

A2493946

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Justice and Community Safety Directorate

Email: jacslppcriminal@act.gov.au

Dear Justice and Community Safety Directorate

[Review of decision-making criteria in the *Bail Act 1992*](#)

The ACT National Preventive Mechanism (NPM) welcomes the opportunity to provide feedback on the proposed reforms to the *Bail Act 1992* (Bail Act), set out in your consultation paper dated May 2025.

The ACT NPM comprises the Human Rights Commission, the Custodial Inspector and the ACT Ombudsman and is responsible for undertaking regular preventive visits to places of detention within the ACT under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).

Under the *Monitoring of Places of Detention (Optional Protocol to the Convention Against Torture) Act 2018*, the ACT NPM has unfettered access to all places of detention and detained people, can make recommendations about treatment and conditions, and can submit proposals on legislation. In order to prevent ill-treatment in detention, it is important not only address problems observed in relation to particular facilities but also to consider the criminal justice system as a whole and the local conditions that influence its functioning in practice.¹

Based on this mandate, in our view, key considerations in any review of bail laws in the ACT should include reducing the high rates of remand and recidivism in the ACT² and addressing the significantly high rates of incarceration of Aboriginal and Torres Strait Islander peoples.

¹ United Nations Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (26 March 2015), *Eighth annual report of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, CAT/C/54/2 [83].

² Productivity Commission (4 February), *Report of Government Services 2025*, Part C, Table CA.4. Note: ACT had highest rate of return to corrective services with a new correctional sanction within 2 years (62.4%) above the national average of 52.5%.

While our submission is focused on these priorities, we acknowledge that assessing risks and protecting victims and the broader community are critically important considerations for judges when making bail decisions.

Human rights law and practice

Several human rights standards are relevant to people on remand, including the presumption in favour of bail, which is a well-established human right³ that is explicitly within scope of s 18(5) of the *Human Rights Act 2004* (ACT). People must be presumed innocent until proven guilty, pre-trial detention must be a last resort⁴ and people remanded in custody must be treated in a manner consistent with their status as a person on remand. Particularly important for those remanded in custody is access to their lawyer and any other supports that may assist in applying for bail.⁵

United Nations (UN) bodies have recently questioned Australia's protection of these rights. For example, the UN Committee against Torture found Australia should

...ensure that the regulations governing pre-trial detention are scrupulously respected and that such detention is resorted to only in exceptional circumstances and for limited periods, taking into account the principles of necessity and proportionality. It should also intensify efforts to significantly reduce the number of pretrial detainees by making more use of alternatives to detention, in particular with regard to Aboriginal and Torres Strait Islander adults and children.⁶

Similarly, the UN Subcommittee on the Prevention of Torture (SPT) that plays a role under the OPCAT in supporting NPMs and visiting places of detention recommended Australia 'take measures, including legislative measures, to ensure that recourse to pretrial detention is always a measure of last resort' after its visit in 2022.⁷

In 2024, following its Inquiry into the Administration of Bail, the Standing Committee on Justice and Community Safety commented that, while rates of people on remand are high across

³ See, e.g. *International Covenant on Civil and Political Rights*, Article 9.

⁴ See, e.g. *United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules)*, Rule 6.1

⁵ *Human Rights Act 2004* ss 18 to 22 (noting s 20 relates to children).

⁶ United Nations Committee against Torture (5 December 2022), *Concluding observations on the sixth periodic report of Australia*, CAT/C/AUS/CO/6.

⁷ United Nations Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (20 December 2023), *Visit to Australia undertaken from 16 to 23 October 2022: recommendations and observations addressed to the State party*, CAT/OP/AUS/ROSP/1 [34].

Australia, they are particularly high in the ACT and even more so for Aboriginal and Torres Strait Islander people.⁸ Relevant data and trends are discussed in earlier submissions by members of the ACT NPM.⁹

Against the backdrop of Australia's increasing remand rates, the United Nations Committee against Torture has also called upon Australia to 'intensify efforts to significantly reduce the number of people detained pre-trial by making more use of alternatives to detention'.¹⁰

Reducing high rates of remand and recidivism

We welcome the ACT Government's acknowledgement that:

- the use of remand can have damaging consequences to an accused person's family, employment, housing situation and health and may increase the risk of reoffending and recidivism
- the use of remand can perpetuate overall risk to community safety by entrenching cycles of disadvantage that lead to people's interaction with the criminal justice system
- significant evidence suggests that diverting people to more appropriate supports than incarceration can disrupt cycles of disadvantage.

We submit that a key focus of this review should include ensuring pre-trial detention is only used as a last resort and measures are implemented to divert people from being remanded in custody.

Bail presumptions

As set out in the ACT Human Rights Commission's submission to the Legislative Assembly's Inquiry into the administration of bail, the presumption in favour of bail is a well-established

⁸ ACT Legislative Assembly (August 2024), *Inquiry into the Administration of Bail, Report 30, Standing Committee on Justice and Community Safety* [5.14].

<https://www.parliament.act.gov.au/__data/assets/pdf_file/0006/2564142/Report-Inquiry-into-the-administration-of-bail-in-the-ACT-with-the-dissenting-report-by-Mr-Cain.pdf>.

⁹ For example, see ACT Custodial Inspector (17 June 2024), *Submission to Inquiry on the Administration of Bail*. <https://www.parliament.act.gov.au/__data/assets/pdf_file/0017/2510207/Submission-015-ACT-Inspector-of-Correctional-Services_redacted.pdf>; ACT NPM (28 January 2025), *Joint submission to ACT Government on Electronic Monitoring in the ACT*

<https://www.npm.act.gov.au/__data/assets/pdf_file/0012/2791299/ACT-NPM-Submission-Electronic-Monitoring-in-the-ACT-redacted_Redacted.pdf>.

¹⁰ United Nations Committee against Torture, *Concluding observations on the sixth periodic report of Australia*, CAT/C/AUS/CO/6 (5 December 2022) [15-16].

human right. We agree that bail laws should align with obligations in the *Human Rights Act 2004* (ACT).¹¹

While there are times an accused person must be detained on remand to ensure community safety or prevent flight risks, it is important to consider the risks posed by unnecessary detention, such as increasing the likelihood of future contact with the criminal system. Presumptions against bail can risk a person needlessly being exposed to the initial period of incarceration which is the period of highest risk of ill treatment.¹²

Presumptions against bail are also contrary to Targets 10 and 11 for reducing the incarceration rates of young and adult Aboriginal and Torres Strait Islander people under the National Agreement on Closing the Gap, to which the ACT Government is a signatory.¹³

Framing of bail criteria

We support a decision-making framework for bail that considers and regards equally the interests of the victim, interests of the accused person, and interests of community safety and justice integrity.

We note, for example, recent reforms to bail laws in Victoria elevating the interest of community safety above other considerations have been criticised as unlikely to improve community safety and likely to push more disadvantaged people into prison and increase recidivism.¹⁴ Further, an assumption that remanding someone in custody will always lead to community safety is a short

¹¹ ACT Human Rights Commission (24 May 2024), *Submission to Inquiry on the Administration of Bail*, 1–2. <https://www.parliament.act.gov.au/__data/assets/pdf_file/0016/2460202/Submission-010-ACT-Human-Rights-Commission_redacted.pdf>.

¹² ACT Custodial Inspector (17 June 2024), *Submission to Inquiry on the Administration of Bail* <https://www.parliament.act.gov.au/__data/assets/pdf_file/0017/2510207/Submission-015-ACT-Inspector-of-Correctional-Services_redacted.pdf>; See e.g., Office of the High Commissioner for Human Rights, *Preventing Torture (2010): An Operational Guide for National Human Rights Institutions*. 4. <https://www.ohchr.org/sites/default/files/Documents/Countries/NHRI/Torture_Prevention_Guide.pdf>.

¹³ Closing the Gap Targets and Outcomes. <<https://www.closingthegap.gov.au/national-agreement/targets>>.

¹⁴ National Indigenous Times (12 March 2025), *More vulnerable women and children to be locked up under new bail laws – VALS*. <<https://nit.com.au/12-03-2025/16762/more-vulnerable-women-and-children-to-be-locked-up-under-new-bail-laws-vals>>; National Indigenous Times (13 May 2025), *Vic government slammed for 'celebrating' surging remand numbers under harsh new bail laws*. <<https://nit.com.au/13-05-2025/17917/justice-victoria-government-slammed-for-celebrating-surg-ing-remand-numbers-under-harsh-new-bail-laws>>.

sighted view that fails to consider the criminogenic impact that incarceration can have on the accused over the longer term.¹⁵

Noting its connection to deterring offending, views have been invited on whether the prevalence of an offence should be considered when determining bail. In our view, care should be taken so that the purpose of refusing bail is to protect the community and reduce the likelihood of further offending, where an unacceptable risk exists, and not to punish someone who has not been convicted of an offence.¹⁶

With respect to the interests of victims and the extent to which remanding accused persons is perceived to be protective of victims of alleged offending; in our view, consideration should also be given to other measures that would more effectively support victims and address fears they may have.

Discretionary or mandatory criteria

In our view, it may be beneficial for decision-makers to retain some discretion about what to consider in determining bail to mitigate, where required, any practical impediments or disproportionate impacts flowing from a criterion.

For example, a criminal history is not an indicator of a safety risk in all cases, so a biased view towards a criminal history generally could disproportionately impact some groups and be unwarranted – case by case consideration based on evidence may be preferable.

Similarly, there is risk that requiring the prevalence of an offence as a consideration when determining bail, in addition to its nature and seriousness, may disproportionately impact at-risk groups who may more commonly be involved in a particular offence owing to a shared social disadvantage.¹⁷

¹⁵ See, e.g. RMIT Centre for Innovative Justice (2021), *Leaving custody behind: foundations for safer communities & gender-informed criminal justice systems' Issues Paper*, 11. <<https://cij.org.au/cms/wp-content/uploads/2021/09/leaving-custody-behind-issues-paper-july-2021-.pdf>>.

¹⁶ Australian Law Reform Commission (10 November 2010), *Family Violence – A national Legal Response, Report 114* [10.3]–[10.5]. <<https://www.alrc.gov.au/publication/family-violence-a-national-legal-response-alrc-report-114/10-bail-and-family-violence-3/description-and-purpose-of-bail/>>.

¹⁷ Legislative Assembly for the Australian Capital Territory Standing Committee on Justice and Community Safety (October 2023), *Inquiry into penalties for minor offences and vulnerable people*. <https://www.parliament.act.gov.au/___data/assets/pdf_file/0006/2309190/Final-report-Penalties-for-minor-offences-and-vulnerable-people.pdf>. Note: we note the findings and recommendations of this report.

Consideration of pregnancy and primary carer duties

We note the consultation paper raises the question of pregnancy and primary carer duties as relevant factors in bail. In any context, these are critical considerations for bail, as a person's time on remand will have a detrimental impact on parental relationships and increase the risk of involvement of child protection services. These consequences are counter to the ACT Government's commitment to justice reinvestment and reducing recidivism, as well as the closing the gap targets for Aboriginal and Torres Strait Islander peoples.

We suggest that this is also a particularly important factor to consider specifically in the ACT given the lack of proper facilities and policies for detained people to care for babies and young children in custody.

The original design of the Alexander Maconochie Centre (AMC) noted the 'larger female cottages will also be used to accommodate a mother and her child if necessary (this will necessitate child height design consideration e.g. door knob heights, bench heights, child proof locks).'¹⁸ However, we understand that no mothers have had children living with them at AMC and we do not know whether any women have requested to have children living with them. Other jurisdictions – for example in Victoria, Tasmania, Queensland, New South Wales and Western Australia do accommodate mothers and their babies.

In its last Healthy Prison Review (2022), the ACT Custodial Inspector noted that there is no written policy or procedure for how the AMC works with Canberra Health Services and the Community Services Directorate for the care and management of pregnant women and their newborn babies.

Since female detained people moved back to the purpose-built Women's Community Centre at the AMC in 2021, there is the capacity to accommodate visits for women and their babies if assessed as suitable. However, there is no established program and no meaningful opportunities for ongoing prolonged contact between mothers and babies.

Sunday courts

We strongly encourage the permanent introduction of Sunday bail courts as a measure to reduce the number of people on remand.

¹⁸ ACT Department of Justice & Community Safety (2005), *ACT Correctional Centre: Alexander Maconochie Centre Functional Brief*. <https://www.ics.act.gov.au/___data/assets/pdf_file/0014/1304015/37.pdf>.

Legal Aid ACT has reported that people taken into custody on Friday evening or Saturday morning, and who are not processed by police by 9am on Saturday morning, may not have their bail matter heard by the Magistrates Court until Monday afternoon. It supported addressing this issue by having the Magistrates Court sit on Sundays to hear bail matters, as piloted in November 2023.¹⁹

The Custodial Inspector recently recommended the permanent sitting of Sunday bail courts, noting positive feedback about the pilot program received during its Healthy Centre Review of Bimberi Youth Justice Centre in 2024²⁰ and how it resulted in many young people being released on bail who otherwise would have been detained until Monday morning. The review noted that

[A] very high proportion of young people at Bimberi at any one time are on remand, and mostly for a very short time (from January – June 2024, for example, the median remand period at Bimberi was 1 day)... [Sunday Court] may lead to better outcomes for young people and the community, as evidence shows that the earlier a young person comes in contact with the youth justice system, the more likely they are to reoffend.²¹

Bail supports and conditions

Various stakeholders have reported concerns about the granting of bail based on conditions to which the person cannot comply. This may arise for various reasons including insufficient money to pay security, lack of transport to meet reporting obligations, lack of literacy or disability resulting in misunderstood conditions, absence of fixed housing, or neurodiverse conditions affecting a person's time management.

In the Healthy Centre Review (2024), the Custodial Inspector noted several ACT reviews and reports have identified the need for greater bail support for adults and young people. This included the Final Report on the now expired Blueprint for Youth Justice, which highlighted the then 'After Hours Crisis Service' which offered 'alternative community-based options to youth custody' and was 'effective in reducing the number of young people held on remand'. However,

¹⁹ Legal Aid ACT (17 May 2024), *Submission to Inquiry into Administration of Bail*. 6-7.

<https://www.parliament.act.gov.au/__data/assets/pdf_file/0008/2457440/Submission-006-Legal-Aid-ACT_redacted.pdf>.

²⁰ ACT Custodial Inspector (December 2024), *Healthy Centre Review of Bimberi Youth Justice Centre 2024*, 101. <https://www.ics.act.gov.au/__data/assets/pdf_file/0007/2623741/ACT-OICS-Healthy-Centre-Review-of-Bimberi-2024_FA_TAGGED.pdf>.

²¹ ACT Custodial Inspector (December 2024), *Healthy Centre Review of Bimberi Youth Justice Centre 2024*, 101. <https://www.ics.act.gov.au/__data/assets/pdf_file/0007/2623741/ACT-OICS-Healthy-Centre-Review-of-Bimberi-2024_FA_TAGGED.pdf>.

we understand that there is presently no dedicated bail support program available for young people.

The Aboriginal Legal Service (ALS) provides the Ngurrambai Bail Support wraparound program for adults. While we understand that the ALS is endeavouring to extend the

program to young people within existing resources, we suggest that the ACT Government should provide the ALS specific and sufficient funding for this purpose.

We are concerned this gap is caused in part because of a lack of greater inter-Directorate or cross-government collaboration to ensure young people in the justice system can access initiatives. The Ngurrambai Bail Support program is funded by the Justice and Community Safety Directorate (JACS).

Further, if the goal of the justice system includes improving community safety, we note that amending bail legislation is not as effective at achieving this goal as compared to properly funded community supports, consistent with the ACT Government's commitment to justice reinvestment.

Support for further investment in bail support programs was also a key theme in several submissions to the previous Justice and Community Safety Committee inquiry into the administration of bail in the ACT.²² The Australian Human Rights Commission has also recommended that Australian governments resource and expand the availability of evidence-

²² Justice Reform Initiative (June 2024), *Submission to Inquiry into Administration of Bail*. <https://www.parliament.act.gov.au/__data/assets/pdf_file/0004/2510194/Submission-014-Justice-Reform-Initiative_redacted.pdf>; ACT Law Society (29 May 2024), *Submission to Inquiry into Administration of Bail*. <https://www.parliament.act.gov.au/__data/assets/pdf_file/0012/2467767/Submission-011-ACT-Law-Society_redacted.pdf>; Advocacy for Inclusion (17 May 2024), *Submission to Inquiry into Administration of Bail*. <https://www.parliament.act.gov.au/__data/assets/pdf_file/0004/2457436/Submission-002-Advocacy-for-Inclusion_redacted.pdf>; Aboriginal Legal Services (24 May 2024), *Submission to Inquiry into Administration of Bail*. <https://www.parliament.act.gov.au/__data/assets/pdf_file/0014/2460200/Submission-008-Aboriginal-Legal-Services_redacted.pdf>; Legal Aid ACT (17 May 2024), *Submission to Inquiry into Administration of Bail*. <https://www.parliament.act.gov.au/__data/assets/pdf_file/0008/2457440/Submission-006-Legal-Aid-ACT_redacted.pdf>.

based diversionary programs for children, including those by Aboriginal and Torres Strait Islander Community-Controlled Organisations, and other culturally safe programs.²³

We see benefit in measures that take into account people's individual needs and circumstances to support their ability to comply with bail conditions, both in the setting of the conditions and the provision of supports for the person to meet the bail conditions.

Reducing the incarceration of Aboriginal and Torres Strait Islander peoples

This review is an opportunity to implement the recommendation by the *Royal Commission into Aboriginal Deaths in Custody* that governments, in conjunction with Aboriginal Legal Services and Police Services, consider amending bail legislation to revise any criteria which inappropriately restrict the granting of bail to Aboriginal people.²⁴

We welcome the ACT Government's intention to require decisions about bail to include consideration of any issues arising from a person's Aboriginal or Torres Strait Islander status, as recommended by the Australian Law Reform Commission and supported by stakeholders consulted by the Jumbunna Institute for Indigenous Education and Research.²⁵

We note that the Australian Law Reform Commission also recommended that governments work with Aboriginal and Torres Strait Islander Organisations to develop guidelines for the application of such bail provisions and progress culturally appropriate bail support programs and diversion options.²⁶

²³ Australian Human Rights Commission (August 2024), *'Help way earlier!' How Australia can transform child justice to improve safety and wellbeing*. Recommendation 12.

<https://humanrights.gov.au/sites/default/files/document/publication/1807_help_way_earlier_-_accessible_0.pdf>.

²⁴ Australian Human Rights Commission (August 2024), *'Help way earlier!' How Australia can transform child justice to improve safety and wellbeing*. Recommendation 91.

<https://humanrights.gov.au/sites/default/files/document/publication/1807_help_way_earlier_-_accessible_0.pdf>.

²⁵ Cunneen, C. et al (2024), *Independent Review into the Over-Representation of First Nations People in the ACT Criminal Justice System, First Report*, Jumbunna Institute for Indigenous Education and Research, 47.

<<https://www.uts.edu.au/globalassets/sites/default/files/2024-10/Jumbunna-Research-Independent-Review-First-Report.pdf>>.

²⁶ Cunneen, C. et al (2024), *Independent Review into the Over-Representation of First Nations People in the ACT Criminal Justice System, First Report*, Jumbunna Institute for Indigenous Education and Research, vii.

<<https://www.uts.edu.au/globalassets/sites/default/files/2024-10/Jumbunna-Research-Independent-Review-First-Report.pdf>>.

Additionally, we suggest this review be mindful about whether any of the bail criteria being considered have the potential to adversely impact some groups more than others and ensure appropriate controls are included to address this risk.

For example, how might racism operate within criteria requiring consideration of the subjective views of police and victims in determining bail? The Australian Human Rights Commission reports that negative stereotypes about Aboriginal and Torres Strait Islanders peoples contribute to discriminatory treatment by law enforcement and the legal system, including over-policing and harsher sentencing, and highlights studies concluding that vast parts of the community may be predisposed to unconsciously view Aboriginal and Torres Strait Islander people through a negative lens.²⁷ The impacts of racism and racial profiling by police on the Aboriginal and Torres Strait Islander community in the ACT were commonly raised by stakeholders consulted by the Jumbunna Institute for Indigenous Education and Research.²⁸ The report found stronger mechanisms to enforce accountability for racism and racial profiling by police are required.²⁹

Use of electronic monitoring

We refer to our submission³⁰ to the ACT Government dated 28 January 2025 on the use of electronic monitoring (EM) for adults in the ACT. It outlines that there is limited evidence on the routine effectiveness of EM on adults, while some preliminary evidence suggests it can work. While we support in principle the trial of electronic monitoring, any permanent adoption of the practice must be consistent with ACT and international human rights frameworks, include safeguards against arbitrary application and be subject to comprehensive empirical and qualitative review.

²⁷ Australian Human Rights Commission (2024), *An Anti-Racism Framework: Voices of First Nations Peoples*, 47. <<https://humanrights.gov.au/our-work/race-discrimination/publications/anti-racism-framework-voices-first-nations-peoples>>.

²⁸ Cunneen, C. et al (2024), *Independent Review into the Over-Representation of First Nations People in the ACT Criminal Justice System, First Report*, Jumbunna Institute for Indigenous Education and Research, 88-89. <<https://www.uts.edu.au/globalassets/sites/default/files/2024-10/Jumbunna-Research-Independent-Review-First-Report.pdf>>.

²⁹ Cunneen, C. et al (2024), *Independent Review into the Over-Representation of First Nations People in the ACT Criminal Justice System, First Report*, Jumbunna Institute for Indigenous Education and Research, xiv. <<https://www.uts.edu.au/globalassets/sites/default/files/2024-10/Jumbunna-Research-Independent-Review-First-Report.pdf>>.

³⁰ ACT NPM (28 January 2025), *Joint submission to ACT Government on Electronic Monitoring in the ACT*. <https://www.npm.act.gov.au/___data/assets/pdf_file/0012/2791299/ACT-NPM-Submission-Electronic-Monitoring-in-the-ACT-redacted_Redacted.pdf>.

Our January 2025 submission only addressed electronic monitoring for adults because we understand that the ACT Government is not considering it for use with young people. We oppose the use of electronic monitoring for those aged under 18. We note there is limited empirical evidence to support the effectiveness of EM of children and young people, and its use may have adverse impacts.³¹

Bail criteria for children and young people

Detention must be a last resort, especially for young people, with evidence showing that the younger a person is at the time of their first supervised sentence (community based or detention), the more likely they are to return to sentenced youth justice supervision.³²

Bail settings for children and young people in the ACT were considered in the Custodial Inspector's Healthy Centre Review (2024).³³

The Review found that there is a clear trend of young people being arrested, refused police bail, and then bailed by the Children's Court shortly after. More than half of the readmissions to Bimberi Youth Justice Centre during the review period were due to an alleged breach of bail.³⁴

Factors identified by the Review as contributing to this cycle included a lack of police discretion to grant bail once a young person is arrested for breach of bail, infrequent use by police of diversionary options for all young people (and lower rates of use for Aboriginal and Torres Strait Islander young people compared to non-Indigenous young people), current presumptions

³¹ See, for e.g. K Weisburd (2015), 'Monitoring Youth: The Collision of Rights and Rehabilitation' 101(1) Iowa Law Review, 297; D Cassidy, G Harper and S Brown (2005), *Understanding electronic monitoring of juveniles on bail or remand to local authority accommodation: Report for the Home Office*; QLD Department of Youth Justice (November 2022), *Electronic Monitoring Trial*, Final Report, 28.

<https://www.publications.qld.gov.au/ckan-publications-attachments-prod/resources/68a197c8-7fe0-45b8-b240-1a8fac94eb30/17460_electronic-monitoring-trial-evaluation.pdf?ETag=182058e21479a534e08b008c9f15a8ac>.

³² Australian Institute of Health and Welfare (2022), *Children under youth justice supervision* <<https://www.aihw.gov.au/reports/children-youth/australias-children/contents/justice-safety/children-youth-justice-supervision>>.

³³ ACT Custodial Inspector (December 2024), *Healthy Centre Review of Bimberi Youth Justice Centre 2024* [3.2.1]. <https://www.ics.act.gov.au/_data/assets/pdf_file/0007/2623741/ACT-OICS-Healthy-Centre-Review-of-Bimberi-2024_FA_TAGGED.pdf>.

³⁴ ACT Custodial Inspector (December 2024), *Healthy Centre Review of Bimberi Youth Justice Centre 2024* 99. <https://www.ics.act.gov.au/_data/assets/pdf_file/0007/2623741/ACT-OICS-Healthy-Centre-Review-of-Bimberi-2024_FA_TAGGED.pdf>.

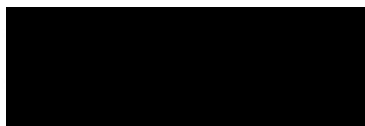
against bail for certain matters under the *Bail Act 1992* (ACT), and the need for greater bail supports for young people.³⁵

Anecdotally, the Review heard that common reasons for young people breaching their bail conditions involved them not residing at their nominated address or not meeting curfew conditions.³⁶ The Tasmanian Government is in the process of reforming its bail laws to prohibit the refusal of bail to a child on the sole ground that the child does not have any, or any adequate, accommodation, as recommended by the Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse.³⁷

We support the continued inclusion of additional considerations specific to children and young people. Further, we would like to see reforms to provide police with the discretion to grant bail for a young person arrested for breaching bail conditions.

Thank you for the opportunity to provide feedback on the proposed reforms to the Bail Act.

Yours sincerely



Dr Penelope Mathew
President and Human Rights
Commissioner



Rebecca Minty
ACT Inspector of Custodial Services



Iain Anderson
ACT Ombudsman

³⁵ ACT Custodial Inspector (December 2024), *Heathy Centre Review of Bimberi Youth Justice Centre 2024* 100. <https://www.ics.act.gov.au/__data/assets/pdf_file/0007/2623741/ACT-OICS-Healthy-Centre-Review-of-Bimberi-2024_FA_TAGGED.pdf>.

³⁶ ACT Custodial Inspector (December 2024), *Heathy Centre Review of Bimberi Youth Justice Centre 2024* 99. <https://www.ics.act.gov.au/__data/assets/pdf_file/0007/2623741/ACT-OICS-Healthy-Centre-Review-of-Bimberi-2024_FA_TAGGED.pdf>.

³⁷ Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse (August 2023), *Who was looking after me? Prioritising the safety of Tasmanian children*. Recommendation 12.14. <<https://www.commissionofinquiry.tas.gov.au/report>>.