

Case Study

The case studies prepared as part of this study allow an insight into the world of the individuals that face homelessness as a reality of their every day lives. The following case study of Emily illustrates the often chaotic, stressful and isolated world of the homeless offender:

Background

Emily was a 26 year old woman, who was then serving a nine month sentence with a six month non parole period for assault. In addition, she was also serving the remainder of a periodic detention order, which she had breached when she committed the current offence. Emily had a lengthy criminal record, consisting predominantly of violent, dishonesty and drug related offences. Emily also had numerous breaches of bail and previous failures to appear in court. She attributes her previous court appearance failures history to poor memory, fears she would be incarcerated and concerns regarding her accommodation.

Emily was born and raised in the western suburbs of Sydney, growing up in what she calls a "good family". Following the death of her father when she was eight years old, she reportedly attempted suicide and began showing signs of rebelliousness. Her first experience of homelessness began when she ran away from home at the age of fourteen. She declined the assistance of her mother and older sister, instead choosing to live with various friends or on the streets. Emily's mother died when she was eighteen years old and it was at this time that her sister began to distance herself. Emily stated that her sister was no longer supportive of her, due to her ongoing substance abuse and criminal lifestyle.

In terms of her housing history, Emily described an extensive history of primary, secondary and tertiary homelessness. Prior to her incarceration, she had been living in public housing, although she and her children reportedly had been evicted after she accepted responsibility for damage her ex-partner had caused to the property during an instance of domestic violence. She reported that following this eviction, she either "hocked" or sold her belongings, or committed break and enters, to pay for accommodation in motels. She stated refuges were not usually an option, as they generally would not accommodate herself and her three children. She added she had lived in crisis accommodation, caravan parks and emergency accommodation provided by Housing NSW.

Issues

Emily had a longstanding history of substance abuse, commencing with the use of cannabis when she was twelve years old and progressing to heroin use by her mid teens. She was using approximately \$200 of heroin per day prior to her most recent incarceration. She reportedly had overdosed on numerous occasions. She claimed to have participated in short-term rehabilitation programs in the past. Emily had a history of depression, anxiety and self-harm. She was also alleged to have been the victim of three previous sexual assaults and claimed to have been diagnosed with cervical cancer shortly prior to her incarceration.

Future Plans

Emily was aware she might face additional difficulties following her release, due to her limited education and lack of previous employment. In terms of accommodation, she was hopeful of securing accommodation through a community based service provider on the NSW Central Coast. She stated this provider offers accommodation to people on social security benefits, or from low income families. She stated she was only willing to reside in the Central Coast, as she wanted to be close to her children currently in foster care.

Emily noted she was "very worried" about her post release accommodation. She stated that in custody she received three meals a day and a warm bed, "there is nothing better than a warm bed" and security, because "it is very, very scary the way guys look at you" on the street.

* Emily's name has been changed for reporting purposes.

For more case studies, please refer to the full CRES report 'Bail Refusal and Homelessness Affecting Remandees in NSW', which is downloadable from Corrective Services NSW website at: www.correctiveservices.nsw.gov.au



Research Digest No. 4
ISSN 0810-6088
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No. 4
July 2010

Material published by Corporate
Research, Evaluation & Statistics
includes Research Digests,
Research Bulletins, Research
Publications & Statistical
Publications



Research Digest

Corrective Services NSW

Bail Refusal and Homelessness Affecting Remandees in NSW Corporate Research, Evaluation and Statistics

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With remand figures increasing in New South Wales, there is a growing interest in exploring opportunities that could assist in reducing the rate at which homeless defendants are refused bail or are granted bail but unable to meet the conditions of their bail. The lack of suitable and stable housing may be a contributor to refusal of bail or inability to meet bail conditions. However, there is a paucity of criminological research regarding the impact of homelessness on increasing remand figures, the reasons for refusing bail and whether homelessness has an impact on court decisions to refuse bail.

As an active member of the National Partnership on Homelessness, Corrective Services New South Wales (CSNSW) received a federal grant to develop a number of targeted directives aimed at reducing homelessness for people affected by the criminal justice system. As part of this grant, the CSNSW Corporate Research, Evaluation and Statistics (CRES) was commissioned to investigate homelessness among NSW defendants who were refused bail and examine the impact on their lives.

Aims and Objectives of the Study

The study aimed to examine the impact of homelessness on bail refusal in New South Wales. Specific objectives of the study were to:

- identify the number and proportion of defendants refused bail where homelessness was a factor,
- identify factors that contributed to bail refusal decision,
- compare the characteristics of homeless and non-homeless defendants who were refused bail, and
- explore the bail decision making process, particularly in reference to homelessness.

To achieve its aim and objectives, the study employed a multi-method research design to explore the role of homelessness on bail refusal, including:

- literature review examining current issues relating to homelessness and an increased remand population,
- a retrospective analysis of data,
- semi-structured interviews with remandees and members of the judiciary, and
- case studies and observations of the NSW Bail Court.

General Characteristics of the Sample Population

The study sample consisted of **2,462** defendants remanded in custody between September and November 2009. This sample was identified using data obtained through the CSNSW Offender Integrated Management System (OIMS).

Of the **2,462** defendants in the study sample, **2,338** had a valid Intake Screening Questionnaire (ISQ). The ISQ is a document completed upon reception into custody and stored electronically on OIMS. The ISQ was used to identify current and historical residential status of defendants (homeless or non-homeless). Of the valid sample, **2,041** defendants self-reported being non-homeless and **297** defendants self-reported being homeless.

Of the overall sample of **2,462** defendants, 10.9% were female (n=269) and 88.8% male (n=2,186) and 0.3% were unknown (7). Twenty-four per cent of the study sample identified themselves as Indigenous (n=590), and the age group with the largest representation was 20-24 years of age (19.6%), followed by 25-29 years of age (19.2%).

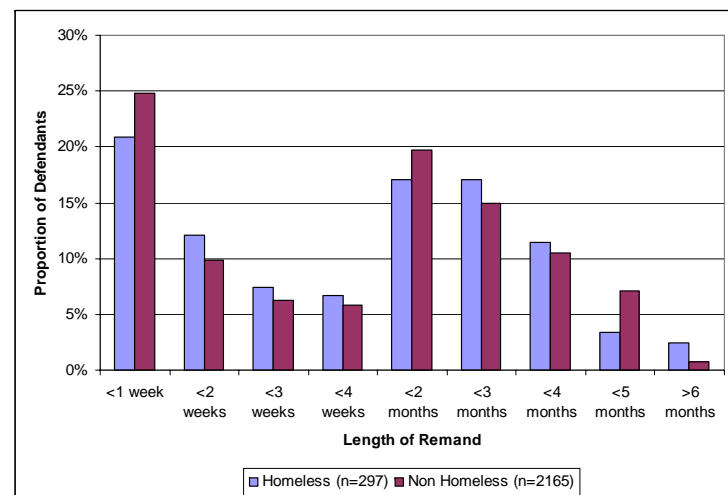
The sample of **297** homeless defendants and **2,041** non-homeless defendants were statistically similar in the proportions of the representation of women (12.5% and 10.9%, respectively), Indigenous defendants (23.2% and 24.0%, respectively), and respondents expecting to withdraw from drugs at the time of their remand (22.6% and 19.3%, respectively).

The two groups of defendants (homeless and non-homeless) statistically differed in a number of characteristics. Compared to non-homeless defendants, significantly more **homeless defendants** reported:

- having previously been treated or medicated for a mental health issue (46.1% homeless and 36.3% non-homeless, $\chi^2 = 34.105$, $df=1$, $p<0.001$),
- a previous self harm attempt (32.3% homeless and 20.3% non-homeless, $\chi^2 = 23.383$, $df=1$, $p<0.001$),
- to be in receipt of the disability support pension (26.9% homeless and 11.4% non-homeless, $\chi^2 = 45.592$, $df=1$, $p<0.001$), and
- having been previously incarcerated (79.1% homeless and 31.5%, non-homeless, $\chi^2 = 14.162$, $df=1$, $p<0.001$).

For more details on general characteristics, please refer to the full report *'Bail Refusal and Homelessness Affecting Remandees in NSW'*, which is downloadable from the Corrective Services NSW website at www.correctiveservices.nsw.gov.au

Proportion of Defendants Remanded in Custody between September and November 2009 by Length of Time on Remand and Residential Status



Source: CSNSW Corporate Research, Evaluation and Statistics

related offences (10.7% of charges), whereas, the homeless defendants had a greater proportion of theft and related offences (8.4% of charges) and unlawful entry/ burglary, break and enter offences (also 8.4% of charges).

Findings from interviews with judicial members of the NSW Court system

Themes arising from semi-structured interviews with members of the judiciary included:

Community Safety—Homelessness is likely to be considered under the *Bail Act 1978 (NSW)*, s.32: poor community ties and increased likelihood of the defendant failing to appear in court. The availability of accommodation and willingness of the defendant to report to police regularly, could improve the likelihood of bail being granted.

Social Issues—Co-existence of homelessness with other psychosocial factors, such as mental impairment, substance abuse and intellectual disability was a recurrent theme

Inter-agency co-operation—Need for improved inter-agency strategic solutions. Two proposals were provided: (i) The implementation of a centralised database, which would be updated by an overseeing body or individual housing providers on a daily basis to reflect when vacancies arise; (ii) The implementation of a court based service to assist homeless defendants to secure accommodation appropriate to their needs.

Time spent on remand

The largest proportion of bail refused defendants was released from custody within the first two weeks of their remand. The most common length of remand was:

- **1 to 7 days** for both homeless and non-homeless defendants (20.9% and 24.9%, respectively), followed by
- **8 to 14 days** for both groups (12.1% and 9.8%, respectively).

Offence characteristics

There was almost twice the number of violent offences compared to any other type of offence, irrespective of housing status. The most common current Most Serious Offence was **Acts Intended to Cause Injury** for both groups (34.7% of charges for homeless and 41% for non-homeless defendants). Non-homeless defendants tended to have more drug

Resource Investment—The foreseeable barriers to the implementation of future initiatives included lack of funding, lack of collaboration between agencies and the limited ability of defendants to follow instructions and/or attend appointments.

Case Studies—Homeless Defendants discuss their lives

Ten case studies were undertaken as part of this study. The key findings from these case studies were:

- All of the 10 defendants had a history of primary, secondary, tertiary and marginal homelessness. Eight defendants had a history of long-term homelessness.
- The co-existence of substance abuse and mental health issues coincided with a general lack of stability in the lives of the defendants. In turn, this has resulted in greater difficulties securing appropriate accommodation.
- All of the defendants had a criminal history and the majority had previous breaches of bail or failures to appear in court.
- Of the ten defendants, six were subject to a period of conditional liberty (i.e. bail, parole or periodic detention) at the time of their bail refusal.
- Domestic violence was a feature in the majority of cases, including cases where the defendant was victim, perpetrator or both. Two defendants became homeless as a result of violence towards their partner.
- Whilst the majority of defendants recounted a dysfunctional upbringing, only a small proportion of cases had a history of intergenerational homelessness.
- A number of defendants refused viable accommodation options, declined the support of family members, demonstrated non compliance with the rules of an accommodation provider or failed to adequately maintain the accommodation granted to them.

Empirical observations of the NSW Bail Court

Key findings from observations made at various locations of the NSW Bail Court included:

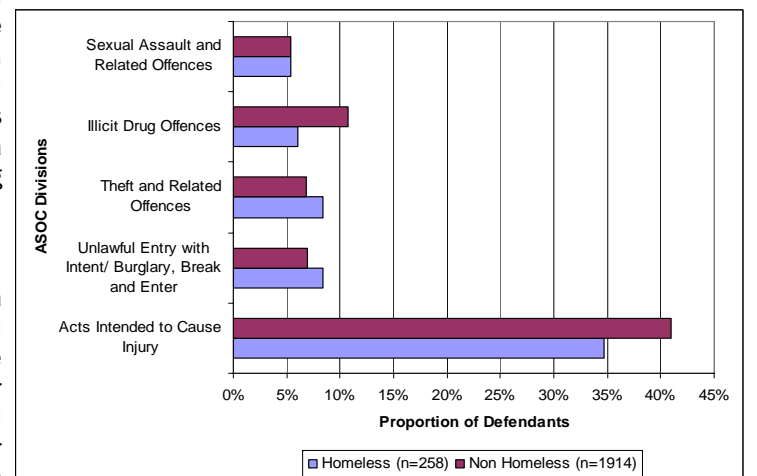
- The approximate length of hearings varied between 2 and 30 minutes,
- Magistrates emphasised the importance of community safety and the interests of the victim and Defendant,
- During the bail court observations, there were no cases in which bail was refused solely on the ground of homelessness. Rather, there was generally discussion about other factors, such as mental health issues, ability of the defendant to meet a financial bail condition, and the nature of the offences.

General observations

Homeless defendants accounted for approximately 12% of the total bail refused population (n=2,462) between September and November 2009. There was no recorded data that identified a correlation between homelessness and bail refusal. Rather, homelessness appeared to exist in combination with a variety of other factors, including mental impairment, intellectual disability and substance abuse issues.

Results showed homelessness to be a complex problem, often accompanied by mental health issues, substance abuse and intellectual disability. For government initiatives to secure and maintain long term housing solution for homeless defendants, the holistic needs of the defendant must be addressed rather than simply their immediate housing requirements. Without an acknowledgement of homelessness as one component of a broader and more complex matrix of need, the on going issue of increased bail refusal for homeless defendants is likely to continue.

Proportion of the Five Most Represented ASOC Divisions for Defendants Remanded in Custody between September and November 2009 by Residential Status



Source: CSNSW Corporate Research, Evaluation and Statistics