



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON JUSTICE AND COMMUNITY SAFETY

Mr Peter Cain MLA (Chair), Dr Marisa Paterson (Deputy Chair), Mr Andrew Braddock MLA

Submission Cover Sheet

Inquiry into the Administration of Bail

Submission Number: 003

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From:
Sent: Friday, 17 May 2024 8:09 AM
To: LA Committee - JCS
Cc:
Subject: RE: Invitation to make a submission - Inquiry into the Administration of Bail in the ACT

INQUIRY INTO THE ADMINISTRATION OF BAIL IN THE ACT

by the Standing Committee on Justice and Community Safety for the Legislative Assembly for the Australian Capital Territory

Submission by Andrew Corney – 17 May 2024

Dear Committee

Please accept my submission to your inquiry into the administration of bail in the ACT. I am happy for the submission to be published but request my personal contact details be redacted. I am happy to appear before the Committee at a public hearing.

I thank the Committee for taking the issue of the administration of bail in the ACT seriously by holding this inquiry. I have not been personally affected by failures in the administration of bail within the ACT but consider the appropriate administration of bail raises similar issues found in other aspects of the criminal legal system that have affected me.

Submission

Primarily I believe Government should protect the community from dangerous individuals. From my experience all three arms of government (legislature, executive and judiciary) have failed at this. Bail, in my view, represents how the Community can protect person and property from the potential actions from alleged offenders before they are convicted, found innocent of any charges, or the charges are dropped.

The administration of bail must have practical outcomes. This should not be an academic or philosophical exercise separated from practical outcomes. If people and/or property are being damaged by those on bail then the administration of bail is not working. This is particularly troubling where loss of life occurs stemming from domestic violence.

Presumption of Bail

I do not believe presumption for or against bail should apply as a decision maker should make a decision based upon the evidence presented in front of them. The decision maker should decide what the likely risk to the community

would be if the alleged offender is given bail. That is, would the alleged offender offend while on bail and if so would such offence cause damage to person or property.

I think that the Executive should collect and manage statistics relating to bail so that the effectiveness of decision making in relation to bail can be measured. I consider it unlikely that the decision makers themselves would be able to carry out this task and that the decision makers do require assistance from the Executive in this regard. Where assistance is required, based upon evidence, then the Legislative should provide appropriate guidance and/or change.

Supervision of people on Bail

I understand the ACT has lagged behind in the introduction of electronic tagging devices and the ACT should examine what other jurisdictions have done through the prism of relevant ACT legislation. Unless the outcome is negative with respect to electronic devices they should be introduced on a trial basis as soon as possible. This would not seem to be a difficult exercise as the other jurisdictions have already done this work and the ACT is a, geographically, small jurisdiction.

I consider that electronic tagging would also assist with the prevention of re-offending while an alleged offender is on bail.

Any other related matter

The recent community focus on domestic violence would appear to have caught all jurisdictions out. It seems that not enough attention/weight is given by decision makers to the potential for alleged offenders to reoffend. Please consider the example in the following article from the police news site (<https://www.policenews.act.gov.au/news/media-releases/man-changed-family-violence-offences>).

I also note that in recent times two 15 year old children have been on bail for other alleged offences and have allegedly committed actions while driving a vehicle that led to the deaths of two girls in one instance (<https://the-riotact.com/teen-who-killed-two-girls-in-crash-then-fled-in-uber-sentenced-to-almost-four-years-jail/684496>) and in the other, the death of the individual themselves (<https://www.theguardian.com/australia-news/2024/apr/23/indigenous-teens-family-say-system-failed-him-before-fatal-car-crash-near-parliament-house>).

The administration of bail would not appear to be working and I am concerned that adequate evidence on how to administer bail appropriately in the ACT is not being collected.

Thanks

Andrew Corney

Canberra Resident
