

## Bail and Vulnerability: do we know enough to help inform policy?

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Many consider that the work of police ends the moment an alleged offender is released into the hands of the courts, and that this person becomes the 'subject' of magistrates, lawyers and correctional services from that point. Although there is an element of truth in this, it is not always the case, and police officers often re-establish contact with defendants post-court. This is especially the case when, upon a defendant's release on bail, bail conditions (curfews, non-association with peers, etc.) need to be checked by police. Police are not, however, the sole agents involved in monitoring bail and in the provision of bail support for defendants. Many government agencies, non-government agencies and associations are involved in this process. Through an analysis of law and policy at a national level, the authors examine the extent to which research has successfully documented the determination and monitoring of bail conditions for vulnerable offenders. We consider the lack of evidence and documentation on the topic of intervention programs specifically tailored for vulnerable groups of offenders such as young people, people with substance use disorders, people without a home, and people living with a mental illness. We also identify the absence of qualitative and quantitative data and analyses that can assist magistrates and policy makers to consider how the practice of bail targeting vulnerable groups can be improved.

### Bail and Vulnerable People: a picture of the Australian situation

Vulnerable people have become a key focus of policy in recent years (Bartkowiak-Théron & Corbo Crehan, 2010; Bartkowiak-Théron & Asquith, 2012; New South Wales Law Reform Commission, 2012), and the need to take into account their special circumstances is now acknowledged in all levels of government nationally and internationally on grounds of equity and anti-discrimination principles (International Covenant on Civil and Political Rights, 1976). For policing and justice organisations, this attention to special needs has resulted in efforts to divert vulnerable people from the criminal justice system to avoid the negative impact (particularly that of incarceration) of the system on those people. As a result, many programs have been proposed and some have been incorporated into the justice system: the most well known are probably diversion lists of diverse nature, which essentially stem from principles of therapeutic justice. Other programs include restorative conferencing protocols and court mandated programs. Literature on these topics has also consequently flourished.

Among all practices, bail is one of the most prominent in the processing of vulnerable alleged offenders. However, there is a crucial lack of research about how bail conditions are determined and monitored in the case of vulnerable people. Associated with this lack of research is an absence of evidence surrounding the efficacy of bail for vulnerable people who are alleged offenders. This is particularly problematic from a policy point of view. Although a breach of bail is technically not an offence in itself (Stubbs, 2010), any breach brings a vulnerable person back to the attention of police and, therefore, of the criminal justice system (NSWLRC, 2012). Whilst efforts have been made recently to address this research gap with, for example, the submission of a large report on bail by the NSW Law Reform Commission (NSWLRC, 2012), research in relation to how bail applies to vulnerable people remains patchy and policy makers are in need of *consolidated* research on bail, bail practice and effectiveness.

For example, much research focuses on specific types of vulnerability (mental illness, aboriginality, age, etc.) and offending, but does not consider to the same extent how separate vulnerability factors can overlap and the implications of any overlap for those who provide support to defendants or offenders. Indeed, most research deals with only limited levels of cross-sectional vulnerability, usually two (for example: young aboriginal offenders or issues of comorbidity; see Davnet et al., 2005). Little has been done to date on the topic of multiple vulnerabilities, principally where issues of dual diagnosis may be compounded by combinations such as drug use *and* homelessness *and* age *and* sexual preference. The possible combinations of multiple

vulnerability factors are extensive. The NSW Law Reform Commission (NSWLRC) for example, looks only at cultural practices for Aboriginal and Torres Strait Islanders, but not for other culturally and linguistically different groups (NSWLRC, 2012, 181, 185), only indicating 'other special types of vulnerability' (p.186). The lack of empirical research has some impact on resourcing and practice, which are not currently grounded in evidence-based knowledge.

The report of the NSWLRC further crystallises the magnitude of this problem by indicating that, in relation to vulnerable defendants, while specific sections of the legislation insist that decision makers consider 'the interest of the person when making a determination regarding bail ..., submissions and other evidence before this review indicate that despite [these requirements], decision makers do not appropriately take into account the particular circumstances of these defendants' (NSWLRC, 2012, 168)).

This results in a legitimate questioning of unmet needs for vulnerable defendants who require support (Forsythe & Gaffnet, 2012). Monitoring vulnerable alleged offenders who are placed on bail is a challenge for both police and the courts (Raine & Willson, 1995; Brown, 1998; Snowball, 2011), and while the presumption of innocence is a fundamental principle of criminal responsibility, the management of offenders placed on bail and released into the community can be a major concern and challenge for police (Robinson, 2012). Statistical patterns for the last five years reveal that individuals on bail account for a significant number of offences, including that of motor vehicle theft (Smith, 2012). The NSWLRC report goes on to indicate that whilst vulnerable people should be 'treated differently (2012, 14), it is particularly difficult for police and support services to determine, administer and monitor bail conditions for vulnerable people, due to the specific circumstances of the latter'. This may result in an 'increase in arrest rates, short term period in custody, bail revocation' (NSWLRC, 2012, 54).

The literature review conducted by the authors in the lead up to the 2012 Critical Criminology Conference was broad and involved looking at material about bail generally, with a focus on Australian literature going back more than twenty years (see, for example: Doherty & East, 1985; Devine, 1989; Raine & Willson, 1995; Sherman et al., 1999).<sup>13</sup> The materials reviewed provide a fairly detailed overview of the development of bail legislation in Australian jurisdictions<sup>14</sup> (particularly in light of the 2012 release of the NSWLRC report on bail) and various bail related issues (Venables & Rutledge, 2003; King et al., 2006, 2008, 2009; Steel, 2009).

Our review of the literature revealed significant gaps in the understanding and documentation of: bail conditions; the bail decision-making process; and how bail applies to vulnerable people. The shift from the traditional purpose of bail (i.e., to ensure a defendant's appearance in court) to inclusion of the protection of the public and, more recently, to the use of bail conditions for other purposes such as therapeutic jurisprudence for vulnerable groups (i.e., to assist defendants to participate in treatment or other programs) has not been the subject of a comprehensive study to date. However, there is a clear delineation of bail decision being made according to either a model of 'unacceptable risk' or 'justification' (NSWLRC, 2012, 145). Interestingly, though, some practitioners consulted for the purpose of setting up this project indicated that bail is also considered as a pathway and associated with diversionary mechanisms to reconnect some vulnerable defendants with medical treatment (Bartkowiak-Théron & Fleming, 2011).

In a recent review of studies relating to bail for young people, Julie Stubbs (2010) indicated that 'we still need detailed research into bail decision making'. In her view, many studies pointed to 'the importance of organisational and cultural factors that shape the interpretation and implementation given to law reforms' (Stubbs, 2010, 500). Furthermore, to develop criminological knowledge that can help practitioners and policy makers, 'we need to extend our analysis beyond the texts of law and policy' (Stubbs, 2010, 500). The following issues documented in the literature support her point.

### *Issue one: High rates of remand as a problem*

In recent years, the trend in the Australian criminal justice system, and internationally, has been for the number of remand prisoners to grow. In a study conducted for the AIC, Sarre, King et al. (2006) noted the percentage of people on remand had grown from 12 to 20% between 1964 and 2004. The most recent report

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<sup>13</sup> The Australian material included reports, articles and conference papers, principally covering the 1980s to present. International material was sourced more narrowly.

<sup>14</sup> Tasmania has been included in some reports/articles but has not been the focus of a bail study. Certain developments within the Tasmanian magistrates courts, such as the Mental Health Division List, have been evaluated with little attention to the role or implications of bail in the process.

from the AIC and the NSWLRC inquiry show that this situation has not changed in overall terms. This is similar to the figures internationally. Governments, while sometimes responding to populist pressures to restrict bail, are generally unhappy about this increase. Remanding a significant proportion of defendants in custody contributes to a growing prisons crisis (Colvin, 2009). Many studies have also demonstrated that a large proportion of those on remand are subsequently acquitted or receive a lower sentence of imprisonment than the time already spent in custody (Morgan & Henderson, 1998; Hucklesby, 2009). In the interests of justice, as well as the fiduciary duty of using public money effectively, governments around the world are interested in ways of reducing the numbers of remand prisoners.

### *Issue two: Explaining the rise in the remand population: 'court culture'?*

Although bail researchers tend to avoid general explanations, it seems likely that changes in judicial and community attitudes towards bail are influenced by what has been called the 'new punitiveness' (Booth & Townsley, 2009). David Garland (2001) has argued that we are in a new neo-liberal epoch of crime control in which there is more emphasis on punishment and addressing the needs of victims. Empirical studies have, however, demonstrated that the situation may be more complex than initially thought. Following a long tradition of criminologists being interested in variations and apparent inconsistency between courts and different regions, King et al. (2006, 2008, 2009) were interested in how magistrates in Victoria and South Australia made bail decisions. Far fewer defendants were granted bail in South Australia. After conducting a study in these two jurisdictions, they concluded that a rise in the remand population could partly be explained by a rise in certain types of offences. However, the procedures employed in the two states differed, even though this was not always related to the law or policy objectives. There was, for example, more time given to the consideration of bail in Victoria. Magistrates were more likely to ask for information, and the police through various 'feedback mechanisms', were more accountable. Like many criminological studies, this raised more questions than answers since it was not possible to measure every variable to enable a comprehensive comparison. One additional issue facing courts is that delay (caused by poor resourcing) is responsible for time spent on remand. The length of time on remand was lower in South Australia, even though fewer defendants were granted bail. Nevertheless, the researchers were most impressed by the difference in "court cultures" between the two states.

### *Issue three: Policy initiatives to reduce the remand population*

Countries that have been successful in reducing remands have employed a variety of methods including requiring defendants (usually from middle class backgrounds) to wear electronic tags (Davnet et al., 2005). However, specifically designed aspects of bail were at the forefront of these policy initiatives. The following are relevant to this project:

#### *Bail information schemes*

The Manhattan Project in the USA (Ares et al., 1963) demonstrated that obtaining good information about defendants could reduce the number remanded in custody without this creating problems relating to fresh offences or failure to appear in court. One difficulty with obtaining information about defendants, however, is that doing so is expensive. For this reason, no Australian states or territories have gone beyond pilot schemes (Denning-Cotter, 2008). There are, however, other measures that can be taken to improve the quality of decision making. At its simplest, decision makers could receive more training, or courts could encourage defence lawyers to collect more information while preparing bail applications (*ibid.*; Venables & Rutledge 2003).

#### *Bail conditions*

Another way to keep defendants out of custody is to set tough bail conditions. These can involve reporting to a police station daily or submitting to a curfew (Doherty & East, 1985; Hucklesby, 1997; Fitzgerald & Marshall, 1999; Robinson, 2012). Critics see this as 'net widening' (Venables & Rutledge, 2003; Robinson, 2012), especially if the number of defendants refused bail is still rising. Another issue is the extent to which tough conditions cause breaches of bail, and what happens when bail is breached. Tough conditions and their subsequent monitoring by police can be particularly problematic for vulnerable defendants if enforcement impedes their welfare and well-being, for example in the case of curfews for young offenders (Robinson, 2012). Nightly curfew compliance checks 'may be excessive, oppressive and a questionable use of police resources' (Raine & Wilson, 1996 as cited in Stubbs, 2010: 497; see also Robinson, 2013)

### *Supervised programs*

Supervised programs go further in seeking to monitor and assist defendants on bail. The same considerations of cost apply as for bail schemes: Does the initiative save money? Supervision can sometimes be achieved by using existing bail conditions. However, most schemes require the assistance of the probation or correctional services. Difficulties have been reported in practitioners refusing to assist first time defendants awaiting sentencing, even though they are happy to work with regular offenders (Henderson, 2008; Mather, 2008). More generally, there is a philosophical problem that can divide magistrates and other practitioners. Arie Freiberg (2004) has argued that assisting defendants awaiting sentencing is a form of "net-widening". According to him, it would be preferable to give bail without conditions. In support of Freiberg's (2004) view is the fact that other forms of well-intentioned assistance, such as diversionary practices, have also resulted in net-widening (see Prichard, 2010). Moreover, assistance provided for defendants is nonetheless an increase in criminal justice intervention in people's lives – what Austin and Krisberg (1981, 165) might have termed a 'wider' and 'different' net.

### *Bail accommodation and hostels*

Occasionally, courts assist defendants by providing accommodation in hostels. This is particularly significant for bail because some defendants are either homeless (Ayres et al, 2010) or their living conditions do not cater for their well-being (nor ensure their appearance at court), and other defendants might have chronic social problems (such as homelessness and co-morbidity). Although the provision of accommodation has been evaluated in some states, apart from a study by Wincup (1997) there have not as yet been any in-depth, independent studies on bail accommodation programs. One would expect a debate within the agencies providing accommodation on the extent to which they should be exercising control.

### *Bail, vulnerable groups and therapeutic jurisprudence*

In their study of bail decisions, drawing on court records from Victoria, King et al. (2006, 2008, 2009) found that indigenous defendants and younger people were over-represented in the remand population. There was also some evidence that more remandees were unemployed, had a drug problem or suffered from mental illness than were those who were sentenced. This could be predicted since bail is granted to those with social ties. Some have argued that this is unintentionally punitive and that the criminal justice system, in partnership with other agencies, should be providing programs and services that address the particular needs of such vulnerable populations. The specific issue of vulnerable populations going through the criminal justice system is a newly emerging topic, and literature on the topic is still scarce. The most recent publications on the topic in Australia are those of Bartkowiak-Théron & Corbo-Crehan (2010), Henning (2011), Bartels (2011), Bartkowiak-Théron & Asquith (2012), and Hannah-Moffat et al. (2012). The new judicial and procedural developments for vulnerable populations are developed in a number of consolidated and non-consolidated legal documents, but research on protocols and on the logistics of judicial processing still remains to be developed. The therapeutic justice movement, particularly in the area of vulnerable populations, is slowly progressing in many Australian courts with regard to the way sentencing takes place, even if this is not visible in legislation or policy documents. Like many other states and territories, Tasmania has, for example, established a mental health diversion list and a Court Mandated Diversion for offenders living with an addiction to drugs. Practitioners committed to this new way of working are also likely to pursue a different approach in bail decisions, and attempt to establish programs that can achieve results before sentence.

### *The need for evidence-based research*

Although there is a relatively large literature on policy issues and the analysis of bail legislation, there has not been a review of initiatives aimed at vulnerable populations. Nor has there been much empirical research either in Australia or internationally on how magistrates make decisions about vulnerable offenders (the complexity of needs makes processes quite intricate to study, especially in the case of co-morbidity), how vulnerable offenders on bail are managed, and overall, whether there are sufficient mechanisms in place to support offenders placed on bail. Given the growing interest about therapeutic justice in many courts, it seems timely to focus research on two states that are pursuing innovative programs.

## **A proposed research program on bail and vulnerability**

The authors propose that a national research agenda be developed, building on work done in the late 1990s by Australian researchers and practitioners, among them Rick Sarre, Tim Prenzler and Julie Stubbs, and on recent Australian publications on the topic (Forsythe & Gaffney, 2012; NSWLR, 2012). The originality of this research agenda lies in its specific focus on 1- the vulnerability of alleged offenders and 2- the coexistence of vulnerability factors for alleged offenders. Whilst point 1 would represent ground-breaking research in itself, point 2 makes our research unique. Indeed, many criminology projects have explored the prevalence of one or two vulnerability factors for offenders in the criminal justice system. There is therefore a large breadth of literature on offenders with a mental illness, Aboriginal offenders, etc. Very little research focuses on the existence of multiple cross-sectional vulnerabilities and the extent of its prevalence (Hannah-Moffat et al., 2012). Our proposed research not only starts mapping the extent of these complex needs and their impact (if any) on bail practices in two states, it also offers the opportunity to design strong and innovative methodological pathways to investigate complex needs offenders, without limiting a research exercise to normative theoretical labelling.

The states of Tasmania and South Australia constitute a good platform for initial research for several reasons. First, they are stable in relation to bail legislation: of all Australian states and territories, they have the least amended bail provisions and legislation in the past 25 years (Steel, 2009). This would significantly lower the chances of various legislative and policy change impacting on the measurement of variables. Second, both states have demonstrated their innovative stance in designing initiatives meant to cater for offenders' needs pre- and post-trial. In Tasmania, the Magistrates Court has established specific drugs court, a mental health diversion list and a dedicated children's court to cater for the situation of particular groups. In South Australia, there exists a state-wide program for addressing defendants with mental health problems and drugs issues (King, 2001). Also, while bail and its related decision-making process is fascinating in itself, the emergence of diversion programs for vulnerable defendants in Australia also warrants attention.

Research for a national research agenda could stem from the following questions:

- What factors influence bail decision-making for vulnerable people?
- Which factors impact on the monitoring of bail conditions for vulnerable people?
- Are vulnerability factors considered consistently throughout the process? If yes, is this a form of 'good quality process'? If not, what are the deficiencies in practice, legislation and policy?
- Are resources in place to ensure that bail conditions are met throughout the whole duration of bail?

In particular, Australian researchers should bear in mind the goal of carefully mapping or evaluating the various factors that impact on bail decisions and monitoring, and therefore obtain a clear overview of bail administration needs and resources for vulnerable groups. This would identify the variable/factors at stake in bail decision-making, administration and monitoring processes. Since little research has been conducted on the matter of bail as it applies to vulnerable populations, we should seek to obtain a broad, descriptive and analytical overview of processes and outcomes.

We have recently demonstrated that it is possible to generate some measurable impact factors that can be analysed quantitatively by way of survey using 5-point Likert scales (via a multiple analysis of variables and secondly, specifically through exploratory and confirmatory factor analysis). In some cases, there are possible correlations to make between these factors. It is therefore possible to survey all stakeholders in each state (with specific control groups) to see what factors impact (or should impact) the decision-making processes at various stages, and whether there is consistency in respondents' views.

The third aim of this research agenda is to estimate how well bail is working for vulnerable offenders, particularly those with complex needs. This should consist of an analysis of information provided by the courts and community corrections, rather than, for example, attempting to measure inputs and outcomes systematically, or comparing defendants on particular programs with those given "ordinary" bail conditions (Weiss, 1999). This project will link information about bail and offending with the views of practitioners about what impacts on bail at various points of the process. It will also consider the programs and the issue of bail for vulnerable defendants in the context of the broader movement in therapeutic jurisprudence and problem-solving courts. One objective is the identification of possible efficacy measures and benchmarks. To give one example, a traditional measure of success or impact has been the extent to which defendants commit further offences on bail, and the nature of any post-bail offending (e.g., escalation or reduction in the gravity of the

offence). For a therapeutic program, one measure of positive impact might be the extent to which, despite post-bail offending, vulnerable offenders are kept out of prison. Using the same tool as above, this section of the evaluation would focus on support programs and resourcing.

### **Some existing recommendations about Bail, vulnerable people in the criminal justice system, and research: the need to create change**

Many recommendations have been recently brought to the fore in relation to strengthening definitions, protocols and guidelines relating to bail applied to vulnerable people (NSWLRC, 2012). We would like to support calls for further clarity and guidelines, and encourage researchers to generate empirical research in these areas. In particular, there needs to be specific research that aims to indicate or 'map out' the bail decision-making process and the current mechanisms that support defendants when they leave the courtroom and go back to the community.

Future research is needed to examine a number of issues that potentially impact on bail decision-making by magistrates and the monitoring of bail conditions by a number of stakeholders (police, professional carers, case workers, etc.). Such research should aim to refine the statistical picture of bail as obtained by previous studies (for example, Sarre et al., 2006), and devise workable risk management solutions acceptable for all stakeholders (police, courts, juvenile justice and community members). Currently, risk management tools neither allow for the assessment of vulnerability, nor are they conducive to inquire about existing support mechanisms for vulnerable offenders.

The aim of our proposed research is to provide an analytical account of bail-related programs and systems, and what they aim to achieve (reducing the numbers on remand, complying with medical treatment, reducing/preventing post-bail offending etc.). It seeks to describe the processes involved in making bail decisions within the various programs targeted at vulnerable groups, with a view to identifying best practice.

Any related outcome will offer practical assistance to magistrates courts across Australia by identifying best practice on programs that manage bail for vulnerable offenders. We will present our descriptive and evaluative findings in a way that will be useful to practitioners, while acknowledging the complexity of the issues. Programs aimed at particular vulnerable groups are an important step towards reducing the number of people remanded in custody. This project offers a consolidated analysis of such programs, decision-making processes, gaps and redundancies from policy, and legislative and resourcing points of view.

### **Conclusion on the significance of a national bail policy research: thinking of new ways to create change**

Whilst bail is traditionally used as a diversionary tool to prevent vulnerable offenders from having further contact with criminogenic environments and to facilitate therapeutic problem-solving, there is little consolidated evidence about how bail works for vulnerable alleged offenders, and whether bail conditions for vulnerable people are 1- effective, 2- appropriately monitored, and 3- determined with sufficient consideration of complex needs and existing support programs.

The scarcity of academic research, literature and documentation (worldwide) on bail decision-making, resourcing and conditions as they apply to vulnerable populations requires that we look deeper at how policies develop and contrast in different jurisdictions. The research agenda suggested here aims to fill a significant gap in our understanding of policy-making, resourcing and implementation in this area, and is meant to inform key stakeholders on evidence-based practice. Because of the emergence of vulnerable populations as a relatively new phenomenon that concerns policy makers, criminological and socio-legal research is even more relevant and timely for. It will add to the generic picture of bail practice throughout Australia and will provide relevant policy-oriented evidence to all actors in the criminal justice system.

Any research on the topic of bail as it applies to vulnerable populations has national significance for three reasons. First, rising rates of remand are an issue of national concern (Forsythe & Gaffney, 2012). Second, human rights are an emerging issue on the national agenda which is of particular significance in relation to vulnerable groups. The bail process engages two important human rights, namely the right to liberty and the right to be presumed innocent until proven guilty. Third, the project engages with therapeutic jurisprudence, a new criminal justice perspective that offers a promising way forward to deal with vulnerable offenders such as

young people, people with a mental illness and people with a drug addiction. It strongly impacts on issues of justice reinvestment (Lanning, Loader & Muir, 2011), with careful consideration of costs, offender management and overall justice and police budgets. The findings of such research would be of benefit to all law-enforcement and justice stakeholders concerned with the cost-effective, fair and equitable treatment of individuals who are charged with criminal offences in Australia.

## References

- Ares, C., Rankin, A. & Sturz, H. (1963) The Manhattan bail project: An interim report on the use of pre-trial parole. *New York University Law Review*. 67, 67.
- Austin, J., & Krisberg, B. (1981). Wider, stronger and different nets: the dialectics of criminal justice reform. *Journal of Research in Crime and Delinquency*, 18(1), 165–196.
- Australasian Police Ministers' Council (2005) *Directions in Australasian Policing: 2005–2008*, Australian Police Minister's Council, November, Canberra
- Ayres, S., Heggie, K. and Neto, A. (2010) *Bail Refusal and Homelessness Affecting Remandees in New South Wales*. Corrective Services, NSW.
- Bartels, L. (2011) Police Interviews of Vulnerable Adults. *Research in Practice*. Australian Institute of Criminology, Canberra.
- Bartkowiak-Théron, I. & Asquith, NL., eds, (2012) *Policing Vulnerability*. Sydney: Federation Press.
- Bartkowiak-Théron, I. & Corbo Crehan, Anna. (2010). Vulnerable People Policing: a new way for community policing?. In Putt, J. (Ed.) *Community Policing: Current and Future Directions for Australia – Research and Public Policy*. Canberra: Australian Institute of Criminology.
- Booth, T. and Townsley, L. (2009) The process is the punishment: The case of bail in New South Wales. *Current Issues in Criminal Justice*. 21(1), 42.
- Brown, D. (1998) *Offending on Bail and Police Use of Conditional Bail*. Home Office, London.
- Colvin, E. (2009). *Police Bail Decision-Making in Victoria: Private Decisions, Public Consequences*. Paper presented at the Australia and New Zealand Critical Criminology Conference, Melbourne.
- Davnet, C., Harper, G. and Brown, S. (2005) *Understanding Electronic Monitoring of Juveniles on Bail or Remand to Local Authority Accommodation*. Home Office, London.
- Denning-Cotter, G. (2008). Bail support in Australia. *Indigenous Justice Clearinghouse - Research Brief*(2), 8.
- Devine, F. 1989 *Bail in Australia*. Australian Institute of Criminology, Canberra.
- Doherty, M. and East, R. (1985) Bail decisions in magistrates courts. *British Journal of Criminology*. 25(3), 251.
- Fitzgerald, R. and Marshall, P. (1999) Towards a more objective basis for bail decision making. Paper presented at *Third National Outlook Symposium on Crime in Australia*, 22-23 March. Australian Institute of Criminology, Canberra.
- Foresythe, L. & Gaffney, A. (2012) Mental disorder prevalence at the gateway to the criminal justice system. *Trends and Issues in Crime and Criminal Justice*. Australian Institute of Criminology, Canberra.
- Freiberg, A., & Morgan, N. (2004). Between bail and sentence: the conflation of dispositional options. *Current Issues Criminal Justice*, 15, 16.
- Garland, D. (2001) *Culture of Control*. Oxford University Press, Oxford.
- Hannah-Moffat, K; Baldry, E.; Stubbs, J. & Carton, B. (2012) 'Reinventing Gender Imprisonment & Critical Criminology', paper presented at the 2012 Critical Criminology Conference: 'Changing the Way we Think about Change', Hobart: UTAS.
- Henderson and Associates Pty Ltd. (2008) *Bail Support Program Evaluation*. Report to Corrections Victoria. Dept. of Corrections. Melbourne.
- Henning, T. (2011) Consolidations of Arrest laws in Tasmania. Tasmania Law Reform Institute. Final report n°15.

- Hucklesby, A. (1997) Court culture: An explanation of variations in the use of bail by magistrates' courts. *The Howard Journal*. 36(2), 129.
- Hucklesby, A. (2009) Keeping the lid on the prison remand population: The experience in England and Wales. *Current Issues in Criminal Justice*. 21(1), 3.
- International Covenant on Civil and Political Rights*, 1976
- King, S. (2001) "The South Australian Problem-Solving Courts: a focus on the new Treatment Intervention Plan". Presentation at the TILES MHDL workshop.
- King, S., Bamford, D. and Sarre, R. (2008) The remand strategy: Assessing outcomes. *Current Issues in Criminal Justice*. 19(3), 327.
- King, S., Bamford, D. and Sarre, R. (2009) Discretionary decision-making in a dynamic context: The influences on remand decision-makers in two Australian jurisdictions. *Current Issues in Criminal Justice*. 21(1), 24.
- Lanning, R.; Loader, T. & Muir, I. (2011) *Redesigning justice: Reducing crime through justice reinvestment*. London: Institute for Public Policy Research.
- Lorimer, C., & Sue, H. R. (2006). Crimes Amendment (Bail and Sentencing) Bill 2006. In Parliament of Australia (Ed.). Canberra: Parliament of Australia: Department of Parliamentary Services.
- Mather, S. (200) Bail supervision and young people: Pathway or freeway. *Flinders Journal of Law Reform*. 10, 675.
- Morgan, P. and Henderson, P. (1998) *Remand Decisions and Offending on Bail: Evaluation of the Bail Process Project*. Home Office, London.
- New South Wales Law Reform Commission (2012) *Bail*, Report n°133.
- Prichard, P. (2010) Net-Widening and the Diversion of Young People From Court: A Longitudinal Analysis With Implications for Restorative Justice. *Australian and New Zealand Journal of Criminology*, 43 1), 112.
- Raine, J. and Willson, M. (1995) Just bail at the police station? *Journal of Law and Society*. 22(4), 571.
- Robinson, A. (2012) *The 'Willie Wonkee' Model of Policing: Monitoring Young Offenders' Bail Curfews*. UTas: Mimeo.
- Sarre, R., King, S. and Bamford, D. (2006) Remand in custody: Critical factors and key issues. *Trends and Issues in Crime and Criminal Justice*. Australian Institute of Criminology, Canberra.
- Sherman, L., Gottfredson, D., MacKenzie, J., Reuter, P. and Bushway, S. (1999) *Preventing Crime: What Works, What Doesn't, What's Promising: A Report to the United States Congress*. National Institute of Justice. University of Maryland, Maryland.
- Snowball, L. (2011) Police bail and risk of re-offending. *Crime and Justice Statistics Bureau Brief*. NSW Bureau of Crime Statistics, Sydney.
- Steel, A. (2009). *Bail in Australia: legislative introduction and amendment since 1970*. Paper presented at the Australia and New Zealand Critical Criminology Conference, Melbourne.
- Stubbs, J. (2010). Re-examining Bail and Remand for Young People in NSW. *Australian & New Zealand Journal of Criminology*, 43(3), 20.
- Tressider, J. and Putt, J. (2005) *Review of data on juvenile remandees in Tasmania, Final Report*, Australian Institute of Criminology.
- Venables, P. and Rutledge, R. (2003) The conditional bail program: Early intervention without net widening. Paper presented to *Juvenile Justice: Lessons of the Past to a Road Map for the Future*, 1-2 December. NSW Department of Juvenile Justice, Sydney.
- Weiss, C. (1999) *Evaluation: Methods for Studying Policies and Programmes*. Prentice Hall, New York.
- Wincup, E. (1997) Women awaiting trial: Common problems and coping strategies. Selected Proceeding Vol.2, *British Criminology Conference*, 15-19 July. Queen's University, Belfast. British Society of Criminology, London.