

Don't blame bail justices for Bourke St attack

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Should the decision to grant bail for people charged with crimes, particularly violent offences, be left in the hands of unpaid members of the public?

Bail justices are volunteers appointed to make decisions on bail when a magistrate is unavailable after hours. The bail justices, who only exist in Victoria, mostly attend police stations at night and on weekends and require no “specific qualifications”.

The only requirements are to be over 18 years old, not insolvent, live in Victoria and speak fluent English.

Their role has been thrust into the spotlight after the Bourke Street rampage in Melbourne on Friday, when Dimitrius Gargasoulas is alleged to have killed five people in the CBD after a bail justice granted him bail less than a week earlier, despite police opposition.

On Monday morning, Victorian Premier Daniel Andrews announced a series of changes to the bail system in Victoria, along with a wider review into the overall process. Under the changes, bail justices will no longer be used to decide bail for suspects accused of violent crimes.

The review will also be looking at the “conduct of bail applications out of hours, including the role of voluntary bail justices”.

But RMIT associate professor in criminal justice Michael Benes says the state government is unfairly laying the blame on the volunteers, while neglecting to address larger issues.

“Everyone is running around seeing who they can blame, and now they’re looking at bail justices, but that’s bullshit,” Benes told *Crikey*.

“You need to change the law and make it more difficult for offenders charged with serious violent offences to get bail.”

While the decision by the volunteer to grant Gargasoulas bail come under fire, it would have been nearly impossible for anyone to predict what was to come, and bail justices are far more likely to reject bail, says Emma Colvin of the Centre for Law and Justice at Charles Sturt University .

“My research and previous research has shown that bail justices have a reputation of being quite conservative in their decision-making, and they’ve been highly criticised for this,” Colvin told *Crikey*.

“The bail justice wouldn’t have been making a decision based on the risk of him doing that particular act in Bourke Street, it would have been based on the charges he was brought in on. Would anyone making that decision have been able to determine that risk?”

While bail justices tend to remand suspects until they can face a more qualified judge, magistrates tend to make more questionable decisions, Benes says.

[\[How media terrorism speculation nearly hijacked Friday’s attack\]](#)

“Reading some of the decisions that magistrates have made on offenders they’ve released on bail, they’re absolutely appalling,” he said.

“Magistrates are the weak point in the system in relation to bail. But rather than blaming the magistrates they’re choosing to blame the volunteers. That’s not going to fix it.”

The bail justice position was introduced through changes to the *Bail Act* in 1989 as a way to ensure suspects are given the chance to receive a quick decision on bail after hours, especially with cases involving children. There are now about 260 of the volunteers in Victoria, who are rostered by location to respond to police call outs at any hour.

The volunteer positions tend to be taken by older retired men, Colvin says.

“They’re very dedicated people that are very conscious of community service and want to give back to people — they have to be if they’re prepared to get up at night and go to a police station with no financial reward,” she said.

“These people are doing it out of a willingness to volunteer and do something for the community.”

While these volunteers make for easy targets and scapegoats following the immense tragedy of last week, the state government needs to avoid making a knee-jerk decision, she says.

“It’s an absolute tragedy what happened in Bourke Street, but it’s also unprecedented,” Colvin said.

“It’s an anomaly — this is not what people normally do. The majority of people that are bailed aren’t committing serious crimes. If we toughen up the laws to get the anomaly, what’s the impact on all the other people going through that process?”

For Benes, it’s frustrating and heartbreaking to see government after government wait for a tragedy like this before looking to make much-needed reform.

“There have been so many proposals to fix bail but the government has taken no notice of them,” he said.

“The Victorian Law Reform Commission has made a number of recommendations concerning bail a long time ago, and they’ve kept doing it over the past five years. Why does the government wait until something actually happens, for the horror that happened on Friday?”

“It is an overreaction to the situation. They have to do something now because they haven’t done anything over the years.”

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