



OFFICE OF THE INSPECTOR
OF CUSTODIAL SERVICES

Fine defaulters in the Western Australian prison system

April 2016

The reviews undertaken as part of the Office of the Inspector of Custodial Services' *Snapshot Series* are designed to provide a brief summary of an issue or trend in the Western Australian custodial environment. This review seeks to clarify the trends around the number of fine defaulters in prisons, as well as who these fine default prisoners are and the impact that they are having on the custodial estate.

The information examined is obtained through the Department of Corrective Services' offender database, Total Offender Management Solution (TOMS), and other open source data. The Departments of Corrective Services and the Attorney General have reviewed this report and provided feedback which has been taken into consideration.

This report does not make any recommendations but does raise some important issues and presents key findings.

ISBN: 978-0-9942293-3-5

This report is available on the Office's website and will be made available, upon request, in alternate formats.

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1 Inspector's Overview

Scope of report and key policy questions

The imprisonment of fine defaulters in Western Australian prisons has been a contentious issue for some time. Debates have centred around the number of defaulters in prison, their impact on an already-crowded prison system, the cost of short terms of imprisonment for fine default, and whether the state is too quick to imprison fine defaulters rather than using alternatives. Very different views have been put as to the extent of the problem and the potential solutions, and the matter has generated political division.

Some of the issues involved in fine default are beyond our jurisdiction as they involve the powers and practices of the courts, the police, and the fine enforcement sections of the Department of the Attorney General. At times during this review, some people in some government departments complained that we were going beyond our jurisdiction in undertaking this work. That is clearly not so: I am legislatively mandated to provide independent oversight of matters that impact on prisons. These necessarily extend to matters such as the number of fine defaulters; their profile (including their offending, and demographics); their impact on the prison population and the operation of prisons; the costs of their incarceration; and their welfare and treatment in prison. I have a legislative responsibility to report independently to Parliament on such issues if I believe this to be necessary or appropriate.

The report focuses primarily on the period from July 2006 to June 2015. The most important single finding is that while the number of people received into prison each year for fine default has increased markedly, there are few people in prison for fine default at any given time. This is because fine defaulters tend to serve very short periods in custody: their 'turnover' is high but their stay is short.

The policy implications of this are clear. First, *reducing the number of fine defaulters in prison will not lead to a significant reduction in either total prisoner numbers or the extent of overcrowding in the prisons.* As we and the Auditor General reported in 2015, the main 'target' for anyone seeking to reduce the prison population should be the alarming rise in the number of people held on pre-trial remand (Office of the Auditor

General [OAG] 2015; Office of the Inspector of Custodial Services [OICS] 2015a). At the time of writing, the remand population comprises over 29 per cent of the total prison population, up from 16 per cent a decade ago

On the other hand, however, *having people ‘churning’ in and out of custody for short periods for fine default is financially costly (several million dollars each year), socially undesirable, and risky and disruptive for prisons.* It is therefore incumbent on all agencies to ensure that everything possible is done to reduce this churn.

Significantly, this report has also revealed demographic differences, with Aboriginal women being by far the most likely cohort to be in prison for fine default. The death of Ms Dhu in police custody lies outside our jurisdiction. However, the current coronial inquest into her death has added poignancy and urgency to our findings.

What are the numbers?

In the nine year period between July 2006 and June 2015 an average of 803 people entered the prison system for unpaid fines each year. However, the patterns have been very uneven. The following table illustrates two key points:

1. The number of fine default receptions has grown markedly
2. The reception rate for fine default has grown much faster than the overall reception rate.

Fine default receptions as a proportion of total prison receptions from July 2006 to June 2015

Financial year	Fine default receptions	Total receptions	Proportion of fine default receptions
2006/2007	177	6607	1.80%
2007/2008	442	7201	6.10%
2008/2009	396	7562	5.20%
2009/2010	1018	7062	14.40%
2010/2011	1480	7119	20.70%
2011/2012	1081	7535	14.30%
2012/2013	1304	8130	16%
2013/2014	1127	8051	13.90%
2014/2015	603	8364	7.20%

2014/2015 saw a welcome and sharp decrease in the number of fine default receptions. However, numbers still remain well above 2008/2009 levels. It is too early to know whether they will go back up again.

Why the increase in receptions?

The reasons for the increase in fine default receptions are not clear but it is likely a number of legislative and policy changes had an impact.

First, a number of legislative amendments came into effect in March 2008. The most notable of these was that people were now able to 'cut out' multiple fines concurrently rather than cumulatively. This meant that a person with multiple fines would only have to serve sufficient time in prison to pay off the largest fine at the rate of \$250 per day. As a result, the number of days of imprisonment required to cut out multiple unpaid fines reduced significantly. However, the 2008 amendments did not alter the way fines could be worked off by undertaking community work, still requiring them to be worked off on a cumulative basis. It has been hypothesised that more people may now, in effect, be 'electing' to go to prison to clear multiple fines rather than undertaking a payment plan or community work. It was beyond the scope of this review to test this hypothesis. It appears plausible in some cases but is certainly not likely to be a complete explanation. And better evidence, not supposition or anecdote, is needed.

A second change which may have impacted on the number of fine default receptions was a 2009 policy whereby a stricter approach was taken to people who breached conditions on Work Development Orders (WDOs). Again while this appears plausible in some cases, it is unlikely to account for all. And, again, hard evidence is needed if the right policy responses are to be made.

Further legislative amendments, which came into effect in 2012, enhanced the enforcement measures available as an alternative to imprisonment, including wheel clamping of vehicles, removal of number plates and seizure of goods. In New South Wales, Queensland and Victoria the introduction of such measures appears to have reduced the number of fine default imprisonments.

Short stays and low numbers on any given day

From July 2006 to June 2015, there were 7462 prison receptions in Western Australia solely for fine default. The majority of these were for very short periods of imprisonment. The effect has been a very high churn rate for receiving prisons but low numbers of fine defaulters in prison on any given day.

Analysis of daily data for November 2015 showed that on average there were only 11 fine defaulters in prison on any given day. There was nothing to suggest this was not a reasonably indicative figure for a longer time period.

Prior to the 2008 amendments, the average length of imprisonment for fine defaulters was 40 days. Since these amendments the figure has dropped to 4.5 days. This was an across the board reduction and was not impacted by particular demographic considerations such as gender or Aboriginality. Almost 80 per cent of fine defaulters now serve less than a week in prison, and 22 per cent serve less than 48 hours.

Costs

It is far more expensive per day to house short stay prisoners than longer term prisoners. The Department of Corrective Services (the Department) does not have robust figures but has told us and the Auditor General that it estimates that short stays of up to a week cost around \$770 per day, more than double the overall average cost of \$332 per prisoner per day.

In simple terms it seems that between July 2006 and June 2014 just under \$55 million worth of unpaid fines was cleared by 7462 prison receptions for fine default. In total, 7025 people served just over 54,800 days in prison. Using the Department's estimated figure for the cost of short term imprisonment prisoners of \$770 per day, the cost was \$42 million. This figure does not include other justice system costs, such as the costs incurred by police, the courts and the transport of people to prison. These costs can be very substantial in the regions.

Who is in prison, where are they, and what were their offences?

The two main metropolitan reception prisons are Hakea Prison and Bandyup Women's Prison. Not surprisingly, these two prisons account for the majority of fine default receptions. Hakea accounts for almost half of all fine default receptions and days served,

and Bandyup for almost 15 per cent. As a consequence of growing remand numbers, these two prisons are already under the greatest stress in terms of prisoner numbers and occupancy rates. The pressures they face are exacerbated by the need to process fine defaulters in and out. Medical and reception services at small regional prisons such as Broome are also under serious stress (Office of the Inspector of Custodial Services [OICS] 2015b).

This report also shows some troubling gender and race differences. Women are disproportionately represented in the fine default population, particularly Aboriginal women. Across the whole review period, Aboriginal women comprised only 15 per cent of total prisoner receptions but 22 per cent of fine default receptions. Furthermore, Aboriginal people comprised 64 per cent of female fine defaulters and only 38 per cent of male fine defaulters.

People who are unemployed or in lower paying occupations make up a high proportion of total fine default receptions. Almost 24 per cent of the total fine defaulter population were categorised as unemployed at the time of their reception into prison. There was also a remarkable contrast in the data between men and women. At the time of their reception into prison over 73 per cent of female fine defaulters were considered to be unemployed. By comparison only 10 per cent of male fine defaulters were considered to be unemployed at that time. Additionally, of the women who were considered to be unemployed prior to their entry into prison, 64 per cent were Aboriginal.

Based on an analysis of available data, the majority of offences (54%) for which people were jailed for non-payment of fines were for traffic related offences, including drink driving and driving without a licence.

Looking ahead

Reducing the number of people in prison for fine default will not reduce the state's rising daily imprisonment rate because fine defaulters constitute only one in 500 prisoners. However, the flow of people into custody for short periods for fine default has increased markedly since 2008.

In considering future options, it is important to reflect on the justification for imprisonment for fine default. By definition, people who have been fined for an offence

do not deserve to be in prison for their offence. In fact, when a court fines someone, it has explicitly ruled out using tougher options such as immediate imprisonment, a suspended sentence, a community based order or an intensive supervision order. In effect, imprisonment for fine default is imprisonment for non-compliance with a court order.

There is little doubt that imprisonment needs to remain as the ultimate deterrent for people who wilfully refuse to pay or to engage in other measures to work off fines. However, it is a costly way to tackle the problem, and one that imposes significant burdens on our already severely stretched prisons. We also need better information on how many fine defaulters really are truly wilful (in other words, they are able to pay but choose not to) and how many are genuinely unable to pay or to comply with options such as community work. The evidence presented in this report is limited but gives cause for concern, as Aboriginal women, and especially unemployed Aboriginal women, are the most likely to be imprisoned for default.

In short, the number of people in prison for fine default at any given time is small. However, it is incumbent on Government, working with relevant Departments, Agencies and the not-for-profit sector, to examine innovative ways to reduce the flow of people into prison for fine default and to reduce the social and financial costs of short term incarceration.

Imprisonment must be the option of last resort and the law should impact equally on all. However, imprisonment for fine default is currently impacting disproportionately on Aboriginal women, already a vulnerable and disadvantaged group. The coronial inquest into the tragic death in custody of Ms Dhu has added stark reality to this message.

Neil Morgan
3 April 2016

2 Background

- 2.1 In Western Australia, when a person is unable or refuses to pay a fine issued by the courts, further penalties can be applied. These penalties can include: suspension of driver's licences, additional enforcement costs, immobilisation of the person's vehicle, seizure of owned goods, and community service/work and development orders. If the person fails to pay or clear a fine either by means of a payment plan or through completing a work and development order (WDO) they may be sent to prison by means of a warrant of commitment issued by the courts (Department of the Attorney General 2015).
- 2.2 Amendment bills to the *Fines, Penalties and Infringement Notices Enforcement Act 1994*, the *Sentencing Act 1995* and the *Sentencing Administration Act 2003* were first introduced to Parliament in 2006 and came into effect on 21 March 2008. The objectives of the amendments were to improve the management of fines enforcement in Western Australia, with the intention to create a fairer and more efficient fines administration system.
- 2.3 Prior to these amendments, people who were served a warrant of commitment for failing to pay their fines and/or breaching a WDO were required to 'cut out' their fines cumulatively. The 2008 amendment allowed people to serve multiple sentences for fine default concurrently, effectively only serving the number of days equivalent to their largest fine. For example; if a person had two fines, one of \$500 and the other \$1,000, before the 2008 changes they would serve a total of six days, two days for the \$500 and four days for the \$1,000. After the changes, however, that same person would only serve four days, the period equivalent to the larger, \$1,000 fine.
- 2.4 While fines can now be 'cut out' by serving prison time concurrently, community work for fines must be worked off cumulatively (that is at \$250 per day). This has created a situation where the length of imprisonment is less than the days required to serve a WDO.
- 2.5 In 2009 policy changes led to stricter breach conditions for WDO's, which resulted in a higher number of people with incomplete WDO's subsequently

being issued warrants of commitment. It is these warrants that lead to imprisonment for fine defaults.

- 2.6 Information tabled in the Legislative Assembly on 16 September 2014 shows a dramatic increase in fine defaults from 2008 to 2013 (Francis 2014). This increase has a financial cost attached to it. While fines can be 'paid' at an approximate rate of \$250 per day, a rate reportedly appealing to people from low income households (WA Labor Party 2014), it costs on average approximately \$332 per day to hold an adult in a prison facility (Department of Corrective Services 2015).
- 2.7 Further legislative amendments were made to the *Fines, Penalties and Infringement Notices Enforcement Act 1994* in 2012, which came into effect in August 2013. These reforms included enhanced fines enforcement measures that allow the ability to place wheel clamps on vehicles, remove number plates and seize goods in relation to infringements and fines.

Recent Media Attention

- 2.8 The widely publicised death of Miss Dhu who passed away in August 2014 while being held in a South Hedland police lock-up once again brought the issue of fine default incarceration to the public's attention. Miss Dhu was required to spend four days in custody to pay off her largest fine which was \$1,000. Further media attention was sparked when an article in The Australian newspaper in October 2014 described an alarming rise in the number of people spending time in prison solely for the purposes of paying off unpaid fines (Burrell & Laurie 2014).

Comparison of Jurisdictions

- 2.9 Due to the lack of publicly available information we are unable to make comparisons of fine default incarceration across states. However, in the case of New South Wales, Victoria, and Queensland we did identify changes in fine defaulter imprisonment numbers as a result of specific initiatives and/or policy changes.
- 2.10 New South Wales, as the most populous state, and with the highest daily average prisoner population in the country (Productivity Commission 2015) experiences

significant issues with incarceration of fine defaulters. In 2006 a policy was introduced to refer unpaid fines to the State Debt Recovery Office (SDRO). This granted the SDRO the power to suspend or disqualify drivers licences and as a result saw a rise in imprisonment rates for people driving with suspended or disqualified licences (New South Wales Sentencing Council 2006). More recently, collaborative efforts between Legal Aid NSW, Aboriginal Legal Services, State Debt Recovery and the Department of Police and Justice have seen the development of the Work and Development Order Service. This is a free legal service that helps people in financial hardship work off their outstanding debts, which by late 2012 had seen more than \$4 million of fines debt worked off by people through nearly 700 NSW organisations (Legal Aid NSW 2012).

- 2.11 Victoria has a court specifically designated to dealing with unpaid infringements; the Penalty Enforcement by Registration of Infringement Notice Court. This court has assisted in clearing between \$70 million to \$80 million of fine debt each year (Department of Justice 2002).
- 2.12 Queensland has experienced reductions in fine default imprisonment since the introduction of their State Penalty Enforcement Registry (SPER) which centralises the collection of fine and infringement debt. In addition to this, Queensland also had an amnesty period for four months when the SPER opened. Both the introduction of the SPER and the amnesty period assisted in the reduction of sentence receptions, primarily as a result of the SPER having capacity to offer appropriate alternatives to imprisonment (Department of Justice 2002).

Scope and Limitations

- 2.13 This review will examine the trends in the number of fine default-only receptions over the last decade. The emphasis will be on how recent changes to policy and legislation have affected the custodial estate, the socioeconomic demographics of those imprisoned, and the impact on individual prison facilities where they are being held.
- 2.14 It is important to note that this review will only focus on people who have been incarcerated solely for defaulting on fines. The data examined does not include

those who were serving fine default sentences along with other custodial sentences. This review also does not include the undisclosed number of people who are held in police lock-ups for 'paying off' fines and do not enter into the Department's custody.

3 Overall Trends for Fine Defaulters

Trends in Reception Numbers

- 3.1 Between July 2010 and June 2015, on average, 1,102 people have entered prison for unpaid fines every year. This compares to only 396 people who entered prison for unpaid fines between July 2008 and June 2009, an increase of over 150 per cent. For a variety of reasons the imprisonment of fine defaulters has received considerable media attention over the last 12 months, with the interest focussing on legislative changes that took place in 2008.
- 3.2 Due to the short nature of the sentences served by fine defaulters, and therefore their high turnover, the proportion of fine defaulters making up the WA prison system on any given day is relatively low. In November 2015 there were, on average, 11 fine defaulters on any given day. Due to limitations in the data, an average could not be calculated for a longer time period. From July 2006 to March 2015, on average, two people entered WA prisons every day for defaulting on their fines.
- 3.3 In total, 7,026 people were received into prison for fine defaults a total of 7,462 times over this time period. Figure 1, illustrates a notable spike in receptions where numbers jumped from 396 in the 2008-09 financial year to 1,018 in the following financial year, a growth of 157 per cent. The following year these numbers grew by a further 45 per cent, reaching a peak of 1,480 receptions. This is disproportionate to the corresponding increases in the total prison population for the same time period.

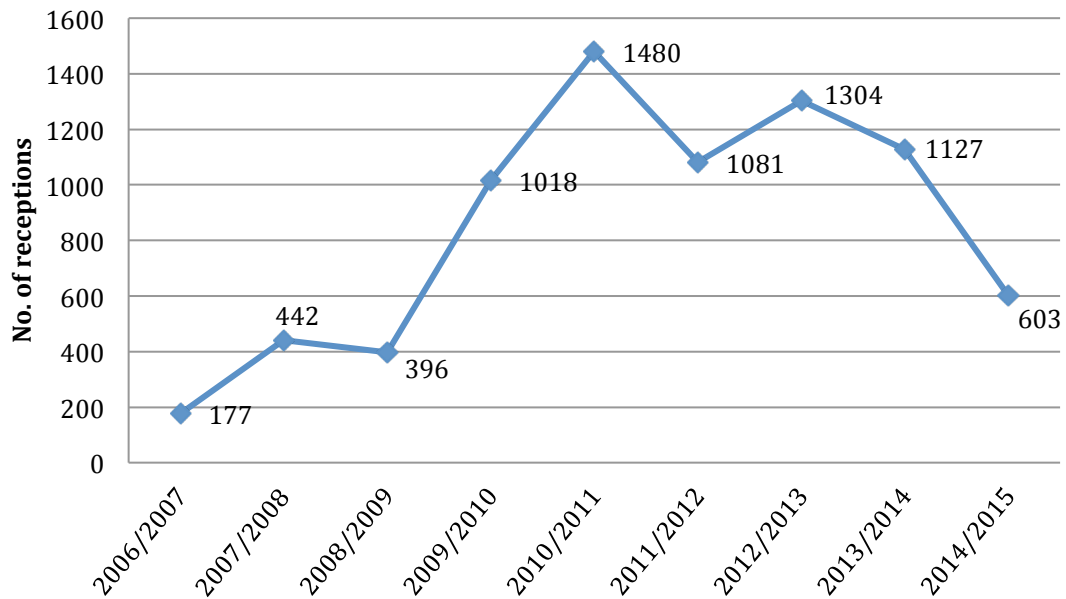


Figure 1.

Number of fine default-only receptions by financial year¹

- 3.4 The financial year of 2014-15 saw a notable decrease in the trend of fine default-only receptions. This figure is still higher than the number of receptions prior to 2008-09 when the legislative and policy changes were introduced. While it could be suggested that this decrease occurred due to legislative changes in 2012, it is not possible to forecast whether this downward trend will continue.
- 3.5 Figure 2 illustrates more specifically where policy and legislative changes may have impacted on reception numbers. As mentioned previously, legislative changes in March 2008 enabled fine defaulters to pay off outstanding fines concurrently, resulting in some individuals serving shorter prison sentences. In addition, a policy change that came into effect in early 2009 resulted in stricter breach conditions for people on WDO's. While definitive information to show the cause and effect relationship between the policy and legislative changes does not exist, the timing of the notable increase does suggest that these changes may have influenced the trend. The graph also demonstrates that the legislative change implemented in March 2008 may have had a somewhat delayed effect on

¹ Note that the figure provided for 2014/15 is a Departmental figure provided during the Parliamentary Annual Report Hearing in December 2015, as raw data for this full financial year was not available at time of writing.

prison receptions, as the number of fine default-only receptions began to rise dramatically only 12 months after those changes

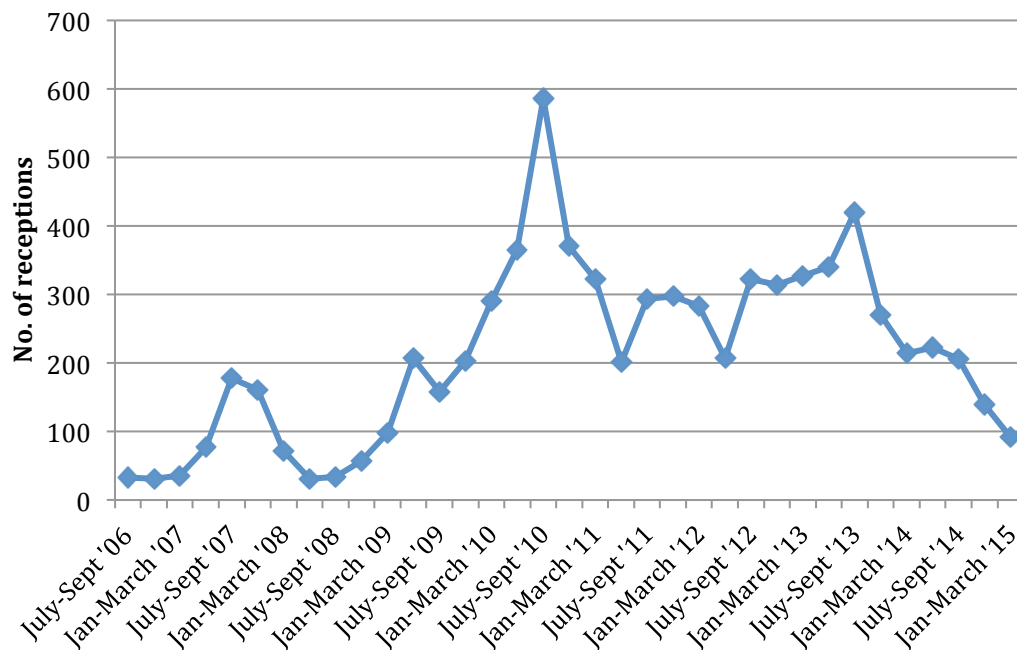


Figure 2.

Number of fine default-only receptions by quarter, July 2006 to March 2015.

Length of Prison Stay

3.6 Between July 2006 and March 2015 a total of 54,839 days have been served for fine default-only receptions. Before the legislative changes in March 2008 that allowed fine defaulters to serve multiple terms concurrently, rather than cumulatively, the average length of prison term for fine defaulters was 40 days. This decreased ten-fold after the changes to an average stay of 4.5 days (Figure 3). This reception length shortened irrespective of gender or Aboriginality, two key demographic factors.

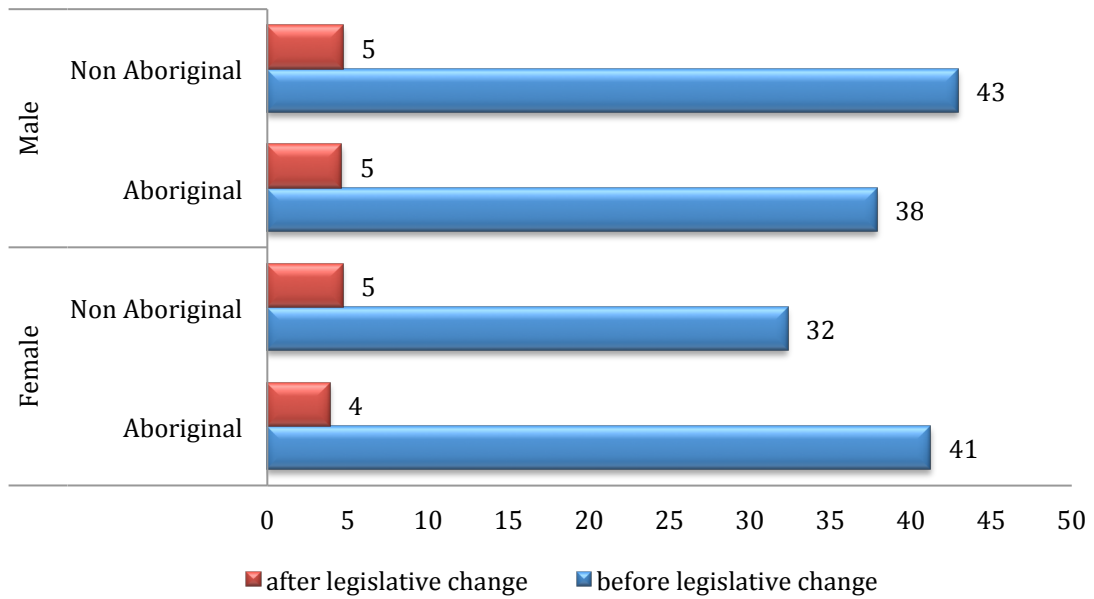


Figure 3.

Average length of stay before and after March 2008 legislative changes to incarceration by gender and Aboriginal status.

- 3.7 Between July 2006 and March 2015, almost 80 per cent of the fine defaulter population served sentences of less than a week, with approximately 22 per cent of these people being received and subsequently released within 48 hours. Examining these receptions in terms of total days spent incarcerated since July 2006 (Table 1) we found that 37 per cent of the total days spent in prison were by people serving prison terms of less than a week. This is concerning given that initial processing and assessment of each prisoner received into a facility is a time-consuming process, involving extensive interviewing, health and risk assessments, and strip-searches.

Table 1.

Total number of receptions of less than a week and number of incarceration days by financial year

Financial year	No. of receptions	Total no. of incarceration days
2006-07	27	59
2007-08	74	238
2008-09	328	1,029
2009-10	847	2,842
2010-11	1,268	4,248
2011-12	919	3,143
2012-13	1,121	3,973
2013-14	961	3,335
Grand Total	5,922	20,113

- 3.8 The maximum single prison term served was by an elderly non-Aboriginal man sentenced to serve 749 days (just over 2 years) for his largest fine, which was over \$185,000. At the time of data extraction he had served 257 days of his prison term. This man began his prison term after the 2008 legislative changes; had he served time before the changes for the same set of fines he would have been incarcerated for almost a year longer.
- 3.9 The benefit for fine defaulters serving time concurrently for multiple fines is that large amounts of penalties owed can essentially be paid off very quickly. For example, one woman served only two days in 2010 - for over 100 separate fines totalling just under \$29,000. Her largest fine was \$844. Had this woman been received to prison for these fines before the legislative changes, she would probably have served over 100 days in prison.
- 3.10 The brief analyses above suggest that the issues for the custodial estate are more about the turnover rate of people entering the prison system for fine defaults rather than fine defaulters making up a large number of the total prison population.

Receptions by Facility

3.11 Hakea Prison is impacted by fine defaulting imprisonment more than any other prison. It recorded almost half of the receptions for fine defaults across the custodial estate, and almost half the total number of days that all fine defaulters spent in prison. Bandyup, the second most affected facility, recorded approximately 15 per cent of receptions and a similar percentage of total incarceration days. This is not surprising given that each is the primary remand facility in the metropolitan area for males and females respectively. An examination of the number of receptions at each custodial facility is shown below.

Table 2.

Number of receptions and total incarceration days by facility for fine default-only receptions from July 2006 to March 2015

Facility	Number of receptions	(% of total receptions)	Total incarceration days	(% of total incarceration days)
Metropolitan				
Bandyup	1,126	15.1	7,837	14.3
Casuarina	8	0.1	42	<.1
Hakea	3,650	48.9	26,674	48.6
Regional				
Albany	201	2.7	938	1.7
Broome	656	8.8	5,789	10.6
Bunbury	352	4.7	2,455	4.5
Eastern				
Goldfields	442	5.9	3,555	6.5
Greenough	580	7.7	3,971	7.2
Roebourne	354	4.7	3,124	5.7
West				
Kimberley	93	1.2	454	<.1
Total	7,462		54,839	

Note: West Kimberley Regional Prison (WKRP) opened for operation in 2012.

3.12 In the regional prisons the dispersal of fine defaulters is more evenly spread. This likely attests to the notion that decisions regarding the placement of fine defaulters are largely made in light of the person’s place of residence or least the place in which a warrant of commitment was issued. This possibly suggests that people are not being unnecessarily transferred out of country to serve what tend to be very short sentences to ‘pay-off’ their fines.

3.13 Figure 4 highlights the growth in reception numbers in the most affected facilities from July 2006 to June 2014. When examining changes in number of receptions across time in Hakea and Bandyup, there appears to be consistent fluctuations in trends across males and females².

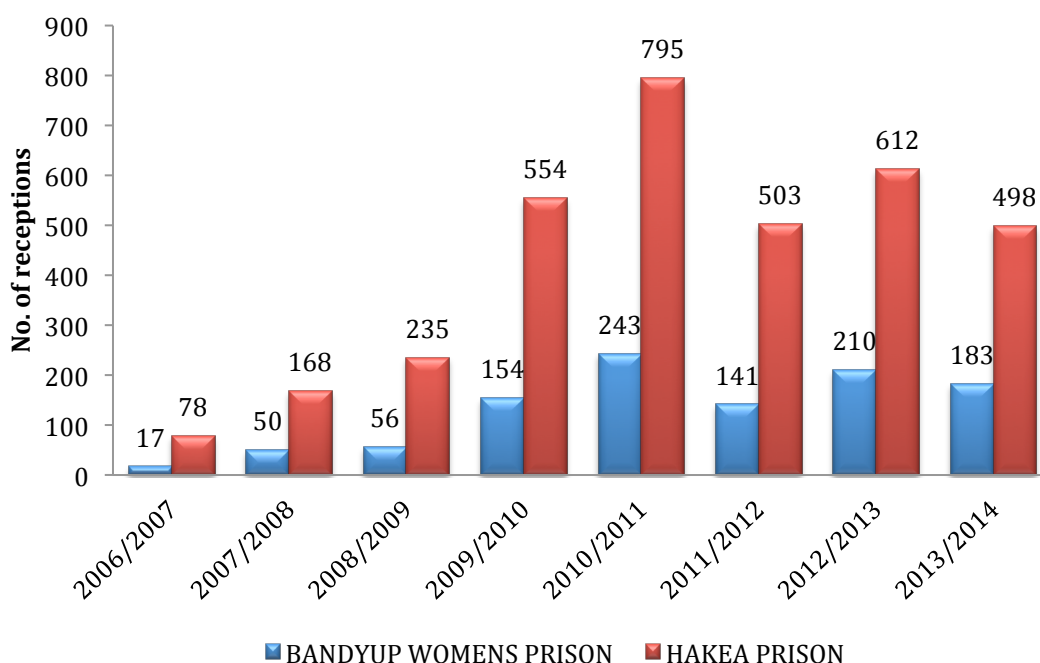


Figure 4.

Pattern of fine default-only receptions to Bandyup and Hakea by financial year

² Note: 2014/15 financial year not included as data was only available up to March 2015.

4 Demographics of Fine Defaulters

- 4.1 The majority of people admitted for fine defaults were between the ages of 25 to 44 years³. The largest demographic group were young, non-Aboriginal males aged between 25 to 34 years. This group represented just over 20 per cent of the fine default-only population. The median age of fine defaulters was 32 years.

Table 3.

Number of fine default-only receptions by gender and age group from July 2006 to March 2015

Age Group	Male		Female		Total
	Aboriginal	Non-Aboriginal	Aboriginal	Non-Aboriginal	
18-24	454	501	171	48	1,174
25-34	899	1,590	442	235	3,166
35-44	598	977	329	203	2,127
45-54	225	386	112	100	823
55-64	50	68	17	8	143
65+	4	23	0	2	29
Total	2,230 (29.8%)	3,565 (47.8%)	1,071 (14.4%)	596 (7.9%)	7,462

- 4.2 Females are overrepresented in the fine defaulters population. Females make up approximately 15 per cent of the total prison population yet constitute 22 per cent of the fine defaulter population. Overall, women have been consistently over-represented in the fine defaulter population since the 2006-07 financial year, with this over-representation growing from 16.1 per cent in the 2006-07 financial year to 25.3 per cent in the 2013-14 financial year (see Table 4).

³ People with multiple receptions across the time period were counted for each of their receptions as this allows for the most accurate representation of the fine defaulter population as a whole.

Table 4.

Percentage of females in the fine defaulter and total prison population

Year	Total Receptions ⁴	Percentage of females in total	Fine Default-only receptions	Percentage of females
2006-07	6,607	13.8%	177	16.4%
2007-08	7,201	12.8%	442	24.6%
2008-09	7,562	12.7%	396	19.4%
2009-10	7,062	14.2%	1018	20.5%
2010-11	7,119	14.2%	1480	21.7%
2011-12	7,535	14.5%	1081	19.9%
2012-13	8,130	15.6%	1304	23.8%
2013-14	8,051	16.1%	1127	25.3%

4.3 Figure 5 demonstrates that of female fine defaulters the majority are Aboriginal (64%). However, the inverse is true for males, with 62 per cent being non-Aboriginal. This supports concerns expressed that Aboriginal females appear particularly vulnerable to resorting to imprisonment to pay off their fines.

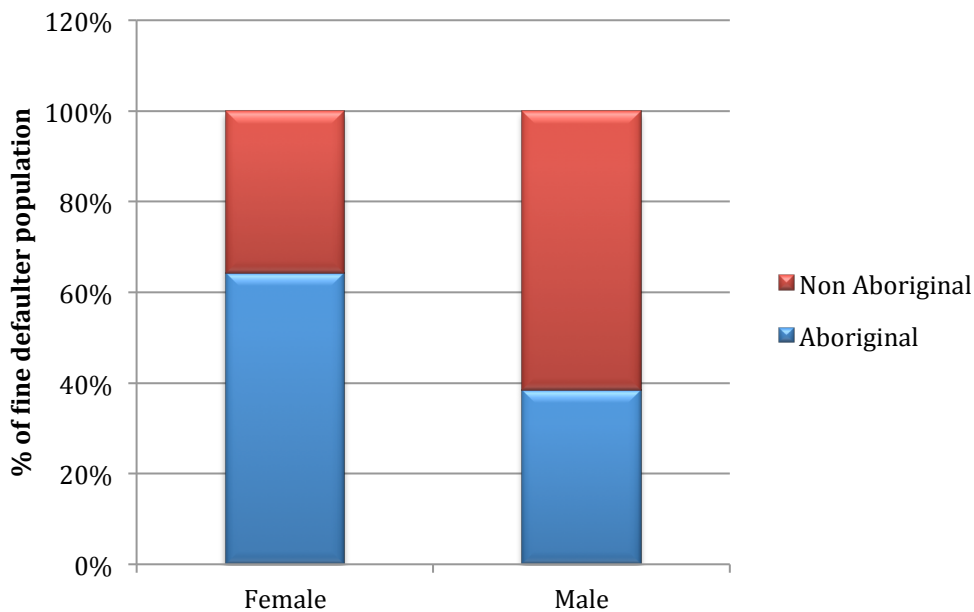


Figure 5.

Proportion of Aboriginality for male and female fine defaulters from July 2006 to March 2015

⁴ Departmental figures for total number of receptions (including individuals with multiple receptions) for each financial year.

Trends in Reception Numbers

- 4.4 People with lower-paying or nonprofessional jobs and the unemployed make up a high proportion of incarcerated fine defaulters. Of the employed male fine defaulters, by far the most commonly stated occupations were those related to labour and trades work, with 46 per cent stating 'labourer' as their type of employment upon reception to prison. Employment is less prevalent among female fine defaulters. Of those working, the women are mostly employed as labourers (20%) and cleaners (11%). The stated occupations that would be considered professional and require tertiary education make up less than two per cent of the total male and female fine defaulter population.
- 4.5 Of the total fine defaulter population, 24 per cent of all fine defaulters could be categorised as unemployed at the time of their reception.⁵ Those who were homemakers, pensioners, or have never worked served approximately 20 per cent of the total number of days fine defaulters spent incarcerated.
- 4.6 There is a stark contrast across males and females in the number of unemployed in the fine defaulter population.⁶ An overwhelming 73 per cent of female fine defaulters were considered unemployed (with almost all of them citing home duties as their occupation). Of the male fine defaulters, only 10 per cent were considered unemployed.
- 4.7 Figure 6 illustrates percentages of employment versus unemployment by Aboriginal status for both males and females respectively. Fifty-two per cent of the Aboriginal unemployed fine defaulters are female, while 57 per cent of non-Aboriginal fine defaulters with employment are male. This evidence supports the notion of Aboriginal women historically being the most vulnerable to fine default imprisonment (Spiers-Williams & Gilbert 2011).

⁵ These categories were 'domestic/home duties (1094)', 'never worked (341)', 'pensioner (269)', 'retiree (8)' and 'student (86)'.

⁶ Of the 7,462 receptions, 6,622 provided their occupation status.

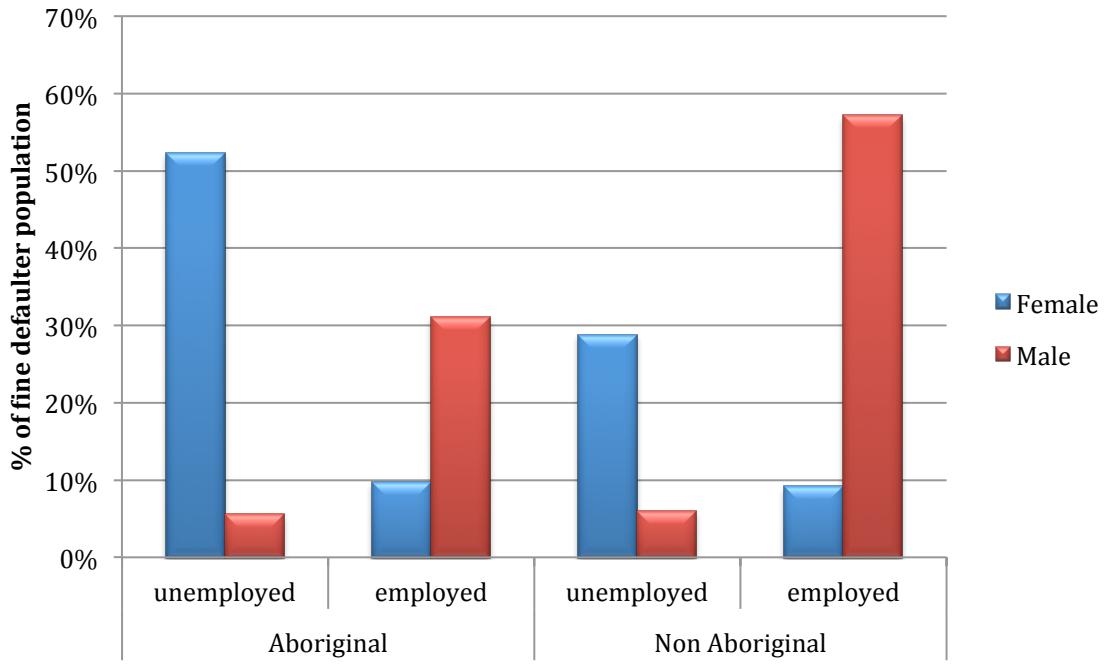


Figure 6.

Percentage of 'unemployed' versus 'employed' in fine defaulters by gender and Aboriginal status from July 2006 to March 2015

5 Offence Types Related to Fines Issued

5.1 The frequencies of each most serious offence type were fairly consistent across all demographic cohorts. Over half of the total number of receptions were related to fines for driving and traffic-related offences, with more than 80 per cent of these from fines related to drink driving or driving without a licence. Fines for offences against good order, such as breaches of bail, were the second most common type of fines people were imprisoned for. A description of these offence categories can be found in Appendix B.

Table 5.

Percentage of most serious offence type for fine default-only receptions

Offence category	Percentage of receptions
Driving, Motor Vehicle, Traffic and Related Offences	54.1
Offences Against Good Order	22.1
Offences Against the Person	9.7
Break and Enter and Other Offences Involving Theft	7.1
Drug Offences	3.2
Property Damage and Environmental Offences	2.1
Other Offences	1.6
Unknown	Less than.1
Total	100.00%

5.2 It is important to note that most fine defaulters pay off multiple fines in one prison term; the above information only states the category of a person's most serious offence that they received a fine and served time for. For example, a fine defaulter may have accumulated 10 fines, one for possession of a weapon and nine for minor traffic offences. If they serve a prison term for all 10 fines, they are recorded as 'offences against good order' as their most serious offence category would relate to weapon possession. The most serious offence is often that which incurred the most expensive fine and is therefore reflective of the number of days related to that reception.

6 Financial Cost of Incarcerating Fine Defaulters

- 6.1 It cost the Department an estimated \$2.26 million to house fine defaulters in the 2013-14 financial year (see Table 6). The costs range from \$305 for Hakea in the metropolitan area to \$1,450 for Broome Regional Prison. While the total number of incarceration days was comparatively lower for some facilities such as Broome Regional Prison, the financial impact from using this facility is much higher due to the higher than average cost per prisoner per day at the facility.
- 6.2 It is worth noting that these costs per facility do not include the higher costs associated with prison stays that are less than a week. For example, in the 2013-14 financial year, the Department estimated the average cost per prisoner per day across the estate as \$332; however, the Department stated that it could cost up to \$770 per prisoner per day for shorter period stays (Office of the Auditor General [OAG] 2015; Office of the Inspector of Custodial Services [OICS] 2015a).

Table 6.

Estimated costs of fine defaulter incarceration by facility for 2013-14 financial year

Facility	Total incarceration days	DCS cost per prisoner per day estimates ⁷	Total estimated cost of fine defaulter incarceration
<u>Metropolitan</u>			
Hakea	2,280	\$305	\$695,400
Bandyup	732	\$378	\$276,696
<u>Regional</u>			
Albany	103	\$358	\$36,874
Broome	442	\$1,450	\$640,900
Bunbury	427	\$327	\$139,629
EGRP	181	\$660	\$119,460
Greenough	561	\$351	\$196,911
Roebourne	145	\$570	\$82,650
WKRK	130	\$776	\$100,880
Grand Total	5001		\$2,289,400

⁷ Economic Regulation Authority, Inquiry into the efficiency and performance of Western Australian Prisons – Final Report, ERA, Perth.

- 6.3 The total net cost of custodial services for the Department in 2013-14 was \$608 million (Economic Regulation Authority [ERA] 2015). While it could be argued that the \$2.29 million in costs for the incarceration of fine defaulters is not a substantial proportion of the Department's total expenditure, it is still money that could potentially be redirected to facilitating WDOs allocated to fine defaulters in community corrections.
- 6.4 The Office is not in a position to conduct a comprehensive cost benefit analysis given the limited data available. Table 7 illustrates that the total amount of fines being paid off from July 2006 up until the end of the 2013-14 financial year was just under \$55 million. For example, the cost for the 2010-11 financial year for all fines was \$11,670,979.⁸ This is money that the Government was unable to recover.

Table 7.

Total and average amounts (in dollars) of fines being 'paid off' by incarceration

Financial year	Total number of fines	Total \$ amount of fines	Average \$ per fine
2006/07	1,942	\$949,728	\$489
2007/08	5,356	\$3,036,780	\$567
2008/09	4,199	\$2,789,044 ⁹	\$664
2009/10	12,584	\$8,901,163	\$707
2010/11	18,137	\$11,670,979	\$643
2011/12	11,397	\$8,191,656	\$719
2012/13	14,609	\$10,622,338	\$727
2013/14	11,867	\$8,683,268	\$732
Total	84,272	\$54,844,956	

⁸ Due to limitations of the data extraction, analysis cannot be undertaken to determine dollar amounts of fines being paid by incarceration in relation to demographic information. These amounts of the fines were obtained separately from the fine defaulter demographic information.

⁹ In the original data there was one person who had a \$24 million fine for a driving offence (a likely error in TOMS), this record was removed from this analysis to prevent skewed results.

Appendix A: Key Findings

- A total of 54,839 days were served by 7,025 people as part of fine default-only receptions; these people had a total of 7,462 prison receptions between them.
- Hakea and Bandyup are by far the most heavily burdened by fine default receptions, with Hakea receptions accounting for almost half of the total amount of days served for defaulting on fines.
- The average length of stay between July 2006 and March 2015 was 7.5 days. Legislative changes, however, had a dramatic impact on average number of days served. Before the changes fine defaulters served an average of 45 days, however, this decreased ten-fold after March 2008 to 4.5 days served on average. The average length of stay for Aboriginal women was most impacted by these changes.
- Women are disproportionately represented in the fine default-only population, comprising 15 per cent of the total prisoner population but 22 per cent of the fine defaulter population.
- Unemployment is rife in the fine defaulter prison population, particularly for Aboriginal women. An overwhelming 73 per cent of the female fine defaulters are considered unemployed; 64 per cent of these women are Aboriginal.
- The majority of fines (54 per cent) were related to minor traffic offences; for drink driving or driving without a licence.
- In the 2013-14 financial year, the total cost of fine default-only receptions was approximately \$2.29 million.
- Since July 2006 til the end of the 2013-14 financial year just under \$55 million worth of unpaid fines were cleared by incarceration.

Appendix B: Methodology

Data was requested from the Department which included all fine default-only receptions from 1 July 2006 to 20 March 2015. The following information was received:

- offender name
- TOMS ID
- date of birth
- gender
- aboriginal status
- prison
- last known address (at time of reception)
- usual occupation (at time of reception)
- reception date
- discharge date
- most serious offence category

Further information relating to the types of fines was extracted for these fine default-only receptions from the Department's database, TOMS, using standard query language data extraction. The following information was extracted:

- the specific type of offence/offences the person was paying off during their prison stay
- the sentence length for each offence
- the fine amount in dollars for each offence

Fine defaulters incarcerated on a given day

To obtain the average number of fine defaulters incarcerated on a given day, reports were generated through the reports portal on the Department's intranet.

Each report only reports the number of fine defaulters incarcerated for a single date, so multiple reports were required. Thirty reports were generated for each day of the month of November for the years 2006 to 2015 (for a total of 300 reports). An average "number of fine defaulters per day in prison" were calculated for each month.

Note that the figures reported are those for fine defaulters without a current remand warrant.

Offence Types

Offences for which fines were administered were classified by the Department's 'Most Serious Offence' category system which uses seven categories namely:

- Break and Enter and Other Offences Involving Theft
- Driving, Motor Vehicle, Traffic and Related Offences
- Drug Offences

- Offences Against Good Order
- Offences Against the Person
- Property Damage and Environmental Offences
- Other Offences

'Unknown' was also used as an eighth category when a person's most serious offence wasn't specified.

Examples of the type of charges included in the above categories are:

Offence type	Examples include
Break and Enter and Other Offences Involving Theft	<ul style="list-style-type: none"> • Break and Enter (burglary and unlawful entry) – dwellings • Stealing from the person • Unlawful possession of stolen goods • Receiving • Misappropriation • Fraud, forgery and false pretences • Other theft
Driving, Motor Vehicles, Traffic and Related Offences	<ul style="list-style-type: none"> • Dangerous and reckless driving • Drink driving offences • Driving while licence suspended or cancelled • Driving without a licence • Roadworthiness • Registration offences (including Third Party insurance) • Other motor vehicle, traffic and related offences
Drug Offences	<ul style="list-style-type: none"> • Possess and/or use cannabis, all forms • Possess and/or use drugs, unspecified • Deal and traffic in cannabis, all forms • Deal and traffic in drugs, unspecified • Import/export drugs, unspecified • Manufacture/grow drugs, unspecified • Other drug offences
Offences Against Good Order	<ul style="list-style-type: none"> • Breach of bail • Breach of other probation, parole etc. orders • Contempt of court, other • Drunkenness • Impersonate Public Officer • Resist/hinder police • Possession and/or use of firearms • Prostitution

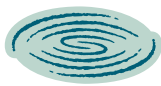
	<ul style="list-style-type: none"> • Other offences against good order • Other offences against justice procedures
Offences Against the Person	<ul style="list-style-type: none"> • Assault occasioning actual/grievous bodily harm • Ill-treatment of children • Other assault • Other offences against the person
Property Damage and Environmental Offences	<ul style="list-style-type: none"> • Arson (person not therein) • Other property damage • Other environmental offences
Other Offences	<ul style="list-style-type: none"> • Bankruptcy • Dog control • Health, mental health, quarantine, food standards, etc. • Secret commissions, trade practices, etc. • Security

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Appendix D: Abbreviations used

PERIN	Penalty Enforcement by Registration of Infringement Notice
SPER	State Penalty Enforcement Registry
SDRO	State Debt Recovery Office
TOMS	Total Offender Management System
WDO	Work and Development Order
WKRP	West Kimberley Regional Prison



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