

10 JUL 2017

Thomas Beagle
fyi-request-6006-8d47f696@requests.fyi.org.nz

Dear Mr Beagle

Official Information Act 1982 request

Thank you for your Official Information Act 1982 (OIA) request of 14 June 2017, requesting information on the use of bail in New Zealand.

Before responding to your specific questions, I would like to provide some background information on bail decisions and sentencing.

A key point to note is that decisions made by courts on the status of bail and sentences of imprisonment are made independently of each other. They have different criteria, purposes, and as they are not made at the same time, may have different information for the court to consider.

Bail decisions

The bail system involves balancing a defendant's right to be presumed innocent until proved guilty and to not be arbitrarily detained, against any risk the defendant poses to public safety.

The starting point under the Bail Act 2000 is that a defendant should be released on bail unless there is a good reason to detain the defendant in custody. The main factors that the court considers when deciding whether there is good reason to detain the defendant include the risk that they may fail to appear in court, interfere with witnesses or evidence, or offend on bail.

The Government amended the Bail Act 2000 in 2013 for defendants charged with serious offences seeking bail. The amendments include increasing the situations where a defendant is subject to a reverse burden of proof. A reverse burden of proof means the defendant must prove that he or she should be granted bail, rather than the prosecutor proving that the defendant should not be granted bail. One effect of the changes is that, for example, defendants charged with murder must satisfy the Judge that they will not commit any offence involving violence against, or danger to the safety of, another person while on bail.

Sentencing

When sentencing an offender, the Judge must decide on an appropriate sentence within the maximum penalties set down in law for the particular charges. The Judge decides on a sentence after considering the characteristics of the offence and the offender, as well as the principles and purposes of sentencing set out in the Sentencing Act 2002.

The court sentences a person on conviction for an offence for purposes that include holding the offender accountable for the harm caused by their offending, providing for the interests of the victim, denouncing the conduct, deterrence and assisting in the rehabilitation of the offender.

When considering the imposition of a sentence of imprisonment, the Sentencing Act 2002 requires the court to have regard to the desirability of keeping offenders in the community and imposing the least restrictive outcome that is appropriate in the circumstances. The Judge should only impose a sentence of imprisonment if they are satisfied no other sentence would protect the safety of the community and satisfy the purposes and principles set out in sections 7 and 8.

Response to your request

Specifically your request was for any reports, position papers, and statistics concerning: instances where bail is imposed but charges are then dropped later, instances where charges are dropped but people are still prosecuted for breach of bail conditions, the type and number of bail conditions imposed, and any general statistics about the use of bail over the last 10 years.

I must advise that the Ministry of Justice (the Ministry) has not prepared any reports or position papers in relation to your request. However, the Ministry has identified that the following statistics fall within scope of your request:

- Number of people remanded on bail or at large, by offence type, 2005-2015
- Number of people convicted of failure to answer bail, by age group, 2005-2016

Please refer to the attached tables.

You can find more information about what offences are included in each Australian and New Zealand Standard Offence Classification (ANZSOC) division here:
stats.govt.nz/tools_and_services/nzdotstat/tables-by-subject/criminal-conviction-and-sentencing-tables-calendar-year/info-about-the-data/offence-categories

If you require any clarification of the information contained in this response please contact Antony Paltridge, Team Leader, Media and External Relations, at media@justice.govt.nz or call (04) 918 8980.

If you are not satisfied with my response to your request, you have the right to make a complaint to the Ombudsman under section 28(3) of the OIA. The Ombudsman may be contacted by writing to PO Box 10-152, Wellington.

Yours sincerely

Jacquelyn Shannon
Group Manager, Courts and Tribunals, Regional Service Delivery

Ref: 63007

Table 1: Number of people remanded on bail or at large, by offence type, 2005 – 2015

Offence type (ANZSOC division)	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
01: Homicide and related offences	93	92	98	105	105	64	72	50	92	121	116
02: Acts intended to cause injury	15,012	15,838	18,173	19,627	20,180	19,064	17,503	15,548	13,399	13,438	14,190
03: Sexual assault and related offences	947	919	943	977	965	1,002	1,088	996	969	903	905
04: Dangerous or negligent acts endangering persons	6,716	7,667	8,439	8,283	8,073	7,130	6,688	6,187	5,730	5,679	6,211
05: Abduction, harassment and other offences against the person	1,237	1,246	1,473	1,593	1,735	1,651	1,588	1,473	1,277	1,456	1,589
06: Robbery, extortion and related offences	549	627	654	667	705	649	606	529	520	480	464
07: Unlawful entry with intent/burglary, break and enter	3,312	3,505	3,434	3,773	3,741	3,564	3,604	3,210	2,721	2,424	2,269
08: Theft and related offences	8,634	8,807	9,071	9,337	9,631	8,629	7,490	6,541	5,949	5,933	5,812
09: Fraud, deception and related offences	2,355	2,275	2,248	2,166	2,419	2,263	2,219	2,188	1,898	2,144	1,770
10: Illicit drug offences	4,388	4,515	4,579	5,057	5,988	5,077	4,229	4,177	3,205	2,996	2,809
11: Prohibited and regulated weapons and explosives offences	1,209	1,352	1,246	1,377	1,414	1,206	1,061	1,008	973	998	969
12: Property damage and environmental pollution	2,656	2,813	3,197	3,215	3,220	2,938	2,751	2,541	2,216	1,955	2,194
13: Public order offences	4,959	5,528	6,320	6,126	6,359	4,684	2,940	2,341	2,046	1,554	1,312
14: Traffic and vehicle regulatory offences	11,679	12,478	14,125	14,642	15,765	14,739	14,650	14,477	14,224	13,617	12,939
15: Offences against justice procedures, government security and government operations	5,225	5,380	6,108	6,741	8,269	8,748	8,293	6,965	6,166	6,076	6,505
16: Miscellaneous offences	759	718	752	731	612	609	591	468	491	589	462
Total	69,730	73,760	80,860	84,417	89,181	82,017	75,373	68,699	61,876	60,363	60,516

Please note:

- This data counts a person once per calendar year for their most serious bail offence. Year is the year the bail charge was filed in court.
- This counts the number of people remanded on bail or at large in the year the bail offence charge was filed. If a person was on bail for an offence across two years (eg the charge was laid in November 2014 and the person was remanded on bail until March 2015) the person will only be counted once, in 2014.
- When an individual is remanded 'at large' this means they are free to go without signing any bail forms on the understanding that they will return to court on the date they are required.
- People with active and/or disposed charges who had been remanded on bail or at large on or prior to 31 December 2016 are counted.
- Data for 2016 cannot be provided as not all people with charges filed in 2016 will have had the opportunity to be remanded on bail or large by 31 December 2016.
- The majority of people remanded on bail or at large for 'homicide and related offences' since 2012 relate to offences for driving causing death. Prior to December 2012 combined offences existed for driving offences causing death or injury which were coded to ANZSOC 0412: Dangerous or negligent operation (driving) of a vehicle. Once separated, offences for driving causing death (eg Careless or inconsiderate vehicle operation causing death (on a road)) were coded to ANZSOC 0132: Driving causing death. Offences for driving causing injury remained in ANZSOC 0412.
- Example interpretation: In 2015, 60,516 people were remanded on bail or at large.

Table 2: Number of people convicted of failure to answer bail, by age group, 2005 – 2016

Age group (years)	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
19 years and under	1,046	1,187	1,317	1,397	1,210	1,031	881	865	710	579	631	650
20-24	1,222	1,435	1,630	1,687	1,557	1,445	1,305	1,385	1,064	1,060	1,100	1,226
25-29	752	924	959	950	919	852	737	886	777	718	907	1,045
30-34	617	624	696	645	647	522	492	577	495	467	528	734
35-39	397	488	504	508	447	423	367	400	296	294	357	408
40-44	260	297	343	352	352	290	272	258	223	229	234	271
45-49	105	164	172	206	186	161	148	161	153	139	133	182
50-54	40	55	84	71	90	77	83	91	81	79	82	99
55-59	25	28	21	21	27	34	26	26	36	34	30	46
60-64	4	13	10	14	9	13	15	12	8	11	12	7
65 years and over	6	7	6	4	5	8	3	5	8	8	7	2
Unknown	8	21	10	5	1	0	1	3	0	2	1	0
Total	4,482	5,243	5,752	5,860	5,450	4,856	4,330	4,669	3,851	3,620	4,022	4,670

Please note:

- This data counts a person once per calendar year. Year is the calendar year of the charge outcome.
- Age is the person's age at the offence date of their most serious Failure to answer bail conviction each year.
- There are no specific offences for breaching bail conditions other than failure to answer bail (i.e. turn up in Court as instructed).