



Standing Committee on Justice and Community Safety

Inquiry into the Administration of Bail in the ACT **ANSWER TO QUESTION TAKEN ON NOTICE**

Asked by Dr Marisa Paterson MLA on 18 June 2024: Mr Shane Rattenbury MLA took on notice the following question:

Reference: Hansard [uncorrected] proof transcript [18 June 2024] [PAGE 33]

In relation to:

MS PATERSON: I guess 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, at just opposing bail across the board and not turning up to hearings they are just—they were saying whether it is an agreement between the DPP and police or what is going on. But police do not tend to present to bail hearings.

Again, do you feel like there is more that we need to be doing in this space in terms of the risk assessment? Like, one of the previous witnesses mentioned, the bench book and how it has not been updated for family and domestic violence recently. It does not include the death review. So I guess, when we are talking about very serious crimes of violence and you know, we have got domestic violence on the national stage, it concerns me that this is not being viewed as a priority to understand the risk assessments being 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 have a look at the Hansard and reflect on that.

MS 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.

MS PATERSON: Thank you.

[Mr Shane Rattenbury MLA]: The answer to the Member's question is as follows:

The *Bail Act 1992* (the Bail Act) provides a court or authorised officer making a bail decision with a legislative framework for that decision-making process. The decision maker must consider any presumptions that apply and, where applicable, the criteria for granting bail to adults (section 22 of the Bail Act) or children (section 23 of the Bail Act).

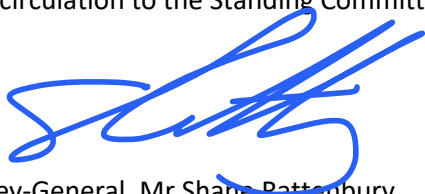
The criteria for granting bail under section 22 or 23 of the Bail Act require the decision maker to consider the likelihood of certain things occurring such as the person appearing in court or committing an offence. That decision is informed by any relevant matter, including the nature and seriousness of the offence, the person's character, background and community ties, and any previous grants of bail.

The information before a court is provided by the prosecution (which will include information provided by the police), defence and any additional information from other relevant sources such as ACT Corrective Services and ACT Health. The court can also be informed by other resources such as bench books. Information before an authorised officer is necessarily more limited as the decision is being made while the person is in the custody of police, prior to any appearance in court. The bail decision requires the balancing of all the information and factors before the decision maker.

I have referred the Bail Act to the Law Reform and Sentencing Advisory Council and under the terms of reference they are asked to consider the balance between the presumption of innocence and community safety. The terms of reference can be found here: <https://www.lrsac.act.gov.au/current-projects/bail>

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

Signature:



Date:

7/7/24

By the Attorney-General, Mr Shane Rattenbury