



**LEGISLATIVE ASSEMBLY**  
FOR THE AUSTRALIAN CAPITAL TERRITORY

JACS QToN No. 8

STANDING COMMITTEE ON JUSTICE AND COMMUNITY SAFETY  
Mr Peter Cain MLA (Chair), Dr Marisa Paterson MLA (Deputy Chair),  
Mr Andrew Braddock MLA

**Inquiry into Penalties for minor offences and vulnerable people**  
**ANSWER TO QUESTION TAKEN ON NOTICE**  
**21 June 2023**

Asked by DR PATERSON on 21 JUNE 2023: JUSTICE REFORM INITIATIVE took on notice the following question:

[Ref: Hansard Uncorrected Proof Transcript 21 June 2023 page 43]

In relation to: Bail support programs

**DR PATERSON:** My question is in respect to the JRI submission around bail support programs, so two recommendations: one, to continue funding the Indigenous bail support program; and two, to invest in other bail support programs. Can you speak to the importance of this? Are there any interstate examples of best practice around this you would like to discuss?

JUSTICE REFORM INITIATIVE: The answer to the Member's question is as follows:–

The JRI would like to see a court-based bail support program, as an evidence-based means of helping the ACT Government achieve its Reducing Recidivism target. The ACT Government has already identified the need for an increase in pathways for safe and sustainable bail, as outlined on the JACS website: 'A significant proportion of people held on remand do not receive a custodial sentence upon conviction. More options are required that will allow release on bail with effective conditions for people who do not represent a serious risk of offending'.<sup>1</sup>

According to data from the Australian Bureau of Statistics (ABS),<sup>2</sup> in the September 2021 quarter, 36% of the detainee population of the AMC was unsentenced. This is higher for Indigenous populations; 40% of Indigenous detainees were unsentenced. For receptions into the AMC, **92% entering custody were unsentenced, compared with a national figure of 78%.**

The ABS data on bail status at the time of release from custody also reveal that a much higher proportion of prison *releases* were unsentenced in the ACT than nationally, **at 59% and 46% respectively.** Collectively, these data indicate an issue with the high proportion of all detainees in the ACT who enter, are in, and leave the AMC unsentenced. This highlights the need for initiatives to support people remaining in the community on bail, rather than being remanded in custody, especially in respect of offences that would not lead to custodial outcomes in any event.

<sup>1</sup> ACT Government, *Building Communities Not Prisons* <https://justice.act.gov.au/justice-programs-and-initiatives/reducing-recidivism/building-communities-not-prisons>.

<sup>2</sup> ABS, *Corrective Services Australia, September 2021 Quarter* (2021).

JRI believes that a government review of the *Bail Act 1992* should be undertaken, to assess the key points where legislative reform may be required, to ensure that people can be released into the community on bail, rather than remanded in custody. Any such review should have particular regard to the implications of sections 9D and 9F.<sup>3</sup> The legislative review should be undertaken in conjunction with an exploration of the multi-agency and service options available required to support alternative pathways, including for victims and perpetrators of family violence.

Item 7.5 of Appendix 4 in the Parliamentary and Governing Agreement for the 10<sup>th</sup> Assembly calls for the Government to 'Enhance drug diversion pathways for law enforcement', and a number of these bail reforms would clearly count towards this.

JRI proposes a range of options and preferable criteria for provision of further bail support programs which have many benefits and outcomes in relation to reduction in reoffending rates. In particular, JRI recommends **expanding bail support programs to non-Indigenous defendants**. There is only one adult bail support program in the ACT, the Ngurrambai Bail Support Program, delivered by the Aboriginal Legal Service. This program is only available to Indigenous people, leaving many people without appropriate support. Although Indigenous people are over-represented in the justice system and rightly the focus of significant interventions, there is also a need (in addition and separate to the existing service) for a more generic bail support program.

There are multiple models of potential programs in other jurisdictions. The **Magistrates Early Referral into Treatment (MERIT)** program in NSW is a voluntary pre-plea program for adults to take 12 weeks to get support to treat their drug or alcohol problems before their hearing. This program shows good results, including a cost-benefit analysis yielding a benefit of between \$2.41 and \$5.54 for every dollar spent,<sup>4</sup> and could be replicated in the ACT.

Another suitable program is the **Court Integrated Services Program (CISP)**. CISP is a case management program that operates in 20 magistrates' courts across Victoria. It is a wider-reaching bail support program than MERIT, and offers:

- drug and alcohol treatment services;
- crisis and supported accommodation;
- disability and mental health services;
- acquired brain injury services; and
- Koori-specific services.

To participate, a person must be charged with an offence, consent to participating, and experience:

- physical or mental disabilities or illnesses;
- drug and alcohol dependency and misuse issues;
- inadequate social, family and economic support that contributes to the frequency or severity of their offending; and/or
- homelessness.

Independent evaluations of CISP<sup>5</sup> found that it:

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<sup>3</sup> See also Lorana Bartels, Patricia Easteal and Shannon Dodd, *Review of the Implementation of the Family Violence Act 2016 (ACT): Report Prepared on Behalf of the ACT Government* (2020) Recommendation 6.

<sup>4</sup> Megan Passey et al, *Evaluation of the Lismore MERIT Pilot Program – Final Report*. Northern Rivers University Department of Rural Health (2003).

<sup>5</sup> See Victorian Department of Justice, *Court Integrated Services Program: Tackling the Causes of Crime – Executive Summary Evaluation Report* (2010). This summarises separate evaluations of CISP conducted by Stuart Ross and PriceWaterhouseCoopers.

- reduced reoffending;
- improved health outcomes;
- saved money, with a return on investment of \$1.70-5.90 for every dollar spent;
- increased referrals to treatment; and
- improved assessment, providing magistrates with access to timely, accurate and objective information about CISP clients' risk of reoffending and support needs, to address the causes of their offending behaviour.

JRI also notes the low rate of bail offered to defendants charged with domestic and family violence (DFV) offences. To address cycles of DFV, there is the need to ensure early intervention programs are available at the earliest opportunity and wherever possible options available for both protecting victim/survivors and ensuring perpetrators also have access to appropriate interventions including through the mechanism of a bail support program. One early indicator of potential DFV is animal abuse at home, and thus one item of relevance in the ACT Parliamentary and Governing Agreement 2020 is Appendix 4, item 10.3, to 'Improve early intervention programs for people who use violence against their partners, family members or pets', which could easily be incorporated into bail support programs.

**JRI would like to see new bail support programs with significant case management and supports implemented in the Magistrates Court, as a matter of urgency.** This would reduce the high rates of remand and would be a cheaper, early-intervention supplement and complement to the Drug and Alcohol Sentencing List (DASL) in the Supreme Court.

Approved for circulation to the Standing Committee on Justice and Community Safety

Signature:



Date: 27 June 2023

Indra Esguerra, Justice Reform initiative

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