, MS JANINE, Community advocate

THE CHAIR: We now welcome Janine Haskins. Before we start, Ms Haskins, please let us know if you find any part of this hearing difficult and need to have a break. Please let us know and we will arrange that. The secretary can also provide details of any organisations of support, if that is something that would help you. Could you please confirm that you are appearing in a private capacity?

Ms Haskins: No, public.

THE CHAIR: On behalf of an organisation?

Ms Haskins: No, as an individual; as a community advocate.

THE CHAIR: I want to remind you of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement. Witnesses must tell the truth. Giving false or misleading evidence will be treated as a serious matter and may be considered a contempt of the Assembly. Could you please confirm that you understand the implications of the statement and that you agree to comply with it?

Ms Haskins: I do.

THE CHAIR: We are not inviting opening statements, so we will go straight to questions. I will lead off. Thank you for your submission. The committee has that, as well as the addendum. I might make a comment before asking my question. The issue that you have raised in your addendum is something that the police have taken on notice, in response to a question from me.

Thank you for your submission and advocacy. On behalf of the committee, we are so sorry about the circumstance of your daughter's loss. Out of that, you are obviously a strong advocate for coronial and other reform. We want to thank you for your engagement with the committee on this particular issue of administration of bail in the ACT.

If there is one thing that the government could do right now, that you would lobby for and get them to do right now—one thing that you think should change—what would that be?

Ms Haskins: Tightening up of the bail laws, as well as looking at alternatives to remand. That is one thing that I am passionate about. I think there are a lot of resources spent on people being on remand when they could actually be on bail and living more fruitful lives in the community, if circumstances provide that information. When we talk about mental health and substance use, we are talking about a health issue. I do not feel prison is a place for people to be, unless they are drug dealers or people like that.

With people who have substance use issues, it is very much a health issue and it is quite often in conjunction with a co-occurring condition. My daughter's matter was mental health and substance use. Both were health related, which resulted in criminal

activity. I have looked at the electronic monitoring system which is being rolled out through different jurisdictions in Australia. While I have not been able to do a cost-benefit analysis, one would think that there could be quite a cost benefit. We know that government likes that. Also, ankle bracelets can be re-used; they can be recalibrated. It is about maybe not putting people in harm—particularly youth, going to Bimberi and meeting up with cohorts who are not necessarily a positive influence on them.

DR PATERSON: You talked about looking at alternatives to remand. We have seen the national outcry around domestic violence, women being murdered and some of these perpetrators having been out on bail. We have talked a lot this morning about the risk assessments through the bail process potentially not being appropriate. People get missed. There is an example in the ACT Policing submission of someone who had multiple engagements with bail and ended up murdering his partner. How do you think we go about balancing the risk assessment and the assessment of risk to the community?

Ms Haskins: One of the recommendations in the submission is about the initial risk assessments of people who are arrested for alleged offences, which encompasses a holistic snapshot of the individual and looks at whether assessment tools are used, as is done at the watch house, with qualified people.

I might go back a step and say that no registrar should be releasing people on bail, particularly when it comes to serious offences like family and domestic violence, dangerous driving and other violent offences. It is about having the resources and qualified people to be able to implement risk assessment tools and identify criminogenic needs. From that, some kind of plan can be formulated. I do not know whether that could be a member of ACT Corrective Services, as opposed to an AFP officer. I do not have those answers. It is all very ideal, but in Brontë's law there would be significant risks alleviated or mitigated, I believe, through this kind of good snapshot of the whole person.

For example, when Brontë was released on bail, the magistrate had no idea about her mental health issues; they had no idea that she was assessed as a prisoner at risk at the AMC. There needs to be a lot more information sharing and collaboration between the services and agencies who are caring for individuals, as well as with community members. If someone is at risk of harm to themselves or to others, it needs to be seriously addressed.

In conversations I have had with the former Chief Police Officer about breaches of bail, basically they are not offences if they are just technical condition breaches—if they did not meet the curfew or something like that. They are being released and re-released. We have seen what is happening on the roads, with the young fellow who left two young women in the car to die. I think he was on about his fourth or fifth bail. We can understand how families are becoming really upset and irate about people being released on bail and not monitored carefully enough, as far as I am concerned.

I know that since Brontë's death they have engaged an extra bail officer, and that is great. I have not seen any data to support whether breaches are reducing in number, but I do know that the two breaches never went through for Brontë. You never think

that a mother would say, "I wish they had," but I wish they had, because she could be with us now. Again, it comes down to resources and the safety of the community, as well as not placing people in an environment that will potentially harm them and increase their risk of recidivism.

MR BRADDOCK: Thank you very much for your submission. I want to go to recommendation 1, where you talk about screening. I am trying to understand some of the issues raised by the Human Rights Commission. I want to ask you a series of questions on that. Firstly, they suggested that disability and mental health should be considerations for the judicial process, under the act. Is that something you would support?

Ms Haskins: Yes.

MR BRADDOCK: They identified that there could be a concern regarding people providing personal medical information. There might be a reluctance, quite naturally, on behalf of the person to do so. Have you given any consideration as to how this information might be provided to a decision-maker within the court while still being kept confidential, so that the person might be a bit more willing to provide this information?

Ms Haskins: I could probably only see it being done through legislation, as part of the obligations with an assessment. Back in the day, when I was a probation and parole officer, we had a "consent to obtain information form" from the alleged offenders. However, when you are talking about timeliness, I understand that there is not always enough time to get medical records or confirm them. We should have a closer association with Access Mental Health. This has been discussed before: having access to MAJICeR notes and things like that. We have an epidemic of domestic and family violence. We also have an epidemic of suicide and people experiencing mental health issues. As I said, I am not sure how it would work. My fairy wand ran out of dust a while ago, but never say never; anything is achievable, because this is about keeping people, and the community in general, safe.

THE CHAIR: My question touches on the Brontë's law recommendation. Obviously, you have had that personal unfortunate experience of seeing, from your perspective, some gaps in service provision for people on bail. Have you presented your argument about that wraparound service approach to the ACT government, and what sort of response have you had?

Ms Haskins: I sent a document in October last year to the AFP and to the Attorney-General. It was a very long document, raising my concerns and issues around the findings within Brontë's coronial hearing, because there were a lot of significant anomalies and factual errors. It has been left up to me to find those errors and report them back to the coroner, which is really difficult, because you have to read through hundreds of pages of transcript. However, we are planning a roundtable conference with the AFP and, hopefully, the services that were involved in letting Brontë down, to put it diplomatically.

The other thing I would like to put forward is that, if there is a condition on someone's bail order not to consume illicit substances, there should be a mechanism

so that people can be drug tested in their residence. That did not happen with Brontë, despite her being psychotically very unwell. That was another opportunity. She would have tested positive and she could have been put in a safe space until she had come down. We are still trying to work out whether the AFP do have powers to drug test within someone's home. That would be a really good thing, as part of the bail review.

DR PATERSON: In the ACT government's submission, they look at apprehensions of bail breaches, under 18 and over 18 years old, and about 20 per cent of police apprehensions of bail involve under 18-year-olds. From your personal experience and your experience as an advocate in working with young people, what is needed to address this issue? The police officer described it as "catch and release" and the defence lawyer described the youth issues as being a snowballing of breaching, because they are not across the system, I guess.

Ms Haskins: It is a very difficult one. As is written in our submission, bail is conditional liberty, and when you sign that piece of paper, that is what you are signing. There appears to be some disregard in relation to bail and bail conditions if we have 20 per cent of young people breaching. That is a pretty high percentage, given the ratio.

DR PATERSON: Twenty per cent of the apprehensions of breaches of bail involve young people.

Ms Haskins: We need to look at alternatives to Bimberi, unless required. I have no beef about that at all; obviously, it is required in instances. But we need also to look at the past of some of these young people. They have experienced a lot of trauma in their lives. We need to take a trauma-informed approach and maybe not so much a punitive one. We need to look at it holistically so that we are also looking at empowerment of young people.

I have not worked with many young people who have been in detention, but I have worked with adults. In my role as an advocate I work with and support adults in the AMC. From what I have seen, a lot of the detainees are literally stripped down, but they are also figuratively stripped down, to make them feel quite worthless. It is not giving them a good start when they leave detention, whether it is on bail or after they are sentenced. That kind of stuff needs to be addressed—some of the cultures of remand environments.

If you are a sole parent of a child, will it be in the best interests of the child and the carer for them to be separated? Everything needs to be looked at individually and holistically. Whilst we do not seemingly have the resources at the moment, those resources need to be found, because we are having all of this intergenerational stuff as well. I was a probation and parole officer; then I was a care and protection officer. I went from working with mums and dads to working with their children; then, another five years on, I would see their names on the court list. It is about having early intervention and a trauma-informed approach.

When you look at how many people who are incarcerated experience some form of trauma in their lives, it is a lot. I am not sure whether a review has been done about people suffering from mental health issues within Bimberi and the AMC, but I would

think it is a very large number. It is really hard to see a psychologist. A lot of the detainees do not trust the staff out there. Having observed and been told about some of the stuff that goes on out there, I do not blame them.

There are a couple of words: care and compassion, and empowering people. I am not saying that this will work for everyone, but we need to take into account that we have to keep the community safe, but there is also dignity at risk. It is a really hard balance. Clearly, it has been highlighted, particularly with the deaths recently of Matthew McLuckie and a few others out that way, that people being released on bail over and over again is not working.

I feel that I have kind of contradicted myself, but I am trying to put it in such a way that we are looking at someone as an individual. That is where we need those assessment tools to address the criminogenic needs of people, as opposed to looking at avenues where they do not need to be remanded—if they have ongoing work, post-social supports and things like that. It is also about getting that happening. We need more mentoring programs. We have mentioned to the minister for corrections having an ex-detainee advisory group. These are the people with lived experience. I have not lived it. I have been to the jail but I have not slept there overnight. We need to get the advice of people who have lived it.

THE CHAIR: Thank you. We take very seriously the advice you have given, having had that lived experience as well. Thank you for your submission and for your appearance today. I do not think there were any questions taken on notice.

On behalf of the committee, I would like to thank our witnesses who have assisted the committee, through their experience and knowledge, during the day. I also thank broadcasting and Hansard for their support.

Ms Haskins, unfortunately, there was a mix-up in communication. While your session has been recorded, it was not broadcast live. We will make sure that it is added to the proceedings.

Ms Haskins: There will be so many disappointed people out there!

THE CHAIR: It may not be there for you to watch, if you want to review it later, for a day or so. If a member wishes to place questions on notice, please upload them to the parliamentary portal as soon as practicable, and no later than five business days after the hearing. This meeting is now adjourned.

Short suspension.

HASKINS, MS JANINE, Community Advocate
MILLINGTON, MR CHRIS

THE CHAIR: This is an in camera hearing. We are being recorded but it is not being broadcast. The committee can decide to make in camera evidence public at a later date.

Mr Millington: I understand.

THE CHAIR: I would now like to welcome Mr Chris Millington. Mr Millington could you please confirm that you are appearing as an individual as opposed to representing an organisation.

Mr Millington: Yes, I am individual.

THE CHAIR: I remind witnesses of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement. That is the document in front of you.

Mr Millington: Yes.

THE CHAIR: Witnesses must tell the truth. Giving false or misleading evidence will be treated as a serious matter and may be considered contempt of the Assembly.

Could you each confirm that you understand the implications of the statement and that you agree to comply with it.

Mr Millington: I understand, and I will comply.

Ms Haskins: I do.

THE CHAIR: We will go to questions. Is this submission a joint submission, Janine? Yes; thank you. Mr Milligan, could you confirm that you are on parole.

Mr Millington: I am on parole at the moment. I previously was incarcerated for four years and two months at the Alexander Maconochie Centre, Goulburn Correctional Centre, Wellington Correctional Centre, and a few other ones. That interruption was mid my Alexander Maconochie incarceration. I am not sure how much I am allowed to say, but I was transferred out of the AMC. I took it to court for unlawfully being transferred. I managed to get myself back. I was self-represented, and we are just waiting to get my human rights findings on that matter.

THE CHAIR: We are doing a review of the administration of bail at the moment, but I guess circumstances of parole are very analogous, so there may be lessons we can learn from you and your experience.

Mr Millington: I previously had been on bail, like Janine has mentioned, prior to that, of up to five years, probably, in total, at numerous different times.

THE CHAIR: Okay, thank you. I will get to a question in a second. What are the

conditions of your parole? Are you able to describe?

Mr Millington: My conditions currently are just to stay a certain distance from victims, not to have social media, one phone, not to possess any weapons, to report. I have yet to do it, but I have to do a psychology meeting or something—just one—about reintegration and that. I am not to associate with a certain list of names. The others are simply generic.

THE CHAIR: I have come to a question. From your experience being on bail, do you feel that there are any lessons that the bail administration system in the ACT could be improved on, from your own experience?

Mr Millington: Definitely.

THE CHAIR: And I am happy if you want to translate that to your experiences being on parole as well.

Mr Millington: Yes; I definitely think that they can improve. I feel like once you have been arrested, it is way too quick to be arrested. Like Janine has mentioned, I would feel like the ankle bracelets would be a good improvement. It would give a lot of people a lot more opportunity. Mind you, there would be some other things. They are being a little bit tricky. For the dangerous driving aspects, for example, I put it to her: how would you monitor that from being a passenger or a driver? So, for a young offender, in lieu of that you would be able to have them curfewed or at home, or not be in a vehicle after a certain time, because most young driving offences are after hours.

For domestic violence, I feel like that is a massive thing. That is horrible and ankle monitors would work but then how would it also deter the offender who was in the state of mind to pursue it to the very extreme? In other states and in other circumstances, I feel the victim could have a receiver so that if the ankle monitor came within a certain distance of it, it would register and alert the authorities. Then if that person was to breach and not come to the house but come within that distance, then they could increase that distance. Then obviously if he keeps reoffending or if he keeps breaching the parameters of that, even by driving past, well, then, he is obviously not concerned, and that is where it creates a pattern of behaviour. To be able to rectify it you would go, "Hang on, this is going to be a problem."

Not in all domestic violence cases but in some, they get charged and then they will leave. It will be the end of it. But then there are other circumstances where it is not the end of it, and it goes to the worst possible scenarios. I feel like there is definitely lots of room to improve on the bail laws.

THE CHAIR: Thank you. That receiver idea is not something we have heard of today.

Mr Millington: It would be like in a security firm. It would send alerts if it is within a certain distance or something is broken. Like that is something you can contemplate.

THE CHAIR: A victim protection measure.

Mr Millington: For the victim. The police can put it in their home, and it can send a signal.

DR PATERSON: In terms of your breaches of bail, and just reflecting on them, what was the main cause? What led you to breach? Was it that the conditions themselves were really impractical or was it your age and displacement? To try to understand how we can improve that system, what was contributing to the breaching? As you said, you were continuously being sort of pinged again.

Mr Millington: For me, personally, I managed to be quite successful with my personal situation. Yes, I may have reoffended but in the bail interims I almost always completed it; however, I did breach one time, and that was for something like drinking. But I think as far as the bail and the breaching goes, they do not tailor it to the specific individual enough. It is hard to explain.

For me, it was hard. I have I had curfews and I have had this stuff, but I work and I go to the gym, and I always maintain that I did not have a drinking problem, and all that stuff. They just bang on all these conditions, but it is not specific to me. And that might work for me, and that is why I completed this successfully the majority of the time, but that might not work for someone else. I think that that is something they need to do. For me they slapped on all these substance abuse conditions. I have never, ever had a substance abuse condition. That is not me.

I was very sick when I was a child. I had leukemia. It is not something that is in my forte to do. I do not even smoke cigarettes. But with my bail conditions, I felt like it was a bit too much at times. There were times in 2018 where I would have to report to the police station by five—that is fine—and then I would leave the police station and have to be home by curfew at seven—that was fine—and I was getting drug tested and alcohol tested all those times. Then they would come and do a curfew check late at night and I would get drug tested in my house then. I only just realised, after speaking to Janine, that apparently that is not within their powers, but it happened to me numerous times in 2018, to be drug tested in my home.

THE CHAIR: The police have taken that as a question on notice to confirm whether they have the power or not to do that.

MR BRADDOCK: I have a question in terms of the discretion to deal with what could be a very minor breach of bail—for example you might be seven minutes late in reporting to a police station—versus a more significant breach. I suppose I am just trying to understand: what is the best way to dial the response to meet whatever that bail breach is?

Mr Millington: Yes, see that is true. Like, I do not know how they do it. They are pretty strict on it, but I feel like there needs to be a bit more room. For example, in my parole, my curfew is 10 o'clock. I was out on the weekend with a female and her child, and the child was having a few issues and she had to change a nappy and had to pull over, or something, to see to it. I almost did not make it back, but I did. But that obviously comes down to the corrections officer. If you are pretty open and honest, as I am with my parole officer, they are pretty good with it. They need to be able to

notify the police so then the police know. Except, if there was a family emergency on the weekend, there is no way of contacting the parole officer.

DR PATERSON: So no weekend—

Mr Millington: The cop—the policeman—could come to your house at 10.30 after you just had a massive family emergency and they do not need to know. They will not take your word for it; they will just lock you up and that is it, and you deal with it on Monday. So there is no avenue to be able to do that sort of stuff.

MR BRADDOCK: All right, thank you.

Ms Haskins: Like a duty bail officer on a weekend.

Mr Millington: Yes.

THE CHAIR: Anything else particularly for Chris?

DR PATERSON: We heard from the corrections people around how they are trying to improve case management and that type of thing for bail. Do you think that would have been helpful if you had more intensive place management of bail conditions or parole conditions?

Mr Millington: Yes; I feel that if an individual had a bit more of a say it would be good because, as me and Janine have both said, it needs to be more tailored or specific. They do not do enough specific stuff. They just slap on a heap of different things and expect it to apply to all. Everybody is in there for a different offence, and everybody has different needs.

Some people do not have a home. Some people do not have this; some people do not have that. There needs to be more consideration of the actual individual. Some of the biggest problems with bail, and also with the prison and that, is that they are not given distractions or other things to do, so it is a constant reoffend, reoffend. With the youth detention centre, it is all well and good giving them bail but if they have not obtained any skills, if they have not obtained anything, it is just going to happen again. And that is a vicious cycle we have to try and break.

At the AMC, while they are trying to do a lot of good things there, they do not have enough by way of implementing skills or anything to break the cycle so that when people do get bail it is not as helpful.

Ms Haskins: I think also it is because through-care has gone from several weeks of support—this should have been for bailees as well, but it was mainly for people finishing their sentences—but it is now in-house. So there is no through-care provided, whereas when I worked in through-care it was six weeks, I think, of support for people who had been in for sometimes eight years. And then that support could be extended, as required, by looking at the risk that this person poses.

For example, I had a client who had done eight years and he promised that he was never going to use heroin again, but he used every other substance. I would get calls

that he was doing handstands in the car park. He benefited from that support, but we are not looking at when people are released and do not have good family support, like many people. Chris has a supportive family; Bronte had a supportive family; but some people are just literally left at the bus stop—and that can be for bail. Again, there is that lack of communication. When I rang up the mental health facility at the AMC—the Alexander Maconochie Centre—and said, "How are you getting information to the courts about people's mental health status?" it was, "Sometimes we don't even know that they've been bailed." So we have a huge problem. That is another communication problem which is easily resolved. You do not need legislative change to pick up the phone and say, "Billy Smith's just been released." So, again, communication.

DR PATERSON: We just heard from Wellways. They have a program for people leaving detention but they were advocating to have a program on this side of it, too, to support people through the bail process and remand. Do you think something like that would be useful for people?

Mr Millington: Yes, definitely. I definitely think so—the more support they can get. That is the problem: I do not thing there are enough supports even just for that. That would definitely be beneficial. I would just like to add that this is also part of why I support Janine on all the different screenings, because it will give them a clearer narrative of what to do specifically with that individual. It will also give a clear message of whether that person needs to be remanded or that person needs to go to a hospital.

That is why these screenings, I feel, are very significant and need to happen before they go into court, before being remanded, before being released—at certain times. If someone has a chronic drug abuse problem and they are coming up to parole, even though they might have done all the right things, it is still there. I want everyone to succeed. That is why it is good, so then they could make sure that all these areas are covered and everyone has the right assessment of that individual.

Ms Haskins: There have been proposals put forward for mentor programs and peer support, and that is why we are running at the moment with the ex-detainee advisory group. Because Chris has lived in prison, you know, and there are also responsible and reputable members of community who can assist with the people that are losing their way or have lost their way or just need a step up.

Mr Millington: And the detainees would be more open to relate, and you would get a lot more messages and a lot more feedback that way. They would feel a lot more comfortable. I would also like to add—sorry to interrupt—to what you questioned about how you would navigate the medical records and that, and how would that individual be comfortable with it. There are a couple of alternatives. You could do an undertaking; you could do a closed court. When in the bail hearing, they could close the court or they could do a stat dec, which would just be for the representatives and the magistrate themselves.

THE CHAIR: Thank you. We have got to wrap up. We have another committee starting in this room. Thank you for your attendance today. This part of the hearing is closed.

The committee adjourned at 3.04 pm.