

Mark Johnstone
NSW Sentencing Council
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SYDNEY NSW 2001

Dear Mr Johnstone

Bail Act –Submissions Regarding Additional Show Cause Offences

Thank you for inviting me to present Victims Services' views on proposals to amend the *Bail Act 2013* to include additional show cause offences.

As the agency responsible for the provision of support and information to victims of crime, Victims Services welcomes the opportunity to comment on whether the amendments should be extended to include additional offences categories for which the accused must show cause before bail can be granted.

General comments

Bail determinations involve the complex balancing of an accused's right to liberty with the broader interests of the community. Victims Services advocates for the rights of victims of crime and their families as part of the community, and who are often worried about their personal safety and welfare should an accused person be granted bail.

The Charter of Victims Rights, which is enshrined in the *Victims Right and Support Act 2013*, contains provisions setting out how victims should be considered in in bail decisions. Specifically:

- a. a victim's need or perceived need for protection will be put before a bail authority by the prosecutor in any bail application by the accused;
- b. a victim will be informed about any special bail conditions imposed on the accused that are designed to protect the victim or the victim's family; and
- c. that victim will be informed of the outcome of a bail application if the accused has been charged with sexual assault or other serious personal violence.

The objective seriousness of an offence and the risk that a defendant may pose to an individual or the community will depend on a variety of facts and circumstances in addition to the category of offence with which they have been charged.

It is in the interests of victims of crime generally that the categories of 'show cause' offences within the *Bail Act* focus on crimes that inherently impact on the safety and welfare of victims, witnesses and the community, and involve the use of actual and threatened violence.

Extending 'show cause' offence categories

In light of the general comments above, I note that existing 'show cause' categories relate to offences that tend to be of a violent or threatening nature, or offences involving a high-risk toward the broader community.

It is generally in the interests of victims of crime that 'show cause' categories include serious indictable offenses committed while a person is subject to a good behaviour bond, intervention program order, intensive correction order or while serving a sentence in the community in custody.

The practical advantage of extending 'show cause' categories to include offences committed while a person is already in custody is less clear. If this category were to be included, special consideration should be given for those defendants on remand (particularly those on remand for non-violent offences.)

If you have any enquiries regarding the above, please do not hesitate to contact me on [REDACTED] or by email at [REDACTED]

Yours faithfully



Mahashini Krishna
A/Commissioner of Victims Rights