

Australian National University | CENTRE FOR SOCIAL RESEARCH & METHODS

Bail and Parole App Scoping Project:

Final Report

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We acknowledge and celebrate the traditional custodians on whose lands we meet, and pay our respect to the Elders past, present and emerging.

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List of acronyms

ABS	Australian Bureau of Statistics
ACT	Australian Capital Territory
AIATSIS	Australian Institute of Aboriginal and Torres Strait Islander Studies
ALRC	Australian Law Reform Commission
ALS	Aboriginal Legal Service
AMC	Alexander Maconochie Centre
ANU	Australian National University
CSRM	Centre for Social Research and Methods
DPP	Office of the Director of Public Prosecutions
FG	Focus group participant
JACS	ACT Justice and Community Safety Directorate
LE	Lived Experience
LEFG	Lived Experience Focus Group
NOI	National Offence Index
NSW	New South Wales
PS	Professional stakeholder
RR25by25	ACT Reducing Recidivism by 25% by 2025 Strategy

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We would particularly liked to thank the professional and lived experience stakeholders who shared with us their time and insights into the challenges of being on bail or parole. We would also like to thank Yeddung Mura, for providing us with access to their facilities to undertake some of the research.

For wisdom and experience in contributing to the report, including preliminary engagement about our plans, we particularly appreciate the guidance of many members of the Aboriginal and Torres Strait Islander community in the ACT.

In this report, we use the terms ‘Aboriginal and/or Torres Strait Islander’ and ‘Indigenous’ interchangeably, although we acknowledge that some people consider that the term ‘Indigenous’ does not appropriately recognise the heterogeneity of Aboriginal and Torres Strait Islander peoples across Australia. We acknowledge and celebrate the differences amongst Australia’s many and diverse Aboriginal and Torres Strait Islander cultures.

Executive summary

This project scoped whether application software for a mobile or similar device (an app) that supports Aboriginal and Torres Strait Islander people on bail or parole is regarded as appropriate, useful and beneficial within the ACT Aboriginal and/or Torres Strait Islander communities involved with the justice system. To do this, the scoping project sought the views and advice of participants in the Galambany Circle Sentencing Court (Galambany) (i.e. the potential end-users of such an app), as well as the views of key stakeholders across several organisations that engage with Galambany and the justice system more generally, to determine whether to recommend to the ACT Government that such an app be developed.

The aims of this research project were to:

- ascertain whether an app that supports people on bail or parole is a priority for, and is of value to, Aboriginal and/or Torres Strait Islander communities in the ACT that engage with Galambany; and
- if so, gain input from Galambany participants (the potential end-users) and Aboriginal and/or Torres Strait Islander and other professional stakeholders, who work in the ACT criminal justice system, on what app features would be useful in supporting compliance with bail and parole conditions, to inform the potential development of an app.

The first section examines criminal justice data on the issues of bail, remand, parole and Indigenous incarceration. Data from the Australian Bureau of Statistics (ABS), indicate that, in the March 2022 quarter, 40% of Indigenous adults in custody at the Alexander Maconochie Centre (AMC) were unsentenced. In addition, 27% of Aboriginal and Torres Strait Islander people in prison in the ACT on 30 June 2021 had a justice procedure offence, which includes breach of bail or parole, as their most serious offence; this was much higher than for non-Indigenous prisoners in the ACT (23%) or both cohorts nationally (10% and 7% respectively) (ABS, 2021a). This highlights the need for measures that help Aboriginal and Torres Strait Islander people comply with their bail, parole and other justice orders, in order to reduce Indigenous incarceration.

The second section examines the increasing availability and use of mobile technology for behaviour change. Such technological advances have created opportunities within the justice context and the past decade has seen the development and use of mobile technology in the criminal justice system. This section outlines the theoretical framework in which the research is situated, which draws on behavioural econonics, especially nudge theory. The behavioural economics literature in general, and that on nudges in particular, is relevant for the design of criminal justice apps, as it provides a number of (non-coercive) influences on behaviour and thinking that can be used to improve justice outcomes.

The third section outlines the methodology and ethics approval process undertaken for this research. The project adopted a mixed-methods approach, involving the use of semi-

structured interviews, focus groups and analyses of secondary source material. Semi-structured interviews and focus groups were conducted with two different stakeholder groups: professional stakeholders (Group 1) and Galambany clients, as people with lived experience of bail and/or parole (Group 2).

In the fourth section, we thematically analyse responses from the semi-structured interviews and focus groups with Group 1 and Group 2 participants. Participants highlighted a range of challenges that make compying with bail and parole conditions harder, including the lack of stable housing, access to transport and other practical issues related to reporting requirements, trouble keeping track of appointments and a lack of structure in their daily lives. Participants also identified what they would consider to be the most useful features of a mobile app designed to help them comply with bail and/or parole conditions. These included an appointment reminder function, a list of useful information and contacts, and reminders of trigger times (those times during the day or week in which a person is particularly vulnerable). Nearly all of the people we spoke to (34 out of 35; 97%), supported the idea of an app to help people comply with their bail and/or parole conditions. However, a number of concerns were raised by participants, in particular how the data from an app would or could be used and whether the app would be able to track a person's whereabouts. These concerns were raised by both Group 1 and Group 2 participants.

The report concludes with the recommendation that a mobile app to help support people on bail and/or parole be developed and piloted, but that serious consideration regarding security and privacy concerns needs to be taken into account, in the development of any such app. The proposed app should be developed solely for the purpose of helping to support users' success and should *not* be used as a compliance tool. It is further recommended that the app be trialled among a small cohort in the first instance, followed by an rigorous independent evaluation, to inform whether it is working as intended and is of utility to people on bail or parole.

Introduction

This project was undertaken as part of the Reducing Recidivism Research Collaboration, a partnership between the Centre for Social Research and Methods (CSRM) at the Australian National University (ANU) and the Australian Capital Territory (ACT) Justice and Community Safety Directorate (JACS). The Collaboration examines the impact of initiatives central to the ACT Government's goal of reducing recidivism (otherwise known as reoffending) by 25% by 2025 (RR25by25) (ACT Government, 2020). The first pillar of this strategy is to 'reduce the over-representation of Aboriginal and Torres Strait Islander people in custody' (2020: 1). The other pillars are:

- 'responding to justice housing needs;
- supporting people with substance use disorders in the justice system;
- supporting people living with mental illness or disability in the justice system;
- supporting detainee reintegration;
- developing community capacity; and
- responding to women in the justice system' (ACT Government, 2020: 1).

For the reasons discussed below, ensuring the successful compliance with and completion of bail and parole is a crucial means of addressing the first pillar of the RR25by25 strategy.

The Collaboration is overseen by the Reducing Recidivism Advisory Committee, which includes Indigenous membership, and an Indigenous Governance Committee, which was established to provide oversight and governance of all projects that fall under the Collaboration. Both have endorsed this project.

The project also has the support of key members and organisations in the ACT Aboriginal and Torres Strait Islander community. In particular, the impetus for this app came from members of the community, who saw the opportunity for technology to better support people involved in the criminal justice system. In July 2020, members of the ACT Aboriginal community met with the then ACT Attorney-General, Gordon Ramsay, to discuss the development of a phone app that could be used to support Aboriginal and Torres Strait Islander families and defendants in the court system and, as a result of that meeting, the idea for this project was created. The aim of such an app would be to help Aboriginal and Torres Strait Islander defendants navigate court processes and help them comply with their court orders, with the hope of helping them stay out of prison.

This project therefore scoped whether an app that supports Aboriginal and Torres Strait Islander people on bail or parole is regarded as appropriate, useful and beneficial within the ACT Aboriginal and/or Torres Strait Islander communities involved with the justice system. To do this, the scoping project sought the views and advice of participants in the Galambany Circle Sentencing Court (Galambany) (i.e. the potential end-users of such an app), as well as the views of key stakeholders across several organisations that engage with Galambany and

the justice system more generally, to determine whether to recommend to the ACT Government that such an app be developed.

The aims of this research project were to:

- ascertain whether an app that supports people on bail or parole is a priority for, and is of value to, Aboriginal and/or Torres Strait Islander communities in the ACT that engage with Galambany; and, if so,
- gain input from Galambany participants (potential end-users) and Aboriginal and/or Torres Strait Islander and other professional stakeholders who work in the ACT criminal justice system on what app features would be useful in supporting compliance with bail and parole conditions, to inform the potential development of an app.

Data from the Australian Bureau of Statistics (ABS) (2021a) indicate that 27% of Aboriginal and Torres Strait Islander people in prison in the ACT on 30 June 2021 had a justice procedure offence, which includes breach of bail or parole, as their most serious offence; this was much higher than for non-Indigenous prisoners in the ACT (23%) or both cohorts nationally (10% and 7% respectively). This highlights the need for measures that help Aboriginal and Torres Strait Islander people comply with their bail, parole and other justice orders, in order to reduce Indigenous incarceration.

Bail, remand and Indigenous incarceration

According to the most recent corrections data from the ABS (2022), in the March quarter, 40% of Indigenous adults *in custody* at the Alexander Maconochie Centre (AMC) were unsentenced (40 out of a total of 100). Between 2019 and the March 2022 quarter, this figure fluctuated between 36% (December 2021 quarter) and 46% (June 2021 quarter). This figure was, at all times, higher than the proportion of the total AMC population who were unsentenced (34-39%), as well as national figures for Indigenous people (34-39%) and the total prison population (33-37%) (ABS, 2022).

For receptions into the AMC, 40 of the 45 Indigenous people who *entered custody* in the March 2022 quarter (89%) were unsentenced. This is much higher than the national figure for Indigenous people (78%). Surprisingly, the ACT figure for non-Indigenous receptions was in fact even higher, with 94% entering custody unsentenced, compared with a national figure of 78% (ABS, 2022).

The ABS data on legal status at the time of *release from custody* show that 71% of Indigenous adults in the ACT who left custody in the March 2022 quarter were unsentenced at the time of their release. For comparison, the Indigenous figure nationally was 38% and for non-Indigenous people, the figures were 57% in the ACT and 44% nationally.

It is clear from the foregoing that the numbers of Indigenous people who enter, are in and exit the AMC unsentenced are a key driver of Indigenous incarceration in the ACT. Although beyond the scope of the present report, these data also demonstrate the high proportion of

all adult detainees in the ACT who are unsentenced, suggesting the need for initiatives to support people remaining in the community on bail, rather than being remanded in custody, especially in respect of offences that would not lead to custodial outcomes in any event.

It is worth noting that during the March 2022 quarter, there were 245 people subject to bail supervision in the ACT (ABS, 2022), although these data are not disaggregated by Indigenous status. Data recently provided by the Principal Registrar and CEO of the ACT Courts and Tribunal to the ACT Legislative Assembly (ACT Government, 2021) are also instructive, although they are also not disaggregated by Indigenous status. These data revealed that, in 2019-20, there were 477 offenders convicted of offences committed while on bail. Of these, 42% of offenders were convicted of traffic offences, 31% were convicted of breach of bail, and 19% were convicted of theft. When offences were assessed in terms of their seriousness, according to the ABS National Offence Index (NOI),[1] the five most common offences committed by the 477 offenders while on bail had NOIs of 95-168, although it is acknowledged that two offenders committed aggravated sexual assault while on bail. The data[2] indicate that most offences committed by people on bail in the ACT 'are low-level offences. The majority of them have been traffic offences' (Amanda Nuttall, quoted in ACT Government, 2021: 1). This suggests that the people who get bail in the ACT currently do not pose a significant risk to the community. When coupled with the ABS data above, a sizeable proportion of the ACT's prison population is unsentenced and there is therefore a need to consider options to expand the number of people who get and successfully complete their bail. This is likely to be particularly the case for Aboriginal and Torres Strait Islander people, many of whom 'may be held on remand for otherwise low-level offending' Australian Law Reform Commission (ALRC), 2017: 28).

Another aspect that is helpful in understanding the picture in relation to remand in the ACT – and the implications of whether people are successfully able to remain in the community on bail – is the length of time spent on remand. Although these figures (ABS, 2021b) are also not disaggregated by Indigenous status, the data for June 2021 reveal that remand periods in the ACT are the shortest in Australia, with a median length, at 1.9 months, compared with a national median of 3.4 months. Notably, 61% of remand periods in the ACT last less than three months (47% nationally). This gives an indication of the period of time for which a person would need to be supported by the Ngurrambai Bail Support Program (NBSP) for Aboriginal and Torres Strait Islander people or similar programs, if they remained in the community. It may also suggest that the offences for which people in the ACT are remanded into custody are lower risk than in other jurisdictions, although further data would be required to support this hypothesis.

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[1] The National Offence Index ranks offences in terms from 1 (murder) to 185 (inadequate data provided). By way of context, some common offences are driving causing death (4), aggravated sexual assault (7), cultivate illicit drugs (21), common assault (30), theft of a motor vehicle (77).

[2] The data provided sum to more than 100%, because some individuals committed more than one offence while on bail.

According to research conducted by the New South Wales (NSW) Bureau of Crime Statistics and Research (BOCSAR), there are at least four main factors that contribute to a growing remand population:

- bail being harder to achieve;
- bail breaches;
- an increase in people being charged; and
- the influence of prior convictions on deciding whether to grant bail (Fitzgerald, 2018).

Failure to comply with bail conditions may result in prison time and is a key driver of the over-representation of Indigenous people in the prison system (Crawford & Josey, 2018).

In its *Pathways to Justice – Inquiry Into The Incarceration Rate Of Aboriginal And Torres Strait Islander Peoples* report, the ALRC (2017) identified several reasons why someone may be at increased risk of breaching their bail conditions, which are relevant to the context of the present project. These include conditions attached to bail conflicting with an Aboriginal and Torres Strait Islander person's cultural obligations, for example by restricting contact with family members, or by enforcing exclusionary zones or curfews, which prevent the individual from attending important cultural events. There are also practical considerations, which may affect an individual's capacity to comply with bail conditions, including access to transport, particularly in regional and remote areas, or language barriers which can detract from a person's understanding of their conditions (ALRC, 2017). We acknowledge that the proposed app will not be able to address many of these structural issues.

We note that the ALRC (2017) recommended that state and territory:

- bail laws should be amended to include standalone provisions that require bail authorities to consider any issues that arise due to a person's Aboriginality, including cultural background, ties to family and place, and cultural obligations. These would particularly facilitate release on bail with effective conditions for Aboriginal and Torres Strait Islander people who are accused of low-level offending. The *Bail Act 1977* (Vic) incorporates such a provision. As with all other bail considerations, the requirement to consider issues that arise due to a person's Aboriginality would not supersede considerations of community safety (Recommendation 5-1); and
- governments should work with relevant Aboriginal and Torres Strait Islander organisations to:
    - develop guidelines on the application of bail provisions requiring bail authorities to consider any issues that arise due to a person's Aboriginality, in collaboration with peak legal bodies; and
    - identify gaps in the provision of culturally appropriate bail support programs and diversion options, and develop and implement relevant bail support and diversion options (Recommendation 5-2).

In a report commissioned by the Indigenous Justice Clearinghouse on the growth in remand and its impact on Indigenous over-representation in the criminal justice system, Bartels

considered and supported these recommendations, as well as the relevant recommendations of the Royal Commission of Aboriginal Deaths in Custody (1991: see Recommendations 87(a), 89, 90(a), 91(b) and 102). She also described the following as 'promising strategies to address Indigenous over-representation on remand:

- shifting the burden of proof for granting bail;
- requiring explicit consideration of Indigenous status in bail decisions;
- ensuring bail conditions are appropriate;
- removing breach of bail as an offence;
- adopting alternative measures for dealing with breach of bail;
- providing accommodation support;
- introducing other practical measures to support bail compliance;
- empowering Indigenous people to make bail decisions; and
- implementing prison programs that address the specific needs of Indigenous remandees' (2019: 7).

Parole and Indigenous incarceration

Recent research by BOCSAR (Ooi and Wang, 2022) found that Aboriginal parolees were less likely to:

- be re-convicted (10.9 percentage points);
- commit a personal, property or serious drug offence (14.4 percentage points); and
- be re-imprisoned (6.5 percentage points) than Aboriginal people released from prison unconditionally.

All of these reductions were statistically significant, highlighting the importance of parole in reducing recidivism. However, research also demonstrates that:

> Aboriginal and Torres Strait Islander prisoners suffer greater challenges in obtaining parole than non-Aboriginal and Torres Strait Islander prisoners, and that Aboriginal and Torres Strait Islander parolees are significantly less likely to complete parole.
>
> There are many barriers, including the lack of access to legal support and information, poor levels of literacy and education, mental illness, the lack of housing prior to custody and drug and alcohol abuse. Some of the most common reasons for returning to custody whilst on parole include breaching parole conditions, committing further offences, lack of employment, lack of housing, substance abuse and domestic violence. While on parole, an offender must adhere to specific conditions set by a parole board. These conditions can include supervision, reporting, treatment and conditions relevant to the offender's place of residence. If the offender fails to comply with the set conditions, a parole board can cancel parole and return them to prison – hence, the cycle of reoffending continues (Jones, 2019: 4; references omitted).

The ALRC also considered issues in relation Aboriginal and Torres Strait Islander people and noted that:

> Stakeholders have articulated two key reasons why eligible Aboriginal and Torres Strait Islander prisoners may not apply for parole. First, eligible Aboriginal and Torres Strait Islander prisoners may believe that they are unlikely to be granted parole by the parole authority; this may be due to living arrangements, previous offending, or lack of attendance in prison programs. It may also be related to a complex history in dealing with government representatives. Second, in jurisdictions that do not count time served on parole in the case of revocation, being granted parole creates too great a risk of increased prison time (2017: 302-303).

As a result of the second issue, the ALRC recommended that states and territories 'abolish parole revocation schemes that require the time spent on parole to be served again in prison if parole is revoked' (2017: Recommendation 9-2; for discussion, see Bartels and Freiberg, 2019). The ACT has recently given effect to this recommendation, by passing the *Sentencing (Parole Time Credit) Legislation Amendment Act 2019* (ACT), which came into effect in 2020.

The ALRC also recommended that governments 'introduce statutory regimes of automatic court-ordered parole for sentences of under three years, supported by the provision of prison programs for prisoners serving short sentences' (2018: Recommendation 9-2). The ACT Government has not yet acted on this recommendation.

Due to reporting issues, it is not possible to determine the number (or proportion) of Indigenous people in the ACT who obtain or successfully complete their parole.

The ACT Sentence Administration Board, which determines all parole applications in the ACT, noted in its most recent annual report that 'Indigenous offenders continue to have lower community corrections completion than … non-Indigenous offenders' (2021: np). Measures that can encourage Indigenous detainees in the AMC to apply for parole and/or successfully complete their parole are therefore worthy of consideration and may play a role in breaking the cycle of reoffending. The Extended Throughcare program is a post-release program available to all Indigenous people leaving the AMC and includes:

- individual needs-based assessment;
- service liaison/coordination, including referrals and advocacy;
- day of release support;
- intensive outreach support for some, facilitated through referral to one of several community organisations; and
- limited brokerage (ACT Corrective Services, 2022).

An early evaluation of this program (Griffiths, Zmudki and Bates, 2017) found that it was yielding particularly positive outcomes for Indigenous women, although Indigenous men returned to custody at high rates throughout the evaluation period.

Structure of report and key findings

The next section of the report examines the increasing availability and use of mobile technology for behaviour change. Such technological advances have created opportunities within the justice context and the past decade has seen the development and use of mobile technology in the criminal justice system. This section outlines the theoretical framework in which the research is situated, which draws on behavioural econonics, especially nudge theory. The behavioural economics literature in general, and that on nudges in particular, is relevant for the design of criminal justice apps, as it provides a number of (non-coercive) influences on behaviour and thinking that can be used to improve justice outcomes.

The third section outlines the methodology and ethics approval process undertaken for this research. The project adopted a mixed-methods approach, involving the use of semi-structured interviews, focus groups and analyses of secondary source material. The interviews and focus groups were conducted with two different stakeholder groups: professional stakeholders (Group 1) and Galambany clients, as people with lived experience of bail and/or parole (Group 2).

In the fourth section, we thematically analyse responses from the semi-structured interviews and focus groups with Group 1 and Group 2 participants. Participants highlighted a range of challenges that make compying with bail and parole conditions harder, including the lack of stable housing, access to transport and other practical issues related to reporting requirements, trouble keeping track of appointments and a lack of structure in their daily lives. Participants also identified what they would consider to be the most useful features of a mobile app designed to help them comply with bail and/or parole conditions. These included an appointment reminder function, a list of useful information and contacts, and reminders of trigger times (those times during the day or week in which a person is particularly vulnerable). Nearly all of the people we spoke to (34 out of 35; 97%), supported the idea of an app to help people comply with their bail and/or parole conditions. However, a number of concerns were raised by participants, in particular how the data from an app would or could be used and whether the app would be able to track a person's whereabouts. These concerns were raised by both Group 1 and Group 2 participants.

The report concludes with the recommendation that a mobile app to help support people on bail and/or parole be developed and piloted, but that serious consideration regarding security and privacy concerns needs to be taken into account, in the development of any such app. The proposed app should be developed solely for the purpose of helping to support users' success and should *not* be used as a compliance tool. It is further recommended that the app be trialled among a small cohort in the first instance, followed

by an rigorous independent evaluation, to inform whether it is working as intended and is of utility to people on bail or parole.

The use of mobile application technology in behaviour change

The increasing availability and use of mobile technology has allowed for innovative solutions to address a range of issues, especially in relation to health behaviour change. Such technological advances have also created opportunities within the justice context and the past decade has seen the development and use of mobile technology in the criminal justice system.

As of the first quarter of 2021, there were 3.5 million different 'apps' available on Google Play and 2.2 million available on Apple devices and a total of 230 billion mobile app downloads globally (Statista, 2021). Over the past decade, we have seen an increase in the use of digital or mobile apps in a justice context. An 'app' in this context refers to an 'application', which is a type of software that can be installed and run on a computer, tablet, smartphone or other electronic devices.

The past decade has seen the development of, and increase in the use of, digital or mobile apps in a justice context. Although the use of such 'justice apps' has increased, there is currently little systematic research around their development, accessibility or effectiveness. The majority of such apps have been focused on dispute resolution, or are educational or supportive, by providing free access to legal information (Sourdin, Meredith & Li, 2020).

Within the context of justice apps, Sourdin et al (2020) have developed a taxonomy that describes how technology in general is reshaping justice systems and argued that

> at the most basic level, technology can assist to inform, support, and advise people involved in justice activities (what they call 'supportive technologies'). Second, technology can replace activities and functions that were previously carried out by humans ('replacement technologies'). Finally, at a third level, technology can provide for very different forms of justice, particularly where processes change significantly ('disruptive technologies'). Justice apps can fall within any of these three categories (Sourdin et al., 2020: 2).

Most research into apps occurs in the context of (mental) health apps and behavioural interventions (Kao and Liebovitz, 2017). As part of this systematic review, we highlight a number of general insights from that literature that determine the uptake, usage and success of apps, which would apply to justice apps as well.

Despite the wide application of apps in medical research, Kao and Liebovitz (2017) noted the ongoing debate around their efficacy. Although the actual effectiveness of medical apps is of no direct relevance for our current purpose, the literature does provide indications as to what the general characteristics are of successful apps. For instance, successful apps tend to intrinsically motivate their users, by providing real-time engagement, reminders or gamified interaction (e.g. they are engaging). They also tend to have simple, intuitive user interfaces that do not require high cognitive demands (Chandrashekar, 2018).

Koa and Liebovitz (2017) also highlighted issues around privacy and security concerns; because of the rapid increase of apps, the amount of personal data that is collected and stored (including, often, quite sensitive data) is also increasing dramatically. Often, app developers fail to provide explicit privacy policies and pay little attention to the apps' information security and privacy policies.

There is some research that shows that sociodemographic factors, such as age and education, are significant variables for predicting whether a person will adopt a mobile device. Overall, younger individuals with more education are more likely to use apps related to health (Carroll et al., 2017). This information should be borne in mind, in considering the likely use and utility of apps in the justice space, noting that people involved in the criminal justice system are generally younger adults with lower levels of education and literacy and higher rates of learning difficulties (e.g Einat and Einat, 2008; Hayes et al., 2007; Hopkins et al., 2016; Farrington, 1986; Lochner, 2004).

According to the ABS (2018), in the period between 2016–2017, 86% of Australian households were connected to the internet and, of those 91% of Australian households used mobiles or smartphones. Given that the proportion of Australian households with access to the internet has been steadily increasing (from 79% in 2010-11 and 83% in 2012-13), it is likely that there has been even further uptake of digital connectivity in the years since these data were collected. It may be of assistance, in progressing this project, to obtain data from ACT Corrective Services on mobile phone access and use among members of the ACT Aboriginal and Torres Strait Islander community involved in the justice system.

Behavioural economics and nudging

Behavioural economics is a scientific field informed by economics and psychology that aims to explain how individuals use cognitive heuristics to lead to suboptimal decisions that are often not aligned with (positive) longer-term goals (Loewenstein et al., 2007). Whereas classic economic theory assumes individuals undertake rational cost-benefit analysis of every action, behavioural economic research shows how individuals only have limited cognitive capacity and rely on 'fast and easy' heuristics that can lead to 'irrational' behaviour and decision-making (Thaler and Sunstein, 2009). Specifically, it has been demonstrated how behaviour and decision-making are affected by social influence (e.g., what peers, friends, family think or how they behave), that individuals consistently value immediate over delayed gratification, overestimate the probability of positive events, while underestimating the probability of negative events, and are often motivated more by avoiding losses than receiving equivalent gains (e.g. Vlaev et al., 2016).

A key development in behavioural economics is nudge theory. In this context, nudges are processes or techniques that take people's limited cognitive abilities into account when designing products, processes or service, with the intent of influencing or shaping their behaviour and thinking, so that they make decisions that are better for them and society (Thaler and Sunstein, 2009). A nudge typically involves creating a 'choice architecture' that

makes people more likely to select an 'optimal' choice or behaviour. Choice architecture refers to the ways in which choices are presented to consumers and the impact of that presentation on consumer decision-making. For instance, more consumers will choose the renewable energy option for electricity when it is offered as the default option (Esmark, 2018), or when it becomes apparent that relevant others (e.g., neighbours) have adopted the option (Ölander and Thøgersen, 2014). While nudges are not considered coercive (Thaler et al., 2013), some commentators have raised ethical concerns, regarding them as manipulative tactics which seek to exploit imperfections in human judgement (Goodwin, 2012) which persuade people to make choices they may not otherwise have made had they been provided with the opportunity to deliberate (Hausman and Welch, 2010; Molls et al. 2015). Critics have also argued that if human fallibility is universal, then 'experts' who design nudges are just as prone to error and impulsivity as the everyday citizens they are attempting to influence (Legget, 2014; Whitehead et al. 2011).

Despite these limitations, the behavioural economics literature in general, and that on nudges in particular, is relevant for the design of criminal justice apps, as it provides a number of (non-coercive) influences on behaviour and thinking that can be used to improve justice outcomes. A good example of this is the MINDSPACE framework (see Table 1), which describes how our behaviour is influenced not just by the message, but also the messenger, and that incentives and norms are powerful influences on behaviour (Vlaev et al., 2016). As a result, it is useful as a checklist to design services, products and, in the present context, apps.

Table 1. Mindspace Framework

Messenger	We are heavily influenced by who communicates information
Incentives	Our responses to incentives are shaped by predictable mental shortcuts such as strongly avoiding losses
Norms	We are strongly influenced by what others do
Defaults	We 'go with the flow' of pre-set options
Salience	Our attention is drawn to what is novel and seems relevant to us
Priming	Our acts are often influenced by sub-conscious cues
Affect	Our emotional associations can powerfully shape our actions
Commitments	We seek to be consistent with our public promises, and reciprocate acts
Ego	We act in ways that make us feel better about ourselves

The use of mobile applications in the criminal justice system

Changes in technology can help facilitate access to justice, generate improvements in efficiency and outcomes, and reduce costs and delay across the criminal justice system (Cashman and Ginnivan, 2019; Sourdin, Meredith and Li, 2020). There are increasing examples of mobile apps being used in the justice system, including in the criminal justice space in Australia and internationally (Cooke et al., 2018; Pattavina and Corbett, 2019; Spohr, Taxman and Walters, 2017). A recent review by Taylor, Van Rooy and Bartels (2022), conducted as the first phase of the present project, identified 22 studies, in which mobile technology was being used to address a range of problems, from promoting compliance with probation conditions to increasing the rate of court attendance and trust in the police. The review also identified 17 apps that have been developed to support offenders.

Based on preliminary scoping of the literature, the proposed app would likely involve the following core features:

- text message reminders and push notifications, to remind participants of when to appear in court;[3]
- text message reminders and a calendar feature, to improve the rate of attendance at other key appointments;
- links to plain English resources and information relating to court processes, preferably presented visually, to increase procedural justice[4] techniques to build the legitimacy of, and compliance with, bail and parole conditions; and
- links to culturally appropriate support services and services available to people involved in the criminal justice system.

While these core features are identified in the literature, it was considered that consultation with potential end-users and other key stakeholders involved in the criminal justice system in the ACT was required. This would help determine whether such an app would be appropriate for use by clients of the Galambany Court, and, if so, to ensure that the development of the app and its features are culturally appropriate and meet the needs of potential end-users. Rather than a researcher-participant relationship, our approach involved developing a close partnership between researchers and key community stakeholders from the outset, so that end-users could be engaged in the design of the

[3] Informal discussions with stakeholders during the design of this project indicated that this is very important, as many clients do not remember these details and failure to appear in court is a key reason they end up in prison.

[4] Procedural justice concerns the fairness and the transparency of the processes by which decisions are made. It has been suggested that this is the outcome of the higher quality interpersonal interactions often found in the procedural justice process, which has shown to be stronger in affecting the perception of fairness during conflict resolution (Tyler and Lind, 2002).

research itself. This does mean that precise pre-definition of the outcomes and benefits for end-users is not obvious, given that these will emerge to a large extent from an adaptive process, shaped by interaction between the researchers and end-users. Rather than imposing a definition of success, or ‘good outcome’, end-users will be able to express what this would mean from their perspective.

Methodology

Consultation and ethics approval

The research instruments and design of the project were developed in consultation with, and endorsed by, representatives from key Aboriginal and Torres Strait Islander organisations, as well as the Indigenous Governance Committee, which was established by the research team to provide overarching governance of the projects and ensure that cultural sensitivities are managed appropriately, and representatives from JACS.

Based on preliminary discussions with the ACT Government, assumptions were made about certain features which would **not** be explored for inclusion in any app developed, such as GPS tracking or biometric verification. Furthermore, participants would **not** be **required** to download or use the app (that is, use will be entirely voluntary) and none of the information on it will be transmitted back to the Government, i.e. it would **not** be used as a means of monitoring participants' compliance with their bail/parole conditions. Instead, the proposed app would be solely for use by the individual as a self-help tool to support and improve their compliance with their bail or parole conditions. These parameters were important, in order to manage initial expectations of participants in this consultation.

The project received ethics approval from the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) on 21 September 2021 (EO249-20210406) on this basis. After we received ethics approval from AIATSIS, we undertook the fieldwork with professional stakeholders (Group 1) described further below. Under the ACT Corrective Services (2020) *External Research and Data Request Policy*, we also needed ethics approval from ACT Corrective Services, to conduct fieldwork with any clients of ACT Corrective Services (Group 2). We received this approval on 11 February 2022. Upon receiving approval from ACT Corrective Services, the researchers disseminated a flyer, inviting Galambany clients to contact the researchers, via the Galambany Court, ALS, Legal Aid and Prisoners Aid ACT.

Group 1 participants from the following organisations were invited to participate:

- Aboriginal and Torres Strait Islander Justice Caucus;
- Aboriginal Legal Service;
- Aboriginal Services Unit, NSW Department of Communities and Justice;
- ACT Co-Design Network;
- ACT Courts and Tribunal/Galambany Circle Sentencing Court;
- ACT Police;
- Behavioural Insights Unit, NSW Department of Customer Service;
- Gugan Gulwan;
- Legal Aid ACT;
- Yeddung Mura; and

- Winnunga Nimmityjah.

Group 2 participants comprised people with lived experience of the criminal justice system, most of whom had been clients of Galambany Circle Sentencing Court.

Interviews and focus groups

The project adopted a mixed-methods approach, involving the use of semi-structured interviews, focus groups and analyses of secondary source material.

Semi-structured interviews and focus groups were conducted with different stakeholder groups. These were divided into two groups: professional stakeholders (Group 1) and Galambany clients, as people with lived experience of bail and/or parole (Group 2). Interview data were collected from participants through hand-written notes taken by the researcher/s and by audio-recording, with the consent of the participant.

As part of the research design for this project, the research team undertook user research. This user research had a number of goals:

- to better understand how, why and when key stakeholders are currently using digital devices, apps and channels in their day-to-day life to connect with each other and their community;
- to find out what opportunities and barriers exist to using digital tools, content and channels; and
- to test initial ideas for potential digital app functionalities with key stakeholders, seek their feedback and input on what would have the greatest positive impact. As part of this, we provided examples to participants of potential digital tools and functionalities identified through a rapid evidence assessment (see Taylor, Van Rooy, and Bartels 2022), to prompt exploration and idea generation with participants.

This user research was non-intrusive, forming part of the semi-structured interview questions and was guided by human centred design principles:

1. Understand the everyday. Develop an understanding of daily routines, habits and patterns that could serve as entry points for digital app use.
2. Avoid jargon**.** Frame in culturally appropriate ways (words, sentences, concepts that make sense to the participants).
3. Have a beginner's mind. Discover and learn about others' worlds (describe their beliefs, norms, behaviours and motivations in their own words, be aware of and limit your own assumptions).

The structure of the focus groups reflected the participant interviews, but with additional time to encourage group communication and reflection.

Group 1

Group 1 participants were first invited to participate in an interview or focus group via email on 30 September 2021. They were emailed participant information and consent sheets and the interview questions (all available on request). We sought to interview approximately 20 professional stakeholders.

By December 2021, we had conducted 11 interviews and three focus groups. We also received informal verbal comments from one stakeholder and written comments from another stakeholder. In total, we therefore received input about the project from 23 professional stakeholders, of whom 14 were Indigenous and 12 were female. In order to ensure participants' anonymity, their responses are signified by a number (denoted as PS for professional stakeholders interviewed individually or FG for focus group participants). All identifying details have also been removed from comments.

Group 2

The Group 2 participants were intended to be Galambany clients, and we sought to interview 10 people. This group would be potential end-users of the proposed mobile app and their views are integral to the development of any such app. We spoke to a total of 12 Group 2 participants (three interviews and two focus groups). Four were female, all were Indigenous and all had experience of bail and/or parole.

Although the research team had confirmed ahead of time that the participants were Galambany clients, on the day, it turned out that five participants had not in fact been through Galambany (the reason they gave for this was that they were deterred by the need to have pleaded guilty to access the circle sentencing court). We had already given these people their vouchers, when we learnt that they had not been through Galambany. We felt it would be disrespectful to ask for the vouchers back and not honour the time they had already invested in going through the consent process and agreeing to participate in the research.

We acknowledge that, given the fact they were not Galambany clients, an argument could be made that their contribution is invalid for the current research project. However, all five participants in this focus group had experience of being on bail and/or parole, and raised some excellent points regarding the proposed app. We have also understood that the app may initially be piloted in Galambany, and is likely to then be rolled out to a wider participant group in the ACT. We therefore see great value in including the findings from this focus group in the research report. We discussed this approach with JACS, prior to including the information gleaned from this focus group and were advised to include it, for the reasons set out here.

These interviews and focus groups were conducted at Yeddung Mura in late March 2022 and we thank their staff for their assistance in facilitating this fieldwork. The fieldwork was conducted by the authors of this report. All participants were advised that the interviewers

were not Indigenous and were offered the opportunity to reschedule at a time that our Indigenous research officer was available, but all chose to proceed at that time instead.

Interviews with Group 1 and Group 2 participants ranged in length from 15 to 90 minutes, with an average length of 50 minutes. The focus groups ranged in length from 30 to 90 minutes, with an average length of 55 minutes. One of the focus groups was led by an Indigenous research officer. All interviews and three of the focus groups were recorded and professionally transcribed. One focus group chose not to be recorded, and instead a member of the research team and a representative from ACT Government transcribed the discussion by hand. The notes were then consolidated and sent to the focus group participants, to ensure the notes accurately captured their comments and opinions. All transcripts were then analysed thematically, to determine common themes regarding the use of technology in people's daily lives, challenges in bail or parole compliance, what supports are available and utilised by people on bail or parole, whether the development of an app to support people on bail or parole is viewed as useful, and, if so, what features on an app would be regarded as useful.

This thematic analysis is detailed in the sections below. In order to preserve participant confidentiality, we have designated codes for participants. Those in Group 1 (professional stakeholders) are coded as 'PS' or 'FG' followed by a number. Those is Group 2 (people with lived-experience of bail or parole) are coded as 'LE' or 'LEFG' followed by a number.

Limitations

There are a few limitations that are worth mentioning. Firstly, we recognise that the sample size for Group 2 participants is small, although it exceeded the sample size proposed for the project.

More significantly, due to time and budget constraints and the limitations of access due to COVID during the period of our data collection, we did not interview people inside AMC. This was mentioned as important by several professional stakeholders. We recognise that people in the community who have shown at least some ability to meet their parole and/or bail conditions may differ in significant ways from those in custody. Future research should therefore include the perspectives of incarcerated people, whose bail and/or parole has been cancelled. Nevertheless, we were able to gain relevant insights, including from Group 2 participants, who had in the past experienced cancellation of their bail and/or parole.

With these limitations in mind, we now turn to the thematic analyses of interviews and focus groups conducted with professional stakeholders and lived experience participants.

Findings

Nearly all of the people we spoke to (34 out of 35), supported the idea of an app to help people comply with their bail and/or parole conditions. Only one participant (from Group 2) stated that they would not use an app, because they did not think they would need it.

Professional stakeholders

This section presents the findings from the semi-structured interviews conducted with professional stakeholders. It should be noted that, although the proposed app will potentially be of utility to people on both bail and parole, most of the stakeholders we spoke to commented more on the former. Nevertheless, the observations about the complexity of the lives of justice-involved Indigenous people in the ACT community are likely to be equally apposite in the context of people on parole.

Challenges associated with complying with conditions

There were several challenges identified by the professional stakeholders interviewed.

Housing

Lack of suitable housing, or a safe place to return to after release, were cited by several stakeholders as contributing to the challenge of complying with bail or parole conditions. One stakeholder commented that 'housing is a big one, that people find hard for their conditions, if they have housing and so forth' (PS1). This comment echoes the findings of a recent project with which the lead authors of this report were involved Doyle et al (forthcoming). Drawing on interviews with 11 people who had been released from the ACT prison, the Alexander Maconochie Centre (AMC) the project found that participants encountered significant challenges finding secure housing post-release, including difficulties and delays associated with social housing, a lack of high-quality affordable housing, the inaccessibility of the private rental market for people who have been in prison.

More than 50% of people exiting Australian prisons either expect to be homeless or do not know where they will be staying when they are released (Australian Institute of Health and Welfare 2019). The initial month after a person is released from custody is a period of particular vulnerability, with an increased risk of homelessness and return to prison. Released prisoners typically have no savings and little prospects for stable income and must therefore look for social housing or unstable accommodation options (Melbourne Criminology Research and Evaluation Unit, 2003). This challenge is amplified by housing affordability and availability issues, present in the ACT, as well as other Australian jurisdictions. For example, Doyle et al. (forthcoming) found that, as at July 2021, the average waiting time for 'priority', 'standard' and 'high needs' housing were 248, 947 and 1,833 days respectively.

Another stakeholder who works closely with Aboriginal and Torres Strait Islander people in

the criminal justice system commented:

> Sometimes [a condition] is breached, because people just don't have enough homes to go to. Often, when they first come to court, there's an interim solution, and they can house them for a week or two, and then, after leaving the toilet seat up too many times, they might get kicked out. And we often find that seems to be another reason why they come back [into prison]. (FG2).

Another complication with housing and compliance relates to conditions that prevent an individual making contact with family members. As one stakeholder explained:

> if they've got to not contact family members, that's really hard. Like, if they can't – normally, if there's a condition you can't go to a certain place or can't be within 50 metres of something, [but] they all live together. And family might be down one end of the street, and this other person might be down the other end. That's really hard. Sometimes, the conditions are unrealistic. (FG1).

These challenges were further highlighted by another stakeholder, who commented:

> Some of the most regular breaches we see are your family violence, don't contact your long-term partner, or mother or father of your kids. Usually mother, given most of the offenders are male. But the contact ones get breached very regularly. And again, it plays into this accommodation [issue], and too often that's a person who… doesn't have the most stable accommodation to live. They can couch-surf with some friends for a while, but at the end of the day, the relationship's there, the house is there, the kids are there. So, that's one of the big ones. (FG2).

Lack of structure

Several stakeholders spoke about how many people on bail or parole experienced high degrees of disorganisation in their lives, which can impact on their ability to comply with conditions:

> I often would have people call me up and go, oh, I forgot I had court. I'll be there in two hours, I'm just going to get the bus. And I'm, like, well, your court date's now, you can't be here in two hours. (PS6).

Another stakeholder spoke at length about the various compounding factors that all contribute to the high degrees of disorganisation:

> Where people's lives are messy, perhaps disorganised, they've got a history of drug misuse, but even just in a general sense, don't live with a structured pattern, it becomes just very difficult to build in compliance with bail, to recall when you're required to attend court, or perhaps when you're required to attend a police station… And often success is determined more by whether or not there are other

> people around the person, or support networks, that can remind and even assist with transport to, for example, get to court. And so we have situations where [there] are people essentially in breach of a bail condition for not appearing, not because of any kind of wilfulness or contempt, but it's just too difficult to manage the various aspects of life. And it's perhaps hard for those who don't experience that to appreciate. (PS8).

The same stakeholder spoke about how the lack of structure can negatively impact on an individual's relationship with important services:

> it's those relationships with Corrections, and with the support networks, that I think are crucial to the success of any of those conditional release arrangements. And all of those depend upon being able to keep track of appointments, know who to contact if you're going to miss it, have easy access to phone numbers and so forth. And without that, it quickly can get out of hand. (PS8).

Another stakeholder spoke about the challenges of maintaining structure, once an individual is released from custody:

> In my experience, I find that when they're released from custody, they don't have any structure. It's all about structure and that. Because when they come from the correctional structure there, they get fed at a certain time, they get told to wash, they get told to do everything. But when they're released, they just go back to that lifestyle, where it's disorganised, erratic. (PS2).

People caught up in the criminal justice system are often likely to meet multiple legal representatives and officials, adding to the stress of trying to stay on top of appointments. This may lead to people forgetting important numbers, as one stakeholder explained:

> People forget who their solicitor is so much [of the time]. If there's somewhere where they could put their solicitor's number in, that would be good… Because a lot of them will go with Legal Aid and ALS and they get passed around a lot and they can forget. (PS6).

The burden of maintaining regular contact with various representatives in the justice system was also observed by another stakeholder:

> Across the board, there's obviously just keeping contact with Corrective Services, obviously on [intensive correction orders] and parole and, well, supervision on suspended sentences…and bail Corrective Services obligations. And time and again, we see breaches, where they've been in contact for the first day or two, and then phone calls go unanswered, they reschedule appointments three or four times, before just dropping completely out of contact. And find themselves, depending on

> exactly why they were on supervision, a week, two weeks, six months down the track, being breached, either on bail or their suspended sentence or whatnot. (FG2).

Related to the challenges associated with having a lack of structure, some stakeholders made mention of particular times during the day which make it particularly challenging to comply with conditions. For example, in relation to court attendance it was suggested that …early mornings do not work… there might be some benefit in doing an evening court. (PS3).

Another stakeholder commented that night time curfews are particularly challenging:

> I would say night-time is a big one. Because people often have curfews, and they will need those curfews, and we know that family incidents or violence comes and happens at night. If he's gone out and had a night, it's a big thing we have, because all of our services are nine to five. And we have a lot going on at night. And I think that that's going on be a big one, because of curfew, and a lot of people go out and do not so great stuff at night. (PS6).

Access to transport and other practical issues with reporting

Several stakeholders spoke of the challenges associated with this cohort getting to and from appointments, as well as other practical challenges related to reporting requirements. This is especially problematic if a person is required to report frequently or attend multiple appointments, as part of their conditions:

> You could probably talk about this all day, but the reporting one is a big one, especially if it's every day. We can help them remind them to report, but if they're reporting seven days a week, that's at least $5 minimum, it's probably even more, for a bus into town, and otherwise you've got to walk. For our clients, $35 a week to report is a lot. (FG1).

People may also be reliant on friends and family to bring them to appointments.

> A lot of these people are coming in to court, like, for traffic violations is a big one. And they either don't have a licence or aren't allowed to currently drive, so they're relying on family or friends to take them, who sometimes can't be the more reliable people either. (PS6).

Understanding conditions

Conditions of bail or parole may be complex and difficult to understand. For example, research in Western Australia has found that one in five Aboriginal and Torres Strait Islander accused people may need help understanding bail (Western Australian Auditor General, 2015, cited in ALRC, 2017.

As discussed in detail below, this is likely to be exacerbated, if a person has additional challenges with literacy and/or numeracy. One stakeholder considered these challenges:

> Even if we think of it from a lawyer's perspective, from the other side of the bar table. If you hear from the bench, a judicial officer stating that these will be the conditions of bail, you struggle to keep track of that, writing it down, even to keep pace with writing it down. And so, if we take from that and we imagine what it's like when you're not writing it down and just hearing it, it's very difficult to imagine that anyone, let alone someone who is stressed in that situation will recall from that point the specifics. And so we are then also relying very much, I think we have to accept, on literacy, and a paper, a piece of paper. And I think that there's a lot of assumptions around the way people read, engage, levels of literacy, and levels of organisation, so that those conditions are accessible and built into the person's routine. (PS8).

In many cases, there are several conditions attached to bail and/or parole and, depending on how many matters the individual has presented for, some of these conditions may be contradictory, increasing the likelihood that condition will be breached. This challenge was explained by a stakeholder, who works closely with people on bail:

> Sometimes, when they've got really strict conditions, they could have 10 conditions, and *I* can't even understand this, how are they meant to [comply], properly. Or, if they've got conflicting conditions. It happens all the time. When they're on three lots of different bail conditions, one says this, one says that, and another says this. And then they've got three different [apprehended violence orders] that say three different things, that can be very, very confusing. (FG1).

Another stakeholder from the focus group spoke about their experiences in witnessing people attempting to understand their conditions:

> I had a young fella yesterday who had reading and writing issues. He could sort of understand basic things, but he was unrepresented and they handed him fact sheets from the police and an AVO and he just looked at me and said I don't know what that says. And he was already convicted in his absence and all this stuff, but was on his phone, on Facebook, and Instagram and stuff. So has obviously limited reading ability, but looked at all that information and just went, no, that's too hard, I don't know what that says. (FG1).

When asked whether an app would be useful for people with literacy barriers, one stakeholder responded:

> Yes, I think it's highly likely to be successful, and particularly if you think of literacy really broadly, and going back to the point of literacy in terms of organising life

> around appointments and so forth. One thing that's pretty clear, from participants, is that they all use phones, or by and large they're all using phones. (PS8).

Commenting on literacy being a big challenge for clients, one stakeholder commented in relation to the design of an app to help support people on bail or parole:

> I think that if you had an option where it could be read out, so voice to text, or the opposite way, so if someone's saying I need my bail conditions, if they could be read out on the phone. (PS1).

The importance of clear communication in a mobile app was echoed by another stakeholder:

> I think the language that you use when you're asking questions needs to be really, really, really simple, and not these big jumbled words that everyone uses. Because they're just look at it and go, no, I'm not even going to bother. (PS2).

Use of technology and access to smartphones

Most stakeholders observed that people engaged in the justice system had access to smartphones and used them in their every-day lives. This was found to be especially the case among younger people. As one stakeholder commented:

> Most of the people coming out of custody are in that technology generation anyway. There's not too many guys that are getting out that are in that older age bracket, that haven't been around technology before. (PS2).

Another concurred, saying:

> I think everyone can use a mobile phone [in] this day, unless you're older, like the older ones, Elders and so forth, they find it hard, so that obviously they need training. But most people can use mobile phones these days. (PS1).

When asked about how people use their smartphones, stakeholders made mention of social media apps, such as Facebook and Instagram. One stakeholder commented 'my colleagues continually tell me that the take-up of social media and so forth in the Aboriginal community is much greater than in any other community'. (PS5). Another stakeholder reflected

> I think the big one is connecting. People use their phones to connect with family and friends, and to play games, that's about it. Or entertainment. So that's what I think people use it most for. (PS6).

These comments echo research that examines the uptake of social media within Indigenous communities. A survey conducted by the McNair Ingenuity Research Institute on the media

habits of 400 Aboriginal and Torres Strait Islander people found that usage of the social media platform Facebook was 20 per cent higher among Indigenous people than the national average (Callinan, 2014). In their study of Aboriginal youth's use of mobile devices and social networking, Edmonds et al. found that young people used social media for 'maintaining connections and for pathways to assist them when facing big decisions' (2012: 12). A more recent survey conducted by researchers at Macquarie University found that over 90 per cent of Aboriginal and Torres Strait Islander people surveyed used social network sites to connect with friends or family across distances (Carlson and Frazer, 2018).

Another stakeholder we interviewed observed that most of their clients have a level of digital literacy which would make the use of a mobile app accessible:

> my observation is that the vast majority of clients have the level of literacy necessary to understand basic text…even people who report themselves as struggling with literacy often have huge volumes of text messages back and forth… the text message era has brought in a lot more phonetic type spelling, usually as abbreviations, and therefore the acceptable level of literacy is a bit lower with text messages because it is all that abbreviation and whatnot. (FG2).

Despite this, a number of challenges to maintaining contact with clients were mentioned. One stakeholder spoke of the difficulties in staying in contact with clients, when they did not have a phone and were relying on writing details down on a piece of paper, stating: 'it feels like half our job is trying to get into contact with clients…this issue is not isolated to people who have been incarcerated. There's a lot that have been on bail, no issue, and still keep going through phones and then become uncontactable.' (FG2).

This view was echoed by another stakeholder. Speaking about the challenges associated with changing phone numbers, one stakeholder commented, 'that's probably a massive thing with our mob, that they change their number all the time' (FG1). The same stakeholder spoke about ways they tackle this issue by contacting their client's family:

> Some clients will say can you send the reminder to Mum, or to aunties – the elders keep their numbers. The young ones seem to swap and change. So normally if I have someone who doesn't have a phone at the time, or is getting one, or changes their numbers, they just say can you just send the reminders to my mum or my aunty or something like that. Or even partners. If it's a male sometimes he'll just say just send it to my partner, she'll remind me. (FG1).

Several stakeholders mentioned the need to factor in data requirements and internet access when developing an app for people on bail or parole As one stakeholder commented:

> People don't always have access to internet or data. Especially people who are poor, or even in a lower socio-economic kind of category, and may not be able to afford continuous data and stuff like that. (PS6).

What helps to support people on bail or parole?

Stakeholders were asked to reflect on their experiences of 'what helps' a person to stay on track with their bail or parole conditions. Several stakeholders commented on the importance of social support and stability from family, friends or support workers.

> The responsible mum and dad, usually. If you get a client who has the straitlaced mum and dad they can live, with tend to keep them on track. So somebody – to use the court's language – pro-social nagging them, I suspect that really does help. Stability, really, I think. It is just that whole thing, the less stable you are the more itinerant sort of lifestyle you're living, the less likely you are to make time, for obvious reasons, to go to that appointment, or not have a drink, or not contact that person. You've got structure, I suspect.

Stable housing was also mentioned by several stakeholders as being crucial to success. As one stakeholder put it, 'accommodation I think is the big key'. This echoes the comments made earlier regarding the challenge of complying with conditions when basic requirements, such as access to stable accommodation, are not available.

Views on privacy

Tracking and access to data stored on a mobile app were noted as being possible concerns for people using a mobile app. As one stakeholder queried, 'I reckon the biggest question they'd have is: who's looking at this? Are they watching?' (FG1). Another stakeholder put it plainly: 'No one's going to use it if there's GPS tracking in it.' (PS7).

Similarly, stakeholders commented on the need to ensure that users of the app know that it is not intended as a supervision tool, with members of a focus group commenting:

> The clientele will have serious paranoia so there needs to be that affirmation/reassurance that their info is their own and confidential. (FG3).

This view was backed up by another stakeholder in a separate interview who advised, 'have something really clear that just says this is not monitored by anyone but you' (PS6).

Conversely, however, another stakeholder commented that having conditions of bail or parole available in a digital format could increase a sense of privacy and minimise feelings of shame:

> I think if anything having it as a digital format does make it feel more private, and they're not as exposed. Having seen the spectrum of different behaviour change

> things that are offered, some of them are offered at court, you're there and everyone can see you, and someone's there with a clipboard, and they're taking down your details, do you want to come to this programme, you've actually got to deal with people. There's already a shame that you're feeling about it all. (PS4).

Core mobile app features

Stakeholders were asked to reflect on what they considered to be core features of a mobile app designed to support people on bail or parole. Several key features emerged including the app having the ability to store useful information, key contacts, having a reminder and notification function, an audio function and for the app to be visually appealing. Each of these features discussed in turn below. What became immediately apparent, however, was the need for simplicity in the design of the app. This key theme was mentioned by all stakeholders and was considered as key for at least two reasons. Firstly, because literacy and other challenges may prevent people from being able to read large amounts of text displayed on a small screen. Secondly, because displaying too much information at once may overwhelm the client who may then be more inclined to disengage from the app and not use it. As one stakeholder commented:

> I think the design, and the readability and the ease of use is going to be a big one… if people see something in there like it's not immediately intuitive they'll just close it (PS6).

Members of a focus group agreed on the need for the app to 'use easy English—visual representations combined with simple one-line English statement' and suggested that 'legal language/ jargon needs to be broken down into simple terms/ plain English. A lot of people in the system struggle with legal/ government jargon.'(FG3).

Useful information

Keeping in mind the need for simplicity, the importance of the right kind of information being contained and displayed on the app was mentioned by most stakeholders. This included information on their specific conditions of bail or parole. As one stakeholder explained, 'People don't remember the conditions, and they're so confusing, and so having something that actually explains it in a format that they can go and revisit, it's always sitting there on the app where they can go in.' (PS4).

Ease of use and the positioning of useful information in the app was also discussed during the stakeholder interviews:

> I was thinking their bail conditions could either be just a tap away, or be on the front page, so that they know – really easy to use, only some information on there, so it's quite an easy app to use, rather than [overwhelming them with lots of information]… so maybe only three different features on it or something, and one is seeing your

> bail and your conditions, and then the other one is when your time is, if they have to go and report, and so forth. And then some numbers, phone numbers for their parole officer and so forth. Something very simple, I think people would use that. (PS1).

Similarly, another stakeholder made suggestions for the placement of useful information:

> What's my date? First page. Next page, what's the conditions? For your bail, that's kind of what you need to know. Or where do I need to go, perhaps. (PS3).

Another stakeholder commented on the utility of having an explanation as to why the individual is required at court, saying that:

> A lot of people don't know what they're turning up for. So especially it's a Galambany process, if they could have something in there where, like, if it has type of matter assessment or sentencing, because those are the two Galambany court dates you have. And when you expand it to just the Magistrates Court maybe you can add other things, but I think it's helpful to know why you're going to court. A lot of people don't. They don't know what to expect when they're turning up. (PS6).

When asked whether a function on an app which read out conditions would be useful, one stakeholder commented: 'Yes. I really do. For people that can't read, and for people that can't see well, that would be really helpful. And it's inclusive of people with disability to do that sort of stuff. Plus sometimes just having someone read it out to you makes more sense than reading it yourself. (PS6).

One of the potential benefits of an app may be that information is displayed in such a way that those with reading and cognitive difficulties can more easily access information (for example, visual displays of information may be helpful for people with hearing issues, while voice recording features may be of benefit to people with visual impairments and/or literacy issues).

Reminders and notifications

The ability for an app to send the user reminders of upcoming appointments was seen as a key feature. As one stakeholder commented:

> Having a little sort of thing that reminds them of the dates in their court or something like that, a little calendar, that's really helpful because you would be surprised how often people just forget their court dates. (PS6).

Another stakeholder commented that it was 'vital' that an app include reminders of upcoming court dates. (FG2).

Notifications were also mentioned as being an important feature and, in particular, the

ability of an app to be able to send useful prompts or alerts. For example, one stakeholder suggested:

> Something really great that you can do is help a user identify their danger times, when they're more likely to breach, and then have in-built reminders in the app that remind them when their danger time is up. (PS7).

Key contacts

Having a list of trusted, key contacts was also regarded as an important feature. This list could include numbers for family and friends, support workers, lawyers, parole and bail officers. As one stakeholder explained:

> Because maybe just like those rough few [contacts] that relate to if you need help at any point in that system, you have somewhere where you can just quickly press that button and that'll take you to call that person. And just having those couple of ones that you can put in, because for example their bail condition or parole condition might be that they have to go see a psychologist. That's not often, but sometimes that'll be [the case]. And then if they can put that psychologist's number and address or something like that, they have the ability to put it in so that it's easily accessible in that one app. (PS6).

Another commented that sending information to a friend or family member about conditions would be helpful in cases 'where you do have the supportive parent or the pro-social influence.' (FG2).

Additional mobile app features

Wellbeing and goal setting features

Several stakeholders spoke about the need to make the mobile app appealing to use. For example, one stakeholder suggested that the app contain a feature to help people manage their budgets. Another, thought that the app could help to teach people skills about how to stay safe:

> I do think maybe a mental health section, or a section for support with things that people often struggle with when they're in the system, the big two are mental health and addiction. It might be nice to have that, and also maybe some family support, family violence support as well for women who might be in the justice system, and having that support section might be good as well. (PS6).

In behavioural economics, this is known as the principle of reciprocity (Cialdini, 2008), aptly summed up by one stakeholder:

> You need to have a level of intrinsic motivation to want to download the app, you

> want to engage with it to begin with. If it's just seen as a compliance tool they won't engage with it as much, but if it's seen as something that's actually a tool to serve their needs, which is basically the crux of human-centred design, that you're actually designing around a need of the customer, not your needs. Their needs. And whilst compliance is a good thing for them, how can you make compliance an aspirational thing, versus 'have this app, because we want you to comply' (PS4).

Relatedly, some stakeholders suggested the inclusion of a goal setting function to help people stay on track:

> Remind them what their more ultimate goal is. So you want to maintain motivation…So it's, like, are you doing this just for yourself, because you don't want to go into remand? Are you doing this for your family? For your kids? For your kids was definitely the number one motivator in What's Your Plan. Or do you have another goal? I can remember one guy who wanted to go on a trip to the US, and if he had a criminal record he couldn't get a visa. So it's letting the user personalise their goal, and reminding them of that motivation in those danger times. So it could just be a push notification which shows them a picture of their kids, or their passport, or something like that. (PS7).

Another stakeholder suggested that the app could include a feature which allows for positive messages to appear on the screen, for example 'you are doing so well', or 'you've got XX days under your belt, well done!'.

Lived experience participants

This section presents key findings from the semi-structured interviews and focus groups conducted with Group 2 participants—those with lived experience of bail and/or parole. In total, we conducted three interviews and two focus groups, and spoke to 12 people, who all identified as Aboriginal.

Use of phones/access to phones

All participants stated that they use smart phones on a regular basis. The various uses mentioned included making and receiving phone calls, online banking, social media, making appointments, watching videos and using Google. A few participants commented that they relied heavily on their phone to remind them of upcoming appointments, using the calendar function to keep track of these appointments.

While all participants interviewed had a phone, a few highlighted that access to mobile phones can be an issue, especially for people exiting prison:

> [W]hen you're coming out, you don't have a phone straight up… The majority of the time, people have to go buy a new phone. (LEFG2).

Distrust/concerns about privacy

A few participants mentioned concerns about privacy when using technology, especially around third parties accessing data and location tracking:

> Tracking, yes. I don't like what they have – where you, the GPS tracking, you know? Yes, so they know where you've been and so-and-so at what time, yes. (LEFG1).

> I don't like my Google GPS sometimes. Especially if I've got the police matters or so, I don't like my Google location on. (LE1).

Another participant shared that they had a distrust about giving out information over the phone:

> Just don't trust, like, I don't do my phone banking stuff and that over the phones or anything like that. (LE2).

The collection of data was raised as a concern by a participant in a focus group:

> I have a thing with using it, the data, you know, who's collecting it and the footprint that you're leaving. Who's accessing that footprint? (LEFG2).

Mobile data

Participants queried whether the app would be free to download and whether it would require data to use. Several participants mentioned that they run out of data, so this could be an issue in using an app:

> Data, I do run out of data, because I was on, like $2 a day, but I've just changed, because I found you can get 30 bucks and 40 gigabytes for $10. So yes, I've just been going off that. (LE1).

> I've never got data, never have data. (LEFG2).

Compliance challenges

Participants were asked to reflect on the challenges they face, in relation to complying with their bail or parole conditions. A key challenge highlighted by several participants was the difficulty in keeping track of appointments. For example, when asked about whether remembering certain dates for appointments was challenging, one person commented:

> Yes. That can be very confusing. Because, we've got a lot of appointments, and doctor's appointments, appointments [at an Aboriginal and Torres Strait Islander community organisation], with our Job Network, so we're pretty busy and we do forget our appointments and that from time to time. (LE3).

When asked whether an app would help them to keep on track with appointments, the same person responded that, 'having something like that would ease a bit more of the anxiety, I guess, of trying to remember all these appointments'.

Possible mobile app features

Participants were then asked to comment on a range of suggested features that an app might include. Table 2 below provides an overview of feedback received from participants, in relation to the individual app features discussed in the interviews and focus groups. These are presented in descending order, with the app features that received most support listed first. There was unanimous support for two proposed features: all 12 partcipants agreed that an app which recorded, and sent personalised reminders of, important dates—in particular, court dates—would be beneficial. All participants also supported the inclusion in the app of information on where to get help, and 24-hour support service numbers were considered to be particularly useful. In addition, sending a notification to remind people of their trigger times or places (ie, times or places they felt particularly vulnerable to breaching) was supported by 11 out of 12 participants. Including a list of trusted contacts and being able to send important information contained in the app to a trusted family member or friend were considered to be useful features by just over half of the participants (n =7). The suggestions about being reminded of their conditions and tips on how to stay healthy were less popular, with support from six and five participants respectively.

Table 2. Possible mobile app features and participants' assessment of their utility

App feature	Participants in support (N=12)	Quotes
Reminders of court dates	12	'Awesome, yes… Because I went to court in May, and it's not until August, and that's a lot of time, and I haven't got a good memory, so yes, a reminder would be perfect.' (LE1). '[It] would be very beneficial to have for someone going to court. It just takes off that pressure, I suppose.' (LE3).
Information on where to get help if you need it	12	'Yes, for sure…24-hour numbers too'. (LEFG2).
List of trigger times	11	'Yes, on pay day. Because that's when we slip up, when we get money in our pocket.' (LEFG1). 'Yes, make you think twice.' (LEFG1).

		‘Yes, I would see some benefit in that, actually. Because you’re probably walking around and you’re feeling down, you’re not around any of your supports, and just to have something like that, that could really help a person.’ (LE3).
List of trusted contacts	7	‘That would be very helpful for people that get locked up, and they can have a list of numbers who they can call, give it to the police officer if they’re arrested and say “could you call this number here for me please?”.’ (LE3).
Sending information to a family member or friend about what your conditions	7	‘You’d have to be real careful of who that support person is… Because if they want them to be a part of this support, you know, like a mother and a child, the mother tells them [eg, not to do something], there could be domestic violence in that.’ (LEFG2).
Reminders of what the conditions of your bail or parole	6	‘It would be very helpful, because in court you’re nervous, and you’re not picking up everything sometimes. Because you just want to get out of there, half the time, and it would be so, so helpful to have that, because you could be in a place and think, oh, hang on, am I allowed to be here? Or something like that. So to have that, to look at it and know.’ (LE3).
Getting information on how to stay healthy	5	‘I reckon they should have something like that anyway for people, just to check in with you, to see how you’re going. You could be having a really bad time, and just someone checking in and saying “are you okay?”.’ (LE3).

Finally, participants were shown pictures of four different examples of similar types of apps in the field and were asked to provide their thoughts on the design, layout and colours used. Feedback from participants (both Group 1 and Group 2) on each of the app designs is provided in the appendix. The responses show a lot of variation in participants’ reactions to the example app interfaces. The common perceptions shared by most participants was the need to avoid very bright colours, such as bright red (as evident in the MAYOT app), and overly complex app designs. Some participants were also keen to see Aboriginal artwork used. Overall, there was a range of perspectives, demonstrating the subjectivity and personal preferences involved in designing an app of this nature.

Conclusion and recommendations

Nearly all of the people we spoke to (34 out of 35), supported the idea of an app, to help people comply with their bail and/or parole conditions. Only one participant (from Group 2) stated that they would not use an app, because they did not think they would need it. In light of this, we recommend that the ACT Government proceed with the next phase of this project, namely, commissioning an Aboriginal and Torres Strait Islander company to design an app, taking into account the findings from this report.

However, there should be recognition that the potential of the app to impact on bail and parole compliance may be modest. In particular, the professional stakeholder interviews raised a number of structural challenges that cannot be addressed by the use of a mobile app, but which may affect a person's ability to successfully comply with their bail and/or parole conditions. The most notable among these is the issue of housing. The lack of suitable housing was cited by several stakeholders as contributing to the challenge of complying with bail and parole conditions. Several professional stakeholders also spoke of the challenges associated with lack of transport to get to and from appointments, as well as other practical challenges related to reporting requirements. This is especially problematic, if a person is required to report frequently or attend multiple appointments, as part of their conditions.

Privacy and security concerns were raised by the majority of participants interviewed. Particular concern centred on whether such an app would be able to track the user's location. Kao and Liebovitz (2017) have also highlighted privacy and security concerns; because of the rapid increase of apps, the amount of personal data that is collected and stored (including, often, quite sensitive data) is also increasing dramatically. Often, app developers fail to provide explicit privacy policies and users pay little attention to the apps' information security and privacy policies.

Generally speaking, digital literacy among the cohort interviewed was relatively high. This suggests that there is potential for high uptake of the proposed app, although this needs to be offset against the concerns raised about the cost of data and who would have access to the data. In addition, while an increasing proportion of people, at least in the developed world, have access to the internet and the use of mobile technology, people in prison often do not have access to such technology. Therefore, it cannot be assumed that, upon release from prison, these individuals will have the necessary levels of digital literacy to take advantage of mobile apps designed to support them. Future research should examine ways in which prisons can adequately upskill detainees to keep up-to-date with emerging technologies (Van De Steen and Knight, 2017), so that they might also be able to take advantage of technological opportunities to support them, as they transition to life back in their communities.

There is also some research that shows that sociodemographic factors, such as age and education, are significant variables for predicting whether a person will adopt a mobile device. Overall, younger individuals with more education are more likely to use apps related to health (Carroll et al., 2017). This information should also be borne in mind, in considering the likely use and utility of apps in the justice space.

Further research is required, to ensure that the development of justice apps for use by Aboriginal and Torres Strait Islander people involved in the justice system is informed by those with lived experience, to maximise the benefits that such technology may bring, as well as understanding the limitations and challenges of technology use in bringing about behaviour change in this context.

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Appendix: Participant feedback on app design

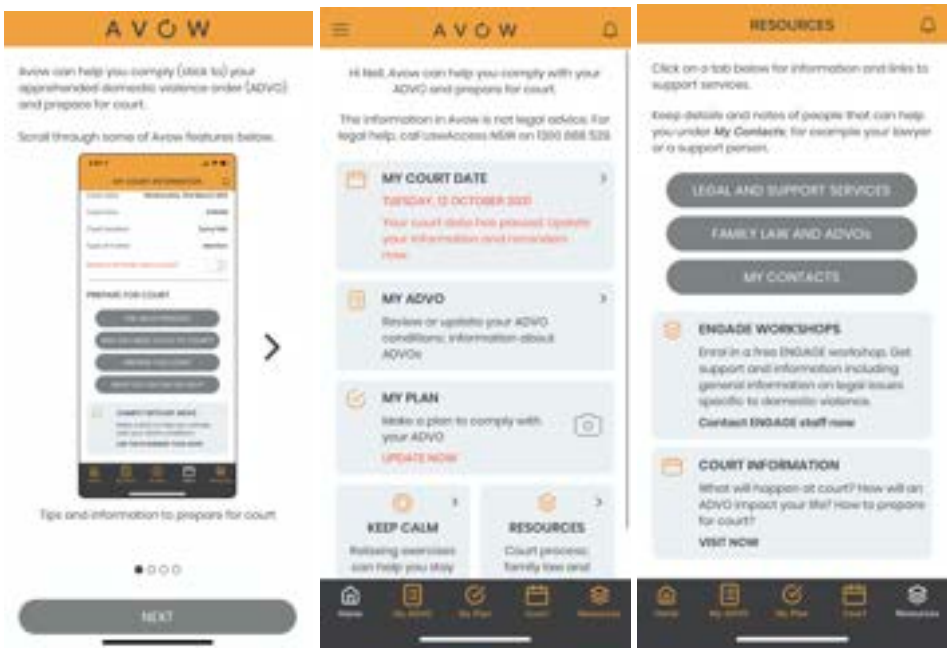
Avow

Avow is a free mobile phone app for people in NSW who have an apprehended domestic violence order (ADVO). Avow information, planning tools and tips can help users better understand and comply with their ADVO conditions and prepare for court.

The app means users can find their ADVO and court information directly from their mobile phone device and read about the court process, the consequences of breaching an ADVO, and use the Avow planning tool to comply with their order.

Avow does not provide or replace legal advice and users are encouraged to seek independent legal advice.

Figure 1. Avow App



Comments/feedback

Group 1

"It looks like the initial landing page or initial screen is pretty simple and then it has some pretty focused categories that you can then click on and get more information."

"I think it would be really nice to incorporate some sort of Indigenous art into the app."

"The first screen, if it looks like there's too much to work out, people aren't going to use it."

"It just seems like there's a lot, a lot of information."

"It doesn't really pop though, does it? It looks a bit boring."

Group 2

"Yes, it is simple."

"[The colours] are a bit dull."

"You don't want system overload. "

"It's a lot [of information]."

"I don't know. Yes, I don't even know where to start, you know? Can't understand it."

MAYOT App for Youth Justice

The MAYOT app allows case-workers to provide relevant, timely information to a young person, to help them manage the requirements of their youth justice order. It also includes appointment reminders and encourages communication, through direct access to relevant contacts, such as professional and personal support networks.

Figure 2. MAYOT App for Youth Justice



Comments/ feedback

Group 1

"The red is just intense, and I think there's questions about what you want to look at, and this just looks like alarm."

"I love that there are progress bars, and you're getting real time feedback on your progress."

"I like that there's barely any text on the home screen, it's really easy to navigate with the icons."

"I like that it has your past dates as well, so when you've been to court and when you have to go to court."

"Your order progress… gives you a bit of an incentive if you see that you're, like, 80% there, because, you know."

“[I]f you didn’t have good eyesight I would say you couldn't read some of the grey text. I would keep it to black text, really clear bold black text so people can see.”

“Definitely not red. That just screams, like, no, wrong. But that first, that one in the middle, like you can track your progress.”

“The only thing I like about that is the case worker button…they don't have to think about finding the number in their phone.”

“It just looks aggressive [the colour].”

Group 2

“I think that one’s better than the first one [Avow], I think… It doesn’t seem overloaded like the other one”

“That’s a lot more simple.”

“Yes, this is much better.”

“Probably good, the progress thing as well.”

“[Use] Aboriginal colours or something, yes. “

A-CHESS App

A-CHESS is an interactive smartphone app that provides information, adherence strategies, decision-making tools, and support services to patients with alcohol use disorders.

Figure 3. A-Chess App



Comments/ feedback

Group 1

"Yes, I mean, visually that looks good, but… a lot of that risks cluttering."

"I think that's really a great use of icons. You can immediately tell which each is for."

"It's a lot going on, but it also doesn't tell you anything."

"I do like the idea of little emoticons to show what things are as well. I don't like the interface, though, I think it's very bland."

"I don't like the set-up, I don't know if it's the colours or whatever, but icons are definitely good to explain things."

"I like the icon idea, but too much, too many."

Group 2

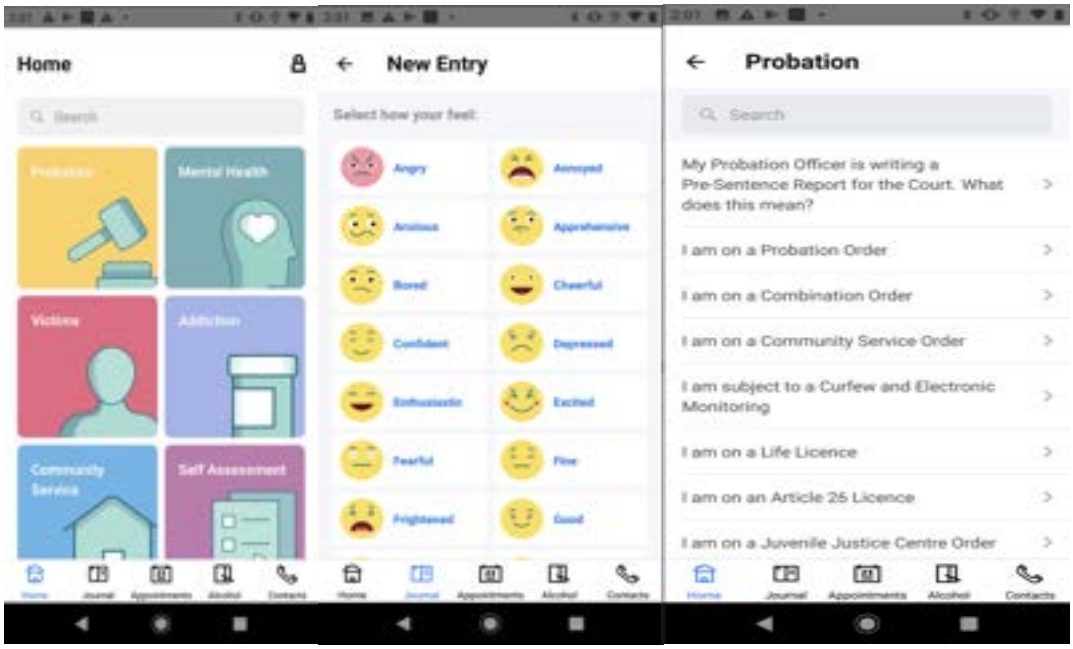
“Keep it basic and simple, I reckon. Just keep it basic and simple. They know what the app is and what it’s for.”

“[T]hat one’s okay.”

Changing Lives App

The app aims to assist offenders to desist from crime and help offenders, who are often struggling with mental health issues or addictions, to identify their problems and find support.

Figure 4. Changing Lives App



Comments/ feedback

Group 1

"In general terms, I like the simplicity of that. There's an image, there's simple words."

"I think the danger with mood trackers…is if someone says they're angry, what do you actually do with that information?"

"It's very calming, the colours that they've used."

"I like how they have the button to press with the heading and the image, so that you can tell what would be in there."

"I do think maybe a mental health section, or a section for support with things that people often struggle with when they're in the system, the big two are mental health and addiction."

"I like how that first page is set out. I think it's inviting, and it's not too aggressive, and it's calming, I suppose."

Group 2

"Dull."

"[The mental health aspect] is really helping."

"The red one's [MAYOT app] probably better."