

ATT Alyson Neilson Court Operations RE Confirmation of Official Position

From Reece Ferrara <Reece.Storme@protonmail.com>

To mcvfeedback@courts.vic.gov.au

Date Thursday, 14 March 2024 at 15:37

ATT: Alyson Neilson Senior Manager Court Operations - Metropolitan Magistrates' Court of Victoria

CONFIRM OFFICIAL POSITION OF MAGISTRATES COURT VICTORIA

I write in response to the reply received February 28, 2024,

I have made enquiries with the Senior Registrar responsible for the Heidelberg Magistrates' court, with respect to your complaint. I note the majority of your complaint relates to the conduct of the Victoria Police. As noted in our previous correspondence, we are unable to comment in relation to the Victoria Police. If you would like to make a complaint regarding the Victoria Police, please refer to the website: <https://www.police.vic.gov.au/complaint-form> In relation your allegations of collusion and Victoria Police misconduct, the appropriate body to report this is the Independent Broad-based Anti-Corruption Commission (IBAC), please refer to the website: <https://www.ibac.vic.gov.au/report>. I understand you have had ongoing discussions with the Operations Manager at the Heidelberg Magistrates' Court, which included outlining the process for audio recordings and appearances in the case management system (Courtlink). Therefore, if you have any further other enquiries relating to your matters, please contact the Operations Manager at the Heidelberg Court for assistance. The Magistrates' Court of Victoria is committed to improving the experience of court users. We thank you for taking the time to raise these matters with the Court.

1. I am writing to confirm the official position of Magistrates Court Victoria regarding all correspondence and information provided to the entity outlining in details allegations of perverting the natural course of Justice via contempts in the face of the Court including but not limited to the remand hearing dated April 28, 2022 (see file Exhibit RF0A__')
2. The reponse fails to address the allegations relating to the entity in which you represent that oversees the conduct of Registry staff of the Magistrates Courts throughout Melbourne.
3. Additionally, more information has been provided and attached, including the Australian standards, AS 8000:2021 and ISO 10002/2018. The purpose is to

to ensure as much as possible that as much information has been provided that creates an informed decision.

4. Of **urgent importance** is **an official position** on this correspondence from Registrar Ronnie Kerr to my defence Counsel, noting that attached is the Victorian Judicial College Bench Books on **Criminal Procedure** and the **Uniform Evidence Law** for your convenience. I'll mention that the actions or inactions of my legal counsel is irrelevant to the request for an official position of Magistrates Courts Victoria on this email and the circumstances surrounding it.
5. Further, an invitation to reconsider the entirety of the complaint with the updated material so you may make an informed decision.
6. **Sent: Thursday, 26 May 2022 10:52 AM**
7. **The matter will be listed for 2:45pm today for 30 minutes. However, the matter is going to first be mentioned at 11:00am before Magistrate Tregent in the absence of the accused for administrative purposes, this has been approved by the Magistrate. A link to join this matter at 11:00am has been sent, the same link will then be able to be used for 2:45pm. However, I will re-email you the link after 11:00am just in case. Kind regards, Ronnie Kerr Registrar Heidelberg Magistrates' Court.**
8. I also request **full disclosure of the circumstances of this correspondence** in the interest of natural Justice and ongoing paramount duties to inform the Court of any known acts or omissions that could have interfered with the course of Justice at any time both current and past.
9. I expect a response in 5 business days from the date of this email as I am continually working on my application to a higher Court for a matter relating to Contempt in the face of the Court.

From: Delia <dferrara@bigpond.net.au> (Mother)
Sent: Thursday, 12 May 2022 6:35 PM
To: Emily Austin
Subject: Jacob/Reece Ferrara

Please we must stop this. They will break him. He already has mental health problems and to be put in solitary confinement will break him. He is unsentenced and only on remand surely this should not be happening to him. It has to be illegal isn't it? Is there anything I can do or contact that might help. I'm sorry but he was a

paramedic who only helped people, surely that has to account for something in this miserable world.

Victorian Law Reform Commission, Review of the Bail Act 1977, Final Report

‘Police are effectively gatekeepers for the bail system.’ p 56

‘...Arrest, remand and bail conditions must not be used to punish or prejudice the accused, as stated by Chief Justice Gleeson: “Where there is no reasonable apprehension that an accused person will fail to turn up at court to answer charges, and where the issue of a summons is an available procedure, it would be quite wrong to use the procedure of arrest or warrant where the purpose of doing so is to display the law operating with its full severity.” This statement equally applies to the bail decision...’

The majority of submissions that answered this question were worried about police decisions. Some were particularly concerned that people charged with minor offences who had no criminal history were being arrested’ p 57

‘ensure police decision making is more transparent, consistent and accountable, and operates within the limits that apply to police authority as part of the executive arm of government.’ p 57

The impact of the decision to arrest or summons is significant. Only arrest results in restrictions on accused people’s liberty, either by remand or the imposition of bail conditions. In consultations, concerns were raised about the decisions made by police. In particular, there was concern that:

- police may be using their power to arrest when it is unwarranted

- there are no Victoria Police guidelines on whether to proceed by arrest or summons
- arrest may be used in preference to summons because of administrative expediency and convenience
- Indigenous Australians are more likely to be arrested than non-Indigenous accused.

‘Some were particularly concerned that people charged with minor offences who had no criminal history were being arrested...’

‘However, the bail hearing should proceed before a court if:

- the police oppose the grant of bail
- the accused objects to a bail condition the police impose
- 40 • an accused so requests.

These provisos recognise the importance of decisions to remand people in custody or curtail their liberty through bail conditions.’ p 59

If the accused had been linked with support services the pattern of re-offending may have been avoided and the accused may not ultimately have been remanded... the accused has a right to apply for bail before a bail justice’ p 60

'The current provision gives the false impression that the court will give weight to victims' opinions about whether the accused should be granted bail. If victims express an opinion the decision maker would include it as part of all the matters considered—it would not be a decisive factor. Victims are rarely present at bail applications in court or provide an opinion to the decision maker...

We have added a provision about risk of harm to the accused on remand—whether self-harm or harm by another. Evidence of the conditions of confinement and their effect on the accused can already be used in a bail application in Victoria, and taken into account by the court. Common law decisions have established that harsh conditions of confinement are relevant as 'this imprisonment (on remand) ... is only for safe custody, and not for punishment'. This can include accused people's risk of harm from other inmates, whether they will be kept in inhumane conditions or solitary confinement, and risk of them harming themselves... The public interest considerations involved in a fair trial include treating accused people appropriately. The level of risk of failing to appear or re-offending is weighed against the certainty that the accused will be in danger in custody.

In Hildebrandt the court noted that it is an issue of 'risk management' and looked at whether sufficient conditions could be imposed to ensure attendance at court and prevent re-offending... general consensus that care of dependent children or other family members was an appropriate consideration in a bail application. The commission believes this issue is of sufficient importance to be noted in the Act. The implications of remand for family members is an important consideration, and alternatives to custody should be found where possible.

[13] The unacceptable risk provision in the new Bail Act should provide: Bail should be refused if the decision maker is satisfied on the balance of probabilities that there is an unacceptable risk the accused would: • fail to attend court as required • commit an offence while on bail • endanger the safety or welfare of the public; or • interfere with witnesses or otherwise obstruct the course of justice in any matter before a court. The decision maker must weigh up all factors considered relevant in deciding whether the risk is unacceptable, including, but not limited to the: • nature and seriousness of the offence • character, antecedents, background and social circumstances of the accused • history of any previous grants of bail to the accused, including any grant of bail in the matter currently before the court • strength of the evidence against the accused • safety and welfare of the alleged victim or any other person affected by the grant of bail • period the accused has already spent in custody and the period he or she is likely to spend in custody if bail is refused • risk of harm—physical, psychological or otherwise—to the accused while on remand, including self-harm or harm by another • responsibilities of the accused, including primary carer responsibilities.

The commission is concerned that the current decision-making process lacks transparency. There are no published criteria to guide decisions. Some police stations have their own criteria, but this is not universal. The commission believes Victoria Police should develop and publish the criteria used to determine whether to proceed by arrest or summons. This should ensure police decision making is more transparent, consistent and accountable, and operates within the limits that apply to police authority as part of the executive arm of government. It appears that police

mostly exercise their bail powers in an appropriate and responsible manner. However, in some instances this may not be the case. In particular, there is a risk police may promise to grant bail, or threaten to withhold or oppose it, to obtain admissions or other information from the accused. There are protections against such a misuse of power: • a court will review the bail decision if the accused is remanded • the bail or remand decision is made by a senior police officer • admissions or other information will be inadmissible as evidence if obtained by illegitimate means. However, it may be difficult for an accused to establish that a threat or implied threat was made. Accused people might also assume that by cooperating with the police, they will be treated more favourably, even if the police do not intend to create this impression.

The majority of submissions we received about this issue said in some cases police have misused their power to grant bail, particularly as a means of eliciting admissions from the accused. One bail justice reported: 'I have had defendants say "I told the cops everything because they said I'd get bail". However the police are applying for a remand'. Two submissions believed that the requirement for police informants to attend for cross-examination at a bail hearing was an important safeguard. Victoria Police said it... did not think this issue was relevant to the review of the Bail Act ' p 61

'The Criminal Bar Association suggested in its submission that police should be obliged to tell accused people in a recorded interview that they should not expect that answering questions will favourably affect the bail decision. The commission believes this would be a sensible safeguard and could be incorporated in the Preamble to Interview Card that police are obliged to read to a suspect before questioning commences.'

'People from marginalised groups are overrepresented in the criminal justice system and tend to be disadvantaged in their interaction with the bail system. This disadvantage is reflected in the bail decision-making process itself and a lack of appropriate support services. This combination often entrenches existing disadvantage. For example, homeless people may be refused bail because decision makers think they pose too great a risk of failing to appear. If appropriate transitional accommodation was available, decision makers may come to different conclusions. Addressing the disadvantage faced by marginalised groups requires not only reform of the Bail Act, but also the provision of appropriate support services to ensure the Act is applied in a non-discriminatory manner.'

'Under the Bail Act, police bail decisions may only be made by "a member of the police force of or above the rank of sergeant or for the time being in charge of a police station". The commission believes this is an important safeguard for promoting consistency and accountability in police bail decision making.' p 62

The Law Enforcement Assistance Program (LEAP) is the primary information system used by Victoria Police. It stores a range of information, including data on particular crimes and personal information on accused people and convicted offenders. LEAP is used to support operational policing and as a data management system; police rely on it to inform them of an accused's bail status. The Victoria Police Manual directs officers to check an accused's bail status on LEAP and bring it to the attention of the bail decision maker.

****Please note: Any '.asc' file attached to this email is a benign excryption key that is not a malicious file and is not an executable file****



ADDRESSING MENTAL HEALTH STIGMA HEAD ON

Mental Health and Wellbeing Act 2022 (Vic)

(2) A person is not to be considered to have mental illness by reason only of any one or more of the following—

- (a) that the person expresses or refuses or fails to express a particular political opinion or belief;*
- (b) that the person expresses or refuses or fails to express a particular religious opinion or belief;*
- (c) that the person expresses or refuses or fails to express a particular philosophy;*
- (d) that the person expresses or refuses or fails to express a particular sexual preference, gender identity or sexual orientation;*
- (e) that the person engages in or refuses or fails to engage in a particular political activity;*
- (f) that the person engages in or refuses or fails to engage in a particular religious activity;*
- (g) that the person has engaged in a certain pattern of sexual behaviour;*
- (h) that the person engages in conduct that is contrary to community standards of acceptable conduct;*
- (i) that the person engages in illegal conduct;*
- (j) that the person engages in antisocial behaviour;*
- (k) that the person is intellectually disabled;*
- (l) that the person uses drugs or alcohol;*
- (m) that the person has a particular economic or social status or is a member of a particular cultural or racial group;*
- (n) that the person is or has previously been involved in family conflict;*
- (o) that the person is experiencing or has experienced distress;*
- (p) that the person has previously been diagnosed with, or treated for, mental illness.*

Sent with [Proton Mail](#) secure email.

Mental Health and Wellbeing Bill 2022 Ex.pdf 952.26 KB

VLRC - Review Bail Act 1977.pdf 2.76 MB

ISO 10002_2018 Guidelines Complaints.pdf 5.97 MB

VLRC_Contempt_of_Court_report.pdf 3.84 MB

RANZCP ADHD across the lifespan PS.pdf 204.58 KB

Culture of Legal Prof Allsop-CJ-20220311.pdf 195.17 KB

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Is Access to Justice a Right or a Service Rares-J-20150626.pdf 262.43 KB

Vic Judicial College Contempt Court.pdf 394.44 KB

VIC Criminal Proceedings Manual Bench Book.pdf 4.95 MB

VIC Uniform Evidence Manual Bench Book.pdf 2.86 MB

2024 03 08 - Exhibit RF0A__ Timeline Contempt of Court 2022 04 28.pdf 434.30 KB

2022 05 26 - at 1052 fr HMC to Slades RE listed 1445 today Absent accused Approv M... te.pdf
81.90 KB

publickey - Reece.Storme@protonmail.com - 0x60BFEDA3.asc 3.14 KB

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