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ACTION ON BAIL LAW REFORM

Hon Justice M D Kirby

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The Hon. Mr. Justice M.D. Kirby
Chairman of the Australian Law Reform Commission

COMMON GROUND AND DISPUTED TERRITORY

A review of the papers presented to this Seminar indicates that some reform of the laws and procedures dealing with bail is agreed to be necessary. At the very least, there seems to be general agreement that absconding on bail should be introduced as a separate offence. Judge Muir's paper points out that this was one of the matters of general agreement amongst judges of the District Court of New South Wales.[1] Det. Sergeant Stirton and Detective Sergeant Morrisson call for the separate criminal offence of failing to appear whilst on bail "without reasonable excuse".[2] The paper by Mr. Ward does appear to indicate that bail absconding is an increasing problem in the higher courts of New South Wales.[3] The price of reform of bail law and procedure which meets the challenge thrown up by the Bail Review Committee's census[4] is a readiness for the substantive law to take more seriously the failure of an accused to comply with conditions of bail and to appear before the relevant court.

It also seems to be generally agreed that there would be value in organising the criteria to be applied in making the decisions necessary on a bail application. Susan Armstrong argues effectively for this.[5] Detective Sergeant Stirton and Detective Sergeant Morrisson agree that there is a great need for "some type of uniformity in the granting of bail both by police and the courts".[6] The District Court judges considered that some criteria could usefully be outlined in a statute. The points score obtained by the defendant in "an objective test" of his community ties was considered a relevant criterion in assessing the probability of appearance. His Honour, speaking for himself, recognises the value of the Manhattan system in introducing "a much greater degree of objectivity into a bail decision".[7] He says that he would welcome the introduction of the system which would undoubtedly be of assistance to any judge dealing with an application.

The going gets heavier after this. There is rank disagreement about the weight that should be given to the likelihood that the accused will commit further offences whilst on bail. The Bail Review Committee and Susan Armstrong argue powerfully against giving weight to this criterion.[8] Mr. Ward's paper suggests that, however much we may suspect that absconders commit further offences, the positive proof of the assertion is[9] to be found only in a small number of cases examined by him.

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1. Judge A.G. Muir, *Bail - A Judicial View*, p.4 (para. 5).
2. L. Stirton and R.P. Morrisson, *The Problem of Bail - A Policeman's View*, p.6
3. P.G. Ward, *Absconders from Bail*, p.9
4. S. Armstrong, *Bail Reform in New South Wales*, p.1
5. Armstrong, pp.4,8ff. 6. Stirton & Morrisson, p.6
7. Muir, p.6. 8. Armstrong, pp.14ff
9. Ward, pp.9-10

Judge Muir, whilst conceding that a person should not be kept in prison because it is suspected that he will commit a crime, nevertheless suggests that given the practical problems faced on the hearing of applications for bail, and the not infrequent evidence that the accused, before a court, has actually committed an offence whilst on bail, the likelihood of further offending should form part of the relevant criteria in any application for bail.[10] This conclusion is strongly supported by the police paper which asserts that if there is reasonable cause to believe that the offender will commit further crimes whilst on bail, this should play an important part in the court's deliberations.[11] Plainly this is something about which police feel strongly. No other assertion in the whole of the Seminar papers warranted, in the opinion of contributors, the accolade of capital type.

AN END TO TALKING

One of the greatest problems facing law reformers is that all too frequently, reports are prepared which come to nothing. Much intellectual energy, to say nothing of public funds, is thrown away and the law remains unreformed. Nowhere is this more true than in criminal law and procedure. The easiest thing is to muddle along. Those who suffer injustice are frequently inarticulate, poor, young or otherwise disadvantaged. It is to speak for them and for the standards of civilised society that reformers must do their work.

The digest of law reform reports prepared by the Australian Commission for the Standing Committee of Attorneys-General lists a very great number dealing with reform of bail law and procedure.[12] From England to Fiji, from India to Jamaica, from New Zealand to Sri Lanka, from Victoria to Papua New Guinea, busy commissions of inquiry, law reform agencies, royal commissions and government lawyers have expended enormous energies on proposing bail reform. Some legislation has, of course, been enacted. Some is still under consideration. The Commonwealth Attorney-General, Mr. Ellicott, strikes a sympathetic chord for all reformers when he says :

> "There is no logic in law reform bodies producing reports and spending large amounts of public money in the process if the reports are to lie unread, gathering dust on Ministerial shelves".[13]

Introducing the *Criminal Investigation Bill 1977*, which includes proposals for the reform of police bail, the Attorney-General said :

> "Although a large number of reports have been produced and many reforms proposed, I think it is fair to say that this Bill represents the most significant legislative initiative in this field to be taken in the Commonwealth of Nations at least since the last War and probably since the establishment of modern police forces. It comes to grips with a whole

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10. Muir, pp.6-7. 11. Stirton & Morrisson, p.6
12. For details of the *Law Reform Digest* see Australian Law Reform Commission, *Annual Report 1976*, A.L.R.C.5, pp.32ff.
13. R.J. Ellicott, Q.C., M.P., Second Reading Speech on *Criminal Investigation Bill* 1977 (Cwth), Cwth. Parl. Debates (H of R), 24 March 1977, p.563.

> variety of difficult issues upon which there has been much writing, widespread dissatisfaction but little legislative action". [14]

In presenting the Bill the Attorney-General stressed the need to strike a proper balance between protection of the community and criminal law enforcement, on the one hand, and basic rights and freedoms of the individual on the other.[15] He puts the movement for reform of our criminal procedures into the international context of steps taken internationally to advance human rights.[16] He cautions against self-satisfaction with our criminal justice system and lays emphasis, as did the Commission, upon the need to face up to the developments of science and technology.[17] The Bill is presently on the Table of the Commonwealth Parliament. The Attorney-General has invited comment and criticism :

> "Any suggestions for improvement of the legislation will be very carefully considered before the Bill is proceeded with. It is important in matters as vital to the proper operation of the criminal justice system as this Bill that proposals for legislation should be thoroughly and carefully weighed before the law is finally enacted. It is also vital that the community should be involved in the formulation of this legislation". [18]

Because the Bill contains proposals for bail law reform, this Seminar comes at a particularly apt time. It will no doubt also be useful to the New South Wales Government which has shown a willingness to ventilate these difficult issues in the forum of the community so that all points of view can be carefully weighed by government before proceeding to legislation. The time has come, however, for *some* reform. Differences will exist about the precise context of reform. That *some* reform is needed is really beyond question.

THE A.L.R.C. PROPOSALS

Bail came up for consideration in a number of contexts in the Australian Law Reform Commission's Report *Criminal Investigation*. Of course, the Commission's inquiry was limited to police bail. Nevertheless, some of the problems are common and the recommendations and action upon them is therefore of general concern.

A number of the points dealt with were fairly specific. For instance, in considering the special problems of minority groups, the difficulties faced by migrants released on bail were referred to.[19] In Italy, for example, it is rare for offenders to be released before trial. When they are released, bail money is seldom required. Consequently, bail can be and often is confused with a fine. An uninstructed migrant may not appear to answer a charge because of such a misunderstanding. Recommendations were made to ensure the

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14. Ellicott, p.566
15. *ibid*, p.564
16. *ibid*, p.563
17. *ibid*, p.566
18. *ibid*, p.566
19. Australian Law Reform Commission, *Criminal Investigation*, A.L.R.C.2, 1975, p.124.

provision, in the criminal process, of competent interpreters, of notices in a number of ethnic languages and so on. 20

The Commission's general recommendations on release and bail are summarised on page 150 of the Report :

RELEASE AND BAIL

349. It should be made clear that a police officer is entitled to release a person in custody at any time without a charge being laid or a summons issuing, with no liability being attracted provided the restraint was well grounded in law until the time of release (Para. 165).

350. It should be made clear that there is an obligation immediately to release a person arrested when one or other of the criteria necessary to justify that arrest no longer apply (Paras 44, 165).

351. There should be detailed legislative provisions governing the release of persons on police bail. So far as possible the principles should be the same for police as court bail. The latter is outside our present terms of reference, but needs urgent law reform attention (Para. 173).

352. Persons in custody charged with an offence should be fully notified of their rights to apply for bail, to have legal advice in this respect and to communicate with such other people as may be necessary to obtain assistance. The criteria and conditions on which bail may be granted should also be notified in writing (Para. 175).

353. The bail decision should be made within the four-hour maximum time limit (as lawfully extended) for custodial investigation. It should be capable of being made by any police officer of or above the rank of sergeant or for the time being in charge of a police station (Para. 175-6).

354. The bail decision should be made by reference to specific criteria set out in legislation. These should address attention respectively to (a) the probability of appearance at court, (b) the interests of the accused and (c) the protection of the community. The last-mentioned criterion should not include 'the probability of the accused committing further offences': the Commission does not favour the power of preventive detention. Consideration should be given to adapting the Manhattan points system for determination of probability of appearance, and incorporating this practical scheme in bail procedure by way of regulations or police commissioner's orders (Paras 178-182).

355. There should be much more flexibility as to the conditions on which a person may be released on bail. Non-monetary conditions should be emphasised. Various classes of conditions should be set out in the legislation in an increasing order of stringency, with the police officer obliged to set the least onerous condition consistent with the person's release. The traditional language in which bail conditions have been set should be modernised and simplified (Paras 174, 183-6).

356. There should be a right of immediate appeal to a magistrate (by telephone if necessary) if bail is refused or conditions considered too stringent are imposed (Para. 175).

357. A person released on bail who wilfully and unreasonably fails to appear as instructed or breaks a condition of release imposed on him should be guilty of a criminal offence (Para. 177).

358. Other minor reforms with respect to police bail should include:

(a) provision to enable the subsequent deposit of cash in lieu of security where money bail is set (Para. 187);

(b) provision enabling payment of bail money by cheque rather than cash if this is acceptable to the police officer (Para. 187);

(c) provision removing the 14-day limitation on duration of police bail which has proved onerous in some jurisdictions (Para 175); and

(d) provision enabling a person charged with multiple offences to be bailed on one alone (Para. 175).

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20. *ibid*, p.125. See now *Criminal Investigation Bill* 1977 (hereafter, the Bill), clause 27 and clause 49(2)(a)

THE CRIMINAL INVESTIGATION BILL 1977 (Cwth)

The Bill is by any standards a major measure of reform. For example, it introduces strict criteria for arrest and encourages proceedings by police by way of summons. It introduces obligations to inform persons of their rights and to provide access to a lawyer during investigative action. In introduces special rules in relation to interviews of Aboriginals, persons not fluent in English and children. After two decades of talk, it introduces provisions for the verification of confessional evidence, including by way of sound recording apparatus (tape recorders). It provides for photography of identification parades to ensure their fairness. It provides reformed procedures for search and seizure, including the issue of warrants by telephone. It forbids entrapment and enforces its provisions, inter alia, by the Scottish reverse onus discretionary rule for the exclusion of evidence obtained in contravension of the Code.

The provisions for police release and bail are contained in clauses 49 to 58 of the Bill. The clauses are attached as an Appendix to this paper. It is sufficient for present purposes to draw attention to the major provisions.

Clause 49(1) requires that the primary obligation of a police officer who charges a person with an offence is to bring that person before a magistrate forthwith, after he is charged. This is to be done, if it is possible. It underlines the principle that, once a person is charged, he should be transferred as quickly as possible from the committed executive arm of government to the independent judicial arm so that the accused can be dealt with according to law, including upon an application for bail.

An obligation is imposed upon the police officer who charges the person, if he is authorised to grant bail to determine it or, if he is not so authorised, to bring the person before a police officer who is so authorised.[21] To avoid undue delay, it is provided that a police officer "authorised" is one who holds the rank of sergeant or above or who is in charge of a police station.[22]

The police officer required to consider a bail application is required to do so "forthwith" but after giving a person access to a lawyer or other friend.[23]

The critical provision of criteria for the granting of bail is to be found in clause 51 which sets out the "matters relevant to the granting of bail by a police officer". Those matters are :

> (a) matters related to the probability of the person appearing in court in respect of the offence if granted bail;
> (b) matters relating to the interests of the person; and
> (c) matters relating to the protection of the community.

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21. cl. 49(2)(c)
22. cl. 49(3)
23. cl. 50(1)

In one particular, the criteria proposed differ from those suggested by the Commission. The Commission dealt with the question of whether it was relevant to direct the attention of the bail grantor to the "likelihood of the defendant committing further offences should he be released". In the Commission's report reference was made to the judicial favour with which this criterion had been met. The views of Atkinson J. in *R v. Phillips*[24] and Scholl J. in *R v. Light*[25] were cited. The Commission concluded against including that criterion on the basis that "preventive detention is not part of the rule of law ... If the accused on release proceeds to commit another offence he should be dealt with then. He should not be punished in advance by the loss of his liberty because of speculation as to what he might do if he secures it." 26 The Government in accepting the general recommendations of the Commission did not accept this view. The draft Bill has therefore added to the "matters relating to the protection of the community" the following new criterion :

> 5(1)(c)(ii) If the person has been convicted of an offence or offences - the likelihood, having regard to that conviction or those convictions, of the person committing an offence or offences while released on bail.

It can be said that this amended formula reproduces what McClemens J., a most experienced trial judge, said in *R v. Prentice*[27] and cited by Judge Muir on p.3 of his paper. The criterion of likelihood of committing further offences cannot simply be invented. It must be based upon the presence of a past conviction or convictions. In that sense, the indulgence in the so-called "foresight saga" is circumscribed. Law reform commissions propose. Parliaments dispose. The Bill certainly reflects views that were put to the Commission in public sittings, footnoted in the report. They also reflect, as Judge Muir suggests, a widespread public view on the subject. I confess to having been dissuaded from that view myself only after powerful argument. The Bill represents, on this subject, a compromise between those who would exclude consideration of future offences entirely and those who would allow a complete discretion, without prerequisite requirements, in judging the likelihood or otherwise of future offences whilst on bail.

Clause 52 lays down the conditions of police bail and, expresses in modern language the several approaches to bail, adding emphasis to non-monetary conditions. Clause 53 requires that the bail decision shall be given to the person charged and that person informed immediately of his entitlement to access to a lawyer, to be brought before a Magistrate and to a copy of the reasons recorded for refusal.

Clause 54 introduces the interesting provision of appeal against police bail decisions by telephone. Sometimes, especially in the Northern Territory, the right to be brought before the first visiting Magistrate is a fairly hollow right. This is another case where the developments of science and technology can be at last recognised by the criminal law. The Commonwealth Attorney-General put it this way :

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24. (1947) 32 *Cr.App.R.* 47.
25. [1954] *V.L.R.* 152 at p.156.
26. A.L.R.C.2, p.85.
27. (1957) 74 *W.N.* (*N.S.W.*) p.440.

> "Especially in a large country, such as Australia, and in remote districts, it is difficult to believe that telephones should not be specifically recognised as appropriate instruments for permitting, indeed encouraging, judicial superintendence over police decision on bail, searches and so on". 28

Clause 56 permits the deposit of bail moneys in cash or "at the discretion of the police officer by cheque or other prescribed means". In the credit society, it is quite unreasonable to expect every potential accused to find large amounts of cash as deposit before securing release. With appropriate precautions, there is no reason at all why other means of payment, used throughout our society, should not be permitted and encouraged.

Clause 58 provides for an offence by a person who has been released on bail where he "wilfully and unreasonably fails to comply with an undertaking given by him as a condition of his release". The penalty is not to exceed the maximum that could be imposed upon him upon conviction for the offence in respect of which he was released on bail. A maximum in any case of a fine of $1000 or a period of imprisonment of six months is provided.

CONCLUSIONS

The *Criminal Investigation Bill 1977* takes the bail reform debate a step further. True it is that the Bill is limited to the Commonwealth Police. Equally true is it that it applies only to police bail and not to court bail. The Bill presently lies on the table of the Commonwealth Parliament. The Attorney-General has invited comments and it may yet be amended.

The reforms proposed are found in the context of a major modernisation of the criminal investigation process which the Attorney-General of the Commonwealth has suggested "could become a model for all criminal investigation in Australia".[29] As in any other issue of reform, especially in this sensitive, difficult area, not everyone will be pleased. However, if this seminar and the papers presented to it are any guide, the bail reforms proposed do represent a positive step forward. In particular, I suggest that the following reforms are laudable and could bear consideration by this Seminar and for application beyond the Commonwealth Police.

* The obligation to inform a person in a language in which he is fluent of his right to bail and to a facility of contact with a lawyer for that purpose.
* The provision of clear criteria for the granting of bail, including criteria which form a checklist to provide simplicity and uniformity in making bail decisions.
* The provision of emphasis upon non-monetary forms of security.
* The simplification of the language of bail.

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28. Ellicott, p.566
29. *ibid*, p.566

* The notification of rights of review of bail.
* The provision in appropriate cases for telephone appeals against police bail decisions to provide, by the means of the 20th century, a relevant judicial superintendence over these decisions.
* The provision for non-cash deposit of security.
* The provision of an offence for failing to comply with bail undertakings.

There are, of course, other measures of reform that go beyond this Bill. Broader questions are certainly raised in respect of court bail. In view of the recent experience in federal courts, I enter a note of caution concerning Judge Muir's postscript on in-camera proceedings in this or any other criminal case.[30] The appeal of my paper is that the many proposals for bail law reform should now be given the Parliamentary consideration they deserve.

30. *Cf.* R.J. Ellicott, Commonwealth Parliamentary Debates (H of R) 25 May 1976, p.2531 concerning s.97 *Family Law Act.* See as to the duty of newspapers reporting committal proceedings *R v. Fletcher* (1949) 113 J.P. 365 (C.C.A.)

49. (1) A Police Officer who charges a person with an offence shall, if it is possible for the person to be brought before a Magistrate forthwith after he is charged, bring the person, or cause the person to be brought, before a Magistrate forthwith to be dealt with according to law.

(2) Where a Police Officer who charges a person with an offence is unable to comply with sub-section (1), the Police Officer—

(a) shall inform the person, or cause the person to be informed in writing in a language in which he is fluent and also, if practicable, orally—

(i) that he may communicate with a lawyer of his choice in connexion with the making of an application for bail; and

(ii) that he may communicate with any other person of his choice in connexion with the provision of bail;

and, if the person asks for facilities to do so, shall provide the person, or cause the person to be provided, with reasonable facilities to enable him so to communicate with a lawyer or other person;

(b) shall furnish to the person, in writing and in a language in which he is fluent and also, if practicable, orally, particulars of the matters that are relevant to the granting of bail and the conditions subject to which bail may be granted; and

(c) shall, if he is authorized to grant bail—determine whether bail should be granted to the person, or, if he is not so authorized, bring the person before a Police Officer authorized to grant bail to the person.

(3) In this section, a reference to a Police Officer authorized to grant bail is a reference to a Police Officer who holds the rank of sergeant or a higher rank or to any other Police Officer who is the Police Officer in charge of a Police Station.

50. (1) A Police Officer who is required to consider whether to grant bail to a person charged with an offence shall forthwith, but after affording the person, or a lawyer assisting the person, and a Police Officer concerned with investigating the offence, opportunities to make submissions to him concerning any matters specified in sub-section 51 (1) that are relevant to the granting of bail, decide whether, having regard only to the information before him concerning those matters and to sub-sections (2), (3) and (4) of this section, to grant, or refuse to grant, the person bail.

(2) A Police Officer—

(a) shall not grant bail to a person otherwise than subject to the condition specified in paragraph 52 (a); and

(b) may, subject to sub-sections (3) and (4), grant bail to a person subject to such other conditions, being conditions specified in section 52, as he deems appropriate.

(3) A Police Officer—

(a) shall not grant bail to a person subject to a condition specified in paragraph 52 (b), (c), (d), (e) or (f) unless he is of the opinion that the fulfilment of the condition is necessary to secure 1 or more of the following purposes, namely, the attendance of the person before the Court to answer the charge, the protection from physical injury of the person charged, the protection from physical injury of other persons connected with the charge and the prevention of the person charged from interfering with evidence, intimidating witnesses or hindering inquiries into the charge; and

(b) shall not grant bail to a person subject to conditions that include a condition specified in a particular paragraph of section 52, being paragraph 52 (b), (c), (d), (e) or (f), unless he is of the opinion that fulfilment of any conditions that include only conditions specified in the paragraphs of that sub-section that precede that particular paragraph would be unlikely to secure the purposes referred to in paragraph (a) of this sub-section.

(4) A Police Officer may, at the request of a person charged with an offence, grant him bail subject to any conditions specified in paragraphs 52 (b), (c), (d), (e) and (f) that he thinks appropriate to secure the purposes referred to in paragraph (3) (a) of this section notwithstanding the provisions of paragraph (3) (b) of this section.

(5) Where a Police Officer decides to grant bail to a person subject to conditions that include a condition specified in a particular paragraph of section 52, being paragraph 52 (b), (c), (d), (e) or (f), otherwise than at the request of the person, he shall record his reasons for deciding that fulfilment of any conditions that include only conditions specified in the paragraphs of that sub-section that precede that particular paragraph would not secure the purposes specified in paragraph (3) (a) of this section.

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51. (1) For the purpose of sub-section 50 (1), the matters relevant to the granting of bail by a Police Officer to a person charged with an offence are—

(a) matters related to the probability of the person appearing in court in respect of the offence if granted bail, that is to say—

(i) the background and community ties of the person having regard to the nature of his residence, employment and family situation and to his police record, if known; and

(ii) the circumstances in which the offence was committed, the nature and seriousness of the offence, the strength of the evidence against the person and other information relevant to the likelihood of his absconding;

(b) matters related to the interests of the person, that is to say—

(i) the period that the person may be obliged to spend in custody if bail is refused and the conditions under which he would be held in custody;

(ii) the needs of the person to be free for the purposes of preparing for his appearance before the court and obtaining legal advice and for other purposes; and

(iii) the need of the person for physical protection, whether the need arises because he is incapacitated by intoxication, injury or the use of drugs or arises from other causes; and

(c) matters related to the protection of the community that is to say—

(i) the likelihood of the person interfering with evidence, intimidating witnesses or hindering police inquiries; and

(ii) if the person has been convicted of an offence or offences—the likelihood, having regard to that conviction or those convictions, of the person committing an offence or offences while released on bail.

(2) In paragraph (1) (c), a reference to an offence includes a reference to an offence against a law of a State or of a country other than Australia.

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52. The conditions referred to in sub-section 50 (2) in relation to a person charged with an offence are—

(a) that he undertake, in writing, to appear before a specified court at a specified time and place, or at such other time and place as is notified to him by a Police Officer;

(b) that he undertake, in writing, to observe specified requirements as to his conduct while released on bail, not being requirements with respect to the giving of security, the depositing of money or the forfeiture of money;

(c) that another person acceptable to the Police Officer acknowledge, in writing, that he is acquainted with the person charged and regards him as a responsible person who is likely to appear in court to answer the charge;

(d) that the person charged, or another person acceptable to the Police Officer, enter into an agreement, without security, to forfeit a specified sum if the person charged fails to appear in court when required to do so for the purpose of answering the charge;

(e) that the person charged, or another person acceptable to the Police Officer, enter into an agreement, and give security acceptable to the Police Officer, to forfeit a specified sum if the person fails to appear in court when required to do so for the purpose of answering the charge; and

(f) that the person charged, or another person acceptable to the Police Officer, deposit with the Police Officer a specified sum to be forfeited if the person fails to appear in court when required to do so for the purpose of answering the charge.

53. (1) A Police Officer shall, forthwith after deciding under section 50 whether to grant bail, or to refuse to grant bail, to a person charged with an offence, inform the person of his decision and also inform the person —

(a) that he is entitled to request a Police Officer, at any time before he is brought before a Magistrate in connexion with the offence, to provide facilities for him to apply to a Magistrate for bail;

(b) that he is entitled to communicate with, and have the assistance of, a lawyer in connexion with such an application; and

(c) that he is entitled to be furnished, upon request to a Police Officer, with a copy of the reasons (if any) recorded in accordance with sub-section 50 (5).

(2) A Police Officer shall, upon request by a person who is in custody in consequence of having been charged with an offence and has been granted or refused bail under sub-section 50 (1), provide the person with reasonable facilities to communicate with a lawyer in connexion with the grant or refusal of bail.

(3) A Police Officer shall, upon request by a person who is in custody in consequence of having been charged with an offence and has been granted bail under sub-section 50 (1), furnish to the person a copy of the reasons (if any) recorded in accordance with section 50 (5) in relation to the decision to grant him bail.

54. (1) Where a Police Officer refuses, under section 50, to grant bail to a person charged with an offence, or grants bail to such a person but the person is unable or unwilling to comply, or arrange for another person to comply, with any of the conditions (not being the condition specified in paragraph 52 (a)) subject to which bail was granted, the person shall be brought before a Magistrate or Justice to be dealt with according to law as soon as it is practicable to do so and not later than the first sitting of a court at a place to which it is practicable to take the person for that purpose.

(2) A person who is waiting in custody to be brought before a Magistrate or a Justice in accordance with sub-section (1) may, at any time, request a Police Officer for facilities to make an application for bail and, if he does so, the Police Officer shall, as soon as practicable after he makes the request and, if possible, within one hour after he makes the request, bring him before a Judge, Magistrate or Justice in person or arrange for him to make application to a Judge or Magistrate by telephone for bail.

(3) A Police Officer shall not—

(a) bring a person before a Judge in person, or arrange for a person to make application to a Judge by telephone for bail if it is practicable to bring him before a Magistrate or a Justice in person or arrange for him to make application to a Magistrate by telephone for bail;

(b) arrange for a person to make application to a Judge by telephone for bail if it is practicable for him to be brought before a Judge in person; or

(c) arrange for a person to make application to a Magistrate by telephone for bail if it is practicable to bring him before a Magistrate or Justice in person.

(4) Where a person makes application for bail to a Judge or Magistrate by telephone, the Judge or Magistrate may, after affording the applicant or a lawyer acting on his behalf and the Police Officer concerned opportunities to make submissions to him, in his discretion, grant, or refuse to grant, the person bail.

(5) In this section "Magistrate" does not include a Justice.

55. (1) Where a person is charged with 2 or more offences at the same time—

(a) a Police Officer considering whether to grant bail to the person shall decide, at the same time, whether to grant, or refuse to grant, bail to the person in respect of all the charges;

(b) an application may be made for bail under sub-section 54 (2) in respect of all the charges, but not otherwise; and

(c) any bail that is granted to the person shall be granted in respect of all the charges and separate undertakings shall not be required in respect of each charge.

(2) For the purposes of applying sections 50, 51, 52 and 54 in relation to a person who is charged with 2 or more offences at the same time—

(a) references in those sections to an offence shall be read as references to those offences;

(b) references in those sections to a charge shall be read as references to those charges; and

(c) the reference in sub-paragraph 51 (a) (ii) to the circumstances in which the offence was committed shall be read as a reference to the circumstances in which each of the offences was committed.

56. (1) Where bail is granted to a person subject to a condition that a sum be deposited with a Police Officer, the sum may be deposited in cash or, at the discretion of the Police Officer, by cheque or other prescribed means.

(2) A person who has given a security to a Police Officer in relation to the release of a person (in this sub-section referred to as the "defendant") on bail may, at any time, deposit with the Police Officer an amount equal to the sum that he is liable to forfeit if the defendant fails to appear in court when required to do so for the purpose of answering to the relevant charge and, if the defendant so appears in court, or fails so to appear in court but the relevant charge is withdrawn or dismissed, the first-mentioned person is entitled to have the security returned to him.

57. (1) Where a prescribed Police Officer believes on reasonable grounds that a person who has been released on bail granted under section 50—

(a) is absconding; or

(b) has failed to comply with, or is about to fail to comply with, an undertaking given by him as a condition of his release,

the Police Officer may revoke the bail, and the person may then be arrested by a Police Officer.

(2) Where, under sub-section 56 (1), a sum has been deposited by cheque in relation to the release of a person on bail and the cheque is dishonoured by non-payment, a prescribed Police Officer may revoke the bail, and the person may then be arrested by a Police Officer.

(3) In this section, "prescribed Police Officer" means a member of the Commonwealth Police Force who holds the rank of sergeant or a higher rank or is in charge of a Police Station.

58. (1) Subject to sub-sections (2) and (3), where the person who has been released on bail granted by a Police Officer wilfully and unreasonably fails to comply with an undertaking given by him as a condition of his release, the person commits an offence punishable, upon conviction, by a penalty not exceeding the maximum penalty that could be imposed on him upon conviction for the offence in respect of which he was released on bail.

(2) Where a person who has been released on bail granted by a Police Officer in respect of 2 or more offences wilfully and unreasonably fails to comply with an undertaking given by him as a condition of his release, sub-section (1) applies as if the reference to the offence in respect of which he was released on bail was a reference to the offence in relation to which he failed to comply with the undertaking or if he failed to comply with the undertaking in relation to 2 or more offences, to the more or most serious of those offences.

(3) A court shall not impose on a person who is convicted of an offence under sub-section (1) a fine in excess of $1,000 or a period of imprisonment in excess of 6 months.