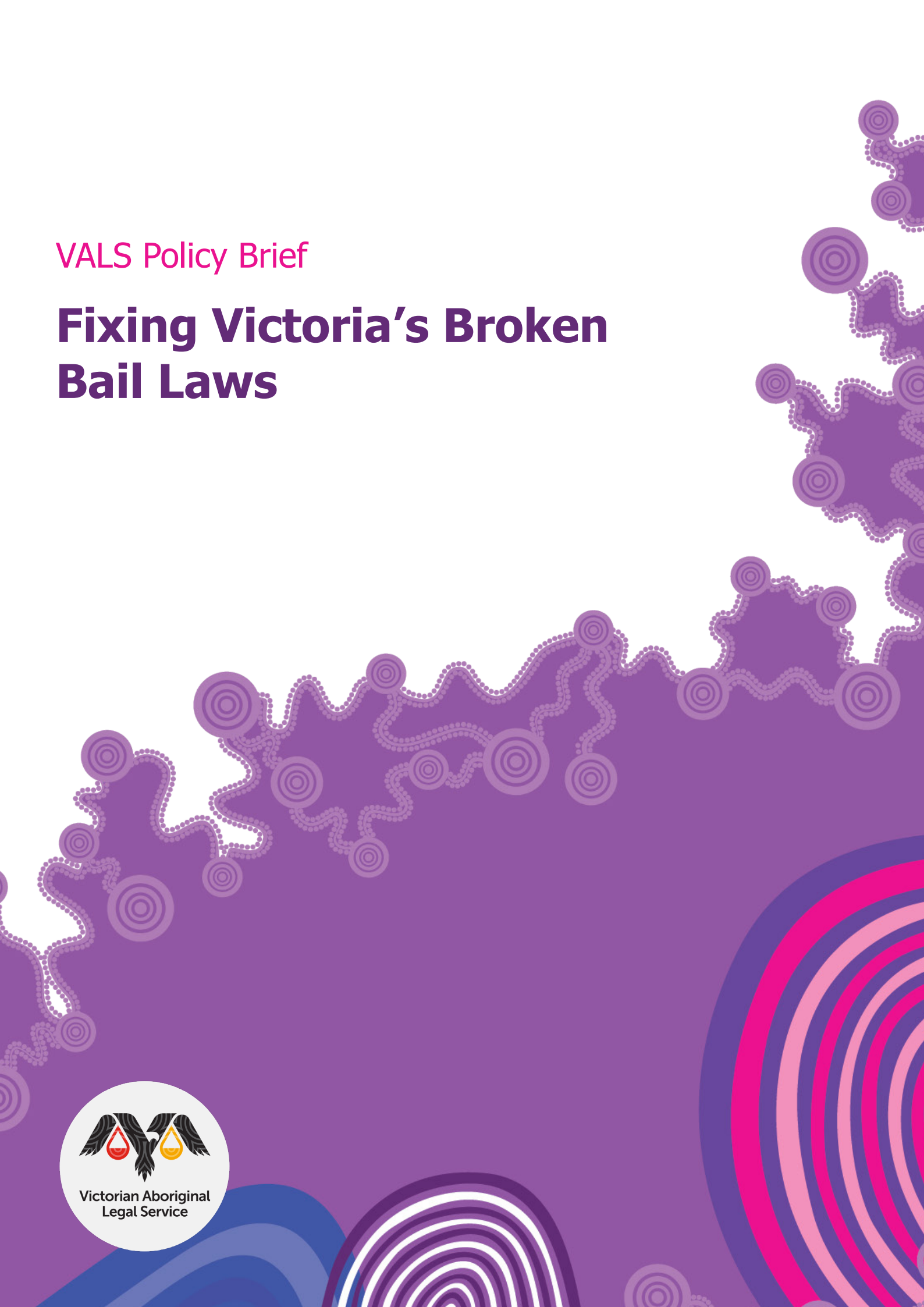
VALS Policy Brief

# Fixing Victoria's Broken Bail Laws



Victorian Aboriginal Legal Service

In 2017-18, in response to the Bourke Street incident, the Victorian Government changed the bail laws to make it easier to lock people up before criminal charges are finalised. The changes aimed to restrict access to bail for individuals accused of serious violent offences; however, they have had wider and more devastating impacts.

The punitive bail system has disproportionately impacted Aboriginal and/or Torres Strait Islander people, and has resulted in a dramatic increase in the number of Aboriginal people in prison who have not been sentenced. This is the opposite of what the Royal Commission into Aboriginal Deaths in Custody (**RCIADIC**) recommended, over thirty years ago.

## *Bail and Remand Data*

- In June 2021, 51% of Aboriginal people in prison in Victoria were on remand, compared to 32% in June 2017 and 20% in June 2010.
- In June 2019, 57.5% of Aboriginal women in prison in Victoria were on remand, compared to 48% in June 2017 and 29.6% in June 2010.
- Between 2009-2010 and 2019-2020, the number of Aboriginal women entering prison on remand increased by 440%, compared to a 210% increase for the total prison.
- In June 2019, 46.7% of Aboriginal men in prisons in Victoria were on remand, compared to 30% in June 2017 and 19% in June 2010.
- In 2020-2021, 68.7% of Aboriginal children in youth custody in Victoria were on remand on an average day.

**Note:** VALS notes that this data is dated, and recommends that the Victorian Government publish, on a monthly basis, disaggregated, up-to-date data in relation to remand rates for Aboriginal people (and specifically women and children). Such an approach would align with its commitment under the Closing The Gap Agreement and Implementation Plan.

## *Recommendations*

1. The bail laws must be urgently amended to:

   (a). Remove the presumption against bail;
   (b). Create a presumption in favour of bail for all offences, with the onus on the prosecution to demonstrate that bail should not be granted due to there being a specific and immediate risk to the physical safety of another person; a serious risk of interfering with a witness; or the person posing a demonstrable flight risk;
   (c). Clarify that "flight risk" is a risk that the person will flee the jurisdiction. Bail must not be refused due to a risk that the person will not attend court for other reasons;

(d). Explicitly require that a person must not be remanded for an offence that is unlikely to result in a sentence of imprisonment; and

(e). Remove the offences of committing an indictable offence while on bail, breaching bail conditions and failure to answer bail.

2. Bail hearings must take place in person, unless absolutely necessary, as the decision to grant or refuse bail is one of the most significant decisions in a criminal matter, and provides a critical opportunity to assess the person's health and welfare.

3. The Department of Justice and Community Safety (**DJCS**) should increase the number and diversity of bail justices, particularly in regional and rural areas. There should be targeted efforts at recruiting Aboriginal and/or Torres Strait Islander people as bail justices.

4. Bail justice hearings should not take place via Audio-Visual Link (**AVL**) unless absolutely necessary. There should be a prescriptive and legally enforceable protocol to ensure that remote bail justice hearings are strictly limited.

5. Aboriginal Community Justice Panels (**ACJP**) should be adequately funded to provide culturally safe support to Aboriginal people in police custody, including during police bail or bail justice hearings.

6. Access to an Independent Third Person (**ITP**) must be a legislated right for any person who has a disability or mental illness. ITPs should receive extensive training on cultural awareness and systemic racism, that is developed and implemented by Aboriginal communities.

7. To ensure that bail decision makers genuinely comply with their obligation to consider someone's Aboriginality, the bail laws should be amended so that:

   (a). If someone is unrepresented in a bail hearing, the bail decision maker must be required to make inquiries as to whether the person is Aboriginal;

   (b). All bail decision makers must be required to explain how they have discharged their obligation to consider Aboriginality in bail decisions. This would require bail decision makers to explain what information they have taken into account to understand why and how someone's Aboriginality is relevant to the bail hearing. It is not acceptable that an individual identifies as Aboriginal, yet their Aboriginality is not considered or referred to during the bail hearing.

8. When considering someone's Aboriginality in relation to a bail decision, courts and other bail decision makers should consider relevant matters identified in case law and coronial

findings, including:

(a). "over-policing of Aboriginal communities and their overrepresentation amongst the prison population;"

(b). Aboriginality is relevant to bail decisions even if the individual's connection to their Aboriginality and culture has been intermittent throughout their life;

(c). "Cultural connection can play a significant role in the rehabilitation of offenders who are of Aboriginal heritage;"

(d). The importance of supporting and encouraging Aboriginal people to learn more about their Aboriginality and strengthen their family bonds;

(e). Custody is likely to be disruptive to the person's "personal and cultural development";

(f). The availability of support "based on therapeutic community principles and Aboriginal cultural practices";

(g). If the decision whether or not to grant bail is a close one, the person's Aboriginality should weigh in favour of them being granted bail; and

(h). Breach of bail conditions by non-attendance at court should not be grounds for bail refusal and should be avoided due to the adverse impact on Aboriginal people (*see Coronial Inquest into the Death of Mr. Ward in Western Australia in 2008*).

9. VALS should be funded to work with Aboriginal communities to develop a formal guide and training for bail decision makers (police, bail justices, magistrates and judges), so that they understand the relevance of Aboriginality for bail decisions. These resources should include information on the unique systemic and background factors affecting Aboriginal people in the justice system, including the way that colonisation has impacted on their lives, families and communities. They should also identify the strengths of Aboriginal communities, including connection to culture, language and Country, and non-custodial, culturally-appropriate alternatives to remand. These resources should also be used by practitioners representing/who may represent Aboriginal and/or Torres Strait Islander people, and prosecutors.

10. All bail decision makers (police, bail justices, magistrates and judges), and practitioners representing/who may represent Aboriginal and/or Torres Strait Islander people, and prosecutors must be required to undertake mandatory training on cultural awareness and the requirement to consider Aboriginality in bail decisions, including, but not limited to, leading court decisions on this issue. Training must be delivered on a regular basis, not just as a "one off."

11. To improve access to culturally safe bail proceedings across Victoria, it is critical to:

    (a). Provide funding to VALS to provide a culturally safe duty lawyer service at the Bail and Remand Court (BaRC);
    (b). Ensure that all Aboriginal people appearing at BaRC are visited by an Aboriginal person employed by the court, when they first arrive at the Melbourne Custody Centre;
    (c). Give priority to Aboriginal applicants appearing at BaRC;
    (d). Increase access to after-hours bail courts across all of metro and regional Victoria, and for children.

12. The Government should work with Koori Courts and Aboriginal communities to consider how Koori Courts can be expanded to hear bail applications.

13. The Government and the Magistrates Court of Victoria must increase the number of Koori workers in the Court Integrated Support Service (**CISP**).

14. To increase access to bail, the Government must invest in:

    (a). Culturally safe residential bail accommodation and support;
    (b). Culturally safe drug and alcohol rehabilitation and support services;
    (c). Culturally safe mental health services.

# How do the bail laws operate?

When someone is arrested for an offence, they are either granted bail and required to attend court on a certain date; or they are detained in prison or youth prison (held on remand) until they appear in court. Bail is only granted if the tests set out in the bail laws are met.

For some offences, the law provides that someone accused of an offence should be granted bail, unless they present an "unacceptable risk." It is up to the police or prosecutor to prove that the person presents this risk.

For other offences, there are two tests that must be met:

- As a first step, the law states that bail should not be granted, unless the person accused of the offence can demonstrate that there are "exceptional circumstances" or "compelling reasons" for granting bail. This means that there is a presumption against that person getting bail. In deciding whether there are "exceptional circumstances" or "compelling reasons" for granting bail, all "surrounding circumstances" must be considered, including

if the person is Aboriginal. If this step is not satisfied, bail is refused.
- If step one is satisfied, the bail decision maker must also consider whether the person poses an "unacceptable risk." It is up to the police or prosecutor to prove that there is a risk.

Creating a double hurdle for these other offences, and putting the burden on the person to prove that they deserve bail, can make it incredibly difficult to get bail. It also means that someone who is charged with multiple low-level offences (e.g. possession of drugs for personal use, shoplifting, bail offences) must meet the same test to access bail, as someone who is charged with murder or terrorism offences.

## Who decides whether or not to grant bail?

The decision to grant bail or detain someone can be made by police, a bail justice, or the court (a judge or magistrate). Bail justices are members of the community, who attend a police station when someone is arrested, and decide whether or not the person should be granted bail. If someone is accused of more serious offences, only a court can grant bail.

Regardless of who makes the decision to grant or refuse bail, the bail hearing should take place in person, unless absolutely necessary. This decision is one of the most important decisions during a criminal matter, with serious ramifications for the person's health and wellbeing, and the eventual outcome of their matter. If a bail hearing takes place in person, it is easier for the bail decision maker to assess the person's welfare and treatment in police custody, and the person is more likely to engage with the bail decision maker.

## Do the bail laws apply to children?

The bail laws apply to both adults and children, including children as young as 10 years old, who can be held criminally responsible for an offence in Victoria.

For children, the bail decision maker must consider several issues when making a decision about bail. This includes: all other options before detaining the child; the need to strengthen the child's relationships with family and carers; the importance of not interrupting the child's living arrangements, education, training or employment; the likely sentence if the child is found guilty of the offence; and the need to minimise the stigma resulting from detention. Bail cannot be refused because the child does not have adequate accommodation.

# What are bail offences?

Since 2013, there have been three criminal offences relating to bail:

- failure to answer bail;
- breaching bail conditions; and
- committing an indictable offence whilst on bail.

Breaching bail conditions and committing an indictable offence whilst on bail are both punishable by up to 3 months imprisonment; whereas the penalty for failing to answer bail is punishable by up to 2 years imprisonment.

These offences are harmful and serve no purpose other than to further criminalise people who are already criminalised. The law should be amended to remove all three bail offences.

If someone does not attend court when they are meant to, they may be charged with the offence of breaching bail conditions by non-attendance at court, even when they have a reasonable explanation. This contradicts the recommendations of RCIADIC, which recognised the need for supports, transport and infrastructure to facilitate Aboriginal people attending courts. Instead of further criminalising people, courts should adjourn proceedings for Aboriginal people who have extenuating circumstances, and where there is a reasonable explanation.

Although the offence of breaching bail conditions does not apply to children under 18 years, police sometimes seek to "punish" children by applying for bail to be revoked if the child has breached bail conditions. This leads to the child being locked up and undermines the legal requirement that children should only be detained as a last resort. This practice highlights the need for stronger police accountability.

# What were the key changes to the bail laws in 2017 - 2018?

One of the biggest changes in 2018 was to expand the presumption against bail. Prior to 2018, the presumption against bail only existed for a small number of offences. Since 2018, it applies to over 100 offences, which is more than anywhere else in Australia.

The presumption against bail means that the burden is on the accused person to demonstrate why they should be granted bail. This is contrary to international human rights law and the *Victorian Charter of Human Rights and Responsibilities*, which provides that an accused person

must be presumed innocent until proven guilty. Additionally, international law provides that pre-trial detention must be a last resort.

The presumption against bail now applies to cumulative low-level offences (e.g. possession of drugs for personal use, shoplifting, bail offences) which has had a disproportionate impact on Aboriginal people, because they are often targeted by police.

## How have the 2017 - 2018 changes to the bail laws impacted Aboriginal people?

Aboriginal people have suffered disproportionality as a result of the punitive bail system. Aboriginal women have been particularly affected and are now the fastest growing demographic in Victoria's prisons. In June 2019, 57.5% of Aboriginal women in prisons in Victoria had not been sentenced. Many of these women are victim-survivors of family violence and mothers. They need support, not a prison cell.

Aboriginal children in Victoria are also subjected to the same punitive bail system, and are disproportionality impacted. In 2020-2021, 68.7% of Aboriginal children youth custody were on remand. Although bail decision makers are required to consider certain issues in relation to children (as set out above), the high percentage of Aboriginal children on remand shows that the law is wholly inadequate and fundamentally fails to keep our children out of custody.

Over thirty years ago, the RCIADIC recommended that governments should "revise any criteria which inappropriately restricts the granting of bail to Aboriginal people" and that prison must only be used "as a sanction of last resort." **The Victorian Government's punitive bail system has done exactly the opposite.**

The immediate harm caused by detaining an Aboriginal person is significant and far-reaching. Detention separates an individual from their family, community, Country and culture, and jeopardises their health, wellbeing and safety, including through increasing rates of people self-harming in custody. Detention also disrupts education and may result in loss of housing, employment or custody of dependent children.

Additionally, being detained on remand can affect sentencing outcomes and future contact with the justice system. If someone is remanded, they are more likely to receive a custodial sentence, because they have effectively already been "punished" for their offending. Once someone has received a prison sentence, they are more likely to be refused bail if they are arrested again, and are more likely to receive a more severe sentence if they are sentenced again in the future.

# What is VALS' position on the bail laws?

VALS has been advocating for changes to bail laws for years. In July 2021, VALS sent an open letter (signed by 55 organisations) and an expert petition (signed by over 250 experts) to relevant Ministers calling for urgent bail reform. We have still not received an official response. In March 2022, VALS launched a community bail petition calling on the government to take urgent action.

In relation to the 2017-18 changes, VALS position is that the bail laws must be urgently amended to:

- Remove the presumption against bail;
- Create a presumption in favour of bail for all offences, with the onus on the prosecution to demonstrate that bail should not be granted due to there being a specific and immediate risk to the physical safety of another person; a serious risk of interfering with a witness; or the person posing a demonstrable flight risk;
- Clarify that "flight risk" is a risk that the person will flee the jurisdiction. Bail must not be refused due to a risk that the person will not attend court for other reasons;
- Explicitly require that a person must not be remanded for an offence that is unlikely to result in a sentence of imprisonment; and
- Remove the offences of committing an indictable offence while on bail, breaching bail conditions and failure to answer bail.

Our proposed changes would make Victoria's bail laws more closely reflect the RCIADIC recommendations and international laws. It would save the Victorian Government many millions of dollars that could then be invested in communities.

# What is a bail justice hearing?

When someone is arrested outside of ordinary court hours, the decision to grant bail or detain someone can sometimes be made by a bail justice (the law includes some restrictions on when a bail justice can hear a bail application). Bail justices are particularly important in regional and rural areas, where court sitting times are less frequent and there is a higher risk of individuals being remanded in police custody while they wait to access a court.

While bail justice hearings aim to increase access to bail, there are not enough bail justices to meet demand, meaning that it is not always possible for a bail justice to attend the police station when required. Current data on bail justices is not publicly available. However, in 2017, there were 220 bail justices. 77% were male and 81% were over the age of 50 years. For many

years, both the Aboriginal Justice Caucus (**AJC**) and VALS, have had serious concerns about the availability, diversity and cultural competency of bail justices. There should be targeted efforts at recruiting Aboriginal and/or Torres Strait Islander people as bail justices.

To increase access to bail justices, Victoria Police and the Department of Justice and Community Safety (**DJCS**) are currently trialling remote bail justice hearings via audio visual link (**AVL**). VALS does not support this approach because it is critical for a bail hearing to take place in person. Bail justice hearings should not take place via AVL unless absolutely necessary. There should be a prescriptive and legally enforceable protocol to ensure that remote bail justice hearings are strictly limited.

While it is essential to increase access to bail justices, remote hearings via AVL are not the answer. DJCS must increase the number and diversity of bail justices urgently.

Additionally, bail justices must be required to complete regular training on cultural awareness, unconscious bias and anti-racism, that is developed and implemented by Aboriginal communities.

## What support is available for Aboriginal people if bail is decided by a bail justice or police?

If the decision to bail or remand is made by the police or a bail justice, it will happen at the police station. Usually, the person accused of the offence does not have a lawyer at this stage. There is limited support available to Aboriginal people during a bail justice hearing, or for police bail.

- Whenever an Aboriginal person goes into police custody, police must contact the Custody Notification System (**CNS**) run by VALS. CNS Officers call the relevant police station to check on the health and welfare of the person, and can connect them to a VALS lawyer if they would like legal advice. VALS lawyers do not attend the police station or provide support during a bail justice hearing, however, they can provide advice leading up to the hearing.
- Non-legal support may also be provided by a volunteer from the Aboriginal Community Justice Panel (**ACJP**), including helping the person to understand the process and/or to help connect them to relevant services or identify accommodation. However, ACJP is a volunteer service with limited capacity. ACJP should be adequately funded to provide culturally safe support to Aboriginal people in police custody, including in relation to bail.
- If someone has a disability or a mental illness, they can also get non-legal support from an Independent Third Person (**ITP**). ITPs are independent from police and the bail justice and provide safe and effective support to people in police custody, including during a bail

justice hearing. Currently, the Victorian Police Manual (**VPM**) requires the police to call an ITP if the person has a disability or mental illness. However, there are many instances where this does not happen. To create more accountability, the law should be changed so that police must notify everyone in their custody about the ITP service, and organise an ITP if the person may be eligible and would like to have one present. As this is not a specialised service for Aboriginal people, ITPs should do extensive cultural awareness training that is developed and implemented by Aboriginal communities.

- Children and young people can receive advice and support from the Central After Hours Assessment and Bail Placement Service (**CAHABPS**), which is run by DJCS, and must be contacted by Victoria Police prior to a bail hearing for a child. CAHABPS can provide advice about bail and the bail hearing, and can also help the young person to find accommodation and/or refer them to support services. CAHABPS may also advocate on behalf of the child during the hearing or organise for a lawyer to be present. However, this is not a specialised service for Aboriginal people.
- Finally, if a parent or guardian is not available, children and young people can also access support through the Youth Referral and Independent Person Program (**YRIPP**). This includes independent support in relation to bail decisions that are made at the police station, either by police or a bail justice. Although this is not a specialised service for Aboriginal children and young people, Independent Persons receive training to help them best support an Aboriginal child or young person.

## Do bail decision makers consider Aboriginality in bail decisions?

In 2010, the bail laws were amended to reduce the number of Aboriginal people on remand. Since then, all bail decision makers are required to into account "any issues that arise due to the person's Aboriginality, including: (a) the person's cultural background, including the person's ties to extended family or place; and (b) any other relevant cultural issue or obligation." This obligation applies to all bail decisions, including whether or not to grant bail, whether certain bail conditions should be imposed and whether an individual committed a bail offence.

In addition, the law was amended in 2018 to explicitly require bail decision makers to consider someone's Aboriginality as a "surrounding circumstance," when they consider whether there are "exceptional circumstances" or "compelling reasons" for granting bail. Although the intention behind these changes is positive, and has resulted in some positive court decisions, it has not resulted in less Aboriginal people on remand. This is because the requirement to consider Aboriginality in bail decisions is not properly understood or applied. Many bail decision makers have a fundamental lack of understanding about what it means to be Aboriginal in Victoria, and

a lack of appreciation for the diversity amongst Aboriginal communities.

The requirement to consider Aboriginality in bail decisions is also undermined because bail decision makers generally adopt a deficit approach that focuses on "risk," rather than a strengths-based approach. It is the same in sentencing decisions, where Aboriginal peoples' background and circumstances are seen as a problem rather than a strength.

Aboriginal people have the oldest continuous culture on earth. Connection to community and Country is the foundation of that culture and a great strength. Refusing bail disconnects Aboriginal people from this strength. It is harder for them to receive guidance from Elders and can cause tremendous distress.

More work must be done to ensure that there is space in both bail and sentencing processes to better understand an Aboriginal person's life and circumstances, including the "aspirations, interests, strengths, connections, culture, and supports of the individual, as well as the adverse impact of colonial and carceral systems on their life."

To ensure that bail decision makers genuinely understand and comply with their obligation to consider someone's Aboriginality:

- The bail laws should be amended so that:
    - If someone is unrepresented in a bail hearing, the bail decision maker must be required to make inquiries as to whether the person is Aboriginal;
    - All bail decision makers must be required to explain how they have discharged their obligation to consider Aboriginality in bail decisions. This would require bail decision makers to explain what information they have taken into account to understand why and how someone's Aboriginality is relevant to the bail hearing.
- Courts and other bail decision makers should consider relevant matters identified in case law and coronial findings, including:
    - "over-policing of Aboriginal communities and their overrepresentation amongst the prison population;"
    - Aboriginality is relevant to bail decisions even if the individual's connection to their Aboriginality and culture has been intermittent throughout their life;
    - "Cultural connection can play a significant role in the rehabilitation of offenders who are of Aboriginal heritage";
    - The importance of supporting and encouraging Aboriginal people to learn more about their Aboriginality and strengthen their family bonds;
    - Custody is likely to be disruptive to the person's "personal and cultural development";

- The availability of support "based on therapeutic community principles and Aboriginal cultural practices;"
- If the decision whether or not to grant bail is close, the person's Aboriginality should weigh in favour of them being granted bail; and
- Breach of bail conditions by non-attendance at court should not be grounds for bail refusal and should be avoided due to the adverse impact on Aboriginal people *(see Coronial Inquest into the passing of Mr. Ward in Western Australia in 2008*).

- VALS should be funded to work with Aboriginal communities to develop a formal guide and training for bail decision makers (police, bail justices, magistrates and judges), so that they understand the relevance of Aboriginality for bail decisions. These resources should include information on the unique systemic and background factors affecting Aboriginal people in the justice system, including the way that colonisation has impacted on their lives, families and communities. They should also identify the strengths of Aboriginal communities, including connection to culture, language and Country, and non-custodial, culturally-appropriate alternatives to remand. These resources should also be used by practitioners representing/who may represent Aboriginal and/or Torres Strait Islander people, and prosecutors.

## Do bail decision makers undertake cultural awareness training?

Although information regarding the training requirements for bail decision makers is not publicly available, it appears that cultural awareness training is not mandatory for all bail decision makers. This may be one reason why bail decision makers do not properly understand or apply their obligations to consider someone's Aboriginality in relation to all bail decisions.

To address this gap:

- All bail decision makers (police, bail justices, magistrates and judges) must be required to undertake mandatory training on cultural awareness, unconscious bias, anti-racism and the requirement to consider Aboriginality in bail decisions (including leading court decisions on this issue);
- Defence lawyers and prosecution should also be required to complete mandatory cultural awareness training;
- Training must be completed regularly, not as a "one-off"
- Aboriginal organisations should be funded to work with Aboriginal communities to develop and deliver this training.

# What is the Bail and Remand Court?

Since 2018, after hours bail applications can be heard at the Bail and Remand Court (**BaRC**), which operates 7 days a week from 9:30am to 9pm. However, BaRC is only located at the Melbourne Magistrates Court, meaning that it is not accessible for people in regional areas. There is no equivalent of BaRC for children.

BaRC is a generalist court which is not culturally appropriate for Aboriginal people. To improve access to culturally appropriate bail proceedings across Victoria, it is critical to:

- Provide funding to VALS to provide a culturally safe duty lawyer service at BaRC (currently only VLA is funded to provide duty lawyers at BaRC);
- Ensure that all Aboriginal people appearing at BaRC are visited by an Aboriginal person employed by the court when they first arrive at the Melbourne Custody Centre;
- Give priority to Aboriginal applicants appearing at BaRC;
- Increase access to after-hours bail courts across Victoria and for children;
- Increase access to culturally appropriate bail proceedings, by expanding the jurisdiction of Koori Courts to hear bail applications (see below).

# Do Koori Courts grant bail?

Koori Courts were established in Victoria in 2002 in response to the RCIADIC. Currently, an Aboriginal person who has a matter at the Magistrates Court, County Court or Children's Court, can choose to go to Koori Court rather than the generalist court. However, Koori Courts are sentencing courts; they do not hear contested matters and do not deal with bail applications.

In some parts of Canada, there are specialised bail courts for Aboriginal people. Similar to Koori Courts in Victoria, these specialised bail courts have judges/magistrates who are more familiar with the issues experienced by Aboriginal people, resulting in more culturally appropriate hearings and bail decisions than in generalist courts.

To reduce the number of Aboriginal people on remand and ensure that bail decision makers properly consider someone's Aboriginality, it is essential to provide access to culturally appropriate bail proceedings. The Government should work with Koori Courts and Aboriginal communities to look at how Koori Courts can be expanded to hear bail applications.

# Are bail conditions culturally appropriate for Aboriginal people?

When someone is granted bail, the bail decision maker sets bail conditions, including that the individual must attend court when required. During the period of bail, the person must comply with these conditions. Breaching bail conditions "without reasonable excuse" is a criminal offence, punishable by up to 3 months imprisonment.

When setting bail conditions, bail decision makers are required to take into account "any issues that arise due to the person's Aboriginality, including: (a) the person's cultural background, including the person's ties to extended family or place; and (b) any other relevant cultural issue or obligation." Yet bail decision makers regularly impose onerous and culturally inappropriate bail conditions, like non-association with a relative. This is particularly problematic when bail is granted by police.

Bail decision makers are also required to take into account "any issues that arise due to a person's Aboriginality" when they assess compliance with bail conditions; yet the approach taken is often punitive.

# What support is available for Aboriginal people on bail?

Bail support in Victoria is provided through the Court Integrated Support Service (**CISP**), which seeks to reduce re-offending rates by assisting people to access support services. Individuals are eligible for CISP if they have physical or mental disabilities or illnesses; drug and alcohol dependency and misuse issues; inadequate social, family and economic support; or are homeless.

CISP is available at 20 out of the 50 locations of the Magistrates Court of Victoria; and across the state, there are approximately 70 CISP case managers. The Government has committed to increase the number of a Koori CISP case managers, however, information is not publicly available on how many Koori CISP case managers there are in Victoria.

Koori CISP workers are essential as they have expertise and knowledge in relation to culturally safe support services and are able to engage more effectively with Aboriginal people. They are also better placed to take a culturally appropriate approach if a client does not comply with CISP conditions.

One of the key reasons that Aboriginal people cannot access bail is because of a lack of stable accommodation, as well as a significant shortage in culturally safe drug and alcohol rehabilitation and support services, and culturally safe mental health services.

To address this, the Government must invest in:

- Culturally safe residential bail accommodation and support;
- Culturally safe drug and alcohol rehabilitation and support services;
- Culturally safe mental health services.

Additionally, DJCS must work with Aboriginal Community Controlled Organisations, to design community programs suitable to address the needs of Aboriginal people who are appearing before bail courts.

## Where can I learn more about the bail laws and bail reform?

- VALS submission to the Parliamentary Inquiry into Victoria's Criminal Justice System
- VALS Open Letter to Victorian Government Ministers
- VALS Bail Reform petition

## *Acknowledgement of Traditional Owners*

The Victorian Aboriginal Legal Services acknowledges all of the traditional owners in Australia and pay our respects to their Elders, past and present. Soveriegnty was never ceded. Always was, always will be, Aboriginal land.

## *Artwork*

The artwork used in this document was originally designed by Gary Saunders, a Bangerang, Wiradjuri, Yorta Yorta and Dja Dja Wurrung man, for the Victorian Aboriginal Legal Service.

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