

Persons convicted of breaching Apprehended Domestic Violence Orders: their characteristics and penalties

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Aims: To describe the characteristics of those found guilty of breaching an Apprehended Domestic Violence Order (ADVO) in NSW in 2013 and the principal penalties they received.

Method: BOCSAR's Criminal Courts database provided information regarding the demographic characteristics of, and penalties imposed on, a cohort of 3,154 offenders found guilty in NSW in 2013 of breaching an ADVO as their principal offence. BOCSAR's Re-offending Database provided data regarding the number of proven court appearances in the preceding five years for a cohort of 5,023 persons with a court appearance in 2013 involving at least one proven breach ADVO.

Results: Of 3,154 persons who were found guilty of breaching an ADVO as their principal offence, most were male (87.7%) and entered a guilty plea (84.6%). About one in five (22.5%) received a bond without supervision (average length=14 months) as their principal penalty; 17.8 per cent were fined (average amount=\$432); 15.7 per cent received a bond with supervision (average length=16 months) and 12.4 per cent were given a custodial sentence (average length=4 months). Of 5,023 persons with a court appearance in 2013 involving at least one proven breach ADVO offence, 22.2 per cent had no proven court appearances in the preceding five years; 53.3 per cent of offenders had at least one prior proven violent offence (the main categories were assault and stalking); and 28.7 per cent of offenders had at least one prior proven breach ADVO offence.

Keywords: domestic violence, ADVO breaches, sentence, prior record, regional variation.

Introduction

Violence against women is a serious and widespread problem, not only in Australia but worldwide. Most violence against women is perpetrated by men. In the International Violence Against Women Survey (IWAWS), conducted in eleven countries¹ between 2002 and 2006, between six and 36 per cent of women² aged 18 to 69 years reported physical violence by an intimate male partner at some point in their life (Johnson, Ollus, & Nevala 2010). The 2012 Personal Safety Survey (Australian Bureau of Statistics, 2013) estimated that 3,560,600 (40.8%) Australian women aged 18 years or more experienced violence³ since the age of 15 years. In most (82.7%) of these cases, the assailant was a man they knew and in half of these cases, where the women knew their male assailant, the assailant was a current or former partner.⁴

Violence against women has social, economic, health and financial consequences. For example, in 2001, intimate partner

violence was found to contribute eight per cent to the total disease burden of Victorian women aged between 15 and 44 years, and to be the leading preventable contributor to death, disability and illness in women in this age range (VicHealth and the Department of Human Services, 2004). Recently, the NSW Auditor-General estimated that domestic and family violence costs the NSW economy more than \$4.5 billion each year (NSW Auditor-General, 2011).

Apprehended domestic violence orders (ADVOs) are intended to protect individuals who have experienced, or are at risk of experiencing, domestic violence.⁵ In 2013, 25,535 ADVOs were granted by NSW courts (NSW Bureau of Crime Statistics and Research, 2014a). For the vast majority of victims, ADVOs are effective in reducing, or even eliminating negative behaviours such as physical assault, threats of physical assault, stalking, verbal abuse and intimidation, even when the victim maintains contact with the defendant (Trimboli & Bonney, 1997). Nevertheless, breaches are very common. In NSW in 2013,

3,154 persons were found guilty of breaching an ADVO as their principal offence. Breaching an ADVO is a criminal offence. The current maximum penalty for knowingly breaching an ADVO restriction is imprisonment for two years and/or \$5,500.

Despite their prevalence, little is known about trends in ADVOs, their regional distribution, the characteristics of those who breach ADVOs or the penalties imposed upon them. This Bureau Brief is intended to fill this information gap.

Method

The data for this Brief were drawn from three sources:

1. the NSW Police Force's Computerised Operational Policing System (COPS) database;
2. the Bureau of Crime Statistics and Research's (BOCSAR) Criminal Courts database; and
3. BOCSAR's Re-offending Database, ROD (for further explanation of ROD, see Hua & Fitzgerald, 2006).

The COPS database provides information regarding trends in recorded incidents⁶ of ADVO breaches and persons of interest (POIs) whom the police proceeded against to court for ADVO breach offences. These data cover the period 2009-2013. Here, a breach ADVO offence is defined as either:

- contravene ADVO (*Crimes Act 1900, s5621(1), Law Part 1207*); or
- contravene prohibition/restriction in AVO (domestic) (*Crimes Act 1900, s562ZG(1); Law Part 62079*);
- contravene prohibition/restriction in AVO (domestic) (*Crimes (Domestic and Personal Violence) Act 2007, s14(1); Law Part 65020*); and/or
- attempt to breach prohibition/restriction in AVO (domestic) (*Crimes (Domestic and Personal Violence) Act 2007, s14(9); Law Part 69120*).

A 'person of interest' (POI) is a suspected offender recorded by police in connection with a criminal incident. In this Brief, only POIs who the police proceeded against to court in connection with an ADVO breach incident are counted. POIs who the police proceeded against by means other than court (e.g. warning or Youth Justice Conference) or who were not proceeded against by police are not included here.⁷ Also, note that a count of POIs is not a count of unique offenders. The same POI can be linked to more than one criminal incident and one criminal incident can involve multiple POIs.

The penalty data provided in this Brief are drawn from court records of persons guilty in a NSW Local Court in 2013 of breaching an ADVO, as their principal offence. If a person was found guilty of more than one offence, the offence which received the most serious penalty was the principal offence. Penalty seriousness is determined using BOCSAR's penalty hierarchy (see NSW Bureau of Crime Statistics and Research, 2014a, pp162-163, for further detail). The cohort on which penalty comparisons are based consisted of 3,154 persons. Note, however, that a person with more than one Local Court

finalisation in 2013 where breach of ADVO was their principal offence would be counted more than once.

Data on the prior offending record of those found guilty of an ADVO breach were drawn from BOCSAR's Re-offending Database and include all finalised court appearances in the five years prior to the reference offence where one or more offences were proven. The reference offence includes all proven breach ADVO offences in 2013 even if the breach was not the principal offence in that matter. If a person had more than one court appearance in 2013 with at least one proven breach ADVO offence, the earliest appearance was selected as the reference appearance. In this Brief, the following offence categories were examined:

- *All prior proven court appearances.*
- *Any prior proven violent offence(s):* offences from ANZSOC Divisions 01 (Homicide and related offences), 02 (Acts intended to cause injury), 03 (Sexual assault and related offences) and Subdivision 061 (Robbery), (Australian Bureau of Statistics, 2011).
- *Prior proven breach ADVO offence:* offences listed earlier in this Brief.
- *Prior proven assault, domestic violence related:* offences under ANZSOC Subdivision 021 which are defined by the Crimes (Domestic and Personal Violence) Act 2007 as domestic-related.⁸
- *Prior proven assault, non-domestic violence related:* offences under ANZSOC Subdivision 021 which are not defined by the Crimes (Domestic and Personal Violence) Act 2007 as domestic-related.

For each prior offence category, the value ranged from 0 to 4+ prior proven court finalisations. The same offender could fall into more than one category.

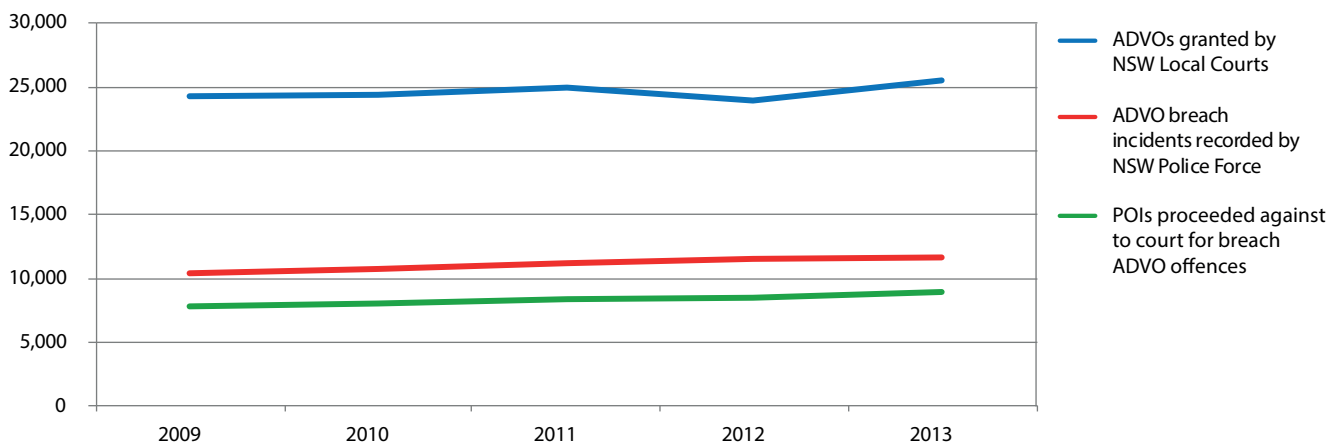
Results

Number of ADVO breach incidents recorded by police, NSW, 2009 – 2013

Figure 1 shows the number of ADVOs granted by NSW Local Courts, the number of ADVO breach incidents recorded by the NSW Police Force and the number of persons of interest whom the police proceeded against to court for ADVO breach offences. These data are presented for the five-year period from 2009 to 2013.

In each of the five years between 2009 and 2013, on average, 24,605 ADVOs were granted by Local Courts in NSW, 11,121 ADVO breach incidents were recorded by the NSW Police Force and 8,383 persons of interest were proceeded against to court. Over the five-year period, there was no statistically significant trend in the number of ADVOs granted by Local Courts in NSW. However, there was a statistically significant upward trend in both the number of ADVO breach incidents recorded by the police ($p = .014$) and in the number of POIs proceeded against to court by police ($p = .014$). Each year, the number of POIs proceeded against to court by police were about one-third of the total number of ADVOs granted.

Figure 1. Number of ADVOs granted, ADVO breach incidents recorded and persons of interest proceeded against to court for ADVO breach offences, NSW, 2009 – 2013



Characteristics of breach ADVO offenders

In 2013, a total of 3,154 persons were found guilty of breaching an ADVO as their principal offence. Appendix 1 shows the rates of both ADVOs granted and ADVO breaches by the Local Government Area (LGA) of the place of residence of the offenders. These rates are per 100,000 people living in each LGA. There is a strong positive correlation between the two rates ($r = .877, p < .01$).⁹ This means that LGAs with high rates of ADVOs granted tend to have high rates of ADVO breaches.

Age and gender of offenders

Table 2 shows the age and gender of those found guilty of breaching an ADVO as their principal offence and their age at the time of court finalisation.

As seen here, the vast majority (87.7%) of persons who were found guilty of breaching an ADVO in 2013 in NSW were male; and more than half (51.9%) of the total number of persons were men aged between 30 and 49 years at the time of court

Table 2. Age and gender of persons found guilty of breaching an ADVO as their principal offence, NSW, 2013

Age (years) at time of court finalisation	Male		Female		Total ^a	
	N	%	N	%	N	%
18 – 19	102	3.2	19	0.6	121	3.8
20 – 24	334	10.6	50	1.6	384	12.2
25 – 29	403	12.8	74	2.4	477	15.1
30 – 39	916	29.0	115	3.7	1,031	32.7
40 – 49	722	22.9	90	2.9	812	25.8
50 – 59	225	7.1	30	1.0	255	8.1
60 – 65	35	1.1	4	0.1	39	1.2
Over 65	28	0.9	6	0.2	34	1.1
Missing	1	-	-	-	1	-
Total	2,766	87.7	388	12.3	3,154	100.0

^a Age missing for one person, percentage based on 3,153 persons.

finalisation, with an average age of 36.4 years. For offenders whose Indigenous status was known ($n = 3,122$), 27.2 per cent were Indigenous.

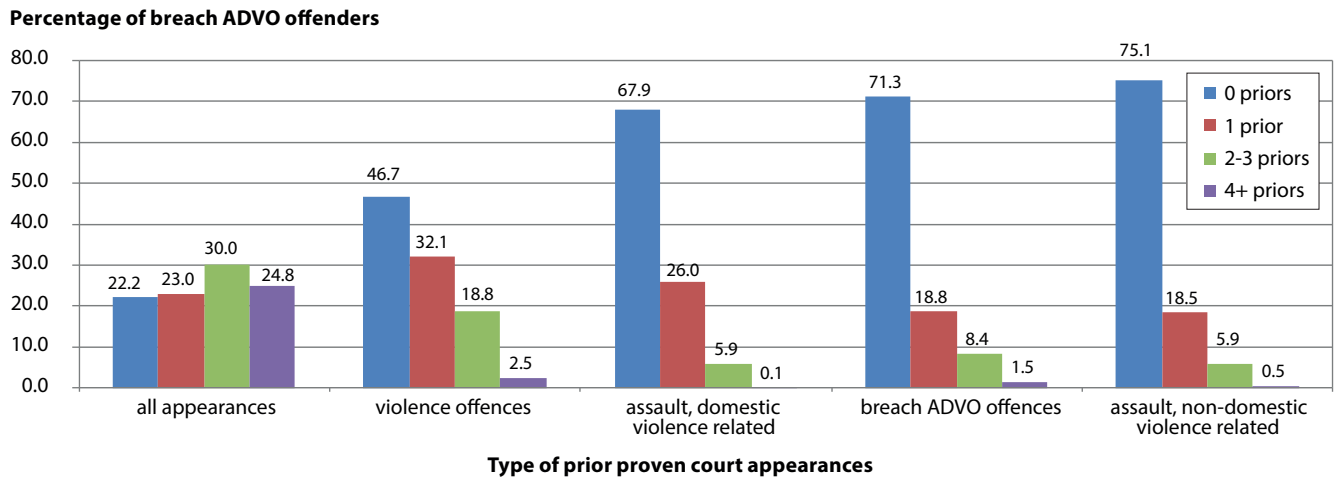
Principal penalties imposed

The majority (84.6%) of persons found guilty of breaching an ADVO in 2013 entered a guilty plea. A little less than one in ten (9.0%) entered a not guilty plea and the remaining 6.5 per cent of persons did not enter a plea. Table 3 shows the principal penalty imposed on these breach ADVO offenders and its average amount.

Table 3. Principal penalty imposed on persons found guilty of breaching an ADVO, NSW, 2013

Principal penalty	N	%	Average penalty
Imprisonment	390	12.4	4 months
Home detention	1	0.0	3 months
Intensive correction order	12	0.4	8 months
Suspended sentence with supervision	165	5.2	9 months
Suspended sentence without supervision	72	2.3	8 months
Community service order	132	4.2	111 hours
Good behaviour bond with supervision	489	15.5	16 months
Good behaviour bond without supervision	709	22.5	14 months
Fine	560	17.8	\$432
Nominal sentence	3	0.1	NA
Conviction without penalty	179	5.7	NA
Good behaviour bond without conviction	294	9.3	12 months
No conviction recorded	148	4.7	NA
Total	3,154	100.0	

Figure 2. Number and type of proven court appearances in preceding five years for offenders convicted of at least one breach ADVO offence, NSW, 2013



As shown, about one in five (22.5%) persons found guilty of breaching an ADVO in 2013 received a bond without supervision as their principal penalty; the average length of bond imposed among these offenders was 14 months. The second and third most common principal penalties were a fine (17.8% of offenders) and a bond with supervision (15.5% of offenders). The average fine amount imposed by the courts among these offenders was \$432 and the average length of bond with supervision imposed was 16 months. A custodial sentence was given to 12.4 per cent of offenders; the average custodial penalty imposed on all these offenders was four months. A suspended custodial sentence, with or without supervision, was given to 5.3 and 2.3 per cent of offenders, respectively.

Prior record of offenders

In 2013, a total of 5,023 persons had a court appearance involving *at least one proven breach ADVO offence*. Figure 2 shows the number and type of prior convictions in the five years preceding the reference offence.

Approximately one in five (22.2%) offenders with a court appearance in 2013 involving at least one proven breach ADVO offence had proven court appearances (of any type) in the preceding five years. However, more than half (54.8%) were repeat offenders, having two or more prior proven court appearances. In fact, 24.8 per cent had four or more prior proven court appearances, with the maximum number being 20.

The most frequent types of prior proven offences were violent offences. More than half (53.3%) of the offenders with a court appearance in 2013 involving at least one proven breach ADVO offence had one or more prior proven violent offences. About one-third (32.1%) had one such conviction. However, one in five offenders (21.3%) had two or more prior proven violent offences. The maximum number of prior proven court appearances for violent offences was seven. The main categories of these offences were assault offences and stalking.

About one in three offenders (32.1%) had one or more prior convictions for domestic violence related assault offences. One in four (26.0%) offenders had one such prior proven court appearance and a very small proportion of offenders (0.1%) had four or more prior convictions for these assault offences, with the maximum number being six.

About three in ten offenders (28.7%) had at least one proven court appearance for breach ADVO offences in the preceding five years. One in five offenders (18.8%) had one prior court appearance for breach ADVO, but 8.4 per cent had two or three priors and a small proportion had four or more prior proven court appearances for breach ADVO offences (1.5%). Ten was the maximum number of prior proven court appearances for breach ADVO.

A total of 24.9 per cent of offenders had one or more prior proven court appearances for non-domestic violence related assault offences. About one in five offenders (18.5%) had one prior of this type and 5.9 per cent had two or three such priors. The maximum number of prior proven court appearances for non-domestic violence related assaults was five.

Summary

In 2013, 25,535 ADVOs were granted by NSW Local Courts, 11,688 breach ADVO offences were recorded by NSW Police Force and 8,900 persons of interest were proceeded against to court by the police for these offences.

Of 3,154 persons who were found guilty of breaching an ADVO as their principal offence (i.e. the offence which received the most serious penalty), most were male (87.7%) and most entered a guilty plea (84.6%). Almost three in ten (27.2%) were Indigenous. The principal penalty for about one in five (22.5%) was a bond without supervision and the average length of unsupervised bonds imposed on these offenders was 14 months. Nearly 18 per cent (17.8%) were fined and the average fine amount imposed was \$432. About 16 per cent (15.7%) received a bond with supervision and the average length of supervised bonds imposed was 16 months. A total of 12.4 per

cent were imprisoned and the average prison sentence among these offenders was four months.

Of 5,023 persons with a court appearance in 2013 involving at least one proven breach ADVO offence, 22.2 per cent had no proven court appearances of any type in the preceding five years; 53.3 per cent of offenders had at least one prior proven court appearance for a violent offence (the main categories of these offences were assault and stalking); and 28.7 per cent had at least one prior conviction for breach ADVO.

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Notes

- 1 The countries which participated in the research were Australia, Costa Rica, Czech Republic, Denmark, Greece, Hong Kong, Italy, Mozambique, Philippines, Poland and Switzerland.
- 2 Data for women interviewed in Greece and Italy are not included.
- 3 Violence is defined as 'any incident involving the occurrence, attempt or threat of either physical or sexual assault experienced by a person since the age of 15. Includes Physical violence and Sexual violence.' (ABS, 2013; retrieved from: <http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/4906.0Glossary12012>).
- 4 Source: Table 6, 49060DO002_2012 (ABS, 2013)
- 5 The National Council to Reduce Violence against Women and Their Children (2009) provides a description of the domestic violence laws in Australia.
- 6 A recorded criminal incident is defined 'as an activity detected by or reported to police which:
 - involved the same offender (s);
 - involved the same victim(s);
 - occurred at the one location;
 - occurred during one uninterrupted period of time;
 - falls into one offence category;
 - falls into one incident type (for example, 'actual', 'attempted', 'conspiracy').'(Source: NSW Bureau of Crime Statistics and Research, 2014b, p. 45).
- 7 During each of the five years 2009-2013, less than 0.3 per cent of POIs in ADVO breach incidents were proceeded against other than to court.
- 8 Since these data are only available since March 2008 when the *Crimes (Domestic and Personal Violence) Act 2007* was implemented, information regarding prior offences in this category is available for four years and nine months rather than five years.
- 9 The correlation test used was Pearson.

Appendix 1. ADVOs granted and ADVO breaches by Local Government Area of residence of person of interest, NSW, 2013

LGA of offender's residence	ADVOs granted		Breaches of ADVOs ^a	
	Number	Rate per 100,000 resident population ^b	Number	Rate per 100,000 resident population ^b
Albury	254	505.5	23	45.8
Armidale Dumaresq	127	501.1	17	67.1
Ashfield	95	215.1	12	27.2
Auburn	310	371.9	22	26.4
Ballina	174	421.0	12	29.0
Balranald	22	nc ^c	3	nc
Bankstown	533	270.6	49	24.9
Bathurst Regional	161	392.2	16	39.0
Bega Valley	120	360.2	17	51.0
Bellingen	38	295.6	12	93.4
Berrigan	30	358.6	3	35.9
Blacktown	1,432	440.4	159	48.9
Bland	39	648.9	5	83.2
Blayney	24	327.4	1	13.6
Blue Mountains	204	257.5	21	26.5
Bogan	19	625.6	1	33.0
Bombala	6	nc	1	nc
Botany Bay	106	244.8	15	34.6
Bourke	91	nc	16	nc
Brewarrina	73	nc	12	nc
Broken Hill	172	903.0	12	63.0
Burwood	71	201.1	8	22.7
Byron	124	392.3	9	28.5
Cabonne	39	284.8	5	36.5
Camden	164	259.3	19	30.0
Campbelltown	797	515.7	105	67.9
Canada Bay	114	134.3	11	13.0
Canterbury	393	264.0	51	34.3
Carrathool	12	nc	1	nc
Central Darling	74	nc	4	nc
Cessnock	337	620.5	39	71.8
Clarence Valley	245	480.0	23	45.1
Cobar	37	736.5	1	19.9
Coffs Harbour	381	530.7	44	61.3
Coolamon	13	304.0	2	46.8
Cooma-Monaro	42	417.0	6	59.6
Coonamble	64	1495.7	10	233.7
Cootamundra	68	891.8	7	91.8
Corowa Shire	36	315.5	7	61.3
Cowra	109	868.5	12	95.6
Deniliquin	61	827.0	5	67.8
Dubbo	293	715.1	41	100.1
Dungog	21	236.4	3	33.8
Eurobodalla	145	389.4	17	45.7
Fairfield	684	339.6	69	34.3
Forbes	70	724.3	14	144.9
Gilgandra	19	423.4	3	66.8
Glen Innes Severn	44	494.1	4	44.9
Gloucester	10	201.1	1	20.1
Gosford	419	245.4	74	43.3
Goulburn Mulwaree	126	430.1	13	44.5
Great Lakes	178	490.2	20	55.1
Greater Hume Shire	25	245.7	4	39.3
Greater Taree	262	536.4	43	88.0
Griffith	206	810.2	32	125.9
Gunnedah	67	528.1	10	78.8

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LGA of offender's residence	ADVOs granted		Breaches of ADVOs ^a	
	Number	Rate per 100,000 resident population ^b	Number	Rate per 100,000 resident population ^b
Guyra	46	990.3	3	64.6
Gwydir	11	215.5	2	39.2
Harden	16	425.3	4	106.3
Hawkesbury	206	316.4	14	21.5
Hay	22	nc	3	nc
Holroyd	327	300.3	38	34.9
Hornsby	147	88.1	9	5.4
Hunters Hill	13	89.7	1	6.9
Hurstville	163	192.1	25	29.5
Inverell	131	783.2	17	101.6
Jerilderie	2	nc	1	nc
Junee	29	465.7	5	80.3
Kempsey	256	871.9	41	139.6
Kiama	23	109.3	2	9.5
Kogarah	113	187.1	13	21.5
Ku-ring-gai	60	50.4	7	5.9
Kyogle	35	367.0	1	10.5
Lachlan	69	1022.5	8	118.6
Lake Macquarie	677	337.2	102	50.8
Lane Cove	28	83.4	1	2.9
Leeton	92	797.3	7	60.7
Leichhardt	97	169.4	11	19.2
Lismore	171	383.1	22	49.3
Lithgow	82	388.3	3	14.2
Liverpool	738	377.8	79	40.4
Liverpool Plains	23	296.3	7	90.2
Lockhart	15	496.5	1	33.1
Maitland	350	467.5	47	64.0
Manly	50	113.0	2	4.5
Marrickville	210	254.5	25	30.3
Mid-Western Regional	101	423.6	17	71.3
Moree Plains	213	1494.7	32	224.6
Mosman	14	46.7	3	10.0
Murray	32	431.4	2	27.0
Murrumbidgee	13	nc	3	nc
Muswellbrook	101	599.4	17	100.9
Nambucca	96	491.6	14	71.7
Narrabri	89	650.4	12	87.7
Narrandera	35	580.4	3	49.8
Narromine	38	553.0	4	58.2
Newcastle	675	425.7	104	65.6
North Sydney	80	115.5	16	23.1
Oberon	17	332.6	2	38.0
Orange	246	601.9	34	83.2
Palerang	13	84.9	2	13.1
Parkes	119	788.8	13	86.2
Parramatta	519	281.1	52	28.2
Penrith	740	388.6	92	48.3
Pittwater	67	107.9	9	14.5
Port Macquarie-Hastings	348	454.5	51	66.6
Port Stephens	252	365.6	27	39.2
Queanbeyan	147	362.4	15	37.0
Randwick	266	186.9	31	21.8
Richmond Valley	131	575.9	20	87.9
Rockdale	266	249.3	24	22.5
Ryde	140	124.4	5	4.4

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LGA of offender's residence	ADVOs granted		Breaches of ADVOs ^a	
	Number	Rate per 100,000 resident population ^b	Number	Rate per 100,000 resident population ^b
Shellharbour	251	370.2	29	42.8
Shoalhaven	476	487.2	59	60.4
Singleton	94	395.8	10	42.1
Snowy River	14	173.1	3	37.1
Strathfield	79	206.0	5	13.0
Sutherland Shire	371	166.2	51	22.9
Sydney	533	277.7	84	43.8
Tamworth Regional	327	547.3	31	51.9
Temora	46	767.3	2	33.4
Tenterfield	45	645.3	4	57.4
The Hills Shire	206	112.2	15	8.2
Tumbarumba	13	369.2	2	56.8
Tumut Shire	80	707.0	8	70.7
Tweed	387	429.5	42	46.6
Upper Hunter Shire	27	184.3	4	27.3
Upper Lachlan Shire	16	210.9	3	39.5
Uralla	28	439.6	2	31.4
Wagga Wagga	361	580.9	33	53.1
Wakool	17	427.2	1	25.1
Walcha	9	291.5	2	64.8
Walgett	161	2372.9	26	383.3
Warren	29	nc	2	nc
Warringah	152	99.6	19	12.4
Warrumbungle Shire	43	439.8	6	61.4
Waverley	97	137.2	9	12.7
Weddin	8	215.6	1	26.9
Wellington	75	837.5	6	67.0
Wentworth	72	1053.9	6	87.8
Willoughby	72	98.4	9	12.3
Wingecarribee	94	199.8	10	21.3
Wollondilly	109	235.4	11	23.8
Wollongong	648	315.7	117	57.0
Woollahra	57	98.8	7	12.1
Wyong	631	401.0	83	52.7
Yass Valley	35	215.1	2	12.3
Young	94	740.2	7	55.1
Total ^d	24,497	330.6	2,962	40.0

^a Breaches of ADVOs = attempt to breach prohibition/restriction in ADVO (Law Part 69120) and contravene prohibition/restriction in ADVO (Law Part 65020).

^b Population data source: Australian Bureau of Statistics (2014b). Rate calculations are based on estimated residential population and no adjustment has been made for the number of people visiting each LGA per year. Therefore, rate calculations should be treated very cautiously for LGAs that have high visitor numbers relative to their residential population.

^c nc = not calculated. Rates are not calculated for LGAs with populations less than 3,000; these calculations would be very sensitive to small changes in population sizes and the number of incidents recorded.

^d Excludes those offenders who lived interstate, in an institution or whose place of residence was missing or unknown.