

ACYP Response to Questions on Notice

The Hon. Penny Sharpe: Transit Officers and Police – Usage of warnings and cautions versus fines

Within the NSW Transport system, Authorised revenue protection officers and NSW Police officers are responsible for ensuring ticketing compliance and patrolling public transport. They have the right to ask to see your ticket and concession entitlement at any time.

Depending on the circumstances, they have the authority to issue an official caution. While this does not require the payment of a penalty notice, your details will be recorded and a penalty notice may be issued if you are found to be committing a similar offence in the future. Official cautions and penalty notices are either sent by mail to your residential address within 7-10 days of the incident, or issued on the spot.

If you are caught travelling without a valid ticket, not paying the correct fare or travel using a concession ticket without being in possession of your proof of entitlement card, you may be issued with a fine of \$200 (Maximum \$550).

Revenue NSW is the agency responsible for processing fines and fees for over 250 organisations within NSW including transport fines.

Revenue NSW does not have any visibility of when Police or Transit officers give warning or cautions. As for the age and Aboriginality profiles, we can provide data on age profiles where a fine is issued providing the issuing authority has included the date of birth for the customer. We do not receive any information on whether a person identifies as First Nations from issuing authorities.

Recognising the effect that transport fines can have on disadvantaged cohorts, Revenue NSW continues to work across Government to address this important issues, through initiatives such as the Fairer Fines Commission, on which the Advocate sits. ACYP looks forward to continuing to work with Revenue NSW, Transport and Police to address this issue.

Mr David Shoebridge: Opal Card Pilot Program

The link between transport fines, such as fare evasion and the juvenile justice system is widely acknowledged.

Recognising this, the Department of Communities and Justice (DCJ) through it's a Place to Go program aims to reduce young people's interaction with Police and Transport Officers resulting in infringement notices and fines.

A Place to Go seeks to enhance the wellbeing of children and young people to reduce the likelihood of reoffending behaviour by ensuring holistic supports are provided to meet the short term and longer term needs of the individual. In relation to fines and fare evasion, A Place to Go provides access to brokerage to meet their holistic need, where this can't be obtained from other sources. This may include access to prepaid opal cards for participants as needed. Young people can be referred to A Place to Go initiative through a variety of pathways should they live in or have close connections to

the areas covered by the Nepean Police Area Command, however any you person presenting to the Parramatta Childrens Court can access support through a worker placed with the court.

For those young people who already have outstanding penalty notices and fines due to transport offences, A Place to Go can facilitate access to Work Development Order (WDO) Providers to enrol participants in a work development program to pay off their fines.

Mr David Shoebridge: Bail breaches in relation to multiple addresses

In consultations that ACYP has conducted with those children and young people in Juvenile Justice or those with experience of the Juvenile Justice system ACYP has not heard anything about bail breaches in the context of multiple addresses. Bail breaches and conditions have been raised by children and young people as it relates to increasing the risk of homelessness.

The issue of youth homelessness has flow on effects for the juvenile justice system, particularly in relation to bail decisions. Under section 28 of the Bail Act 2013, a court may impose an accommodation requirement on a child or young person when granting them bail. When accommodation cannot be arranged, they are held in custody.

Young people, especially young women, described having to stay in custody because they were unable to meet the accommodation requirement of their bail conditions. A group of young women reported that caseworkers were often too busy helping young people to meet bail conditions and not always able to give as much time to working with others as they would like:

“Caseworkers spend a lot of time consumed by trying to find accommodation for people on Section 28.”

Young people also reported that there needs to be more accommodation options for homeless young people who are before the courts. They spoke about at times, not having an address to be bailed too which meant they remained in custody longer. While some felt that more refuges and supported accommodation would prevent this from happening, others described being placed in refuges as causing greater disruption in their lives. Refuge availability was often in a different area to their support networks and programs with which they were already connected.

While it is essential to ensure that young people who are accused of criminal offences are not released into homelessness, it is equally vital to prevent them from being refused bail due to gaps in care and protection or housing assistance. It is also important to prevent them from being arrested and taken into custody for bail condition breaches related to unstable accommodation.

While the NSW Government offers a number of programs to help young people meet the conditions of their bail and remain in the community, such as the Bail Assistance Line, gaps remain in the support system for the most vulnerable children and young people. The Australian Institute of Criminology’s (AIC) 2017 national review of bail support highlighted a number of recurring issues with the provision of bail support for children and young people, including gaps in regional and remote services; a lack of engagement with children and young people with complex needs or substantial offending histories; and excessive monitoring and scrutiny of the young people accessing these services.

We note that the Maranguka Justice Reinvestment Project has implemented a number of 'circuit breakers' aimed at reducing the number of Aboriginal children and young people incarcerated for breach of bail conditions in Bourke. These include the development of a housing strategy in conjunction with Housing NSW; a memorandum of understanding with the Bourke Local Area Command regarding the use of warnings and cautions for children and young people who have breached their bail conditions; and a safe house for vulnerable children and young people provided by Youth Off the Streets.

In order to alleviate some of the concern around bail conditions, ACYP has previously recommended that bail conditions as they relate to housing are implemented flexibly and in a manner that is consistent with the best interests of the child or young person, and that detention remains an option of last resort in addressing bail breaches.