

SENTENCING  
SPOTLIGHT ON...

# breach of bail offences



Queensland Sentencing  
Advisory Council  
*Inform. Engage. Advise.*

# Sentencing Spotlight on... breach of bail offences

This *Sentencing Spotlight* looks at sentencing outcomes for breach of bail offences finalised in Queensland courts between 1 July 2005 and 30 June 2016.

## Summary of offences 2005–06 to 2015–16



**107,779**  
offenders sentenced



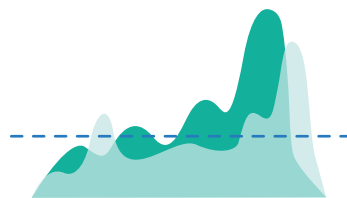
**63,769**  
breach of bail offence  
as most serious offence (MSO)



**44,010**  
another offence as  
MSO, but included  
breach of bail offence



Number of offenders sentenced  
for a breach of bail as MSO  
increased each year  
since 2008–09



Average age  
**30 years**



**1.7%**  
young offenders



**79.5%**  
male offenders



**26.1%**  
Aboriginal and/or  
Torres Strait Islander offenders



**95.5%**  
pleaded guilty



**84.4%**  
received a  
non-custodial penalty



Majority of adult offenders  
received a fine  
(73.1%)  
— average fine \$378.10



Majority of young  
offenders received a  
reprimand  
(51.9%)

Source: Department of Justice and Attorney-General's Queensland Wide Inter-linked Courts (QWIC) database, as maintained by the Queensland Government Statistician (GovStats). Additional details about cases were sourced, where available, from sentencing remarks direct from the courts.

# What is bail?

If a person is arrested and charged with an offence, bail may be granted by police or a court. If an accused person is released on bail, they remain in the community in the lead up to their final court hearing on the condition they agree to return to court and comply with any other conditions.

If bail is granted, the defendant must sign a 'bail undertaking',<sup>1</sup> which lists any conditions and acts as a record of the bail decision.

The *Bail Act 1980 (Qld)* (Bail Act) is the main law governing bail in Queensland. The Bail Act also applies to children, subject to additional information and requirements set out in the *Youth Justice Act 1992 (Qld)* (YJA).<sup>2</sup>

## Criteria for granting bail

There is a general presumption under Queensland law in favour of bail being granted.<sup>3</sup> This is reversed in some cases where an adult defendant must 'show cause' why their detention in custody is not justified (this does not apply to children).<sup>4</sup> Such cases include where an adult defendant is charged with:

- murder
- an offence against the Bail Act (including breaching bail and failing to appear in court)
- an indictable offence (generally, a more serious type of offence) for which the prosecution alleges they used (or threatened to use) a firearm, weapon or explosive.

For an adult defendant, bail must be refused if the court or police officer making the bail decision is satisfied the person should remain in custody for their own protection, or there are one or more of four 'unacceptable risks' that the defendant would, if released on bail:<sup>5</sup>

- fail to appear at court
- commit an offence
- endanger the safety or welfare of the public
- interfere with witnesses or otherwise obstruct the course of justice.

In assessing if there is an unacceptable risk, the court or police officer must take into account the nature and seriousness of the offence, the history of any previous bail granted to the accused, and the strength of evidence against them.<sup>6</sup> If a person is charged with a domestic violence offence or breach of a domestic violence order, the court or police officer must also consider the risk of further domestic violence or associated domestic violence being committed by the defendant if bail is granted.<sup>7</sup>

# Bail conditions

## Standard conditions

Bail undertakings with charges before Magistrates or Childrens Courts have standard conditions: attendance at court; obeying all directions of the court in relation to any further appearance.<sup>8</sup> For charges before the higher courts (District or Supreme Court), a defendant must notify the prosecution in writing of any change of address.

As well as standard conditions, a court can also impose special conditions and other conditions it deems appropriate.<sup>9</sup>

## Special conditions

While the Bail Act does not contain an exhaustive list of all possible special conditions, it provides examples such as:

- prohibiting an accused person from entering or remaining in licensed premises (e.g. a club or a bar)
- attending a public event in a public place at which alcohol will be sold
- requiring an accused person to surrender their passport and prohibiting them from applying for one.<sup>10</sup>

Other conditions commonly imposed include:

- requiring a person to live at a particular address
- imposing a curfew
- requiring a person to report to a police station
- banning contact with certain people or classes of people (e.g. witnesses or co-accused)
- banning a person from entering, or being in or near, a certain place or class of places (e.g. airports or the workplace of a complainant).

Conditions for the release of a person on bail must not be more onerous than considered appropriate, having regard to the nature of the offence, the circumstances of an accused person and the public interest,<sup>11</sup> and generally be relevant to factors impacting on the decision to grant bail. That is, to reduce the risks of the person committing an offence while on bail, failing to appear or interfering with witnesses or obstructing the course of justice.<sup>12</sup>

## Surety

A court can also order a surety as part of a bail order.<sup>13</sup> A surety is an adult, other than the defendant, who commits an amount of their money or equity in their property as security for the defendant's behaviour until the end of the court proceeding. If the defendant breaches bail, the surety forfeits that amount to the State.

## Young offenders and bail

There are some important differences in the law relating to bail for young offenders.<sup>14</sup> Some aspects of the Bail Act do not apply to young offenders.<sup>15</sup> Most relevant for this analysis, is that only one of the two breach of bail offences considered in this *Sentencing Spotlight* applies to young offenders: failing to appear (section 33).

When applying for bail, young offenders are not required to 'show cause' that their continued detention for certain offences is not justified as is the case for adults.<sup>16</sup> The court or police must still consider the four types of 'unacceptable risks' outlined in the 'What is bail?' section of this *Sentencing Spotlight* when deciding if a young offender should be released on bail as a similar section to the Bail Act appears in the YJA.<sup>17</sup>

The court or police officer must decide to release a young offender unless they are required by the YJA or another Act to keep them in custody.<sup>18</sup> Similar to an adult, a young offender must not be released if there is an 'unacceptable risk' of them failing to appear, committing an offence, endangering the safety or welfare of any person, or interfering with a witness or obstructing the course of justice.<sup>19</sup> Further, a young offender must not be released if their safety is at risk and there is no other practicable way of keeping them safe except for keeping them in custody.<sup>20</sup>

## Breach of bail offences

This *Sentencing Spotlight* examines data relating to two offences under the Bail Act:<sup>21</sup>

**Breach conditions of bail — s 29:** It is an offence, punishable by a maximum of 40 penalty units<sup>22</sup> or two years imprisonment, to breach any bail conditions. However, there are some exceptions to this, namely:

- failure to comply with conditions relating to participation in or completion of rehabilitation and treatment programs or courses
- where the defendant is a child (young offender)
- failure to surrender into custody (a separate offence under s 33 of the Bail Act).

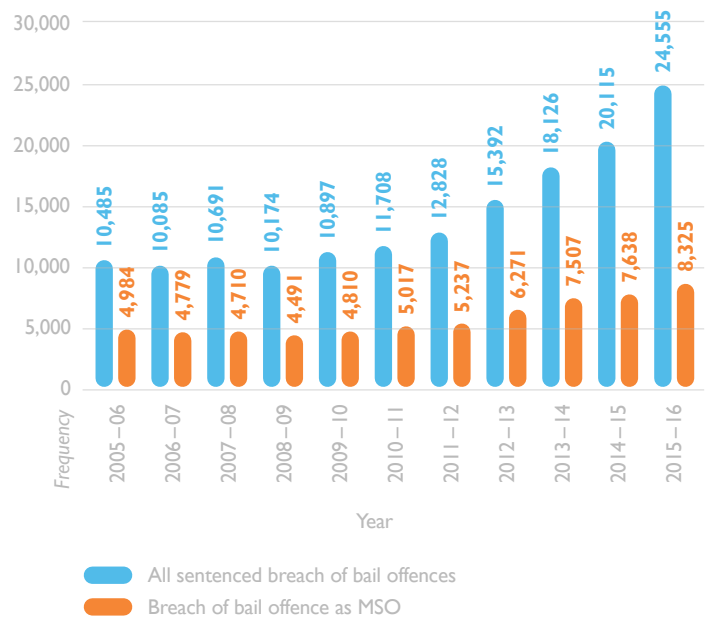
**Failure to appear in accordance with undertaking — s 33:**<sup>23</sup> This offence is committed when a defendant fails to appear in court and is brought to court under certain Bail Act warrants. It is an offence against the Bail Act, carrying a maximum of 40 penalty units or two years' imprisonment.<sup>24</sup> Dealing with a charge of failing to appear has certain characteristics. First, the court must immediately deal with the matter.<sup>25</sup> Secondly, if an adult defendant fails to appear,<sup>26</sup> and the court imposes imprisonment, that term of imprisonment must be served cumulatively (on top of) any other period of imprisonment for a different offence.<sup>27</sup>

## Offenders sentenced for breach of bail offences

A total of 107,779 offenders were sentenced for breach of bail offences. For 63,769 (59.2%) of those offenders, their breach of bail offence was their most serious offence (MSO) within their court event. The remaining 44,010 offenders (40.8%) were sentenced for breach of bail offence/s, however this was not their MSO. This *Sentencing Spotlight* primarily focuses on offenders sentenced for breach of bail offences as their MSO.

Figure 1 shows the total number of sentenced breach of bail offences compared to the number of breach of bail offences as an offender's MSO over the 11-year period. Offenders may appear more than once across this period if they have more than one breach of bail offence as their MSO. These offenders are considered in the section 'Repeat breach of bail offenders' later in this *Sentencing Spotlight*.

**Figure 1: Number of sentenced breach of bail offences and number of sentenced breach of bail offences as MSO, 2005–06 to 2015–16**



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted January 2017

The number of offenders sentenced for a breach of bail offence as their MSO has increased each year since 2008–09, following a decrease between 2005–06 and 2008–09. Similarly, the total number of sentenced breach of bail offences has also increased each year since 2008–09. Breach of bail offences as the MSO, have risen 67 per cent, from 4984 in 2005–06 to 8325 in 2015–16. However the total number of sentenced breach of bail offences increased from 10,485 in 2005–06 to 24,555 in 2015–16, a 134 per cent increase. This suggests that breach of bail offences are becoming more common as an associated offence to another MSO.

# Characteristics of offenders sentenced for breach of bail offences

This section compares the age, gender and Aboriginal and/or Torres Strait Islander status of all offenders sentenced for a breach of bail offence as their MSO.

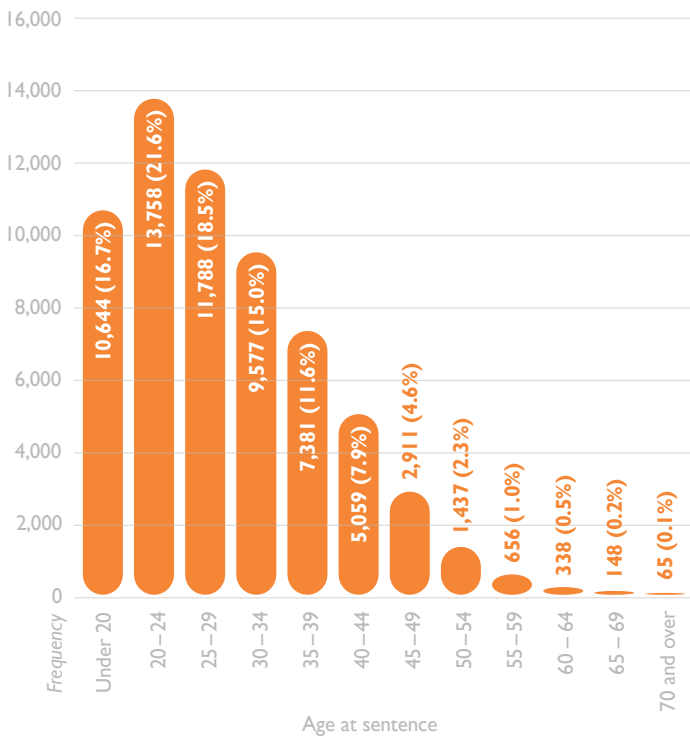
## Age

The average age was 30 years (with a median age of 28.1 years). Ages ranged from 10 to 86 years.<sup>28</sup>

Figure 2 shows the number of breach of bail (MSO) offenders by age at sentence. Nearly 40 per cent (38.3%) of breach of bail (MSO) offenders were aged under 25 years at the time of sentence.

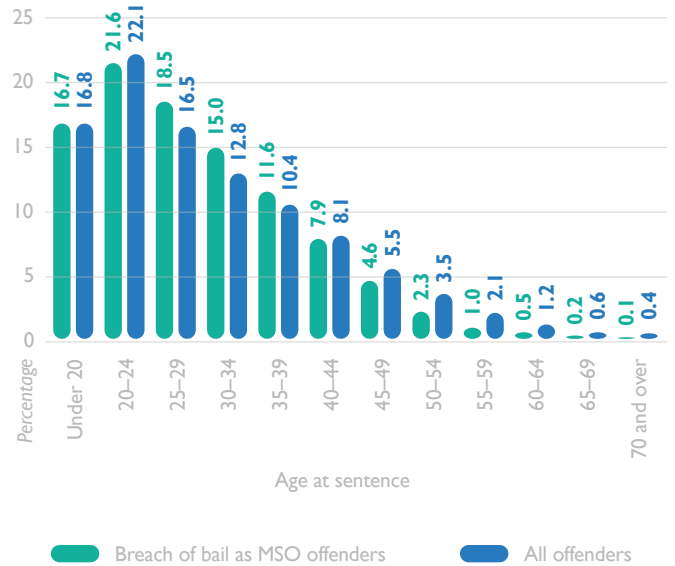
Figure 3 compares the distribution of age at sentence of breach of bail offenders (MSO) against all sentenced offenders over the 11-year period. Little difference exists when comparing the average age of breach of bail (MSO) offenders (30.0 years) with all sentenced offenders (31.0 years).<sup>29</sup> Breach of bail (MSO) offenders are slightly higher in the 25 to 39 age groups and slightly lower in the 50 and older age groups.

**Figure 2: Number of people sentenced for a breach of bail offence as MSO by age at sentence, 2005–06 to 2015–16**



Source: Queensland Government Statistician's Office, Queensland Treasury – Courts Database, extracted January 2017

**Figure 3: Comparison of breach of bail (MSO) offenders with all sentenced offenders by age, 2005–06 to 2015–16**



Source: Queensland Government Statistician's Office, Queensland Treasury – Courts Database, extracted January 2017

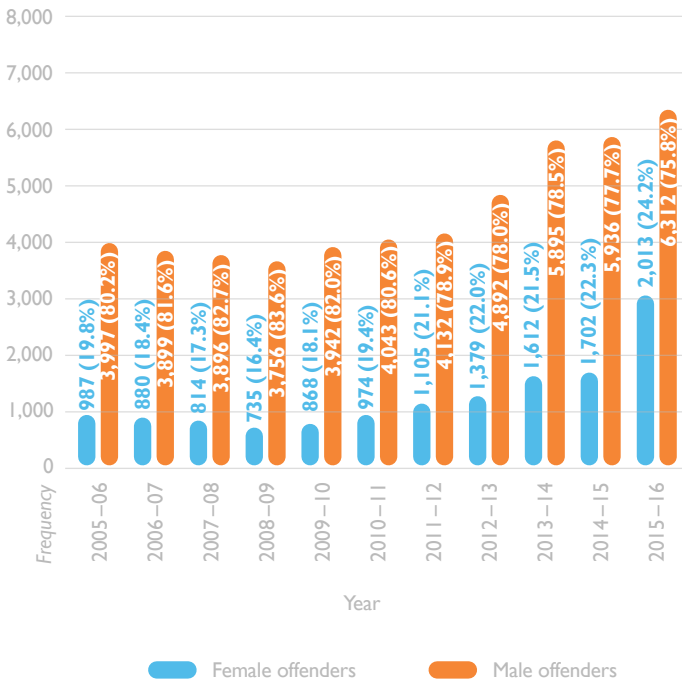
## Gender

The majority of offenders sentenced for a breach of bail offence as their MSO in Queensland were male (79.5%). This gender profile for breach of bail offenders remains consistent across the 11-year period (see Figure 4). Little difference exists in the gender profile between the breach of bail offenders (MSO) and that of all sentenced offenders; across all offence types 76.9 per cent of all sentenced offenders were male compared to 79.5% male for breach of bail MSO<sup>30</sup>.

No difference in age at time of sentence was identified for male and female offenders sentenced for breach of bail offences as their MSO (female average age=30.1 years; male average age=30.0 years).<sup>31</sup> Across the 11-year period, the number of MSO breach of bail offenders sentenced increased since 2008–09 (see Figure 1). However since 2008–09, the proportion of female offenders increased each year while the proportion of male offenders decreased. Figure 4 shows that in 2008–09, 16.4 per cent of offenders sentenced for breach of bail offences (MSO) were female and 83.6 per cent were male, while in 2015–16, 24.2 per cent of offenders sentenced were female and 75.8 per cent were male.



**Figure 4: Sentenced breach of bail offences (MSO), by gender and year**



Source: Queensland Government Statistician's Office, Queensland Treasury – Courts Database, extracted January 2017

## Aboriginal and/or Torres Strait Islander people<sup>32</sup>

Although people who identify as Aboriginal and/or Torres Strait Islander represent approximately 3.8 per cent of Queensland's population aged 10 years and over,<sup>33</sup> they accounted for 26.1 per cent of all offenders sentenced for a breach of bail offence as their MSO. Overall, there were 16,616 offenders sentenced for a breach of bail offence as their MSO who identified as being Aboriginal and/or Torres Strait Islander.

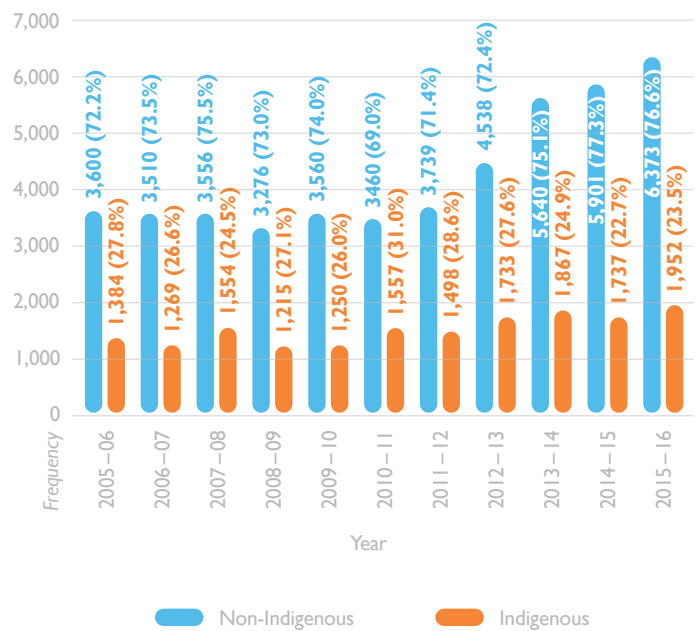
The proportion of Aboriginal and/or Torres Strait Islander offenders sentenced for breach of bail (MSO) offences (26.1%) is higher than the proportion of all sentenced offenders (across all offence types) who identified as Aboriginal and/or Torres Strait Islander (16.3%<sup>34</sup>).

There was little difference in age at the time of sentence identified when Aboriginal and/or Torres Strait Islander status was considered. The average age at sentence for Aboriginal and/or Torres Strait Islander offenders was 28.9 years compared to 30.4 years for non-Aboriginal and/or Torres Strait Islander offenders.<sup>35</sup>

When considering Aboriginal and/or Torres Strait Islander status by gender, of the 50,700 male offenders sentenced for a breach of bail offence as their MSO, Aboriginal and/or Torres Strait Islander male offenders accounted for 24.5 per cent (n=12,438). In comparison, of the 13,069 female offenders, Aboriginal and/or Torres Strait Islander female offenders accounted for 32.0 per cent (n=4,178).

Overall, the number of offenders sentenced for breach of bail offences has increased each year since 2008–09, however the number of Aboriginal and/or Torres Strait Islander offenders sentenced for these offences has fluctuated across the 11-year period (see Figure 5). Proportionally, Aboriginal and/or Torres Strait Islander offenders sentenced for a breach of bail offence peaked in 2010–11 when they accounted for 31.0 per cent of sentenced breach of bail offenders (as the MSO). The proportion was lowest in 2014–15 when 22.7 per cent of offenders sentenced for a breach of bail offence (MSO) were Aboriginal and/or Torres Strait Islander offenders.

**Figure 5: Breach of bail offences (MSO), by Aboriginal and/or Torres Strait Islander status and year**



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted January 2017

## Young offenders<sup>36</sup>

A total of 1108 young offenders were sentenced in a Childrens Court for a breach of bail offence as their MSO over the 11-year period (1.7% of all breach of bail MSO offenders). An additional 2088 young offenders were sentenced for at least one breach of bail offence which was not their MSO.

The average age at sentence for young offenders with a breach of bail offence as their MSO was 16 years (with a median age of 16.2 years).<sup>37</sup> Almost all young offenders sentenced for a breach of bail offence as their MSO (99.4%) were aged under 20 at time of sentence. The majority (69.6%) of young breach of bail offenders (MSO) were male. Over half (55.7%) of young breach of bail offenders (MSO) identified as Aboriginal and/or Torres Strait Islander, which is considerably higher than the proportion of adult breach of bail MSO offenders (25.5% Aboriginal and/or Torres Strait Islander offenders).

# Court type and location at sentence and type of plea

## Court type

Of the 63,769 offenders sentenced for a breach of bail offence as their MSO, the vast majority were finalised in the Magistrates Court (98.2%)<sup>38</sup>. Of the 1108 young offenders who were sentenced for a breach of bail offences as their MSO, nearly all were finalised in the Childrens Court (Magistrates Court), with only one young offender sentenced in the Childrens Court of Queensland (District Court).

## Type of plea

The overwhelming majority (95.5%) of offenders sentenced for a breach of bail offence as their MSO pleaded guilty, either initially or at a subsequent date. Only 0.4 per cent of offenders sentenced for a breach of bail offence as their MSO pleaded not guilty.<sup>39</sup>

No differences in formal plea type were identified when gender was considered.<sup>40</sup> Aboriginal and/or Torres Strait Islander offenders were slightly more likely to have pleaded guilty.<sup>41</sup> However some differences were identified when type of plea was analysed by age group (see Table 1). The younger age groups (under 20 and 20–24 years) were slightly more likely to have pleaded guilty to a breach of bail offence (MSO). The older age groups (55–59, 65–69 and 70+ years) had the lowest proportion of guilty pleas. The 55–59 and 65–69 years age groups had the highest no plea responses, while the 70 years and over age group had the highest proportion of not guilty pleas and the lowest proportion of no plea responses.

**Table 1: Plea type by age at sentence of breach of bail MSO offenders**

Age group	Guilty	Not Guilty	No plea
Under 20	96.0%	0.2%	3.9%
20–24	96.0%	0.4%	3.7%
25–29	95.2%	0.4%	4.3%
30–34	95.3%	0.4%	4.3%
35–39	95.3%	0.4%	4.2%
40–44	94.9%	0.7%	4.4%
45–49	95.6%	0.7%	3.7%
50–54	93.7%	1.1%	5.2%
55–59	92.5%	1.2%	6.3%
60–64	95.0%	0.6%	4.4%
65–69	91.2%	2.0%	6.8%
70 and over	93.8%	3.1%	3.1%

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted January 2017

## Other offences

### Associated offences

Offenders sentenced for a breach of bail offence as their MSO may have also been sentenced for other offences at the same court hearing. Of the 63,769 offenders sentenced for breach of bail as their MSO, almost two-thirds (65.2%) were dealt with only for the breach of bail offence, while a further 18.0 per cent were sentenced for one additional offence. The number of sentenced offences per court event with a breach of bail MSO ranged from one to 61. The average number of sentenced offences per court event with a breach of bail MSO was 1.8 (median=1.0) (see Table 2).

Few differences were seen when gender was considered. Aboriginal and/or Torres Strait Islander offenders sentenced for a breach of bail offence as their MSO were more likely to have more than one offence sentenced in their court event (41.8 per cent of offenders compared to 32.4 per cent for non-Aboriginal and/or Torres Strait Islander offenders).

Young offenders had a slightly higher number of offences per court event, with an average of 1.9 (compared to 1.8 for adult offenders). Adult offenders were more likely to be sentenced only for their breach of bail MSO (65.3%). Nearly 40 per cent of young offenders had two to four offences sentenced in their court event (36.9%), compared to 29 per cent of adult offenders (note offence count includes the breach of bail MSO offence).

**Table 2: Number of sentenced offences per court event with a breach of bail MSO, by gender, Aboriginal and/or Torres Strait Islander status and court type<sup>42</sup>, 2005–06 to 2015–16**

	N	Average no. of offences	Median no. of offences	Min	Max	Single offence (%)	2 to 4 offences (%)	5 to 10 offences (%)	11 + offences (%)
Female	13,069	1.9	1	1	47	63.4	30.3	5.3	1.0
Male	50,700	1.8	1	1	61	65.6	28.8	4.9	0.7
Aboriginal and/or Torres Strait Islander	16,616	2.0	1	1	61	58.3	34.8	6.1	0.9
Non-Aboriginal and/or Torres Strait Islander	47,153	1.8	1	1	60	67.6	27.1	4.6	0.7
Young offenders	1,108	1.9	1	1	17	57.6	36.9	5.0	0.5
Adult offenders	62,661	1.8	1	1	61	65.3	29.0	5.0	0.7
Total	63,769	1.8	1	1	61	65.2	29.1	5.0	0.7

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted January 2017

Considering all offences sentenced at the same court event as a breach of bail MSO from 2005-06 to 2015-16 (52,020 offences), the two most common associated offences were additional breach of bail offences and resisting or hindering a police officer/justice official (Table 3).

**Table 3: The top 10 associated offences of all offenders with a breach of bail MSO, 2005–06 to 2015–16 (n=52,020)**

Offence	Frequency	%
Breach of bail	19,924	38.3%
Resist or hinder police officer or justice official	5,705	11.0%
Offensive behaviour	4,660	9.0%
Other illicit drug offences (not elsewhere classified)	3,654	7.0%
Possess illicit drugs	3,326	6.4%
Breach of violence order	3,172	6.1%
Drive while licence disqualified or suspended	1,436	2.8%
Registration offences	1,330	2.6%
Driving without a licence	1,143	2.2%
Trespass	840	1.6%

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted January 2017

When the associated offences of young offenders and adults are considered separately, some differences are identified (see Tables 4 and 5). Resisting arrest is the most common associated offence for young offenders whereas additional breach of bail offences are the most common associated offence for adult offenders.

**Table 4: Top 10 associated offences for young offenders with a breach of bail MSO, 2005–06 to 2015–16 (n=997)**

Offence	Frequency	%
Resist or hinder police officer or justice official	225	22.6%
Offensive behaviour	213	21.4%
Breach of bail	207	20.8%
Trespass	53	5.3%
Registration offences	41	4.1%
Other illicit drug offences (not elsewhere classified)	36	3.6%
Driving without a licence	33	3.3%
Possess illicit drugs	33	3.3%
Liquor and tobacco offences	25	2.5%
Theft from retail premises	25	2.5%

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted January 2017



**Table 5: Top 10 associated offences for adult offenders with a breach of bail MSO, 2005–06 to 2015–16 (n=51,023)**

Offence	Frequency	%
Breach of bail	19,717	38.6%
Resist or hinder police officer or justice official	5,480	10.7%
Offensive behaviour	4,447	8.7%
Other illicit drug offences (not elsewhere classified)	3,618	7.1%
Possess illicit drugs	3,293	6.5%
Breach of violence order	3,160	6.2%
Drive while licence disqualified or suspended	1,436	2.8%
Registration offences	1,289	2.5%
Driving without a licence	1,110	2.2%
Trespass	787	1.5%

Source: Queensland Government Statistician’s Office, Queensland Treasury - Courts Database, extracted January 2017

For the 44,010 offenders whose breach of bail offence was not their MSO, unlawful entry with intent/ burglary/break and enter and breach of a violence order were the most common MSO offences (see Table 6).

**Table 6: Top 10 MSOs of offenders whose breach of bail offence was not their MSO, 2005–06 to 2015–16**

Offence	Frequency	%
Unlawful entry with intent / burglary, break and enter	5,346	12.1%
Breach of violence order	2,966	6.7%
Drive while licence disqualified or suspended	2,937	6.7%
Serious assault resulting in injury	2,881	6.5%
Theft (except motor vehicles)	2,698	6.1%
Property damage (not elsewhere classified)	2,275	5.2%
Exceed the prescribed content of alcohol or other substance limit	2,208	5.0%
Possess illicit drugs	2,132	4.8%
Offensive behaviour	2,105	4.8%
Drive under the influence of alcohol or other substance	2,077	4.7%

Source: Queensland Government Statistician’s Office, Queensland Treasury - Courts Database, extracted January 2017

## Repeat breach of bail offenders<sup>43</sup>

The 63,769 finalised court events with a breach of bail offence as the MSO involved 38,917 unique offenders. This means a proportion of offenders were sentenced for a breach of bail offence as their MSO on more than one occasion across the 11-year period.

Considering the 38,917 unique offenders sentenced for a breach of bail offence as their MSO, almost two-thirds (65.5%) were sentenced for only a single breach of bail offence as their MSO. The number of finalised breach of bail offences as MSO per offender ranged from one to 15, with an average of 1.6 breach of bail as MSO per offender (median=1.0).

No differences exist in the number of sentenced breach of bail offences (as the MSO) when gender is considered (see Table 7). Aboriginal and/or Torres Strait Islander offenders had more breach of bail offences than non-Aboriginal and/or Torres Strait Islander offenders (see Table 7).

When considering all sentenced offenders with at least one sentenced breach of bail offence (regardless of whether it is their MSO), the number of unique offenders increases to 57,180. Of those, over half (59.8%) had only a single court event involving a breach of bail offence. A further 19.2 per cent had two events involving a breach of bail offence. The maximum number of court events with a breach of bail offence by a unique offender was 25 with an average of 1.9 court events per offender (median=1.0).

**Table 7: Number of breach of bail offences as the MSO by unique offenders, by gender and by Aboriginal and/or Torres Strait Islander status, 2005–06 to 2015–16**

	N	Average no. of offences	Median no. of offences	Min	Max	Single offence (%)	2 to 4 offences (%)	5 to 10 offences (%)	11 + offences (%)
Female	7,902	1.7	1	1	15	65.9	30.5	3.5	0.1
Male	31,015	1.6	1	1	14	65.4	31.3	3.3	0.1
Aboriginal and/or Torres Strait Islander	9,094	1.8	1	1	15	58.4	36.7	4.8	0.2
Non-Aboriginal and/or Torres Strait Islander	29,823	1.6	1	1	14	67.6	29.5	2.9	0.1
Total	38,917	1.6	1	1	15	65.5	31.2	3.3	0.1

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted January 2017

## Recidivism of offenders

Sentenced offenders with a breach of bail as their MSO in 2010–11 were examined in more detail. In 2010–11 there were 5017 sentenced court events where breach of bail was the MSO. These events involved 4179 unique offenders.

Of the 4179 unique offenders, 121 (2.9%) did not record any sentenced additional court events either prior to (2005–06 to 2009–10) or after (2011–12 to 2015–16) their breach of bail MSO in 2010–11.

The majority of the 4179 unique offenders (83.7%, n=3498) recorded sentenced offences both prior to and following their 2010–11 breach of bail MSO. For all offenders with previous and/or subsequent sentenced offences, offensive behaviour and breach of bail by failing to appear are the top MSOs recorded. Table 8 provides additional information on those who were sentenced for prior and/or subsequent offences.

**Table 8: Summary of prior and subsequent court events of offenders sentenced in 2010–11 for a breach of bail MSO**

	Frequency	Number of prior courts events				Number of subsequent court events			
		Min	Max	Average	Median	Min	Max	Average	Median
2010–11 breach of bail MSO event only	121	-	-	-	-	-	-	-	-
Only prior event/s (2005–06 to 2009–10)	200	1	31	3.7	3.0	-	-	-	-
Only subsequent event/s (2011–12 to 2015–16)	360	-	-	-	-	1	33	3.4	2.0
Both prior and subsequent events	3,498	1	122	6.5	5.0	1	108	6.4	5.0

Note: where an offender had more than one breach of bail MSO within 2010–11, the latest offence was considered the index offence and the others were counted as prior offences.

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted January 2017

Table 9 shows the top 10 sentenced offences (MSO) for those with sentenced events prior to their 2010–11 breach of bail MSO (200 offenders; 734 finalised court events).

**Table 9: Top prior offences (MSO) of 2010–11 breach of bail (MSO) sentenced offenders (those who had prior sentenced offences only) 2005–06 to 2009–10**

Prior offence only – MSO (2005–06 to 2009–10)		
Offence	Frequency of prior MSO	%
Breach of bail	101	13.8%
Offensive behaviour	92	12.5%
Drive while licence disqualified or suspended	57	7.8%
Resist or hinder police officer or justice official	47	6.4%
Exceed the prescribed content of alcohol or other substance limit	44	6.0%
Driving without a licence	36	4.9%
Possess illicit drugs	33	4.5%
Breach of violence order	32	4.4%
Unlawful entry with intent / burglary, break and enter	28	3.8%
Theft from retail premises	25	3.4%

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted January 2017

Table 10 shows the top ten sentenced offences (MSO) for those with sentenced events subsequent to their 2010–11 breach of bail MSO (360 offenders; 1229 finalised court events).

**Table 10: Top subsequent offences (MSO) of 2010–11 breach of bail (MSO) sentenced offenders (those who had subsequent sentenced offences only) 2005–06 to 2009–10**

Subsequent offence only – MSO (2011–12 to 2015–16)		
Offence	Frequency of prior MSO	%
Breach of bail	124	10.1%
Offensive behaviour	90	7.3%
Drive while licence disqualified or suspended	69	5.6%
Possess illicit drugs	69	5.6%
Resist or hinder police officer or justice official	66	5.4%
Exceed the prescribed content of alcohol or other substance limit	61	5.0%
Serious assault resulting in injury	58	4.7%
Unlawful entry with intent / burglary, break and enter	51	4.1%
Driving without a licence	44	3.6%
Breach of violence order	42	3.4%

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted January 2017

For the 3498 offenders who have sentenced offences both prior to and following their 2010–11 breach of bail MSO, offensive behaviour and breach of bail offences were the most common MSO in both the prior time period (2005–2006 to 2009–2010) and subsequent time period (2011–12 to 2015–16) (see Table 11).

**Table 11: Top (MSO) prior (2005–2006 to 2009–2010) and subsequent (2011–12 to 2015–16) offences of 2010–11 breach of bail (MSO) sentenced offenders**

Prior offences (2005–06 to 2009–10) 22,745 court events			Subsequent offences (2011–12 to 2015–16) 22,286 court events		
Offence	Frequency of MSO	%	Offence	Frequency of MSO	%
Offensive behaviour	3,325	14.6%	Offensive behaviour	2,411	10.8%
Breach of bail	2,772	12.2%	Breach of bail	2,300	10.3%
Resist or hinder police officer or justice official	1,404	6.2%	Possess illicit drugs	1,199	5.4%
Unlawful entry with intent / burglary, break and enter	1,274	5.6%	Breach of violence order	1,179	5.3%
Theft from retail premises	1,113	4.9%	Unlawful entry with intent / burglary, break and enter	1,124	5.0%
Drive while licence disqualified or suspended	988	4.3%	Consumption of legal substances in regulated spaces	1,090	4.9%
Possess illicit drugs	916	4.0%	Drive while licence disqualified or suspended	1,015	4.6%
Consumption of legal substances in regulated spaces	818	3.6%	Resist or hinder police officer or justice official	1,015	4.6%
Driving without a licence	737	3.2%	Theft (except motor vehicles)	905	4.1%
Exceed the prescribed content of alcohol or other substance limit	670	2.9%	Serious assault resulting in injury	825	3.7%

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted January 2017

## Penalties and sentencing

Over the period 2005–06 to 2015–16, 84.4 per cent of offenders sentenced for a breach of bail offence as their MSO received a non-custodial penalty. The most common non-custodial penalty given was a fine (71.7%).

Little difference was identified in the proportion of custodial and non-custodial penalties applied when year of sentence was considered. Proportionally, the use of non-custodial penalties was highest in 2012–13 (86.5%) however this has decreased each year since, with the lowest proportion of non-custodial penalties being recorded in 2015–16 (81.3%) (see Table 12). Conversely, this trend also means the use of custodial penalties increased each year since 2012–13 from 13.5 per cent to 18.7 per cent in 2015–16.

Of the 63,769 offenders with a breach of bail MSO, 26.6 per cent had no conviction recorded. This was much more common for young offenders in line with the principles of the YJA, with 88.9 per cent of young offenders with a breach of bail MSO having no conviction recorded, compared to 25.5 per cent of adult offenders.

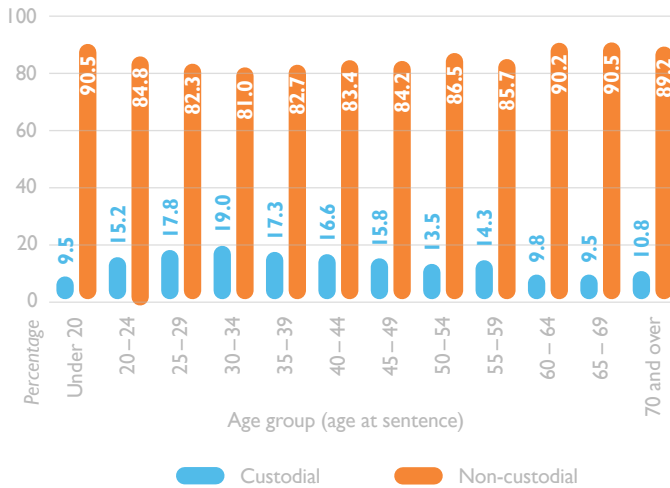
Figure 6 shows the penalty type by age at time of sentence revealing that the 25–29 and 30–34 age groups recorded the highest proportion of custodial penalties.

**Table 12: Penalty type by year for breach bail MSO, 2005–06 to 2015–16**

Year	N	Custodial penalty (%)	Non-custodial penalty (%)
2005–06	4,984	17.0	83.1
2006–07	4,779	17.3	82.7
2007–08	4,710	15.3	84.7
2008–09	4,491	13.7	86.4
2009–10	4,810	14.4	85.6
2010–11	5,017	14.4	85.6
2011–12	5,237	13.8	86.2
2012–13	6,271	13.5	86.5
2013–14	7,507	14.8	85.2
2014–15	7,638	16.9	83.1
2015–16	8,325	18.7	81.3

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted January 2017

**Figure 6: Penalty type by age at sentence for breach of bail (MSO)**



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted January 2017

## Penalty type

### Penalty type, gender and Aboriginal and/or Torres Strait Islander status

Of all offenders sentenced to a custodial penalty for a breach of bail MSO (n=9950), 36.3 per cent were Aboriginal and/or Torres Strait Islander and 81.3 per cent were male. Almost a quarter (24.2%) of offenders who received a non-custodial sentence (n=53,819) were Aboriginal and/or Torres Strait Islander and 20.8 per cent were female.

As shown in Table 13, sentenced offenders with a breach of bail offence as their MSO were more likely to receive a non-custodial penalty (84.4%) than a custodial penalty (15.6%). Both female offenders and non-Aboriginal and/or Torres Strait Islander offenders were significantly more likely to receive a non-custodial penalty.

Considering gender and Aboriginal and/or Torres Strait Islander status in conjunction, Aboriginal and/or Torres Strait Islander male offenders were the cohort most likely to receive a custodial sentence (22.9%) for a breach of bail MSO, followed by Aboriginal and/or Torres Strait Islander female offenders (18.3%). Non-Aboriginal and/or Torres Strait Islander female offenders were the least likely to receive a custodial sentence (12.4%) for a breach of bail MSO.

**Table 13: Penalty types for breach of bail MSO, by gender, by Aboriginal and/or Torres Strait Islander status and by court type, 2005–06 to 2015–16**

	N	Custodial penalty (%)	Non-custodial penalty (%)
Female	13,069	14.3	85.7
Male	50,700	16.0	84.1
Aboriginal and/or Torres Strait Islander	16,616	21.7	78.3
Aboriginal and/or Torres Strait Islander female	4,178	18.3	81.7
Aboriginal and/or Torres Strait Islander male	2,844	22.9	77.1
Non-Aboriginal and/or Torres Strait Islander	47,153	13.5	86.6
Non-Aboriginal and/or Torres Strait Islander female	8,891	12.4	87.6
Non-Aboriginal and/or Torres Strait Islander male	38,262	13.7	86.3
Adult offender	62,661	15.9	84.1
Young offender*	1,108	1.4	98.6
Total	63,769	15.6	84.4

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted January 2017

### Custodial penalties

For adult breach of bail offenders who received a custodial penalty (n=9934), actual imprisonment was the most likely sentence imposed (58.0%). Based on those offenders who were sentenced to a custodial penalty (n=9934), Aboriginal and/or Torres Strait Islander offenders were significantly more likely to be sentenced to imprisonment (63.3%) and significantly less likely to receive a wholly suspended sentence (34.1%) than non-Aboriginal or Torres Strait Islander offenders (54.8% and 42.7% respectively) (see Table 14). These results remain when gender and Aboriginal and/or Torres Strait Islander status are considered in conjunction.



**Table 14: Adult offenders — Custodial penalty types by gender and by Aboriginal and/or Torres Strait Islander status, 2005–06 to 2015–16**

	Custodial penalty (N)	Imprisonment (n, % of custodial penalty)	Partially suspended sentence (n, % of custodial penalty)	Wholly suspended sentence (n, % of custodial penalty)	Intensive correction order (n, % of custodial penalty)
Female	1,861	1,010 (54.3%)	33 (1.8%)	807 (43.4%)	11 (0.6%)
Male	8,073	4,749 (58.8%)	154 (1.9%)	3,123 (38.7%)	47 (0.6%)
Aboriginal and/or Torres Strait Islander	3,596	2,288 (63.6%)	71 (2.0%)	1,226 (34.1%)	11 (0.3%)
Non-Aboriginal and/or Torres Strait Islander	6,338	3,471 (54.8%)	116 (1.8%)	2,704 (42.7%)	47 (0.7%)
Total	9,934	5,759 (58.0%)	187 (1.9%)	3,930 (39.6%)	58 (0.6%)

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted January 2017

Sixteen young offenders received a custodial sentence for a breach of bail offence — 10 received a wholly suspended sentence, five received a prison sentence, and one received an intensive correction order<sup>44</sup>.

### Non-custodial penalties

Of adult breach of bail (MSO) offenders, a fine was the most common penalty (73.1%), followed by a conviction with no further penalty (20.0%). Few differences were seen when gender and Aboriginal and/or Torres Strait Islander status was considered.

Adult offenders were most likely to receive a fine for a breach of bail MSO, whereas young offenders were most likely to receive a reprimand (see Tables 15 and 16). Only 3.6 per cent of young offenders received a fine.

**Table 15: Adult offenders — Non-custodial penalty types by gender and Aboriginal and/or Torres Strait Islander status, 2005–06 to 2015–16**

	Non-custodial penalty type (n, % of non-custodial penalty)					
	Non-custodial penalty (N)	Good behaviour bond	Fine	Convicted, no further punishment	Probation	Community service order
Female	10,871	280 (2.6%)	7,479 (68.8%)	2,391 (22.0%)	509 (4.7%)	211 (1.9%)
Male	41,856	681 (1.6%)	31,075 (74.2%)	8,166 (19.5%)	1,093 (2.6%)	829 (2.0%)
Aboriginal and/or Torres Strait Islander	12,403	185 (1.5%)	8,718 (70.3%)	2,710 (21.9%)	449 (3.6%)	333 (2.7%)
Non-Aboriginal and/or Torres Strait Islander	40,324	776 (1.9%)	29,836 (74.0%)	7,847 (19.5%)	1,153 (2.9%)	707 (1.8%)
Total	52,727	961 (1.8%)	38,554 (73.1%)	10,557 (20.0%)	1,602 (3.0%)	1,040 (2.0%)

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted January 2017

Notes:

- 1) One adult offender was ordered to pay restitution/pay fees and is not shown in the table above
- 2) 12 adult offenders were given a reprimand. Due to the small sample size of this penalty type, this is not presented in the above table but has been included in the calculations.

**Table 16: Young offenders — Non-custodial penalty types by gender and Aboriginal and/or Torres Strait Islander status, 2005–06 to 2015–16**

Non-custodial penalty type (n, % of non-custodial penalty)								
	Non-custodial penalty (N)	Reprimand	Good behaviour bond	Convicted, no further punishment	Fine	Court ordered conference	Probation	Community service order
Female	333	183 (55.0%)	54 (16.2%)	43 (12.9%)	8 (2.4%)	3 (0.9%)	29 (8.7%)	13 (3.9%)
Male	759	384 (50.6%)	126 (16.6%)	89 (11.7%)	31 (4.1%)	5 (0.7%)	46 (6.1%)	78 (10.3%)
Aboriginal and/or Torres Strait Islander	603	318 (52.7%)	81 (13.4%)	74 (12.3%)	16 (2.7%)	2 (0.3%)	47 (7.8%)	65 (10.8%)
Non-Aboriginal and/or Torres Strait Islander	489	249 (50.9%)	99 (20.3%)	58 (11.9%)	23 (4.7%)	6 (1.2%)	28 (5.7%)	26 (5.3%)
<b>Total</b>	<b>1,092</b>	<b>567 (51.9%)</b>	<b>180 (16.5%)</b>	<b>132 (12.1%)</b>	<b>39 (3.6%)</b>	<b>8 (0.7%)</b>	<b>75 (6.9%)</b>	<b>91 (8.3%)</b>

Note: Young offender refers to any offender sentenced in a Childrens Court

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted January 2017

## Length of sentence

### Custodial sentences

Overall, the average custodial sentence length was 1.5 months (see Table 17). Across all custodial penalty types, the length of custodial sentences ranged from one day to 18 months. Table 18 shows the sentence length by type of custodial penalty (in months) received by offenders sentenced for a breach of bail offence as their MSO.

On average, female offenders sentenced for a breach of bail offence as their MSO received slightly shorter custodial sentences than male offenders (1.4 months compared to 1.6 months). While Aboriginal and/or Torres Strait Islander offenders are more likely to receive a custodial penalty (Table 15), on average Aboriginal and/or Torres Strait Islander offenders received shorter custodial sentences for breach of bail offences (MSO) than non-Aboriginal and/or Torres Strait Islander offenders for a breach of bail MSO.

Non-Aboriginal and/or Torres Strait Islander males, on average, received the longest custodial sentences for a breach of bail MSO. Conversely, Aboriginal and/or Torres Strait Islander females had the shortest custodial sentences.

**Table 17: Custodial sentence length for breach of bail (MSO), by gender, by Aboriginal and/or Torres Strait Islander status and by court type, 2005–06 to 2015–16**

	N	Average	Median	Min	Max
Female	1,821	1.4	1.0	0.0 (1 day)	12
Male	7,940	1.6	1.0	0.0 (1 day)	18
Aboriginal and/or Torres Strait Islander	3,560	1.4	1.0	0.0 (1 day)	14
Aboriginal and/or Torres Strait Islander female	751	1.3	1.0	0.0 (1 day)	12
Aboriginal and/or Torres Strait Islander male	2,809	1.4	1.0	0.0 (1 day)	14
Non-Aboriginal and/or Torres Strait Islander	6,201	1.6	1.0	0.0 (1 day)	18
Non-Aboriginal and/or Torres Strait Islander female	1,070	1.5	1.0	0.0 (1 day)	12
Non-Aboriginal and/or Torres Strait Islander male	5,131	1.7	1.0	0.0 (1 day)	18
Adult offender	9,745	1.5	1.0	0.0 (1 day)	18
Young offender*	16*	1.9	2.0	0.5 (15 days)	3
<b>Total</b>	<b>9,761</b>	<b>1.5</b>	<b>1.0</b>	<b>0.0 (1 day)</b>	<b>18</b>

Note:

1) 188 custodial cases were 'rise'<sup>45</sup> and do not have a penalty length

2) The sentence length is not available for 1 offender and this case is not included in this table.

\* Caution: small sample size

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted January 2017

On average, adult male offenders received slightly longer custodial sentences than female offenders across all custodial sentence types (see Table 18). Adult aboriginal and/or Torres Strait Islander offenders received slightly longer sentences for intensive correction orders, but shorter sentences for all other custodial sentence types compared to non-Aboriginal and/or Torres Strait Islander adult offenders.

Only a small number of young offenders received a custodial penalty (n=16). Due to the small sample size these were not examined separately.

**Table 18: Adult — Custodial sentence length by gender and by Aboriginal and/or Torres Strait Islander status, 2005–06 to 2015–16**

	Imprisonment (months)					Partially suspended sentence (months)				
	N	Avg	Median	Min	Max	N	Avg	Median	Min	Max
Female	966	1.4	1.0	0.0 (1 day)	12	33	1.8	1.4	0.5 (14 days)	4
Male	4,604	1.6	1.0	0.0 (1 day)	18	154	2.6	2.0	0.2 (1 days)	18
Aboriginal and/or Torres Strait Islander	2,238	1.4	1.0	0.0 (1 day)	12	71	2.1	2.0	0.2 (7 days)	8
Non-Aboriginal and/or Torres Strait Islander	3,332	1.7	1.0	0.0 (1 day)	18	116	2.7	2.0	0.2 (7 days)	18
Total	5,570	1.5	1.0	0.0 (1 day)	18	187	2.5	2.0	0.2 (7 days)	18

	Wholly suspended sentence (months)					Intensive correction order (months)				
	N	Avg	Median	Min	Max	N	Avg	Median	Min	Max
Female	807	1.3	1.0	0.0 (1 day)	12	11*	6.4	6.0	3	12
Male	3,123	1.4	1.0	0.1 (2 days)	14	47	6.9	6.0	0.5 (14 days)	12
Aboriginal and/or Torres Strait Islander	1,226	1.3	1	0.0 (1 day)	14	11*	7.1	6.0	2	12
Non-Aboriginal and/or Torres Strait Islander	2,704	1.4	1	0.1 (2 days)	14	47	6.8	6.0	0.5 (14 days)	12
Total	3,930	1.4	1.0	0.0 (1 day)	14	58	6.8	6.0	0.5 (14 days)	12

Notes:

1) 188 custodial cases were 'rise' and do not have a penalty length.

2) The sentence length is not available for 1 offender and this case is not included in this table.

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted January 2017

\* Caution: small sample size

## Non-custodial sentences

Of the adult offenders who received a non-custodial sentence for a breach of bail MSO, the average fine amount was \$378.10. Of adult offenders, the average fine amount is lower for Aboriginal and/or Torres Strait Islander offenders and female offenders (see Table 19). Good behaviour bonds were shortest for Aboriginal and/or Torres Strait Islander offenders.

On average, adult Aboriginal and/or Torres Strait Islander offenders also received shorter probation sentences, whereas young Aboriginal and/or Torres Strait Islander offenders received longer probation sentences than non-Aboriginal and/or Torres Strait Islander young offenders. Across both

adult and young offenders, female offenders received shorter probation sentences compared to male offenders.

Young offenders received lower sentences than adult offenders across all non-custodial penalty types (see Table 20). Fines were lower for female offenders and Aboriginal and/or Torres Strait Islander offenders for both young offenders and adult offenders. There was no difference in the length of good behaviour bonds by gender for adult offenders, but young female offenders received shorter good behaviour bonds when compared to young male offenders.

**Table 19: Adult offenders — Non-custodial sentence length by gender and by Aboriginal and/or Torres Strait Islander status, 2005–06 to 2015–16**

	Good behaviour bond (months)					Fine (dollars)				
	N	Avg	Median	Min	Max	N	Avg	Median	Min	Max
Female	280	6.8	6	1	24	7,479	361.00	300	10	6,000
Male	681	6.8	6	1	24	31,075	382.20	300	20	6,500
Aboriginal and/or Torres Strait Islander	185	6.5	6	1	12	8,718	344.90	300	10	6,500
Non-Aboriginal and/or Torres Strait Islander	776	6.8	6	1	24	29,836	387.80	300	20	6,000
Total	961	6.8	6	1	24	38,554	378.10	300	10	6,500

	Probation (months)					Community service order (hours)				
	N	Avg	Median	Min	Max	N	Avg	Median	Min	Max
Female	509	12.1	12	6	30	211	63.8	50	40	200
Male	1,093	12.7	12	4	36	829	66.1	60	20	240
Aboriginal and/or Torres Strait Islander	449	11.6	12	6	30	333	67.1	50	20	240
Non-Aboriginal and/or Torres Strait Islander	1,153	12.9	12	4	36	707	65.0	60	20	240
Total	1,602	12.5	12	4	36	1,040	65.7	50	20	240

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted January 2017

**Table 20: Young offenders — Non-custodial sentence length by gender and by Aboriginal and/or Torres Strait Islander status, 2005–06 to 2015–16**

	Good behaviour bond (months)					Fine (dollars)				
	N	Avg	Median	Min	Max	N	Avg	Median	Min	Max
Female	54	4.7	4	2	12	8*	206.30	225	50	350
Male	126	5.1	6	1	12	31	244.20	150	20	900
Aboriginal and/or Torres Strait Islander	81	4.7	4	2	12	16*	193.80	125	25	600
Non-Aboriginal and/or Torres Strait Islander	99	5.2	6	1	12	23*	266.10	150	20	900
Total	180	5.0	6	1	12	39	236.40	150.0	20	900

	Probation (months)					Community service order (hours)				
	N	Avg	Median	Min	Max	N	Avg	Median	Min	Max
Female	29*	6.1	6	1	12	13*	42.7	40	20	80
Male	46	8.0	6	3	12	78	44.4	40	8	150
Aboriginal and/or Torres Strait Islander	47	7.7	8	1	12	65	47.5	40	20	150
Non-Aboriginal and/or Torres Strait Islander	28*	6.5	6	3	12	26*	35.9	30	8	120
Total	75	7.3	6	1	12	91	44.2	40	8	150

\* Caution: small sample size

Note: Young offender refers to any offenders sentenced in a Childrens Court

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted January 2017

# Endnotes

- <sup>1</sup> *Bail Act 1980 (Qld)* s 20.
- <sup>2</sup> *Youth Justice Act 1992 (Qld)* s 47.
- <sup>3</sup> *Bail Act 1980 (Qld)* ss 7(3) and 9; *Youth Justice Act 1992 (Qld)* s 48(4).
- <sup>4</sup> *Bail Act 1980 (Qld)* s 16(3).
- <sup>5</sup> See *Bail Act 1980 (Qld)* s 16(1). The analogous provision for children is s 48(2) of the *Youth Justice Act 1992 (Qld)*.
- <sup>6</sup> Section 16 of the *Bail Act 1980 (Qld)* sets out a list of factors that may be relevant to the court or police officer when assessing unacceptable risk as a basis for refusing bail. An analogous provision in the *Youth Justice Act 1992 (Qld)* (s 48(3)) lists the same factors and applies them to children.
- <sup>7</sup> *Bail Act 1980 (Qld)* s 16(2)(f).
- <sup>8</sup> Set out in *Bail Act 1980 (Qld)* s 20. See also *Youth Justice Act 1992 (Qld)* s 52(4) for children.
- <sup>9</sup> *Bail Act 1980 (Qld)* ss 20(3)(b), 20(3A)(b) and 20(3C)(b).
- <sup>10</sup> See *Bail Act 1980 (Qld)* ss 11(3), 11(4A).
- <sup>11</sup> *Bail Act 1980 (Qld)* s 11(1). For children, see *Youth Justice Act 1992 (Qld)* s 52(5)(a).
- <sup>12</sup> See *Bail Act 1980 (Qld)* s 11(2).
- <sup>13</sup> See *Bail Act 1980 (Qld)* ss 11(1), 21–26, 31–32A; *Youth Justice Act 1992 (Qld)* s 52(2).
- <sup>14</sup> A child is defined for the purposes of the Queensland criminal law as a person who is aged 16 years or younger: *Youth Justice Act 1992 (Qld)* schedule 4. From 12 February 2018, the definition of child that previously applied under the YJA and *Bail Act* will be omitted, thereby extending the application of provisions relating to children to young people aged 17: see *Youth Justice and Other Legislation (Inclusion of 17-year-old Persons) Amendment Act 2016 (Qld)* s 6 (omitting the definition of child in the YJA) and Schedule 1 (omitting the definition of child in the *Bail Act*); and *Youth Justice and Other Legislation (Inclusion of 17-year-old Persons) Amendment Regulation 2017 (Qld)* extending the commencement date of these amendments.
- <sup>15</sup> *Bail Act 1980 (Qld)* s 16(5), s 29(2), s 33(5).
- <sup>16</sup> *Bail Act 1980 (Qld)* s 16(5).
- <sup>17</sup> *Youth Justice Act 1992 (Qld)* s 48.
- <sup>18</sup> *Youth Justice Act 1992 (Qld)* s 48(4).
- <sup>19</sup> *Youth Justice Act 1992 (Qld)* s 48(5).
- <sup>20</sup> *Youth Justice Act 1992 (Qld)* s 48(7).
- <sup>21</sup> The relevant offence data codes also include two provisions of the *Bail Act 1980 (Qld)* which are not offences, but due to data entry practices, have sentencing outcomes recorded against them: ss 29(2) and 28A. Section 29(2) explains when the offence in s 29 does not apply and points the reader to s 33 (fail to appear). Section 28A deals with warrant powers to apprehend defendants who have failed to appear in court (which could then finalise as a s 33 offence after arrest on the s 28A warrant power). A further, but repealed offence that applied to children has been excluded from the data summarised in this *Sentencing Spotlight*. From 28 March 2014 to 1 July 2016, the YJA included an offence of ‘finding of guilt while on bail’ (s 59A). This made it a separate offence for a young person to commit a further offence while on bail. A young person granted bail for an initial offence by police or a court would commit an additional offence if they were later found guilty of a further offence committed while on bail. The maximum penalty for this offence was a fine of 20 penalty units or one year imprisonment. Based on the data set used in preparing this *Sentencing Spotlight*, there were 406 charges relating to this offence.
- <sup>22</sup> As of July 2017, one penalty unit was worth \$126.15. See Penalties and Sentences Regulation 2015 (Qld) s 3.
- <sup>23</sup> A defendant who appears before court charged with failing to appear under s 33 of the *Bail Act 1980 (Qld)* can attempt to ‘show cause’ for failing to appear. If they are successful, the charge will be struck out (see s 33(2)) The data analysed in this *Sentencing Spotlight* deals only with offenders who were sentenced for the offence.
- <sup>24</sup> *Bail Act 1980 (Qld)* s 33(1).
- <sup>25</sup> See *Bail Act 1980 (Qld)* s 33(3A).
- <sup>26</sup> *Bail Act 1980 (Qld)* s 33(5).
- <sup>27</sup> *Bail Act 1980 (Qld)* s 33(4).
- <sup>28</sup> Age is not known for seven offenders.
- <sup>29</sup> For all offenders over the 11-year period: n= 1,710,345; median= 28.2; minimum age= 10; maximum age= 97; companies/organisations (n=5325) were not included in the calculations; age data was missing for 29,067 and were not included in the calculations.
- <sup>30</sup> Companies/organisations (n=5325) were not included in this calculation; gender was unknown for 0.3% (n=5076) of offenders.
- <sup>31</sup> Median age for female offenders was 28.7 years; median age for males was 27.9 years.
- <sup>32</sup> See the data specification report for information on how Aboriginal and/or Torres Strait Islander people were defined in the data.
- <sup>33</sup> As at 30 June 2015. See Queensland Government Statisticians Office (GovStats), *Population estimates by Indigenous Status, LGAs, 2001 to 2015*, available at <http://www.qgso.qld.gov.au/subjects/demography/atsi-people/tables/pop-est-indigenous-status/index.php> accessed 4 August 2017.



- <sup>34</sup> Companies/organisations (n=5325) were not included in this calculation.
- <sup>35</sup> Median age for Aboriginal and/or Torres Strait Islander offenders was 26.8 years, median age for non-Aboriginal and/or Torres Strait Islander offenders was 28.5 years.
- <sup>36</sup> In this *Sentencing Spotlight* series, young offenders are classified as offenders sentenced in a Childrens Court, regardless of age at sentence.
- <sup>37</sup> Age at sentence is not known for one young offender which was not included in the age analysis.
- <sup>38</sup> Twenty-two cases were sentenced in the District Court and one case was sentenced in the Supreme Court.
- <sup>39</sup> There were 2620 (4.1%) offenders who did not enter a formal plea or whose plea was unknown.
- <sup>40</sup> Pled guilty: male=95.5%; female=95.1%.
- <sup>41</sup> Pled guilty: Aboriginal and/or Torres Strait Islander offenders = 96.4%; non-Aboriginal and/or Torres Strait Islander offenders = 95.1%.
- <sup>42</sup> Court type refers to a Childrens Court (young offenders) or an adult court (adult offenders).
- <sup>43</sup> Offenders sentenced for multiple breach of bail offences within one court event are not counted as repeat offenders. To be counted as a repeat offender, they must have more than one court event with a breach of bail offence as their MSO.
- <sup>44</sup> While intensive correction orders are only given to adults, the one young offender who received one was 18 years old at time of sentence.
- <sup>45</sup> 'Rising' of the court: an order by the court to remain in the courtroom until dismissed.



# Sentencing Spotlight on... breach of bail offences

Published by the Queensland Sentencing Advisory Council, November 2017

© Queensland Sentencing Advisory Council 2017

This Sentencing Spotlight on...breach of bail offences is licensed under a Creative Commons Attribution 3.0 Australia licence.

You are free to copy and adapt the work as long as you attribute the Queensland Sentencing Advisory Council.

## For more information:

Email: [info@sentencingcouncil.qld.gov.au](mailto:info@sentencingcouncil.qld.gov.au)

Telephone: (07) 3224 7370

Website: [www.sentencingcouncil.qld.gov.au](http://www.sentencingcouncil.qld.gov.au)

## Disclaimer:

The content presented in this publication is distributed by the Queensland Sentencing Advisory Council as an information source only. While all reasonable care has been taken in its preparation, no liability is assumed for any errors or omissions. Queensland Sentencing Advisory Council makes every effort to ensure the data is accurate at the time of publication, however the administrative data are subject to a range of limitations.