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**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

**STANDING COMMITTEE ON JUSTICE AND COMMUNITY SAFETY - REPORT NO 30 – INQUIRY
INTO THE ADMINISTRATION OF BAIL – GOVERNMENT RESPONSE**

**Presented by
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INTRODUCTION

The ACT Government welcomes the Standing Committee on Justice and Community Safety's Report on the *Inquiry into the Administration of Bail* (the Report), tabled in the Legislative Assembly on 3 September 2024.

Bail is a key concept in the operation of the criminal justice system and is a consideration from the beginning of proceedings, when a person is in police custody, through to final contact with the courts. The *Bail Act 1992* provides the legislative framework, but the overall operation of bail also involves the broader service system.

The role of government is to ensure the legislative framework strikes the right balance between the rights of the victim, the rights of the alleged offender and the protection of the public. It is also a function of government to put in place services that support the operation of bail. Both the legislative framework and bail services are informed by government policy decisions.

Bail policy underpins both the formulation of the legislation and the provision of services to victims and offenders. The policy must be multi-purpose as it seeks to address the complex challenges involved including:

- The numbers of detainees on remand, as opposed to sentenced;
- Compliance with bail conditions;
- Failures to attend court in answer to bail;
- Offending while on bail;
- The impact of the bail system on specific cohorts of alleged offenders such as Aboriginal and Torres Strait Islanders, women, children and young people, and people with disability;
- The need to protect victims and the wider community.

The Report's recommendations focus on the bail decision (including the operation of the legislation), data collection, support services and technology to promote compliance. The Government agrees with the Committee that change and improvement in these areas is important. However, as detailed in the responses to individual recommendations, the Government is aiming to achieve these outcomes through a range of initiatives already underway, including a focus on reducing recidivism and justice reinvestment as set out in *RR25by25 and Beyond: A Justice Reinvestment Strategy for the ACT* and a new approach to designing and delivering services for Aboriginal and Torres Strait Islander people through Commissioning. The ACT is also contributing to the work of the Justice Policy Partnership under the *National Agreement on Closing the Gap* on bail and remand reform, which is being considered in the national context by the Standing Committee of Attorneys-General.

Accordingly, eight recommendations are marked as 'agreed-in-principle'. This reflects the Government's broad agreement with the concerns of the Committee but that different ways of meeting the underlying intent of the recommendations are being adopted. This includes where resources may be required and would be subject to budget processes.

Nine recommendations, and the dissenting recommendation, are marked as 'noted'. This signifies that the Government is not in a position to agree, for example because outcomes are awaited from current work that may impact future policy direction.

In addressing the recommendations, the response focuses on practical, service-orientated solutions. It also acknowledges where resources would be needed through budget processes and highlights the Government's current approach to investing in early interventions and diversions.

ACT Government Response to Recommendations

Recommendation	Government Response
Recommendation 1 The Committee recommends that the ACT Government clarify the legal standing of the declaration of incompatibility between the <i>Human Rights Act 2004</i> and presumptions against bail as a result of the Supreme Court decision <i>Isa Islam [2010] ACTSC 147</i>.	Noted The Government acknowledges there may be confusion in the community regarding the effect of the declaration of incompatibility on the validity of the presumptions under the Bail Act. Section 32 of the Human Rights Act confirms that the declaration of incompatibility does not affect the legal validity of the statutory presumptions against bail, or the rights or obligations of anyone pursuant to those provisions. Declarations of incompatibility are an essential element of the ‘dialogue model’ of human rights protection which underpins the Human Rights Act and preserves the sovereignty of the Legislative Assembly with respect to law-making. As Penfold J recognised in <i>Isa Islam [2010] ACTSC 147</i>, where a declaration of incompatibility has occurred “the legislation continues to operate, and to operate in a way that is at least consistent with the legislative purpose” (paragraph 56). Bail presumptions are an important feature of the Bail Act and the consideration of bail applications. Presumptions of bail reflect not only the presumption of innocence and right to liberty of person, but the severity of the maximum penalty and whether imprisonment for the offence would be a likely outcome at sentencing.
Recommendation 2 The Committee recommends that the ACT Government reform and modernise the Bail Act 1992 so as to: • include a hierarchy of objectives for the bail system;	Agreed in principle The Government recognises the importance of these considerations in the context of any review of bail laws and administration and the need to ensure legislation continues to meet modern community expectations and legal understanding. In light of this, the Government agrees to undertake further policy development and consultation to investigate whether the inclusion of a hierarchy of objectives within bail legislation would have a meaningful and beneficial impact on the bail scheme. The Government has a longstanding and continuing commitment to promoting the Human Rights Act and improving the Territory legislative framework’s human rights compliance. The Government agrees to undertake further

Recommendation	Government Response
• align with the Human Rights Act 2004 and legislated Charter for Victims; and • explicitly require the decision to consider aboriginality, including cultural background, ties to family and place, and cultural obligations, disability, mental health and homelessness.	policy development and consultation to consider how greater compliance may be achieved within the existing legislation, including consideration of the interaction of the Bail Act with the Charter for Victims. The Independent Review into Overrepresentation of First Nations People in the ACT Criminal Justice System currently being conducted by the Jumbunna Institute for Indigenous Education and Research may also make recommendations relevant to this issue as it reflects recommendation 5-1 of the Australian Law Reform Commission's <i>Pathways to Justice: Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples</i> Report. The first Jumbunna report identifies that implementation of the ALRC's recommendation would have positive impacts on Aboriginal and Torres Strait Islander people in the ACT. Noting this Independent Review is currently underway, the Government agrees to undertake further policy development and consultation on the express inclusion of a consideration of aboriginality, including cultural background, ties to family and place, and cultural obligations, disability, mental health and homelessness, once the Independent Review has been finalised, to ensure any recommendations made or information provided by the Independent Review can inform that process. Outcomes of the current Commissioning process examining the design and delivery of services for Aboriginal and Torres Strait Islander people, including bail support may also recommend changes pertinent to this recommendation.
Recommendation 3 The Committee recommends that the ACT Government introduce a bill to amend the Human Rights Act 2004 to recognise the rights of victims of crime.	Noted The Minister for Human Rights is due to commence a statutory review of the Victims Charter of Rights. As part of the review, a range of issues will be explored to ensure a holistic response to the administration of justice. Any legislative amendments required as a result of the Statutory Review will be considered following its completion. Any legislative amendments required, including any amendments to the Human Rights Act to recognise victims' rights will be considered through the review process.

Recommendation	Government Response
Recommendation 4 The Committee recommends that the ACT Government examine reasons as to why the number of people on remand in the ACT is increasing and the appropriateness of this, particularly for Aboriginal and Torres Strait Islander people.	Agreed in principle As acknowledged by the Committee, the rate of detainees on remand has increased across Australia. The submissions to the Inquiry provided some indications of contributors to this increase, particularly the impact of bail laws, but the picture is complex and multi-faceted. ACT Corrective Services routinely monitors remand rates and consistent with other jurisdictions, the ACT has seen a recent increase in the proportion of detainees on remand with a domestic family and violence (DFV) offence. Similarly, according to the most recent ABS Recorded Crime - Offenders¹ data, the number of DFV offenders in the ACT increased from 565 persons in 2021-22 to 728 in 2022-23. ABS Criminal Courts data also shows an increase in the number of DFV defendants finalised in the ACT Criminal Courts from 619 in 2021-22 to 813 in 2022-23.² This shows that the ACT is seeing an increase in DFV offenders across the justice system, however more analysis is required to determine if DFV offending is driving increases in remand and understand the reasons why. This issue is on the national justice agenda and the ACT will continue to monitor local and national data and research on remand rates. The Justice and Community Safety Directorate (JACS) is currently in the process of commissioning First Nations justice programs. This involves working collaboratively with sector partners, and people with lived experience, to understand the needs and gaps, plan, design and deliver the best services for the Canberra community. The second phase of the JACS commissioning process is focused on clients being diverted away from custody (post-justice contact, pre-sentence), including when on bail and remand. The 'Discovery' document examines the available data and reflects on what the community has raised with Government in relation to these issues. The Discovery document and other relevant information can be found on the ACT Commissioning website https://www.communityservices.act.gov.au/commissioning/sectors-in-progress/aboriginal-and-torres-strait-islander-justice-programs.

¹ [Australian Bureau of Statistics, Recorded Crime – Offenders 2022-23, Table 42](#)

² [Australian Bureau of Statistics, Criminal Courts 2022-23, FDV Table 13](#)

Recommendation	Government Response
	The ACT is also contributing to the work of the Justice Policy Partnership under the <i>National Agreement on Closing the Gap</i> on bail and remand reform which is seeking to provide advice to governments on these issues. This is also being considered in the national context by the Standing Committee of Attorneys-General and will inform the ACT's approach to bail and remand for Aboriginal and Torres Strait Islander people. The Government will continue to focus on early interventions and diversions, including cultural programs for young Aboriginal and Torres Strait Islander people at risk of contact with the criminal justice system, and through the recently released <i>RR25by25 and Beyond: A Justice Reinvestment Strategy for the ACT</i> (See response to recommendation 10 for further commentary). A new remand rate indicator in <i>RR25by25 and Beyond: A Justice Reinvestment Strategy for the ACT</i> will assist in continuing to monitor remanding rates and analyse trends.
Recommendation 5 The Committee recommends that the ACT Government review the type and use of bail conditions for people charged with domestic and family violence offences to improve compliance.	Noted The rationale for the recommended review of bail conditions imposed in domestic and family violence offences is unclear as this was not the focus of submissions or evidence in the public hearings. The recommendation suggests compliance can be improved through changing bail conditions, which infers that conditions should be easier to comply with. In the case of domestic and family violence perpetrators, it would not be appropriate to seek to change fundamental conditions aimed at protecting victims. The Government's focus is on perpetrator interventions and support aimed at changing behaviour; and support and safety planning for victims, both of which contribute to compliance with bail conditions. In addition, a review of this nature would need to be a manual review of records which would be time-consuming and resource intensive. It should be noted that, while the recommendation appears to relate to court bail decisions, consideration has been given to whether a review of police bail conditions would be useful. ACT Policing has advised that between 1 April and 30 September 2024, no alleged offenders apprehended for domestic and family violence offences were granted bail by an authorised officer. This reflects the operation of section 9F of the <i>Bail Act 1992</i>, which limits the circumstances where police can authorise bail for family violence offences. A review is therefore unlikely to provide useful information.

Recommendation	Government Response
	The ACT Government considers that continuing to invest in supporting victim safety through appropriate risk assessments to guide safety planning and perpetrator interventions will be a more effective use of resources. The ACT has a Domestic and Family Violence Risk Assessment Framework https://www.act.gov.au/open/act-domestic-and-family-violence-risk-assessment-framework. This aims to ensure that service system agencies take a consistent and coordinated approach to identifying, assessing and managing domestic and family violence risk. This means services can identify and assess domestic and family violence risk to respond to and manage risk in ways which hold perpetrators appropriately accountable and to support victim-survivors. The Community Services Directorate was funded through the 2024-25 Budget to update the Risk Assessment Framework in consultation with stakeholders, including incorporating a greater coverage of coercive control. The <i>Domestic Violence Agencies (Information Sharing) Amendment Act 2024</i> (commencement due May 2025) will also support improved victim survivor safety by introducing a clear and consistent framework for prescribed entities to share information to assess and manage domestic and family violence risk. There is also work underway in the national context, arising from National Cabinet on 6 September 2024, which includes Commonwealth funding to conduct focused deterrence and domestic violence threat assessment centre pilots and to increase and expand funding arrangements for the National Strategic Framework for Information Sharing between Family Law and Child Protection Systems.
Recommendation 6 The Committee recommends that the ACT Government implement the use of electronic monitoring, especially for alleged and proved domestic violence offenders, including the provision of a receiver to at risk individuals.	Agreed in principle Work is underway to introduce electronic monitoring in the ACT through a staged approach, subject to legislation development, funding and procurement. The Government is initially considering existing post-sentence orders to test and build confidence in the system. Later stages will consider the use of electronic monitoring for alleged offenders, including in domestic and family violence matters.

Recommendation	Government Response
Recommendation 7 The Committee recommends that the ACT Government review procedures at intake to ensure that courts have sufficient information on the person's full criminal history, physical health, issues with alcohol and other drugs, mental health and disability when making bail decisions.	Noted The ACT Government understands this recommendation seeks to ensure that all relevant information is collected at 'intake', meaning the time spent by a person at the Watch House. It must be noted that there is limited opportunity to undertake detailed assessments while a person is in police custody. For example, the time in police custody can be relatively short, the person may be affected by alcohol or other drugs (which may mask other issues), the person may be uncooperative with police, or the person may need to be given the opportunity to sleep if the period in police custody includes overnight. ACT Policing members provide information to the ACT Watch House Sergeant to inform bail decisions at the Watch House stage of proceedings. All alleged offenders in police custody are also independently asked questions to inform the bail decision and record the person's physical and mental welfare. ACT Policing also provides information to ACT Corrective Services and the Mental Health Court Assessment and Liaison Service in relation to a person's mental impairment that may then assist a court decision under section 309 of the <i>Crimes Act 1900</i>. There is further opportunity to collect and provide information relevant to a first bail decision when a person is transferred to the court cells prior to appearing before the court. The Director of Public Prosecutions can provide a full criminal history as a matter of routine. Defence lawyers can obtain some information from their clients about health, mental health, alcohol and other drug issues, and disability which they can then provide to the court making the bail decision. As stated in the ACT Government Submission to the Inquiry, Canberra Health Services operates the Court Alcohol and Drug Advisory Service and the Mental Health Court Assessment and Liaison Service, both of which can make assessments. Again, this opportunity may be limited by factors such as time. If a person is refused bail by the court on the first occasion, there is greater opportunity to assess their needs in support of a bail application while they are on remand. ACT Corrective Services is currently considering the feasibility of 48-hour turn-around bail assessment reports for those applying for bail or bail variations, in response to a recommendation by the Coroner following the coronial inquest into the death of Ms Brontë Haskins.

Recommendation	Government Response
Recommendation 8 The Committee recommends that the ACT Government work with Aboriginal and Torres Strait Islander people to co-design a bail support program for young Indigenous Australians.	Agreed in principle The ACT Government agrees with this recommendation in principle noting a bail support program for Aboriginal and Torres Strait Islander people has existed in the ACT since 2018. Ngurrumbai (meaning “perceive” in the Ngunnawal language) Bail Support program was the ACT’s second Justice Reinvestment trial delivered by the Aboriginal Legal Service (ALS) and was designed to reduce the number of Aboriginal and Torres Strait Islander people on remand and the time spent on remand, aimed at supporting Aboriginal and Torres Strait Islander people, who, in the absence of bail support, would find it difficult to obtain bail. The initial trial was available to Aboriginal and Torres Strait Islander adults and young people. The ALS continues to deliver this program, and the contracts allow for young people to be serviced as it refers to its target clients only as Aboriginal and Torres Strait Islander people. The ALS currently focuses on adults, although has from time to time assisted young people at the request of the Children’s Court Magistrate and relevant legal representatives. The Ngurrumbai Bail Support program is currently being reviewed through the JACS Commissioning Process with a number of other programs funded and managed by the First Nations Justice Branch. A recommendation from the first Commissioning workshop was to expressly include Aboriginal and Torres Strait Islander young people. A “Diversion from Custody” Working Group is being established with Government and community stakeholders to jointly decide on action(s) in relation to recommendations from the first workshop.
Recommendation 9 The Committee recommends that the ACT Government implement a ‘wraparound’ bail support program for all people on bail in the ACT.	Agreed in principle The ACT Government understands this recommendation to refer to a single program offering a comprehensive range of supports to all people on bail. As set out in the ACT Government’s submission to the inquiry³, the Government provides a range of bail support services. This includes supervision of alleged offenders on bail by ACT Corrective Services (adults) and the Community Services Directorate (young people and some young adults). Not all adults and young people on bail are subject to supervision as a condition of bail.

³ https://www.parliament.act.gov.au/__data/assets/pdf_file/0004/2467768/Submission-012-ACT-Government_redacted.pdf

Recommendation	Government Response
	To inform the Government's future direction on bail support programs and services, further work is required to identify gaps in current service provision to avoid duplication or over-servicing people who do not require a higher level of support. Any future decisions, including a 'wraparound' bail support program, would be subject to ACT Budget processes. To contribute to the evidence base, JACS will undertake a desk-top review of bail support services and programs in other Australian jurisdictions, including any available evaluation reports. This will assist in understanding how the ACT compares to other jurisdictions and identify opportunities for the Government to consider how bail support could be improved in the ACT, including expanding existing or introducing new services or programs. The review will have regard to work being undertaken by the Justice Policy Partnership and the Standing Committee of Attorneys-General on bail and remand relating to Aboriginal and Torres Strait Islander people. It will also consider bail support for cohorts with specific needs, or which are overrepresented including women, people with disability, young people and Aboriginal and Torres Strait Islander people. This bail support review will complement existing initiatives: • The <i>RR25by25 and Beyond: A Justice Reinvestment Strategy for the ACT</i>, which identifies target groups so service supports can be more targeted. • The commissioning process for the First Nations Justice programs is currently considering support services and programs for Aboriginal and Torres Strait Islander people on bail and remand. Outcomes will continue to be published on the ACT Commissioning website https://www.communityservices.act.gov.au/commissioning/sectors-in-progress/aboriginal-and-torres-strait-islander-justice-programs
Recommendation 10 The Committee recommends that the ACT Government introduce an early intervention program for people who	Agreed-in-principle The ACT Government agrees that early intervention can support compliance with bail orders. As outlined in the ACT Government submission, ACTCS and CSD develop support plans for those under bail supervision, which can provide the opportunity for early intervention:

Recommendation	Government Response
are at risk of not complying with bail orders with a focus on young people.	• CSD develops a case plan with input from the young person, their parents and services that outlines how the young person will be supported, including support to access services that would improve the young person's wellbeing, and which may also be related to risk of reoffending. • ACTCS completes Bail Support Plans (BSP) for those on a supervised bail order for longer than four weeks. The BSP assists to identify basic non-criminogenic needs and sets out the steps for engaging in specific support strategies. The BSP can provide an opportunity for early intervention and may assist the accused person to maintain compliance with bail conditions. Support is provided to assist with referrals to non-criminogenic interventions and support services that address any immediate, basic social and welfare needs that may hinder an individual's compliance with their Bail Order. Where a bail condition specifies that the accused person engages with a specific program or service, the allocated supervising officer assists the accused person to make contact with the listed service. In addition to support/case plans, those under bail supervision have regular contact with ACTCS or CSD, which provides the opportunity to adjust support and supervision requirements to improve the prospects of compliance. It should be noted that an assessment of risk of non-compliance is not an assessment that is undertaken by bail support services, as the authorised officer or court will have assessed the likelihood of compliance in accordance with the criteria <i>Bail Act 1992</i>. The Government has also recently introduced the Therapeutic Support Panel which provides therapeutic support for children under 18 years old to promote the wellbeing of at-risk children and young people, their families and the broader community. The panel works with a child to assess their individual situation and needs and provide advice and support and develop a therapy plan unique to them. Under the recently released <i>RR25by25 and Beyond: A Justice Reinvestment Strategy for the ACT</i> a number of priority groups have been identified where there are opportunities to target service supports more precisely – this includes youth and young adults. In addition, a new remand rate indicator has been adopted which aims for a year on year decrease in the rate of prisoners on remand with the aim of meeting this over the longer term. As such, work will continue to explore options to support young people on bail and at risk of breaching bail conditions, including through the upcoming co-design process for a new Justice Futures justice reinvestment fund set out in <i>RR25by25 and Beyond</i>.

Recommendation	Government Response
Recommendation 11 The Committee recommends that the ACT Government increase the number of bail officers.	Agreed-in-principle A review of bail operations was undertaken by ACT Corrective Services following concerns raised in the Coronial Inquest into the death of Ms Brontë Haskins. One outcome from this review included a third bail officer position being instated in September 2023 from internal reallocation of resources. The need for a further increase to Bail officers would need to be assessed, and may be informed by the bail support review outlined in the response to Recommendation 9. Any increases would need to be considered in the context of the budget.
Recommendation 12 The Committee recommends that the ACT Government shift towards establishing a system that allows each person in the justice system to have a single case manager in the courts, to assist people with access and referrals to necessary legal, mental health, addiction and disability support programs.	Noted This recommendation links to Recommendations 9 and 10 in that all three recommendations are intended to enhance support for alleged offenders. This Recommendation is broader in scope, given its proposed application to each person in the justice system, noting that not everyone involved in the justice system is on bail or would need the support of a case manager. A case manager in the courts would also duplicate similar support provided in other parts of the justice system, including existing bail supports. The review of bail support services and programs outlined in the response to Recommendation 9 will consider support with referral and access to other services. The ACT Government notes the recommendation as it requires further consideration beyond the administration of bail, and any new service would require consultation, design work, and funding through a budget process.
Recommendation 13 The Committee recommends that the ACT Government increase the availability of the Justice Housing Program to address the shortfall in bail accommodation, particularly noting the priority cohorts.	Noted The Justice Housing Program and Transitional Accommodation Program are currently meeting the demand for those who are suitable for shared independent living, including for those on bail. These programs are currently funded until June 2026 and the ACT Government is currently considering how the program could be improved and/or expanded into the future, including for those on bail.

Recommendation	Government Response
Recommendation 14 The Committee recommends that the ACT Government put in place arrangements for the Magistrates Court to permanently sit on Sundays for the purposes of bail.	Noted Implementing this recommendation has funding implications across a number of agencies, including ACT Courts and Tribunal, the Office of the Director of Public Prosecutions and Legal Aid ACT, and would be subject to ACT budget processes. The ACT Government is committed to access to justice, including timely bail hearings.
Recommendation 15 The Committee recommends that the ACT Government better resource data collection that will enable comparable and ongoing information on bail decisions, breaches and the outcomes of such breaches to be made available for the ACT.	Agreed in principle The ACT Government’s commitment to improving data collection processes and reporting is demonstrated through the initiatives outlined below. ACT Courts and Tribunal (ACTCT) captures essential data on bail as alleged offenders progress through the courts. While ACTCT takes a continuous improvement approach to its processes and system, it will seek closer and formal collaboration with relevant entities, such as ACT Policing, ACT Corrective Services, and the Office of the Director of Public Prosecutions, on improved data sharing, comparable reporting, and the possibility of cross-organisation data linkages. ACT Policing’s data collection processes accurately record information surrounding bail decisions and can be extracted to reflect thematic trends. ACT Policing has implemented a new process that increases the Magistrate’s capacity to consider an alleged offender’s history of bail breaches and the subsequent outcomes of these breaches. ACT Policing created a Breach of Bail Notification Form in April 2024, that police use when receiving notification of a breach of bail conditions internally or from Children, Youth and Families or Corrective Services. The form outlines the incident and records whether the decision to issue a caution was made by the relevant agency. This is then forwarded to the ACT Department of Public Prosecutions to attach to the case file identifying a breach of bail, regardless of whether the person is apprehended on that breach. ACT Corrective Services is in the initial stages of planning for an ACT Justice linked data asset. Support will be sought from data custodians across the justice system to participate in this data project, which will provide data insights not currently available in the ACT.

Recommendation	Government Response
	The ACT Government acknowledges that improved data collection can support policy decision-making, however analysing bail decisions, breaches and the outcomes of breaches will always require an element of manual analysis due to the way information is recorded and bail activity is processed throughout the system. This is resource intensive and is limited to the point in time being considered, and the ACT Government is currently prioritising other data improvements as outlined throughout this response.
Recommendation 16 The Committee recommends that the ACT Government qualitatively research the reasons why individuals fail to appear in court, with a view to addressing systemic reasons.	Noted The drivers of behaviour resulting in non-compliance are likely to be the same as the drivers for recidivism in general, and these are well documented but complex. The ACT Government is focused on providing evidence-based interventions that focus on positive outcomes. This includes existing bail support programs, and data and evaluation initiatives under <i>RR25by25 and Beyond: A Justice Reinvestment Strategy for the ACT</i>. This includes partnering with the Australian National University (ANU) to undertake research and evaluation activities under the RR25by25 Plan. Under this research collaboration, the ANU is undertaking a qualitative study on pathways out of the criminal justice system and what factors have helped individuals in the ACT to stop offending and stay out of the criminal justice system. While this is not specifically focused on individuals who fail to appear in court, it is anticipated the learnings would apply across the whole justice system and offender journey. Further, JACS is investigating the utility of a Bail App in providing a phone-based record of bail conditions and reporting reminders to assist compliance, including court appearance dates.
Recommendation 17 The Committee recommends the ACT Government review unsuccessful supervised bail orders to understand non-compliance.	Noted See response to Recommendation 16.

Dissenting Recommendation I recommend that the ACT Government legislate to include violent offences in a family or domestic environment in the schedule of offences where there is a presumption against bail.	Noted The Government is committed to ensuring the ACT’s criminal laws protect victims of violence, whilst also balancing and upholding the rights of accused people. The Bail Act currently contains a number of protections where the alleged offending relates to family violence or the accused person has a history of family violence. Under section 9F of the Bail Act, currently there is a presumption against police bail where a person is accused of a family violence offence. Police must not grant bail in these circumstances unless satisfied that the person poses no danger to a protected person while released on bail, and that the criteria for granting bail at sections 22 and 23 of the Bail Act also favour a grant of bail. Once the matter reaches the Court, under section 9B of the Bail Act, there is no presumption for bail for family violence related offences (including threats to kill or harm, stalking or contravening family violence orders) if the accused person has been found guilty of offences of threatened or actual violence within the last 10 years. Section 9D also creates additional protections to ensure that where a person is accused of a serious offence while another serious offence is outstanding, they cannot be granted bail unless there are special or exceptional circumstances. A serious offence for this section includes offences punishable for 5 years or longer, such as threats to kill or seriously harm, assault occasioning actual bodily harm, stalking in a family violence context and the contravention of a family violence order. Relevant to both police and Court bail, the criteria for granting bail at sections 22 and 23 of the Bail Act also requires the decision-maker to consider issues of safety when deciding whether to grant bail. This includes the likelihood the person will, if granted bail, commit an offence, harass or endanger the safety or welfare of anyone, or intimidate a witness.
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