

Reading a Criminal Record

Seminar to Legal Aid Criminal law Solicitors

24 October 2012

Siobhan Mullany & Rosie Lambert

Criminal records are used to justify a bail application, in negotiations with the prosecution and in sentencing proceedings yet they are far from self evident documents. Tracking a client's criminal history can be difficult. There are many different types of criminal records and no consistent way that matters are noted in those reports.

Our clients are often unable to give us instructions on their history. I have used as examples two criminal records. One was from a client with a mental illness and the other client had an intellectual disability. Neither was a good historian of their own life. Unravelling an accurate criminal history for each of them was important to the outcome of their case.

Types of Criminal Records

Bail Report This is the full notation of every court appearances or fail to appear provided by the police. It is usually based on a fingerprint record through the CNI. It contains all the information including non-convictions, e.g. bail breaches, dismissed charges and acquittals. (Case B is bail report)

Conviction report This is a report limited to the criminal convictions. It should not contain matters that were dismissed or bail matters. These can get confusing after you have been looking at the bail report because the location of the charge date and court date have been swapped round.

Fingerprint report This report could be either a bail report or a conviction report based on the fingerprint matching with the CNI. The report will specify if it is a fingerprint report.

Non-fingerprint report This report is not based on the fingerprint match but based on the client's name. It is most often produced in court when there was a summons to court without the client being fingerprinted, e.g. by a field CAN, a no bail CAN or a future CAN. The report will specify if it is a non-fingerprint report. You can be given a report that is a fingerprint report with a non-fingerprint report attached at the back.

Computer report These were the reports printed and handed to you in court. They were on the old computer paper with perforated holes down the sides. These were most often conviction reports.

Infringement Matters report This report includes fines and they can be for very minor matters but they may also include matters such as larceny and goods in custody. The report is usually attached to the end of the bail report.

Traffic History report This report has traffic matters whether they involved a court appearance or not. The traffic may not be included in the bail report and this traffic report may be separate from the bail report. Some traffic matters will be in the bail or conviction report such as a PCA.

DCS Inmate Report Department of Corrective Services inmate reports have the criminal history listed under: convictions, sentences and appeals details. It is limited to those matters where the client received a prison sentence. This record is a good record of the time spent in prison and will show time spent serving the balance of parole that may not show up on any other report. This contains details of matters that arise while on parole that may not be on the criminal record.

Reports from other States and Territories Sometimes the prosecution will provide a criminal record from other states or territories. Each State and Territory have their own records. Commonwealth offences are noted on the criminal history of the State where the matter was in court.

Overseas Criminal records Police may obtain the records of defendants from overseas. They can be provided by Interpol or the country directly. Sometimes, rarely, an overseas conviction is incorporated into the NSW report. An example recently was where a man was convicted and sentenced in Malaysia to six lashes and that appeared in the NSW conviction report noting that it was in the Malaysia court. Record of New Zealand matters are becoming more common in NSW bail reports.

Names & Alias

The list under Alias includes anything other than the full, correct spelling of the client's name and date of birth. If an officer makes a spelling mistake or typo on the computer it turns up as an alias on the bail report. If the client usually doesn't use his middle name but gave it once it will show up as an alias on the bail report. Nicknames are also included here.

The list is based entries with the same CNI number, Criminal Name Index.

Terminology used in Criminal Records

I have attached a copy of a criminal record, Case B, which provides a context for most of the expressions referred to below. The number in brackets refers to the page where the term appears in the Case B bail report.

Courts:

- Children's (1)
- Local (2)
- District (9)
- Drug Court (no entries for Case B but in Case A on page 16)
- Supreme (13)
- Parole Board (9) (these no longer appear on the bail reports)

The location printed under the name of the court is the police station where the person was charged.

Charges

The offences charged are listed with a three digit number in front of the words. The numbers refer to the number of each offence on the same H number. That usually is where the defendant is charged with a number of offences on the same day. You can trace the outcome of the offence through the H number and the three digit number.

For Example in Case B, the offender was arrested on 17 January 2003 at Parramatta (13). The series of charges were under H 30*****.

	4 x armed robbery with an offensive weapon (13)	4/12/03 committed for sentence (13), 3/6/04 withdrawn dismissed (15)
001	Robbery armed with an offensive weapon	27/5/04 Sentenced (14)
006	Robbery armed with an offensive weapon	27/5/04 Sentenced (14)
007	Robbery armed with an offensive weapon (15)	27/5/04 Sentenced (15)
008	Robbery in company SI (15)	3/6/04 Withdrawn dismissed (15)
009	Robbery armed with an offensive weapon	27/5/04 Sentenced (14)
010	Robbery SI (13)	4/12/03 committed for sentence (13), 27/5/04 sentenced (14)
011	Carried in conveyance (15)	3/6/04 Taken into account on from 1 (15)

The offences charged as numbers 002-005 are all missing from the record but we have 4 x armed robbery with an offensive weapon without numbers that probably account for those missing numbers.

A warrant was issued and executed on 18 May 2009 for charge H 30***** by the Parole Board (16). The matter dealing with the warrant was given a new H number (16).

Outcomes

Annulment granted (Case A 43)	Ex parte conviction annulled
Appeal upheld	The conviction may be quashed or a sentence substitutes (sentence of x substituted for y)
Appeal dismissed	A sentence can still be substituted if a conviction appeal is dismissed but the sentence appeal was upheld
Minimum term, additional term (4)	A minimum term is the same as the non-parole period and the additional term is the time that may be spent on parole.
Fixed term (commencing, concluding) (4)	This does not have a non-parole period.
Imprisonment (4)	
Fine (2)	
CSO (7)	Community Service Order
Recog – conditions (1)	Recognizance were replaced by bonds in 2000 for NSW and are now only for Commonwealth matters
Filed in court (8)	Dismissed or withdrawn
Indicted for (9)	The sentence for the matter on the indictment in this example.
Rising of the court (11)	Sentence to imprisonment until the court adjourns. Sometimes the Magistrate will state that the court is adjourned for the purposes that matter immediately after hearing it and the sentence is over immediately. The defendant does not go into custody outside the court room.
Withdrawn (12)	The prosecution withdraw the matter. It can be raised again unless it is also dismissed.
Withdrawn: dismissed (15)	This will finalise the matter.
Not guilty by verdict (13)	This is a decision by a jury and so will appear in District Court and Supreme Court matters.
Offence proved s25(2) (16)	The offence is proved in the absence of the defendant, ex parte, and under s25(2) Crimes (Sentencing Procedures) Act 1999 the court may issue a warrant to arrest the offender and bring them to court.
Released subject to (15)	In the example release on parole is subject to supervision and drug and vocational counselling. This is wrong in law. A judge has no jurisdiction to make a parole order for a matter where the sentence is greater than 3 years. The record may be badly noted or the sentence may be wrong. Judges can make recommendations but only the Parole Board decides when the offender is released and under what conditions. The Parole Board will look at the transcript of the Remarks on Sentence.
Matters taken into account on Form 1 (15)	The presiding judicial officer sentences the offender for the main offence, in the example an

	armed robbery with offensive weapon, and takes into account lesser matters that are listed on the Form 1. The presence of a Form 1 may explain why some matters do not appear to have been dealt with on the face of the bail report.
Without conviction (1)	The matter is proved and a penalty may be imposed but the conviction will not be recorded. It will appear in the bail report but need not be disclosed in most circumstances outside the criminal court.
Prob (2)	Probation
Control Order (5)	This is an order limited to the Children's Court
Bail order made (13)	Orders granting or refusing bail do not usually appear on the bail report. In this example it was an order made in the Supreme Court for a District Court matter and that may be why it was noted. Fail to appear on bail and sometimes breaches of bail conditions do appear on the bail report.
S80AA warrant to issue (7)	S 88AA was the old law. These warrants are now under s25(2) C(SP)A with the ex parte conviction under s196 Criminal Procedure Act 1986
Warrant executed (16)	In this example the H number for the charge that the warrant was issued for is noted and you can trace back through the bail report to find that charge. In older matters the H number is not always included and there can be confusion as to what matters have been dealt with and what remains outstanding.
MBC WTI (2)	Not Before Court, Warrant To Issue
Order made Bail application (7)	This appears on the bail report because it arose out of a failure to comply with bail conditions
Nothing listed (16)	There is no result because the bail report was printed for that day in court
Committed for trial (8)	At the end of the committal process the matter is sent to the either the District or Supreme Court for trial if the defendant has remained silent or indicated they want to defend the charge.
Committed for sentence (12)	At the end of the committal process the matter is sent to the either the District or Supreme Court for sentence if the defendant has indicated they will plead guilty to the offence.
ICO	Intensive Correction Order
Drug Court	Drug Court Act 1998
Suspended sentence	S12
S10 Bond	Crimes (Sentencing Procedures) Act 1999
S 9 Bond	Crimes (Sentencing Procedures) Act 1999
S32	Mental Health (Forensic Provisions) Act 1990
S33	Mental Health (Forensic Provisions) Act 1990
S556A	Now a s10 Crimes (Sentencing Procedures) Act 1999 bond

Terms

	Means	In status legend	Interpretation
ABH	Actual bodily harm		
Arr	Arraignment		
B&E	Break and enter (6)		
BA	?? (7)		
BE&S	Break enter and steal (3)		
Bldg	Building (6)		
BNC	Not before court (2)		
C	CRS updated electronically outcome (1)	Yes	
CC	Court costs (2)		A set amount
CCM	Children's Court Magistrate (1)		
CNI	Criminal Name Index (1)		
Comp	Compensation (1)		
COND	Condition (7)		
Conv	Conviction (2)		
Conv	Conveyance (4)		
CRS	Criminal records System (1)		
CSO	Community Service Order (2)		
CU	CRS updated (1)	Yes	The criminal record status has been updated
CV	CRS created and verified (1)	Yes	
DOB	Date of Birth (1)		
DV	Domestic Violence		Offences of personal violence in the home are indicated with the letters DV and taken into account on bail applications. This only applies to matters in the last 4-5 years.
Entered	Recog or bail entered (1)		
EU	Electronically updated (1)	Yes	
EV	Electronically verified (1)	Yes	
FD	Fined (2)		
FIW	First Instance Warrant (3)		
FS	For sentence (12)		
FT	For trial (12)		
FTA	Fail to appear (4)		
GB	Good Behaviour (1)		
GBH	Grievous bodily harm (12)		
H number	Police charge number (1)		H does not stand for anything

HRS	Hours (2)		
ICO	Intensive Corrections Order		
LC	Local Court ?? (6)		
Lic DisQ	Licence disqualified (2)		
Malic	Maliciously (9)		
MTHS	Months (1)		
MV	Motor vehicle (2)		
NBC	Not before Court (2)		
NG	Not Guilty (13)		
NPP	Non parole period (11)		
Possn	Possession (3)		
PRESC	Prescribed (11)		
Prob	Probation (2)		
Proh	Prohibited (3)		
Recog	Recognisance (1)		
RV	Remand verified (2)	Yes	
SDC	??? (4)		
Self	Surety by client (1)		
SI	Strictly Indictable (7)		
Supv	Supervision (12)		
T1	Table 1 (6)		Criminal Procedure Act 1986
T2	Table 2 (6)		Criminal Procedure Act 1986
Unlic	Unlicensed (2)		
V	CRS verified electronically outcome (1)	Yes	
W/I	With intent (6)		
W/O	Without (11)		
WTI	Warrant to issue (2)		
Yrs	Years (2)		

Time lines

Where a bail report is long and convoluted with lots of fail to appear or matters stood over and overlapping it may be helpful to draw up a time line. That way you can easily see if the client has breached a bond or committed offences while on parole or bail.

See example of the Bail report and timeline for Case A. The timeline made clear the order and number of separate matters. It is also an indication that there were about twenty separate matters while the bail report is 38 pages long. After completing the timeline a clear explanation of the chronology was then able to be included in the no bill application.