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Pilot Bail Advocacy
& Support Services
Program:
An Evaluation

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EXECUTIVE SUMMARY

The Pilot Bail Advocacy and Support Services Program (the Pilot Program) was evaluated for the Office of the Correctional Services Commissioner (OCSC) within the Department of Justice by RMIT University's Collaborative Institute for Research, Consulting and Learning in Evaluation (CIRCLE) in association with researchers from the RMIT Department of Justice and Youth Studies. The evaluation commenced in April 2002 with a draft report being submitted in September 2002 and a revised final report in January, 2003.

The evaluation of the Pilot Program had three main objectives:

- To evaluate the achievements and impact of the Program, including unintended impacts, in order to understand what has worked, for whom and why;
- To identify modifications that could improve the Program; and
- To make recommendations regarding possible expansion of the Program to other sites.

The evaluation was largely based on formal interviews with a diverse range of people with different experiences of the Program and different perspectives on its achievements and future options. Additional data were gathered through site visits and informal interviews.

Preliminary analyses of available record data were also undertaken to explore the possibility of providing a 'best possible' estimate of the impact of the Pilot Program on the outcome of bail applications, breach rates and prison 'bed savings'. It was concluded that the data presently available were not sufficiently robust to support a valid estimate of program impact. Consequently, it was recommended that the OCSC explore the possibility of assembling data to enable a 'propensity score' study of program impact to be conducted. The available data were used for descriptive purposes only.

The evaluation was conducted in overlapping stages, comprising:

- Initial analysis of Program documentation;
- Review of State-wide data on Magistrates' court outcomes and data from the office of the bail support team at the Melbourne Magistrates' Court;
- Qualitative data collection from key stakeholders and agency personnel;
- Qualitative data collection from clients.

Formal individual interviews were conducted with 18 professionals identified by the OCSC and 20 defendants who were clients of the Program. The group of 18 professionals comprised:

- One present and one former senior Magistrate;
- Police prosecutors;
- Present and former bail support workers at the Melbourne and Dandenong Magistrates' Courts;
- Representatives of Victoria Legal Aid;
- Representatives of the Springvale Indo Chinese Mutual Assistance Association;
- Representatives of the Australian Vietnamese Women's Welfare Association;
- Representatives from the Office of the Correctional Services Commissioner.

The outcome of the evaluation of the Pilot Program was positive overall with the majority of stakeholders interviewed expressing support for the success of the Program and therefore recommending its expansion State-wide. It was of particular interest to learn of the support of the courts and legal officers as well as the strong support of the majority of clients. Many informants interviewed for the evaluation project expressed their belief that many more defendants within the court system were released on bail as a result of the Pilot Program. There was a similar general belief that the frequency with which clients of the Pilot Program breached the conditions of their bail was reduced.

Interviewees suggested a number of improvements to the Pilot Program. The areas identified as needing improvement were generally consistent across the various groups of interview respondents, although the specific recommendations for change varied. The evaluation team, in determining the recommendations, considered all of the evidence gathered throughout the evaluation. The recommendations are a direct result of the information collected from those who managed, delivered or received services as a result of the Pilot Program.

A provisional flow-chart of the critical activities and intended outcomes of the Pilot Program was developed from the Program documentation and additional literature. The activities and outcomes identified included:

- The referral and/or identification of ‘at-risk’ defendants;
- Conduct of an accurate and informative assessment of defendant needs;
- The development and provision of an appropriate individualised ‘package’ of support and referral;
- The provision of information to the court at the bail hearing that supports the defendant’s application;
- Support for the defendant while on bail to continue to meet the bail conditions.

The importance of the activities identified in the flow-chart as critical components of the process of bail support was verified from many interviews, particularly with Program clients. Issues associated with Program ‘entry’ and ‘exit’ are discussed in detail in the evaluation report. The referral or identification of clients who will benefit from the bail support process but are ‘at-risk’ of not being granted bail and the importance of the on-going support and referral provided by the Program during the bail period are highlighted. Outreach referral to appropriate support agencies, consistent case-management, faith in the clients’ desire and capacity to change their lives, a friendly, caring and supportive attitude, and accessibility and timeliness of help were all identified as central aspects of the immediate and on-going maintenance provided by the bail support workers.

Equally important was the clients' desire to change. The provision of accessible multiple pathways to support this desire to change was characteristic of many of the accounts of Program success. These central aspects of service provision were particularly evident in the case-management provided by the bail support team at the Melbourne Magistrates' Court.

There are many persons around the State who will most probably be refused bail should the services available in Pilot Program not be rolled out across the State. There are also many accused persons in custody on remand, having failed to achieve bail, who may be successful in obtaining bail if they are actively supported by a Bail Advocacy and Support Services Program. It is the view of the evaluation team that this cutting edge Program will, with the experiences of the research outcomes, provide a more effective and sustainable bail service within the State of Victoria.

The recommendations resulting from the evaluation of the Pilot Program are:

Recommendation One: That the Bail Advocacy and Support Services developed within the Pilot Program be rolled out to other metropolitan and rural courts in Victoria.

Recommendation Two: That the Department of Justice utilise the experiences of the Pilot Program to develop a clear management and administrative framework which includes policies, procedures and guidelines to be applied to the rollout of the refined program.

Recommendation Three: That the Department of Justice, in consultation with key stakeholders, establish a systematic approach with regards to client access to a rolled out Program and that a marketing strategy be developed and widely distributed to raise the profile of the Program.

Recommendation Four: That the rollout of the Program be based on the 'Melbourne model', with bail support workers being engaged as court appointed staff and located at the courts. Close and strong working links with appropriate community-based organisations should, however, be developed and maintained.

Recommendation Five: That an employee profile be developed based on the exemplars of existing bail support staff and that a human resource management plan be established for existing and new employees.

Recommendation Six: That a gap analysis of the services developed under the Pilot Program be undertaken. The analysis should include consideration of the type, location, availability, funding criteria, accountability and cost of the services.

These six recommendations cover the broad areas of concern identified throughout the evaluation project. A more thorough explanation for the rationale behind each recommendation can be found in Chapter 8 of this report.

1. THE PROGRAM

1.1 Introduction

The Pilot Bail Advocacy and Support Services Program¹ is a diversionary program within a ‘whole of government’ coordination strategy that aims to reduce offending. The program was developed in response to the rapid growth in the adult prison system.

Diversion initiatives are designed to redirect offenders from the criminal justice system or correctional services. The overall objective of these initiatives is to “divert offenders from deeper penetration into the criminal justice system” while avoiding “net-widening”, that is, the “unintended effect of adding controls to offenders who would not have received these controls in the normal application of justice”.²

A primary reason for implementing a range of diversion initiatives is the current inadequacy of the criminal justice system ‘entry points’ to respond adequately to the changing profile of offenders. The existing court and community correctional system has struggled to cope with the growing number and complexity of repeat, low-level offenders and the prevalence of drugs. Diversionary strategies also recognise that imprisonment may not be an appropriate option for some individuals within these groups. The Pilot Program is a corrections-based initiative with services provided directly from the Melbourne Magistrates’ Court and via community-based agencies at the Dandenong Magistrates’ Court.

1.2 Issues in Remand and Bail Procedures

1.2.1 An Overview of Remand Rates

Between July 1996 and the end of June 2001 in Victoria a total of 206,690 persons were either granted or refused bail at their ‘first application’, an average of a little

¹ Hereafter the ‘Pilot Program’ or the ‘Program’.

² Research Summary: Adult Offender Diversion Programs. Department of the Solicitor General of Canada (http://www/sgc/gc/ca/publications/corrections/199801a_e.asp).

over 41,300 defendants each year. The number of defendants making a 'first application' for bail dropped annually during this period, from 46,596 in the financial year 1996-1997 to 34,784 in the financial year 2000-2001³. These applications for bail were processed by either the police, a Bail Justice or a Magistrate. The police processed the clear majority of applications, an average of just over 90% over the five-year period 1996-2001. In contrast, Bail Justices processed approximately 4% of the applications and Magistrates processed a little under 6%. The proportion of applications processed by the police dropped a little each year during this period, from 91.7% in 1996-97 to 88.2% in 2000-01. This drop was balanced against an increase in the proportion of applications processed by Magistrates, from 4.6% in 1996-97 and 4.4% in 1997-98 to 7.8% in 2000-01.

Overall, during this period, a little over 95% of 'first applications' for bail were granted. This proportion has dropped a little each year, from 96.2% in 1996-97 to 94.4% in 2000-01. All applications processed by the police were granted. Of those applications processed by Bail Justices, 26.6% were granted. This proportion has decreased markedly during the five-year period for which data were available, from 33.8% in 1996-97 to 20.4% in 2000-01. Magistrates, in contrast, granted approximately 69% of the applications for bail that they processed. This figure dropped from close to 71% in 1996-97 and 1997-98 to 65.9% in 1998-99. Since 1998-1999 the proportion has increased gradually to reach 69.2% in 2000-01.

In their comprehensive study of bail practices in Victoria, South Australia and Western Australia, Bamford, King and Sarre (1999)⁴ pointed out that the number of defendants who, at any one time, will be on remand in custody is related to two fundamental factors: (a) the number of defendants refused bail by the courts (or not making a bail application); and (b) the average length of time a defendant is required to stay in custody on remand. Victoria has one of the lowest custodial remand rates in

³ Table CR 4.6 A – Time-series of data extracted from the Courtlink database. These estimates exclude cases finalised at committals, committal mentions, status hearings and filing hearings.

⁴ Bamford, D. King, S. & Sarre, R. (1999). *Factors affecting remand in custody: A study of bail practices in Victoria, South Australia and Western Australia*. Canberra: Australian Institute of Criminology. (Australian Institute of criminology Research and Public Policy Series No. 23.)

Australia (Bamford, King & Sarre, 1999, p. 8). Nevertheless, the annual remand rate⁵ in Victoria increased during the period between 1995 and 1997 from 10.4 to 11.3. As the likelihood of a defendant not being granted bail in Victoria during the 1996-97 to 2000-01 period also increased (see discussion of the Courtlink statistics above) it appears likely that there has been a consistent increase in the remand rate in Victoria for a number of years. A regular upward trend in remand rates during the 1995-97 period, while not universal across Australia, was also noted in New South Wales, Queensland and the ACT, and in rates calculated for Australia overall.

1.2.2 Reasons for Remand – The Bail Acts

Broadly speaking, the reasons for remand in custody in various jurisdictions include:

- The need to ensure that the defendant will attend court on the required day;
- The need to protect the integrity of the justice system where there is deemed to be a need to protect witnesses;
- A need to ensure the safety of the defendant; and
- Where it is deemed necessary to ensure that the defendant will not commit further offences before the matter is brought to trial. (Bamford, King & Sarre, 1999)

Commenting on the various Bail Acts in Australia, Bamford, King and Saree (1999, p.1) pointed out that the “fundamental reason for remanding individuals in custody is to ensure that they will attend court as required to answer charges made against them”. Additionally, the Bail Acts of many jurisdictions contain statutory presumptions against the granting of bail when the defendant is charged with certain offences, particularly: (a) serious drug-related offences; (b) in circumstances where there is a history or threat of domestic violence; and (c) in cases of murder and treason (Bamford, King & Sarre, 1999, p. 21).

⁵ The number of defendants on remand per 100,000 in the adult population, calculated monthly and averaged for the calendar year.

In Victoria, bail is an entitlement under s.4 of the Bail Act (1977). There are, however, a number of categories under the Act that limit this entitlement. The police and prosecuting bodies may establish that there is an unacceptable risk that the defendant released on bail would fail to answer the bail and not appear at court on the nominated date, commit further offences during the period of the bail, prove to be a danger to the community by endangering the safety or welfare of the public, and/or interfere with witnesses or more generally otherwise obstruct the course of justice (see s.4(2)(d)).

Under s.4(3) the legislation directs the decision-maker to assess the 'risk' of the above through a consideration of a number of factors, including:

- The nature and seriousness of the offence;
- The character, antecedents, associations, home environment and background of the defendant;
- The history of any previous grants of bail to the defendant;
- The strength of the evidence against the defendant; and
- The attitude, if expressed to the court, of the alleged victim of the offence to the granting of bail.

The Act specifies that under certain situations bail shall be refused, most notably where the charges are treason or murder or certain drug trafficking or cultivation charges that relate to commercial quantities (see s.4(2)(a) and (aa)). The presumption against bail arises most commonly when the defendant is charged with a serious drug offence (Bamford, Smith and Sarre, 1999). The authors elaborated this point as follows:

(In Victoria the Bail Act provides) ... that only in exceptional circumstances can a person accused of the cultivation, supply, or possession of commercial quantities of prohibited plants/narcotic substances be granted bail. The same presumption applies to those

knowingly involved in, or anyone involved in conspiracy to commit (these) offences. (Also included) ... is a presumption against bail where the accused is charged with a breach of the Customs Act 1901 (Commonwealth). Specifically, those offences relate to commercial quantities of narcotic goods that give rise to a presumption of trafficking. (Bamford, Smith and Sarre, 1999, p. 21.)

Similarly, under s.4(4) of the Act, there is a qualification on the right to bail where the defendant falls into a number of categories. These include: firearm offences, stalking, certain family violence offences and aggravated burglary. In these circumstances the defendant must show cause why he or she should not be held on remand. Bail will only be granted where a court is satisfied that exceptional circumstances exist. These circumstances are not defined by the Act. Generally, a concern regarding homelessness would be an issue under s.4(3) of the Act. Issues in relation to accommodation, although not explicitly stated by the Act to be relevant, could be raised in relation to the matters where there is a qualification on the right to bail. Although successful resolution of accommodation issues alone would not be likely to meet the requirement for exceptional circumstances, accommodation may be among the issues that are put to a court.⁶

Finally, in Victoria, the Bail Act (1977) requires that any accused person who cannot be brought before a court within 24 hours *shall* be granted bail, and *may* be granted bail where it is impracticable to bring the person who is in custody before a court *forthwith* (Bamford, King & Sarre, 1999, pp. 20-21).

Bamford, Smith and Sarre (1999, Diagram 1A, p. 32.) presented a flow-chart of the essential features of the Victorian bail system. With some minor adaptations this flow-chart is shown in Figure 1.1.

1.2.3 Bail Procedures

In their review of the literature on the procedural processes relating to remand in custody, Bamford, King and Sarre (1990, p. 14) commented: “the literature is

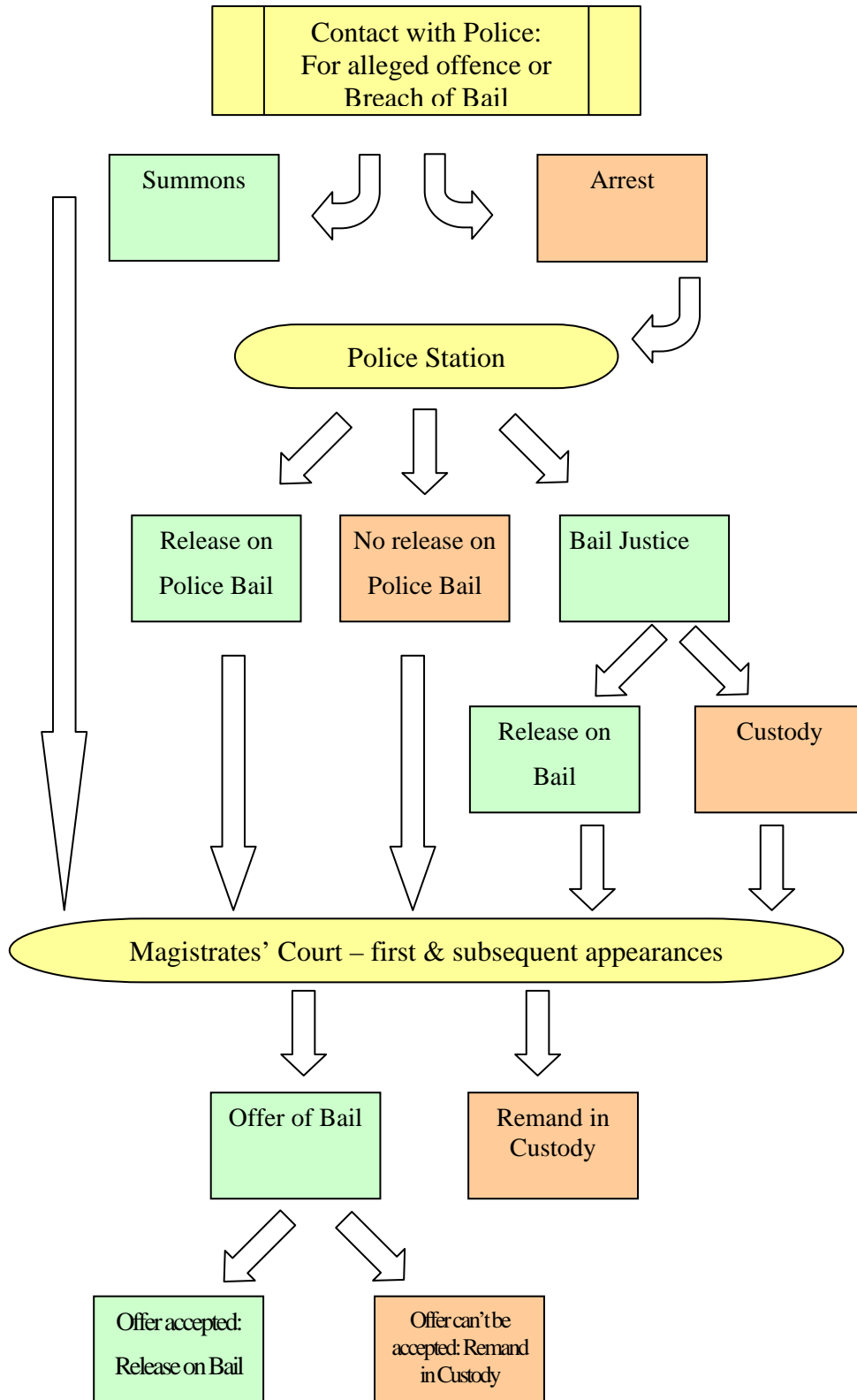
⁶ Gobbo N. (1998). Drugs, bail and exceptional circumstances. *Law Institute Journal* 72 (12).

consistent in recognising that the bulk of decisions relating to bail are made by judicial officers about defendants who are already on bail”. Police bail plays a major role in this phenomenon. The authors reported that 90% of those arrested in South Australia in 1998 were released on police bail. Similarly, statistics from the Courtlink database in Victoria reviewed above indicate that just over 90% of defendants were granted police bail in Victoria during the five-year period from 1996-2001.

There also appears to be consistent evidence from the literature that police and/or prosecutor decisions play a major role in those applications that are heard in the courts. Discussions with police conducted by Bamford, King and Sarre (1999, p. 49) suggested that, while Bail Acts typically identify a range of other ‘risk’ factors in the granting of bail, “the two criteria most often used by police to refuse bail are the risk of the accused not attending and the risk of offences being committed whilst the accused is on bail”. These considerations may also influence the attitudes of police and prosecutors in bail applications heard in the Magistrates’ courts⁷.

⁷ There is evidence that, in Victoria, prosecutors are likely to perceive themselves as acting on the instructions of the arresting officer (Bamford, King & Sarre, 1999, p. 52).

Figure 1.1 Flow Chart of the Victorian Bail System



Bail hearings before judicial officers are typically brief (Bamford, King & Sarre, 1999, p. 16). The authors concluded: “The literature suggests that the key to understanding the remand in custody process is to move outside the judicial realm and focus on issues that arise prior to the judicial hearing” (Bamford, King and Sarre (1999, p. 19). The “important role police decision making plays in the process” is highlighted in this conclusion, together with “the importance of prosecutorial information provision”. From this viewpoint, it might be argued that the information that a service provider is able to supply to the court on behalf of a defendant applying for bail is a potentially critical intervention in court procedures that may otherwise result in a judicial officer confirming, during a brief bail hearing, prior decisions made by the police and prosecutors.

1.3 *Rationale and Objectives for the Pilot Program*

The number of unsentenced prisoners in Victoria has increased 18% in four years, although the true increase is higher and disguised by the build-up of prisoner numbers in police cells (a 50% increase in four years). The Pilot Program is designed to operate within the jurisdiction of the Magistrates’ courts to support defendants in their applications for bail at their first and subsequent appearances before a Magistrate. It thus aims to assist in the reduction of the numbers in custody on remand by diverting selected defendants to appropriate community accommodation and support services. The Pilot Program seeks to achieve this aim by enhancing the likelihood of a defendant being granted bail and successfully completing the bail period, by providing a range of services including: appropriate accommodation, supervision, and access to treatment programs.

Reversing the trend to increased imprisonment of low-level offenders, and achieving greater diversion from imprisonment requires:

- The capacity to distinguish those who are high-risk of re-offending from the much larger low-risk group, and targeting effort at the high-risk group;
- A strengthened and strategically focussed capacity within the courts for court advice, assistance and support for diversion to external services and supports;

- Effective supervision, offender management and order enforcement;
- The ability to respond to individual offender needs and characteristics (including gender, age and cultural background); and
- Priority access to community and government services and supports that will address the criminogenic needs of offenders and decrease the risk of re-offending.

In developing and implementing strategies to reduce offending, it is essential to identify and respond appropriately and effectively to the needs and problems of specific offender groups. Features such as age, gender or cultural heritage and association may distinguish these groups. They can be identified by the extent to which they are over-represented in the criminal justice system, and/or by their disadvantage and vulnerability.

Specifically in relation to the Pilot Program there are similarities between offending and homelessness – most importantly that in both, the symptom (offending and/or homelessness) usually is due to underlying needs. Given the similarity of many of these underlying needs, the implementation of strategies to reduce offending must be closely connected to strategies to prevent homelessness. The Pilot Program seeks to ensure that client access to accommodation shifts from a factor that is associated with the likelihood of re-offending to a factor that may reduce the risk of re-offending.

Thus the Pilot Program has five broad objectives, to:

- Provide bail advocacy services;
- Provide immediate respite services;
- Make linkages between eligible people and support agencies;
- Work towards harm minimisation; and

- Facilitate compliance with bail conditions.⁸

1.4 Service Providers

The Pilot Program commenced in January 2001 at Melbourne Magistrates' Court and is currently offered at the Melbourne Magistrates' Court, the VISY Cares Centre in Dandenong and Victoria Legal Aid. In addition, The Australian Vietnamese Women's Welfare Association (AVWWA) and Springvale Indo-Chinese Mutual Assistance Association (SICMAA) were funded for the 2001/2002 financial year to provide bail advocacy and support services to the Vietnamese community. Chronologically, the Melbourne Magistrates' Court was the sole site from which the Program operated in the period from January 2001 to July 2001. From July 2001 through to June 2002 the Program was offered at the Melbourne Magistrates' Court, at the Dandenong Magistrates' Court by the AVWWA, SICMAA and VISY Cares Centre, and by Victoria Legal Aid. From July 1, 2002 on-going through to June 2003 the Program is offered at the Melbourne Magistrates' Court, at the Dandenong Magistrates' Court by VISY Cares, and by Victoria Legal Aid.

The Melbourne Magistrates' Court initially employed one full-time bail support worker. A second part-time bail support worker commenced work in April 2002, and a full-time administration officer commenced in June 2002. The VISY Cares Centre in Dandenong employs two bail support workers (one full-time and the other part-time). A bail support worker is present at Dandenong Magistrates' Court every morning to receive referrals, provide reports to the court and assist clients to maintain their bail conditions.

Victoria Legal Aid has received a grant from April through December 2002 to review bail eligibility specifically to defendants on remand in the prison system, or within police cells. One solicitor is employed on a full-time basis to conduct bail hearings on behalf of defendants and to refer participants on to bail support workers to access support.

⁸ Office of the Correctional Services Commissioner. Pilot Bail Advocacy and Support Services Program – Evaluation Project Brief, February 2002, p. 2. It is understood that 'respite services' refers to support for immediate accommodation needs.

1.5 Program Description

The Pilot Program is funded by the Victorian Government through the Office of the Correctional Services Commissioner (OCSC) and operates as a court-based service at the Melbourne Magistrates' Court, and from the Magistrates' Court at Dandenong (and other Magistrates' courts as an outreach service) through a range of non-court agencies as described in the previous section. Bail support workers at both locations assist clients by assessing and identifying client needs and providing reports to the court for bail applications and assisting clients to maintain their bail conditions. The detailed functions of the service were elaborated in an interview conducted with a service provider as follows:

It works in the sense that the project provides an advocacy and a service support mechanism that would otherwise not exist for people who are applying for bail. ... It works by identifying people (initially) who are at risk of being homeless or are homeless and therefore it would be assumed would not be successful in a bail application, to deliver some sort of outcome to help them with their accommodation problem, to help with their bail application, but it has broadened out to include other associated services. The main features of the Program are workers who identify and promote the Program and then obtain referrals from a variety of sources..."

One of the most significant features of the Pilot Program has been the 'open architecture' of the design of arrangements for service provision. This is manifest in the variety of agencies that are responsible for implementation of the Program and in its capacity for flexibility. This feature has allowed the Program co-ordinators to modify their approaches to the particular circumstances, capacities and contexts that they operated within. This is closely tied with another significant design feature of the Program, the non-prescriptive approach to implementation guidelines that recognised the need for, and provided capacity for, the Program to evolve.

At the Melbourne Magistrates' Court the major feature is the provision of a fairly generic broad support ...(from) a fairly wide catchment. (The Bail Co-ordinator) supports people writing a bail application, doing a lot

of work trying to find them community resources that might assist their problem. In the other agencies it might be slightly different, for example, in the VISY Centre, the worker had a different background, skills and qualifications ... The AVWWA provided very intensive support to only a few clients ... a lot of hands on, face-to-face work. With SICMAA, they held a community meeting and briefed the Vietnamese Community on the Program, they had another meeting of friends and family of people on bail, explaining what the system was about, what services they could offer and what the obligations were.

1.6 Conclusion

The Pilot Program was designed to facilitate the diversion of high-risk low-level defendants from the criminal justice system by providing support and advocacy services in relation to bail hearings conducted in the Magistrates' courts. Presently, support and advocacy services are provided by court-based bail support workers at the Melbourne Magistrates' Court, by bail support workers associated with community agencies at the Dandenong Magistrates' Court, and by Victoria Legal Aid.

Drawing on the report by Bamford, King and Sarre (1999) it is apparent that court bail hearings are presently brief and strongly influenced by recommendations from police and prosecutors. In Victoria, bail is an entitlement, but there is a statutory presumption against the granting of bail for certain categories of offences. Of particular importance in this regard are drug-related offences (e.g. cultivation, possession and/or supply of commercial quantities of prohibited plants and narcotic substances, and conspiracy to commit these offences). Further, there is a qualification on the right to bail where the defendant falls into a number of offence categories, including: firearm offences, stalking, certain family violence offences and aggravated burglary. Here, defendants must show cause why they should not be held on remand, and bail will only be granted where exceptional circumstances exist. Whether or not a defendant is able to access stable accommodation is understood to be a specific issue associated with gaining bail within the Victorian system.

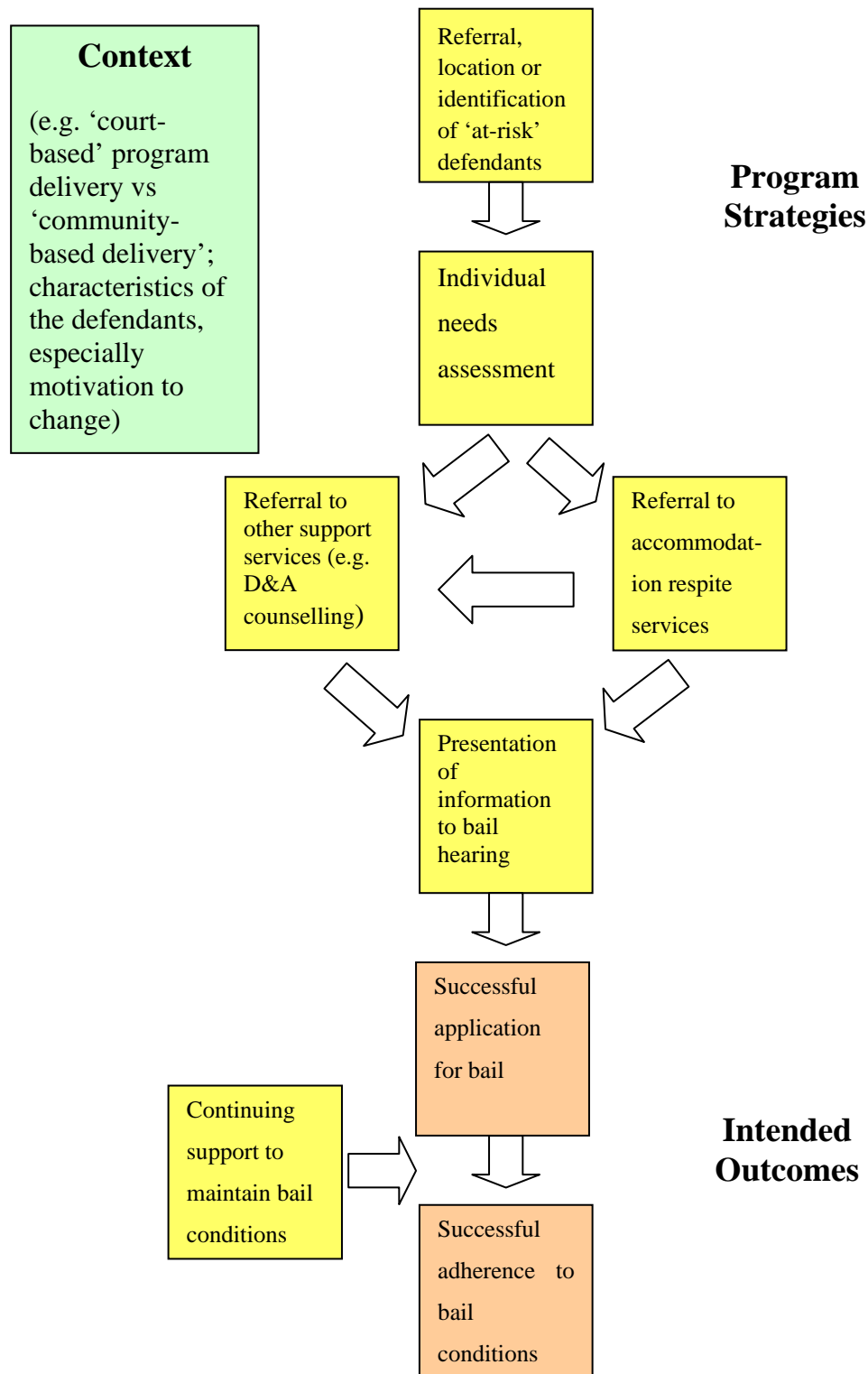
While the role of the bail support workers is flexible and evolving, there appear to be five critical factors that result in a successful bail advocacy outcome (the granting of

bail, and subsequent compliance with the bail conditions to avoid breaching bail before the next scheduled court appearance). These factors are:

- The referral and/or identification of ‘at-risk’ defendants, those who, without the intervention of ‘targeted’ support would be likely to be unsuccessful in an application for bail to a Magistrate;
- Conduct of an accurate and informative individual assessment to ascertain the need for immediate accommodation respite and other support services (drug and alcohol counselling, medical services, drug rehabilitation etc.);
- The development and provision of an appropriate individualised ‘package’ of support and referral;
- The provision of information to the court at the bail hearing that supports the defendant’s application, providing evidence against the presumption, particularly, that the defendant will abscond from bail or offend again during the bail period;
- Support for the defendant while on bail to continue to meet the bail conditions, maintain regular attendance at support services (e.g. drug rehabilitation) and attend the next scheduled hearing of the case.

Figure 1.2 presents a preliminary flow-chart of actions and outcomes for the Pilot Program based on this identification of critical bail support activities.

Figure 1.2 Flow Chart of Critical Activities and Intended Outcomes for the Pilot Bail Advocacy and Support Services Program



2. DESCRIPTION OF THE EVALUATION

2.1 Purpose of the Evaluation

The evaluation of the Pilot Program had three main objectives:

- To evaluate the achievements and impact of the Pilot Program, including unintended impacts, in order to understand what has worked for whom and why;
- To identify modifications that could improve the Program; and
- To make recommendations regarding possible expansion of the Program to other sites.

The central focus of the evaluation was to understand *how* the Program worked within the different contexts in which it was implemented. For this purpose, program theory was used as the organising framework. This is a process of building and testing causal models of how a program is understood to contribute to its intended outcomes. These causal models also address any differences in program experiences and outcomes between different groups of clients, as well as the influence of external factors on success. The causal models therefore articulate what are understood to be the mechanisms that lead to intended or observed outcomes, the role of program activities in activating these causal mechanisms, and the contexts within which these mechanisms are effective.

2.2 Evaluation Design

The evaluation was conducted in stages in order to develop iteratively an understanding of how the Program works in the two contexts where it is presently implemented, and how it might be improved. These stages were:

- Initial analysis of Program documentation. A review of available documentation and reports was conducted and critical differences in the implementation of the Program at the two pilot sites (Melbourne and Dandenong Magistrates Courts) were identified.

- Review of State-wide data on Magistrates' court outcomes and data from the office of the bail support team at the Melbourne Magistrates' Court. An analysis of these data sets was undertaken to establish the pattern of outcomes for clients of the bail support team at the Melbourne Magistrates' Court and to investigate the possibility that a preliminary estimate of the impact of the Program on obtaining bail, fulfilling bail conditions and 'bed numbers' saved might be obtained.
- Qualitative data collection from key stakeholders and agency personnel. Individual interviews were conducted with key interviewees (Magistrates, bail advocates, lawyers, NGO personnel, Department of Justice personnel).
- Qualitative data collection from clients. Individual interviews with 20 clients (13 from the Melbourne Magistrates court, 7 from Dandenong) were conducted.

2.3 Research Methods

2.3.1 Review of State-wide and Melbourne Magistrates' Court data

Data relating to State-wide outcomes of bail applications were made available to the evaluation team. The office of the Bail Co-ordinator at the Melbourne Magistrates' Court also made a data file available in which individuals could not be identified but overall defendant characteristics and outcomes could be determined. The Melbourne Magistrates' Court data file was used to provide descriptive information about defendants and preliminary information on the outcomes for defendants of the bail support process. These outcomes were examined in relation to the State-wide data to investigate whether preliminary estimates of program impact might be made.

2.3.2 Estimating Program Impact

The issue of the appropriate comparison group or comparison condition for making estimates of impact of the causal effectiveness of a program 'package' (causal attribution) such as that developed and implemented as the Pilot Program is complex

and critical. Recently, the ‘counterfactual perspective’⁹ has been prominent in debates about causal attribution. From this perspective, the problem of attribution can be seen as the problem of finding the best available answer to a question such as: If a client of the Pilot Program had, in fact, not been a recipient of the Program's services, what would the outcome of their application for bail in a Magistrates’ court have been? This question is generally thought about by considering a group of persons rather than an individual, and asking whether the average outcome for the group would differ if the members had not been recipients of the Program. As it is not possible to conceive of a group of defendants being both recipients and non-recipients of a program’s services at the same time, the recommended research strategy is to locate a comparable but separate group of defendants who are (or can be placed) in a situation that differs from the Program only in relation to the absence of the strategies that make up the Program package (this is the ‘causal counterfactual’ condition).

The approach to answering this question that is typically recommended is to construct a randomised control trial where a group of defendants, fitting the profile of those to be targeted by the Program, is split up randomly into sub-groups that will receive variants of the Program and one or more ‘no-treatment’, ‘standard-treatment’ or ‘placebo’ conditions. There are, however, both ethical and research design concerns when attempts are made to implement randomised control trials of social programs.

Recently, the alternative of using ‘naturally occurring’ data, possibly from administrative sources, to calculate ‘propensity scores’ and subsequently using these scores in a variety of statistical designs and analyses of the data has been advocated.¹⁰ Propensity scores are derived from a set of variables that are known (or can be shown) to be consistently related to the Program outcomes. These variables are not, however, used as potential confounding variables to statistically control estimates of program impact as in the conventional analysis of data from a non-randomised comparison

⁹ See, for example, Winship, C., & Morgan, S. L. (1999). The estimation of causal effects from observational data. *Annual Review of Sociology*, 25, 659-707.

¹⁰ See, for example, Irvin, R. A. (1999). *Quality differences in for-profit and nonprofit renal dialysis facilities: An application of propensity score methodology*. <http://www.unomaha.edu/~wwwpa/aea1999.html>; and Rubin, D. B. (1997). *Estimation from nonrandomised treatment comparisons using subclassification on propensity scores*. Proceedings of the International Conference on Nonrandomised Comparative Clinical Studies, Heidelberg, April 10-11. (<http://www.symposium.com/nrcs/rubin.htm>).

group design using, for example, analysis of covariance (ANCOVA). Rather, they are used statistically to predict the likelihood of each person being in the group of persons enrolled in the Program as against those who were not. From this analysis, a single variable that maximally predicts the likelihood of membership in the Program group is constructed. This variable is the propensity score.

Propensity scores can be used in one of three different ways to estimate program impact: (a) to construct two matched groups of individuals, one group that was enrolled in the Program, the other a maximally similar group that was not enrolled; (b) as a single control variable that summarises the effects of the confounding variables that can then be used in a 'second-step' statistical analysis of program impact; and (c) as a sub-classification variable to break program recipients and non-recipients up into a number of maximally similar (homogeneous) sub-groups (estimates of the differences in measured outcomes between recipient and non-recipient sub-groups are then made and are subsequently aggregated to construct an overall estimate of program impact). The latter strategy has recently been argued to be superior in a number of ways to the other two. It is claimed that a minimum of five sub-groups that are constituted on the basis of propensity scores will remove up to 80% of the bias in non-randomly constituted program and comparison groups.

In the absence of the opportunity to conduct a randomised trial of program impact, or the relatively rich and consistent data that are required for a propensity score study, the principled use of available data may sometimes yield a plausible counterfactual argument. This argument might subsequently be strengthened by information (frequently qualitative) that elaborates the detailed mechanisms through which a program might plausibly be achieving its effects.¹¹ The latter strategy was investigated for this evaluation to examine whether it might provide a preliminary estimate of the impact of the Pilot Program.

¹¹ See, for example, Mark, M. (2001). *What Works and How Can We Tell?* State Government, Victoria. Department of Natural Resources and Environment. Evaluation Seminar Series, No. 2.

2.3.2 Interviews with Key Stakeholders

In-depth face-to-face interviews were conducted with 18 ‘key informants’ with diverse professional experience with the implementation of the Pilot Program. Key informants were chosen on the basis of their involvement and knowledge of the Program on the recommendation of staff in the OCSC. They were then contacted by ‘phone by the researchers with a request to participate in an individual face-to-face interview. The key informants included:

- One present and one former senior Magistrate (2 persons);
- Police prosecutors (2 persons);
- Present and former bail support workers at the Melbourne and Dandenong Magistrates’ Courts (3 persons);
- Representatives of Victoria Legal Aid (4 persons);
- Representatives of the Springvale Indo Chinese Mutual Assistance Association (2 persons);
- Representatives of the Australian Vietnamese Women’s Welfare Association (2 persons);
- Representatives from the OCSC (3 persons).

Interviews were tape-recorded and later transcribed. They were then analysed thematically for information relating to the manner in which the Pilot Program was implemented in the two sites, factors that facilitated and, on the other hand, were barriers to implementation, perceived outcomes (intended and unintended) of the Program, and the manner in which the Program worked to achieve these outcomes.

2.3.3 Interviews with Defendants

Interviews were conducted with 20 defendants who had participated in the Pilot Program, drawn from a pre-determined range of program outcomes. The intention of these interviews was to construct case studies of participants’ perceptions and

experiences of the Program. Participants were identified and recruited on the advice of the bail support workers at Melbourne and Dandenong and representatives of Victorian Legal Aid and the community agencies involved in the Program (VISY Cares Centre in Dandenong, SICMAA and AVWWA). Interviewees were contacted by these personnel, who made arrangements regarding the timing and venue for the interview. Interviewees were reimbursed \$20 for their out-of-pocket expenses for attending interview.

Interviews were tape-recorded and fully transcribed. The transcripts were analysed thematically for defendants' perceptions of the impact of the Program and the manner in which it worked for them.

It is acknowledged that the lack of randomness in the selection of clients for interview may have influenced the information gained. Considerable difficulty was experienced in conducting client interviews, particularly at Dandenong, as the response and reliability of clients was mixed. It is not suggested, nor should it be inferred, that clients at either location were hand selected but rather they were those available and willing to participate in the evaluation.

The client interview schedule, along the information and consent forms for all interviews conducted are attached to the report as Appendices A, B, C and D.

2.3.4 Informal Observation of the Bail Advocacy Process

Where possible, the opportunity was taken to observe informally the way in which the bail support personnel worked (e.g. in the cells of the Melbourne Magistrates' Court, during site visits to the VISY Cares Centre and the AVWWA, and at court proceedings involving both defendants who had accessed the services of a bail support worker and those who had not). Diary notes were made of these informal data gathering opportunities and information gathered was incorporated into aspects of the evaluation where appropriate.

2.3.5 Consultation with Other Informants

A number of meetings were also undertaken with stakeholders who were familiar with the Pilot Program, for example: the Manager of the CREDIT program operating

at the Melbourne Magistrates' Court, the assistants to the Melbourne Magistrates' Court Bail Co-ordinator, the manager of WISE employment, and solicitors not employed by Legal Aid.

2.4 *Reading this Report*

Chapter 3 of the Report provides readers with an overview of the State-wide statistical data on the bail process and the characteristics of the population of clients who, to date, have accessed the services offered by the bail support team at the Melbourne Magistrates' Court.

Chapters 4 through 7 inclusive then provide insights into the perceptions of persons interviewed for the evaluation in relation to the Program. The purpose of these chapters is to provide an extensive description and analysis of the *processes* of the Pilot Program from a wide variety of perspectives.

This description and analysis of stakeholder perspectives is designed to shed light on the *mechanisms* and *contexts* that may be bringing about the reported Program outcomes. Each of these chapters relates to a grouping of informants. The first is the management grouping, the second courts and legal, third are the service providers, and finally in Chapter 7 accounts of the experiences of clients of the Program are provided. To assist the reader better understand the perspectives of those interviewed, selected statements have been provided to highlight salient points. These statements are indented and italicised. To ensure anonymity, they have not been attributed to the informant. Chapter 8 contains, firstly, an analysis of the impact of the Pilot Program from the perspective of 'what works, for who, how, and in what contexts', and, secondly, the recommendations that the evaluation team have drawn from the research undertaken. The recommendations are provided to assist the evaluation client, and other readers, to recognise the issues that were identified as important factors that could enhance the Pilot Program.

3. THE CLIENTS OF THE PILOT PROGRAM

3.1 The Clients of the Program at the Melbourne Magistrates' Court

As described in Chapter 2, a de-identified data file was made available for the evaluation of the Pilot Program by the office of the bail support team at the Melbourne Magistrates' Court. The file was generated from the database compiled by the office and contained information on 584 defendants (clients). It is understood that the file contained data on all defendants who were assessed by the team since the inception of the Program.

Information from the Melbourne Magistrates' Court database was grouped under four headings: (a) background characteristics of the defendants; (b) details of current charge and custodial history; (c) referrals initiated by the bail support team; and (d) outcomes of the bail application. The distributions of defendants across appropriate categories of the available data are described below in approximate percentage terms.

3.1.1 Background Characteristics of Defendants

The defendants were predominantly males, young adults, Australian born, and unemployed. Approximately 81% of the defendants were male (19% female). Their average age was 27.4 years (standard deviation - 7.6). The minimum age was 17 years and the maximum was 66. The age distribution was as follows: 17-24 (46.1%); 25-34 (39.9%); 35-44 (9.9%); 45-54 (3.4%); 55+ (0.5%). Approximately 74% of all defendants were born in Australia while 6% were born in Great Britain or New Zealand, 9% were born in Vietnam or Thailand and approximately 11% were born elsewhere. Aboriginals comprised 2.4% of the total group. The majority of defendants were either unemployed or not in the labour force (88% approximately).

3.1.2 Details of Current Charge and Custodial History

Approximately 82% of the clients of the Pilot Program were recorded as being charged with one of 12 ‘major’ offences.¹² These offences were: aggravated burglary, armed robbery, assault, burglary, intentionally cause serious injury, possess heroin, recklessly cause injury, robbery, theft, theft of a motor vehicle, threat to kill, and traffic heroin. Table 3.1 shows the distribution of defendants according to their major offence. The categories are descriptive only and derive from the clusters within the distribution of the large number of discrete charges recorded in the database. Similarly, Table 3.2 shows the major offences of this group as classified in the database. While the two classification schemes give somewhat different results and perspectives on the data, it can be seen that less than 20% of the charges were *directly* drug related. The majority involved either theft (classified as a ‘crime against the person’ in Table 3.2) or burglary (classified as a ‘crime against property’). It is believed, however, that many offences within the categories of burglary, theft and robbery are *indirectly* related to drug use by the defendants.

Approximately 59% of this group of defendants had a previous custodial history, 72% had a history of previous breaches of bail and 53.5% had previously been denied bail.

3.1.3 Referrals Initiated by the Bail Support Team

Table 3.3 shows the nature of the referrals that were made to support agencies by the Melbourne Magistrates’ Court bail support team. Typically, defendants were referred to more than one support service, with over 90% being referred to drug and alcohol counselling and 73% to medical services. Somewhat less than 50% of defendants required accommodation support. On average, approximately 2.4 (standard deviation 1.1) referrals were made for each defendant. Approximately 39% of the defendants received two referrals and 31% received three.

¹² The ‘major’ offence is the first charge that is listed on the charge sheet. It is not necessarily the most serious offence for which the defendant is being charged (see note of explanation to data tables provided from the Courtlink database). It is assumed that the definition of ‘major’ offence used in the Melbourne Magistrates’ Court bail support database is equivalent to that used in the ‘Courtlink’ classification. There were some differences in the titles of the offence categories used in the two classifications.

Table 3.1: Major Offence of Defendants Seen by the Melbourne Bail Support Team – Categories Constructed from Data

Major Offence	N	Per cent
Traffic heroin or other illegal drug	77	13.2
Theft of motor vehicle	88	15.1
Burglary	89	15.2
Armed robbery/burglary/aggravated robbery	119	20.4
Other	155	26.5

Table 3.2: Major Offence of Defendants Seen by the Melbourne Bail Support Team – Broad ‘Offence Category’ From Database

Major Offence	N	Per cent
Crime Against Property	168	28.7
Crime Against the Person	301	51.5
Drug Crime	95	16.3
Other crime/Unknown	20	3.4

Table 3.3: Referrals to Support Services Made by the Melbourne Bail Support Team

Type of Referral	N of Defendants referred to Agency	Per cent Defendants Referred
Accommodation Support	243	42.5
Counselling Support	516	90.5
Detox Support	20	3.5
Rehabilitation Support	72	12.7
Medical Support	415	73.1
Psychological Support	50	9.3
Employment Support	71	12.7
Education Support	16	2.9

3.1.4 Outcomes of the Bail Application

Bail was granted to 66.3% of defendants and was refused for 20.1%. No application for bail was made by 3.1% of the defendants and 6.9% were sentenced on the day of the hearing. Considering only those defendants whose application for bail was processed by the Magistrate (i.e. another possible action was not taken on the day of the hearing) 76.7% were granted bail and bail was refused in 23.3% of applications. Of all defendants granted bail who were clients of the Melbourne Magistrates' Court bail support team, 24.7% subsequently breached their bail conditions.

3.1.5 Some Factors Associated with a Successful Bail Application

A higher average rate of success in bail application was found for females, defendants charged with property offences, those without a previous custodial history, those who had previously not been denied bail, and those who had not previously breached bail.

Approximately 85% of the bail applications by females were successful compared with 75% of the applications by males. Approximately 84% of defendants whose major offence was recorded as a 'crime against property' were successful in their bail application compared with 73% whose major offence was a 'crime against the person' and a little over 75% whose major offence was an explicitly drug related crime. In relation to the defendants previous court and custodial history: (a) approximately 81% who had not previously been denied bail were successful in their bail application compared with approximately 73% of those who had been denied bail on a previous court appearance; (b) 78.5% who were recorded as previously not breaching their bail conditions were granted bail compared with 76% who had previously breached; while (c) nearly 82% of defendants without a previous custodial history were granted bail compared with a little over 73% of those who had a previous custodial history.

3.2 State-wide Data on Bail Applications and Breaches of Bail Conditions

Detailed State-wide statistical tables that summarised the proportion of defendants charged with various offences who were granted bail by police, Bail Justices and Magistrates were made available to the evaluation (Table CR 4.6 B). These data covered the period from 1996-97 to 2000-01. As outlined in Chapter 1, during this period 26.6% of applications for bail made to Bail Justices were successful, as were 69% of the applications made to Magistrates. Data relating to the bail decisions of Magistrates were extracted from the tables according to the twelve major offences that were identified as encompassing over 80% of those the clients of the bail support team at the Melbourne Magistrates' Court had been charged with (see above). Unfortunately, only the data for 1997-98 bail decisions were relatively complete, containing results for all but one of these offences (theft of a motor vehicle was missing). When aggregated across the 11 offences represented, the data for 1997-98

indicated that 26.6% of applications processed by Bail Justices were successful as were 62.9% of the applications heard by Magistrates. As the police processed the majority of applications within these categories of offence, close to 92% of all bail applications were successful.

Detailed State-wide data on 'breach rates' (absconding from bail) were also available (Table CR 4.6 E) for the period 1996-97 to 2000-01. Over these five years, the State-wide breach rate, aggregated across 11 of the 12 predominant offences of the clients of the Melbourne Magistrates' Court bail support team (again, there were no data for 'theft of a motor vehicle') was 23.6% for defendants whose applications for bail were heard by Magistrates. The breach rate for all defendants in these offence categories was a little lower at 22.1%. It might be noted that annual estimates of breach rates show considerable variation, increasing, within this group of offence categories, from approximately 16% in 1996-97 to 29% in 2000-01. Breach rates of defendants whose application for bail was initially processed by a Bail Justice were consistently somewhat higher than the average.

3.3 *Can These Data Provide Evidence of Program Impact?*

The targets set for the Pilot Program under the Corrections Long-term Management Strategy are for the Program to support 200 defendants each year and for 20 prison beds to be saved annually. This section of the report is focussed on whether it is possible to make a plausible and defensible estimate of the number of prison beds that are saved as a result of the Program.

The present calculation of bed savings made by the OCSC takes into account estimates of: (a) the impact of the Program on bail applications; and (b) the subsequent impact of the Program on breach rates.

The present OCSC estimate of program impact on the success or otherwise of bail applications is derived from the percentage of clients of the Pilot Program who were granted bail when they were recorded as having been denied bail on a previous occasion. Currently an estimate of 55% is used. This is derived from data on approximately 599 clients across the three agencies that have been involved in

implementing the Pilot Program. It might be noted that data from the bail support team at the Melbourne Magistrates' Court made available to the evaluation suggests that this might be an underestimate. In this data set, 73% of those defendants who had previously been denied bail, were clients of the Program, and proceeded with a bail application in relation to their present charge (i.e. are recorded in the database as being either granted or refused bail) were successful.

Critically, however, basing an estimate of the impact of the Pilot Program on this figure makes the very strong assumption that all those defendants who had been previously denied bail would, on their present bail application, also be denied bail had they not been clients of the Pilot Program. Making this assumption takes no account, among other factors, of the relative severity of the most serious current charge compared with that for which bail was previously denied, nor of the possibility that the personal circumstances of the defendants had changed irrespective of the changes in circumstances that might have been brought about by participation in the Program. From a counterfactual perspective (what would have been the outcomes for the group of Program clients had they not participated in the Program?) it appears that what is being assumed is that no factors of this kind were operating to support the bail application of this group; that is to say, the circumstances of their present bail application are plausibly identical to those of their previous application, save for the presence of the support provided by the Program.

An alternative 'counterfactual' condition might be derived from an examination of the outcomes of a group of defendants who are similar in critical respects to the Program participants but who didn't receive program support and services. As discussed in Chapter 2, this would ideally involve a randomised control trial or a propensity score study, but neither appears to be feasible at present. A weaker alternative is to derive an appropriate counterfactual condition from a careful analysis of the available population database. Analyses presented above suggest that the Pilot Program might have achieved a 'bail application success rate' that was between 8% and 14% higher than that typically achieved across Victoria in *Magistrates' Courts*.

The breach rate of clients of the Melbourne Magistrates' Court bail support team was found to be quite similar to that for bailed defendants of an analogous group of charges State-wide. This comparison might be interpreted as indicating that the

Program had no detectable impact on the likelihood of a bailed defendant subsequently breaching bail.

It would be possible to proceed from these preliminary estimates of program impact to calculate a revised estimate of the bed savings achieved by the Pilot Program. However, the validity of these estimates appears to be seriously threatened by the possibility that the clients of the bail support team at the Melbourne Magistrates' Court were a selected (and possibly self-selected) group of at-risk defendants within their particular offence categories. Were this to be the case, the impact of the Program on both the likelihood of receiving bail and subsequently adhering to the conditions of bail would be under-estimated. The evaluation did not detect any evidence that the bail support team deliberately sought clients who were most likely to receive bail (a process colloquially known as 'creaming'). To the contrary, it appeared that every effort was made to contact and offer support to those most at risk of not receiving bail (and hence, probably, most at risk of breaching their conditions if bail was granted). From this perspective, it was held to be prudent to regard this approach of seeking a counterfactual comparison from within aggregated State-wide record data as being insufficiently rigorous to yield valid estimates of program impact. The approach was thus not judged to result in a sufficiently robust estimate of bed savings, particularly one that might underpin a subsequent cost-benefit evaluation of the Pilot Program.

It is possible that a comprehensive review of the Courtlink and/or other database might reveal a small set of variables that are: (a) measured consistently over defendants who received Pilot Program support and those who didn't; and (b) are theoretically likely to be related to the success of a bail application. Variables such as category of offence, gender, offence history (first offence or not), custodial history, success or otherwise of previous bail application, and breach of bail if previously granted are possible candidates. These variables could then be tested for their relationship to the success or otherwise of the defendant being granted bail in a Magistrates' court and might subsequently be used in a propensity score study to provide a more defensible estimate of Program impact. **It is recommended that the OCSC investigate the possibility that such a database might be assembled.**

4. MANAGEMENT PERSPECTIVES

4.1 Introduction

As described in Chapter 2, a range of management stakeholders was interviewed regarding their perceptions of the operation of the Pilot Program. While the OCSC has overall management responsibility for the Pilot Program, operational management responsibility was devolved so that none of the service delivery staff were employed by the OCSC but instead by the court at the Melbourne Magistrates' Court site and by a range of community-based agencies contracted by the OCSC to deliver the project at the Dandenong Magistrates' Court. Because of the small number of people who have undertaken a management role in the Pilot Program, and in light of the ethical requirement of the Department of Justice that interviewees should not be able to be identified, these various levels of management perspective have been presented as a group.

4.2 Understandings of Success

Without exception, managers' impressions were overwhelmingly positive from a broad strategic perspective. The Pilot Program was believed to be a timely, self-evident initiative and its delivery mechanism has shown great flexibility. Specific comments included:

It is clearly a 'knockout' program that this court is able to offer – it's absolutely the best service this court can offer.

... the indication from reports received is that the Program has far exceeded its initial target and this seems to be a consequence of two factors. One is the need for such a service, and once the word was out about an advocacy and support service, the need was quite deeper than what we thought. The second is a reflection of the workers themselves, as personalities and (workers who) are able to deal with a number of people. I say that both from a court perspective and as an agency perspective.

Impacts to the clients are significant, in that they are now seeing that there is someone there to help other than in the court situation, other than

volunteers, like Salvation Army or Court Network, there is someone there who can actually help them when they have a dire need.

While it was recognised that the Program has been broadly successful, there were a number of difficulties in interpreting what was meant by ‘success’. Managers’ impressions of success were primarily generated through their direct observations of the operation of the Program and through the receipt of reports from the service providers. There was no required format evident in these reports and there was no requirement to provide standardised evidence regarding Program outcomes. This meant that what constituted ‘success’ tended to be based on relatively narrow sources of data and on a small number of process-oriented quantitative indicators, for example, how many clients had been assisted and the types of assistance provided.

Additionally, the inconsistent use of measures across the various sites, for example, what constitutes a ‘case’ and when does a case become finalised, compounded the difficulties in analysing management understandings of success.

This grounding of understanding of success in managers’ immediate observations and in a small number of inconsistently applied, process-oriented, indicators has led to a number of difficulties for managers of the Pilot Program. The most significant of these is the lack of capacity of management to provide universally accepted, evidence-based understandings of the *relative* levels of success of the Program across the various courts it has been piloted in. A commonplace perspective among managers was scepticism of the accuracy and relevance of data collected and a lack of confidence in the subsequent impressions held by other managers regarding the relative success of the Program.

Notwithstanding the differences in perceptions of success, there was consensus that there has been variation in success through time and location with the majority of managers agreed that the Program had become more effective as it bedded down with time, and that generally it was more effective in the Melbourne Magistrates’ Court.

The (community-based program) provided very intensive support to only a few clients, and involved things like providing transport, taking people to

medical interviews, going to visit the family – a lot of hands on, face-to-face work. This didn't take off very well.

With (community-based program) ... The second lot of workers that started in January had an established network in the area, understood what bail was about, and were able to move in straight away and very quickly got a high caseload and did some terrific work.

These people need to understand how the court system operates, what are the various orders that a court can make, what is the prison process, etc. (community-based program) had none of this, so starting from scratch and it is a complex system.

Clearly, as a government stakeholder, we underestimated the effect; it's not enough to identify the needs. The realisation now is to recognise the ability of those organisations to actually deliver the service.

4.3 Adaptation and Accountability

One of the challenges that emerged in the Pilot Program was the necessity to allow for devolved decision-making and flexibility by the service providers while also ensuring that there were appropriate levels of accountability.

The Pilot Program Steering Committee provides a useful illustration of this challenge. This committee, which was established several months after the inception of the Program, has no documented terms of reference, no documentation regarding its authority, no documentation regarding how its membership is constituted and members roles, no protocols regarding how it is to communicate with the service providers, yet has become increasingly active in governance issues. This has led some service providers to regard the Committee's requests for information as an additional and unfunded administrative cost and as a blurring of accountability and has led to some managers regarding the service providers as resistant to appropriate levels of accountability. It would appear, that as the Pilot Program matured, that informational and accountability needs emerged that were not immediately apparent at its inception. These were then overlaid on the existing reporting and accountability frameworks

without corresponding communication outlining the purpose or rationale for these changes.

On the 19 September 2002 a meeting of key stakeholders was held to consider the group's name and terms of reference. It was agreed at that meeting that the group of stakeholders is an Advisory Committee to the overall program managers and OCSC. The terms of reference specify that the Advisory Committee is a forum for discussion, ideas exchange and a forum to consider a range of activities undertaken as part of the program.

Another example of the challenge of accountability in an evolving and differentiated delivery framework is the reporting relationships for the Bail Co-ordinator at the Melbourne Magistrates' Court. The position reports to the Deputy Chief Magistrate and this direct reporting relationship confers a number of advantages for the Program at the court. A number of managers have indicated that the differing levels of impact and activity that the Pilot Program has had in the different settings is in part due to the differing level of awareness of the Program by stakeholders in those different settings. Certainly the Program's prominence at the Melbourne Magistrates' Court has been assisted by this direct reporting relationship, but the relationship also has resulted in concerns about the levels of accountability:

... the Program still needs greater accountability, leadership and management within the Court. It is not a program that should be run by the worker. The Program is run by a Steering Committee, and the worker is there to follow the will of the Steering Committee, and the Steering Committee should get direction by the funding body, which is OCSC. There is a real breakdown there.

I can't provide the level of management that I would like to or that it needs. I am hoping that once we do have an actual manager there, and I only have to advise on policy issues, that there will be more direction and structure.

Closely associated with the challenges of evolving informational and accountability requirements are the difficulties of ensuring clear communication from management to provider and vice versa. Numerous illustrations were provided by service providers

and managers of difficulties in communication. From a management perspective, the primary difficulty was in being provided with timely accountability information:

We have experienced great difficulty with (bail support team) refusing to give statistics, 'we don't have to do what you say' kind of thing.

(The bail support team) had no accountability for what they were doing and the OCSC were not fully briefed on what was happening. There weren't proper budgetary reports or analysis of statistics – it was a service being provided without proper management and ongoing monitoring ..., and that was a problem.

Management responded to this challenge, like that posed by the delivery component of the Program, through adaptation and evolution. Many of the specific difficulties associated with this challenge, described later in this report, have been resolved through improved management arrangements.

4.4 Recommendations for Improvement

It is appropriate, in a pilot, that programs are provided with space to evolve. From the evidence provided to date, there are strong grounds to recommend that the Program's standing be made ongoing. This would provide the service providers with more certainty with respect to their employment, and would also enhance the capacity to attract any future staff with the required calibre of knowledge and expertise.

If the Program were to be made ongoing, then a range of improvements should be considered from a management perspective:

- The lack of, or ambiguous, role clarity regarding the status of the Steering Committee requires further investigation. The boundaries of its authority and the composition of its membership have been to-date, evolving, this has led to questioning by service providers about its role and function. (Note that this issue has recently been addressed by the OCSC, see p. 37.)
- Communication protocols between the OCSC have necessarily varied between the various sites that the Program is being piloted in. These should be formalised to further clarify the informational requirements of the OCSC.

- The direct reporting relationship between the Melbourne Magistrates' Court Bail Co-ordinator and the Deputy Chief Magistrate should be reviewed. Presently, the Bail Co-ordinator does not have the support structures to provide de-briefing from a therapeutic/counselling services perspective. The recently advertised 'Parallel Services' manager's position at the Melbourne Magistrates' Court should be considered as a replacement reporting relationship to the current one.
- A more consistent and more explicit approach to client entry and exit rules should be developed. This will go some way to resolving earlier concerns, from both management and service-delivery staff, regarding the basis on which Program performance is measured.
- Management should take a lead-role in the education and information about the Program to the courts and police. While to date this role has been shared between the service deliverers and management, by the OSCS taking a more prominent role a more uniform approach should emerge.
- The various delivery styles and diversity of Program location should be continued. While there have been significant differences in Program performance in the various sites of the Pilot Program, it appears, from a management perspective, that there is insufficient evidence that one model can provide an effective service in an expanded scenario. Following this, management perspectives emphasised the client diversity and large differences in the volume of Magistrates' Court cases and suggested that the current 'mixed mode' model maximises program outcomes. While acknowledging this perspective, it should be noted that the majority of the data and interviews suggested that the court-based model was a more effective model for the majority of clients supported by the Pilot Program.

5. COURTS AND LEGAL PERSPECTIVES

Interviews with two Magistrates, four Victoria Legal Aid solicitors and two police prosecutors form the basis of this chapter of the evaluation report. One Magistrate had knowledge of both Dandenong and Melbourne courts and one Victoria Legal Aid solicitor was from the Victoria Legal Aid Dandenong Office. This last interview was conducted by telephone.

5.1 *Entry to the Pilot Program*

When representing a client in Victoria, lawyers make an assessment of the likelihood of the client being granted bail. A referral to a bail support worker may be made following this assessment. Referral to bail support may come from Victoria Legal Aid as part of their duty lawyer service, the private profession representing clients, or from Magistrates making a request for a defendant appearing before them to be assessed.

All the legal personal interviewed for the evaluation identified the complex legal issues that pertain to bail as important when considering the role of the bail support workers. There was agreement that it was necessary for a lawyer, whether from Victoria Legal Aid or the private profession, to make an assessment of the likelihood of a defendant being granted bail. As one lawyer commented:

Some people will never get bail (and a bail worker's) time is used better on those who will.

Thus those interviewed saw the bail support worker as an important resource to assist in gaining bail after a lawyer had made a legal assessment of the merit of a defendant's bail application.

Magistrates will also utilise the Program by asking for an assessment of a defendant from a bail support worker. A request for assistance may be affected by the caseload of the support worker. The concern was however raised that, due to the fact that the bail support workers are increasingly busy, they may not necessarily be able to provide an immediate service to Magistrates.

It was noted that the police prosecutor(s) at Dandenong were not aware of the Pilot Program. A respondent recounted being aware of the CREDIT program but had not received any information about the Pilot Program or encountered any situations where it had been raised during a bail application hearing.

This respondent indicated a willingness to learn more about the Program and utilise its services. It was recommended that an information seminar be held to communicate to all relevant stakeholders the nature, operation and benefits of the Pilot Program. For the Program to be fully supported and accepted, police members need to have confidence in the credibility of the bail support staff and be assured that all breaches will be reported.

In the view of this respondent, the preferred location for the bail support program was at court, as this would allow for greater exchange of information and networking to raise the profile of the Program. This was seen to be an important aspect of the success of the CREDIT program

5.2 Perceived Impact of the Pilot Program

5.2.1 Overall Evaluation of the Pilot Program from a Legal Perspective

All the lawyers interviewed for the evaluation valued the role of the bail support workers. Lawyers traditionally do not involve themselves in ongoing support for the client and the approach of the support workers was seen as beneficial to the client. From this perspective, one lawyer commented:

...effectively, we operate on the basis that - client for the moment, file closes, or matter closes or the next hearing is given and you move on, whereas the client doesn't, his life continues with all those ups and downs that you would expect them to experience. But you can't be their nursemaid, whereas the parallel services give that safety net.

The task of finding accommodation for a defendant has, in the past, usually fallen to the solicitor representing the client. This task may prove to be difficult when a lawyer does not have sufficient time, knowledge or appropriate networks to identify and

organise accommodation and other related support services such as drug and alcohol counselling and access to drug rehabilitation programs.

When support is not available to a defendant, solicitors struggled to arrange services. One Legal Aid lawyer recalled representing defendants prior to the Pilot Program when:

... you'd be coming back to make a million and one phone calls. And depending on how often you do make those phone calls, you might run out of favours or you might be ringing at the wrong spot at the wrong time. You might not get the result (compared with the current situation of a) one-stop shop.

The continued ongoing support provided by the bail support workers was also identified by all legal personnel interviewed as a crucial component of the perceived success of the Program. The fact that defendants were assisted in a number of different ways, for instance to attend doctor's appointments or Centrelink, was seen as beneficial. Defendants were assisted to access services, and these services were perceived to have contributed to defendants meeting bail conditions and appearing in court to answer their bail. The multiple referrals to support agencies made as a result of the Pilot Program were seen by one informant as an aspect of its evolution:

...it has assumed a role that I don't think was ever envisaged that it was going to and that's one of really hands on, intrusive follow up, supervision, contact...

There are differing views held as to the role of the Magistrates' Court. One view is that the court should be amenable to the delivery of services to assist the client. The opposing view is that the court should only deal with legal concerns. All legal personnel interviewed for this evaluation recognised the value of the court being involved in the provision of support services¹³. The viewpoint that the court should encourage the delivery of support services was clearly expressed by one respondent when giving a positive evaluation of the Pilot Program:

¹³ It should be noted, however, that the sample of lawyers interviewed was small and did not include solicitors from the private profession or those drawn more widely from the judiciary.

The benefits of this program are that it fills a void, and the way I best describe it is that it provides the fairy godmother that you wish for people that often come before the court who are without resources. I can see this service blossoming in the future, and my vision for the future would be that we have a properly planned expansion, so that it not only expands to different courts, but expands the services that it is able to offer and the number of staff who administer it.

Support for the outreach approach of the Program came from those lawyers involved in both the Melbourne and Dandenong Courts. From the perspective of Legal Aid, the success of the Program was perceived to be two-fold in that it allowed more successful bail applications and those on bail were less likely to breach that bail. These two aspects of success were believed to be achieved with a reduction in the workload of Legal Aid as regards the identification of possible accommodation and in drug counselling and rehabilitation placements. Victoria Legal Aid saw involvement in programs of this kind as being part of their mission statement.

One informant offered a somewhat different perspective on the perceived impact of the Pilot Program. It was argued that although bail breach rates appear to have decreased this was not directly attributable to the Program. Rather, it was due to changes over the past six years in police numbers and workload, which has impacted on the ability of police informants to fully investigate and follow-up on cases. The Program was seen to be ‘compensating’ for decreased police availability for investigation and follow-up:

The main contribution is purely because the police don't have the time to do it - that's what I'm told and that's what I see. There may be other factors involved, but the main contributors are time and the number of police on the street.

5.2.2 Specific Issues Associated with the Pilot Program at Dandenong

Although the Program was somewhat slower to be established in the Dandenong Magistrates' Court, it was perceived by Victoria Legal Aid and a Magistrate to be now enjoying support from both the private profession and Legal Aid solicitors who

represent clients in the Dandenong court. The two reasons given for the slower acceptance of the Program at Dandenong related to personnel issues and a perception that the Magistrates at Dandenong generally held a conservative view of bail.

The present bail support workers were perceived to have credibility with court personal at Dandenong and the Program has the trust and support of the Magistrates and lawyers involved in that court. Victoria Legal Aid at Dandenong has anecdotally identified a reduction of those being held in police cells there.

5.2.3 The Need for Appropriate Personnel

The recruitment of appropriate personal was seen as a crucial factor in the success of the Pilot Program at both Melbourne and Dandenong. Each person interviewed commented on the need to identify committed and able staff when appointing the bail support workers.

5.2.4 Acceptance and Use of the Pilot Program by Lawyers

Lawyers in private practice were identified as less informed about the Pilot Program and therefore did not yet utilise the services of the bail support workers as fully as Victoria Legal Aid. One informant saw this as a function of the extent to which legal practitioners were engaged with the court:

...in any area of law, those who specialise in something are going to find out about the new developments sooner than a generalist, that is not to say that a generalist is not intellectually capable of coming to terms with the new things, but they might not go to court for six months. The day they go to court, they might not have a client that falls into that category. So, the leading time is going to be a lot longer for practitioners who don't go to court that often.

At Dandenong there has now been acceptance by some members of the private profession, although their use was slower at the start of the Pilot Program. There has been a recent briefing relating to court services at Dandenong and the Program has been re-named Bail Advocacy Service & Intensive Support (BASIS).

5.3 *The Process of Bail Support: The Case-management Approach*

There was a strong view in support of the case-management approach and that it should be continued. The approach of the bail support team at the Melbourne Magistrates' Court, with a holistic focus across a number of services, was seen as a key to the success of the Program. This was seen as more than 'hand-holding' up to and during the period of remand on bail. Case-management was seen as playing a role in possible rehabilitation of offenders:

But it's not only that role of getting people bail and keeping them on it but it has developed a real rehabilitative role now so it's part, it's become more than a hand-holding (exercise) and the success stories that have come from the Program are just - they're many and incredibly impressive ...

5.4 *The Bail Advocate at Victoria Legal Aid*

Victoria Legal Aid has been funded to provide a Duty Lawyer to assist the Program. The Bail Advocate described the role as follows:

My title is Bail Advocate. My job is described as firstly, finding and identifying people on remand in custody, particularly in police cells with a view to seeing, with the help of the bail program, if we could achieve bail for the person by putting into place the appropriate support services.

For the Bail Advocate located at Legal Aid, clients are generally not identified at court. This role is separate from the work of Duty Lawyers at Melbourne and Dandenong. The role is focused upon picking up clients that were not able to access the service through the Pilot Program at Melbourne and Dandenong and may include defendants on remand in police cells and those on remand in prisons. Additionally, computer resources, such as Courtlink, have been utilised to identify those on remand. Data from Corrections have also been requested in order to identify those who have been unsuccessful at being granted bail.

Similar to the other lawyers interviewed, the Bail Advocate located at Legal Aid will make a legal assessment of the likelihood of the client being granted bail and then if it is believed to be appropriate, refer the defendant to the court-based service at Melbourne for assessment.

The Bail Advocate had also attempted to raise awareness of the Pilot Program at other courts. Visits were made to Ringwood and Broadmeadows, however at the time of interview only low numbers of referrals had resulted.

Direct contact with the prisons had resulted in a number of referrals and the Bail Advocate at Legal Aid was attempting to gain computer access to data on the remand prison population. This promises to provide a number of referrals. This form of access to those on remand can result in identifying rural clients who have not been successful in being granted bail. The Bail Advocate can assist in liaising with regard to the bail application and making enquiries regarding accommodation.

5.5 *Location of the Bail Support Workers*

There was a strong consensus amongst the lawyers interviewed that the location of the bail support workers should be at court. Lawyers familiar with the Dandenong model saw a presence at court as being important but also valued the option of the community-based location. They felt that the bail support workers could be present at court and follow-up with clients could occur in the community.

In terms of possible future initiatives associated with the Pilot Program, all legal personnel interviewed saw an expansion to the suburban courts as appropriate, and there was some support for the proposition that rural courts should be able to access a similar program. One respondent suggested that this might be achieved through an 'outreach' service from Melbourne supported by electronic communication:

You could possibly do Ringwood, Heidelberg, Frankston, Dandenong, Sunshine and Broadmeadows. We could trial it at that. The Melbourne ones should be immediately available on the phone for all the country regions, to organise something, eg, to set up beds in the country (may need Tele-Link). So, perhaps the four we had in the city could each have a designated country area, not necessarily where they

went all the time, but could service that area. You wouldn't want to have someone just for the Northeast region, as the work may not be there, but if you have them all in the city they could do the work from there.

All the lawyers interviewed saw an expansion to other courts as crucial to the 'access to justice' issues that were identified by them in the discussions. There was concern that those appearing in suburban and rural courts did not have access to the support that the Pilot Program was providing to the Melbourne and Dandenong courts.

5.6 *Recommendations for Change and Improvement*

The major recommendation for improvement arising from the interviews with legal stakeholders centred on the need to expand the Program to other courts and to ensure that sufficient funding was made available to continue the Program. All informants noted the need to have committed workers in the position of bail support worker and this was linked to the need for appropriate levels of funding. Without funding, committed workers would not have the resources to meet the diverse needs of clients. Similarly, the 'profile' of the Pilot program in the court setting needed to be raised. The Program was not fully utilised by police informants and the prosecution "*because there is not enough people working in the Program*".

Several participants interviewed identified the need for after-hours support. The needs of clients were seen to extend beyond the nine to five work hours that most court staff practice. Availability in times of crisis and the need to give intensive support were seen as crucial to the success of the Program.

As discussed above, there was also strong support among the legal professionals interviewed that the case-management approach that is characteristic of the work of the bail support team at the Melbourne Magistrates' Court should be continued. Case-management had been incorporated into the position description of the Melbourne Magistrates' Court bail support workers, but it was suggested that the position description may need to be revisited if the Program was expanded to suburban and rural courts.

Presently, a 'Parallel Services Manager' is being appointed at the Melbourne Magistrates' Court. The person in this position will provide necessary administrative and supervisory support for court services. There was concern expressed that this position and, in particular, associated administrative support should be appropriately funded. Without support services there is a drain on the court's ability to participate in programs of this kind. Additionally, there is a need for debriefing for those involved in the bail support role. It was suggested that the debriefing role would need to be carried out by someone expert in this role and not the parallel services manager. There may be a need to utilise counsellors in this role due to the toll on bail support workers of the intensive support that they provide to clients of the Program. A suggestion made by a Magistrate was for the greater liaison between the various support services presently operating at court and more widely. The bail support workers could arguably refer clients who may need assistance from other services at an early stage.

I think (the) Program would be greatly enhanced (if there was) access to psychiatric or psychological profiling for ... clients because I think, my experience is that a great number of people who have drug and alcohol issues have that dual diagnosis - it would certainly assist ... in terms of people who are into treatment or counselling or whatever as early as possible."

It was suggested that, eventually, all relevant services might be housed at major courts, so that there was a "one-stop shop." With all services under one umbrella there would be less of a "silo" mentality in regards to services for a defendant and there would be a co-ordinated approach. One informant described this idea in the following way:

And I hope eventually courts, major complexes like this, will become a one-stop shop so you've got everything here, Centrelink, employment agency, the whole box and dice.

While the Pilot Program was seen to assist the court in gaining a better understanding of the defendant's circumstances, legal concerns were raised about using this information during the bail hearing to 'show cause' why custody is not justified. The

view was expressed that the court should only consider information that is relevant to 'show cause' (e.g. exceptional circumstances such as pregnancy or sickness) at the stage of the hearing dealing with the application for bail, and not recommendations about future events such as accommodation or employment. The question of bail should be addressed prior to any recommendations that relate to issues such as conditions. Thus it was argued that greater care should be exercised in relation to the use of recommendations for bail conditions prior to the determination of bail.

Finally, several of the lawyers interviewed identified the need to review the *Bail Act 1977 (Vic)*. Discussion centred on the perceived inconsistencies of the Act. However it was pointed out by one Magistrate interviewed that the Act will always need to address the concern of stable accommodation and issues identified in s. 4(3). It may be that the Act could more explicitly deal with the role of support services. Recently, the Victorian Law Reform Commission, in their report reviewing aspects of bail dealing with s 4(2)(c), recommended that the *Bail Act 1977 (Vic)* be reviewed more generally¹⁴.

5.7 *Summary*

There was consensus among the members of the legal profession who were interviewed for this evaluation that the Pilot Program was a success and should be continued, indeed expanded, at least to other metropolitan Magistrates' Courts. In evaluating this conclusion, it should be recognised, however, that the sample of Magistrates and lawyers interviewed was quite restricted. Interviews were not conducted with lawyers in private practice, and all members of the legal profession interviewed had direct contact with either the Melbourne or Dandenong Magistrates' Courts.

The view was expressed that lawyers should be involved in an initial assessment of the likelihood that a defendant would be granted bail. This view appeared to reflect concern that the service operated efficiently. There was seen to be little value in bail support workers spending time with defendants who, from a legal perspective, were

¹⁴ Victorian Law Reform Commission. *Failure to Appear in Court in Response to Bail: Report* (2002) p 34.

very unlikely to obtain bail. The position of Bail Advocate associated with Victoria Legal aid might be seen as congruent with this perspective, in that part of the function is to ‘screen’ bail applicants in relation to their likelihood of being granted bail before referrals are made for bail support. While the obligatory involvement of lawyers in the process of referral of defendants to bail support workers is likely to increase efficiency, there is also the possibility of: (a) an increase in the likelihood of the decision regarding bail being, in practice, made before the defendant comes before the Magistrate (see Chapter 1); and (b) ‘creaming’ – only those defendants who would have a clear probability of being granted bail being referred for bail support. There is thus the possibility that the objective of the Pilot Program to provide support for specifically ‘at-risk’ defendants could be undermined.

Finally, there was strong support expressed by lawyers for the ‘case management’ approach to working with defendants established by the bail support workers at the Melbourne Magistrates’ Court. Multiple avenues of referral, the establishment and maintenance of networks, and ‘after-hours’ service to defendants were seen as important elements of this ‘case management’ approach.

6. SERVICE PROVIDER PERSPECTIVES: THE COURT AND COMMUNITY-BASED AGENCIES

6.1 Introduction

One informant from a court and two informants from each of the community-based agencies were interviewed: the Bail Co-ordinator from the Melbourne Magistrates' Court, the supervisor and bail support worker from Australian Vietnamese Women's Welfare Association (AVWWA) and the Springvale Indo-Chinese Mutual Assistance Association (SICMAA) and the former and current bail support workers from the VISY Cares Centre in Dandenong.

The Melbourne Magistrates' Court is located in the central business district and SICMAA and VISY Cares agencies are both located in close proximity to council offices ensuring adequate car parking. SICMAA is the most easily located as it is situated in a residential street immediately adjacent to a car park linked to the local municipal office. The VISY House building from which VISY Cares operates is located behind council offices but is not immediately visible from the street.

The AVWWA is situated opposite an extensive public housing estate and is surrounded by dense residential and industrial development. Street parking is available but may be difficult to find as off street parking for local residents is limited. All agencies are accessible by public transport.

The AVWWA and VISY Cares agencies operate from spacious, recently developed buildings, whereas SICMAA operates from a converted residential building where space is at a premium.

All three community-based agencies offer a range of services including drug counselling, education, housing and health services and each has a fairly specific client base. VISY Cares is a youth specific organisation, although the Program was open to clients of all ages. SICMAA and AVWWA are located in areas with a heavy concentration of Vietnamese residents and have predominantly Indo-Chinese clients; however assistance is available at AVWWA to anyone regardless of cultural background or nationality.

6.2 *Entry to the Program*

The agencies used a range of avenues for client referrals to the Pilot Program: private legal practitioners; client self referrals; prisons; police; Victoria Legal Aid; local community agencies; courts; and in-house referrals from employees working in other community service areas.

The Program at the Melbourne Magistrates' Court and SICMAA actively sought clients by visiting police and court cells and maintaining a visible presence at the local court. The community-based agencies had more difficulty in attracting clients than the Melbourne program and had to employ more elaborated strategies in developing a client-base. With SICMAA one of two part-time bail support workers attended court daily in order to obtain a list of remanded prisoners from an Indo-Chinese background from the court-co-ordinator. Funding under the Pilot Program was for one full-time staff member but this was put towards two part-time staff members in order to provide flexibility and enable a greater number of clients to obtain assistance. The stated rationale for this arrangement was that one bail support worker could be occupied with the needs of one client for an entire day at the expense of other clients, whereas with two part-time workers, one could be involved in identifying clients at court or the cells and the other in providing support to another client. A similar arrangement was eventually put in place at VISY Cares, when supplementary funding was provided for an additional part-time position.

VISY Cares benefited from established links with other service providers, having maintained an informal court base as the result of a pre-existing relationship with the local Magistrates' Court. This relationship had initially been developed by the first bail support worker as a result of experience with the Youth Advocacy Legal Services (YALS). Most clients were referred by private legal practitioners in the court foyer and Victoria Legal Aid, while other referrals resulted from client self-referrals, other community agencies and parallel services at court. The following comments from the interviews exemplify the importance of establishing relationships with the court and describe the manner in which defendants were recruited to the Program:

There was a very positive relationship set up with the court...where myself and my colleague were given a room here ... we were able to use the

phone here, free of charge. The court acknowledged us as a valuable service so let us use space.

.... a lot of time was spent in the foyer area (of the court) liaising done informally....

AVWWA appeared to have the least systematic approach to obtaining client referrals as considerable reliance was placed on advertising material drawing referrals as well as referrals being directed from the Melbourne Magistrates' Court. Ultimately however, AVWWA drew referrals from other service providers in the agency involved in other projects, Victoria Legal Aid and prisons. These issues are discussed below.

6.3 Factors Affecting Referrals

Common to all community-based agencies was the issue of the difficulty of attracting clients. This can be accomplished in a number of different ways such as advertising, advising internal and external community services, private practitioners, and in some cases, the Magistrates, of the existence of the Program and the role of the agencies.

There was consensus among those interviewed that the more widely the service is known, the greater the likelihood of referrals and that this can be assisted by the raising the Program's profile in the courts and maintaining links with other services providers. Basing the Program in a community-based agency may facilitate referrals, as AVWWA and VISY Cares were referred clients from other service providers within their own organisation. One interviewee commented, for example, that:

Being in the youth specific agency/co-related agency building ... enhances referrals to all these agencies and it's an environment that young people are comfortable with.

There was consensus among the service providers, however, that the key mechanism for ensuring referrals to the Pilot Program was awareness by stakeholders in the courts and legal profession.

Informants from SICMAA and AVWWA also believed that there were other key organisational factors that inhibited the means by which clients could enter the Pilot

Program, or the ability of clients to access it. These factors were regarded as having a direct impact on referrals as the Program could not be implemented as effectively as possible from the beginning of the funded period. Both these agencies expected that referrals would primarily be directed from the Pilot Program based at the Melbourne Magistrates' Court:

We were hoping we would get lots of referrals from Magistrates' Court ... especially the Melbourne Magistrates' Court because unwritten agreement was that we would concentrate on work (from) the Melbourne Magistrates' Court.

Both agencies reported being informed that referrals would not be directed to those agencies because of concerns relating to the training and qualifications of the bail support workers initially employed by each agency. Informants from these agencies conceded that the skills of the particular bail support workers concerned were not necessarily appropriate for this position and specific key selection criteria may need to be clearly identified to address this issue in the future. A practical concern, however, is the limited number of Indo-Chinese personnel with appropriate welfare experience. This restricts the potential field of employees. The two Indo-Chinese agencies placed an emphasis on bi-lingual ability as an essential criterion for candidates for the position.

Bi-lingual staff was regarded as an asset, and important to effective communication and service delivery when working with clients from a Vietnamese background who have a limited understanding of English. Interpreters can be employed to overcome language difficulties but this is regarded as cost ineffective, and in the case of a non-Vietnamese interpreter, may result in nuances in body language and speech being overlooked to the detriment of the client. A bi-lingual worker of the same cultural background as the client can “*second guess certain things*” that the client has not otherwise revealed through his or her speech. One informant commented that:

There's ... just a small amount of Vietnamese ... welfare workers ... so it's probably difficult to find someone with welfare experience, or legal experience ... (who) is also bi-lingual ... appropriate enough to do this kind of project.

In response to these concerns, SICMAA terminated the employment of the two part-time workers originally employed for the Program and replaced them with two substitute employees with whom the agency had previous experience.

The AVWWA continued with the same bail support worker who, while having no field experience, had been selected on the basis of other criteria, namely experience in dealing with Vietnamese youth, bi-lingual capability and cultural background. One point of sharp difference between the Program at the Melbourne Magistrates' Court and the community-based services was the need for emphasis on developed communication skills in bail support workers rather than experience in welfare:

Primarily (workers in this area) need to have the people skills to work with the client. You can learn the court stuff, which was exactly what happened to me.

You need this broad experience when you're working with this client group. It is no use getting someone that is fresh out of university, with a whole heap of fancy bits of paper, that don't have the broad range of skills to deal with this client group.

From the evidence provided, it would appear that welfare experience and knowledge of the criminal justice system, not just communication skills, provide a stronger basis for effective service delivery; to be known in and know the system is critical.

The AVWWA also anticipated referrals from Victoria Legal Aid, police cells in Fitzroy, Footscray and Sunshine, Port Phillip Prison and Melbourne Assessment Prison (MAP). Police cells proved unsuccessful as a source of referral as the bail support worker found there were no Vietnamese defendants in police cells in those areas. There was considerable difficulty in establishing links with the targeted prisons with the result that access had only been negotiated with MAP a short time before expiration of the funded period. Constant deferrals by the prisons in processing a request for access to prospective clients appeared to result from prison staffing changes and claims by prison staff that they were too busy to attend to the request. While access was eventually secured to MAP, no access was able to be negotiated with Port Phillip Prison within the funding period.

The AVWWA had also developed literature to advertise the Pilot Program and the services available at the agency. According to the informants, there was a five-month delay in obtaining approval from the Department of Justice for the release of advertising material that was intended for distribution within the agency and other external community services. The Department of Justice was unaware of any request for approval of the advertising material, however. This perceived delay in releasing advertising literature resulted in the bail support worker contacting local community agencies and other organisations to explain the Pilot Program and the role of the agency without the benefit of being able to provide explanatory information for clients and service providers.

The problems experienced by the community-based agencies in obtaining referrals could be overcome by implementing a more structured system of referral *prior* to implementing the Pilot Program at a particular agency. One informant suggested that this could be accomplished by incorporating the bail support program as part of the court support system whereby Magistrates could direct likely candidates for bail to the bail support team. At present, this does happen informally but is dependent on the individual Magistrate. The informant explained:

Occasionally ... the ... Magistrate would sometimes suggest referring to get supports from bail programs ... or other court services ... I guess that each Magistrate is different.

In the absence of a formal referral process, however, the bail support workers generally identified possible sources for referrals through relationships with relevant organisations. A key factor may be the experience of the bail support worker in liaising not only with local community agencies but also with legal personnel. Some familiarity with the court system is also likely to be important. The difference between the Melbourne and VISY Cares programs on the one hand, and that operating at SICMAA and AVWWA on the other, is that an informal framework for referrals was already in place in the former, based on established links with private practitioners, community agencies and court personnel. With the VISY Cares program there could, accordingly, be some confidence that referrals would result by maintaining an informal court base and informing local practitioners and community agencies of the Program and the service provided:

We were fortunate that I was already familiar with the Magistrates and solicitors ... Because of the previous role, it was just a case of educating them on what our new criteria was.

The two Indo-Chinese agencies, however, had expected a substantial number of referrals from certain sources, and when referrals did not result as anticipated, the agencies had to begin the process of establishing liaison and identifying sources for referral:

... I had to develop all the advertising material ... and had to liaise, network with all the relevant community agencies, get them to know that we're here and also get to know them so we could utilise their service as well.

6.4 *Exit from the Program*

Exit from the Program is dependent on the particular needs of the client and the outcome of the matter with which the client has been charged. Accordingly, clients exit the Program at several different points from the time of assessment. The preliminary point of exit occurs when an assessment is made that the client is not a suitable applicant for bail. Clients may also exit the Program when a bail application has been refused. In the case of a successful application for bail, a client may exit the Program at the end of the bail period or after sentence. In some cases, on-going support may be provided to clients who avoid immediate custodial terms and receive deferred sentences or are placed on community-based orders.

6.5 *Location of the Program*

The service provider informants were divided regarding optimal placement of the Program recognising that there were advantages specific to locating the Program in both court-based and community-based settings.

For the Bail Co-ordinator at the Melbourne Magistrates' Court, the advantages in providing the service as a court-based program were that it increased the likelihood that defendants would appear when required by the court and that it assisted in changing the clients' perceptions of the court:

... for such a long time clients wouldn't come into court and have warrants executed, were totally forgetting about court. They would get out on bail and they wouldn't front for their next court case. Because they're coming here every fortnight and I've linked them up to other parallel services here in the court, we can always keep a check on their court matters.

Other advantages included the prominence of the Program. Service deliverers at both the Melbourne and Dandenong sites stressed that the Program required visibility and credibility within the courts and by the legal profession to operate effectively and this was easiest to achieve when based within a court setting.

The attitude of the former and current bail support workers from VISY Cares to the concept of incorporating the bail advocacy program as a court support service at Dandenong was divided, but this may reflect the different experiences of each bail support worker. The first worker had spent considerable time at court developing links with court services and legal personnel. In her experience:

(It) is a very isolating position ... I worked in a building with a lot of youth and social workers. But I never saw them because I was either at court or out with clients ...

The second informant from VISY Cares valued the importance of maintaining links with court support services but also appreciated the flexibility of maintaining office space in a community-based organisation as contact with other service providers in the same building can be more efficient than organising appointments for clients with support services by telephone:

... working in with the other agencies and referral processes - it's easier to do from ... within the building, not that it would be impossible from somewhere else, but ... then we share some resources with council ... access to photocopier and that sort of thing

There are regular community network meetings in the Dandenong area that various agencies attend. Maintaining a formal court base need not necessarily exclude this sort of networking with local agencies, however.

Specific advantages in providing the Program through a community-based agency included access to internal networks. They could relieve some of the demands made on the bail support worker during the bail support period, particularly in the areas of accommodation, and drug and alcohol counselling. The view was expressed that:

It would be more time consuming to have to take the client to ... outer agencies for all those services.

Bail support workers at VISY Cares also maintained an informal court 'base' that allowed them to consolidate links with court support services while maintaining the flexibility offered by occupying an office in a community agency in terms of liaising with other community service providers. The role of the Program was recognised at Dandenong Magistrates' Court as a 'valuable resource', while a room and telephone were provided by the court for use by the bail support workers. These facilities continue to be used by the current bail support worker at VISY Cares.

6.6 *Service Delivery*

The dual role of the bail support worker in locating clients and providing support may conflict, as the worker may be required to be 'in two places at once'. If no formal referral system is in place, bail support workers must actively look for referrals, either by maintaining a presence at court, as in the case of Melbourne Magistrates' Court, SICMAA and VISY Cares, or by advertising the service by liaising with other service providers, local solicitors and court services. For non court-based programs, physical resources such as telephone and office are also necessary in order to arrange whatever support is required for the client applying for bail, and provision for this was made at court for VISY Cares workers. Accessing those resources and attending to the particular needs of a client, such as arranging accommodation may, however, mean that the worker is occupied at the expense of other potential referrals. Time that might be spent identifying and assessing clients may also be occupied by post-bail support for other clients that may more easily be arranged from the community

agency base. It was for this reason that both VISY Cares and SICMAA engaged more than one bail support worker.

6.6.1 Melbourne Magistrates' Court

The Melbourne Magistrates' Court currently employs two service providers and an administrative assistant. The second service provider position is a new appointment that was developed when it became clear that the demand for the service exceeded the capacity of a single worker. The service runs on standard business hours within the court and also on 24x7 telephone basis with clients being encouraged to phone at any stage if required. While this service places significant pressure on the service providers, it does not appear to be over-used by clients:

The clients don't take advantage of that, they ring me when there is a genuine need. Often they have had a bad day and want to stay off the heroin, for example, and just need someone to remind them of their focus.

6.6.2 SICMAA

When the Program was operating from SICMAA, the practice was for the two part-time bail support workers to attend court at 8.30 a.m. every day to obtain a list of remanded prisoners with Vietnamese background from the court co-ordinator. If a potential client was listed, the workers made arrangements to visit the court cells in order to assess the immediate needs of the client. In appropriate cases, legal representation would be organised and steps taken to arrange accommodation, supervision or other measures required to support a successful bail application. Written reports were prepared for the court on the return date.

6.6.3 VISY Cares

One bail support worker was initially funded for VISY Cares under the Pilot Program but supplementary funding through Juvenile Justice provided for an 'intensive case informant'. It was apparent early in the pilot program that the role of the bail support worker had to be divided between being present at court on a daily basis during the morning peak period to elicit referrals, and being available to support other clients with appointments, transport or consultation and so forth. To relieve the pressure of being in two places at once, the intensive case informant occasionally attended court

while the other bail support worker spent time providing support to other clients. This worker commented:

... because I got so busy, I actually got that (intensive case informant) to come to court some days, as I couldn't be here and look after clients at the same time.

In addition to the case informant, funding from the Department of Justice was allocated towards another worker:

... to come (to court) one or two days to ease the pressure off me so that I could spend more time with the clients, or I would have to be here (at court) everyday, between ten and one.

Generally, a member of that team would attend court daily:

... we would interview and assess somebody in custody, a holistic assessment, looking at their needs, relationship, drug issues, medical etc, and get a sense of what needed to be addressed immediately. Write a report and propose a plan to the Magistrate, and set up counselling, mental health or accommodation appointments. Transport clients to appointments to help the initial access to the service.

Generally, we speak to solicitors about their priors so we get more of a picture from them and whether you know what the circumstances exactly are.

6.6.4 AVWWA

A limited number of clients were identified during the term of the Pilot Program with this agency and a significant part of the bail support worker's time was directed towards establishing liaison with prisons and other service providers to facilitate referrals. The focus of the bail support worker was largely occupied by providing support to clients during the bail period as a substantial proportion of the client base had entered the Program while on bail and, at the time of the interview with the informants, only three clients had obtained bail with the support of the bail worker. The remaining clients were refused bail even with support and this was attributed by

the informant to the clients' previous history of breaching bail. This may, however, also reflect the relative inexperience of the worker at that agency as the practice of the informants at VISY Care was to investigate the clients' prior criminal history during the assessment process in order to ascertain the clients' 'bail qualities' with more precision.

6.7 Service Delivery After Bail

There was overwhelming opinion among those interviewed that service delivery extends beyond addressing the immediate needs of a bail applicant and that it has both a case-management role and an 'outreach' focus that may not have been contemplated at the commencement of the Program. The focus of the bail support worker in practice is two fold: (a) service delivery involves addressing impediments to bail such as homelessness, drug and alcohol counselling and treatment or psychiatric assessment; but also (b) involves taking active measures in the bail support period to minimise the prospect of bail breaches. These measures might involve transporting clients to appointments and visiting or being available for consultation with clients and their families.

The outreach element of support during the bail period is recognised as an important factor in minimising bail breaches and was a feature of both the Melbourne Magistrates' Court, VISY Cares and AVWWA programs. Service delivery can involve intensive outreach support of clients and sometimes their families, including home visits, transporting clients to appointments, and continually liaising with practitioners and support services to ensure bail conditions are being met. This function of the bail support worker was described in the following way:

It's very intensive. Difficult clients, they need a lot of support ... and their families also need support.

But looking at the kinds of things I arrange everyday for people, for example, food, material-aid (eg, blankets and warm clothing), Centrelink, employment and training, anger-management, parenting classes, the list is extensive but are easy to arrange. Accommodation and pharmacotherapy are the hardest.

Visiting clients and transporting them to appointments, even for an initial period, can provide a continuity and motivation for the client that may otherwise be absent. Some clients may be isolated by transport or prevented by ill health from attending arranged appointments with various service providers, while other clients may wish to avoid specific locations associated with the charged crime, but are limited by available public transport to attending alternative locations for appointments. Outreach visits to clients and assistance with transport needs were seen as important support services:

... one of the features of the Program is that we provide transport to clients to appointments with other professionals ...

After bail has been granted, support may also involve intensive support of the client's family. Maintaining contact with, and being available for consultation with, clients' families can be an important consideration, particularly when accommodation is a key issue in assessing bail qualities. Stable accommodation with family is regarded as a positive bail quality and bail support workers can negotiate between clients and their families if there has been a communication breakdown.

6.8 Impact on Clients and the Criminal Justice System

While the Pilot Program based at the Melbourne Magistrates' Court was significantly more successful in attracting clients, the capacity of flexibility offered by basing the Program in community agencies could have significant advantages for clients. Apart from the services provided by the bail support worker, other resources within the agency may be utilised to address cultural issues associated with ethnicity, age or gender that can prevent the client from being open with, or feeling comfortable with a particular bail support worker. The program based at VISY Cares is open to all ages, but the agency itself offers generally youth specific services and provides a physical and cultural environment in which young people may feel more at ease. An informant from this agency commented:

... being in the youth specific agency/correlated agency building ... enhances referrals to all these agencies and it's an environment that young people are comfortable with coming to appointments and so on.

At both Melbourne and SICMAA, both male and female staff were employed to deliver the Program. Female clients may feel more at ease, and more inclined to communicate with a female bail support worker, rather than male. In other cases however, clients may prefer to discuss their case with a person of the opposite gender. Both informants recommended that a gender balance be maintained in future program.

The structure of AVWWA also enabled some flexibility in dealing with any issues concerning the gender or age of the bail support worker as there was a range of male and female staff of varying ages who could assist if required.

According to the service providers at AVWWA, offering the service in culturally specific agencies also had significant advantages for clients of Indo-Chinese background. Informants from both Indo-Chinese agencies believed that bi-lingual bail support workers were essential for effective communication with clients and represented a significant cost saving. This perspective was contested by service providers at Melbourne Magistrates' Court who argued that in many instances Indo-Chinese clients did not wish to utilise an ethnically-specific service. No evidence was provided during the evaluation that would conclude that any particular service-delivery model was more effective in working with this group.

Finally, there was a general consensus among informants from the agencies that the Program had been a worthwhile endeavour, based on the reduction of breaches and the opportunities offered by the support services to improve the likelihood of defendants being granted bail. A typical comment expressing the positive evaluation of the Pilot Program from this group of informants was:

Overall, I believe it was a great program and (I) enjoyed working there. I could see the benefits to clients and that we were able to link in with relevant services.

6.9 Impact on the Agencies

A common concern among informants from the service providers was that support could be frustrated by lack of resources to draw on, particularly in the areas of accommodation and long-term drug rehabilitation to meet the immediate and continuing needs of clients. Short-term measures such as detoxication facilities may

address the immediate issue of a client's drug use but can leave the client without sufficient support on departure, with the consequent risk of re-offending while on bail or breaching bail conditions if support is not provided. Similarly, one of the issues associated with accommodation is that some services may be regionalised, and outer-region services may be reluctant to accept clients from other areas.

As previously discussed in Chapter 4 there also appears to be a need for uniform and clear criteria in respect of what constitutes a 'case' for the purpose of compiling data and evaluating the progress, labour intensity and success of the Program. A case might involve just the assessment of a potential bail applicant; that is, where the assessment was that the applicant was unlikely to obtain bail or where a client has opted to plead rather than run a bail application. A 'case' could also involve: assessment and a subsequent application for bail, whether successful or not; a supported successful application for bail; or providing on-going support during the bail period including clients who entered the Program while on bail. One informant commented:

... occasionally, they'll decide to plead up instead of going for bail ... but generally (a case is) assessing and providing information to the court whether it be for a bail application or whether they've decided to do something different like plead up or adjournment.

There was some consequent concern that the Melbourne Magistrates' Court and the three community agencies had not adopted standard criteria as to what level of service amounted to a 'case' and that this adversely affected achieving set targets for program case loads in the case of agencies that adopted more stringent criteria:

Informants also observed that the dual role of the bail support worker in both identifying clients and providing support conflicted as the bail support worker was often required to be in two places at once. SICMAA addressed this issue by dividing the full-time funded position into two part-time positions, while VISY Cares used additional funding for part-time support. It is evident that the responsibilities of the position require the involvement of more than one support worker in order to address both roles adequately. One informant commented that:

Even if the referrals were to remain stable, one worker would not be enough because of the high needs and complex issues of these clients.

The experience of one informant suggests, however, that care should be taken that part-time workers are not confronted with an ethical dilemma if that worker also performs other services within a community organisation. For this reason, it was recommended that the position be expanded to two full-time staff.

... it was terrible because, I stand upstairs with the wife (in a domestic violence case) and the next minute, I downstairs with the husband ... (supporting the bail application)

... it's still better if we got two full-time ... first of all because of the number ... But also full-time to avoid the situation that (bail worker) was in ...

6.10 Recommendations for Improvement

Recommendations for improvement of the Pilot Program made by workers from the Melbourne Magistrates' Court and the community-based agencies tended to reflect the particular practice and expectations of each informant. For that reason, recommendations varied quite widely. The common objective of each informant was quite clearly to improve the service in order to maximise the opportunities for defendants to obtain bail in appropriate circumstances, whether by increasing the number of referrals, facilitating effective access to support networks or enabling sufficient time and labour to be dedicated to the dual roles of referral and support.

Two informants recommended basing a second program at court in order to aid effective networking between service providers, sourcing referrals, and on a personal level, providing an environment in which professional support could be sought from complementary services. If the bail support program formed another court support service, the bail support worker may be able to set up a framework for more effective liaison between support services, to prevent the possibility of a client's problems being overlooked. In a situation, for example, in which a client has both a mental illness and a drug or alcohol problem, a protocol put in place by the bail support worker between psychiatric and drug/alcohol services for dealing with clients with

both problems could enable more direct and efficient referral between the two service providers. This could address issues of duplication in briefing service providers with a history of the client's circumstances and the possibility that an underlying psychiatric disorder may not be observed if the client has only been diverted to treatment for a drug/alcohol problem and vice versa. The following comment highlights this issue:

Because we are a community provider, I didn't actually have any authority to set up protocol to relationships as a community provider...

Two informants believed that improved co-ordination between the various agencies and sufficient notice of the involvement of the Department of Justice in the Program would have benefited the particular service provided. For example:

... if the Department of Justice showed more clearly that we were under the auspices of the Department of Justice, I think things would have gone more quicker.

6.11 Conclusion

Interviews with the group of supervisors and bail support workers from the Melbourne Magistrates' Court and community-based agencies provided rich details about the manner in which the Pilot Program was developed and operated in these two particular 'delivery modes'.

A number of important issues and themes emerged from the interviews, particularly:

- Perceived early difficulties in establishing effective communication between the agencies and both the Department of Justice and the bail support process at the Melbourne Magistrates' Court;
- Various views about locating a bail support process in a community-based agency. On the positive side, it was suggested that the immediate availability of other services within the agency (accommodation support, drug/alcohol counselling) was a positive benefit. On the negative side, community-based bail support workers reported that they felt isolated from the court processes and found difficulty building effective 'networks' within the court. This

difficulty in networking is supported by the activity data provided by the OCSC¹⁵.

- A strongly contested view supporting the value of having bail support workers from the same ethnic group when providing client services to Vietnamese and other South-East Asian clients.
- A clear view that the value of the bail support process to the defendant reached beyond assessment, immediate referral and the presentation of a report to the court on the day of the bail hearing to on-going holistic ‘case management’ support throughout the period of bail, possibly including support to the defendant’s family as well as the defendant themselves.

¹⁵ During the period of the 2001-02 financial year, the bail support team at the Melbourne Magistrates’ Court provided varying levels of support to 366 clients; VISY Cares to 103 clients, SICMAA to 28 clients and AVWWA to 11.

7. CLIENT PERSPECTIVES

This chapter of the report details key findings concerning client perceptions the Pilot Program. It provides a brief overview of data collection procedures and techniques and discusses emergent themes relating to the process and impact of the Program based on the experiences and perceptions of clients who have or are currently accessing the service.

7.1 *Data Collection and Participant Profile*

Methodological and sampling issues are addressed in Chapter 2 of the report. For the current purpose, this section briefly covers key areas addressed in the client interviews (see also Appendix A for a copy of the interview schedule) and provides a profile of the clients interviewed.

7.1.1 Key Areas Addressed in Client Interviews

Three major areas were covered during the in-depth interviews with clients of the Pilot Program. The first section of the interview addressed the personal background of clients while section two focused on criminal justice and substance use. The final section covered in detail client experiences with and perceptions of the Pilot Program, including: entry and exit issues; understanding of program process; a description of services accessed and support received; strengths and weaknesses of the Program; impact of the Program; and suggestions for Program development and/or replication.

7.1.2 Profile of Clients Interviewed

Twenty interviews with clients of the Pilot Program were conducted. Thirteen interviews were conducted with clients who had accessed bail support services through the Melbourne Magistrates' Court, four with clients of the VISY Cares Centre in Dandenong and three Vietnamese clients receiving support from the AVWWA.

The bail client sample group shared the following characteristics. Participants ranged in age from 18 to 50 years of age (their mean age was approximately 29). The

majority of respondents (80%, n = 16) were male. With respect to cultural background, participants were asked to indicate both 'country of birth' and 'self-identified ethnic identity'. Forty-five per cent (n = 9) indicated that they were born outside of Australia. An interpreter was required for the three Vietnamese clients who were accessed through the AVWWA.

Forty per cent of the sample (n = 8) had finished Year 10 and the same proportion had completed some secondary schooling. Of the remaining participants: one had completed primary school, one had finished Year 11 and undertaken vocational studies and two had completed a tertiary degree.

At present, most participants were unemployed (60%, n = 12) and receiving government support of approximately \$380.00 a fortnight. Four had secured full-time or part-time employment, one was performing home duties and three were currently on a disability support pension as a result of health problems arising from sustained drug use. Only one client indicated that they had never experimented with drugs, however this client's offences related to drug trafficking.

7.2 *Client Perceptions and Experiences of the Pilot Program*

This section addresses key aspects of client experiences and perceptions of the Pilot Program including: patterns of referral to the Program; length of involvement in the Program; overall level of satisfaction with the Program; perceptions of Program processes and impact; views on the major strengths and weaknesses of the Program; and suggestions for Program improvement and/or replication.

7.2.1 *Patterns of Client Referral to the Program*

Participants were asked to describe how they found out about the Pilot Program. Responses have been categorised into Table 7.1, which examines sources of information and patterns of client referral to the Program.

Half of the respondents interviewed for the evaluation were channelled into the Program through their solicitor who was typically from Victoria Legal Aid, and over one-fifth were approached directly by Program staff.

Table 7.1: Patterns of Client Referral to the Pilot Program

Source of information/referral	No. of respondents	% of respondents
Lawyer	10	50.0
Word-of-mouth	3	15.0
Approached by Program staff while in custody	4	20.0
Referred by Magistrate	1	5.0
Referred through parallel court services (e.g. CREDIT)	2	10.0
Total	20	100.0

It can be seen, even from the small sample of respondents, that clients found out about the Pilot Program and were referred to it in a variety of ways. The robustness of this ‘organic’ approach in terms of providing a systematic model of referral was highlighted by a current client of the Program – a 25 year-old single-parent father - who experienced problems with his legal representation before being approached directly by Program staff:

My solicitor wouldn't front for me because he said I had no hope of getting out on bail and I said 'thanks a lot – piss off'. So I spoke on my own behalf and I made my own bail application ... I think there should be a lot more advertising - telling people about the Program. I'd never heard of it in my life and I've been a crim for a long time.

An expanded education and advertising regime may help promote a wider awareness of the service to key stakeholders in the criminal justice system. However, the necessary resources would need to be in place to cope with the extra demand that may result.

7.2.2 Length of Involvement in the Program

With respect to length of involvement in the Program, bail support clients interviewed for the evaluation ranged from those who had recently commenced to those who had been on the Program for over twelve months.

Table 2 shows the time-span of involvement for participants. Duration of involvement appears to be highly variable and dependant on factors such as individual, offence and court circumstances that impact on how long a person will be bailed before trial.

Table 7.2: Duration of Involvement with the Pilot Program

Time-span	No. of respondents	% of respondents
< 1 month	5	25.0
1-2 months	5	25.0
2-3 months	2	10.0
3-4 months	2	10.0
> four months	6	30.0
Total	20	100.0

Examination of the range of time that clients spent in the Program raises a further issue: What should the criteria for determining when a client is terminated from the Program be, and what termination process should be followed?

A few clients maintained contact with Program staff and described receiving ongoing support and advice despite having been ‘exited’ from the Program:

I will keep accessing the Program for some time, maybe the next three months or so, just popping in and out. It is just good to know that (the bail worker) is there as well. Because even though your court date is over

and done with you still know that you can ring (the bail worker) up if you need to know something or need help with something, (the bail worker) will put you on to someone, whether it be accommodation or a doctor or employment.

Due to the complex issues faced by individuals who access the Program and the need for continuity of care, it appears that it would be problematic to immediately exit a client following the imposition of a court outcome. If not already in place, there does however, seem to be a need for clear guide-lines outlining what constitutes 'exit' from the Program and what termination procedures ought to be followed.

7.2.3 Overall Level of Satisfaction with the Program

Participants were initially asked to comment on the following question: In general, how would you rate your experiences in the Program? Response options were 'excellent', 'good', 'satisfactory', 'poor' and 'very poor'. Examination of client responses indicates an extremely high level of overall satisfaction with the Program from the service users' perspective.

Of the entire sample (n = 20), 85% rated their overall experiences with the Program as 'excellent' and the remainder (15%) reported that their experiences could be classified as 'good'. None of the Pilot Program clients interviewed felt their experience was 'satisfactory', 'poor' or 'very poor'.

7.2.4 Client Perceptions of How the Program Works

In order to gain an appreciation of program process, participants were required to describe in detail their own understandings about how the Pilot Program works.

Participants recounted a range of positive experiences with the Program from direct support, advocacy and counselling from Program staff to assistance with linking into relevant community agencies and services across accommodation, medical, drug and alcohol, employment, psychological, education and a variety of other sectors.

James¹⁶ and Nick were both expressive in their description of the Program and their own experiences:

(The bail worker) set up a network of counselling for me, which is just the best. I receive counselling at the Bridge program and once a week at Quinn house. I also have the support set up with WISE Employment, which (the bail worker) set up. What (the bail worker) does is incredible. In the eighteen years that I have been a heroin addict I have never had this much support. I didn't think there was that much support or services available in the community.

... people who can help you out of a situation when you think that you've got nowhere to go. I was in the custody centre, I'm thinking I've got nowhere to go, nowhere to live, I want to get bail but I've got no home. (The bail worker) organised a place for me to stay, a rooming house in Preston, organised for the rent to be paid, organised a doctor for the buprenorphine and two weeks payment, because I didn't have any money until my dole came through. So, (the Program) stops me from re-offending or deters me from offending. I was in a hopeless situation and they showed me the light and organised everything and just helped me concentrate on the battle I had, which was stopping drugs.

Jack, at the time of interview, had been on the Program for approximately one and a half months. He gave a similarly positive account and emphasised the importance of staff support, advice and honesty:

They are supportive in a lot of ways, like if you are in trouble and you have to go to meetings and need help in getting there, if you need help with accommodation then they will use their resources to help work something out with that. I have had instances where I haven't been able to access the telephone because I haven't had money and I have been provided with phone cards. Or, I have had trouble with being able to pay

¹⁶ Pseudonyms are used to protect the identity of program participants.

the chemist, coz I get so little from the dole. (The bail worker) is just great. All my appointments (the bail worker) helps me organise things, work out a budget so I can manage my money. (The bail worker) comes and visits me once or twice a week and we have a coffee and sit down and talk about if there are any issues that I need to work out. Even just sitting down and having a coffee and chat with someone who will listen and genuinely give (their) opinion is really good.

Many participants further described the Program as a service that “gives you everything you need” and the staff “help you in any way they can” from “getting accommodation to getting you off what you’re on”.

Tim, who was born overseas, recounted his understanding of how the Program operates at the Melbourne Magistrates’ Court from initial assessment to the bail hearing and ongoing contact up until the court date:

You have to be on bail. (The bail worker) comes and assesses you, to find out I guess if you are the right person, if you want to change your life. From there you go into court, and you should get bail. Then you get on the buprenorphine, if you have a drug problem, and you have to stick by that and to come and see (the bail worker) once a fortnight or week. And of course, stay out of trouble.

As evidenced by the following extracts, a common theme running through many case narratives was the dual importance of clients of the Pilot Program being both motivated to change and presented with adequate opportunities and support to ensure the success of the Program:

... you’ve really got to want to do it and if they see that you are keen they will help you and be there 24/7 to ring up. They are just really supportive and if you really want to get off drugs and get on the straight and narrow, (the bail support worker) will help you do that.

Well, first of all you have to be honest with yourself. It’s not for everyone. It is a program for people who are fair dinkum who genuinely want to

change their lives. I was one of them, and (the bail worker) picked up and on that and supported me and still supports me to this day.

At the end of the day, you could be doing the Program for the wrong reasons. Just to get bail so that you are out and not incarcerated. But at the same time if that's your reasons for doing it and then (the bail support worker) gets you out and puts the structure there for you, then that's not a bad thing either. For the average person, I reckon anybody who's got that structure there if they're ready to take the steps and (the bail worker) is ready to take the chance on them it will work for them. Now, the three weeks I have been on the Program I have seen a couple of blokes bomb out, and that's inevitable. That's just the way life is, you can't change everybody because you get them bail and put a structure there. Some people are just not ready to do it.

The descriptions by participants provide a rich insight into how the Program works and indicate that there is broad consistency between the experiences of the Pilot Program at each location in terms of generic program process (e.g. assessment, advocacy at court, direct support and referral to treatment and service agencies).

However, there appears to be considerable diversity across sites with respect to specific advocacy, support and referral processes that seem largely attributable to geographical issues, client numbers and individual needs as well as differences between staff in program delivery and perceptions of their role.

For example, bail clients from AVWWA and VISY Cares talked about regular transport to and from appointments more than those from the Melbourne-based program. This may be the result of geographical issues (lack of public transport in outer-suburban Melbourne) and, possibly, lower client numbers that allows time for a time-intensive service of this kind.

On the other hand, clients of the Pilot Program at the Melbourne Magistrates' Court emphasised the importance of being able to contact their support worker at any time of the day or night and gave the impression that more standardised procedures for referral to community agencies, especially drug and alcohol treatment, were in place

at this location. Staff experience and personality may play a role in explaining this discrepancy.

7.3 Client Perceptions of Program Impact

I wouldn't be here today at all. I'd honestly be dead. Because I saw the way my life was heading and I knew that I was heading back to jail for another serve of what I just put up with for a long time, which I don't want to say, and I couldn't handle that again, no way. I'd rather die ... this program has not only saved my life, but has started to give me one as well ... I've done better out here in the last month and a half than I ever did in jail.

The above extract from an interview with a client of the Program vividly illustrates the often profound impact that this service can have on people's lives. Embedded within the transcripts of those interviewed are overwhelmingly positive recollections and stories that underscore the important niche that the Pilot Program fills in terms of diverting people away from the negative experiences of prison and producing a dramatic and positive change in lifestyle.

Presented in this section are a sample of clients and their descriptions of the positive effect the Program has had on their lives.

Geoff is an Australian man with a history of violence offences and drug use. Geoff was on the Pilot Program for three months and received a suspended sentence for a number of assault offences. At interview he described his current situation as follows:

It is the first time in my life I can wake up in the morning and have a feeling of well-being. It has totally changed my life ... Before (being on the Program) all I could think of was the past, now I have a future. It's like I'm eighteen and starting over again. It's a culture shock ... my head is clear now. I don't need drugs to cope; I can deal with issues now.

Some participants identified that the savings made in terms of keeping people out of remand was a major achievement of the Program:

It's gotta be a lot cheaper than building 600 man jails and filling them up.

Similarly, a number of other clients commented on the issue of diversion from remand and the human benefits associated with this:

*... obviously staying out of prison. Because you learn nothing in there except how to kill people, stab people and f*** them over, which drugs to use, how to mix them, how to cut them. I mean that's all negative. That's their strength, they get you out of a situation like that and put you in the real world with a bit of help and belief in you.*

Another positive outcome of the Pilot Program, from the perspective of clients, is the potential impact on the severity of sentences received upon return to court: *“The Program will have a big impact on my court case”*.

The Pilot Program also appears to have greatly aided in a number of supplementary ways such as preventing a return to using drugs – *“Without the bail program I would be back where I started, in Fitzroy using.”* It was also reported to have contributed to the enhancement of family relationships, resulted in greater tolerance and anger management, improved health, and prevented further offending and absconding while on bail.

Jack, a young offender, summed up the impact of the Program on his life:

It has given me the chance to actually live normally for just long enough to realise that there is other ways to live and its better.

7.4 Client Perceptions of Program Strengths

Program clients identified three major strengths as integral to the success and effective operation of the Pilot Program. They include: staffing issues; the ability to intervene early and divert people away from the justice system; and providing a further opportunity to reform.

Across all sites, the most significant strength of the Program according to bail clients is the Program staff. The participants interviewed were full of praise for the dedication, commitment and professionalism of the staff who, in their view, worked tirelessly to provide assistance and support in a compassionate and non-judgmental manner:

The Program meant nothing to me really (the bail worker) was my influence.

It takes a special kind of team to run what they're running and do what they're doing. You can see from day one that (the bail workers) are there for you. They don't care what your past has been or what you are charged with. If they see that you are willing to make an effort and are genuine, then they will go to bat for you. They open the door for you and if you want go through it then go for it ...

The importance of appropriate staff to ensure the success of the Program was clearly emphasised throughout numerous interviews with bail clients, often to the extent that many felt the Program would not work at all if the present staff were removed or unsuitable workers were recruited:

Definitely, the staff. I don't think the Program would work without them. (The bail worker) is just very easy going and open-minded and like when you are in the cells and you hear you are going to see the bail person its' like 'Oh yeah just another worker who doesn't give a shit.' And (the bail support worker) does care and follow-up things when (the bail support worker) says (they) will. I've had dealings with other people, and if you don't get back to them once they just don't bother ringing you to follow-up. (The bail worker) just seems to care when (the bail worker) meets you. If you are really genuine and want help, (the bail worker) sussess you out and is there for you when you need (them).

*90% of welfare workers are in it for themselves; it's a nine to five job. They go to a party and all they talk about is clients and what an idiot they are – they've got no f***** idea. They are dealing with people's lives and they can't even work their own out.*

A key ingredient to the success of the Pilot Program also appears to be the provision of 'round-the-clock' support that is vital from the point of view of clients who are in an extremely vulnerable situation due to their drug addiction and life circumstances:

(The bail worker) is always there, if ever I'm in need or in trouble, or if I need someone to talk to I can just ring (the bail worker) if I am having problems.

At the drop of a hat, I can ring (the bail worker) at any time for support with whatever is happening in my daily life and (the bail worker) is there for me.

Just having a friend that's not on drugs. Someone that I can come to anytime, night-time, daytime – (the bail worker) has a mobile on ... all the time.

Anytime I need help I can ring (the bail worker). I have rang (the bail worker) a few times when I want to use and (the bail worker has) helped me. During the day I can come in anytime.

Another staffing component of the Program that clients found to be extremely beneficial was 'the fact that they can link you in with a lot of other services'. Similarly, the ability to co-ordinate and 'manage' people was accentuated by several participants in the evaluation interviews:

'It's about managing people, and these guys really know how to do that'.

Honesty was also seen to be a critical feature in the interaction between clients and program staff. Clients appreciated that staff were forthright from the start about their obligations and responsibilities:

'... if you cross (the bail worker, they) will breach you, (the bail worker) doesn't play games and ... tells you that.'

Staff experience was accentuated as a further factor in the success of the Program. A number of participants expressed the view that unless staff had extensive knowledge of the welfare sector, they would find it difficult to access services for clients:

If you had people running the Program who didn't know what they were doing or weren't quite as switched on as the people here now and they were trying to ring say Moreland Hall or Odyssey house - if they didn't

know people there, they wouldn't have a snowflakes hope in hell. Odyssey would be saying 'We'll get back to you' and it would just go on and on and on. But (the bail worker has) got (a) finger in every pie so to speak and (the bail worker) knows somebody in every place.

A final staffing issue identified by participants was the importance of having someone to advocate on your behalf, both in the courtroom and when accessing services in the community. A single mother with accommodation issues noted the difficulties she faced when approaching agencies and commented “*people with workers get seen straight away*”.

Another interviewee described a situation where his Centrelink benefits had been reduced due to missing an appointment he wrote down incorrectly on his calendar. His bail worker successfully advocated on his behalf to remove the breach; where he had previously kept “*hitting a brick wall*” because no-one was prepared to listen to him. He explained this point well:

Listen, (the bail worker) helped me, not only make appointments and all that. We're not useless, but it's good when someone helps you take the first step.

For some, simply being given the opportunity or ‘second chance’ to prove that they can reform was an important aspect of the Program:

It gave me a chance to show the Magistrate that I could operate in the community without committing any more offences.

As a final quote, the following explanation is offered to highlight a key strength of the Pilot Program from the perspective of service users. It is important because it highlights the rationale underlying the Program; which is consistent with the current emphasis on developmental and early intervention approaches to crime.

Someone like me needs a lot of assistance in working through problems, and unless that assistance is there then I'm just doomed to the circle of jail-drugs, jail-drugs, jail-drugs. Do you know what I mean? Now, I've come off that circle and I'm starting to create my own new one, my own

new road. And I'm always going to get to intersections where I can go one way or the other way. And that is where this program comes in. They help me choose which path to take.

7.5 Client Perceptions of Program Weaknesses

Given the overwhelmingly positive experiences, participants struggled to identify any significant areas in which the Program was failing.

However, a range of potential limitations associated with the Program and the context in which it operates were identified, including: assessment issues; accommodation shortages¹⁷; staffing matters; and the location of the services (i.e. court versus community model).

Firstly, a few participants commented on the need to ensure that people in custody are adequately assessed because some people are just not ready to change and will exploit the Program because they 'just want to get out of jail' so that they can continue to use drugs.

To ensure that this does not occur, clients indicated that staff need to be 'switched on' and adhere to Program selection criteria that guide their decisions. However, the problems associated with rigid program eligibility requirements were also emphasised:

... I looked like a mess when I was in the cells and if they judged me by what I looked like then I wouldn't have been picked for the Program. You wouldn't want to knock someone back who could have been the person that done really well. So that's a hard one. Maybe you need to give everyone the benefit of the doubt and let them stuff up for themselves or do the right thing. At least give them the chance.

A second issue raised by clients was the lack of appropriate accommodation services to refer clients on bail to. The Program clients interviewed were quick to highlight that this should not be seen as a failing of the Pilot Program, but rather a broader

¹⁷ Accommodation issues are commented on in more detail in section 7.8

structural problem that should be addressed by the government – “*We need more places like Quin House*”.

Thirdly, with respect to staffing issues, a few clients commented that there were not enough bail support workers and it was often difficult to access assistance quickly due to the large number of clients at the Melbourne office. One participant was frustrated with the change of workers that occurred at the VISY Cares office and another Melbourne client felt that there was not enough space and privacy at the court to speak with staff. A Vietnamese client felt that staff should be compensated better for the amount of work they do and out of pocket expenses they incur while assisting clients.

A final issue that a number of clients remarked on was location. Overall, there was no consensus on which model of service delivery should be advanced – some strongly felt that the community setting was preferable because having the Program based at court made them feel uncomfortable:

It doesn't look like I am a criminal walking into a community agency. It helps me feel that I am a person in the community again.

Others were equally adamant that the court location allowed for greater access to clients in the custody centre and facilitated the breaking down of negative barriers:

I think that this is a perfect location. It is central to the custody centre where most of the guys (the bail support worker) needs to see come before the court to front the Magistrate, so (the bail worker) can do ... assessments here. This location is excellent. I've never felt comfortable coming into a courthouse in my life; usually I'm coming in from downstairs in handcuffs. But when I walk in now I'm not nervous or uncomfortable and when I get to (the bail worker's) office they're just so happy to see you. Even if you just want to pop in for a coffee to say hello and I'm O.K. You don't necessarily have to have an appointment.

7.6 Client Suggestions for Program Improvement

I'd tell a forum of politicians to put their hands in their pockets and give this program and others like it a chance.

The bail clients interviewed for this evaluation study generally felt that the service was operating successfully in its current format. However, a range of suggestions for improvement was made.

The most significant avenue for improvement recommended by bail clients was the strengthening of supported housing for people who are likely to be refused bail because of homelessness:

There are just not enough rehabs in Victoria and other places that take people on bail. Maybe the Commissioners Office or the powers that be should look at that. If at the end of the day they think that this program is worthwhile then they should get right behind (the bail worker). It's just sad that someone is denied bail just because they haven't got somewhere to live, because they might have been living on the streets and homeless for a number of years.

Some strongly felt that there was an urgent need for the establishment of specialised residential units, specifically for those who are on bail, to cope with the increased demand on the remand system:

I don't know if they could ever get the funding for it (but) instead of maybe linking clients to supported accommodation places maybe they could have their own houses in different areas where they put people.

The importance of stable accommodation in breaking the cycle of drugs and crime was aptly described by Tim, a man in his thirties with a significant history of involvement in the justice system:

If a person had a stable house and receiving the drug and counselling support I don't see why you'd go do crime or get into trouble again. Obviously, with people like myself there's something been wrong with our

lives for so long, we don't know any other way of life except criminal activity or filling in our days doing criminal activity.

Clients felt that another potential focus for improvement was in the area of resources and staffing. Many felt that more workers were required to assist current staff and due to the demands placed on them they should receive better compensation and support from management. A Vietnamese bail client also identified the need for more funding and training for bi-lingual workers in all languages.

Finally, a number of interviewees expressed the view that the scope of the Program should be expanded so that it was offered to more people across Victoria:

There are guys who are sitting in Port Phillip who don't need to be there if they had the bed space out there with a program like this.

7.8 Discussion and Conclusion

This chapter has addressed key aspects of Pilot Program process and impact from the perspective of bail clients and has covered in detail experiences with and perceptions of the Pilot Program, including: entry and exit issues; understanding of program process; a description of services accessed and support received; strengths and weaknesses of the Program; impact of the Program and suggestions for program development and/or replication.

Although results may not necessarily be generalisable to the entire population of bail clients, the sample of clients interviewed for this evaluation study has highlighted the apparent success of the Pilot Program in: (a) enhancing the chances of a person receiving bail by providing an advocacy service, (b) linking defendants to a range of relevant community agencies and support services; (c) ensuring that defendants maintain the conditions of their bail; and (d) providing direct service provision to defendants on bail.

A range of other issues emerged from interviews with bail clients that can be summarised as follows:

- The current approach to selecting and referring clients can result in people 'slipping through the gaps' and greater education of key stakeholders in the

justice system may help promote the service more widely. However, the necessary resources would need to be in place to cope with the extra demand that may result.

- Examination of client duration of involvement in the Program raised the question: ‘What should the criteria for determining when a client is terminated from the Program be and what termination process should be followed?’
- Although broad program processes appear consistent across the various locations in which the Program is delivered, there are substantial local differences in client referral and assessment patterns as well as variations in specific services offered which may be attributable to staffing, geographical location, client and resource issues.
- According to the clients of the Program who participated in this study, a critical component in the success of the Program is the professionalism, dedication and passion of staff. While it may not have been originally anticipated to be a role of the bail support worker, direct support and service provision appears to have become a significant component in the successful operation of the Program.
- A range of potential limitations associated with the Pilot Program and the context in which it operates were identified, including: assessment issues, accommodation shortages, staffing matters and the location of the services (i.e. court versus community model).
- The most significant avenue for program development recommended by bail clients was the strengthening of supported housing for people who are likely to be refused bail because of homelessness. Other suggestions included more resources and staff and the expansion of the Program across Victoria.

In summary, the interviews with clients of the Pilot Program in each of the Program settings revealed that, although there appears to be differences in how the Program operates in each setting, there is an extremely high level of satisfaction with the service that is closely linked to the good performance of staff. A strongly expressed desire for continual improvement and expansion of the Program was also noted.

8. CONCLUSION AND RECOMMENDATIONS

8.1 Conclusion

Triangulation of the views expressed about the Pilot Program by a diverse range of key stakeholders in the legal and court systems, service providers and practitioners, and most importantly its clients, provided a clear endorsement of the Program and its further expansion. That is not to say there were no criticisms of the design and implementation of the Program, but on balance it should be considered a success.

A consistent general view expressed by those individuals interviewed for the evaluation was that the Program was successful in both improving the likelihood of bail and in reducing the propensity to breach.

The views of the various groups of interview respondents to the issue of Program improvement have been provided in the respective sections of this report which relate to the groups interviewed, but the following specific recommendations are made as a result of an analysis and evaluation of these views in relation to the stated objectives and rationale of the Pilot Program. The common objective of each interviewee was to improve the service provided in order to maximise the opportunities for defendants to obtain bail in appropriate circumstances, whether by increasing the number of referrals, improved accommodation services, facilitating effective access to support networks or enabling sufficient time and labour to be dedicated to the dual roles of referral and support.

A refined Bail Advocacy and Support Services Program, which incorporates the enhancements suggested in the following recommendations, should further establish Victoria as providing a cutting edge justice system that addresses the needs of all key stakeholders.

8.2 Recommendations

Six recommendations are put forward in this section of the evaluation report. Each recommendation is followed by a brief discussion that summarises the data and analysis that supports the recommendation.

Recommendation One: That the bail advocacy and support services developed within the Pilot Program be rolled out to other metropolitan and rural courts in Victoria.

The first recommendation relates to an acknowledgement of the benefits derived from the Pilot Program and the support for expansion of a modified bail advocacy and support services program State-wide. Modifications to the Pilot Program to establish an extended program should allow for the incorporation of the findings of this evaluation based on the wisdom and experiences of the key stakeholders.

The major recommendation for improvement from legal stakeholders and clients, centred on the need to expand the Pilot Program to other courts and to ensure that sufficient funding was made available to continue the modified program. The appropriateness of funding levels of the Program will have a major impact on the achievement of anticipated improvements.

Recommendation Two: That the Department of Justice utilise the experiences of the Pilot Program to develop a clear management and administrative framework which includes policies, procedures and guidelines to be applied to the rollout of the refined program.

The second recommendation acknowledges that the evaluation of the Pilot Program identified some inconsistencies in the establishment of the Program in the two locations of the Melbourne Magistrates' and the Dandenong Magistrates' Courts. It is clear from interviews with various stakeholders, particularly the community-based service providers, that the lack of a consistent framework for the Pilot Program in the initial stages contributed to the confusion that was experienced and discrepancies in the identification of client inclusion, exit point and case loads. An example was the various interpretations of what constituted a 'case' for the purposes of the Program and therefore funding.

The implementation of a consistent framework in both policy and practice will support newly established court services and avoid the confusion that was experienced during the pilot phase.

Recommendation Three: That the Department of Justice, in consultation with key stakeholders, establish a systematic approach with regards to client access to a rolled out Program and that a marketing strategy be developed and widely distributed to raise the profile of the Program.

How clients enter the Pilot Program was an issue of concern raised by most of the professional interviewees in the evaluation. The current practice appeared to be ‘hit and miss’ with different practitioners utilising different avenues for identification, selection and assessment for entry into the Program. These ranged from touting for business in court foyers to searching police cells for potential clients. While it is acknowledged that clients enter the court process through a range of screening processes it would seem prudent for the Department of Justice to establish a more systematic approach to identification and entry of potential clients to a bail advocacy and support services program.

It is not the intention of Recommendation Three to usurp the legitimate authority of courts in determining the suitability of bail for individual applicants, nor should it be seen to reduce the influence or role lawyers have in advising clients of their rights and legal requirements.

There appears little doubt that the current entry rules have previously and still allow potential clients to fall through the gaps in the system. This appears to translate into a greater number of defendants having bail refused than may be possible with a more systematic management of the entry rules of the Program.

A lack of knowledge of the Pilot Program was highlighted in interviews with various respondents, including clients and legal officers. A marketing strategy should assist to reduce the number of potential clients who fall through any gaps which exist after the development of the systematic approach to Program entry.

Recommendation Four: That the rollout of the Program be based on the ‘Melbourne model’, with bail support workers being engaged as court appointed staff and located at the courts. Close and strong working links with appropriate community-based organisations should, however, be developed and maintained

The design of the pilot program and its implementation under different frameworks establishment in two locations allowed a critical insight to be gleaned regarding the better model. At the Melbourne Magistrates' Court, the bail support worker was appointed, located at and accountable to the court. At the Dandenong Magistrates' Court, the model entailed the funding of an existing community-based program, which was required to be modified to accommodate the aims and objects of the Pilot Program. The location of the Program was in the proximity of the court but not associated with the court building although, in one of the three community-based agencies a bail support worker did negotiate use of a room within the court building. Accountability of the worker was to the funded body.

In comparing the outcomes of the two models it is difficult to be overly definitive as a wide range of variables impacted on the implementation and success of the Program at the various locations. It did become clear however, as a result of interviews with many stakeholders from each location, that the Melbourne model was perceived to be the better model. Even workers involved in the delivery at Dandenong commented that:

Really the clients have been disadvantaged by the fact that the workers have been employed by a community agency. We haven't purchased treatment through COATS, for example, which you would do if you were part of the court system, which means clients are disadvantaged in accessing treatment. We could advocate more strongly for more appropriate housing in the area, we could develop links with proper protocols with mental health services that are a bit more aware of bail clients and what their needs are.

I think that had we been part of the system, the Magistrates might have said "we should get the bail co-ordinator to go in and see this person, and I would like to know X and Y about this", or the police prosecutor might say it. I can see acute advantages of being part of the system.

It must be acknowledged that clients interviewed expressed conflicting views about the location of the bail support worker. Some clients felt it appropriate and positive that the worker be located at the court whereas other clients felt attending court was

uncomfortable and sometimes intimidating. There were also mixed views amongst other respondents, particularly those in management roles who perceived benefits in having a 'mixed mode' model for delivery. The basis of this view appeared to be that both Melbourne and Dandenong models were successful and that servicing the diversity of client needs, within a variety of contexts, was maximised within this model. While acknowledging that this argument has some foundation, it is clear from the data collected that the Melbourne model is more effective, efficient and received greater support than that which evolved at Dandenong.

Overall, there would appear to be greater gains to be experienced from a court-based model than the community-based one. Aside from the obvious benefits derived from working directly for the court and being based within the court, a critical factor is that court appointed staff have legitimate authority which can be most helpful in accessing both government and NGO services. Community-based staff found it difficult to access government services, particularly those in the justice system, and yet did not appear to have any significant advantage in NGO access.

Isolation and worker safety are also issues of concern raised in the evaluation and must be considered in the development of the State-wide program. Staff based within the court structure should overcome or minimise the isolation issue but staff security requires further analysis by the Department of Justice. The nature of the role performed by bail support workers and the expressed need to engage clients in an informal and supportive manner may place workers in vulnerable situations. Workers must be aware of these matters and support services should be provided to minimise risk.

The availability of direct links, within the same organisation, to other services (e.g. accommodation services) was perceived to be a positive feature of locating the Pilot Program in a community-based agency. There was, however, the possibility that a part-time bail support worker, who might carry another part-time role in the agency, could encounter serious conflicts of interest in their work. The bail support team at the Melbourne Magistrates' Court was able to develop and maintain an extensive network of linkages with support agencies outside the court. This involved not only knowledge about and contact with appropriate agencies, but also the ability to negotiate access to agency services for the client. It is regarded as essential that a

court-based bail support program should be able to develop and maintain a similar pattern of linkages and access for clients.

Recommendation Five: That an employee profile be developed based on the exemplars of existing bail support staff and that a human resource management plan be established for existing and new employees.

The selection of appropriate staff for work in the bail support role was seen as crucially important to the success or otherwise of the Program. The mix of skills identified by some respondents includes the areas of: welfare - including drug & alcohol and accommodation; legal - including court processes and advocacy; cultural and linguistic diversity; and, of course, a well established network and understanding of government and NGO services. It would be useful to establish a preferred staff profile based on the strengths of the existing bail support workers and then re-design the job description accordingly. Experienced bail workers should assist with the selection of new workers in the area. A mentoring program, which utilises the skills of experienced bail workers to assist new employees, would be beneficial, as would a professional development, promotion and succession plan for existing staff and their positions.

The work of the Legal Aid Bail Advocate was seen to be more of a short-term initiative that could focus on the organisation of the electronic information database and may be phased out with the expansion of the Program to suburban and rural courts.

The numbers are impressive and increasing because you've got people who are that committed. The whole system would fail if the person that you put in as the bail advocate was a 9-5 public servant, in the most derogatory sense - who couldn't give a rats about the person coming to them.

Experience in case management as a framework for the work of the bail support worker was seen as critical by many interview respondents and should be considered as part of the skill mix for new workers.

Recommendation Six: That a gap analysis of the services developed under the Pilot Program be undertaken. The analysis should include consideration of the type, location, availability, funding criteria, accountability and cost of the services.

There is little doubt that the range of services required to be provided through the Pilot Program was far broader than ever anticipated. The majority of clients at the Melbourne Magistrates' Court required two or three referrals to outside support agencies and/or services. Clients of the Pilot Program service as well as many other respondents identified that the most critical need for improvement of services was in the area of supported housing for people that are likely to be refused bail because of homelessness. The question of housing for bail clients is complex, with issues including offence type (particularly violence related offences) drug usage and criminal history being used in some circumstances to refuse accommodation. Further investigation is required to establish the funding criteria for accommodation to ensure compliance and to examine a more systematic approach to housing services to bail applicants. Drug and alcohol therapeutic and treatment services are also areas that require further exploration in terms of their availability, suitability, access and outcomes. With many clients of the Pilot Program having some form of drug and alcohol issue, it is important that appropriate services be available to maximise the likelihood of success within the Program.

The outcome of the gap analysis should be used to refine and focus key services to ensure the needs of clients of the Pilot Program are fully met. Some respondents suggested that a database of available services could be established which would allow a bail support worker to identify the nearest available service. The maintenance of such a database could be provided by the Department of Justice or out-sourced, and compliance with input into the database could be built into funding of agencies that provide relevant services. An example could be a bed becomes available at a funded support housing service in Springvale, the database is updated by the service provider and accessed by the bail support worker if required.

APPENDIX A

Client Interview Schedule

Interview Schedule - Defendants

Bail Advocacy and Support Services

Pilot Program Evaluation

INTERVIEWER:.....

INTERPRETER (LANGUAGE):

LOCATION:

DATE:

CHECKLIST:

Plain language statement

Consent form signed

Permission to record

Section 1: Personal Background

Before we discuss your experiences with the bail advocacy program I would like to ask you some general questions about your personal background.

Gender: 1 female

 2 male

Current age: years of age

Were you born in Australia or overseas?

1 Australia

2 Overseas

(If other country, ask)

What country?

At what age did you come to Australia?..... . years of age

How would you describe your racial/ethnic background?

.....
.....

What is the highest grade or year of school that you have completed?

No formal schooling 1

Some primary schooling 2

Completed primary 3

Some secondary schooling 4

Completed Year 10 5

Completed Year 12 6

Other (please specify) 7

.....

In general, how would you describe your school life?

.....
.....
.....

.....

Do you have any brothers or sisters?

Brothers:

Sisters:

Have your parents either divorced or separated?

Yes How old were you when it occurred?

Approximately..... . years of age.

No

In general, how would you describe your family background?

.....
.....
.....
.....

Are you married?

- Never married 1
- Married 2
- Defacto 3
- Separated 4
- Divorced 5

Widowed 6

Other (please specify) 7

.....

Do you have any children?

Daughters:

Sons:

What is your current work situation?

In full-time paid work 1

In part-time work 2

In casual paid work 3

Performing home duties 4

A full-time student 5

Unemployed 6

Retired or a pensioner 7

Other (please specify) 8

(If working, ask)

What is your occupation?

On average, how much money do you receive each week?

What type of accommodation are you currently living in?

.....

.....

Section 2: Criminal Justice and Substance Background

What offences are you currently charged with and on bail for?

.....
.....
.....
.....

Is this your first experience with the criminal justice system?

.....
.....
.....
.....

Have you ever experimented with drugs?

Yes 1

No 2

If yes, ask to specify type(s) and frequency of use.

.....
.....
.....
.....

Section 3: Experience with and perceptions of the bail advocacy and support services program

I would like to talk in some detail now about your experience with and perceptions of the bail advocacy and support services program.

How did you find out about the Program?

.....
.....
.....
.....

What location did you first access the Program at?

.....

When did you first access the Program? (Approximate of year and month)

.....

How many times have you accessed the Program?

Overall, how long have you been involved in the Program?

.....

In general, how would you rate your experiences in the Program?

- Excellent 1
- Good 2
- Satisfactory 3
- Poor 4
- Very poor 5

What is your understanding of the Program? How does it work?

.....
.....
.....
.....

Could you describe in detail your experiences in this program? (Services accessed, type of support received etc.)

.....
.....
.....
.....
.....
.....
.....
.....

What were the best features of the Program for you? (What worked for you? Why?)

.....
.....
.....
.....

Are there any aspects of the Program that you did not like? (Identify weaknesses)

.....

.....
.....
.....

What would make the Program better from your perspective? (How can the service be improved?)

.....
.....
.....
.....

How has the Program impacted on your experiences of the Magistrates Court?

.....
.....
.....
.....

What question about your experiences of the Program have I left out?

.....
.....
.....
.....

Are there any final questions?

.....

.....

.....

.....

Thank-you for taking the time to participate in this study

Reiterate outcome(s) of the study and provide payment

APPENDIX B**Explanatory Statement - Clients****Explanatory Statement / Participant Information Form for
Project Participants (Defendants)****1. Title of project and contact person*****Pilot Bail Advocacy and Support Services Program Evaluation Project -
undertaken by RMIT University***

If you have any questions or complaints about any aspect of the project, the way it is being conducted or any questions about your rights as a research participant, then you may contact

Name: Dr. Julian Bondy

Position: Principal Researcher

Telephone: 9925 7790

1.1 Other researchers:

As a large number of interviews are being conducted, you may be interviewed by one of the following people:

Dr Julian Bondy

Mr. Alan Ogilvie

Ms Kathy Douglas

Mr. Brad Astbury

The contact details for all of these people is:

The Department of Justice and Youth Studies

RMIT University – Bundoora Campus

PO Box 71 Bundoora Victoria 3083

Tel: 99257920

Fax: 99257931

2. Description of the Project & your participation

The purpose of this project is to gain a better understanding of the views and experiences of people who have been involved in the Bail Advocacy and Support Services Project. This research is being conducted on behalf of the Office of the Correctional Services Commissioner.

A total of 30-40 people will participate in this project.

When attempting to obtain bail or other support services, many defendants find it difficult to demonstrate support from these services. Previous experience has shown that for many people, early diversion from the criminal justice system reduces the likelihood of their involvement in later years. The Bail Advocacy and Support Services project aims to increase the chances of a defendant being granted bail, and successfully completing the bail period by providing appropriate accommodation, supervision and access to support programs.

By talking to you about your experiences we hope to learn more about how this program is operating. We are also interested in listening to your views on what can be done to improve the Program.

You are invited to participate in this evaluation project because we feel that you can make a positive contribution to this area and provide us with valuable insight based on your experiences. This is a good chance to have your views heard on things that have affected you and other young people.

Participation in this project will involve an informal interview for a half hour to an hour. What you say will be recorded on a tape to make sure that we do not miss out on any of the important things you say.

3. Possible Benefits

This is a great opportunity for you to express yourself and tell other people what your views on this matter are. There are many other people who may benefit from what you have to say.

4. Possible Risks

The risks of participating in this study are very minimal. The interview is intended to be an informal discussion so that you can freely express your views in a relaxed way.

If at any stage you feel uncomfortable please let someone know. Remember, participation is purely voluntary and you can suspend or even stop the interview at any time and nothing more will be said.

You are entitled to speak with a support person or someone else whom you are comfortable with if you feel extremely distressed about something that has been raised in the interview.

You will not be asked about any specific details of non-adjudicated offences, as this information may need to be disclosed. If this occurs the taping will be stopped and those sections erased.

5. Details of payment

The research team acknowledges and recognises the value and contribution of your time. It will provide twenty dollars to cover travel and related expenses.

6. Confidentiality of results

Any information obtained in connection with this project that can identify you will remain confidential. It will only be disclosed with your permission, except as required by law. If you give us your permission by signing the Consent Form, we plan to use the information that you and other people provide us with in a written report.

In any publication, information will be provided in such a way that you cannot be identified. Your real name will not be used and any other information that could be used to identify you will be modified.

7. Further Information or Any Problems

If you require further information or if you have any problems concerning this project you should generally contact the principal researcher, Dr. Julian Bondy at

Dr. Julian Bondy

Department of Justice and Youth Studies

RMIT University – Bundoora Campus

PO Box 71

Bundoora Victoria 3083

Tel: 99257790

Fax: 99257931

If your concerns about the conduct of this research remain unresolved you may contact the Secretary of the Ethics Committee of the Department of Justice that has approved the ethical aspects of this study. The Secretary can be contacted at telephone 96516970; fax 96516955, or by writing to the Research Ethics Committee, Department of Justice Victoria, GPO Box 4356QQ, Melbourne Victoria 3001

APPENDIX C**Explanatory Statement - Key Interviewees****Explanatory Statement / Participant Information Form for Key Interviewees****1. Title of project and contact person*****Pilot Bail Advocacy and Support Services Program Evaluation Project - undertaken by RMIT University***

If you have any questions or complaints about any aspect of the project, the way it is being conducted or any questions about your rights as a research participant, then you may contact

Name: Dr. Julian Bondy

Position: Principal Researcher

Telephone: 9925 7790

1.1 Other researchers:

As a large number of interviews are being conducted, you may be interviewed by one of the following people:

Dr Julian Bondy

Mr. Alan Ogilvie

Ms Kathy Douglas

Mr. Brad Astbury

Ms. Michele Ruyters

The contact details for all of these people is:

The Department of Justice and Youth Studies

RMIT University – Bundoora Campus

PO Box 71 Bundoora Victoria 3083

Tel: 99257920

Fax: 99257931

2. Description of the Project & your participation

The purpose of this project is to gain a better understanding of the views and experiences of people who have knowledge of the Bail Advocacy and Support Services Project. This research is being conducted on behalf of the Office of the Correctional Services Commissioner.

A total of 30-40 people will participate in this project.

When attempting to obtain bail or other support services, many defendants find it difficult to demonstrate support from these services. Previous experience has shown that for many people, early diversion from the criminal justice system reduces the likelihood of their involvement in later years. The Bail Advocacy and Support Services project aims to increase the chances of a defendant being granted bail, and successfully completing the bail period by providing appropriate accommodation, supervision and access to support programs.

By talking to you about your perceptions we hope to learn more about how this program is operating. We are also interested in listening to your views on what can be done to improve the Program.

You are invited to participate in this evaluation project because we feel that you can make a positive contribution to this area and provide us with valuable insight based on your perceptions

Participation in this project will involve an informal interview for a half hour to an hour. What you say will be recorded on a tape to make sure that we do not miss out on any of the important things you say.

3. Possible Benefits

This is a great opportunity for you to express yourself and tell other people what your views on this matter are. There are many other people who may benefit from what you have to say.

4. Possible Risks

The risks of participating in this study are very minimal. The interview is intended to be an informal discussion so that you can freely express your views in a relaxed way.

If at any stage you feel uncomfortable please let someone know. Remember, participation is purely voluntary and you can suspend or even stop the interview at any time and nothing more will be said.

You are entitled to speak with a support person or someone else whom you are comfortable with if you feel extremely distressed about something that has been raised in the interview. The Office of the Commissioner of Corrections can provide qualified counselling and support to you if it is required.

5. Confidentially of results

Any information obtained in connection with this project that can identify you will remain confidential. It will only be disclosed with your permission, except as required by law. If you give us your permission by signing the Consent Form, we plan to use the information that you and other people provide us with in a written report.

In any publication, information will be provided in such a way that you cannot be identified. Your real name will not be used and any other information that could be used to identify you will be modified.

6. Further Information or Any Problems

If you require further information or if you have any problems concerning this project you should generally contact the principal researcher, Dr. Julian Bondy at

Dr. Julian Bondy

Department of Justice and Youth Studies

RMIT University – Bundoora Campus

PO Box 71

Bundoora Victoria 3083

Tel: 99257790

Fax: 99257931

If your concerns about the conduct of this research remain unresolved you may contact the Secretary of the Ethics Committee of the Department of Justice that has approved the ethical aspects of this study. The Secretary can be contacted at telephone 96516970; fax 96516955, or by writing to the Research Ethics Committee, Department of Justice Victoria, GPO Box 4356QQ, Melbourne Victoria 3001

APPENDIX D**Informed Consent Form****Informed consent form for research participant**

I _____ (name of participant) agree to participate in a research project entitled:

Bail Advocacy and Support Services Program Evaluation Project conducted by _____ (The Researcher) who has discussed this research with me.

I have had the opportunity to ask questions about this research and I have received answers that are satisfactory to me. I have read and kept a copy of the attached Information Sheet and understand the general purposes, risks and methods of this research.

My agreement is based on the understanding that:

1. I am aware of what I am expected to do.
2. The risks, inconvenience and discomfort of participating in the study have been explained to me.
3. I have read the attached participant information sheet and understand the general purposes, methods and demands of the study. All my questions have been answered
5. I understand that the project may not be of direct benefit to me.
6. I can withdraw from the study at any time without prejudicing me.
7. I am satisfied with the explanation given in relation to the project so far as it affects me and my consent is freely given.
8. I can obtain overall results of the study.

9. I consent to the publication of results from this study provided details that might identify me are removed.

Signatures

Signed by the participant: _____ Date:

Signed by the witness: _____ Date:

Signed by the researcher: _____ Date:

You may contact the researcher, Dr Julian Bondy on 99257790 with regard to any queries or concerns you may have with regard to your participation in this project.

Should you have any queries concerning this research is conducted please contact the Secretary to the Department of Justice Research Ethics Committee, 3/55 St Andrews Place, East Melbourne, 3002. Tel: 9651 6970.

(A signed copy must be given to participant.)