



**SOUTH AUSTRALIA POLICE**  
KEEPING SA SAFE

Your Ref:  
Our Ref: 21/1999  
Enquiries:  
Telephone: 7322 3347  
Facsimile: 7322 4180

Hon Antonio Piccolo  
148 Murray Street  
GAWLER SA 5118

Email: [REDACTED]@parliament.sa.gov.au

Dear Hon Piccolo

**Re: Freedom of Information Act application**

In reference to your application made pursuant to the Freedom of Information (FOI) Act 1991, access was sought to:

*"Copies of any and all documents (including but not limited to hard copy or electronic briefings, minutes, reports, emails, letters) and any other correspondence regarding any policy to guide the decision to grant bail by an authorised police officer who is acting as a 'bail authority' for the purposes of the Bail Act 1985 pursuant to Section 10 and/or Section 10A of the Act."*

On 20 April 2021 I spoke with [REDACTED] via telephoned regarding the broad scope of your request. [REDACTED] narrowed the scope to seeking access to:

*"pages from the corporate policy regarding bail; excluding all information in the document except information relative to the discretion to exercise and considerations when granting bail."*

It is determined to **release in full** pages 6, 7 and 8 dated October 2020 of *General Order – Bail* that falls within the narrowed scope of your request.

In accordance with the requirements of Premier and Cabinet Circular PC045, details of your FOI application, and the documents to which you are given access, will be published on the SAPOL website Disclosure Log. A copy of PC045 can be found at [https://www.dpc.sa.gov.au/data/assets/pdf\\_file/0019/20818/PC045-Disclosure-Log-Policy.pdf](https://www.dpc.sa.gov.au/data/assets/pdf_file/0019/20818/PC045-Disclosure-Log-Policy.pdf). If you disagree with publication, please advise the undersigned in writing by **31 May 2021**.

Yours sincerely,

Senior Sergeant First Class Tracy Gentgall  
Officer in Charge  
**Freedom of Information Unit**  
(Accredited Freedom of Information Officer)

23 April 2021

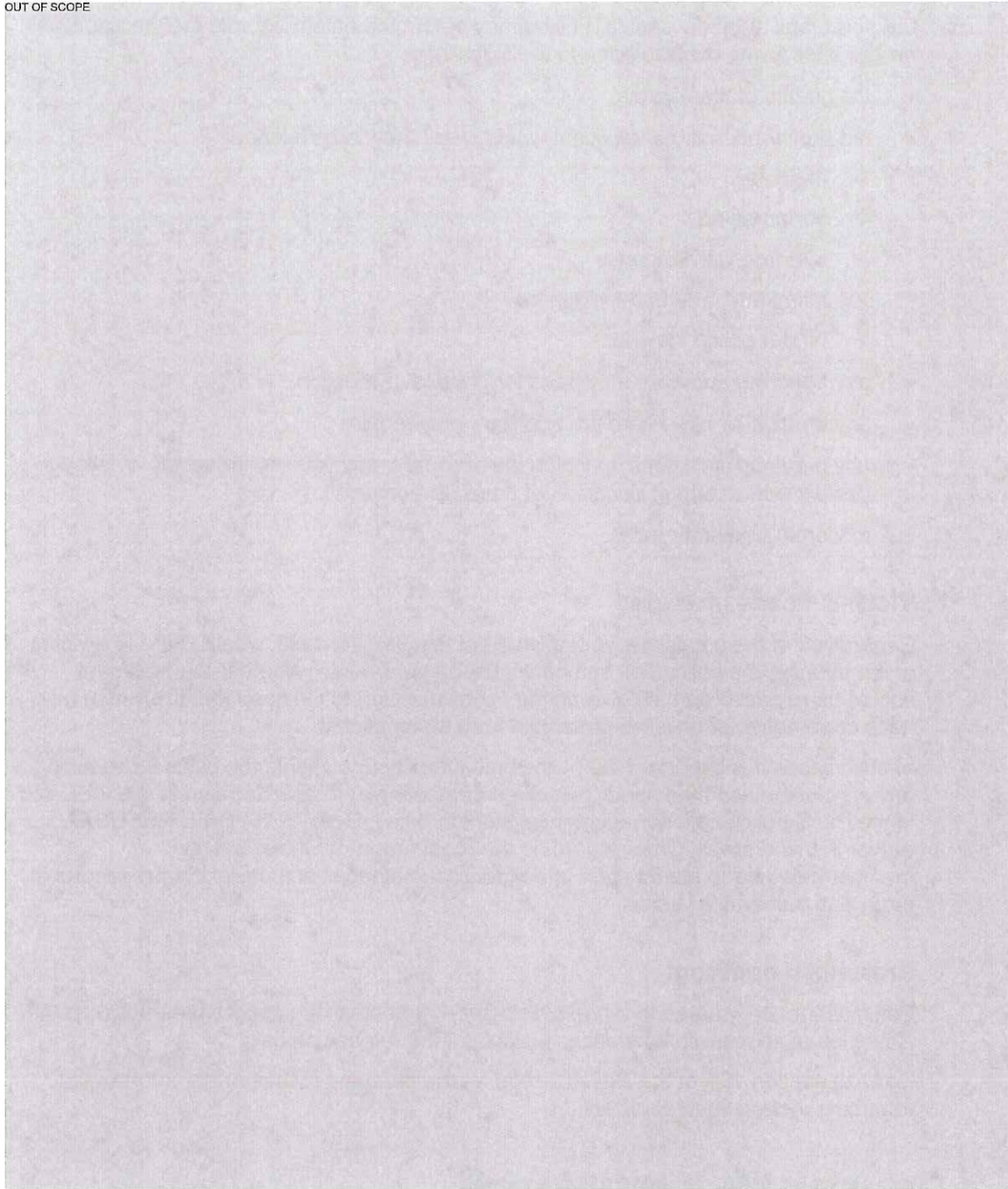


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## 5. DISCRETION EXERCISABLE BY BAIL AUTHORITY

The police bail authority is responsible for assessing each application on its own merits and acting accordingly. While section 10(1) of the *Bail Act 1985* provides an express presumption in favour of providing bail this can be overridden by the criteria contained within the provisions of sections 10(1)(a) to (g) of the *Bail Act 1985*.

Where an eligible person (who has been charged with but not convicted of an offence for which they have been taken into custody) applies for bail to a police bail authority,



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the police bail authority should, unless they determine otherwise, release the applicant on bail after giving consideration to the following:

- the gravity of the offence
- the likelihood that the applicant would, were they to be released:
  - abscond
  - offend again
  - interfere with evidence
  - intimidate or suborn witnesses
  - hinder police inquiries
- any need the applicant may have for physical protection
- any medical or other care the applicant may require
- any previous occasions on which the applicant may have contravened or failed to comply with a term or condition of a bail agreement
- any other relevant matter.

**Victims' needs protected**

Regardless of the provisions of section 10 of the *Bail Act 1985*, where there is a victim of the offence, the police bail authority must (in determining whether the applicant should be released on bail) give primary consideration to the need that the victim may have or perceive for physical protection from the applicant.

In such cases it is important the police bail authority documents the basis for reaching any conclusion as to the need (perceived or otherwise) for this decision in the OEL and in the PIMS police bail management system in detail. Refer to **10. BAIL REFUSAL** further in this General Order regarding the requirement for the arresting member/delegate to attend court in certain circumstances and assist the prosecutor in protecting vulnerable victims.

**Prescribed applicant**

Bail must not be granted to a *prescribed applicant* unless the applicant establishes the existence of special circumstances justifying their release on bail.

Refer to section 10A of the *Bail Act 1985* for the meaning of and further information regarding a *prescribed applicant*.

**6. GRANTING BAIL—CONSIDERATIONS**

A police bail authority may impose conditions upon an applicant in relation to the granting of bail—refer to section 11 of the *Bail Act 1985*.

In determining whether bail should be granted or opposed, consideration should be given to any additional information which may be available from the arresting member/delegate and whether the offender:

- is currently on bail—additional bail conditions must not be set which conflict with current bail agreements or be unduly harsh to comply with
- is currently charged with or before the court on similar or more serious matters

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- has a history of similar offending
- is subject to any court orders
- is a recidivist offender and there is evidence in support
- is on parole and whether there is evidence they have breached that parole
- has breached bail conditions previously
- has a first instance warrant history
- has a permanent place of abode
- may abscond and/or not comply with bail conditions and any evidence in support
- resides interstate.

The police bail authority, in the application of granting bail and imposing bail conditions, should consider the following:

- a consistent approach when granting bail
- ensure that the conditions are commensurate with the offending
- a consistent approach when setting bail conditions (for example that curfew times are consistent and commence at similar times to any other co-accused)
- that bail conditions are realistic and achievable and in line with the nature of the offence
- when refusing bail, be prepared to justify their decision.

When considering imposing a condition of reporting to a police station as part of the conditions of bail or imposing a curfew, the police bail authority will ensure, before including these conditions, that the conditions are achievable (for example in regional areas some police stations do not operate on a 24-hour basis or have regular out of business hours staffing).

Reporting conditions must not be used as a punitive measure and should only apply in circumstances where it is deemed by the bail authority as necessary to enhance the intent of the bail agreement (that is to ensure appearance or compliance with a relevant condition).

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