

Breaches of COVID-19 public health orders in NSW

Sara Rahman

AIM

To describe trends and characteristics of breaches of COVID-19 public health orders detected by the NSW Police Force and compare this information with self-reported rates of non-compliance.

METHOD

We examine breaches recorded by the NSW Police Force against COVID-19 infections data reported by NSW Health. A small random sample of police narratives associated with breaches of COVID-19 public health orders were analysed to identify the specific nature of the incidents. Responses from a survey of 1,028 Greater Sydney residents regarding their behaviour while under restrictions are also presented.

RESULTS

Almost 37,000 breaches of public health orders were detected by NSW police between 26 June 2021 and 31 August 2021. Most breaches related to unnecessary movement outside of the Local Government Area (LGA) and visiting other households. A smaller proportion related to face coverings, travel outside of Sydney and other activities such as failing to close business premises. Nearly 9 in 10 breaches were dealt with by way of an infringement notice, with a typical maximum fine amount of \$1,000. Males, people in LGAs of concern and people with a prior criminal history accounted for more breaches than other groups. Saturdays were the day when most breaches were recorded and over 85% of breaches occurred between 9am and 9pm. Rates of self-reported non-compliance differed for different activities but were generally low. Some non-compliant groups were engaging in restricted activities, such as gathering in a large group and carpooling, on a frequent basis. We also found somewhat lower rates of non-compliance among people residing in LGAs of concern compared with those residing in other Greater Sydney LGAs. There were only small differences in non-compliant activities across age groups.

CONCLUSION

A large number of breaches of COVID-19 public health orders have been detected between the re-introduction of restrictions to Greater Sydney on 26 June 2021 to 31 August 2021. There is no evidence that people in areas of concern or young people are engaging in more non-compliant activities. Overall, our results suggest that breaches are largely enforcement-driven rather than reflecting underlying patterns of non-compliance.

KEYWORDS

COVID-19

Fines

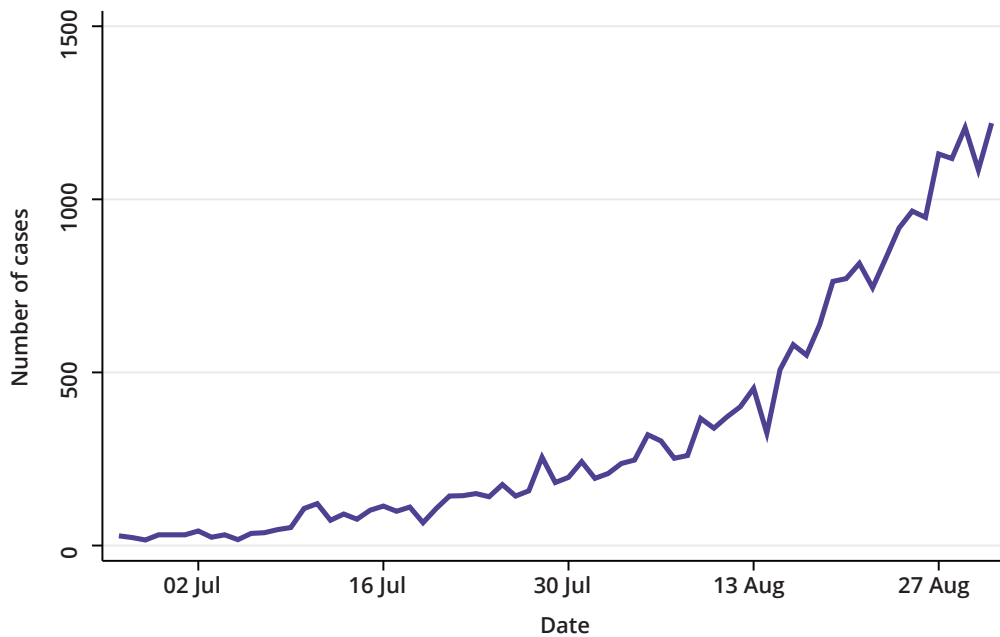
Public health orders

INTRODUCTION

In late June 2021, NSW experienced an outbreak of the highly infectious Delta strain of COVID-19. On 26 June 2021, then-Premier Gladys Berejiklian announced stay-at-home orders for all of Greater Sydney to stem the rising number of infections (NSW Government, 2021a). These orders included the closure of non-essential retail premises, stay-at-home rules (except for approved purposes), and a requirement for employers to allow their employees to work from home where possible. Anyone found to be in breach of these orders could be charged with a criminal offence under the *Public Health Act 2010* (NSW) and heavy penalties could be imposed.

By 31 August 2021, NSW had recorded over 1,000 new locally acquired COVID-19 infections a day compared with just 6 new cases on 26 June 2021 (see Figure 1). A dramatic rise in cases in Western Sydney over the first four weeks of the outbreak prompted the NSW Government to introduce more severe restrictions in several Local Government Areas (LGAs)¹ of concern (Bayside, Blacktown, Burwood, Canterbury-Bankstown, Campbelltown, Cumberland, Fairfield, Georges River, Liverpool, Parramatta and some suburbs of Penrith), including curfews and restrictions on movement outside of the LGAs. These additional restrictions were progressively introduced from early August 2021 and were eased from 15 September 2021 (NSW Government, 2021b; SBS News, 2021).

Figure 1. New COVID-19 cases reported in NSW, 26 June 2021-31 August 2021



Source: NSW Health

¹ LGAs are geographic units covering the area of responsibility of a local government council.

The increase in COVID-19 infections sparked much public interest in levels of non-compliance with the public health orders and enforcement of the restrictions. The Delta strain is several times more infectious than previous strains of COVID-19, and even low rates of non-compliance are thought to lead to large increases in the rate of infections (Public Health England, 2021). The rapid escalation in cases in July and August prompted the government to progressively intensify restrictions², and the NSW Police Force to devote significant resources to enforce the orders.

While the NSW Police Force have been praised for their enforcement efforts, especially in relation to quashing potentially large anti-lockdown protests during the recent outbreak, there is also considerable debate on the fairness and appropriateness of legal actions taken. Legal scholars have labelled police enforcement of the orders as ‘securitising’ public health (Boon-Kuo, Brodie, Keene-McCann, Sentas, & Weber, 2020). Other commentators raised concerns that the public health orders were too vague and the degree of discretion afforded to police would lead to inconsistent enforcement, and an unfair burden on vulnerable populations who are neither likely to be able to pay nor challenge the fines issued (Corsetti, 2021; Faruqi, 2020; McNally, 2020). This critique was amplified after news broke of a video of the NSW Police Commissioner assuring officers that they would not be held to account for mistakenly issuing fines (Thompson, 2021).

While the large number of fines issued by the police during the outbreak have been reported and subject to recent media attention, few studies have examined the nature of breaches of COVID-19 public health orders in NSW, or who is being proceeded against by police for these offences. Further, only a few studies have examined rates of actual non-compliance with public health orders. One study (Chang, Cliff, Zachreson, & Prokopenko, 2021) indirectly estimated the rate of non-compliance in NSW by using an agent-based simulation to model the rise in infections during the second outbreak. In this model, the actual trajectory of NSW cases during June and July 2021 was consistent with a compliance rate of 40% according to their estimates.

Others sought to quantify non-compliance by Australians during the March 2020 outbreak through general public surveys. The Survey of COVID-19 Responses to Understand Behaviour (SCRUB) project, funded by the Victorian Government, surveyed a representative sample of Australians each month from March to August 2020 to gauge public perceptions of the pandemic. The last publicly available wave of the data suggested that 74 per cent of the population reported often or always following the rules (Grundy & Slattery, 2020). Another study analysed survey data from 1,575 respondents in Australia, US, UK, and Canada to identify attitudes that were correlated with non-compliance during the pandemic’s first wave (Kleitman et al., 2021). They used latent profile analysis to classify respondents into two cohorts: a compliant and a non-compliant cohort. Approximately 12% of the Australian sample fell into the latter category.

So far, no publicly available study in NSW or elsewhere has analysed both enforcement data and self-reported survey data to assess whether patterns of non-compliance align with breaches proceeded against by police.

Aim

This paper aims to describe:

- a) recent trends in breaches of public health orders in NSW;
- b) the nature of public health order breaches;
- c) the method of proceeding against people for breaching public health orders;
- d) the characteristics of persons proceeded against for breaching public health orders;
- e) whether patterns of detected breaches of public orders align with self-reported rates of non-compliance.

² A full list of changes to the public health orders can be viewed at <https://legislation.nsw.gov.au/information/covid19-legislation>.

METHOD

We analysed four data sources for this brief.

1. NSW Recorded Crime data

Data on breaches of public health orders over the period 26 June 2021 through 31 August 2021 were extracted from the NSW Police Force's Computerised Operational Policing System (COPS). This data contains the date of the incident; its charge date; the law part of the incident³; the age, gender and Aboriginality (as recorded by NSW police) of the person of interest (POI) involved; the event and incident numbers; the method of proceeding (including maximum fine amounts); and the location of the breach.

2. NSW Health COVID-19 cases data

We use two publicly available datasets on COVID-19 infections: NSW COVID-19 cases by location and likely source of infection, and NSW COVID-19 cases by age range. Both these datasets were extracted from the NSW Health website on 16 September 2021⁴.

3. Narratives of police incidents involving a public health order breach

We obtained police narratives for a random sample of 570 events involving a breach of COVID-19 public health orders to acquire further information about the nature of the incident. Only breaches classified under the law parts 95638 (i.e. Not comply with noticed direction re s 7/8/9 - COVID-19) and 95640 (Fail to comply requirement public health order - COVID-19), which comprised 68.8% of all breaches, were examined. All breaches included in the sample occurred in July 2021. Appendix 1 contains details of how the text in each narrative was coded.

4. Survey data

We use data from a survey commissioned by the Department of Communities and Justice to identify self-reported rates of non-compliance with public health orders among the Greater Sydney population and their support needs. The online survey was administered to a broadly representative sample of 1,028 Greater Sydney residents between 10 September 2021 and 17 September 2021. The survey was designed to gauge attitudes toward the COVID-19 restrictions, movement and activities undertaken by Sydney residents whilst the restrictions were in place, and reasons for engaging in those activities (the full questionnaire can be found in Appendix 2). Several strategies were used to mitigate potential social desirability bias: a) an 'empathetic' preamble to the survey was included; b) behaviours were separated from the (compliant and non-compliant) reasons for engaging in those behaviours; and c) a 'face-saving' option was included for respondents who reported engaging in a potentially non-compliant activity (i.e. 'Only when necessary'). We calculated the rate of non-compliance with public health orders as the proportion of people who engaged in a restricted activity in the previous two weeks for 'non-compliant reasons' (i.e., other than for purposes allowed under the rules).

We analysed the data on breaches, infections and self-reported rates of non-compliance descriptively.

³ Law parts are maintained by the Judicial Commission of NSW, and available at <https://lawcodes.judcom.nsw.gov.au/>.

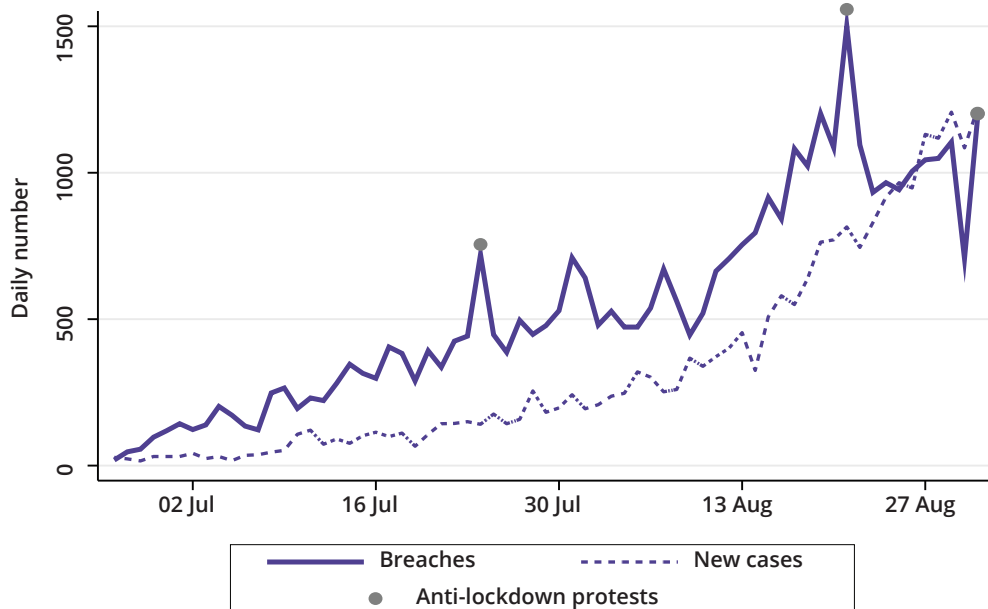
⁴ Datasets available at: <https://data.nsw.gov.au/nsw-covid-19-data/cases>.

RESULTS

What happened to police recorded breaches of public health orders from June to August 2021?

Figure 2 shows the daily number of public health order breaches recorded by police and new COVID-19 infections recorded by NSW Health over the period 26 June 2021 to 31 August 2021. The number of breaches of public health orders increased dramatically following the re-introduction of stay-at-home orders for the whole of Greater Sydney on 26 June 2021, with a total of 36,597 breaches recorded up until 31 August 2021. Of these, 10,325 and 25,934 breaches occurred in July and August 2021 respectively. Breach counts were largely commensurate with the increase in COVID-19 infections over the same period, with the notable exception of three spikes in breaches coinciding with anti-lockdown protests (24 July 2021, 21 August 2021 and 31 August 2021).

Figure 2. Breaches of NSW public health orders and new cases, 26 June 2021 to 31 August 2021



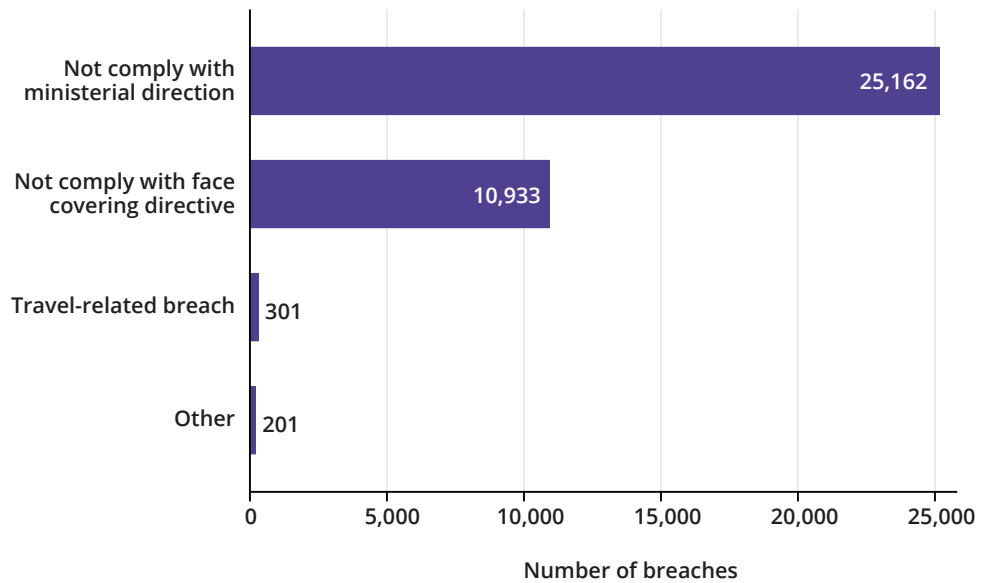
Sources: NSW Recorded Crime Statistics, NSW Health

What is the nature of police recorded breaches of public health orders in NSW?

Breaches of public health orders recorded by NSW police can be broadly classified into four groups: failing to comply with a Ministerial direction; failing to comply with directions relating to face coverings; travel-related breaches;⁵ and other breaches. Figure 3 shows the distribution of breaches of public health orders detected by police between 26 July 2021 and 31 August 2021, broken down by these broad categories. Nearly 70 per cent of the breaches related to failing to comply with Ministerial directions (25,162 breaches; 68.8%), approximately 30 per cent of the breaches related to failing to wear or carry a face covering (10,933 breaches; 29.9%), and the remainder related to travel (301 breaches; 0.8%) and other restrictions (201 breaches; 0.5%).

⁵ These comprise of people travelling outside of Greater Sydney and providing false information to the Australian Border Force.

Figure 3. Types of breaches of NSW public health orders, 26 June 2021 to 31 August 2021

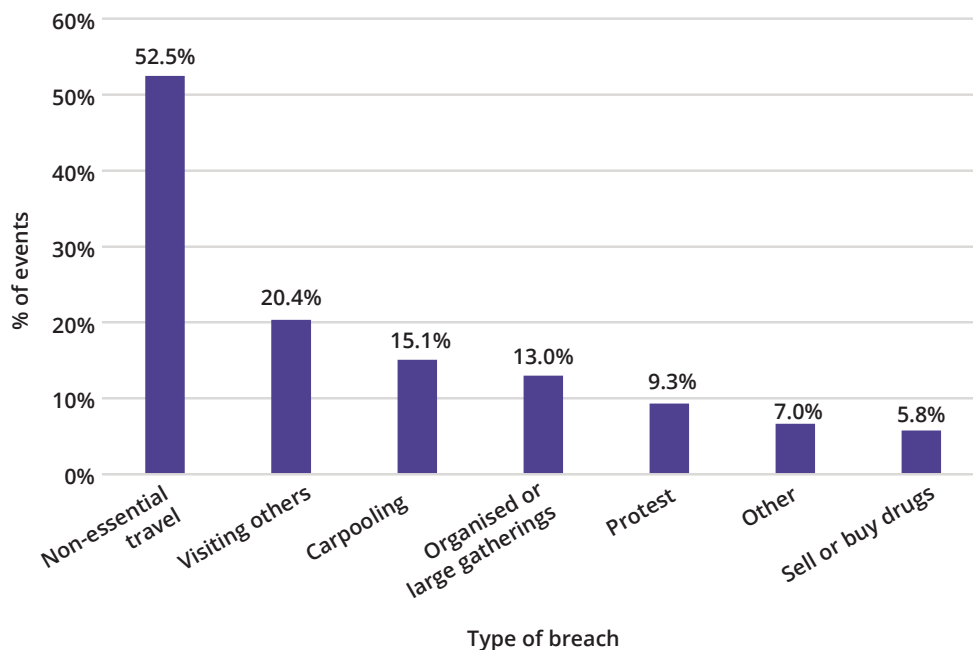


Source: NSW Recorded Crime Statistics; n=36,597

What constitutes ‘not comply with ministerial direction’?

Our coding of narratives of 570 breaches involving failure to comply with ministerial directions in July indicated that more than half of these breaches (52.5%) involved non-essential travel (a person being outside of their LGA or permitted radius of travel without a reasonable excuse) (Figure 4). Of the remaining reasons, the most common were visiting others (or a person having others visit their residence), which related to 116 (20.4%) breaches; carpooling (86 or 15.1% of the breaches); organised or large gatherings (74 breaches or 13.0%); protests (53 or 9.3%)⁶; and 33 (5.8%) involved selling or buying drugs⁷.

Figure 4. Nature of breaches based on a random sample of narratives of 570 breach events, July 2021



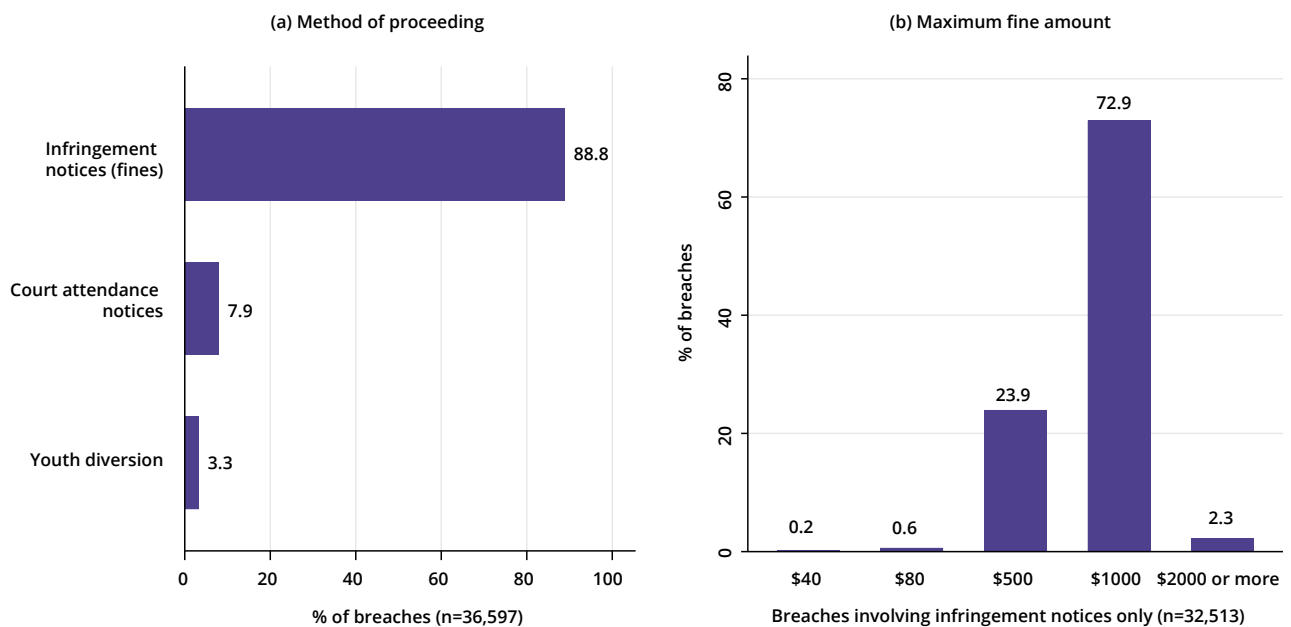
⁶ In August 2021, two new law parts were added: ‘97721 - Public Health Act 2010, s10 - Unlawfully participate in outdoor gathering-stay at home area’ and ‘97722 - Public Health Act 2010, s10 - Unlawfully participate in outdoor gathering-area of concern’. We have included these in the ‘not comply with ministerial direction’ category to maintain consistency over the dataset.

⁷ We only coded breaches to this category if there was evidence that a transaction had occurred, either due to the discovery of drugs in a search or if police witnessed a transaction.

How were COVID-19 breaches proceeded against?

Figure 5(a) shows the methods used by police to proceed against those who were detected breaching the public health orders. The overwhelming majority (88.8%) of breaches were dealt with by way of infringement notices (i.e., fines). A small proportion (7.9%) proceeded to court, and 3.3% of breaches involved youth court diversion (i.e., warnings and cautions under the *Young Offenders Act 1997* (NSW)). Figure 5(b) shows the distribution of maximum fine amounts⁸ for breaches resulting in an infringement notice. Of the 32,513 infringement notices issued, more than 7 out of 10 (72.9%) were for offences with a maximum fine of \$1,000, and nearly a quarter (23.9%) were for offences with a maximum fine of \$500. Only 2.3% of fines were for offences with a maximum fine of \$2,000 or more. While only a small proportion of these matters add to criminal courts' workload, the large volume of breaches means that COVID-19 breaches result in 2,854 additional matters for the Local Court⁹.

Figure 5. Method of proceeding and maximum fine amounts for COVID-19 breaches, 26 June 2021 to 31 Aug 2021



Source: NSW Recorded Crime Statistics

Where and when are police detecting breaches?

Figure 6(a) shows the distribution of breaches (excluding protest related breaches)¹⁰ in Sydney LGAs of concern, Sydney LGA, LGAs outside Greater Sydney, and other LGAs in Greater Sydney (i.e., excluding LGAs of concern and Sydney LGA) from 26 June 2021 to 31 August 2021. The proportion of new COVID-19 infections detected, and the estimated resident population in these areas is also shown. The highest number of breaches occurred in the LGAs of concern, totalling 13,292 breaches after 26 June 2021 and 13,217 breaches when excluding protests. This was followed by LGAs outside Greater Sydney (10,659 breaches; 10,340 excluding protests) other Greater Sydney LGAs, with approximately 8,309 breaches of COVID-19 public health orders detected over the same period (8,232 excluding protests).

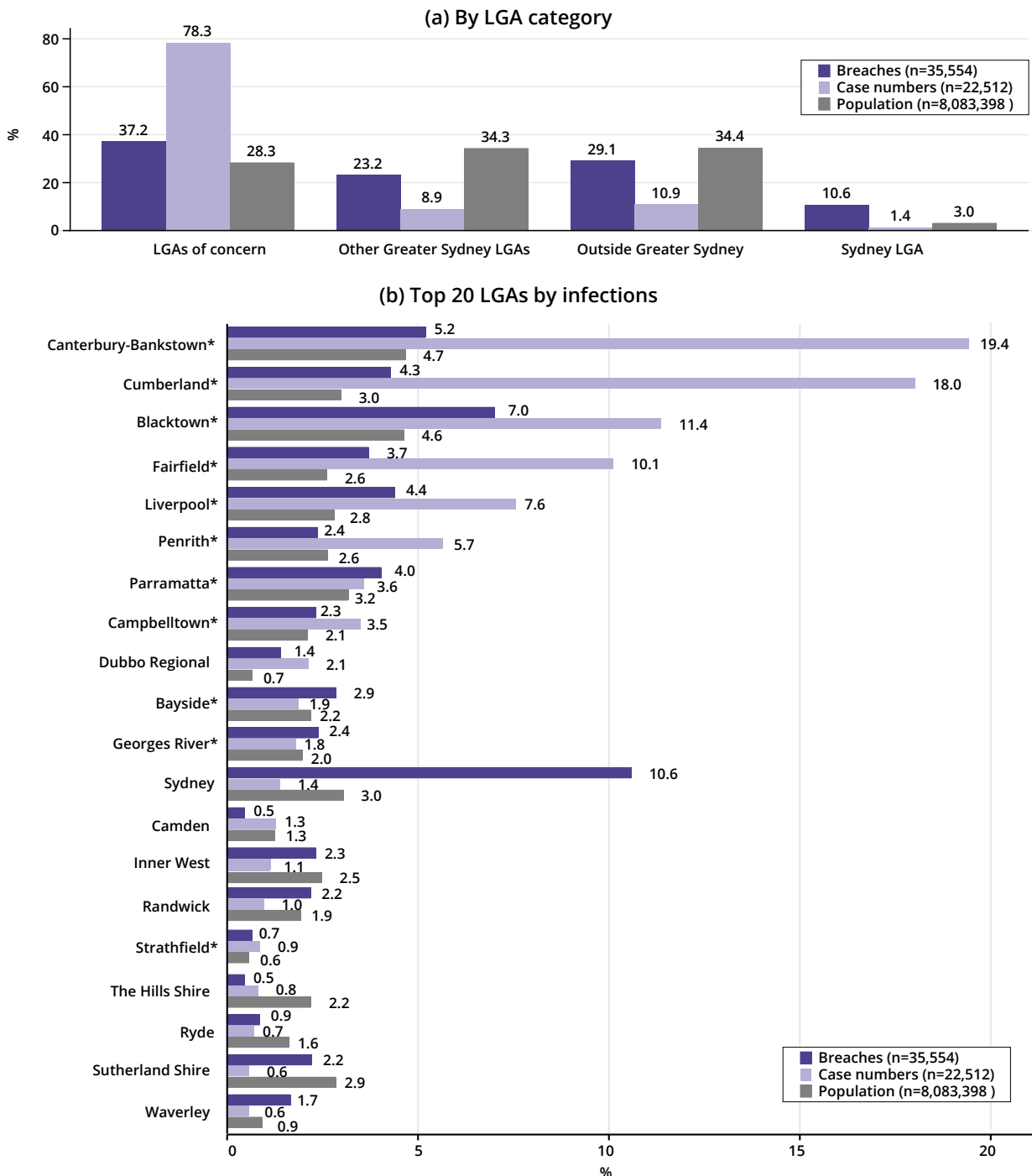
⁸ This is the maximum fine that can be given for the offence according to legislation.

⁹ The other avenue by which these breaches could contribute to an increased caseload in the Local Court is if infringement notices are contested; in July 2021 and August 2021 there were only 16 finalised matters in the Local Court where an infringement notice for a COVID-19 breach was contested. However, these matters likely come from older infringement notices. It is likely that there will be more contested fines in the Local Court in coming months given the large increase in the volume of COVID-19 breaches over July and August 2021.

¹⁰ We count breaches occurring in Sydney LGA on 24 July 2021 and 21 August 2021 as protest breaches, as well as those falling under the law parts 72271 and 72272. The 31 August protests occurred in multiple areas.

Figure 6(b) shows the number of detected breaches, infections and estimated resident population for the 20 LGAs with the highest number of new COVID-19 infections during the period examined (excluding protest related breaches). In general, LGAs with more cases in July and August 2021 were also those where police detected a greater number of breaches. However, in a number of LGAs, detected breaches outstripped infections, such as Sydney with just 1.4% of new infections but 10.6% of all breaches proceeded against by police. Most of this is owing to non-residents being detected breaching orders in Sydney; only 40% of breaches detected in Sydney LGA involved a resident of the area. In comparison, 9.5% of breaches were recorded in Canterbury-Bankstown and Cumberland LGAs despite these two LGAs accounting for almost 40% of all new COVID-19 infections.

Figure 6. Distribution of breaches and new COVID-19 cases, by LGA type and in top 20 LGAs in terms of new infections, 26 June 2021 to 31 August 2021 (excluding protest breaches)



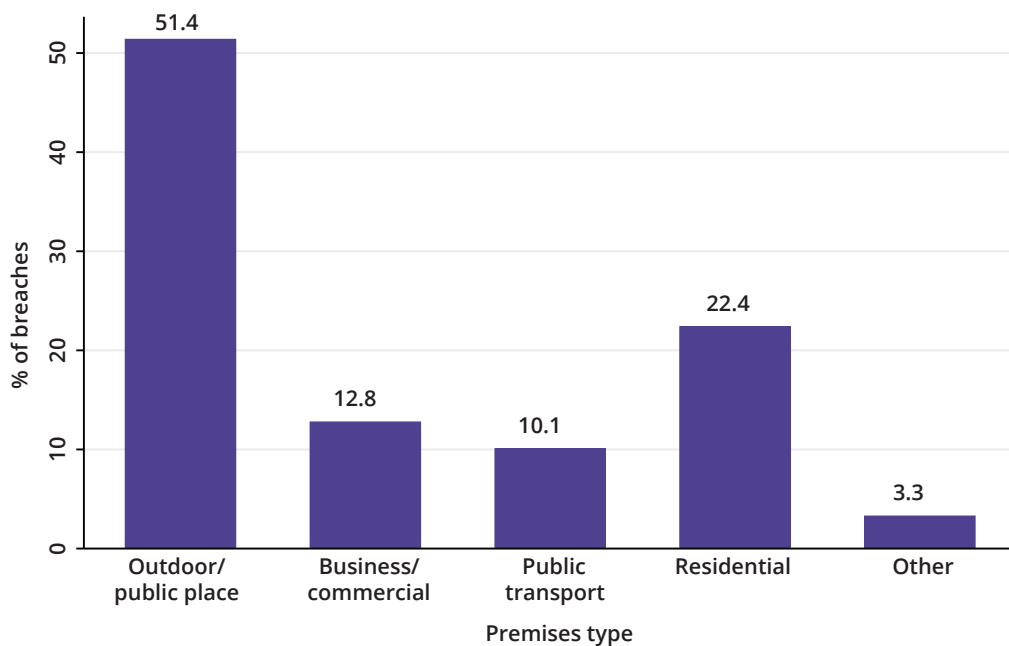
* LGAs of concern

Sources: NSW Recorded Crime Statistics and NSW Health

Most breach incidents did not include information regarding the premises where the breach occurred (23,134 or 63%). However, amongst incidents where the premises type was recorded, we found that half (51.4%) occurred outdoors or in a public place, 22.4% at a residential location, 12.8% at a business or commercial premises and 10.1% occurred in public transport-related locations (Figure 7). The remaining 3.3% occurred in other locations.

Of the 570 police narratives relating to failure to comply with ministerial directions, approximately half (48%) involved searches of the person, location, or vehicle of interest. While some of these were initiated following the initial contact of the breach, a substantial proportion of people approached by police in relation to breaches were also perceived to be engaging in other suspicious behaviour (such as drug dealing).

Figure 7. Premises where public health order breaches occurred, 26 June 2021 to 31 August 2021



Source: NSW Recorded Crime Statistics; n=13,463

Now we turn to when breaches are most often occurring. Table 1 shows the number of breaches by the time of day and the day of the week. The modal day for breaches over the period examined is Saturday, with 7,084 breaches recorded on this day (approximately 20% of all breaches). This is 30% higher than the next most common day (Friday). Breaches are commonly recorded between 9am and 9pm (24,142 breaches; 85.7% of all breaches). Saturday between 12pm and 3pm was the time of day and day of week combination with the largest number of breaches. This is at least partly due to the two protests which occurred on Saturdays (24 July and 21 August). The 31 August protests, where police arrested 150 people and issued close to 600 infringement notices across the state (NSW Police Force, 2021), contributed to the high number of breaches occurring on Tuesdays between 9am and 12am.

Table 1. Number of breaches recorded by NSW Police, 26 June 2021 to 31 August 2021, by time of day and day of week

Time of day ¹	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Total
12am-3am	248	267	272	293	255	615	571	2,521
3am-6am	81	80	71	71	106	164	108	681
6am-9am	257	341	315	320	291	212	218	1,954
9am-12pm	895	1,448	943	1,024	857	1,206	926	7,299
12pm-3pm	846	1,050	1,067	1,044	923	1,526	973	7,429
3pm-6pm	731	781	875	1,023	1,003	1,229	978	6,620
6pm-9pm	521	472	488	609	910	917	478	4,395
9pm-12pm	574	582	652	722	1,068	1,215	441	5,254
Total	4,153	5,021	4,683	5,106	5,413	7,084	4,693	36,153

■ >720 breaches (approximately 2%)

■ >1000 breaches (approximately 3%)

¹Time of day was not recorded for 444 breaches

What are the characteristics of people detected breaching COVID-19 public health orders in NSW?

Table 2 presents the characteristics of people detected breaching COVID-19 public health orders by police. Nearly three-quarters (74.3%) of breaches involved a male, more than 60 per cent of breaches involved a person aged 18-39, and 4.1% of breaches involved an Aboriginal person. In terms of prior contacts, 2.1% of individuals had a prior breach of the public health orders. Notably, nearly half of breaches (49.7%) involved individuals who were previously proceeded against by police for another offence in the last 5 years.

Table 2. Characteristics of persons proceeded against for a COVID-19 breach, 26 June 2021 to 31 August 2021

Variable	N	%
Gender		
Female	8,767	24.0%
Male	27,186	74.3%
Missing/Unknown	200	0.5%
Not recorded	444	1.2%
Age		
10-17	2,825	7.7%
18-29	14,094	38.5%
30-39	8,391	22.9%
40-49	6,162	16.8%
50 and older	4,681	12.8%
Not recorded	444	1.2%
Aboriginality at current contact		
Aboriginal	1,499	4.1%
Non-Aboriginal	31,651	86.5%
Not recorded	444	1.2%
Unknown	3,003	8.2%
Had a prior breach of COVID-19 public health orders	783	2.1%
Any prior offence proceeded against in last 5 years	18,204	49.7%

How do recorded breaches compare to underlying rates of non-compliance with COVID-19 public health orders?

One possible explanation for the variation in breach rates among different groups of people is their level of compliance with the restrictions. Our survey of the Greater Sydney public sought to estimate rates of non-compliance with the various restrictions. Figure 8 shows the rates of self-reported non-compliance with different aspects of the public health orders estimated from our general population survey. In this, and subsequent figures, both the point estimate and the associated 95 per cent confidence interval is displayed for each activity. As discussed above we calculated non-compliance as the proportion of people who indicated that they engaged in any of these activities for reasons other than essential, approved or work purposes.

Generally, the proportion of people engaging in breach-related activity is relatively low. People are more likely to have not checked into a venue (27.5%) or not worn a mask outdoors (22.7%) compared to more serious non-compliance such as visiting family or friends (13.7%) or travelling outside their LGA (17.0%). Many respondents indicated that the reason for not checking into a venue or not wearing a mask was simply because they forgot. Approximately one-fifth (22.1%) of people are meeting outdoors with people from outside their household, however our measure may include people meeting one friend or family member outside their home for recreation or exercise (which is permitted).

Figure 8. Estimated non-compliance with COVID-19 rules among Greater Sydney residents

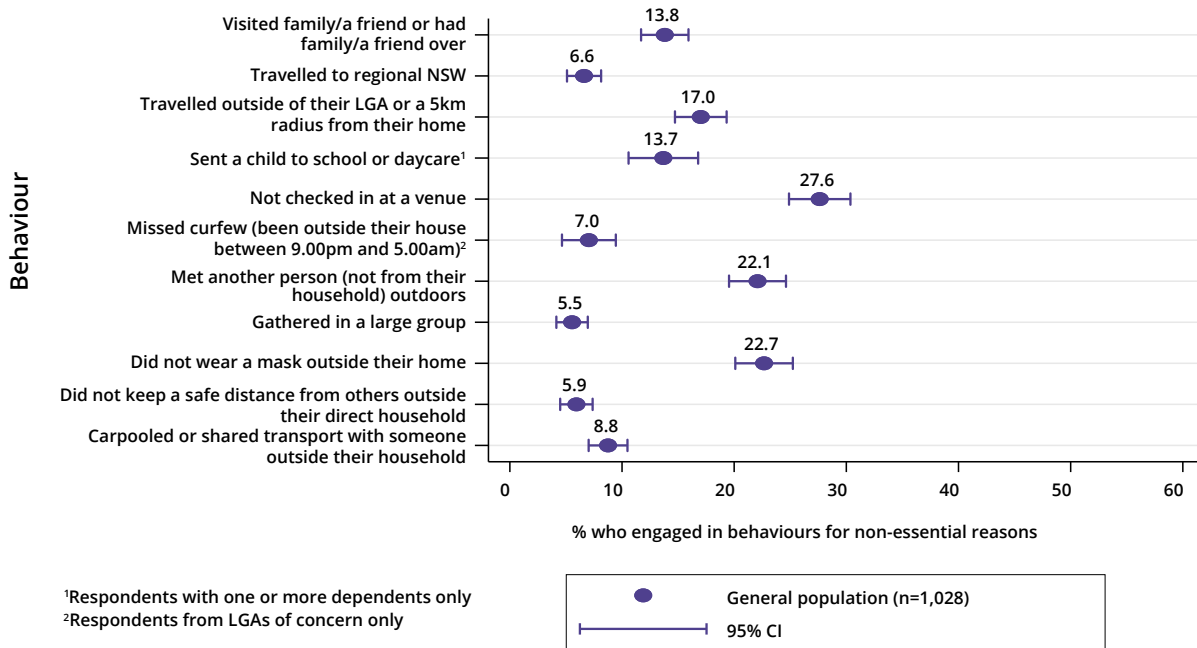


Table 3 shows the frequency of engaging in the restricted activities. Two results are particularly noteworthy here. Firstly, while only 5.5% of people reported gathering in large groups for non-compliant reasons, almost half who did engage in this activity reported that they did it 'sometimes' in the two weeks prior to the survey, and a further 24.6% said they did it 'a lot'. Secondly, 57.0% of those who visited family and friends and 52.2% who those who carpooled with someone outside their household did so 'sometimes' or 'a lot' in the two weeks prior to taking the survey. Thus, while the overall rates of non-compliance are relatively low, those who engage in some non-compliant activities report doing so on a frequent basis.

Table 3. Frequency of engagement in various behaviours among non-compliers

Behaviour	% who engaged in behaviour		
	Only when necessary	Sometimes	A lot
Visited family/a friend or had family/a friend over (n=142)	43.0%	47.2%	9.9%
Gathered in a large group (n=57)	24.6%	50.9%	24.6%
Did not keep a safe distance from others outside your direct household (n=61)	31.1%	45.9%	23.0%
Met another person (not from your household outdoors) (n=227)	42.3%	49.8%	7.9%
Travelled outside of your LGA or a 5km radius from your home (n=175)	59.4%	25.7%	14.9%
Travelled to regional NSW (n=68)	30.9%	48.5%	20.6%
Did not wear a mask outside your home (n=233)	38.2%	40.3%	21.5%
Sent a child to school or daycare (n=65)	32.3%	40.0%	27.7%
Carpooled or shared transport with someone outside your household (n=90)	47.8%	32.2%	20.0%
Not checked in at a venue (n=284)	33.8%	42.6%	23.6%
Missed curfew (been outside your house between 9.00pm and 5.00am) (n=31)	51.6%	32.3%	16.1%

The number of respondents in each category are people who engaged in each activity for reasons other than essential, approved or work purposes

Turning to non-compliance by age (Figure 9), we observe small differences in rates of non-compliance between those aged 30 and younger and older groups. Overall, younger people were either equally or slightly less likely to engage in non-compliant behaviours. The exception is failing to check in, where young people reported significantly lower rates of non-compliance.

Figure 10 presents rates of engagement in non-compliant activities for people residing in LGAs of concern compared to residents from other areas of Greater Sydney. Recall that Figure 6(a) showed that more breaches were detected in LGAs of concern, followed by LGAs outside Greater Sydney, Sydney LGA and other Greater Sydney LGAs. Figure 10 shows that, across every type of activity, people in LGAs of concern reported lower rates of non-compliance than those from other Greater Sydney LGAs.

Figure 9. Estimated non-compliance among younger and older people

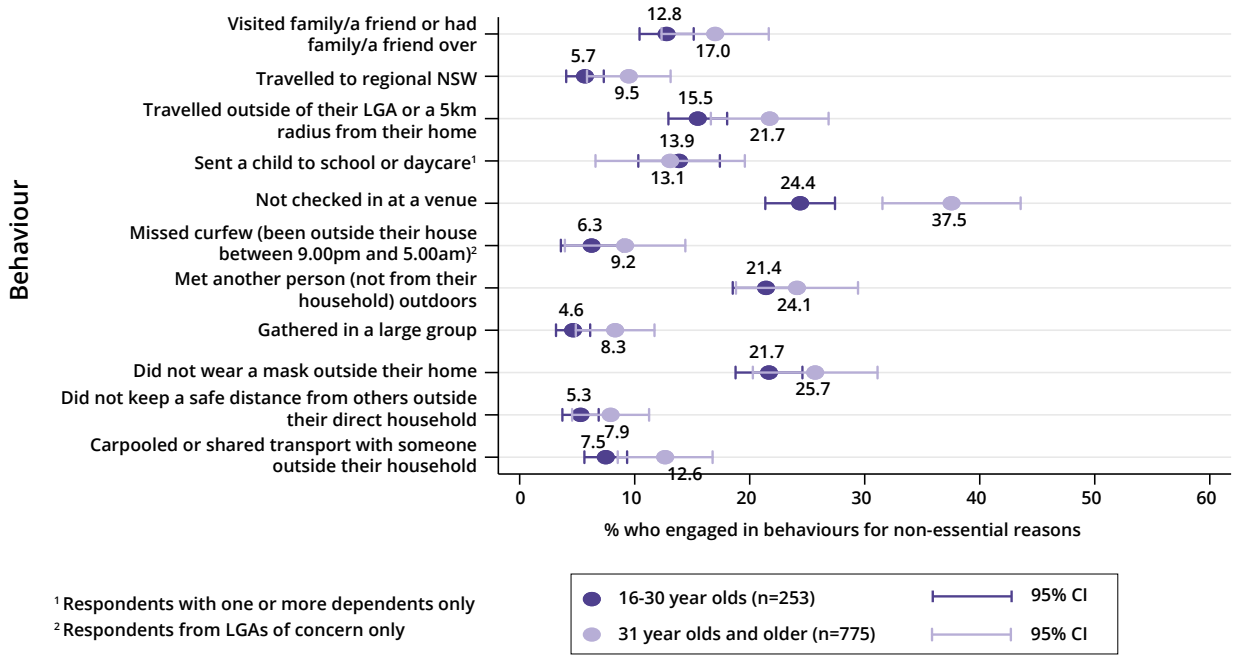
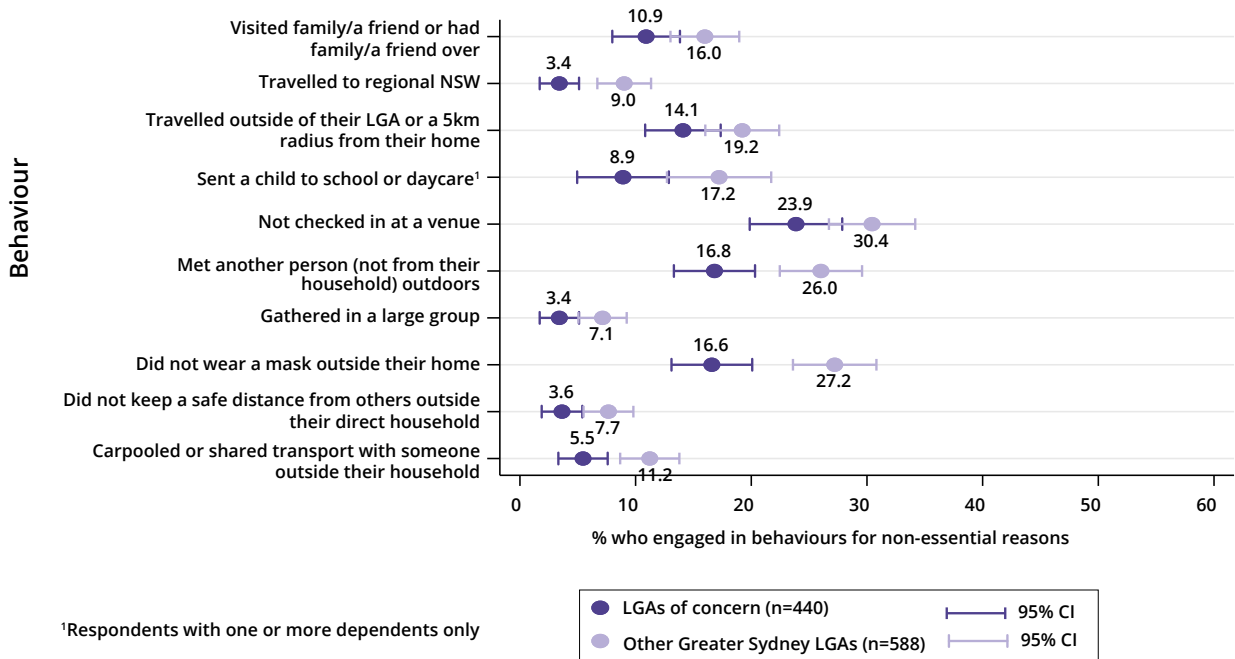


Figure 10. Estimated non-compliance in LGAs of concern versus other Greater Sydney LGAs



DISCUSSION

There was a dramatic increase in the number of people proceeded against by police for breaches of COVID-19 public health orders following the imposition of restrictions in Greater Sydney in late June 2021. Between 26 June 2021 and 31 August 2021, a total of 36,597 breaches of public health orders were recorded by NSW Police. The number of breaches recorded in August was more than double the figure recorded in July.

Most breaches of the public health orders related to unnecessary movement and visiting other households, as opposed to breaches related to face coverings, travel and other restrictions such as failing to close business premises. Nearly 9 in 10 breaches were dealt with by way of an infringement notice, with a typical maximum fine amount for the offence of \$1,000. While only a small proportion of all breaches resulted in a court attendance notice (7.8%), this equates to an additional 2,854 matters for the Local Court. Only a small number of fines have been contested in court as of August 2021. However, this will likely increase given the large number of fines issued for COVID-19 breaches in August 2021, especially if more people choose to contest these fines. Saturdays were the day with the highest number of breaches recorded (20%) and most breaches occurred during daylight hours (60%).

More breaches were detected involving males, those aged 18 to 39 and in LGAs of concern. Half of the breaches involved people with a prior offence. Half of the breaches involved a person proceeded against by police for a prior offence in the last 5 years. There are several possible (non-exclusive) explanations why these groups account for more breaches of public health orders: (1) they are more likely to breach restrictions; (2) the areas where they live/work had a greater police presence during the lockdown (if not also at other times); (3) they are more visible to police and therefore more likely to be approached to assess compliance, and/or; (4) they are more likely to be formally proceeded against once police identify that a breach has occurred (as opposed to simply being ordered to return home).

There is some evidence against the first of these explanations. Data from our survey of Sydney residents showed that self-reported rates of non-compliance were generally low across all areas, with less than one in five respondents reporting engaging in more serious non-compliance such as visiting family or friends or gathering in large groups. These estimates align with those from both Australian (Grundy & Slattery, 2020) and international (Kleitman et al., 2021) surveys of non-compliance among Australian respondents. Importantly, we found somewhat lower rates of non-compliance among people residing in LGAs of concern compared with other areas across Greater Sydney, and very few differences between younger and older age groups.

Instead, several points of data suggest that increased enforcement activity at certain times and locations is the major factor driving breaches. Breach activity has been high in both LGAs of concern and areas of high pedestrian activity which is consistent with a high-visibility enforcement strategy. Close to half of all individuals proceeded against by police for a breach of the COVID-19 public health orders had previously been proceeded against by police for other offences and breaches most often occurred in outdoor public places or at public transport hubs. Qualitative data from the narratives analysis also suggests that a high proportion of detected breaches involved police searches, occurring through road patrols and suspected drug activity. These findings align with other research by Boon-Kuo et al. (2021) which reported that 45% of all people stopped in relation to COVID-19 public health orders during the March 2020 restrictions in NSW were also searched.

It is possible that self-reported rates of compliance were greater in LGAs of concern because of the increased enforcement activity prior to the surveying period, but it is also possible that residents were motivated to adhere to the restrictions because the risk of infection was substantially higher in these localities. Regardless, the high volume of breaches and the heavy penalties that these offences attract will present a significant burden for some sections of the community who are already vulnerable. The longer-term impact of this enforcement activity should therefore be the subject of continued monitoring and public scrutiny.

ACKNOWLEDGEMENTS

The author would like to acknowledge Jackie Fitzgerald, Malindi Sayle, Suzanne Poynton, Stephanie Ramsey, and Min-Taec Kim for their comments on the design of the research and earlier drafts. Thanks are also due to Pia van de Zandt, David Anker, Natasha O'Farrell of the Office of Community Safety and Cohesion in the development and dissemination of this research. The author would also like to thank Frank Caristo, Eva Koromilas, Alex Galassi and Dave Trudinger from the Department of Customer Service for comments on the questionnaire, and Ilya Klauzner, Stewart Boiteux and Alana Cook for testing the survey, and Amy Pisani for assistance with coding of the narratives. Derek Goh compiled the datasets used in this paper, and Stephen Lally, Jacqueline Barnes, and Natasha Greenwood from Communications coordinated the survey distribution. Finally, we would like to thank Merran Butler and Christine Lo from DCJ Insights, Analysis and Research assistance in data collection and Florence Sin for desktop publishing.

REFERENCES

- Boon-Kuo, L., Brodie, A., Keene-McCann, J., Sentas, V., & Weber, L. (2020). Policing biosecurity: police enforcement of special measures in New South Wales and Victoria during the COVID-19 pandemic. *Current Issues in Criminal Justice*, 76–88. <https://doi.org/10.1080/10345329.2020.1850144>
- Chang, S. L., Cliff, O. M., Zachreson, C., & Prokopenko, M. (2021). *Nowcasting transmission and suppression of the Delta variant of SARS-CoV-2 in Australia* (arXiv Pre-print No. 2107.06617). Retrieved from <https://arxiv.org/abs/2107.06617v2>
- Corsetti, S. (2021, September 21). Millions of dollars in fines for breaching Australia's COVID rules haven't been paid. *SBS News*. Retrieved October 5, 2021, from <https://www.sbs.com.au/news/millions-of-dollars-in-fines-for-breaching-australia-s-covid-rules-haven-t-been-paid/d5e8e912-a3b8-44df-9eda-866e206a4f29>
- Faruqi, O. (2020, April 18). Compliance fines under the microscope. *The Saturday Paper*. Retrieved October 5, 2021, from <https://www.thesaturdaypaper.com.au/news/health/2020/04/18/compliance-fines-under-the-microscope/15871320009710#hrd>
- Grundy, E., & Slattery, P. (2020). SCRUB Round 10: Insights into Australians spending behaviour, mental health and access to services. Retrieved October 5, 2021, from BehaviourWorks Australia website: <https://www.behaviourworksaustralia.org/scrub-round-10-insights-into-australians-spending-behaviour-mental-health-and-access-to-services/>
- Kleitman, S., Fullerton, D. J., Zhang, L. M., Blanchard, M. D., Lee, J., Stankov, L., & Thompson, V. (2021). To comply or not comply? A latent profile analysis of behaviours and attitudes during the COVID-19 pandemic. *PLOS ONE*, 16(7), e0255268. <https://doi.org/10.1371/JOURNAL.PONE.0255268>
- McNally, J. (2020). Accountability, discretion and the rule of law: Issues in pandemic policing – AUSPUBLAW. Retrieved October 5, 2021, from Australian Public Law website: <https://auspublaw.org/2020/07/accountability-discretion-and-the-rule-of-law-issues-in-pandemic-policing/>
- NSW Government. (2021a, June 26). COVID-19 restrictions extended in NSW. Retrieved October 5, 2021, from <https://www.nsw.gov.au/media-releases/covid-19-restrictions-extended-nsw>
- NSW Government. (2021b, September 20). New protections and compliance rules to carry NSW through to vaccination targets. Retrieved October 5, 2021, from <https://www.nsw.gov.au/media-releases/new-protections-and-compliance-rules-to-carry-nsw-through-to-vaccination-targets>

NSW Police Force (2021). Media release: 153 arrested; 573 PINs to be issued over unauthorised protest activity across NSW. 31 August. Retrieved September 29 2021, from https://www.police.nsw.gov.au/news/news_article?sq_content_src=%2BdXjsPWh0dHBzJTnBJTjGJtJGZwJpenByZC5wb2xpY2UubnN3Lmd-vdi5hdSUyRm1IZGhJtJGOTcyNjQuaHRtbCZhbGw9MQ%3D%3D

Public Health England. (2021). *SARS-CoV-2 variants of concern and variants under investigation Technical Briefing*. (No. 19).

SBS News. (2021, September 15). COVID-19 curfews lifted for Sydney's LGAs of concern. Retrieved October 5, 2021, from SBS News website: <https://www.sbs.com.au/news/covid-19-curfews-lifted-for-sydney-s-lgas-of-concern/1768b874-b3a3-471f-8fd4-78a840e21963>

Thompson, A. (2021, August 19). NSW COVID: NSW Police commissioner says officers wrongly issuing tickets won't be held to account. *Sydney Morning Herald*. Retrieved September 29, 2021, from <https://www.smh.com.au/national/police-commissioner-says-officers-wrongly-issuing-tickets-won-t-be-held-to-account-20210819-p58k76.html>

APPENDIX 1. CODING FRAMEWORK AND APPROACH

We obtained narratives pertaining to 570 events involving law parts 95638 (Not comply with noticed direction re s 7/8/9 - COVID-19) and 95640 (Fail to comply requirement public health order - COVID-19), which were randomly chosen from the 10,325 breaches which occurred in July 2021. For each of these narratives we coded the type of breach and whether the breach involved a search for drugs or other prohibited items.

We coded the nature of the breach using the framework described in Table A1. Each event could fall into multiple breach categories (for example, people carpooling on the way to an organised gathering), however each category was used once per event.

Table A1. Coding framework for the nature of the breach in breach narratives

Breach category	Description
Carpooling	Persons not from the same household in a vehicle together
Non-essential travel	If a person described travelling outside their LGA for a non-essential purpose
Organised or large gathering	Involved three or more people or some form of an organised activity (poker games, sports, parties, etc.)
Other	All other reasons not covered by other codes
Protest	Related to anti-lockdown protests
Sell or buy drugs	Involving a drug transaction
Visiting others	When the reason given for the breach was visiting another person, or the breach was detected when a person visited the residence of another person

APPENDIX 2. SURVEY INSTRUMENT

Lockdown is hard. COVID-19 rules are how we protect each other and save lives until we are all vaccinated.

But we know that following the rules isn't easy. We would like to know more about how the rules impact you so we can make it easier to stay safe during COVID-19. Your responses will remain anonymous, completely confidential and won't be shared.

The survey is being run by the NSW Department of Communities and Justice and it will take about 5 to 10 minutes to complete. If you'd like more information about this survey, you can anonymously contact bcsr@justice.nsw.gov.au.

1. How old are you? ___ *(survey terminates if aged 15 or younger, no response recorded)*
2. What is your gender? *(Male; Female ; Non-binary/other _____)*
3. How many people live in your household _____? *(limited to 0 to 10)*
4. How many dependents are in your household? _____ *(limited to 0 to 9; must be fewer than response in question 3)*
5. What local government area do you live in *(list of Greater Sydney LGAs and 'Outside Greater Sydney')*
6. Do you agree that the COVID-19 rules protect people and the community from COVID-19? *(strongly disagree; disagree; don't know; agree; strongly agree)*
7. Have you had a COVID-19 vaccination? *(No – I do not plan to get vaccinated; No – But I have a booking; No – I have not booked yet; Yes – one dose of a vaccine ; Yes – two doses of a vaccine; I cannot be vaccinated; Other _____)*
8. If yes or booked, how likely will you be to get the COVID-19 vaccine booster shot once it is available? *(Definitely will; probably will; may or may not; probably won't; definitely won't)*
9. How often did you follow COVID-19 rules in the last two weeks? *(Not at all; to a minor extent; to a moderate extent; to a major extent; completely)*
10. How likely is it that you will wear a mask when you go somewhere where social distancing is difficult? *(I definitely won't; I probably won't; I may or may not; I probably will; I definitely will,)*
11. How likely are you to get tested for COVID-19 if you have minor symptoms? *(I definitely won't; I probably won't; I may or may not; I probably will; I definitely will)*
12. Have you done any of the following in the last two weeks (for whatever reason)?

Activity	I did this a lot	I sometimes did this	I only did this when necessary	I never did this
Visited family/a friend or had a family/a friend over at your residence (not involving a singles bubble)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Met another person (not from your household) outdoors	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Gathered with a group of people (not from your household)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Did not keep a safe distance from people outside of your direct household	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Travelled outside of your LGA or a 5km radius from your home	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Travelled to regional NSW	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Did not wear a mask outside your home	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Sent a child to school or daycare (if a person had 1 or more dependents)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Carpooled or shared transport with someone outside your household	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Not checked in at a venue	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Missed curfew (been outside your house between 9.00pm and 5.00am) (if a person was from an LGA of concern)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

13. What are the reasons you visited family/ a friend or had family/ a friend over? (displayed if a person responded 'only when necessary', 'I sometimes did this', or 'I did this a lot')

- I was allowed under the rules
- To provide essential care for a friend or family member
- I did not think this activity put me at risk of catching COVID
- There are low rates of COVID in my area so I thought it was okay
- I've had two vaccine doses so think I have low risk of getting COVID
- A mistake/I forgot
- I didn't think I would be found out by police
- I wanted to be with friends and family
- My home is a stressful place to be
- My home is not always safe for me to stay
- Other reasons or needs (please describe) _____

14. What are the reasons you did not keep a safe distance from others outside of your direct household? (*displayed if a person responded 'only when necessary', 'I sometimes did this', or 'I did this a lot'*)

- I was allowed under the rules
- To provide essential care for a friend or family member
- To travel to my workplace or for work reasons
- I did not think this activity put me at risk of catching COVID
- There are low rates of COVID in my area so I thought it was okay
- I've had two vaccine doses so think I have low risk of getting COVID
- A mistake/I forgot
- I didn't think I would be found out by police
- I wanted to be with friends and family
- My home is a stressful place to be
- My home is not always safe for me to stay
- Other reasons or needs (please describe) _____

15. What are the reasons you gathered in a large group? (*displayed if a person responded 'only when necessary', 'I sometimes did this', or 'I did this a lot'*)

- I was allowed under the rules
- To travel to my workplace or for work reasons
- I did not think this activity put me at risk of catching COVID
- There are low rates of COVID in my area so I thought it was okay
- I've had two vaccine doses so think I have low risk of getting COVID
- I didn't think I would be found out by police
- I wanted to be with friends and family
- My home is a stressful place to be
- My home is not always safe for me to stay
- Other reasons or needs (please describe) _____

16. What are the reasons you have met another person (not from your household) outdoors?
(displayed if a person responded 'only when necessary', 'I sometimes did this', or 'I did this a lot')

- I was allowed under the rules
- To provide essential care for a friend or family member
- To travel to my workplace or for work reasons
- I did not think this activity put me at risk of catching COVID
- There are low rates of COVID in my area so I thought it was okay
- I've had two vaccine doses so think I have low risk of getting COVID
- A mistake/I forgot
- I didn't think I would be found out by police
- I wanted to be with friends and family
- My home is a stressful place to be
- My home is not always safe for me to stay
- Other reasons or needs (please describe) _____

17. What are the reasons you have travelled outside of your LGA or a 5km radius from your home?
(displayed if a person responded 'only when necessary', 'I sometimes did this', or 'I did this a lot')

- I was allowed under the rules
- To provide essential care for a friend or family member
- To travel to my workplace or for work reasons
- I did not think this activity put me at risk of catching COVID
- There are low rates of COVID in my area so I thought it was okay
- I've had two vaccine doses so think I have low risk of getting COVID
- A mistake/I forgot
- I didn't think I would be found out by police
- I wanted to be with friends and family
- My home is a stressful place to be
- My home is not always safe for me to stay
- Other reasons or needs (please describe) _____

18. What are the reasons you have travelled to regional NSW? *(displayed if a person responded 'only when necessary', 'I sometimes did this', or 'I did this a lot')*

- I was allowed under the rules
- To provide essential care for a friend or family member
- To travel to my workplace or for work reasons
- I did not think this activity put me at risk of catching COVID
- There are low rates of COVID in my area so I thought it was okay
- I've had two vaccine doses so think I have low risk of getting COVID
- A mistake/I forgot
- I didn't think I would be found out by police
- I wanted to be with friends and family
- My home is a stressful place to be
- My home is not always safe for me to stay
- Other reasons or needs (please describe) _____

19. What are the reasons you did not wear a mask outside your home? *(displayed if a person responded 'only when necessary', 'I sometimes did this', or 'I did this a lot')*

- I was allowed under the rules
- To travel to my workplace or for work reasons
- I did not think this activity put me at risk of catching COVID
- There are low rates of COVID in my area so I thought it was okay
- I've had two vaccine doses so think I have low risk of getting COVID
- A mistake/I forgot
- I didn't think I would be found out by police
- I wanted to be with friends and family
- My home is a stressful place to be
- My home is not always safe for me to stay
- Other reasons or needs (please describe) _____

20. What are the reasons you sent a child to school or daycare? *(displayed if a person responded 'only when necessary', 'I sometimes did this', or 'I did this a lot')*

- I was allowed under the rules
- To provide essential care for a friend or family member
- To travel to my workplace or for work reasons
- I did not think this activity put me at risk of catching COVID
- There are low rates of COVID in my area so I thought it was okay
- I've had two vaccine doses so think I have low risk of getting COVID
- A mistake/I forgot
- I didn't think I would be found out by police
- I wanted to be with friends and family
- My home is a stressful place to be
- My home is not always safe for me to stay
- Other reasons or needs (please describe) _____

21. What are the reasons you carpooled or share transport with someone outside your household? *(displayed if a person responded 'only when necessary', 'I sometimes did this', or 'I did this a lot')*

- I was allowed under the rules
- To provide essential care for a friend or family member
- To travel to my workplace or for work reasons
- I did not think this activity put me at risk of catching COVID
- There are low rates of COVID in my area so I thought it was okay
- I've had two vaccine doses so think I have low risk of getting COVID
- A mistake/I forgot
- I didn't think I would be found out by police
- I wanted to be with friends and family
- My home is a stressful place to be
- My home is not always safe for me to stay
- Other reasons or needs (please describe) _____

22. What are the reasons you have not checked in at a venue? *(displayed if a person responded 'only when necessary', 'I sometimes did this', or 'I did this a lot')*

- I was allowed under the rules
- I did not think this activity put me at risk of catching COVID
- There are low rates of COVID in my area so I thought it was okay
- I've had two vaccine doses so think I have low risk of getting COVID
- A mistake/I forgot
- I didn't think I would be found out by police
- Other reasons or needs (please describe) _____

23. What are the reasons you have missed curfew (been outside your house between 9.00pm and 5.00am)? *(displayed if a person responded 'only when necessary', 'I sometimes did this', or 'I did this a lot')*

- I was allowed under the rules
- To provide essential care for a friend or family member
- To travel to my workplace or for work reasons
- I did not think this activity put me at risk of catching COVID
- There are low rates of COVID in my area so I thought it was okay
- I've had two vaccine doses so think I have low risk of getting COVID
- A mistake/I forgot
- I didn't think I would be found out by police
- I wanted to be with friends and family
- My home is a stressful place to be
- My home is not always safe for me to stay
- Other reasons or needs (please describe) _____

24. What would help you to follow the rules? *(displayed if a person responded 'only when necessary', 'I sometimes did this', or 'I did this a lot')*

- Support to help me look after my children
- Support to shift my business online
- Financial support
- Transport support
- Mental health support services
- Food support
- Housing support
- Clearer rules
- Communication in the language I speak at home
- Fun activities to do at home Other opportunities or settings to socialise with friends or family
- Nothing
- Other _____

25. How often do you think people in your local community did the following in the last two weeks (for whatever reason)?

Activity	I don't know	They never did this	They sometimes did this	They did this a lot
Visited family/a friend or had a family/a friend over at their residence (not involving a singles bubble)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Gathered in a large group	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Did not keep a safe distance from people outside of their direct household	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Met another person (not from their household) outdoors	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Travelled outside of your LGA or a 5km radius from your home	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Travelled to regional NSW	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Did not wear a mask outside their home	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Sent a child to school or daycare	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Went to their workplace	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Carpooled or shared transport with someone outside their household	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Not checked in at a venue	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Missed curfew (been outside their house between 9.00pm and 5.00am)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

26. Have you or someone you know been fined, cautioned, warned or charged by the NSW Police Force for breaching COVID-19 health orders? (Yes / No / I don't know / Don't want to answer)

27. Do you have any other comments about the current public health orders? _____