



The nature of bail breaches in NSW

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Aim: To describe the type of bail conditions imposed on defendants in New South Wales (NSW) and the nature of bail breaches.

Method: The Bureau's Court Data Warehouse (compiled from JusticeLink data) provided data on bail conditions imposed on defendants at first court bail appearances (July 2014 – April 2017) and bail breaches established in 2016. The NSW Police Force's Computerised Policing Operational System (COPS) provided additional information about offences committed whilst on bail.

Results: The most frequent bail conditions imposed at first court bail appearances were related to 'residence' (30.6%) and 'reporting to police' (20.3%). In 2016, 7,071 breaches of bail were established by the court. The most common bail breaches involved 'reporting to police' (18.1%), 'curfew' (9.3%) and 'residence' (8.6%), but 22 per cent of bail breach orders had no information regarding the condition(s) breached. Almost half of these orders had 'further offences' proceeded against recorded in COPS; the most frequent being 'breach Apprehended Domestic Violence Order', 'domestic violence related assault' and 'other driving offences'. For 35 per cent of orders, defendants had only breached their bail conditions; for 27 per cent of orders, defendants had only committed further offence(s); for 26 per cent of orders, defendants had done both; and the remaining 12 per cent of orders had no information about bail breach type. While bail was refused for one-fifth of orders where defendants had only breached their bail conditions, this increased to 39 per cent of those who also committed further offences, and to 48 per cent of those who had only committed further offences. This significant bail refusal effect was found after controlling for the defendants' age, gender, Indigenous status and location.

Conclusion: Just over half of the bail breaches involved further offending whilst on bail. This was strongly predictive of bail refusal. Improvements could be made in the recording of bail breach information.

Keywords: bail, bail conditions, bail breaches, bail refusal, logistic regression

INTRODUCTION

Bail is the 'authority to be at liberty for an offence' or an alleged offence (*Bail Act 2013 No. 26, Part 2, Section 7(1)*) and can be granted by either the police or the court. It attempts to strike a balance between ensuring the safety of the community and protecting the accused person's right to the presumption of innocence. However, as one would expect, there is community outcry when offenders commit offences whilst on bail (e.g. Blair, 2017; Brown, 2017; Hall & Hasham, 2014; Houston & Vedelago, 2015). This community reaction is not limited to Australia; similar anxieties have been expressed in several other countries, including the United Kingdom (e.g. Martin, 2012; The Telegraph, 2012); New Zealand (e.g. Leask, 2012; Sharpe & Watt, 2010) and the United States of America (Hardwick, 1987).

Bail conditions can be imposed on an accused person when bail is granted or a bail decision is varied (Division 3 (s 23)). The legislation outlines various conditions that could be imposed, including:

- a 'conduct requirement', which requires a person 'to do or refrain from doing anything' (s 25(2)). Examples of conduct requirements include reporting to the police every day, surrendering a passport, not associating with specific people and obeying a curfew.
- a 'security requirement', which can require the provision of security for compliance with the bail acknowledgment (s 26). This could include that the accused and/or other acceptable person(s) agree to forfeit a specified sum of money if the person who has been granted bail fails to

appear before a court in accordance with his/her bail acknowledgment. It could also include that a specified sum of money be deposited with the bail authority and be forfeited if the accused fails to appear (s 26(2)).

- an 'accommodation requirement', which requires 'that suitable arrangements be made for the accommodation of the accused person before he or she is released on bail' (s 28(1)).
- 'enforcement conditions', whereby the person on bail can be monitored or required to comply with another 'underlying bail condition' (s 30). The court can impose one or more of these conditions at the request of the prosecutor in the proceedings. An example of an 'enforcement condition' would be requiring the person to undergo testing for drugs or alcohol; this condition would be connected to an underlying bail condition that requires the person to refrain from consuming drugs or alcohol (s 30(4)).

To be released on bail, the accused person must sign a written notice, known as a 'bail acknowledgement', which specifies the time, day and place that the accused must appear before the court, any conditions with which he/she must comply and the consequences of failing to do either of these things (Part 4, s 33(2)). It is a criminal offence for a person not to appear before a court in accordance with a bail acknowledgement (Part 8, s 79(1)). The maximum penalty for a 'fail to appear offence' is the lesser of (a) the maximum penalty for the offence for which bail was granted, or (b) three years imprisonment, or (c) a fine of \$3,300 (s 79(3-4)). If the accused contravenes the requirements of the bail acknowledgement, his/her bail could be revoked (s 33(3)). The failure to comply with the bail conditions imposed by the court is referred to as a 'breach of bail'. However, this is not, of itself, a criminal offence (unless the breach of bail condition otherwise constitutes an offence per se). In fact, if a police officer believes that a person has failed, or is about to fail, to comply with either a bail acknowledgment or a bail condition, he/she has a number of options available, including taking no action, issuing a warning to the person, issuing an 'application notice' requiring the person to appear before a court/authorised justice, issuing a court attendance notice to the person if the failure is an offence, arresting the person without a warrant and taking him/her before a court/authorised justice or applying for a warrant to arrest the person (Part 8, s 77(1)). The Bail Act gives police officers some guidance in both deciding whether to take action and the type of action to take. Officers must consider the relative seriousness or triviality of the failure/threatened failure to comply, whether the person has a reasonable excuse for the failure/threatened failure, the personal attributes and circumstances of the person and whether an alternative to arrest is appropriate in the circumstances (s 77(3)). Section 78 outlines the powers of a bail authority if an accused person is brought before it and it is satisfied of the person's failure to comply with a bail acknowledgement or condition. The bail authority can release the person on his/her original bail, vary the bail decision, revoke or refuse bail (s 78).

The current brief builds on previous research conducted by the NSW Bureau of Crime Statistics and Research on the impact of the Bail Act (Thorburn, 2016; Weatherburn, Corben, Ramsey & Fitzgerald, 2016; Weatherburn & Fitzgerald, 2015). While the previous research focused on the complex relationship between changes to the Bail Act and trends in bail refusal and the size of the remand population, the current brief focuses on the nature of bail breaches. Specifically, this report provides answers to the following questions:

1. Which bail conditions are usually imposed on defendants by NSW Criminal Courts?
2. Which bail conditions are most commonly breached?
3. What percentage of 'breach of bail established' orders involve defendants breaching specific bail conditions (for ease of reading, in the subsequent sections, breaching specific bail conditions will be collectively referred to as 'technical breaches') versus defendants committing new offences?
4. What percentage of (a) 'technical breaches' and (b) new offence breaches result in bail being refused by NSW Criminal Courts?
5. How does each of these questions vary by the defendants' Indigenous status and area of residence?

METHOD

Data sources

The data for the current study were drawn from two sources:

1. Court Data Warehouse (CDW) was the source for:
 - a) Data on bail conditions imposed at first court bail appearances between July 2014 and April 2017.¹ The sample consisted of cases with a first court bail status of 'bail continued – varied' or 'conditional bail' granted. These are recorded in JusticeLink (a web-based electronic case management system which links all NSW Local, District and Supreme Courts onto one computer platform) and provided to the NSW Bureau of Crime Statistics and Research. The counting unit is a JusticeLink case.² Excluded from these records are those where bail that is imposed by the police is continued, but not varied, by the court because, in these situations, no specific bail conditions are recorded on JusticeLink.
 - b) Data regarding bail breaches. The sample consisted of all 'breach of bail established' orders issued by NSW Criminal Courts for the 12-month period between January and December 2016. The counting unit is an individual with a 'breach of bail established'. The Criminal Number Index (CNI) was used to identify individuals. An individual with a 'breach of bail established' on the same date across more than one JusticeLink case is counted once. One individual may have multiple bail breaches established over time – each date is counted separately. However, it is important to note two key data recording issues.

Firstly, although it is an operational requirement for court staff to record in JusticeLink the orders made by the court, the JusticeLink system has no mandatory fields in the screen dealing with bail condition(s) breached. Secondly, court staff are reliant on Judicial Officers indicating if further offending was alleged, perhaps by ticking a box on their breaches bench sheets entitled 'Breach of Bail Sect 78', information which could be subsequently recorded into JusticeLink by court staff.³ It is also important to note that the terminology used in the various bail-related forms is not strictly concordant. For example, the term 'non-association' is used when recording bail conditions imposed, however, this term is not used when recording bail conditions breached.

2. The Computerised Operational Policing System (COPS), maintained by the NSW Police Force, was the source for further offence(s) committed by the defendants who were issued with 'breach of bail established' orders during the 12-month period between January and December 2016.

Data processing

CDW data on bail conditions imposed at first court bail appearances

Frequencies of the types of bail conditions imposed at first court bail appearances were examined for the total number of defendants and also separately for Indigenous and non-Indigenous defendants. The 13 types of bail conditions imposed were: (i) residence; (ii) reporting to police; (iii) non-contact/prosecution witness; (iv) place restriction; (v) security agreement; (vi) curfew; (vii) non-association; (viii) enforcement conditions – curfew; (ix) enforcement conditions – drug/alcohol; (x) enforcement conditions – other; (xi) travel restriction; (xii) intervention/diversion program participation; and (xiii) other [where no specific conditions have been selected].

CDW data regarding bail breaches

CDW 'breach of bail established' data included 12 fields for the type of bail condition breached, as well as a flag regarding whether a further offence had been committed and the bail response to the breach. The 12 fields for the type of bail condition breached were: (i) reporting to police; (ii) curfew; (iii) residence; (iv) place restriction; (v) no contact – witness; (vi) no contact – other; (vii) drug/alcohol restriction; (viii) travel restriction; (ix) assessment/participation in other drug/alcohol/medical/mental health treatment; (x) assessment/participation in intervention and diversion program; (xi) supervision; and (xii) other [no specific conditions selected]. It also included the defendant's age, gender, Indigenous status and Statistical Area of residence. The latter was dichotomised to compare Greater Sydney versus NSW regional areas.⁴ The five categories of bail response to a breach were: (a) bail continued; (b) bail refused; (c) no bail order recorded; (d) bail dispensed with; and (e) deferred.

The CDW 'breach of bail established' file contained 8,829 records, however, a number of records were excluded for

various reasons. A total of 322 records (3.6%) were excluded because the details on CDW could not be linked to a relevant breach of bail incident in COPS. Of the remaining 8,507 records, 1,414 (16.5%) were excluded because the breach related to more than one pending JusticeLink case. A further 22 orders were excluded because the offenders were in custody. Of the remaining 7,071 CDW records,⁵ 1,587 (22.4%) were not flagged as a 'yes' for any of the 12 bail breach conditions or for the further offence field (as noted earlier, it is not mandatory to record, in JusticeLink the bail condition(s) breached). This is a matter of concern as it means that more than one-fifth of the CDW 'breach of bail established' records had no information about the nature of the breach(es) of bail. While the records did contain a field for whether or not at least one breach condition was recorded, the accuracy of this field is questionable.⁶

Matching of CDW bail breaches and COPS further offences data

In order to examine the types of further offences committed by defendants who were issued with 'breach of bail established' orders in 2016, the CDW records of these orders were matched with the COPS database for persons of interest in cases where legal action was commenced. This merge was based on Criminal Name Index and Event Number. Of the 7,071 CDW 'breach of bail established' orders, 6,976 (98.7%) were matched on the COPS database. The remaining 95 CDW 'breach of bail established' orders that did not have a COPS file record remained in the final merged file. Information on the presence of a further offence was sourced from either the CDW file or the COPS file. This reduced the 'no information' category regarding the nature of the bail breach from 22 to 12 per cent. However, the two databases did not overlap completely in recording whether further offences had been committed. In fact, of the 3,306 'breach of bail established' orders that recorded further offences according to the COPS database, 1,936 orders (58.6%) did not have further offences recorded on the CDW database. Furthermore, of the 1,780 orders that recorded further offences on the CDW database, 410 (23.0%) did not have further offences recorded on the COPS database. When the two databases were combined, 3,716 (52.6%) of the 7,071 orders had a further offence recorded.

COPS data on further offences

In addition to 'breach bail condition', the event record may indicate that the bail breach included further offences. Further offences were selected only if legal action was commenced. As a defendant may have committed more than one type of further offence, variables were computed to measure the more frequent offences where legal action was commenced. These included: 'breach Apprehended Domestic Violence Order (ADVO)'; 'other driving offences'; 'domestic violence related assault'; 'harassment, threatening behaviour and private nuisance'; 'malicious damage to property'; 'receiving or handling stolen goods'; 'resist or hinder officer'; 'steal from retail store'; 'trespass'; 'non-domestic violence related assault'; and 'breach Apprehended Personal Violence Order (APVO)'. The category of 'possession and/or use of illicit drugs' was calculated by summing across the individual offences of cannabis, amphetamines, cocaine, ecstasy, narcotics and other illicit drugs.

Data analysis

Question 1 regarding the bail conditions usually imposed by NSW Criminal Courts on offenders was addressed using CDW data on bail conditions imposed for the period July 2014 to April 2017. Frequencies were calculated for the 13 types of bail conditions described earlier for both the total sample as well as broken down by Indigenous status (Indigenous vs. non-Indigenous). For this study, data were not considered regarding multiple bail conditions imposed on a defendant at a first court bail appearance, nor were the data broken down by court location or the Statistical Area of residence of the defendant.

Question 2 regarding the bail conditions usually breached was answered using CDW data regarding bail breaches for the 2016 calendar year for 7,071 'breach of bail established' orders. It is important to note that, for a given order, more than one bail condition could be breached. We report the frequency with which each of the 12 types of bail condition were breached and whether or not a further offence was committed. Also reported are the frequencies of those orders where none of the 12 bail breach conditions was indicated nor was a further offence. Separate tables are presented which compared the CDW bail condition breached broken down by Indigenous status and Statistical Area of residence of the defendant (Greater Sydney vs. NSW Regions). Analyses were also conducted which compared orders in terms of the number of bail conditions which were breached and/or further offence(s) committed. The categories reported are: none, one, two and three or more (Table 5).

Results are presented about the types of further offences where, according to the COPS data file, legal action was commenced. This denominator is smaller ($n = 3,306$). Table 6 contains the most frequent, rather than all, types of further offences recorded. The information is presented broken down by the defendant's Indigenous status and Statistical Area of residence. Statistical tests were conducted to determine if a particular further offence varied based on these characteristics. The 3,306 orders were also analysed in terms of the number of all further offences committed where legal action was commenced: one, two and three or more. Table 7 provides this information broken down by Indigenous status and Statistical Area of residence of the defendant.

For Question 3, the CDW and NSW Police COPS data were combined to obtain a complete breakdown of the relative frequency with which defendants breached a specific bail condition and/or committed a further offence whilst on bail. The resulting 'bail breach type' variable has four categories. The first category, referred to as 'technical breaches only', contains cases where there was a 'yes' response to one or more of the 12 bail breach categories but no record of any 'further offence' in either the CDW or the COPS data files. The second category, ('offence(s) committed only'), contains cases where a further offence was recorded in either the CDW or the COPS data files but no bail conditions breached were recorded. The third category, ('both technical breach(es) and further offences'), contains cases where there were breaches of one or more of the 12 bail conditions AND a further offence as recorded by

either the CDW or the COPS data files. The final category, ('no information provided'), contains cases where the data record for the offender indicated no breach of bail conditions and no indication of a further offence in either the CDW or the COPS data files. As well as providing a breakdown of the four bail types for the total sample, tests were conducted to determine if the distribution of the combinations of 'technical breaches' and further offences varied by the defendant's Indigenous status and the Statistical Area of residence (Greater Sydney vs. NSW Regions).

Question 4 examined the relationship between 'bail breach type' and bail refusal. The main question was to assess whether technical breaches alone, further offending alone or a combination of the two is predictive of whether or not a defendant is refused bail. Logistic regression was used to examine whether further offending whilst on bail was associated with a higher likelihood of bail refusal (Hosmer & Lemeshow, 2000). Age group, gender, Indigenous status and area of residence (Greater Sydney vs. NSW Regions) were included as explanatory variables in this model to control for potential confounding. The outcome was a binary variable taking a value of one if the defendant was bail refused after the breach of bail was established, zero otherwise. Based on the logistic regression, adjusted percentages of bail refusal were calculated for each category of 'bail breach type' where the explanatory variables were set at their mean level.

RESULTS

Bail conditions imposed

Table 1 shows the types of bail conditions that were imposed on defendants by NSW Criminal Courts since the implementation of the Bail Act. The data are disaggregated by the Indigenous status of the defendant and cover the period from July 2014 to April 2017.

As Table 1 shows, in NSW Criminal Courts during the period from July 2014 to April 2017, two bail conditions comprised almost 51 per cent ($n = 43,495$) of all the bail conditions imposed in cases of 'bail continued – varied' and 'conditional bail'. These were 'residence' (30.6%) and 'reporting to the police' (20.3%).⁷ The two bail conditions of 'non-contact/prosecution witness' and 'place restriction' together accounted for a further one in five of all bail conditions imposed (12.1% and 10.4%, respectively). Some bail conditions were not imposed as often; for example, 'travel restriction' (1.4%), 'enforcement conditions – curfew' (1.1%), 'enforcement conditions – drug/alcohol' (0.7%), and 'intervention/diversion program participation' (0.3%). Combined, these four bail conditions comprised less than four per cent of all bail conditions imposed over this time period.

Table 1 also shows that, with one exception, the pattern of bail conditions imposed by courts was similar for both Indigenous and non-Indigenous defendants. The exception was for the bail condition of 'curfew' which accounted for almost 10 per cent of all the bail conditions imposed on Indigenous defendants but only around 6 per cent of those imposed on non-Indigenous defendants.⁸

Table 1. Types of bail conditions imposed by NSW Criminal Courts at first court bail appearances by the Indigenous status of the defendants, July 2014 – April 2017

Bail condition imposed	Indigenous status of defendant				Total	
	Indigenous		Non-Indigenous		N	%
	N	%	N	%		
Residence	6,951	31.5	19,188	30.2	26,139	30.6
Reporting to police	4,311	19.6	13,045	20.5	17,356	20.3
Non-contact/prosecution witness	2,763	12.5	7,621	12.0	10,384	12.1
Place restriction	2,310	10.5	6,554	10.3	8,864	10.4
Security agreement	1,318	6.0	5,497	8.7	6,815	8.0
Curfew	2,085	9.5	3,757	5.9	5,842	6.8
Non-association	868	3.9	2,152	3.4	3,020	3.5
Enforcement conditions - other	500	2.3	1,297	2.0	1,797	2.1
Travel restriction	42	0.2	1,173	1.9	1,215	1.4
Enforcement conditions - curfew	365	1.7	541	0.9	906	1.1
Enforcement conditions - drug/alcohol	158	0.7	418	0.7	576	0.7
Intervention/diversion program participation	62	0.3	170	0.3	232	0.3
Other [where no other specific conditions were selected]	321	1.5	2,084	3.3	2,405	2.8
Total number of bail conditions imposed	22,054	100.0	63,497	100.0	85,551	100.0

Note. Each bail order may have multiple bail conditions imposed.

Bail conditions breached

Characteristics of defendants

Using CDW data, the column percentages in Table 2 give a broad overview of the socio-demographic characteristics of the defendants where a 'breach of a bail established' order was issued by NSW Criminal Courts during the 12 months from January to December 2016. Some information is also provided about the courts' response to the breaches. More detailed information is provided in subsequent sections.

A total of 5,028⁹ unique defendants were responsible for the 7,071¹⁰ 'breach of bail established' orders issued by NSW Criminal Courts in 2016. As Table 2 shows, males comprised four in five of the defendants with 'breach of bail established' orders in NSW in 2016. In about one-third (34.7%) of the orders, the defendants were aged between 25 and 34 years and, for an additional 51 per cent of orders, the defendants were either younger, being aged between 18 and 24 years (25.3%) or slightly older, being aged between 35 and 44 years (25.6%). In just over 14 per cent of the orders, the defendants were aged 45 years or more. The average age of defendants was 32.7 years. For slightly more than one quarter (26.2%) of the orders, the defendants were Indigenous and, for similar proportions of orders, the defendants lived in the Greater Sydney area and in regional NSW (48.7% and 51.3%, respectively). The predominant court response to defendants who breached their bail orders was to continue bail (61.3%). The court revoked bail in one-third of all breach of bail orders (32.7%). Note, however, that the rate of bail revocation was much higher for defendants who committed further offences on bail (see below).

Table 2. 'Breach of bail established' orders, NSW Criminal Courts, January – December 2016: Overview of the characteristics of defendants and bail response to the breach

Variable	N	%
Gender of defendant		
Female	1,351	19.1
Male	5,720	80.9
Age group of defendant (years)		
18 – 24	1,790	25.3
25 – 34	2,454	34.7
35 – 44	1,809	25.6
45+	1,005	14.2
missing	13	0.2
Mean = 32.7; SD = 10.2; Median = 32.0; Inter-quartile range (24.0 – 40.0)		
Is defendant Aboriginal or Torres Strait Islander?		
Yes	1,856	26.2
No	4,955	70.1
Unknown	260	3.7
Statistical Area of defendant's residence		
Greater Sydney	3,444	48.7
NSW regions	3,627	51.3
Bail response to breach ^a		
Bail continued	4,332	61.3
Bail refused	2,315	32.7
No bail order recorded	354	5.0
Bail dispensed with	69	1.0
Total	7,071	100.0

^a This excludes one case where the bail decision was 'deferred'.

Type and number of bail conditions breached (CDW data)

Tables 3 and 4 show the specific types of bail conditions breached cross-classified by whether the defendants were of Aboriginal or Torres Strait Islander origin and the Statistical Area of residence in which they lived. Table 3 presents the proportion of bail breaches where the court recorded a further offence or where no information was available in the CDW data. The final column in Table 3 shows that, among the 7,071 breach of bail orders issued in 2016, the largest single category of bail conditions breached was failing to 'report to police'; occurring in nearly one in five of the total 'breach of bail established' orders breached. This was followed by around 9 per cent of orders where defendants breached a 'curfew' and another 9 per cent where the 'residence' condition was breached. A 'place restriction' was breached in 7 per cent of orders. For around 5 per cent of orders, defendants had made contact with a witness, made contact with another person or breached a 'drug/alcohol restriction', respectively. Almost 14 per cent of the orders were labelled 'other' which did not identify the specific bail condition breached. The CDW data shown in Table 3 found that, for around one-quarter of the orders, defendants had committed a further offence. For 1,587 (22.4%) orders, there was no information recorded on CDW regarding the nature of the breach (i.e. having breached a bail condition or committed a further offence).

Table 3 also shows differences in breach of bail orders for Indigenous and non-Indigenous defendants. A higher proportion of Indigenous defendants breached a curfew bail condition (11.2% vs. 8.6%; $p = .001^{**}$) and a residence condition (10.5% vs. 7.9%; $p < .001^{**}$). 'Further offences committed' was higher for Indigenous compared with non-Indigenous defendants (32.1% vs. 22.7%, $p < .001^{**}$). However, orders for non-Indigenous defendants were more likely to have no information provided on CDW about the nature of the bail breach or further offending (24.3% vs. 17.4%, $p < .001^{**}$), suggesting some caution is necessary here.

Table 4 shows the type of bail condition breached as recorded on CDW broken down by the defendant's area of residence. There are some noteworthy differences. Failure to report to police was more common in Greater Sydney than in NSW Regions (22.3% vs. 14.2%; $p < .001^{**}$). Defendants from Regional NSW were more likely to breach bail conditions of 'no contact with other persons' (6.0% vs. 3.2%; $p < .001^{**}$) and 'no contact with witness' (5.4% vs. 4.2%; $p = .012^*$). Defendants from regional NSW were much more likely to have their bail breached as a result of committing further offence(s) (35.8% vs. 14.0%; $p < .001^{**}$) than those in Greater Sydney. Some caution is necessary in relation to this last finding, however, because defendants from Greater Sydney were more likely to have no information provided in CDW about either the bail conditions breached or further offences than those orders for defendants residing in regional areas (26.7% vs. 18.4%, $p < .001^{**}$).

Table 3. Bail conditions breached in 'breach of bail established' orders issued by NSW Criminal Courts by Indigenous status of the defendants, January to December 2016

Bail condition breached	Indigenous status of defendant					Total	
	Indigenous		Non-Indigenous ^a		<i>p</i> value	N	% ^b
	N	% ^b	N	% ^b			
Reporting to police	351	18.9	931	17.9	= .309	1,282	18.1
Curfew	207	11.2	449	8.6	= .001**	656	9.3
Residence	195	10.5	412	7.9	< .001**	607	8.6
Place restriction	148	8.0	368	7.1	= .192	516	7.3
No contact – witness	88	4.7	252	4.8	= .875	340	4.8
No contact – other	96	5.2	229	4.4	= .168	325	4.6
Drug/alcohol restriction	79	4.3	249	4.8	= .362	328	4.6
Travel restriction	9	0.5	22	0.4	= .724	31	0.4
Assessment/participation in other drug/alcohol/medical/mental health treatment	8	0.4	10	0.2	= .079	18	0.3
Assessment/participation in intervention and diversion program	4	0.2	2	0.0	n/a ^c	6	0.1
Supervision	3	0.2	4	0.1	= .318	7	0.1
Other [where no other specific conditions were selected]	228	12.3	731	14.0	= .061	959	13.6
Further offence(s) committed (CDW)	596	32.1	1,184	22.7	< .001**	1,780	25.2
No information provided on CDW	322	17.4	1,265	24.3	< .001**	1,587	22.4
Total number of 'breach of bail established' orders^d	1,856		5,215			7,071	

^a This includes those 'breach of bail established' orders for defendants whose Indigenous status was 'unknown'.

^b This refers to the percentage of the total number of 'breach of bail established' orders with this bail condition breached.

^c Chi-Square statistic may not be a valid test as 50% of the cells in the cross-tabulation have expected counts less than 5.

^d For a given 'breach of bail established' order, multiple conditions could be breached. Therefore, the total number of orders will not equal the sum of the bail conditions breached, and the columns of percentages will not sum to 100.

Table 4. Bail conditions breached in 'breach of bail established' orders issued by NSW Criminal Courts by Statistical Area of residence of the defendants, January to December 2016

Bail condition breached	Statistical Area of residence of defendant						
	Greater Sydney		NSW Regions		p value	Total	
	N	% ^a	N	% ^a		N	% ^a
Reporting to police	767	22.3	515	14.2	< .001**	1,282	18.1
Curfew	321	9.3	335	9.2	= .903	656	9.3
Residence	284	8.3	323	8.9	= .323	607	8.6
Place restriction	252	7.3	264	7.3	= .951	516	7.3
No contact – witness	143	4.2	197	5.4	= .012*	340	4.8
No contact – other	109	3.2	216	6.0	< .001**	325	4.6
Drug/alcohol restriction	170	4.9	158	4.4	= .247	328	4.6
Travel restriction	18	0.5	13	0.4	= .296	31	0.4
Assessment/participation in other drug/ alcohol/medical/mental health treatment	9	0.3	9	0.3	= .912	18	0.3
Assessment/participation in intervention and diversion program	0	0.0	6	0.2	n/a ^b	6	0.1
Supervision	1	0.0	6	0.2	n/a ^b	7	0.1
Other [where no other specific conditions were selected]	458	13.3	501	13.8	= .528	959	13.6
Further offence(s) committed (CDW)	481	14.0	1,299	35.8	< .001**	1,780	25.2
No information provided on CDW	918	26.7	669	18.4	< .001**	1,587	22.4
Total number of 'breach of bail established' orders^c	3,444		3,627			7,071	

a This refers to the percentage of the total number of 'breach of bail established' orders with this bail condition breached.

b Chi-Square statistic may not be a valid test as 50% of the cells in the cross-tabulation have expected counts less than 5.

c For a given 'breach of bail established' order, multiple conditions could be breached. Therefore, the total number of orders will not equal the sum of the bail conditions breached, and the columns of percentages will not sum to 100.

Table 5. Number of bail conditions breached and/or further offence(s) committed by the defendant's Indigenous status and Statistical Area of residence, January to December 2016

Number of bail conditions breached and/or further offences committed (CDW data)	Indigenous status of defendant				Statistical Area of residence of defendant				Total	
	Indigenous		Non-Indigenous		Greater Sydney		NSW Regions		N	%
	N	%	N	%	N	%	N	%		
No information provided on CDW	322	17.4	1,265	24.3	918	26.7	669	18.4	1,587	22.4
One	1,161	62.6	3,204	61.4	2,098	60.9	2,267	62.5	4,365	61.7
Two	281	15.1	617	11.8	373	10.8	525	14.5	898	12.7
Three or more	92	5.0	129	2.5	55	1.6	166	4.6	221	3.1
Total 'breach of bail established' orders	1,856	100.0^a	5,215	100.0	3,444	100.0	3,627	100.0	7,071	100.0^b
Statistical significance	$\chi^2_3 = 68.19, p < .001^{**}$				$\chi^2_3 = 122.44, p < .001^{**}$				n/a	

a To 1 decimal place, the sum equals 100.1

b To 1 decimal place, the sum equals 99.9

Table 5 shows the number of bail conditions breached and/or further offence(s) committed for each order where a 'breach of bail established' order was issued during 2016. This is cross-classified by the defendants' Indigenous status and the Statistical Area in which they lived.

The final column in Table 5 shows the results for the total number of orders. In around 62 per cent of orders (n = 4,365), defendants were found to have only one count of having breached a bail condition or having committed a further offence; for 898 (12.7%) orders, defendants had two counts of

having breached a bail condition and/or committed further offence(s), while 221 (3.1%) orders had three or more counts. As Table 5 shows, Indigenous defendants were significantly more likely to have two counts of bail breaches/further offence(s) on CDW (15.1% vs. 11.8%) and also to have three or more counts of these (5.0% vs. 2.5%; $p < .001^{**}$). Compared with Greater Sydney, NSW regions had a significantly higher percentage of orders for defendants with two bail breaches/further offence(s) on CDW (14.5% vs. 10.8%) or three or more counts of these (4.6% vs. 1.6%; $p < .001^{**}$).

Further offending recorded by NSW Police on COPS database

As indicated in the Method, given the degree of incomplete data, the bail breach data from the CDW were linked to the COPS database to identify any offence(s) that were recorded concurrently with the breach of bail incident; this only refers to further offences where legal action had commenced. Of the 7,071 'breach of bail established' orders, 6,963 (98.5%) had a 'breach bail conditions' incident recorded in the COPS database. It was found that 3,306 (46.8%) of the 7,071 orders had further offences recorded in COPS which were proceeded against. This was significantly higher for orders issued to defendants who lived in NSW Regions compared with Greater Sydney (52.3% vs. 40.9%, $p < .001^{**}$). However, it was not significantly different for orders issued to Indigenous and non-Indigenous defendants (45.4% vs. 47.3%, $p = .163$).

The following section examines the 3,306 'breach of bail established' orders where there was a further offence which was proceeded against. Table 6 provides a breakdown of the most frequent further offences, broken down by the defendant's Indigenous status and Statistical Area of residence. The percentages in Table 6 do not sum to 100 because multiple further offences can occur for a given order.

As Table 6 shows, the most frequent further offence proceeded against was *breach Apprehended Domestic Violence Order (ADVO)*, occurring in 1,537 (46.5%) of these orders. *Domestic violence related assault* was a further offence in 446 (13.5%) of these orders. Other frequent further offence types included: *other driving offences* (14.6%); *harassment, threatening behaviour and private nuisance* (12.8%); *possession and/or use of illicit drugs* such as cannabis, amphetamines, cocaine, ecstasy and narcotics (10.1%); and, *malicious damage to property* (9.0%).

Table 6 also shows differences based on the defendant's Indigenous status and Statistical Area of residence. Non-Indigenous defendants were significantly more likely to be proceeded against for a *breach of an ADVO* (47.9% vs. 42.5%; $p = .007^{**}$) while Indigenous defendants were significantly more likely to be proceeded against for *steal from retail store* (5.5% vs. 3.5%; $p = .010^*$) and for *non-domestic violence assault* (4.4% vs. 2.5%; $p = .006^{**}$). Defendants from NSW Regions were significantly more likely to be proceeded against for: *domestic violence related assault* (15.8% vs. 10.4%; $p < .001^{**}$); *other driving offences* (16.2% vs. 12.6%; $p = .004^{**}$); *harassment, threatening behaviour and private nuisance* (14.9% vs. 9.9%; $p < .001^{**}$); and, *malicious damage to property* (10.0% vs. 7.5%; $p = .013^*$). Defendants from Greater Sydney were significantly more likely to be proceeded against for: *receiving or handling stolen goods* (6.3% vs. 4.3%; $p = .008^{**}$) and *trespass* (4.6% vs. 2.5%; $p < .001^{**}$).

Table 6. Most frequent further offences proceeded against among 'breach of bail established' orders with further offence(s) proceeded against: January to December 2016

Type of further offence proceeded against	Indigenous status of defendant					Statistical Area of residence of defendant					Total	
	Indigenous		Non-Indigenous		<i>p</i> value	Greater Sydney		NSW Regions		<i>p</i> value		
	N	% ^a	N	% ^a		N	% ^a	N	% ^a		N	% ^a
<i>Breach Apprehended Domestic Violence Order (ADVO)</i>	358	42.5	1,179	47.9	= .007**	631	44.8	906	47.7	= .096	1,537	46.5
<i>Other driving offences^b</i>	127	15.1	357	14.5	= .673	177	12.6	307	16.2	= .004**	484	14.6
<i>Domestic violence related assault</i>	128	15.2	318	12.9	= .092	147	10.4	299	15.8	< .001**	446	13.5
<i>Harassment, threatening behaviour & private nuisance</i>	115	13.7	308	12.5	= .385	140	9.9	283	14.9	< .001**	423	12.8
<i>Possession and/or use of illicit drugs^c</i>	78	9.3	256	10.4	= .349	158	11.2	176	9.3	= .066	334	10.1
<i>Malicious damage to property</i>	83	9.9	213	8.6	= .287	106	7.5	190	10.0	= .013*	296	9.0
<i>Receiving or handling stolen goods</i>	43	5.1	127	5.2	= .957	89	6.3	81	4.3	= .008*	170	5.1
<i>Resist or hinder officer</i>	39	4.6	107	4.3	= .724	62	4.4	84	4.4	= .975	146	4.4
<i>Steal from retail store</i>	46	5.5	85	3.5	= .010*	48	3.4	83	4.4	= .160	131	4.0
<i>Trespass</i>	26	3.1	86	3.5	= .577	65	4.6	47	2.5	< .001**	112	3.4
<i>Non-domestic violence related assault</i>	37	4.4	62	2.5	= .006**	39	2.8	60	3.2	= .514	99	3.0
<i>Prohibited and regulated weapons offences</i>	14	1.7	66	2.7	= .098	38	2.7	42	2.2	= .369	80	2.4
<i>Breach Apprehended Personal Violence Order (APVO)</i>	14	1.7	52	2.1	= .423	29	2.1	37	2.0	= .823	66	2.0
Total^d	842		2,464			1,408		1,898			3,306	

^a Since multiple further offences can occur for a given order, the percentages may not sum to 100. Also these are selected further offences, rather than all further offences.

^b These include major traffic crash (injury or fatal crash), major traffic crash (non-injury/non-fatal crash), traffic driving complaint, traffic pursuit, random breath test (mobile or stationary), random road-side drug test and traffic stop.

^c These include cannabis, amphetamines, cocaine, ecstasy, narcotics and other drugs.

^d This is the total of the 'breach of bail established' orders which, according to the COPS database, had a further offence which was proceeded against.

Table 7 shows the percentage breakdown of the number of further offence(s) recorded on the COPS database other than 'breach bail conditions' for the 3,306 orders. The column on the far right of Table 7 shows that, of the 3,306 orders where the defendants had further offences proceeded against, 62 per cent (n = 2,046) had one further offence, 23 per cent (n = 750) had two further offences and 15 per cent (n = 510) had three or more further offences. Table 7 also shows that there was a statistically significant difference based on where defendants lived, with defendants from NSW Regions having committed more further offences ($p = 0.035^*$). However, this difference was relatively small – 17 per cent of NSW Regions' defendants had three or more further offences proceeded against versus 14 per cent of those from Greater Sydney. There was no statistically significant difference in the number of further offences between Indigenous and non-Indigenous defendants ($p = 0.602$).

Bail breach type

In the subsequent sections, the COPS 'further offences' were combined with the CDW 'further offences'. Table 8 combines and summarises this information, showing the breakdown of

bail breach type using the combined data, split by Indigenous status and area of residence. Breaches were classified into one of four bail breach types: (i) breaches of bail conditions only ('technical breaches'); (ii) further offences only; (iii) a combination of both 'technical breaches' and further offences; and (iv) 'no information provided'.

The total column on the far right of Table 8 shows that, among the orders breached:

- 35 per cent of orders only involved 'technical breach(es)';
- 27 per cent only involved further offences;
- 26 per cent involved both 'technical breach(es)' and further offences; while
- in 12 per cent of orders, no information was available in either the CDW or the COPS data files to determine whether there had been a technical breach and/or further offence.

Table 8 shows that there were major differences in the profile of bail breach type by where the defendant lived ($\chi^2_3 = 228.34$, $p < .001^{**}$). Defendants who lived in Greater Sydney committed

Table 7. Number of further offence(s) committed by Indigenous status and Statistical Area of residence of the defendant, January to December 2016

Number of further offence(s) proceeded against	Indigenous status of defendant				Statistical Area of residence of defendant				Total	
	Indigenous		Non-Indigenous		Greater Sydney		NSW Regions			
	N	%	N	%	N	%	N	%	N	%
One	516	61.3	1,530	62.1	905	64.3	1,141	60.1	2,046	61.9
Two	201	23.9	549	22.3	307	21.8	443	23.3	750	22.7
Three or more	125	14.9	385	15.6	196	13.9	314	16.5	510	15.4
Total^a	842	100.0^b	2,464	100.0	1,408	100.0	1,898	100.0^c	3,306	100.0
Statistical significance	$\chi^2_2 = 1.01, p = .602$				$\chi^2_2 = 6.71, p = .035^*$				n/a	

^a This is the total of the 'breach of bail established' orders which, according to the COPS database, had a further offence(s) proceeded against.

^b To 1 decimal place, the sum equals 100.1

^c To 1 decimal place, the sum equals 99.9

Table 8. Bail breach type by Indigenous status and Statistical Area of residence of the defendant, January to December 2016^a

Bail breach type	Indigenous status of defendant				Statistical Area of residence of defendant				Total	
	Indigenous		Non-Indigenous		Greater Sydney		NSW Regions			
	N	%	N	%	N	%	N	%	N	%
Technical breach(es) ^b only	660	35.6	1,818	34.9	1,377	40.0	1,101	30.4	2,478	35.0
Further offence(s) committed only (CDW or COPS)	531	28.6	1,384	26.5	691	20.1	1,224	33.7	1,915	27.1
Both technical breach(es) and further offence(s) (CDW or COPS)	474	25.5	1,327	25.4	838	24.3	963	26.6	1,801	25.5
No information provided (CDW) & no further offences (COPS)	191	10.3	686	13.2	538	15.6	339	9.3	877	12.4
Total 'breach of bail established' orders	1,856	100.0	5,215	100.0	3,444	100.0	3,627	100.0	7,071	100.0
Statistical significance	$\chi^2_3 = 11.41, p = .010^*$				$\chi^2_3 = 228.34, p < .001^{**}$				n/a	

^a n = 7,071

^b 'Technical breach(es)' consists of a combination of: assessment/part in intervention and diversion program, assessment/part in other drug/alcohol/medical/mental health treatment, curfew, drug/alcohol restriction, no contact – other, no contact – witness, place restriction, reporting to police, residence, supervision, travel restriction and 'no specific conditions recorded'.

a higher percentage of 'technical breaches' only (40.0% vs. 30.4%) while those who lived in NSW Regions committed a higher percentage of further offences only (33.7% vs. 20.1%). Both locations had similar percentages of both 'technical breaches' and further offences (around one-quarter), while orders for defendants who lived in Greater Sydney were more likely to have no information contained in either the CDW or the COPS data files (15.6% vs. 9.3%) about the nature of the bail breach.

While there were some statistically significant differences between Indigenous and non-Indigenous defendants ($\chi^2_3 = 11.41, p = .010^*$), they were not as strong. Similar percentages of each group committed 'technical breaches' only (around 35%) and similar percentages had a 'technical breach' combined with a further offence (around 25%). Indigenous defendants were slightly more likely to have committed a further offence only (28.6% vs. 26.5%), while orders for non-Indigenous defendants were more likely to have no information recorded in either the CDW or COPS data files (13.2% vs. 10.3%) regarding the nature of the breach.

Bail breach type and bail refusal

Table 9 shows the bivariate relationship between bail breach type and the percentage of 'breach of bail established' orders for defendants who were refused bail for all orders in NSW (n = 7,071). It also shows the relationship between various socio-demographic variables and bail refusal.

In terms of 'bail breach type', bail was refused for almost 20 per cent of orders where defendants had breached their bail conditions in the absence of a new offence. Not surprisingly, bail refusal was significantly higher where a defendant had committed a further offence alone (48.2%) and where the further offence was combined with a 'technical breach' (39.1%; $p < .001$). Bail refusal was more likely for males compared with females (34.0% vs. 27.3%; $p < .001$), those aged between 25-34 years and 35-44 years (35.6% and 34.1%, respectively; $p < .001$), Indigenous defendants (37.7% vs. 31.0%; $p < .001$) and defendants residing in NSW Regions (40.1% vs. 24.9%; $p < .001$).

Table 10 shows the results of regressing bail refusal against 'bail breach type' after adjusting for the effects of gender, age group, Indigenous status and location.¹¹ The statistically significant positive regression coefficients show that the likelihood of bail refusal was higher for those who commit further offences and those who commit further offences plus breach their bail conditions even after adjusting for the effects of gender, age, Indigenous status and area of residence.

Table 11 presents the adjusted percentages of bail refusal for each of the four bail breach type groups which was found by the logistic regression when the covariates are set at their mean values. Just under one-fifth of the orders where defendants had only breached their bail conditions had their bail refused. This increased to 39 per cent of those who had both breached their bail conditions and had committed further offences and 46 per cent of those who had only committed further offences.

Table 9. Bail refusal by bail breach type, gender, age, Indigenous status and area of residence^a

Variable	Bail refused		Statistical significance
	N	%	
Bail breach type			
Technical breach(es) only	2,478	19.7	$\chi^2_3 = 471.36$ $p < .001^{**}$
Further offence(s) only (CDW & COPS)	1,915	48.2	
Technical breach(es) + further offence(s) (CDW & COPS)	1,801	39.1	
No CDW information & no offences (COPS)	877	22.7	
Gender of defendant			
Female	1,351	27.3	$\chi^2_1 = 22.33$ $p < .001^{**}$
Male	5,720	34.0	
Age group of defendant (years)			
18 – 24	1,790	31.2	$\chi^2_3 = 32.07$ $p < .001^{**}$
25 – 34	2,454	35.6	
35 – 44	1,809	34.1	
45+	1,005	26.2	
missing	13	-	excluding 'missing'
Indigenous status of defendant			
Non-Indigenous/unknown	5,215	31.0	$\chi^2_1 = 27.69$ $p < .001^{**}$
Indigenous	1,856	37.7	
Statistical Area of residence of defendant			
Greater Sydney	3,444	24.9	$\chi^2_1 = 185.38$ $p < .001^{**}$
NSW Regions	3,627	40.1	

^a n = 7,071

Table 10. Logistic regression: Bail refusal by bail breach type, gender, age group, Indigenous status and area of residence ^a

Covariates	Coefficient	Standard Error	p value
Intercept	-2.242	0.110	< .001**
Bail breach type			
Further offence(s) only vs. technical breach(es) only	1.244	0.069	< .001**
Both technical breach(es) & further offence(s) vs. technical breach(es) only	0.933	0.071	< .001**
No information provided (CDW) and further offence(s) (COPS) vs. technical breach(es) only	0.226	0.096	= .019*
Gender of defendant			
Male vs. Female	0.283	0.071	< .001**
Age group of defendant (years)			
18 – 24 vs. 45+	0.241	0.092	= .009**
25 – 34 vs. 45+	0.435	0.087	< .001**
35 – 44 vs. 45+	0.371	0.091	< .001**
Indigenous status of defendant			
Indigenous vs. non-Indigenous/unknown	0.161	0.062	= .009**
Statistical Area of residence of defendant			
NSW Regional vs. Greater Sydney	0.515	0.056	< .001**

^a n = 7,058

Table 11. Adjusted bail refusal percentage by bail breach type ^a

Variable	N	Adjusted bail refused percentage (%)
Bail breach type		
Technical breach(es) only	2,474	19.8
Further offence(s) only (CDW & COPS)	1,911	46.1
Technical breach(es) + further offence(s) (CDW & COPS)	1,798	38.5
No CDW information and no offences (COPS)	875	23.6

^a n = 7,058

SUMMARY AND DISCUSSION

This research had several aims. The first aim was to describe the type of bail conditions that are usually imposed on defendants by NSW Criminal Courts. The second aim was to describe the bail conditions that are most commonly breached. The third aim was to determine whether ‘breach of bail established’ orders involve defendants breaching specific bail conditions, or committing further offences whilst on bail, or a combination of both. The fourth aim was to examine whether courts then refuse bail based on whether the breach was ‘technical’, involved further offending or was a combination of both. The final aim was to determine whether any of these issues vary on the basis of the defendants’ Indigenous status and where they live.

Bail conditions imposed on defendants by NSW Criminal Courts between July 2014 and April 2017 typically involved ‘residence’ (around 31%) and ‘reporting to police’ requirements (around 20%). With the exception of curfews, a similar pattern

of bail conditions was observed for both Indigenous and non-Indigenous defendants. The bail condition of ‘curfew’ accounted for almost 10 per cent of all the bail conditions imposed on Indigenous defendants but only around 6 per cent of those imposed on non-Indigenous defendants.

In 2016, 7,071 ‘breach of bail established’ orders were issued to 5,028 defendants. The types of bail conditions most commonly breached, according to the CDW data, were not ‘reporting to police’ (18%), ‘curfew’ (9%), ‘residence’ (9%) and ‘place restriction’ (7%). So, the types of bail conditions most commonly breached broadly reflect the bail conditions most commonly imposed, that is, reporting to police and residence. However, the nature of bail breaches varied by the defendant’s Indigenous status and area of residence. Compared with non-Indigenous defendants, Indigenous defendants were more likely to have breached a curfew, a residence bail condition and to have committed further offences. Defendants from Greater Sydney were more likely to not report to the police compared with those from NSW Regions. However, in NSW Regions, defendants were more likely to breach the bail conditions of not contacting other persons and not contacting witnesses and to have committed further offences.

For 22 per cent of ‘breach of bail established’ orders issued in 2016, no information was recorded in CDW about the nature of the breach – either the type of bail condition(s) breached or whether further offence(s) had been committed. As a result, CDW bail breach data were linked to COPS data to identify any, and which type of, offences were recorded concurrently with the breach of bail incident. Data were linked only for offences where legal action had commenced. Almost half of the 7,071 ‘breach of bail established’ orders had ‘further offences’ recorded in COPS other than ‘breach bail conditions’. While this was significantly higher for orders issued to defendants who lived in regional NSW compared with Greater Sydney, it was

not significantly different for orders issued to Indigenous and non-Indigenous defendants. The most frequent further offences recorded were *breach Apprehended Domestic Violence Order*, *domestic violence related assault* and *other driving offences*.

Using data from both the courts and the police to establish whether or not 'breach of bail established' orders were associated with further offence(s) indicated that, for 35 per cent of orders, defendants had only breached their bail conditions; for 27 per cent of orders, only a further offence(s) had been committed (without a breach of any specific bail conditions being recorded); and, for just over 25 per cent of orders, defendants had both breached their bail conditions and committed a further offence(s). For the remaining 12 per cent of orders, no information about bail breach type was available from either the CDW or the COPS data sources.

While the court refused bail to just one-fifth of those defendants with only bail condition breaches (i.e. 'technical breaches'), bail refusal rates were considerably higher for orders where defendants had committed a further offence only (48%) and those with both breaches of their bail conditions and further offences (39%). This bail refusal effect remained after controlling for socio-demographic factors such as gender, age, Indigenous status and location.

The current investigation provides valuable insight into the type of bail conditions imposed and the nature of bail breaches in NSW. This information may be relevant to design strategies to reduce the rate at which bail is being breached and, therewith, to reduce the number of defendants remanded in custody. It should be noted, however, that our picture of bail breaches in NSW could be improved by enhancing the quality of the data. The CDW 'breach of bail established' orders data file had a high incidence of missing information. For example, for 22 per cent of the 'breach of bail established' orders contained in the CDW data file, no information was recorded about the type of bail conditions breached and/or whether further offence(s) had been committed by defendants. Furthermore, the degree of missing information on CDW 'breach of bail established' orders data file varied by the defendant's Indigenous status and area of residence. For almost one-quarter of the orders involving non-Indigenous defendants, no information was recorded about the type of bail conditions breached and/or whether further offence(s) had been committed; by contrast, 17 per cent of orders involving Indigenous defendants had no information recorded. For 27 per cent of orders involving defendants who lived in Greater Sydney, no information was recorded; this compared with 18 per cent of orders involving defendants who lived in NSW Regions. While combining the CDW and COPS data files reduced the amount of 'no information' recorded about the nature of the bail breaches, it did not eliminate it – 12 per cent of data were still missing.

Two crucial data recording issues that were noted earlier may be contributing to these high rates of 'no information' being recorded. Firstly, although it is an operational requirement for court staff to record in JusticeLink the orders made by the court,

the JusticeLink system has no mandatory fields in the screen dealing with bail condition(s) breached. Secondly, court staff are reliant on Judicial Officers indicating if further offending was alleged, perhaps by ticking a box on their breaches bench sheets entitled 'Breach of Bail Sect 78'; information which could be subsequently recorded into JusticeLink by court staff. Remedying one, or preferably both, of these issues could result in a more systematic recording of bail breaches and/or further offences and reduce the degree of missing information. This, in turn, would give a more complete and accurate understanding of the type of bail conditions breached and/or the further offences committed by defendants whilst on bail in NSW. Better quality data would also allow other analyses to be conducted, for example, comparisons of breach rates across different bail conditions imposed.

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NOTES

- 1 July 2014 was selected as the starting date for these data because the Bail Act 2013 commenced on 20 May 2014. All bail outcomes for the period from July 2014 to April 2017 were therefore subject to the same legislation.
- 2 There is a one-to-one relationship between JusticeLink case number and Police charge number.
- 3 On the bench sheet, 'Breach of Bail Sect 78', the section entitled 'Bail conditions breached if breach established' includes a tick box for each of the following: residence, travel restriction, place restriction, curfew, reporting to police, no contact – witnesses, no contact – other, assessment/participation in intervention/diversion program, assessment/participation in other drug/alcohol/medical/mental health treatment, drug/alcohol restriction, supervision, **further offending alleged** and other (emphasis added).

- 4 This is based on the defendant's Statistical Area of residence. These were classified as Greater Sydney (i.e. the Statistical Areas of Blacktown, Baulkham Hills and Hawkesbury, Central Coast, City and Inner South, Eastern Suburbs, Inner South West, Inner West, North Sydney and Hornsby, Northern Beaches, Outer South West, Outer South West, Outer West and Blue Mountains, Parramatta, Ryde, South West and Sutherland) and Regional NSW (i.e. the Statistical Areas of Capital Region, Central West, Coffs Harbour – Grafton, Far West and Orana, Hunter Valley excluding Newcastle, Illawarra, Mid North Coast, Murray, New England and North West, Newcastle and Lake Macquarie, Richmond – Tweed, Riverina and Southern Highlands and Shoalhaven).
- 5 Of these 7,071 records, 176 (2.5%) had data duplicated on three fields (Criminal Name Index or CNI, Event Number and 'date breach established') but different data on some of the other fields. However, since these 176 records comprise a very small proportion of the total number of records, they were included in the analyses.
- 6 Of the 6,114 records which had the 'at one least breach recorded' flag, 1,835 (30.0%) did not have any of the 12 breach bail condition fields indicated while 630 (10.3%) also did not have the further offence filed indicated.
- 7 Similar results were obtained when the data for 'bail continued – varied' were analysed separately to 'conditional bail'. The two bail conditions of 'reporting to police' and 'residence' together accounted for 46.6 per cent (n = 5,676) of all the bail conditions imposed in cases of 'bail continued – varied' and 51.6 per cent (n = 37,819) of all the bail conditions imposed in cases of 'conditional bail'.
- 8 Data were not available regarding the types of bail conditions imposed broken down by the defendant's Statistical Area of residence. Nor did this data indicate what proportion of orders had multiple conditions in place.
- 9 This is based on the Criminal Name Index (CNI).
- 10 This total excludes 22 orders for defendants currently in custody.
- 11 The logistic regression contains 7,058 orders as the age group variable had 13 missing values.