



# Research Publication

## Monitoring the Operation of the NSW Fine Default Scheme 1988 - 1989

**Kylie Miller**  
Research Officer

**Angela Gorta**  
Chief Research Officer

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## SUMMARY

The following summary arises from five studies monitoring the operation of the N.S.W. Community Service Order (Fine Default) legislation during the first two years of its operation. Although this legislation was amended in February 1990, the findings of this research raise important general issues concerning the treatment of fine defaulters. These studies identified many problem areas in the fine default scheme from different perspectives but they also discovered a number of very positive aspects of the scheme.

### STUDY 1 - COMPUTERISED RECORDS OF FINE DEFAULTERS WHO REGISTERED WITH PROBATION AND PAROLE SERVICE BETWEEN 1ST JANUARY 1988 AND 30TH JUNE 1989

- \* From the commencement of the fine default scheme on the 1st January, 1988 until 30th June, 1989 - a total of 57,302 fine default orders were sent to 35,456 fine defaulters (clients). However, only 6,869 fine defaulters registered with the Probation and Parole Service to do community service. Overall, only 19.4% of fine defaulters (relating to 27.4% of orders) that were issued with fine default orders registered to do community service work in the first 18 months of the fine default scheme's operation.
- \* For the first 18 months that the fine default scheme operated, the fine defaulters who registered to do community service work owed a total of \$3,255,905 in fines.
- \* As of the 30th June, 1989 4030 (59%) fine defaulters who had registered had been discharged. Of these 3338 (83%) had completed their order and 692 (17%) had been discharged for other reasons such as breach of order, lapsed order, payment etc.
- \* Combining data from the N.S.W. Department of Corrective Services and the N.S.W. Bureau of Crime Statistics and Research Court Statistics it was estimated that during this 18 month period less than half (45.2%) of offenders fined in court were paying their fines.

### STUDY 2 - SURVEY OF COMMUNITY SERVICE ORGANISERS

- \* Surveying the community service organisers in July 1989 uncovered many problems that the sudden implementation of the fine default scheme had caused the Probation and Parole Service.
- \* From these 60 surveys it was found that only 564 (68%) of the 831 fine defaulters expected to work during the survey week actually reported. Fine defaulters were considered more trouble and less reliable than court-based community service orders. This unreliability was a major problem for the community service organiser, the agency and for interviewing purposes.
- \* Almost all community service organisers reported having difficulty placing "unsuitable" clients and they believed that assessment, prior to allowing fine defaulters into the scheme and for placement into an agency, is vital.
- \* The employment rate of fine defaulters was estimated to be much lower by the country community service organisers (at 26%) than by the city community service organisers (63%).
- \* Almost half of the community service organisers suggested that only fine defaulters who apply to the court to do community service should be referred to the Probation and Parole Service. (It should be noted that the Fine Enforcement Legislation (Amendment) Act 1989 which commenced on 9th February, 1990 abolished the automatic issuing of fine default orders.)

### STUDY 3 - INTERVIEWS WITH FINE DEFAULTERS WORKING COMMUNITY SERVICE

- \* 48 fine defaulters who were doing community service were interviewed (36 in the city, 12 in the country).
- \* They were found to be extremely unreliable and more than 50% of those targeted to interview did not report to work.

- \* Most fine defaulters interviewed (81%) had been fined in court before. 46% had paid all their previous fines. 39% had never paid a court-based fine and 15% had paid some. 40% had been to gaol for fine default before (an average of 15 days in gaol) and 10% had previously worked a fine default order.
- \* 56% were aware of the fine default scheme before they received their order. 52% of the fine defaulters said they would have paid the fines if the fine default order were not available. This suggests that fewer people may be paying their fines since the introduction of the fine default scheme.
- \* Half of the city fine defaulters were employed but none of the country fine defaulters interviewed was employed.
- \* Every fine defaulter interviewed believed that doing community service is a better alternative than going to gaol for fine default. 65% found that doing the community service had been beneficial to them. In general, feedback about the scheme was very positive.

#### **STUDY 4 - GAOL RECEIVAL FORMS FOR 1988**

- \* There were 143 fine defaulters imprisoned in NSW gaols during 1988. 86 of these (60%) were in gaol for NSW offences (the remainder were interstate (16%) or commonwealth offenders (24%).
- \* For those cutting out fines for N.S.W. offences, the total amount of fines owed by each fine defaulter ranged from \$50 to \$6240, with a mean of \$741.
- \* N.S.W. fine defaulters were cutting out an average of 2.2 fines.
- \* The time in gaol for N.S.W. fine defaulters ranged from 2 days to 125 days, with an average of 13.5 days.

#### **STUDY 5 - INTERVIEWS WITH FINE DEFAULTERS IN GAOL**

- \* 24 fine defaulters who were cutting out their fines in gaol between 1st November 1989 and 31st January 1990 were interviewed.

- \* The total amount of fines (including court costs) being cut out in gaol by each fine defaulter interviewed ranged from \$213.52 to \$3250, with a mean of \$1096.
- \* The fine defaulters interviewed were cutting out an average of 4.7 fines each.
- \* When asked why they did not pay the fine, almost half the fine defaulters interviewed (46%) replied that they could not afford it. Five (21%) said that they did not pay on principle. Three stated that they did not pay both on principle and because they could not afford it. A further three simply "didn't get round to it". The remaining two said that they did not know about the fines because they frequently changed address.
- \* Most fine defaulters interviewed (83%) said that they had been fined in court before. Half of those fined previously reported cutting out all their fines in gaol. Six had paid all fines except their current one.
- \* Almost all the fine defaulters interviewed (22 or 92%) reported having spent time in gaol before. Only 4 of those interviewed claimed to have been in gaol solely for fine default in the past.
- \* Only one-third of the fine defaulters interviewed said that they had been aware of the Community Service Order (Fine Default) Scheme.
- \* Only 3 of the 24 fine defaulters interviewed had registered to do community service with the Department of Corrective Services before cutting out their fines in gaol. The majority (14 or 58%) said that they had not received the Community Service (Fine Default) Order.
- \* Almost half (46%) of the fine defaulters were employed at the time the fine was set.
- \* Nine of those interviewed thought that going to gaol was a better alternative than paying the fine, and five thought that going to gaol was better than doing a community service order.

## INTRODUCTION

The fine is the most frequently used non-custodial sentencing option in Australia. In 1988, out of 82,269 proven offences before the local courts in NSW, 56,548 (68.7%) of these received a fine as the only penalty (NSW Bureau of Crime Statistics and Research, 1989). Using the fine as a punishment has many advantages. It is adjustable to both the gravity of the offence and the means of the offender. The fine has economic and administrative advantages because fines raise revenue for the government and yet they are relatively cheap to administer. Fines also spare the offender the potentially damaging effects of imprisonment.

However, the credibility and effectiveness of the fine is limited by methods of enforcement and sentencing practices. There is scope for the greater use of fines as an alternative to custodial sentence but this substitution is of no use if the offenders go to prison in default of paying the fine. Unfortunately, fine defaulters constituted close to half of the prison receptions in NSW in the years 1982-86, as is illustrated in Table 1. In this table only persons who are received into prison for the sole reason of non-payment of a fine are classified as fine defaulters. Excluded are prisoners in custody for other reasons who

were also cutting out fines. These figures also do not include fine defaulters cutting out their fines in police lockups which is estimated at another 2,500 to 3,500 receptions per year (Houghton, 1985). So statistics on imprisoned fine defaulters seem to be an underestimate.

The figures in Table 1 for fine default receptions into gaol may seem incredibly large but when viewed as a percentage of those in prison on any one day, the proportion of fine defaulters is less dramatic. The 1987 NSW prison census shows that on June 30 fine defaulters only represented 1.1% of the prison population (42 out of 3883).

However, it seems unjust to imprison an offender for an offence which the court has decided warrants only the payment of a fine. On economic grounds, imprisoning a fine defaulter is a waste of public money. Not only is the fine not paid but it also costs an average of \$71.50 a day to keep a person in prison (NSW Dept Corrective Services, March 1989). Expenses associated with the apprehension, reception and discharge of prisoners are additional to this. In 1986, the total cost to the taxpayer of imprisonment of fine defaulters who had accumulated fines totalling \$1.4 million, was \$4.2 million. These figures do not include the

**Table 1: No. of fine defaulters and other sentenced prisoners received into NSW gaols 1978-89**

Year	No. fine defaulters received	No. sentenced prisoners received	Total received	% of receptions who were fine defaulters
1978/79	3905	5304	9209	42.4
1979/80	3376	4568	7944	42.5
1982	3559	3699	7258	49.0
1983	4939	4579	9518	51.9
1984	4389	3996	8385	52.3
1985	4330	4638	9168	47.2
1986#	3476	4590	8066	43.1
1987	2610	4905	7515	34.7*
1988	143	4356	4499	3.2
1989	272	5745	6017	4.5

(SOURCE: Houghton, 1985; NSW Department of Corrective Services records.)

#Introduction of reforms.

\*N.B. The moratorium on imprisonment of fine defaulters in November-December 1987 affected this percentage.



thousands of fine defaulters who cut out their fines in police cells (Parliamentary Debates, NSW House of Assembly, 1987, p.17504).

"At a time when prisons are crowded, when the costs of administering our correctional services are so high, it surely is an exercise in futility to clog up the system by fine default or by imprisonment of those convicted of minor offences who pose no threat to society." ..... "In the longer term successfully administered schemes should reduce the cost in both human and financial terms" (Muirhead, 1988, p.20).

Imprisonment also causes psychological and sometimes physical damage to the fine defaulter. Although all NSW fine default prisoners are classified as "C" security classification (the lowest of the prisoner security classifications denoting the least risk to the public), they are almost always placed with "A" security classification prisoners in maximum security gaols (Muir Report, 1988).

The imprisonment of fine defaulters has been a matter of longstanding debate. In 1984, a Department of Corrective Services submission suggested several possible reforms in this area. These included: the use of community service orders for fine defaulters, sending reminder notices, allowing an extension of time to pay, considering the offender's means before sentencing, cancelling the driver's licence or motor vehicle registration for parking/traffic fine defaulters and an increase in the fine "cut-out" rate (Muir Report, 1988).

There have been numerous legislative changes. The daily "cut-out" rate for default imprisonment has increased over the years. In 1931, an imprisonment equivalent of \$1/day was introduced. This increased to \$2/day in 1967, \$5/day in 1971, \$25 in 1978 and the current \$50/day fine cut out rate was introduced in 1986 (Muir Report, 1988). Other reforms introduced at the same time included: the Justice to consider the defendant's means before fining him, time to pay be allowed, and greater flexibility in the issuing and execution of commitment warrants. Looking at Table 1, the 1986 reforms, specified in the Justices

(Penalties and Procedure) Amendment Act 1985, appear to have contributed to the decline in the number of fine defaulters gaoled in the following years.

However, these reforms still did not stop the entry of over two thousand of fine defaulters into gaol in 1987. One of these was Jamie Partic who was received into the maximum security Central Industrial Prison at Long Bay for the non-payment of fines totalling \$1197. His offences included possession of cannabis resin, stealing a motor vehicle, stealing, two occasions of failing to appear on bail, driving negligently, bald tyres and a breach of a Community Service Order (Parliamentary Debates, NSW House of Assembly, 1987, p.17515). He was not in gaol for minor parking offences as the media led the public to believe.

Partic was detained in the Fine Default yard which was a division of Wing 6 of the Central Industrial Prison. Supposedly, no mainstream prisoners could have contact with the fine defaulters due to previous standovers, bashings, etc. (Muir Report, 1988). However, on 7th November 1987, Jamie Partic was severely beaten by sentenced prisoners and was in a coma for months. He suffered brain damage and has become a paraplegic.

The media delighted in the Partic story and the plight of imprisoned fine defaulters and in response a number of acts were passed in parliament in November - December, 1987. These were as follows:

Justices (Penalty Defaults) Amendment Act, 1987;

Motor Traffic (Penalty Defaults) Amendment Act, 1987;

Transport (Penalty Defaults) Amendment Act, 1987;

Community Service Orders (Fine Default) Amendment Act, 1987;

Miscellaneous Acts (Fine Default) Amendment Act, 1987;

Children (Community Service Orders) (Fine Default) Amendment Act, 1987.

The cancellation of driver's licences or motor vehicle registration was introduced on 1st

January, 1988 in lieu of imprisonment for the non-payment of traffic and parking fines. This was to be a real incentive for the payment of traffic fines as well as eliminating the possibility of cutting out parking and traffic fines in gaol.

Also between 1st January, 1988, and 8th February, 1990, under the Community Service Orders (Fine Default) Amendment Act 1987, offenders who were fined in court and defaulted on payment of the fine were automatically issued with a Community Service Order. It is this fine default scheme in which fine defaulters were automatically issued with Community Service Orders which is the focus of this research report. Under this scheme a copy of the order was sent to the Probation and Parole Service and entered into the Departmental computerised Offender Record System. The fine defaulter was instructed to report to the Probation and Parole office within 28 days of the Community Service Order (Fine Default) being issued. Fine defaulters who reported were required to work 8 hours for every \$100 worth of fines. The Community Service Organiser allocated the fine defaulter to an agency to do work which would have been done voluntarily (i.e. fine defaulters cannot replace a paid worker). Fine defaulters are sent to such organizations as: St Vincent de Paul, old people's homes, sheltered workshops, kindergartens, the Smith Family, bush fire brigades and youth centres.

If the fine defaulter completed the allocated hours, or if 12 months elapsed, the fine was discharged. If the fine defaulter failed to register within 28 days or they registered but did not turn up for work then the Community Service Organiser would breach them. The court would then write to the offender seeking an explanation for the breach. If no response were received by the court, or an unsatisfactory explanation were received, the court would issue a commitment warrant for the offender. When the fine defaulter was apprehended by the police, the policeman was required to give the offender another 7 days to contact the court to apply for a reissue of a Community Service Order. If this was done, the court would rescind the warrant and issue another Community Service Order. Otherwise, the police would attempt to serve the warrant after the seven day

period had expired. At any time, the offender could pay the fine. If the warrant was executed, fines would be "cut-out" accumulatively in gaol at the rate of \$50/day. If a person were imprisoned already for an offence other than fine default, he could "cut-out" any outstanding fines concurrently with the remand or sentence.

Prior to 1988, fines were "cut-out" concurrently in gaol. Since January 1988, fines worked out by community service and fines "cut-out" in gaol are combined consecutively. This is intended to deter offenders from accumulating a large number of fines and to encourage them to pay fines promptly.

Mr John Akister, Minister for Corrective Services in 1987, claimed that "the scheme is based on three premises: first, that from 1st January (1988) no one will have to go to gaol for fine default; second, that payment of fines is maximized, and third, that this alternative is not a soft option." (Parliamentary Debates, NSW House of Assembly, 1987, p.17005).

This study seeks to monitor the operation of the N.S.W. Community Service Order (Fine Default) legislation (referred to hereafter as the "fine default scheme") during the first two years of its operation.

Specifically it seeks to determine:

- i) what proportion of fine defaulters are also defaulting on their community service order?;
- ii) the benefits/problems that the Probation and Parole Service is facing in administering the fine default scheme;
- iii) the benefits/problems the offenders involved are experiencing with the scheme;
- iv) of those people doing their community service (fine default), what proportion would have gone to gaol versus what proportion would have paid the fine if the Community Service Order (Fine Default) option had not been available?;
- v) what factors influence those who are fined to: pay their fine, do community service or cut out their fines in gaol?;

- vi) whether this option actually reduced the number of fine defaulters coming to gaol, or whether it merely delayed their entry to gaol?; and
- vii) how the scheme could be improved?

Effects of recent legislative changes are considered in the Discussion section of this report.

## **METHODOLOGY**

### **Overview of the methodology**

This evaluation of the fine default scheme consisted of five studies. The first of which analysed the computer record data of the 6869 fine defaulters who registered in the first 18 months of the fine default scheme's operation. The second study involved surveying 60 community service organisers (Probation and Parole officers) on their procedures and opinions of the scheme. The third study involved interviewing 48 fine defaulters doing community service. The fourth study analysed details on gaol receipt forms for all 143 fine defaulters received into NSW gaols in 1988. The final study comprised interviews with 24 fine defaulters who were in gaol for breach of community service. These studies were conducted in order to discover the problems the fine default scheme was facing; the number of fine defaulters who were breaching their fine default order; whether the fine default scheme is likely, in the long run, to reduce the number of fine defaulters going to gaol; and to suggest improvements to the scheme.

#### **Study 1: Analysis of computerised records of fine defaulters registered to do community service work between January 1988 and June 1989**

Data were extracted from the Probation and Parole Service Offender Record System computer files of all fine defaulters who had registered to do community service work in NSW between 1st January, 1988 and 30th June, 1989. This was in order to:

- a) determine the demand for the scheme in NSW in terms of:
  - i) the number of fine default orders which had been issued;
  - ii) the number of fine defaulters who had registered with the Probation and Parole Service;
  - iii) the outcome of each registered order, that is, the number of orders that were: breached, completed, let lapse (after 12 months), "cut-out" in gaol.
- b) provide a descriptive profile of the fine defaulters who registered in terms of: number of fines imposed, types of offences, size of fines and demographic characteristics.

Unfortunately, the year and month the fine and fine default order were issued were not available in the computerised data base, hence the pattern of growth in number of fines and fine default scheme could not be determined.

#### **Study 2: Survey of Community Service Organisers**

- a) Interviews were conducted with the Community Service Organiser at 17 Probation and Parole Offices located in the Metropolitan North and Metropolitan South regions between March, 1989 - May, 1989.
- b) From responses to the interviews, a self-administered questionnaire was constructed (Appendix 2) and sent to Community Service Organisers in 65 of the Probation and Parole Offices in NSW (excluded were Cessnock, Long Bay Parole Unit and Western Suburbs Parole Unit as these offices are attached to gaols and have no fine default orders sent to them). The questionnaires were distributed in the middle of July, 1989. Major topics covered were:
  - i) Number of registered fine defaulters who turned up/did not turn up to work in the week of the survey;
  - ii) Type of work undertaken by fine defaulters;
  - iii) Participation and interest in group projects;

- iv) Assessment procedure;
- v) Breaching procedure;
- vi) Procedure when fine defaulters are unsuitable to work;
- vii) Positive features of the scheme;
- viii) Problems encountered with the scheme;
- ix) Suggested improvements;
- x) Their opinions of the fine default scheme and of the fine defaulters involved in it.

### **Study 3: Interviews with fine defaulters doing community service**

Forty-eight fine defaulters who were currently working community service hours were selected from across NSW and interviewed (see Appendix 3 for a copy of the interview schedule). These interviews were not random as the fine defaulters could not be relied upon to report for community service on the day that they were allocated work and many also had very short orders. Thirty-six offenders were from fourteen Sydney metropolitan Probation and Parole offices and twelve fine defaulters came from six country Probation and Parole offices. Hence country fine defaulters were undersampled relative to city fine defaulters.

Some interviews (42%) were conducted whilst fine defaulters from a few offices were working in a group project. Such group projects included cleaning up the Cooks River in Sydney, renovating old trams, and gardening and maintenance in primary schools. Many interviews were carried out on the weekends as, paradoxically, a considerable number of fine defaulters had full-time jobs and so could not work their community service hours during the week. The major areas of interest were:

- i) Criminal history of the fine defaulter;
- ii) Whether they had paid fines received in the past or cut them out by serving time in gaol;
- iii) Reasons why the fine was not paid on this occasion;
- iv) Awareness of fine options - payment by instalments, extensions, community service orders and gaol;

- v) Current community service (fine default) order details;
- vi) Problems encountered with the fine default scheme;
- vii) Positive features of the scheme;
- viii) Opinions of the fine default scheme;
- ix) Demographic characteristics.

Brief, informal discussions were also held with most of the supervisors at the agencies to obtain their opinions on the operation of the fine default scheme.

### **Study 4: Analysis of gaol receipt forms regarding fine defaulters imprisoned during 1988**

During 1988, 143 fine defaulters were received into NSW prisons. Information regarding those offenders who were in prison solely for fine default was extracted from gaol receipt forms. This was in order to determine :

- i) the proportion of NSW, commonwealth and interstate fine defaulters in NSW gaols;
- ii) fine and sentence details of offenders.

While it would have been preferable to analyse the gaol receipt forms over the same 18 month period as the computerised data from the Offender Record System (Study 1) this was not possible as gaol receipt forms were phased out in March, 1989.

### **Study 5: Interviews with fine defaulters in gaol**

Twenty-four fine defaulters who had breached their fine default orders were selected from the gaols in NSW where they were currently cutting out their fines. They were interviewed (see Appendix 4 for a copy of the interview schedule) in a manner similar to the fine defaulters doing community service (Study 3).

The major topics covered were:

- i) Criminal history of the fine defaulter;
- ii) Whether they had paid fines received in the past or cut them out by serving time in gaol;
- iii) Reasons why the fine was not paid on this occasion;
- iv) Awareness of fine options - payment by instalments, extensions, community service and gaol;
- v) Reasons why the community service hours weren't started/completed;

- vi) Problems with the fine default system;
- vii) Positive features of the fine default scheme;
- viii) Opinions of the fine default system;
- ix) Demographic characteristics.

Interviews were conducted between the beginning of November 1989 and the end of January 1990 at the Training Centre (Long Bay), Parramatta Gaol, Silverwater Work Release Centre and Mulawa Training and Detention Centre for Women.

Very few fine defaulters were cutting out their fines in gaol at the time the interviews were conducted. In the three month interviewing period it was only possible to obtain interviews with 24 fine defaulters in Sydney gaols. Although more than this number were received into gaol during this time, if they were in gaol over the weekend, only had small fines, or decided to pay the remainder of the fine, the fine defaulters were often discharged before they could be interviewed.

## RESULTS

### STUDY 1: ANALYSIS OF COMPUTERISED RECORDS OF ALL FINE DEFAULTERS REGISTERED TO DO COMMUNITY SERVICE WORK WITH THE PROBATION & PAROLE SERVICE BETWEEN JANUARY 1988 AND JUNE 1989

According to information held on the Department of Corrective Services computerised Offender Record System in December 1989, from the commencement of the fine default scheme on the 1st January, 1988 until 30th June, 1989 a total of 57,302 fine default orders were sent to 35,456 fine defaulters (clients). (This number may be an underestimate of all fine default orders issued during this period due to time delays by the courts in forwarding the information to Corrective Services and delays by the Probation and Parole clerical staff in entering the information onto the computer). However, only 6869 fine defaulters registered with the Probation and Parole Service to do community service.

**Table 2: The distribution of fine default clients and orders across N.S.W.**

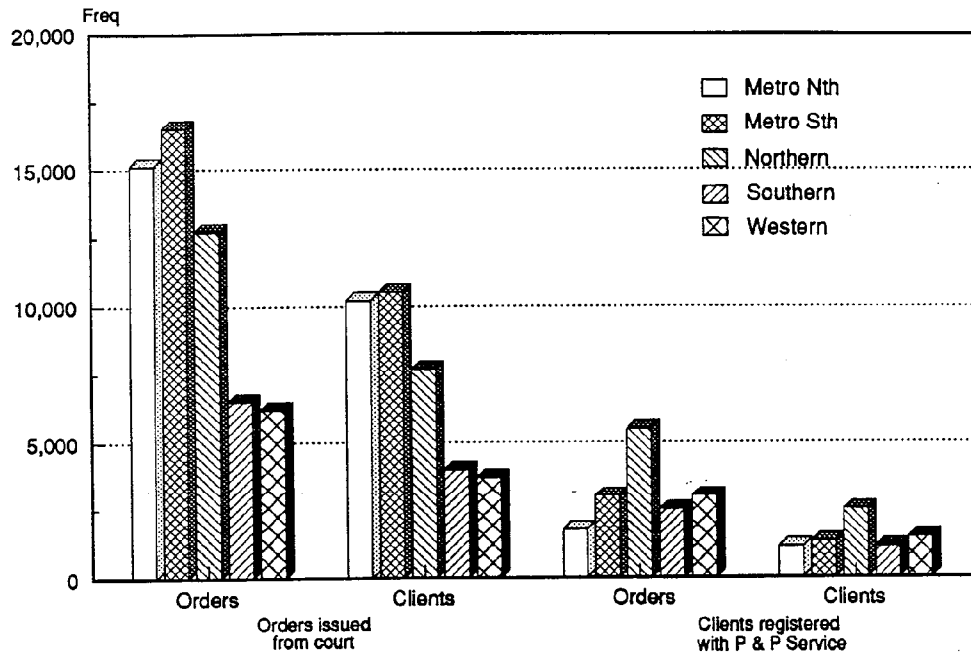
REGIONS	ORDERS (court issued)		CLIENTS (registered)		% REGISTERED	
	Orders	Clients	Orders	Clients+	Orders	Clients
Metro North	15280	9651	2030	931	13.3	9.6
Metro South	16367	10202	2956	1187	18.1	11.6
<b>METRO TOTAL</b>	<b>31647</b>	<b>19853</b>	<b>4986</b>	<b>2118</b>	<b>15.8</b>	<b>10.7</b>
Northern	12738	7582	5479	2404	43.0	31.7
Southern	6622	4175	2419	1056	36.5	25.3
Western	6295	3846	2800	1291	44.5	33.6
<b>COUNTRY TOTAL</b>	<b>25655</b>	<b>15603</b>	<b>10698</b>	<b>4751</b>	<b>41.7</b>	<b>30.4</b>
<b>TOTAL</b>	<b>57302</b>	<b>35456</b>	<b>15684</b>	<b>6869</b>	<b>27.4</b>	<b>*19.4</b>

+Adjusted figures

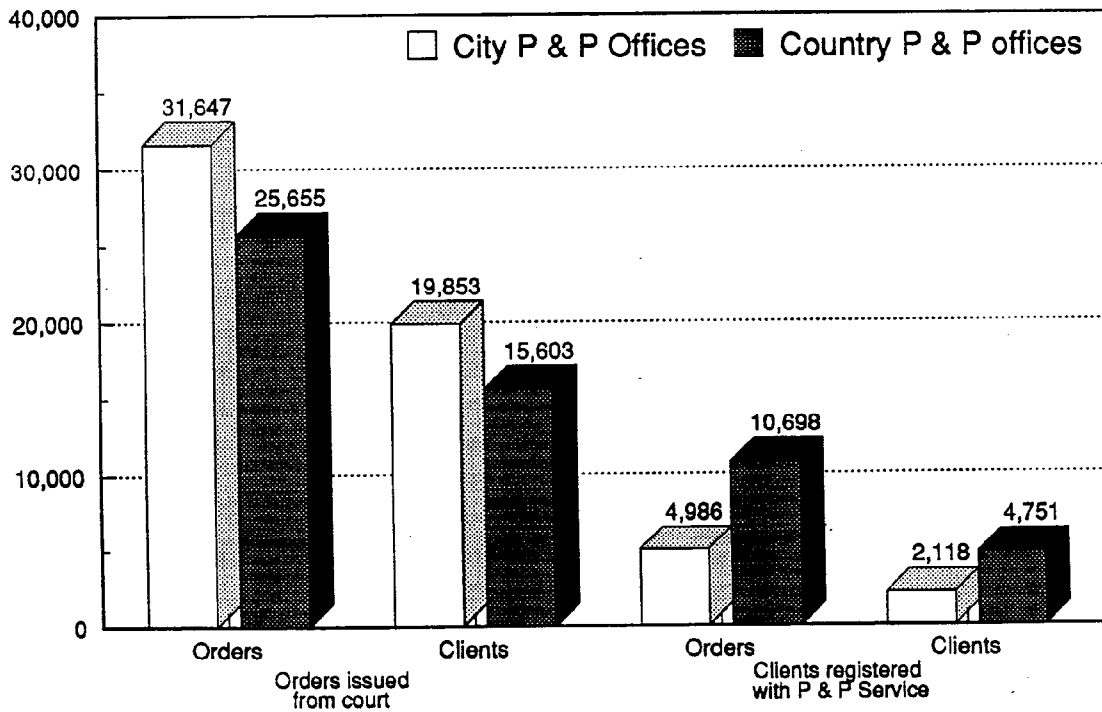
NB. The number of clients who received court issued fine default orders [ORDERS (clients)] may not be totally accurate because if a client receives two or more orders his/her name may be recorded differently, not matched and so listed as two separate people. One person may also be replicated in a number of different regions. Therefore, the number of clients to whom orders are issued is probably an overestimate. It is more accurate to obtain the "% registered" figures from the Orders column.

\*Due to the above discrepancies this percentage may be slightly distorted.

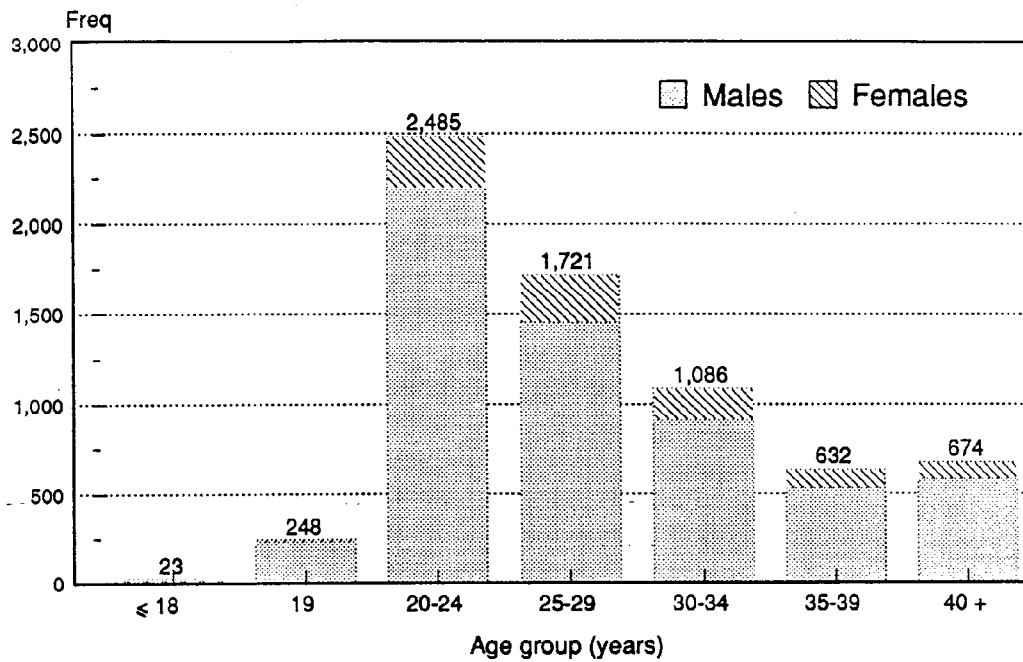
**Figure 1: The distribution of fine default clients and orders across NSW Probation and Service regions**



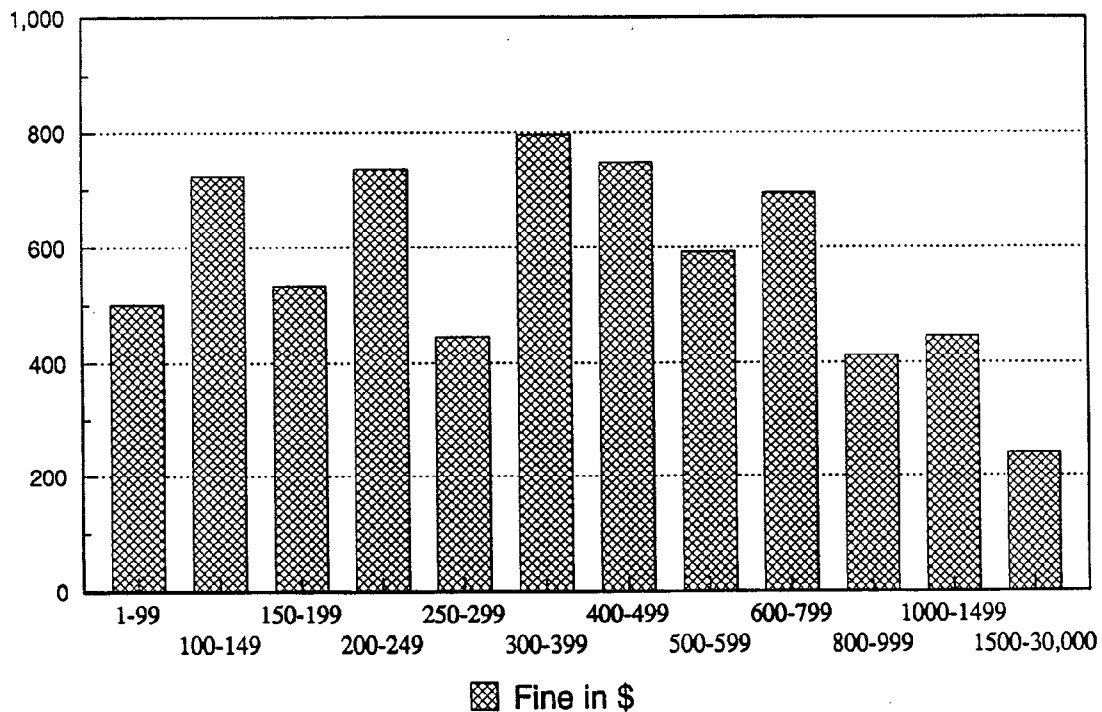
**Figure 2: The distribution of fine default orders and clients in the country/city.**



**Figure 3: Distribution of age and sex of registered fine defaulters**



**Figure 4: Total amount of fine for which each fine defaulter was working community service**



These 6869 fine defaulters had a combined total of 15 684 orders (each order represents one fine). Hence, each registered fine defaulter had an average of 2.3 fine default orders. Table 2 and Figure 1 show the number of fine default clients/orders relating to orders issued by the court, the number of clients/orders relating to clients registered to do community service work, and the registration rate in each of the probation and parole regions of NSW.

Approximately, only 19.4% of all fine default clients (relating to 27.4% of orders) who were issued with community service orders registered to do community service work in the first 18 months of the fine default scheme's operation. The remaining 80.6% had, as at 30th June 1989, received no punishment.

As Table 2 and Figure 2 illustrate there is a vast difference between the country and the metropolitan areas. Although, the city fine defaulters received more fine default orders, the country areas had more than double the number of fine defaulters registered. The registration

rate of the country areas was almost three times as high as that of the city areas.

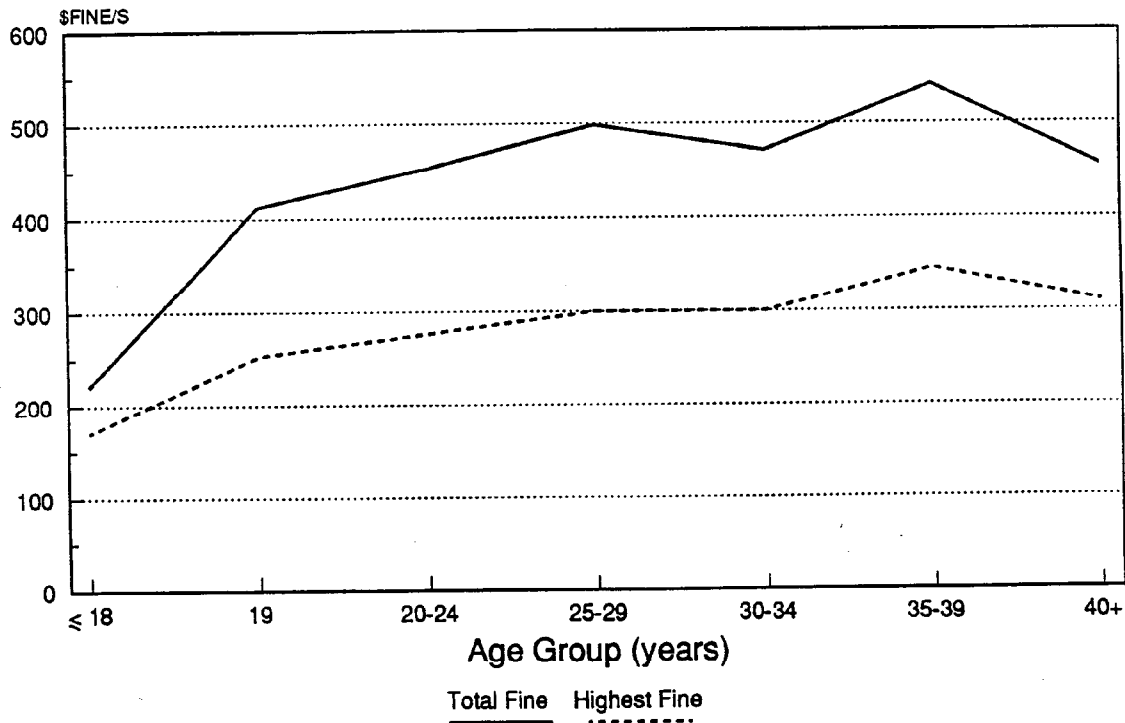
### 1.1 Age and sex of fine defaulters who registered with the Probation and Parole Service

There were many more male (86.2%) than female (13.8%) fine defaulters registered. This is consistent with the sex distribution of all persons fined by the local courts in 1988, where 86.9% were male and the remaining 13.1% were female. The median age of both male and female fine defaulters was in the range of 25-29 years, however the female fine defaulters were significantly older than the males ( $t_{6867} = 3.92$ ;  $p < .0001$ ). Figure 3 shows in more detail the age distribution of male and female fine defaulters.

### 1.2 Present fine details

The average total fine for each fine defaulter doing community service was \$474. A detailed distribution of the fines awarded is shown in Figure 4 below. The average highest individual

Figure 5: The average total and highest fine/s for different age groups of fine defaulters





fine received by each fine defaulter doing community service was \$294.

For the first 18 months that the fine default scheme operated, the fine defaulters who registered to do community service work owed a total of \$3,255,905 in fines. This figure does not include the 72.6% of fine default orders where clients did not register (although they may have paid later). If this were representative of all fine default orders and if all fine default orders were included, the amount owed could be almost four times higher (approximately \$13 million of unpaid court-based fines in an 18 month period).

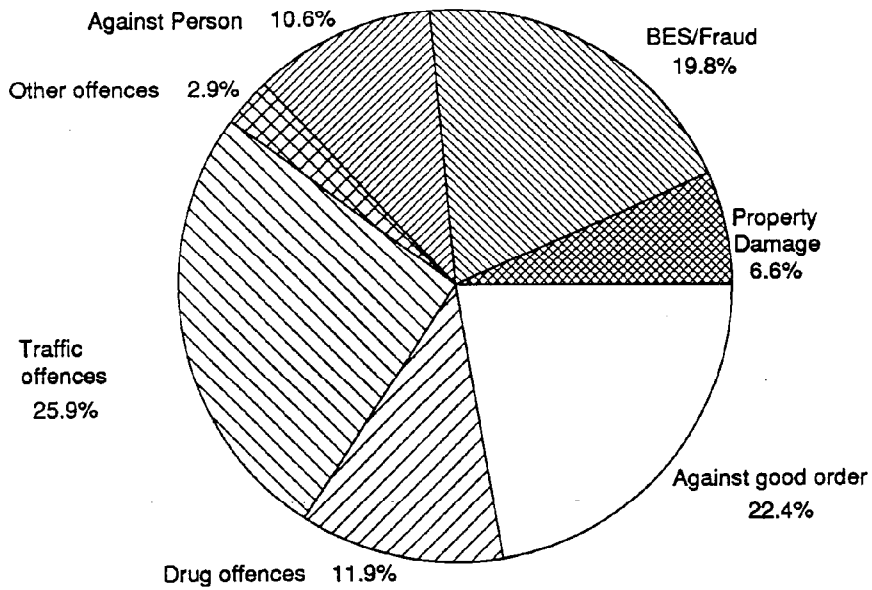
In 1987/88 revenue collected from local court fines was \$7,466,000. In 1988/89 this figure was \$7,428,000 (Attorney General's Department Annual Report, 1989, p.91). So for the same 18 month period that is being investigated above (January 1988-June 1989) approximately \$11 million worth of court-based fines would have been collected. From information received from the Warrant Index Unit of the NSW Police Department, the recorded value of outstanding warrants of commitment from unpaid fines was \$72.6 million up until June 30th, 1989.

The total amount of fine owed by each fine defaulter differed significantly between age groups ( $\chi^2_{66} = 122.02; p < .0001$ ). The under 18

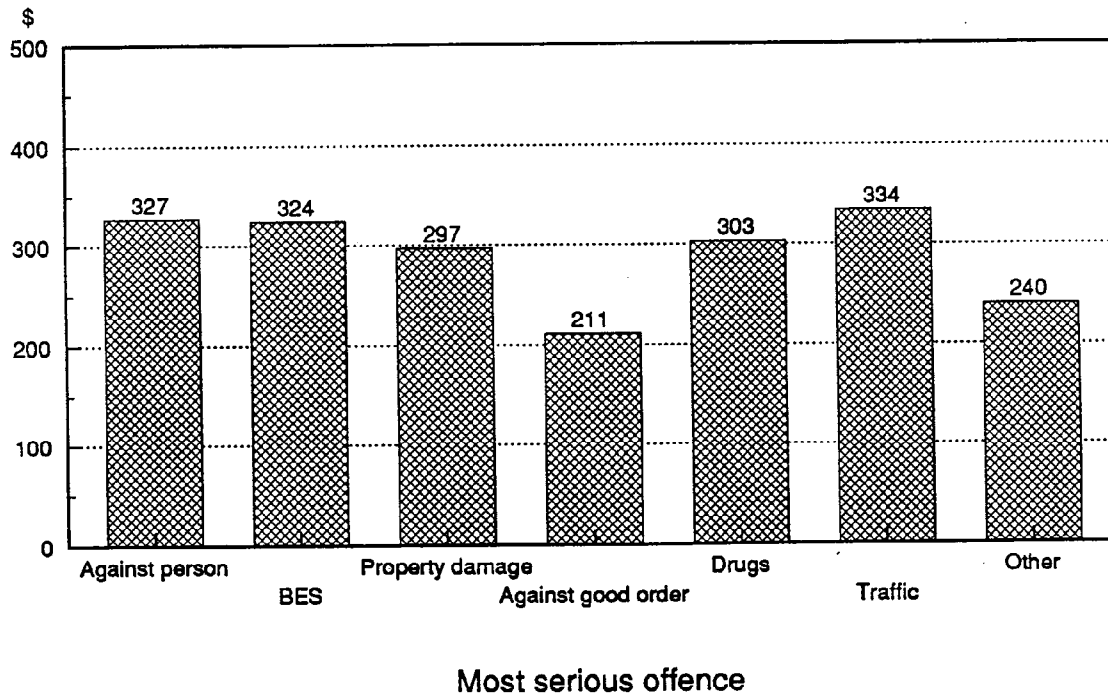
**Table 3: Most serious offence for which currently fined**

Most serious offence	Total	
	No.	%
<b>TOTAL AGAINST PERSON</b>	<b>726</b>	<b>10.6</b>
Break, enter & steal; fraud, theft		
BES	100	1.5
Fraud	184	2.7
Possession stolen goods	287	4.3
Car theft	86	1.2
Other Larceny	691	10.0
<b>TOTAL BES, FRAUD &amp; STEAL</b>	<b>1358</b>	<b>19.8</b>
<b>TOTAL PROPERTY DAMAGE</b>	<b>455</b>	<b>6.6</b>
Offences against good order		
Against justice procedures	453	6.6
Offensive behaviour	716	10.4
Unlawful possession of weapons	119	1.7
Other	248	3.6
<b>TOTAL AGAINST GOOD ORDER</b>	<b>1536</b>	<b>22.4</b>
Drug offences		
Use, possession of drugs	738	10.7
Deal, manufacture, grow	81	1.2
<b>TOTAL DRUG OFFENCES</b>	<b>819</b>	<b>11.9</b>
Motor vehicle & traffic offences		
Driving under the influence	794	11.6
Dangerous & other driving	322	4.7
Licence offences	314	4.6
Registration/insurance offences	137	2.0
Roadworthiness	97	1.4
Parking	111	1.6
<b>TOTAL MV &amp; TRAFFIC OFFENCES</b>	<b>1775</b>	<b>25.8</b>
<b>OTHER OFFENCES</b>	<b>200</b>	<b>2.9</b>
<b>TOTAL ALL</b>	<b>6869</b>	<b>100.0</b>

**Figure 6: Most serious offence of fine defaulters registered with Probation and Parole Service**



**Figure 7: Average highest fine for each offence group**



age group had an average total fine of \$221. As Figure 5 illustrates, the average total fine increased steadily as age increased and peaked at \$541 for the 35-39 age group. Part of the explanation for this is that the fine default recall system has been very slow in the past and as fine defaulters get older they accumulate more unpaid fines.

The average total amount of fine owed by each fine defaulter differed significantly between males and females ( $t_{6867} = 6.34$ ;  $p < .0001$ ). The male fine defaulters had higher total fines (with an average of \$492) than the female fine defaulters (with an average of \$357).

### 1.3 Number and length of orders

On average, each fine defaulter who registered to do community service had 2.3 orders. The number of orders ranged from one order to 70 orders for numerous traffic offences (presumably the fine defaulter's licence had already been lost). Just under half (48.5%) were only working off one order.

The average number of community service hours that each registered fine defaulter had been instructed to work was 40.6.

### 1.4 Most serious offence

Even though as of January 1988 most traffic offenders who defaulted on their fines would

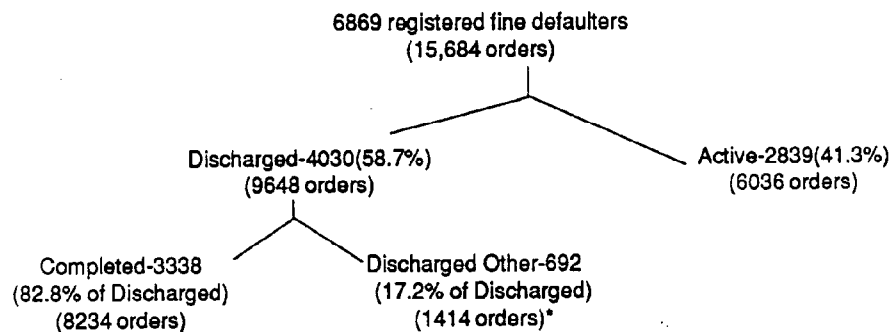
have lost their driving licence or vehicle registration (through the Department of Motor Transport); for more than one-quarter (25.9%) of fine defaulters doing community service their most serious offence was traffic-related. This is either because the offender had no licence, their licence was disqualified or they managed to slip through the Department of Motor Transport and the Local Court's computer-based identification matching process.

As is shown in Figure 6 the next most common category of offence for which fine defaulters are performing community service work was "Offences against good order" which comprises 22.4% of fine defaulters. A detailed account of the distribution of offences for which fines were not paid is provided in Table 3.

There is a statistically significant relationship between the most serious offence and age ( $X^2_{36} = 339.45$ ;  $p < .0001$ ). Those fine defaulters under 25 years of age had a higher incidence of break, enter and steal (BES), property damage and offences against good order. The fine defaulters aged 25-34 had a higher percentage of drug offences and those fine defaulters aged 25 and over had a greater incidence of driving and other offences, than the under 25 years old fine defaulters.

Female fine defaulters had a significantly higher incidence of BES/fraud and "other"

**Figure 8: Number of clients and orders: registered, discharged, active and completed**



\*For breakdown of reasons for "Discharged Other" see Table 4.

**Table 4: Reasons for fine default orders being discharged from the Probation and Parole Service**

Reason for discharge of order by the PPS	N	%
Order completed	8234	85.3
Order breached	642	6.7
Order lapsed	298	4.3
Fine paid in full	199	2.1
Imprisoned *	161	1.7
Part work/part payment	34	.4
Death	14	.1
Other	66	.7
<b>TOTAL ORDERS DISCHARGED</b>	<b>9648**</b>	<b>100.0</b>

\*"Imprisoned" refers to a penalty for another offence and is unrelated to the fine default order.

\*\*N.B. Each client can receive more than one order.

offences and lower traffic offences than males ( $X^2_6 = 106.0$ ;  $p < .0001$ ).

The average highest fine for each fine defaulter differed significantly between "most serious offence" groups ( $X^2_{54} = 927.60$ ;  $p < .0001$ ). As Figure 7 illustrates "Against good order" offences seem to receive the lowest fines (average \$211) followed by "Other" (average \$240) and "Property damage" (average \$297) offences. Traffic (average \$334) and "Against person" (average \$327) offences seem to receive the highest average fines. These figures are approximately consistent with all fines handed down by the courts.

### 1.5 Discharge reasons

As of June 30th 1989, 4030 (58.7%) of the 6869 fine defaulters registered since January 1988 had been discharged. Discharge means that the Probation and Parole Service's responsibility for the fine defaulter has been terminated. So 2839 (41.3%) fine defaulters were still "active" and the responsibility of the Probation and Parole Service. Just under half (48.6%) of registered fine defaulters completed all of their orders in the first 18 months of the scheme's operation. Of those discharged, 3338 (82.8%) fine defaulters completed their orders. A basic breakdown of the reasons for the client's discharge is given in Figure 8.

The maximum period of time allowed to complete a fine default order is 12 months. A few fine defaulters (298 or 4.3%) failed to work their order within 12 months and therefore the order lapsed. A total of 568 orders correspond to these 298 clients. A more detailed breakdown of the entire 9648 orders which had been discharged is available in Table 4.

### STUDY 2: SURVEY OF COMMUNITY SERVICE ORGANISERS

From the 65 probation and parole offices in NSW 60 fine default surveys (44 from the country offices, 16 from the city offices) were returned by the community service organisers. This represents a 92% response rate. Five surveys (3 from the country, 2 from the city) were missing due to the absence of the community service organiser from the office for an extended period.

Much of the following analysis involved comparing the differences in the operation of the scheme between the country and the city probation and parole offices. Where there are no differences between city and country probation and parole offices, statewide results are discussed.

## 2.1 Description of the operation of the fine default scheme as understood by community service organisers

### a) Aims of the fine default scheme

The community service organisers had widely differing views on the main aim of the fine default scheme. One-third (33%) of community service organisers thought that the fine default scheme's main aim was to benefit the fine defaulter, e.g.: "To allow offenders the option of paying for their offences other than through cash, or going to gaol"; "To give those with genuine financial problems a chance" and "To avoid the negative effects of incarceration for minor or first-time offenders".

Another third (32%) of community service organisers believed that the aim of the scheme was to reduce the overcrowding in gaols, e.g. "Keep people out of our gaol system for relatively minor offences and therefore save the state money".

Some of the community service organisers (20%) believed that the introduction of the fine default scheme was purely for political reasons as a reaction to bad publicity, e.g., "Knee-jerk response to the Partic bashing", "To protect the departmental heads".

A few (7%) understood the main aim of the fine default scheme was to benefit the community, e.g., "So the offender can make some reparation to the community" and do some work for those in need.

It may be a problem that 8% of community service organisers in NSW could see no logical aim behind the scheme.

### b) Demand for the fine default scheme

The 60 probation and parole offices which returned the survey expected that 831 fine defaulters were to work in the week beginning the 10th July, 1989. From Table 5 it can be seen that 564 of these (68%) actually reported to work, the remaining 267 (32%) fine defaulters allocated work that week failed to show up. As one-third of fine defaulters expected to work did not turn up, the overall reliability of fine defaulters seems to be in doubt.

The city offices had 199 fine defaulters allocated work that week of which 73% turned up to work. The country offices had 632 fine defaulters allocated to work and 66% actually worked.

Each of the city offices had a mean of 12.4 fine defaulters allocated to work during the survey week and each of the country offices had a mean of 15.8 but this difference was not statistically significant ( $t_{54} = 0.75, p > .05$ ).

### c) Work allocation

Most of the community work undertaken by the fine defaulters was unskilled. The most common jobs included: general labouring, gardening, maintenance, painting, cleaning, lawn-mowing, clothes-sorting in St Vincent de Paul and Lifeline stores, renovations, assisting at neighbourhood centres with children (women only), meals-on-wheels, assisting elderly, washing police cars, kitchen work, cash-a-can centres, furniture removal and helping the handicapped. Some probation and parole offices were able to utilize the specialist skills of some fine defaulters such as plumbers,

**Table 5: The number of fine defaulters allocated work in the survey week who worked/did not work in the country/city offices**

	City	%	Country	%	N.S.W.	%
Failed to work	53	27	214	34	267	32
Worked	146	73	418	66	564	68
Total F.D.'s Allocated work	199	100	632	100	831	100

concreters, landscapers, mechanics and typists.

Twenty-eight (47%) offices had their fine defaulters involved in group projects. A group project is community work that is usually organised: i) to involve more than a few workers; ii) specifically for fine defaulters; iii) for the weekend (but not always); iv) and can be supervised either by the agency or by a sessional supervisor. The community service organisers reported that group projects are more cost-effective and large numbers of workers are easier to supervise than at individual agencies. They are also easier for placement and breaching. Also, large jobs can be done quickly and efficiently. The community service organisers seemed to think that "clients feel more comfortable working with others in similar situations and it makes paperwork much simpler". The most important benefit of group projects is that large numbers of fine defaulters are able to be given work without the risk of losing a current agency through the misbehaviour of one or more workers. Also many "agencies don't want a quick turn-over of unreliable workers" and the nature of some offences and lack of assessment precludes placing some offenders at the usual community service work sites.

Many probation and parole offices (especially in the city) have had difficulty finding weekend work for offenders. Jobs which can be found on the weekends are preferentially allocated to normal community service order workers (court-based) rather than fine defaulters, so group projects can often accommodate those fine defaulters who cannot work during the week. One community service organiser stated: "It has been seen as more beneficial to organise work in group projects as in that way workers can either be queued for a specific project or worker numbers can be maintained on a project by replacing completed order workers with those newly received, so long term work can be maintained on projects".

Group projects were also seen as being politically beneficial. If efficiently organised they are very good for public relations as they often have a high profile in the local community. For example, 10-20 fine defaulters clean up the

banks of the Cooks River in Sydney every Saturday, supervised by Canterbury Council. There have been a few articles in the local paper and numerous letters to the council applauding the work done. Other group projects included: restoring a grandstand at a sports field, maintaining the grounds of primary schools, reconstructing a tram museum, cleaning up an Aboriginal village area, restoring old churches, a cemetery improvement project, etc.

Of the offices which had no group projects, 18 (56%) would like to start them. The reasons the remaining offices (44%) gave for not wanting group projects were: that there was sufficient work and that there was no-one to supervise fine defaulters or that there was no time to organise the project.

Ten of the sixty probation and parole offices surveyed keep their fine defaulters separate from the court-based community service order workers. They seem to either have special group projects operating exclusively for fine defaulters or a few tolerant agencies that will accept anyone, e.g. washing cars at police stations. One community service organiser stated: "Clients are sent to normal community service order agencies if they are known and when we are confident it won't jeopardise our relationship with that agency." These offices were fearful that the casual attitude and unreliability of the fine defaulters might cause them to lose good agencies used for court-based community service orders.

However, some of the remaining offices reported doing the opposite by ensuring that there are court-based community service order clients working with fine defaulters. These community service organisers seem to think that the community service order workers take the work seriously because if the order is breached they face gaol (whereas fine defaulters know that they can always pay the fine) and they are a good influence on the fine defaulters by encouraging them to also take their work seriously.

#### d) Administrative procedures

##### i) Breaching fine defaulters

Fine defaulters are automatically breached for not registering with the probation and parole

office within a month of receiving their fine default order. If they do register they can also be breached if their behaviour is unacceptable or if they fail to report to work without a good excuse. In this case a breach form is sent to the court and to the fine defaulter and fine defaulters are asked to explain to the court, in writing, why they were breached. If their reasons are accepted by the court, the order may be reissued.

Keeping in mind that every case is different, the stage at which the community service organiser breaches a fine defaulter varies widely across the state. One-third of organisers (33%) stated that they breach after one excuse has been given for not turning up to work. Half of the community service organisers reported they were more lenient and would only breach the fine defaulter after a few excuses had been given or after ringing or writing to them with no response. The remainder (17%) said they would usually breach immediately the fine defaulter does not show up for work. Generally, the community service organisers seemed to be quite lenient and were usually prepared to accept medical certificates and reasonable excuses if they were forthcoming. However, very few community service organisers would chase the fine defaulters as they do with court-based community service workers.

When the responses were divided into "strict" and "lenient" groups it was found that the city offices were more lenient than the country offices and would accept more excuses from the fine defaulters before breaching them ( $X^2_1 = 5.455$ ;  $p < .025$ ).

It has been found that the day-to-day work arrangements and contact for non-attendance were usually made between the fine defaulter and the agency concerned. The community service organiser is made aware of attendance from the reports of the sessional supervisor.

#### ii) Unsuitable fine defaulters

Community service organisers reported having difficulties placing "unsuitable" clients. They were unsure of what to do with drug offenders, alcoholics, sex offenders, and fine defaulters with a history of assault who would not be accepted at many agencies and might

potentially cause trouble at others. Perhaps even more difficult are the handicapped, medically unfit and the elderly. It is a quandary because circumstances beyond their control render these people disadvantaged in the fine default scheme.

When asked how their office copes with unsuitable fine defaulters the community service organisers replied with a wide range of answers. First, the assessment of fine defaulters seems to be virtually non-existent, so it is often difficult to know from the start whether a fine defaulter is unsuitable. Only eight offices (13%), in fact, had not, at the time of the survey come up against a fine defaulter who registered and then was found to be unsuitable.

Community service organisers who have had unsuitable clients said that their response depended on the situation. One-third (33%) were likely to breach the unsuitable fine defaulters and send them back to court. They explained that usually the alcoholics and drug addicts (if they register) would quickly breach the fine default order by not reporting to work, because of their addiction.

Some offices (12%) return the order to the court with a covering letter explaining why the fine defaulter cannot work.

Quite a number (14 or 23%) let the order lapse (after 12 months) or put on "resubmit" to see if their situation improves. This strategy is summed up by one community service organiser who said: "I put them on hold and wait for a miracle e.g. group project, change of address, prison or death". Those offenders put on hold are usually instructed to report to the probation and parole office on a regular basis (e.g. once a month) to discuss their situation. These community service organisers "would prefer to allow the order to lapse rather than place the community at risk".

Some offices (13%) put a great deal of effort into finding "unorthodox" work for otherwise "unsuitable" fine defaulters. In one office an 80-year old invalid pensioner attached labels to "vials for life" containers at home. Elsewhere, a sick elderly woman knitted children's jumpers for Dr Barnado's homes.

Many agencies refuse to accept drug addicts, alcoholics or those with known prior sex or assault offences. However, with no formal assessment integrated into the fine default scheme the community service organisers cannot tell who is "safe". So, they either send no fine defaulters to some agencies which leads to queuing or they send these unassessed fine defaulters to work and risk losing the agency.

### iii) Assessment of fine defaulters

Three-quarters of community service organisers (74%) thought that the current level of assessment for fine defaulters was not adequate. Assessment for suitability and assessment for allocation were rated as important problems, although suitability for placement into the fine default scheme was seen as more important than assessment to allocate jobs. If the fine defaulters were assessed before partaking in the fine default scheme the previous problem of unsuitability would be vastly reduced.

Nearly all of the community service organisers agreed that it was vital that they know the criminal antecedents of the fine defaulter. As one community service organiser stated: "Criminal history is important. Currently we do not know who we are sending out and therefore we look for "safe" placements for all, which narrows the options (i.e. if assessment were given, a wider range of jobs could be sought)".

Quite a few of the forty-four community service organisers who wanted improved assessment, thought that assessment for suitability of fine defaulters to enter the scheme should be the same as it is for court-based community service orders, for example, one stated: "They (fine defaulters) are expected to perform at the same standard as normal community service orders, so they should be subjected to similar scrutiny".

Another community service organiser added:

"It seems ridiculous that a totally unsuitable person must be directed to work before a breach can be established, e.g., if a person has recently failed in a community service order they can still

elect for a fine default order, even if their situation is unchanged".

The best example in argument against the automatic issue of fine default orders is the offender who i) receives a court-based community service order, ii) breaches it, iii) is fined for the breach, iv) does not pay the fine and so v) receives a fine default order, which in all probability will be breached as well. As one community service organiser stated: "This detracts from the validity of the full assessments done for ordinary community service orders".

A few community service organisers (11%) strongly believed that a means test is important to determine who should receive a fine default order. As one community service organiser said: "Fine default orders should be available only to those who can't pay fines, not to those who won't pay fines".

However, some other community service organisers (12%) pointed out that "there is virtually no time available to do assessments on such large numbers of fine defaulters and for the short number of hours they are required to work it would not be cost effective".

### e) Community service organisers' perceptions of the fine defaulters

#### i) Level of employment

To obtain an estimate of the fine defaulters' employment situation the community service organisers were asked "Since the fine default order scheme commenced, approximately what percentage of the fine defaulters in your district would have been in full-time paid employment at the time of work registration?"

The mean estimate of fine defaulters in full-time employment for the state was 36%. The country offices estimated that an average of only 26% of their fine defaulters were in full-time employment but the city offices estimated that 63% of fine defaulters were employed. This difference is statistically significant ( $t_{55} = 5.7$ ;  $p < .001$ ).

It has been estimated that fewer fine defaulters in the country are employed. It could be interpreted that more country fine defaulters genuinely could not afford to pay their fines and the city fine defaulters had alternate reasons for



**Table 6: Ratings of importance of reasons why the community service organisers believed that fine defaulters in their office did not pay their fine**

Rating	REASON FOR FINE DEFAULT			
	'Could not afford fine'	'Bad organisation'	'Out of principle'	'Community Service a better option'
1	25 42.4%	12 20.3%	5 8.5%	17 28.8%
2	11 18.6%	17 28.8%	7 11.9%	24 40.7%
3	13 22.0%	16 27.1%	17 28.8%	13 22.0%
4	10 16.9%	14 23.7%	30 50.8%	5 8.5%
TOTAL	59	59	59	59

(N.B. The 60th community service organiser did not complete this section.)

defaulting. This area is addressed in the next section.

One reason for the very low employment estimate in the country offices could be that fine defaulters can usually only be placed for work during the week, as weekend agencies are rare and are used by court-based community service orders. The fine defaulters are given the choice of doing community service during the week or paying off the fine. So, generally it is only the unemployed fine defaulters who are able to do community service during the week.

ii) Community service organisers' opinions of why the fine defaulters did not pay their fines

Reasons why the community service organisers thought that fine defaulters did not pay their fines were ranked in importance from 1 to 4 (see Table 6). There was statistically significant agreement of opinion in ranking (Kendall's coefficient of concordance significant at 99% level). Using this method, "couldn't afford the fine" and "community service is a better option" were considered the most important reasons for not paying the fine and "out of principle" was considered the least important reason (51% ranked it 4th). However, as Table 6 shows, "couldn't afford the fine" was ranked first the most number of times (42%).

The rating of reasons why the community service organisers thought that fine defaulters did not pay their fines differs statistically

significantly between the country and the city offices. One of the major reasons (42% rated it most important) in the country and the city is that the offender "couldn't afford the fine". However, in the country the community service organisers also thought that "the community service is a better option" was a very important reason for not paying a fine (33% rated it first) but the city offices (only 18% rated it first) did not ( $X^2_3 = 10.02; p < .018$ ).

The city offices seemed to think instead, that "lack of organisation" was a major reason (33%) for their clients' not paying their fines ( $X^2_3 = 8.85; p < .031$ ). For both city and country offices "out of principle" was considered the least important reason for not paying a fine.

The city community service organisers seemed to be saying that their clients could not be bothered to pay their fines. As one organiser said: "fine defaulters are unwilling to give up other priorities in order to pay their fines". Another city community service organiser stated: "They have no intention of ever paying any of their fines unless a policeman turns up with a warrant. They (the clients) know that the chance of this happening is negligible" and "they know it won't be taken seriously and will get lost in paperwork and delays".

Another community service organiser stated that "Most fine defaulters in my office calculate that when cutting out a fine they are working at

the rate of \$12.50/hour, tax-free. They need to be earning \$500/week to be at the break-even point. Very few fine defaulters are earning that. Doing community work is often a break in the dullness of being unemployed".

A very popular opinion of the community service organisers was that the fine defaulters "Prefer to spend money on other things. Fines have no priority" and that fine defaulters are "irresponsible as regards obligations generally".

iii) Differences between fine defaulters and court-based community service workers

Most (70%) of the community service organisers have observed differences between the fine default workers and the court-based community service order workers. The majority of these (57%) thought that fine defaulters were less reliable and did not take the work as seriously as court-based community service order workers. They stated that: "Fine defaulters are less enthusiastic and more difficult to motivate to work". They are "irresponsible, unpunctual, unreliable, with some episodes of aggressiveness" stated one organiser. One of the most salient points made was that "fine defaulters have less commitment to work. I think court-based workers recognize that to breach the order means gaol. Fine defaulters recognize that the option is always there to pay the fine". Another community service organiser believed that "Fine default orders are generally considered to be a joke - not seen by offenders as a penalty. Many fine defaulters laugh about being "paid" \$100/day. They comment often that "crime does pay".

The fine defaulters also seem to be "less likely to comply with work instruction, have more absences, work shorter hours, and the agencies are generally less satisfied with them". In fact, one community service organiser said that "frequently fine defaulters have to be withdrawn from agencies".

A few community service organisers (14%) found that it is more difficult to place fine defaulters as there is no prior assessment. They commented that "Fine defaulters are quite often people who were deemed unsuitable for normal community service orders - consisting of drug

addicts, alcoholics, the mentally or physically disabled".

A few organisers (10%) said that the greatest difference they noticed between court-based and fine default workers was that fine default orders are generally short term (usually 8-20 hours) "which causes a great deal of paperwork". However, three organisers (5%) preferred the fine defaulters and thought they worked better because their orders are shorter. One explained that: "They usually complete their hours without too much fuss. Shortness of the order is, I think, a factor". Another reason a community service organiser gave is that "Fine defaulters have a greater range of work skills and social backgrounds i.e. more straight people coming into contact with the Probation and Parole Service".

## **2.2 Benefits of the scheme as described by community service organisers**

### a) Positive features

One-third (32%) of community service organisers stated that the best feature of the fine default scheme was that it helps the genuine fine defaulter. One community service organiser said that "For those who genuinely cannot afford to pay fines it is an option whereby they can 'pay their debt to society' and another stated that it "allows long-term unemployed the option of doing work with financial saving for people in difficult circumstances". Some of these organisers saw that an added benefit was that "Some offenders learn basic work habits and skills as well as gaining in self-esteem and confidence" and that "Doing community service work is forcing them to gain motivation, get out of the house and interact with other people while at the same time doing something useful for the community".

Another 18% simply said that the main benefit of the scheme is that it "reduces the gaol population".

One-fifth (20%) of community service organisers believed that the most important benefit to the program was to the community in the "valuable" work being done by the fine defaulters.

Only a few (7%) saw that the scheme's financial advantages to the community was one of the major benefits.

Almost one-quarter (23%) of the organisers could find no positive features in the fine default scheme. Some of the comments which seem to illustrate how these community service organisers feel included: "Really tried, but couldn't come up with anything"; "It has created more work for the staff than for some of offenders"; "There are none. This scheme is very time consuming and expensive to run, with practically no beneficial results"; "None - perhaps in that genuinely motivated poor people have alternatives. However, I find poor, I find motivated but generally not both".

#### b) Gaol or community service?

Almost all (88%) of the community service organisers believed that it is better for fine defaulters to do community service than go to gaol. Of these, more than one-third (37%) emphasized that "Gaol should be seen only as a sentence of last resort", "It is full of negative and destructive influences". One organiser explained that "Gaol can mean the loss of job/accommodation and, even family. It can jeopardise people's ability to meet regular financial commitments. People who would not otherwise go to gaol should not go there through non-payment of fines".

Almost one-quarter (22%) of those surveyed believed that doing a fine default order is better than gaol mainly because of the reduced cost. As one community service organiser summed up: "If it were properly set up and organised, there is more benefit to the taxpayer in getting work out of the fine defaulter rather than costing the taxpayer money by keeping him in gaol".

A few (13%) emphasized that doing a fine default order has benefits for the offender. Some comments from community service organisers included: "A majority indicate a sense of satisfaction at having completed the order"; "If punishment is seen as a loss of liberty then doing a fine default order achieves that, whilst enabling people to retain self-esteem and self-worth" and "Work brings its own rewards to a number of clients".

Several (11%) organisers believed that the community work completed is an important advantage of fine default orders over gaol for the fine defaulters. As one community service organiser commented: "It allows the individual to 'make a contribution' in lieu of 'suffering a punishment'".

The remainder (16%) thought that fine default orders were better than gaol for fine defaulters but their comments about the scheme were negative. For example: "At the moment it is still not cost effective", "But the majority of people don't take advantage of it and if they did, the system could not possibly cope" and "However, the way it was brought in and its 'clumsy' structure and clerical overload make the current scheme inappropriate". Many more of this type of comment are forthcoming in the subsequent "problems" section.

A minority (12%) of those surveyed believed that a fine default order is not a better option than gaol for fine defaulters. Comments included:

"It's an easy option but neither option is of much use";

"As most are serious offences most should go to gaol but a fine default order is good for traffic matters";

"I doubt if gaol poses a threat for most people offered fine default orders";

"99% of my fine defaulters drink excessively on a regular basis. If they can afford to purchase \$40-\$50 per week of grog, they can afford to channel that money instead towards fine payments".

#### c) Benefits for offender

Participating in the fine default scheme seems to have quite a number of benefits for the offender. Apart from avoiding gaol, gaining self-esteem and work skills; a number of fine defaulters have returned to the agency, where they did their community service, as either a volunteer or as a paid worker.

Many community service organisers were not aware of the activities of their fine defaulters once their orders were completed. However, fourteen community service organisers across the state did know of fine defaulters who had

been asked to stay on at the agency. These amounted to ten paid workers and thirty-four volunteers. A few organisers also commented that they encourage their agencies to give the fine defaulters a reference. These organisers claimed that additional jobs have been obtained due to these references. One organiser referred to the case of a 33-year old man who started his first ever permanent job immediately after completing a fine default order.

## 2.3 Problems encountered in the fine default scheme

### a) Rated problems

From previous interviews with a sample of community service organisers, fifteen of the most common problems were listed. In the survey the community service organisers were instructed to rate the importance of each problem in their office on a scale from 1 (no problem) to 5 (serious problem). Using the number of community service organisers who rated each problem as a 5 (serious problem) the statements were ranked in order of seriousness of problem.

So, as can be seen above, the problem most frequently rated as serious by the community service organisers is that the fine defaulters are not formally counted in their caseload. They seem to think that the work that is being done on the fine default scheme is not being acknowledged. A number of organisers expanded on this problem in their open-ended responses. One stated: "there is no acknowledgement of work value and effort from Regional and Head Office". Another organiser added that "A formula should be immediately established to allow for orders to be counted as part of a caseload. The work presently undertaken to maintain the system is far greater than is acknowledged by regional and other administrative staff".

The second most frequently rated as a serious problem was the excessive amount of paperwork which accompanies the fine default order and the extra time it takes to administer the scheme which often the community service organiser does not have. This is also related to

the problems ranked fifth - "Not enough staff to cope with fine default orders" and sixth - "Computer registration of the fine default orders". At most offices the increased workload of computer registration and associated operations of the fine default scheme overloaded the records clerk. Some organisers reported that their offices received additional clerical assistance, they were trained and soon after their jobs were cut. One organiser argued that "We have a lack of resources (mainly time) to treat fine defaulters in anything like the depth in which they should be treated. If we are going to remain lumbered with this alleged 'scheme', give us the staff to deal with fine defaulters".

Rank	Problem	% of organisers who rated this as a 'serious problem'
1)	Fine defaulter not being counted in caseload	69.5
2)	Paperwork relating to fine defaulters	57.6
3)	Lack of assessment for suitability to enter the scheme	46.6
4)	Volume of orders to be received from court is unknown and erratic	44.8
5)	Not enough staff to cope with fine default orders	43.1
6)	Computer registration of fine default orders	41.4
7)	The fine defaulter has changed address and so doesn't receive the fine default order	35.6
8)	Being told to treat the fine default scheme as low priority	30.5
9)	Lack of communication/guidelines within the Department/Probation and Parole Service	27.6
10)	Magistrates aren't taking into account the means of the offender before fining them	24.1
11)	Limited assessment for allocation to work	20.7
12)	Courts slow at processing breaches	19.0
13)	Most fine defaulters only have short orders	15.3
14)=	Courts slow at processing/issuing fine default orders	8.6
14)=	Police are slow to execute warrants	8.6

The third most important problem was considered to be the automatic issue of fine default orders and the consequent lack of assessment of offenders who enter the scheme. A number of comments emphasized the problem of what to do with unsuitable clients. In other words "lack of discretion to rule somebody 'unsuitable' when this is obvious". (This problem has been discussed in detail in Section 2.1 d - Administrative procedures, previously.)

A problem that is dependent upon the local court is that the "Volume of orders to be received from court is unknown and erratic" and this was ranked fourth in importance. Further problems regarding the courts are discussed under 'additional problems'.

One office with a very high Aboriginal clientele mentioned that their "frequent change of address results in them not being aware of the order and subsequently being breached". This problem does not seem specific to that office as 36% of community service organisers thought "the fine defaulter has changed address and so doesn't receive the fine default order" a "serious problem" (ranked 7th).

The lack of communication also seems to be a problem for the fine default scheme (ranked 9th). As one community service organiser said: "There is an apparent lack of communication, at the senior management level, between the Department of Corrective Services and the Attorney General's office. Often the Attorney General's staff are given less, or conflicting information about fine default orders".

Being told to treat the scheme as "low priority" was considered to be more of a problem in the city than in the country ( $\chi^2_4 = 12.4$ ;  $p < .014$ ).

#### b) Additional problems

The list of fifteen problems, however, did not provide for the full range of problems that have been encountered in the fine default scheme. Forty-two of the organisers described additional problems almost all of which they rated as a "serious problem". Many of these problems mentioned in the open-ended additional section were related to the problems in the ranked section.

##### i) Lack of resources

The problem mentioned by the greatest number of community service organisers in the "additional problems" section was the lack of resources, cost involved and time wasted administering the fine default scheme. Comments included:

"We are forced to do a half-hearted job, reducing the schemes' real potential";

"Most of my time is consumed by telephone and personal enquiries from people who have received fine default orders";

"The time involved in processing short orders of eight hours is disproportionate to the penalty";

"Paperwork is crippling";

"Because of fine default order pressure, the sessional supervisor has little or no time to properly monitor agencies".

##### ii) Low response rate

Related to the workload is the small percentage of potential clients who actually register and then complete the order. As one community service organiser commented: "Clients mostly ignore the orders when they receive them, thus the effort and expense involved in processing orders doesn't yield the intended result". Another community service organiser commented: "People are entering into a work arrangement but not following through. This means paperwork to initiate the work, then often much more to initiate the breaches". A general opinion was that it is a waste of time entering every order onto the computer when such a small percentage of clients actually turn up to work and those who do are unreliable and have a bad attitude towards work.

##### iii) Agencies

This casual attitude to turning up to work can be "irritating to agencies and can undermine the ordinary community service order scheme". One organiser explained that fine defaulters "overload available agencies" and the limited weekend work makes it "virtually impossible to place all clients". Many offices are forced to queue their fine defaulters (this is discussed more fully in the next section of this report).

#### iv) Courts

Once the fine defaulters are breached, many reapply to the courts, who reissue the order, which is again breached and the cycle continues. One community service organiser stated that: "Court gives continuations to anyone who responds to the breach; even if the response indicates they are unsuitable (e.g. in hospital, pregnant, etc.)". Another organiser explained that "The attitude of courts is to get rid of the orders - it looks good in regards to their records".

Other problems reported regarding the courts include:

"Getting information back from court after the client was breached";

"Hundreds of orders waiting at court - they're not processing orders";

"The inconsistencies of decisions made by local courts regarding withdrawing of warrants, granting time to pay or re-issue of order";

"Poor response from court regarding payment of fines (Form 7)".

#### v) Form 7's

A problem that was mentioned regularly was related to Form 7's (the form that the probation and parole office gives to the client which states how much the fine defaulter still owes if they decide to pay the fine. They then present it at court to pay). Even when a fine defaulter has not completed any community service hours the courts will not accept any money until the fine defaulter goes to the probation and parole office to get a Form 7. After the Form 7 is given, the community service organiser often never hears what has happened to the fine defaulter. They assume that they have paid. If they have not, the court thinks they are still doing community service with Probation and Parole. These people may get lost between the different agencies with no agency specifically having responsibility for them.

#### vi) Rate of 'pay'

A few community service organisers commented that: "Fine defaulters doing

community service orders are too highly 'paid' - this reduces the impact of an order".

#### c) Availability of work

Although only a small proportion of fine defaulters are actually registering to do work, many offices cannot immediately allocate work to all the fine defaulters. Over half (53%) of the offices in the state reported being forced to queue fine defaulters until jobs become available. There were more offices forced to queue fine defaulters in the country (59%) than in the city (39%). A lack of jobs and agencies only accounts for 34% of the reasons officers gave for queuing fine defaulters.

A further 21% said that there were not enough weekend agencies especially as a preference is always given to court-based community service orders and it seems that "many fine defaulters are employed during the week".

Some (9%) queue the fine defaulters so they can wait for a group project. One community service organiser said he did this because "At a guess 75% of the offenders who report have less than 24 hours to work. For about half of my agencies it would be disruptive to the agencies to send fine defaulters for such a short period. I then put them on a waiting list for a group project". Another organiser added: "I wait for a group project because they (fine defaulters) are so unreliable, by signing up ten fine defaulters, you can expect three or four to turn up to work".

Almost one-quarter (24%) of organisers were hesitant at placing fine defaulters at agencies even if there were room. As one community service organiser explained: "Most of the time the fine defaulter is a completely unknown quantity and I prefer to queue them rather than invite disaster by placing an unknown quantity in an unsuspecting agency".

A few (12%) community service organisers complained that the courts send out fine default orders sporadically and in large batches so the probation and parole offices do not have the resources to process them immediately.

#### d) Theft and aggression

At the time of the survey, of the sixty offices surveyed, seventeen (28%) had had a total of

twenty-eight fine defaulters who had stolen something, or had become violent whilst doing their community service hours.

Items alleged to have been stolen included: paint, cash, credit cards, personal belongings, tools, clothing, purse, bricks, lawn mower, cement mixer and hydraulic air pump (both returned). However, most of these were considered difficult to prove, although most of the fine defaulters involved were breached.

One office had "a near riot at the Salvation Army (largest and most valuable agency) due to insolence and aggressive behaviour of fine defaulters towards the supervisor and other community service workers".

The trouble experienced seems to be due to the lack of assessment of fine defaulters. In many cases not very much can be learnt from the current offence. For example, one of the men alleged to have become violent had defaulted on a fine for keeping pigeons against council regulations.

Obviously, the community service agencies dislike this sort of behaviour. It seems very fortunate that only five agencies had withdrawn from the scheme due to the behaviour of fine defaulters, as of July 1989. All of the agencies were from the country and they were said to have withdrawn due to the unreliability of the fine defaulters. Often, the job that the fine defaulter was to fill was essential to the functioning of the agency but they could not be trusted to turn up to work.

However, community service organisers reported that many more agencies have been very close to withdrawing from the scheme. Most of the community service organisers' opinions can be described by one organiser who said "No, I haven't lost any agencies yet, but I've been lucky and very cunning". Often the only way to save the agency was to remove all fine defaulters from the agency.

## 2.4 Improvements suggested by community service organisers

### a) Only receive orders for fine defaulters who want to work

Nearly half (45%) of the community service organisers suggested that only fine defaulters who apply to the court to work community service hours should be referred to the Probation and Parole Service. As one organiser stated: "We should not be wasting our time with thousands of orders, many of whom choose to pay or never turn up". Many community service organisers detailed the steps involved in their improved fine default scheme. An example is:

"The point of entry to the scheme needs to be changed: Court should send out a letter to the fine defaulters informing them of the community service option that can be applied for at the court and then register at the nominated probation and parole office. This makes the court responsible for negotiations re payment, which is their primary responsibility. If there is no response to the original letter a warrant should be issued by the court. When the warrant is served the fine defaulter should be given seven days to pay the fine, or apply at court for a fine default order. If neither option is taken, the warrant is executed and the fine defaulter is taken to gaol".

There were a few variations on this theme:

"The fine default orders are still automatically sent to the offenders but Probation and Parole is concerned only with clients that turn up";

"The person is given the choice of applying for a fine default order at the time of sentence and is given seven days to report to the probation and parole office";

"This service should have nothing to do with the scheme until the fine defaulter presents with his/her order desiring to work. The simplest way to achieve this would seem to be that:

a) The court issues warrants for all unpaid fines,

b) The police execute these warrants and explain that the defaulter has three options:

- i) pay the fine
  - ii) cut out the fine in gaol
  - iii) apply for a community service order.
- If the fine defaulter elects option the warrant could have a section which would be detached and handed to him/her.

c) If the fine defaulter reports to the probation and parole office within 7 days they will be assessed and if considered suitable - allocated work.

d) If they fail to report - the court would be notified after receiving a computer printout of those received as clients.”;

- “All fine defaulters should be persons who have made an application to the Chamber Magistrate for an order in place of the fines. It should be the consideration of the Chamber Magistrate that the person is suitable to do a fine default order and has a good reason for conversion (i.e. hardship). We could offer a list of criteria showing suitability and eligibility (as for normal community service orders)”.

It should be noted that the problem of the Probation and Parole Service automatically receiving orders for fine defaulters who have no intention of working community service has been dealt with under the Fine Enforcement Legislation (Amendment) Act 1989 which commenced on 9th February, 1990. (Further information on this legislation is provided in the Discussion section of this report.)

#### b) Assessment

Improved assessment is also needed. Comments included:

“Probation and parole officers should be able to assess fine defaulters as unsuitable, such as those who have already breached a community service order, sex offenders, current users of hard drugs and those with a history of violent offences”;

“We need some form of screening process by local courts before the order is issued from court to probation and parole”;

“Fine defaulters are expected to do the same work as court-based community service workers and so they should be assessed for suitability in the same way”;

“Quick access to all fine defaulters’ criminal history should be available to this (Probation and Parole) service before placement”;

“There should be a provision for the issuing justice to issue a form of no fault revocation”.

#### c) Financial hardship

Another popular suggestion for improvement is only to allow those fine defaulters who are in financial hardship to do community service. A few community service organisers believed that: “Pressure should be placed on those who can afford to pay the fines off over a period to do so”. Another organiser said that: “Magistrates need to assess the ability of people to pay fines. They then should exclude from the scheme all people who can afford to pay. This could be done via a means test”. A couple of community service organisers considered that: “Employed people shouldn’t be given the option of community service work”.

#### d) Staff and resources

Many organisers thought that the fine default scheme needed improvements in staff and resources. Comments included:

“Give recognition to community service organisers and clerical staff for the volume of work”;

“More hours are needed for clerical assistants in country areas”;

“Courts need more staff to process all orders and breaches”;

“The scheme has considerable public relations potential, but without adequate support and encouragement from administration, this will never eventuate”;

“More staff and time need to be allocated to the scheme so it is not the



half-baked low priority headache that it has become in my situation”;

“Work with fine default orders has been brushed off by regional offices as work of the sessional supervisor, but hours for those positions are inadequate to cover the day-to-day problems which may be encountered”.

**e) Other alternatives**

Other improvements the community service organisers suggested included:

“Operating the Periodic Detention Centres during the week to organise work projects”;

“Supply of sufficient paperwork (forms) needs to be available for efficient, legal operation of the fine default scheme”.

A few (10%) community service organisers believed that the fine default scheme should be abolished, but most of these suggested alternatives. These included:

“Abandon the fine default order scheme completely. ... The scheme is encouraging people to be less responsible for their actions. The concept of a person not being able to afford a fine is largely over-rated. Every person who has reported to this office for fine default orders could have afforded to pay their fines. It should be remembered that at the time of sentencing, magistrates take into account the offender's personal circumstances, and the amount of the fine is specified accordingly, as is the instalment rate. In addition to this, the clerk of the court has the discretion to extend the period, or reduce instalment amounts, upon request by the offender, if the offender is experiencing difficulties paying the fine”;

“Garnishee the offender's income - in collaboration with Social Security and the Taxation Department”;

“Abolish the system and start again with the bench offering the option in the first place and the court automatically imposing a substitute penalty if they fail

to work without a reasonable excuse (similar to fine option scheme operating in Queensland)”.

### **STUDY 3: INTERVIEWS WITH FINE DEFAULTERS DOING COMMUNITY SERVICE**

A total of 48 fine defaulters currently doing community service work, were interviewed. The interviews were conducted with fine defaulters from the district Probation and Parole offices of Bankstown, Blacktown, Burwood, City, Eastwood, Fairfield, Hornsby, Hurstville, Leichhardt, Liverpool, Mt Druitt, Newtown, Parramatta, Sutherland, Lake Macquarie, Maitland, Newcastle, Penrith, Tuggerah Lakes and Wollongong. The majority of fine defaulters (36) were from city Probation and Parole offices and 12 fine defaulters were from country Probation and Parole offices.

A Probation and Parole office was chosen to visit if it was expecting more than two fine defaulters to work that day. The process of obtaining subjects to interview was informative in itself. The fine defaulters were found to be extremely unreliable and more than 50% of those expected to work did not turn up and thus could not be interviewed. Therefore it was not possible to obtain a random sample of fine defaulters. The interview process was very long and laborious but worthwhile because the problem of unreliability that the community service organisers mentioned in the previous study was experienced first hand.

Of the fine defaulters interviewed, 45 were male and only three were female. The sample included five Aborigines and 32 other offenders (77%) who were born in Australia. Of the remaining 11, more than half (6) were born in Britain. The age of the fine defaulters interviewed ranged from 19 years to 64 years with the mean age being 29 years. The sample interviewed in this study was similar to all fine defaulters who registered with the Probation and Parole Service between January 1988 and June 1989 in their number of fines, most serious offence and hours of community service directed to work. The value of their largest fine, however, was larger than that of all fine defaulters (cf. Study 1).

**Table 7: Most serious offence for which currently fined**

Most serious offence	No.	Total	%
<b>Assault:</b>			
Minor assault	4		8.3
Indecent assault	1		2.1
<b>TOTAL AGAINST PERSON</b>	<b>5</b>		<b>10.4</b>
<b>Property:</b>			
Larceny	5	10.4	
Goods in custody	2		4.2
Break, enter & steal	1		2.1
Receiving	1		2.1
Property damage	6		12.5
<b>TOTAL PROPERTY</b>	<b>15</b>		<b>31.3</b>
<b>Drug:</b>			
Use/possess drugs	3		6.3
Cultivate drugs	1		2.1
<b>TOTAL DRUG</b>	<b>4</b>		<b>8.4</b>
<b>Traffic:</b>			
PCA	7	14.6	
Speeding	4		8.3
Driving while disqualified	3		6.3
No registration or insurance	2		4.2
Dangerous driving	2		4.2
Parking	1		2.1
<b>TOTAL TRAFFIC</b>	<b>19</b>		<b>39.7</b>
<b>Other:</b>			
Possess dangerous implement	3		6.3
Drunk & disorderly	1		2.1
Refuse leave licensed premises	1		2.1
<b>TOTAL OTHER</b>	<b>5</b>		<b>10.5</b>
<b>TOTAL ALL</b>	<b>48</b>		<b>100.0</b>

**3.1 Present fine details**

i) Amount owed

The total amount of fines (including court costs) owed by each fine defaulter ranged from \$91-\$2000 with a mean of \$602. The cost of the largest fine ranged from \$75-\$1000. The mean of the fine defaulters' largest fine was \$424. It should be noted that this is larger than the average for all fine defaulters who registered with the Probation and Parole Service between January 1988 and June 1989.

ii) Number of fines

Each fine defaulter was presently doing community work for an average of 2.3 fines. The number of fines ranged from one to 18 with half (24) of the offenders only working off one fine.

iii) Most serious offence

When looking at the most serious offence for which fined, 40% (19) were driving offences. Almost one-third (31%) were property offences and 10% were drug-related offences. Table 7 contains a more detailed breakdown of offences.

iv) Registering and receiving fine default order

Most (68%) fine defaulters received their fine default order within 12 months of being fined.

From computer records, the fine defaulters who were interviewed, registered to do work, on average, 43.6 days after the fine default order was posted. (They are usually requested to report within a month.) It seems that country fine defaulters register (average 24 days) more quickly than the city fine defaulters (average 50 days). This difference is statistically significant ( $t = 2.08$ ;  $p < .043$ ). However, the date of registration in the computerized Offender Record System may differ between Probation and Parole offices. Some enter the date as the date the fine defaulter registers, others enter the date as the day it is entered (which may be a few weeks after registration).

**Table 8: The number of fine defaulters who thought that the fine they received was "too much", "about right" or, "too little" for their offence**

Severity of fine	No.	%
"Too much"	22	45.9
"About right"	23	47.9
"Too little"	3	6.3
<b>TOTAL</b>	<b>48</b>	<b>100.0</b>

### 3.2 Fine defaulters' opinions and knowledge of fines

#### i) Severity of fine

As Table 8 indicates, an almost equal number of fine defaulters thought that the fine was "about right" for the offence as those who thought that the fine was "too much". Not surprisingly, only three fine defaulters thought that the fine was "too little" for the offence.

Approximately half of the fine defaulters who indicated that they thought the fine was too much also believed that they were innocent. In these cases it may be assumed that any fine would be considered too much.

#### ii) Awareness of fine instalments/extensions

There seems to be quite a high awareness of the mechanics of paying a fine. Most fine defaulters (83%) knew that they could apply to the court for an extension of time to pay the fine. Almost as many (79%) knew that they could pay the fine in instalments. These numbers seem high, but the courts should be informing everyone of the possibilities of extensions and instalments to pay off fines. Most of those who said that they did not previously know, now believed that they could have paid their fine if they had been aware of these options before they had defaulted.

### 3.3 Why didn't the fine defaulters doing community service pay the fine/s?

When asked why they did not pay the fine, more than two-thirds (69%) of the fine defaulters doing community service replied that they could not afford it. A common statement was: "I couldn't afford it, with a family and no job, a fine is the least important priority".

Almost one-fifth (19%) refused to pay the fine "on principle". They either thought that the fine was too much, the "Government takes heaps out in tax and doesn't deserve any more" or they believed that they were innocent and refused to pay as a protest. However, those protesting against the fine were not so adamant as to protest in gaol.

A small number (10%) said they could have afforded the fine but were poorly organised or

just could not be bothered paying it/them. One fine defaulter stated that: "I had the money but didn't want to pay the fine. I wanted to see what would happen. Would have paid it if the cops pulled me over".

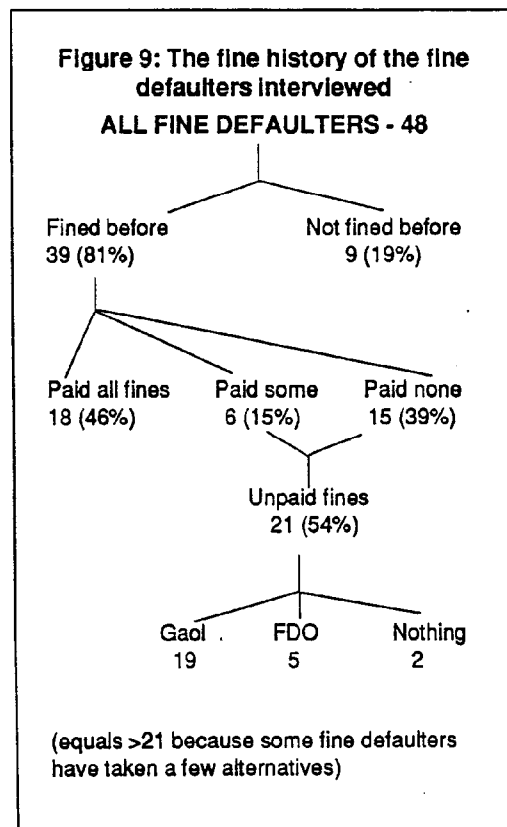
Only one offender purposefully did not pay the fine because he wanted to do community service as he had done it before. However, a number of fine defaulters commented that they had been fined since the current fine and were intending to cut those out doing community service as well.

### 3.4 Past records

#### a) History of past fines

##### i) Number of fines

More than four-fifths (81%) of current fine defaulters who were interviewed said they had been fined in court before (see Figure 9). So, very few were first-time offenders. The reported number of fines previously received ranged from 0 - 56 but half of those interviewed had received less than four fines.



ii) Amount owed

The fine defaulters were asked to estimate the total cost of all the court-based fines they had ever received. Their guesses were very unreliable (ranging from \$20 - \$30,000) and it is felt, exaggerated. Although the mean was \$2,666, the median of \$1,000 may be a more reliable indication of the fine defaulters' average total of past fines.

iii) Most serious offence

The range of most serious offences for which the fine defaulters had previously been fined was very similar to the range of offences for which they were currently doing community service. Almost half (41%) of all fine defaulters' most serious previous offence had been for PCA (prescribed concentration of alcohol) while driving. Another fifth (20%) had drug charges as their most serious offence.

iv) Outcome of unpaid fines

Of those who had been fined in court before, nearly half (46%) had paid all their fines. More than one-third (39%) had never paid a court-based fine and the remainder (15%) had paid some.

Of the 21 (54%) fine defaulters who at some stage had not paid a fine (prior to the current offence), 19 had been to gaol for fine default, and/or five had done a fine default order, and/or two had done nothing and so far no punitive action had been taken.

b) Gaol, probation and parole history

Almost half (22 or 46%) of the fine defaulters surveyed stated that they had spent some time in gaol. The number of times the fine defaulters reported they had gone to gaol ranged from 1 - 20 but these figures may be exaggerated. The average was 1.7 episodes in gaol. The longest time any fine defaulter surveyed claimed to have spent in gaol at once was one year and ten months, with an average longest sentence of three months and three weeks. The average for the city fine defaulters was four and a half months in gaol and the average for those from the country was one month and one week. (This difference is not statistically significant.) However, more than half of all fine defaulters

interviewed said they had spent less than 28 days in gaol at any one time.

Of the fine defaulters who had spent time in gaol, 19 (40% of the total) had been in gaol at some stage for fine default. Twelve of these had only ever been to gaol for fine default. All but one of the Aboriginal offenders (80%) had been to gaol for fine default. The longest period of time any offender surveyed reported spending in gaol at once for fine default was ninety days, with a mean of 15 days. The average for city offenders was 18 days and for country offenders the average was only five days but this difference was not statistically significant.

Over half (54%) of the fine defaulters had had previous contact with the Probation and Parole Service. Most (17) were, or had been, on probation, nine fine defaulters had worked community service orders or fine default orders previously and one offender had done periodic detention.

### **3.5 Administration of the fine default orders**

i) Hours allocated and worked

The fine defaulters surveyed were directed to work between eight and 172 hours community service. The average number of hours was 44. At the time of interview the fine defaulters had worked between zero and 132 hours with an average of 19 and a half hours.

The community service organisers and the community agencies seem to be very flexible with work times. Nearly half (46%) of the fine defaulters work eight hours a week, usually on a Saturday. A few (6%) work eight hours a fortnight. More than one-third (38%) prefer to work their community service hours all in a row. One fine defaulter completed his 84 hour order in two weeks. Some (10%) fine defaulters work at agencies that allow them to work whenever they want to, i.e; if they are not working at their job, or when the weather is fine.

ii) Reliability

Almost one-third (32%) of fine defaulters surveyed have, on at least one occasion, not turned up to work when they were expected. Half of these rang up sick and the other half had

no reasonable excuse. However, every fine defaulter interviewed said that they intended to finish their fine default order.

### iii) Type of work

Of the fine defaulters interviewed, 20 (42%) were working on a group project. Twelve fine defaulters were cleaning up the banks of the Cooks River in Sydney and eight fine defaulters were maintaining the grounds of a primary school in Sydney. The remaining 28 fine defaulters interviewed were working at a great variety of tasks and agencies. These included: gardening (5), cleaning (4), delivering furniture in trucks (4), maintenance/renovation (3), helping at cash-a-can centres (2), sorting second-hand clothes/costumes (2), digging holes and moving trams at a tramway museum (2), painting (2), looking after children (2), taking care of elderly (1) and data entry (1).

A few fine defaulters (7) included above, made use of their special skills in doing their community work. They included a nurse, mechanic, carpenter, builder, electrician, typist and a landscape gardener.

For 39 fine defaulters the present agency was their first. The remaining nine fine defaulters had worked at a different agency previously.

## **3.6 The appeal of a fine default order**

### i) Are less offenders paying fines?

Just over half (52%) of the fine defaulters surveyed said they would have paid the fine if the fine default order were not available. The remainder (48%) seemed prepared to go to gaol if there was no option to do community service. So, it seems that half of the offenders doing community service would have paid the fine prior to the fine default order scheme being introduced.

### ii) Prior awareness of fine default orders

Just over half (27 or 56%) of the fine defaulters were aware of the fine default/community service scheme before they received their fine default order. Their sources of knowledge were varied. Some (8) found out about the fine default/community service scheme from friends who had done it, five were informed by the court when they were fined, five

had worked a fine default order before, three had done a court-based community service order and "so found out from other fine default workers and just extended it to cut out my fine", three were on probation and were told about fine default orders by their probation and parole officer and one each were informed by: the police, a solicitor and the news.

One of the fine defaulters said that: "In court we pushed for a community service order in the pre-sentence report. It was rejected. I was fined instead. My probation and parole officer told me about the fine default scheme. I waited and now I'm doing less community service hours than I would have been doing originally".

The remaining twenty-one fine defaulters said that they had no knowledge of the fine default/community service scheme before they received the order in the mail.

### iii) Fine default order or gaol?

Every fine defaulter interviewed believed that doing a fine default order is a better alternative than going to gaol for not paying a fine. Some comments included:

"Anything's better than gaol";

"Once you go to gaol, do anything in the community and they'll send you again";

"If I went in I don't think I'd ever get out";

"Not paying a fine doesn't make you a criminal - only criminals should go to gaol";

"Gaol costs the tax-payer money. This gives something back to society. Vastly superior. Better than being branded a criminal";

"Short hours - community service order. Long hours - gaol. I'm only doing 12 hours community service, better than 3 days in gaol";

"Community service instils a sense of responsibility - doing something for the community. In gaol mix with people - bad influence";

"Family stays together (doing community service)";

"Freedom (doing community service)";

"Good to help 'Salvo's' (community service agency) because they help others and if everyone helps others there is no reason for gaol. Gaol doesn't help anybody".

#### iv) Pay fine or fine default order?

Most (83%) also found that doing the fine default/community service order was a better alternative than paying the fine. Most reasons were obviously financial and comments included:

"Earn more - couldn't work on a Saturday for \$100 tax-free. I can work at my own pace and I can't get the sack";

"A fine of \$50 will affect me much more than Alan Bond, whereas community service will affect us both the same";

"(CSO) been an interest, something to do - I like it".

The remaining eight fine defaulters thought that paying the fine would have been better than doing community service and next time they are fined they will pay. Their comments were similar to:

"If I was working I would have paid the fine"; and

"Need the time to look for a job".

### **3.7 Job and family**

#### i) Employment

Just over one-third (37%) of all fine defaulters interviewed were employed. However, the employment rate of fine defaulters at the country and city offices were significantly different. Half (50%) of the city fine defaulters were employed but not a single country fine defaulter interviewed was employed ( $\chi^2_1 = 7.58; p < .0059$ ).

Almost half (22 or 46%) the fine defaulters were on the dole, seven were on a pension and one fine defaulter's only source of income was Austudy. Of the 18 employed fine defaulters, two were labourers and 16 were involved in skilled work - electrician, mechanic, carpenter, driver, welder, nurse, manager and draftsman etc.

#### ii) Income

The weekly income for all fine defaulters interviewed ranged from \$44 (Austudy) to \$600 (electrician). The average weekly wage was \$220 but half of the fine defaulters said that they received less than \$150 per week. The average weekly income for the city fine defaulters was \$238 and for the country ones was \$166. This difference is statistically significant ( $t_{46} = 2.33; p < .025$ ). The lower country weekly income is to be expected as every fine defaulter was either on the dole or on a pension, whereas half of the city fine defaulters had a job (as discussed above).

Doing community service was reported to have interrupted the employment of eight (18%) fine defaulters. In every case it was due to the opportunity of doing overtime on Saturday. If, however, they were so keen to work they could have used the money earned to pay the fine.

#### iii) Family

Almost one-third (31%) of the fine defaulters were either married or in a de-facto relationship. Nearly one-quarter (23%) of the fine defaulters had at least one dependent. The average number of dependents of those who had any was 1.7.

### **3.8 Benefits of the fine default scheme as described by fine defaulters working community service**

Almost two-thirds (31 or 65%) of fine defaulters found that doing the community service had been beneficial to them. In fact, three fine defaulters had already obtained paid work from doing their community service, two to do building work and one to paint houses.

Many (29%) benefited from the fine default order because it "gets me out of the house", and it's "a change from doing nothing, I'm becoming more motivated". One man commented that: "Since starting community service I've got more confidence in myself, I have learnt to relate to people again, I've realized that I can do useful work and I've even become motivated to start applying for jobs after five years on the dole".

One-quarter (26%) found that they gained satisfaction from helping others. Another 19%

of fine defaulters enjoyed doing community service because of the personal contact, they got to meet people in the same situation as themselves.

Some (10%) benefited because they learnt some skills whilst doing the community work. A few (6%) enjoyed the exercise that the work involved.

On the whole the feedback from the fine defaulters was very positive and most of them seemed to have enjoyed the community service work. In fact ten (21%) fine defaulters enjoyed the work so much that they claimed that they were prepared to return to the agency and do voluntary work once they had completed their fine default hours.

### **3.9 Fine defaulters' perceptions of scheme's aims**

One-third (33%) of fine defaulters interviewed believed that the main aim of the fine default scheme was just to keep fine defaulters out of gaol. The reasons behind this was mainly that gaol was a bad place and to "keep minor offenders away from the criminal element". Almost half of these (46%) mentioned the Jamie Partic bashing as an important reason for introducing community service for fine defaulters.

Another third (33%) of fine defaulters thought that the aim of the program was to reduce overcrowding in gaols and "save the government money by making fine defaulters do work rather than paying for them in gaol".

The remaining one-third (33%) believed that the fine default scheme "gives people who can't afford a fine, an option" and "it helps lower income earners repay their debt to society. Corrective Services are actually more reasonable than people realise". Another positive comment was: "Poor people shouldn't be thrown in gaol. The group who brought this program in must be more understanding with people."

### **3.10 Problems**

It is encouraging that most problems the fine defaulters mentioned were specific to the agency at which they were working. Only four

fine defaulters could think of a problem that related to the running of the scheme. Three of these related to the courts. The first was "I didn't get sent an order. Problem with authorities. Not set up very well - system hopeless". The second said "Court officer told me I couldn't do community service instead of paying the fine - could really have done community service a year ago. There needs to be more communication". The third fine defaulter informed us that: "I had to go to court 56 times, costing the courts \$25 each time - I am cutting out my fines concurrently so I only have twelve hours community service to work". The final problem noted was that at a group project "there are too many people and not enough work to do".

### **3.11 Improvements suggested by fine defaulters working community service**

Almost one-quarter (23%) of fine defaulters could think of possible improvements to the scheme. Again most (7) of these were related to specific on the job problems such as the need for adequate tools. Other improvements include: "Computerize more"; "The government needs to give more money to the scheme"; "Could be done more quickly, I had to wait three months for a job"; and "Come to an agreement with the unions, as this scheme is a great opportunity to fix up eyesores in the community".

## **STUDY 4: ANALYSIS OF GAOL RECEIVAL FORMS REGARDING ALL FINE DEFAULTERS IMPRISONED DURING 1988**

There were 143 fine defaulters imprisoned in NSW gaols during 1988 (see Table 9). Of these 86 (60%) were in gaol for NSW offences, 34 (24%) for Commonwealth offences and 23 (16%) were in NSW gaols for non-payment of interstate fines. There were no fine defaulters received into gaols in January 1988 due to the moratorium on imprisonment of fine defaulters from November 1987 to the end of January 1988. Fines received before 1st January, 1988 were "cut-out" in gaol concurrently. However, those fines received since then have been

**Table 9: Fine defaulters received into gaol between January 1988 and December 1988**

MONTH	N.S.W.	COMMONWEALTH	INTERSTATE	TOTAL
January	-	-	-	-
February	2	5	3	10
March	3	1	4	8
April	8	-	6	14
May	12	1	9	22
June	7	3	1	11
July	8	3	-	11
August	10	4	-	14
September	11	6	-	17
October	9	6	-	15
November	7	3	-	10
December	9	2	-	11
<b>TOTAL</b>	<b>86</b>	<b>34</b>	<b>23</b>	<b>143</b>

"cut-out" accumulatively, which extends the time served by fine defaulters with more than one fine.

**Table 10: Most serious offence for which currently fined and in gaol (NSW offenders - 1988)**

Most serious offence	Total	
	No.	%
TOTAL ASSAULT	5	6.0
Fraud, theft, property damage:		
Fraud, forgery	6	7.2
Larceny	19	22.6
Steal car	5	6.0
Goods in custody	3	3.6
Break, enter & steal	2	2.4
Property damage	4	4.8
TOTAL PROPERTY	39	46.4
TOTAL POSSESS DRUGS	14	16.7
Traffic:		
PCA	4	4.8
Speeding	3	3.6
Drive while disqualified	2	2.4
No registration or insurance	2	2.4
TOTAL TRAFFIC	11	13.1
Offences against good order:		
Against justice procedures	8	9.5
Offensive behaviour	4	4.8
Other	2	2.4
TOTAL AGAINST GOOD ORDER	14	16.7
TOTAL OTHER OFFENCES	1	1.2
<b>TOTAL ALL</b>	<b>84*</b>	<b>100.0</b>

\*Information was not available for 2 fine defaulters

Interstate and Commonwealth offenders do not partake in the NSW community service (fine default) scheme and so have not been affected by the new fine default legislation. Therefore, unless otherwise specified, the following figures relate only to NSW fine defaulters. It is important to note that many fine defaulters cut their fines out in police cells but these numbers are impossible to estimate. However, when the above figures are compared with those for previous years (see Table 1) it can be seen that during 1988 only a tiny number of fine defaulters were received into gaol compared to a maximum of almost 5000 fine defaulters received into gaol in 1983.

**Table 11: Year that the earliest fine was imposed for all fine defaulters received into gaol in 1988**

Year fine imposed	No.	%
1983	1	1.2
1984	1	1.2
1985	0	0.0
1986	15	17.4
1987	39	45.3
1988	30	34.9
<b>TOTAL</b>	<b>86</b>	<b>100.0</b>



#### 4.1 Amount owed

The total amount of fines owed by each fine defaulter ranged from \$50 - \$6240 with a mean of \$741 (mean of \$1090 for commonwealth and interstate offenders). The cost of the largest fine ranged from \$20 - \$6240. The mean of the fine defaulters' largest fine was \$524. (These are slightly larger than for the fine defaulters doing community service.)

#### 4.2 Number of fines

Each NSW fine defaulter was in gaol for an average of 2.2 fines. The number of fines ranged from one to nine.

#### 4.3 Most serious offence

When looking at the most serious offence for which fined 39% (33) were property offences, 17% (14) were drug offences and 13% (11) were traffic offences. Table 10 contains a more detailed breakdown of offences.

#### 4.4 Time between court and gaol

The average number of days between the time the court imposed the fine and the time the offender started cutting out the fine in gaol was 335 but ranged between 0 and 1610 days. As Table 11 illustrates, most (97.6%) of the fines were imposed in 1986, 1987 or 1988.

#### 4.5 Length of sentence

The time in gaol for fine defaulters ranged from two days to 125 days. The average number of days in gaol for a fine defaulter was 13.5. Interestingly the average number of days in gaol for interstate and commonwealth fine defaulters was much higher at 33.1 days. This could be due to the lengthy sentences for commonwealth taxation fine defaulters and the lower \$25/day "cut-out rate" in the ACT.

### STUDY 5: INTERVIEWS WITH FINE DEFAULTERS IN GAOL

Interviews were conducted during the three months from the beginning of November 1989 to the end of January 1990. During these three months, 101 fine defaulters were received into N.S.W. gaols. The majority of these fine defaulters received into gaol were male

(93.1%). Their ages ranged from 18 years to 70 years, with the average age being 28 years. These fine defaulters served between 1 and 35 days in gaol, serving an average 8.3 days.

Twenty-four fine defaulters, who were cutting out their fines in gaol, were interviewed. Hence the sample who participated in this study represented almost one-quarter of the fine defaulters received. The interviews were confined to fine defaulters in Sydney gaols: the Training Centre (Long Bay), Parramatta Gaol, Silverwater Work Release Centre and Mulawa Training and Detention Centre for Women.

Of the fine defaulters interviewed, twenty-three (96%) were male and only one was female. The sample included four Aborigines (17%). The majority (21 defaulters or 88%) were born in Australia, while the remaining three were born in New Zealand. The age of the fine defaulters interviewed ranged from 21 years to 50 years with the mean age being 28 years, 8 months.

#### 5.1 Present fine details

##### i) Amount owed, number of fines and equivalent number of days in gaol

The total amount of fines (including court costs) being cut out in gaol by each fine defaulter interviewed ranged from \$213.52 to \$3250, with a mean of \$1096. Each fine defaulter was serving time in gaol for an average of 4.7 fines. The number of fines ranged from one to nine. The majority of fine defaulters interviewed were serving time for multiple fines: only three of the fine defaulters were cutting out a single fine.

Fines are cut out at the rate of \$50 per day in gaol. Fines awarded prior to January 1988 are cut out concurrently while those awarded from January 1988 are cut out accumulatively (or consecutively). The twenty-four fine defaulters interviewed would have served an average of 19 days gaol, ranging from 6 days to 65 days in lieu of paying their fines if they had served the full time. Nine of these fine defaulters part-paid their fines, hence the twenty-four fine defaulters in the sample served an average of 14 days, ranging from 4 to 35 days in gaol.

**Table 12: Most serious offence for which fine defaulters serving time in gaol  
1st November 1989 - 31st January 1990**

Most serious offence	Sample interviewed		All fine defaulters received in gaol	
	n	%	n*	%
<b>Assault:</b>				
Assault police officer	-		7	
Assault occasioning actual bodily harm	-		1	
Minor assault	4		6	
<b>TOTAL ASSAULT</b>	<b>4</b>	<b>16.7</b>	<b>14</b>	<b>15.7</b>
<b>Fraud, theft, property damage:</b>				
Forge	-		1	
Larceny	2		7	
Goods in custody	2		3	
Receiving stolen goods	-		1	
Property damage	2		7	
<b>TOTAL PROPERTY</b>	<b>6</b>	<b>25.0</b>	<b>19</b>	<b>21.3</b>
<b>Offences against good order:</b>				
Against justice procedures	-		4	
Offensive behaviour	-		8	
Unlawful possession of weapons	-		1	
<b>TOTAL AGAINST GOOD ORDER</b>	<b>0</b>	<b>0.0</b>	<b>13</b>	<b>14.6</b>
<b>Drug offences</b>				
Use, possession of drugs	4		13	
<b>TOTAL DRUG OFFENCES</b>	<b>4</b>	<b>16.7</b>	<b>13</b>	<b>14.6</b>
<b>Motor vehicle &amp; traffic offences</b>				
Driving under the influence	1		10	
Dangerous & other driving	2		2	
Licence offences	3		7	
Registration/insurance offences	3		4	
<b>TOTAL MOTOR VEHICLE &amp; TRAFFIC OFFENCES</b>	<b>9</b>	<b>37.5</b>	<b>23</b>	<b>25.8</b>
<b>TOTAL OTHER OFFENCES</b>	<b>1</b>	<b>4.2</b>	<b>7</b>	<b>7.9</b>
<b>TOTAL ALL</b>	<b>24</b>		<b>89*</b>	<b>100</b>

\* Most serious offence details not available in 12 cases.

### ii) Most serious offence

When looking at the most serious offence for which the fine defaulter was serving time in gaol, one-quarter (25.8%) were for motor vehicle, driving and traffic offences. Another quarter (21.3%) were property offences, others were for assault offences (15.7%), drug offences (14.6%) and offences against good order (14.6%). Table 12 contains a more detailed categorisation of most serious offence both for the sample of 24 inmates interviewed and for 89 of the 101 fine defaulters received during this three month period.

### iii) Time between receiving fine and gaol

The number of months between when the offender received the fine and when the offender began serving time in gaol in lieu of paying the fine was examined. For those fine defaulters serving time in gaol for a number of different fines, the earliest date that any of these fines was awarded was recorded. It was found that these fine defaulters came to gaol between 1 and 35 months after the fine was imposed. On average, they had come to gaol 11.6 months after the fine was imposed.

## **5.2 Fine defaulters' opinions and knowledge of fines**

### i) Severity of fine

Half (50%) of the fine defaulters in gaol thought that the fine they received was "about right". One-third thought the fine was "too much". Others (8%) thought it was "too little" while the remainder (8%) did not have an opinion as to whether the fine was too severe or too lenient.

### ii) Awareness of fine instalments/ extensions/community service order scheme

Most of the fine defaulters in gaol were aware of the mechanics of paying a fine, however only a minority reported knowing about the community service order (fine default) scheme. Most fine defaulters interviewed in gaol (79%) knew that they could apply to the court for an extension to pay the fine. The same proportion knew that they could pay the fine in instalments. Only one-third of the fine defaulters, however, stated that they were aware of the C.S.O. (fine

default) scheme before they received their order. Of the eight fine defaulters who said that they knew about the community service option, six said that they had friends who had had one, one had had one previously and the other said he was informed about the scheme by his parole officer.

## **5.3 Why didn't the fine defaulters in gaol pay their fines?**

When asked why they did not pay the fine, almost half of the fine defaulters in gaol (46%) replied that they could not afford it. Examples of such responses include:

"I had three deaths in the family, I had to pay for funerals ... I had \$2000 to pay, but the court put off the hearing, so I drank the money ... then I couldn't afford it";

"Couldn't afford it as I'm on a pension ... I had paid off traffic fines";

"No work ... I couldn't afford it";

"I was sick for a while, so I couldn't afford it".

Five of the fine defaulters interviewed (21%) said that they did not pay on principle, for example:

"Never do, its my policy ... won't give money to revenue collectors, the government doesn't deserve money for petty things ... it takes enough of my taxes as it is";

"Pigheaded ... on principle ... drunk on trains ... police came and harassed me, I could have afforded it";

"On principle, the boy interfered with my daughter, he provoked the assault".

A further three fine defaulters stated that they did not pay both on principle and because they could not afford it:

"Never have ... I don't believe in paying fines ... can't afford it as I'm working only 2-3 days a week. The money earned is mine.";

"Rather have the money myself, I pay enough in taxes".

Three of the fine defaulters simply "didn't get round to it" or considered it a low priority:

"Wasn't worried about it ... thought I might do time ... laziness";

"Did intend to pay, but I was running late";

"I was too busy, taking drugs, it was lowest priority".

The remaining two said that they did not know about the fines because they frequently changed address.

## 5.4 Past records

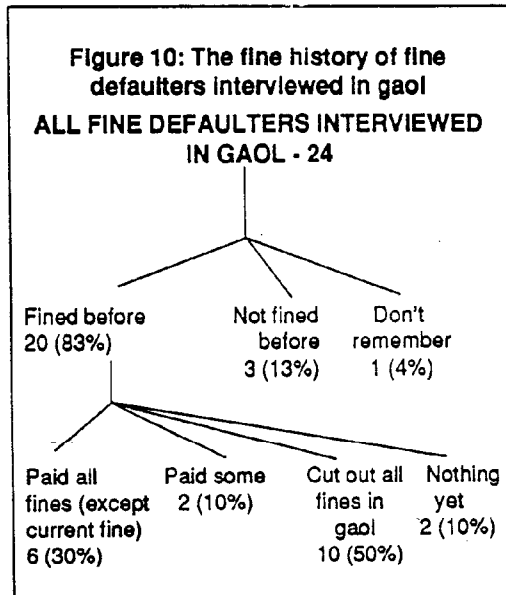
### a) History of past fines

More than four-fifths (83%) of the fine defaulters who were interviewed said that they had been fined in court before (see Figure 10). One of the fine defaulters (4%) said that he could not remember whether he had been fined before. Half of those fined previously, reported cutting out all previous fines in gaol. The reported number of fines received in the past ranged from 0 to more than 65, with half of those interviewed reporting having received at least 5 fines prior to those for which they were currently serving time.

When asked to estimate the total value of all the court-based fines they had ever received, for those who had been fined in the past their estimates ranged from \$200 to \$15,000. Some of these estimates may be exaggerated. Although the mean was \$3617, the median of \$1,500 may be a more reliable estimate of these fine defaulters' average total of past fines.

Almost all of the fine defaulters interviewed in gaol (22 or 92%) reported having spent time in gaol before. The number of times the fine defaulters reported they had gone to gaol previously ranged from 1 to 10 times. The average was 3.5 prior episodes in gaol. The longest time any fine defaulter interviewed claimed to have spent in gaol at once was eleven years, with an average longest sentence of 19.5 months. Only four of those interviewed claimed to have only been in gaol in the past for fine default.

Over three-quarters of the fine defaulters interviewed (79%) reported having had previous contact with the Probation and Parole Service.



## 5.5 Perceptions of cutting fine out in gaol versus paying the fine or serving a community service order

The majority of the fine defaulters interviewed in gaol, did *not* see going to gaol as a better alternative than paying the fine (63%), nor did they see going to gaol as a better alternative than working a community service order (71%).

Examples of comments made by those who thought that going to gaol was better than paying the fine include:

"What's the point of paying it - they're giving us money (the dole), why give it back?";

"Cut out at \$50/day, they have to feed and keep you";

"Yes - as a matter of principle in this case (but not next time)";

"Easier, I don't mind it";

"Don't waste money";

"Cheaper, I don't mind it".

Examples of comments made by those who thought that going to gaol was better than working a community service order include:

"Rather get it over and done with in one go; rather than hanging on for month. ... Would probably have big Friday nights and not make it anyway ... (I) don't need more trouble;"

"(I) like gaol - get fed, but either way have to work";

"Easier".

Fine defaulters currently cutting their fines out in gaol were asked whether, if they were fined again, they would pay the fine, do community service or go to gaol. Their responses were fairly evenly divided between those who said that they would pay the fine (10 fine defaulters or 42%) and those who said they would do community service (also 10 fine defaulters or 42%). Only two fine defaulters said they would return to gaol and a further two were undecided.

## 5.6 Reasons for breaching the community service order

Only three of the twenty-four fine defaulters interviewed had registered to do community service with the Department of Corrective Services before cutting out their fines in gaol.

The majority of those interviewed (14 or 58%) said that they had not received their community service (fine default) order. Other reasons given for not registering to do community service included: 'couldn't be bothered' (2 respondents); 'on principle' (1 respondent); 'don't like work - prefer to go to gaol' (1 respondent); 'confused about the community service order' (1 respondent); and 'I had traffic fines as well, if can't do CSO for them, I'm not doing it for other fines either' (1 respondent).

Two of the three who had registered with the Probation and Parole Service reported breaching their orders because they found the community work too boring. One who completed 24 hours of a 120 hour order said that he hated the work he was doing (cleaning a nursing home) and he found a full-time job. The other, who completed 16 hours of a 144 hour

order said that he was so bored (working on trucks with the Salvation Army) that he "did the bolt and came down to Sydney". The third fine defaulter reported not working any of his 24 hour order. He received a "couple of days' work" and then was drunk in a hotel and had his warrants checked when he was picked up by the police after swearing at them in the hotel.

## 5.7 Job and family

### i) Employment and income

Almost half (46%) of the fine defaulters interviewed said that they were employed at the time the current fine was set. All but one of these reported that they would be returning to a job on release.

The one who said he would not be returning to a job, said that this was not because of his imprisonment, but because he lost his driving licence. He had been a car wholesaler, but could not continue in this work without a driving licence.

The weekly net income for all fine defaulters interviewed ranged from \$0 (one fine defaulter said that he did not receive any money because he could not get the dole without some identification) to \$650. The average weekly wage was \$237, but half of the fine defaulters reported receiving less than \$165 per week. Hence the average wages of fine defaulters cutting out their fines in gaol were very similar to that of fine defaulters working community service (cf. section 3.7).

### ii) Family

Less than one-quarter of the fine defaulters interviewed (21%) were married. One-quarter (25%) of the fine defaulters said that they had at least one dependant. The average number of dependants, for those who had any, was 1.7. Hence the family structures of the fine defaulters who cut out their fines in gaol seem similar to those who were working community service (cf. section 3.7).

Seven of the fine defaulters (29%) said that their being in prison affected their family. Four of these were concerned about the welfare of their children, the other three were concerned for the welfare of their wives.

### **5.8 Fine defaulters' perceptions of the scheme's aims**

Reflecting their lack of knowledge of the fine default scheme, ten of the fine defaulters (42%) said that they did not know the aims of the scheme. Of those who were able to state an aim of the scheme, four saw the fine default scheme as a method of saving money, because it is cheaper for fine defaulters not to go to gaol; three said that it was a way of letting people work off their fines. A variety of other aims were expressed by individual fine defaulters including: the scheme "gives a fair chance for the poor"; "gaols are too full", and "put fine defaulters to work rather than paying people".

### **5.9 Problems**

Two of the three fine defaulters who had registered with the Probation and Parole Service to do a community service order, reported having problems with the scheme. One, who failed to complete his order because he was bored with the work, thought that fine defaulters should be directed to do work they are interested in.

The other complained of a lack of communication between the courts and the police. This fine defaulter reported that he had notified the court of his intention to do community service, but he was arrested by police.

### **5.10 Improvements suggested by fine defaulters in gaol**

Seven of the fine defaulters suggested improvements which could be made to the scheme. Six of these suggestions involved giving fine defaulters some or better information about the community service order (fine default) scheme. Three fine defaulters suggested that the courts should let the fine defaulters know the alternatives. A more specific suggestion made by one fine defaulter, was that the form should clearly point out that a fine can be cut out more quickly by performing community service (\$100/day) than serving time in gaol (\$50/day).

## CONCLUSIONS

From the findings of the five studies reported here, a number of conclusions can be drawn. It can be seen that the fine default scheme is a useful non-custodial alternative for some offenders who either cannot afford to pay or do not wish to pay their fines. It is not the answer for all fine defaulters. More specifically, the following conclusions can be drawn.

### **1. A substantial proportion of offenders receiving fines did not pay their fines.**

Since community service (fine default) orders were, at that time, automatically awarded to all defaulters of court-based fines, it is possible to estimate the proportion of offenders fined by the courts who did not pay their fines. In 1988, 56 548 fines were received by offenders in Local Courts across NSW (Bureau of Crime Statistics & Research, 1989). Over an 18 month period it can be estimated that approximately 84 822 fines were issued in Local Courts. In the first 18 months of the fine default scheme's operation, of the 57 302 fine default orders that were issued to fine defaulters across the state 46 491 pertained to fines handed down in court in the same period, (the remaining 10 811 related to fines issued prior to 1988) (Computer Services Division, Department of Corrective Services). Therefore it is estimated that more than half (54.8%) of offenders fined in court were not paying their fines.

### **2. The majority of those who did not pay their fine(s) also failed to register to do a community service (fine default) order.**

Between 1st January, 1988 and 30th June 1989, 35456 fine defaulters were issued with fine default orders. Only 6869 of these fine defaulters (19.4%) registered with the Probation and Parole Service to do community work.

### **3. Even those fine defaulters who did register with the Probation and Parole Service to do community work did not attend reliably.**

The community service organisers claimed that one-third of fine defaulters allocated to work in a survey week in July 1989 did not report. This proportion does not seem overestimated, as when an attempt was made to interview the fine defaulters doing community service less than half of the fine defaulters who were expected to work turned up (Study 3). The unreliability of the fine defaulter makes the efficient management of the fine default scheme very difficult. Some agencies have to have a specified number of workers and it is difficult for the community service organiser to estimate how many fine defaulters to send to stay on good terms with the agency but not have too many with not enough work to do.

### **4. Not all fine defaulters are suitable for community service work.**

Some categories of offenders should not be allowed into the fine default scheme. These include those with a criminal history of violent, sex or drug offences; the medically unsuitable and those who have previously defaulted on a fine default order or been rejected for court-based community service in a pre-sentence report. If defaulters falling into these categories are to be kept out of gaol, a different non-custodial sanction is required.

### **5. The fine default scheme has been successful at keeping some (but not all) fine defaulters out of gaol.**

The number of fine defaulters received in gaol was 143 in 1988 and 272 in 1989, a substantial fall from the 2610 received in 1987 and 3476 received in 1986. Between 1st January, 1988 and 30th June, 1989, 6869 fine defaulters registered to do community service work. From interviews with a small sample of fine default order workers, it is estimated that approximately half of these would have otherwise cut their fines out in gaol. However, the major problem exists with the 28587 or 80.6% who, having failed to pay their fine also fail to register to do a fine

default order. In theory, these people should end up in gaol.

#### **6. Some offenders are still going to gaol in default of traffic fines.**

Although defaulters of traffic fines were to be penalised by having their driving licences confiscated, some traffic fine defaulters still cut out their fines in gaol. Five of 84 N.S.W. fine defaulters (6%) received into gaol during 1988 had speeding or registration offences as their most serious offence. Of the 89 fine defaulters received into N.S.W. gaols between 1st November, 1989 and 31st January, 1990 whose most serious offence was able to be determined, 11 (12%) had licence or registration offences as their most serious offence. It is also interesting to note that of the 6869 fine defaulters who registered for community service with the Probation and Parole Service between January 1988 and June 1989, 659 (10%) had licence, registration, insurance, roadworthiness or parking offences as their most serious offence.

#### **7. The introduction of the fine default scheme has led to some people choosing to perform community service rather than paying their fine.**

One concern in introducing any new alternative to gaol is that the "net" will be widened. That is, that the new sanction will be used for people who would not otherwise have spent time in prison.

Approximately half of the sample of fine defaulters interviewed who were doing community service said that they would have paid their fine if the fine default order was not available. If this can be generalised across all fine defaulters doing community service, then less offenders must be paying their fines. Offenders who would have paid their fines pre-1988 are now opting for community service. So, not only is the original target group (those who did not pay fines pre-1988) still not paying their fines but the net has widened to discourage some of those who used to pay their fines to opt now for community service instead.

#### **8. The scheme does provide benefits for both the offenders and the community.**

Other than the obvious benefit of keeping fine defaulters out of gaol, the fine default scheme has a number of other positive effects. Although only a small percentage of fine defaulters are registering to do community service, the ones who do work are gaining and giving considerable benefit. Community service helps the community, saves it money and can increase the fine defaulter's confidence and skills whilst at the same time avoiding contact with gaol. In a number of cases the fine defaulters have gained financial employment from the agency once their hours were completed.

The scheme also has considerable public relations potential. A positive move is that offences against certain authorities, resulting in fines and default may be referred back to the aggrieved authority for work allocation. A pilot scheme is presently underway which involves community service workers and periodic detainees removing graffiti from trains at Central Railway Station.

Financially, the fine default scheme should be much more attractive to fine defaulters than gaol. Doing community service for fine default offers \$100 per eight hours' work. However, gaol only allows \$50 per day. So, whereas gaol is approximately 24 hours for \$50, community service is six times this rate, at \$300 per 24 hours work (although eight hours is the maximum to be worked in any one day).

#### **9. The fine default scheme did not seem to be an effective deterrent as the process took so long.**

After the time to pay the fine, the time to report to the Probation and Parole Service (28 days), time to receive a "show cause" letter from the court, time to reply to that and then the fine default order is perhaps reissued and the cycle repeats itself, and then the warrant is improbably executed. Even at this point the fine defaulter still has an opportunity to pay the fine, apply for a fine default order or seek an extension of time to pay. The process took so



long the punishment was not seen to be related to the crime.

**10. There was a problem with communication between the courts, the police and corrective services.**

Communication between the courts and the Probation and Parole Service needs to be vastly improved regarding breach information, issued orders waiting at courts, inconsistent decisions and feedback concerning Form 7's (payment of fines).

## **DISCUSSION**

The fine is the most frequently used non-custodial sentencing option and as such is awarded to a wide range of persons: some of whom can afford to pay, others who cannot; some of whom are willing to pay, others who are not. Prior to the introduction of the fine default scheme the only alternative to paying the fine was serving time in gaol. The fine default scheme is a useful non-custodial alternative for some offenders who either cannot afford to pay or do not wish to pay their fines. Although it is currently being used fairly indiscriminantly for all fine defaulters, it is not the answer for all fine defaulters. Even for those for whom the fine default scheme works, the scheme under the Community Service (Fine Default) Amendment Act was cumbersome in the numbers being dealt with, and the stages and amount of paperwork involved.

As is mentioned in the Introduction of this report, Mr John Akister, the then Minister for Corrective Services, claimed that "the (fine default) scheme is based on three premises: first, that from 1st January (1988) no-one will have to go to gaol for fine default; second, that payment of fines is maximized and third, that this alternative is not a soft option" (NSW Parliamentary Debates, 1987, p. 17005). From the results of this study it seems that none of these premises has held. Firstly, although in theory it is not necessary for the fine defaulters to go to gaol, in practice NSW fine defaulters have been going to gaol and the numbers have

been steadily increasing with incredible potential numbers. However, there seems to be no alternative but to send fine defaulters, who also breach their fine default order, to gaol as the last resort. Secondly, it seems that the payment of fines is not being maximized. It is estimated that more than half (54.8%) of offenders fined in court are not paying their fines. Approximately half of the sample of fine defaulters interviewed who were doing community service said that they would have paid their fine if the fine default order were not available. If this can be generalised across all fine defaulters doing community service, then less offenders must be paying their fines. Thirdly, it would seem that offenders are seeing the fine default scheme as a soft option as less than one-fifth of fine defaulters are registering to do community service and so are not taking the punishment seriously.

The fine default scheme has been successful in keeping some (but not all) fine defaulters out of gaol. The number of fine defaulters received in gaol was 143 in 1988 and 272 in 1989, a substantial fall from the 2610 received in 1987 and 3476 received in 1986. Between 1st January, 1988 and 30th June, 1989 6869 fine defaulters registered to do community service work. From interviews with a small sample of fine default order workers, it is estimated that approximately half of these would have otherwise cut their fines out in gaol. However, the major problem exists with the 28587 or 80.6% who, having failed to pay their fine also fail to register to do a fine default order. So, either more offenders have to be encouraged to pay their fines, a solution is found to persuade them to do the community service or an alternative punishment is implemented for the majority of fine defaulters.

### **The problem of the low registration rate**

The major downfall of the fine default scheme is the low registration rate of fine defaulters. In the first 18 months of the operation of the fine default scheme, there were a possible 28,587 fine defaulters whose fine default orders were revoked and in theory these people should end up in gaol. This number seems incredible when compared to the 2610 fine defaulters who were

received into gaol in 1987. Admittedly many more would have "cut-out" their fines in police cells but still, to imprison the fine defaulters who have had their community service orders revoked is already an impossible task, especially considering the severe overcrowding NSW gaols are experiencing at present.

Although enforcement of a warrant is important to the court, evidence shows that serving a warrant for non-payment of a fine has low priority for the police. Of the 24 fine defaulters interviewed in gaol only one of them had been arrested at his home. The remainder either turned themselves in to the police and asked that they be allowed to "cut-out" their fines in gaol or their warrants had been checked whilst being detained on a different offence and they were taken to the police cells. Figures from the Police Department's Warrant Unit Index show that as at the 10th December, 1989 there were 694228 Warrants of Commitment outstanding. The number of fine defaulters received into gaol does not accurately estimate the number of fine defaulters who "cut-out" their fines as many more are imprisoned in police cells, but this number is impossible to estimate. Still others cut out their fines in gaol while being held on remand for another offence. The low number of commitment warrants issued could also, in part, be due to the fact that since 1st February, 1988 warrants cannot be executed for traffic fines issued pre-1988.

It would appear that the problem of fine defaulters not paying their fines is far more complex than assuming that the fine defaulter simply cannot afford the fines. For years the media and community have been horrified that fine defaulters are being imprisoned not for the specific criminal offence but for their inability to pay the fine (Warner, 1984; Brown, 1985, 1986; Zdenkowski, 1985). It has been suggested that the fine defaulters are being imprisoned purely for the "offence of being in poverty" (Brown, 1985). If offenders were defaulting on their fines solely because of lack of money then why are these fine defaulters not turning up to do community service?

From the results of the community service organiser survey and the interviews with the fine defaulters doing community service it was found

that country offices have a much higher registration rate than do the city offices. In fact, the country offices had an average of almost one-third (30.4%) of their clients registering to do community service work (41.7% of orders). The city offices, however, had an average of only 10.7% of clients who register (15.8% of orders). One factor which could be influencing the vast differences in registration rates between the country and the city offices is the low employment rate in the country areas. The community service organisers estimated that on average only a quarter (26%) of country fine defaulters were employed whereas they estimated almost two-thirds of city fine defaulters were employed (63%). Also, most country offices will only allow fine defaulters to work community service during the week (to leave weekend agencies for the court-based community service orders) and those with jobs are then encouraged to pay the fine. This pattern of unemployment continued with the 48 interviews of fine defaulters doing community service. Half of the city fine defaulters were employed and not a single country fine defaulter stated that he/she was employed. As is to be expected the country fine defaulters also had a lower average income than the city fine defaulters. So, perhaps there is a higher registration rate in the country because offenders are defaulting on the fine due to high unemployment, and genuinely cannot afford to pay the fine. Therefore, they may be more prone to paying their debt to society through community service work than would city offenders who defaulted on their fines for other reasons.

Population mobility and unemployment are both factors that seem to exert detrimental effects on fine enforcement. In smaller country towns the knowledge by the police, courts and Probation and Parole Service staff of the local population may contribute to effective enforcement of fine paying and higher registration rate. In other words, everyone is known in the country, so it is easy to cut out the fine in the local lock-up or do local community service. There also may be more incentive to give something back to the community in the

country as the fine defaulter is not faceless as in Sydney.

More than one-third of the community service organisers rated the problem of "change of address" causing the fine defaulter to never receive the fine default order, as a serious problem. This could be a partial explanation of the reason why so few fine defaulters are registering. Most fine defaulters who were interviewed in gaol claimed that they had never received a fine default order and some of these moved address frequently.

From interviews with fine defaulters it is possible that the high non-registration rate could be due to ignorance of the workings of the fine default scheme. If the offenders knew exactly what community service involved and the \$ per hour rate they may be influenced into working it. Although "Constables of police will be authorised, before executing a warrant to remind defaulters that they can apply for a fine default order or pay the fine or seek an extension of time to pay" (NSW Parliamentary Debates, 1987, p. 17507) from the interviews with fine defaulters in gaol it seems that these options were not being offered. Most fine defaulters in gaol stated that they had never even heard of the possibility of doing community service for fine default but once they were in gaol it is too late, their only options are to pay the fine, to serve the time in gaol or a combination of the two.

As the fine as a punishment is not being followed up by effective enforcement there seems to be little incentive to many offenders to pay it. The fine default order is an excellent alternative for those who genuinely cannot afford to pay the fine. However, for those who are not paying the original fine because they cannot be bothered, or would prefer to spend their money on other things then it is very unlikely that they will do a fine default order either. Because certainty of punishment is thought to be a major deterrent to criminality (Cole, 1989) some individuals may take advantage of opportunities to commit other illegal acts if they believe that they will receive no punishment if they fail to pay a fine or do community service. Many fine defaulters would realise that they can pay the fine at any stage,

so why risk their money now when the chances are they might never have to pay the fine. The growing attitudes and knowledge of many fine defaulters is summarised by one community service organiser who stated that: "They have no intention of ever paying any of their fines unless a policeman turns up with a warrant. They (the clients) know that the chance of this happening is negligible and they know it won't be taken seriously and will get lost in paperwork and delays." The recent publicity (De Brito, 30.11.89; Grimshaw, 30.11.89) would not have done the fine default scheme very much good as the media revealed that there would very rarely be any retributions for not completing a fine default order. So why should the offender pay the fine? In this case bad publicity seems worse than no publicity at all.

The outcome of no action against fine defaulters could be far-reaching. It is possible that this ineffective enforcement of fine-paying leads to a reduced perception of authority and offenders may be more willing to engage in minor offences with the knowledge that if they are caught they will be fined, therefore in reality receiving no punishment. However, the next time they go to court it is possible (but not definite) that their warrants will be checked and therefore they may go to gaol straight from court for their previous fines. Information obtained from the interviews of the fine defaulters working community service show that most fine defaulters have been fined in court before (81%) and imprisoned before (52%), they know the system and are willing to test the sanction to its limits.

"It is essential that both the courts and the general community retain confidence in the fine because it is by far the most heavily utilised sentencing option. If respect for the fine as a penalty were to be undermined by widespread disobedience encouraged by ineffective enforcement, then not only would the community be justifiably dissatisfied, but the courts might be persuaded to use harsher sentencing options in many cases" (NSW Parliamentary Debates, 1985, p. 11143). If fines are collected and enforcement regarded seriously on the other hand, the resulting

punishment may have rehabilitative value and deterrent consequences.

The amount of fine and the conditions for payment (when, where, form of payment) have an obvious impact on its potential for collection and must be made clear. If the amount of fine is far beyond the means of the offender the possibility of collection is minimal. Research in Europe (Cole, 1989) has shown that collection will be more effective if the time period for payment is relatively short. If small amounts are paid over a long period, the impact of the sanction and the offender's incentive to pay begin to lose strength.

Suggestions for increasing the registration rate can be found by examining practices of Probation and Parole offices with higher registration rates, experience in other states and other countries. One very busy Probation and Parole office in the Northern region had an extremely high registration rate in 1988 - the highest in NSW. It was suggested that the probable reason for this high registration rate was that when an order arrived at the office the community service organiser would send out a letter to each prospective fine default client to inform them that they were expected to report to the office on a Monday. Maybe this letter acts as a second reminder, makes the scheme clearer or gives the impression that they are definitely expected. Would this office have had the highest registration rate anyway? As of 1989 the office started receiving greater numbers of fine defaulters and so the letters stopped and concurrently the registration rate dropped by about a third. A reminder/appointment/brief explanation letter could serve to increase the registration rate across the state. If this happened the Probation and Parole staff would also have to be increased to cope with the added numbers.

South Australia (see Appendix 1 for details of fine default schemes in the other states of Australia) has a fine option scheme where the offender is given the option of either paying the fine, doing community service or going to gaol - at the stage that the fine is imposed. Introducing this option in NSW would probably compound the problems. Even if the offender could afford the fine, many might choose the community

service option instead and the level of fine-paying would decrease even further. Fine default orders should be seen as an alternative to gaol and not as an alternative to a fine.

It seems that countries all over the world encounter problems when it comes to collecting fines from offenders. In the United States either many offenders think nothing serious will happen to them if they fail to pay their fines or they are hard to locate. The most cited cause of non-payment was the low priority law enforcement agencies give to warrants for the arrest of fine defaulters (Cole, 1989). Cole reports that various courts in the United States have initiated a number of innovative incentives to encourage offenders to pay their fines. A Washington court uses a private telemarketing firm, while a Phoenix court employs special co-ordinators to work with offenders to establish installment plans for payment of fines. Some courts have also created computerized systems to track offenders' payments and initiate collection action when needed.

While, as has been noted in this section, the major downfall of the fine default scheme is the low registration rate, it should be noted that the Probation and Parole Service could not manage any more fine defaulters with their current limited resources.

#### **Not all fine defaulters are suitable for community service**

Some categories of offenders should not be allowed into the fine default scheme. These include those with a criminal history of violent, sex or drug offences; the medically unsuitable and those who have previously defaulted on a fine default order or been rejected for court-based community service in a pre-sentence report. If defaulters falling into these categories are to be kept out of gaol, a different non-custodial sanction is required.

Other alternatives to the fine default scheme for those considered unsuitable for community service work could include: loss of licence or registration for all fine defaulters who have a licence, garnishee of wages (in conjunction with the Department of Social Security and Taxation

Office), confiscation of property or means testing at the imposition of fine stage.

Assessment for entrance into the scheme is currently non-existent and assessment for allocation to work is by no means formal but instead up to the discretion of the community service organiser. This lack of assessment has the potential for as much (or more) danger to the community as to a fine defaulter in gaol. So far, the Department of Corrective Services has been lucky and the few offences that fine defaulters have committed whilst doing community service have not been publicised.

Criminal unsuitability is the most worrying type of unsuitability to the community service organisers. They have no idea of the criminal history of the fine defaulter and yet may place these people in sheltered workshops, kindergartens, nursing homes, etc. There is an element of trust and co-operation existing between the organiser and the agency in which the fine defaulters are to work. If the agency has trouble with their fine defaulters they will withdraw their services. It is inevitable that a fine defaulter somewhere will do something to harm a member of the public and the public will stop crying "keep the fine defaulters from being bashed in gaol" and start saying "keep the community from being attacked by fine defaulters". There are too many potential risks being taken in the present system.

Unsuitability of offenders is one cause of "lapsed orders". During the first 18 months of the scheme's operation 297 fine defaulters (relating to 568 orders) lapsed (were not completed within 12 months). Since, in the first year none of the fine default orders could have lapsed, the orders have only had the first six months of 1989 to lapse so these figures are expected to rise.

The orders seem to lapse for two reasons. Firstly, in many offices fine defaulters are queued and this can occur in some cases for over a year in which case the order is discharged as lapsed. A complaint from over half of the community service organisers was that they were forced to queue clients due to lack of work and agencies. Almost all said that work was available in most areas but due to their

workload they did not have time to recruit new agencies and so the whole scheme runs at half pace. However it is more likely that the fine default order lapses because of unsuitability of the fine defaulter, due to health or criminal history, to enter the fine default scheme. There is no formal assessment, only justified discretion on the part of the community service organiser. Some community service organisers will put the fine defaulter on hold until they can find them a suitable job - which may never occur.

It seems unjust that these unsuitable fine defaulters are not punished for the non-payment of their fines while others are working their community service hours. However, it is also not fair if the fine defaulter wants to do community service but is unable to for reasons of health or criminal history and so a warrant is issued for their imprisonment.

Since the fine default scheme is part of the community service order legislation there is little or no reason why offenders to be dealt with under the scheme should not be treated in the same way as court-based community service order clients. This would create only minor alterations in administration and legislation since the major changes would be the assessment for suitability and Probation and Parole officers are already assessing court-based community service orders. Fine defaulters are expected to work in the same way as court-based community service workers and so they should be treated in the same way. Otherwise community service organisers will continue losing agencies and some fine defaulters will undermine the success of the court-based community service order scheme.

As it would be difficult, due to the numbers involved, for the courts to assess every offender for a fine default order when the fine is issued the assessment for suitability into the fine default scheme would be better handled by the Probation and Parole Service. When the fine defaulter turns up to register the community service organiser should be able to assess fine defaulters as unsuitable to do community service in cases of physical or mental health, current users of hard drugs, sex offenders and those with a history of violent offences (assessment of the latter two conditions is only

possible if the Probation and Parole Service can gain access to full criminal histories). Even after the fine default order has been issued there should be a provision for the issuing justice to still allow an extension of time to pay or a form of no fault revocation by looking at the ability to pay the fine and suitability to do community service work.

The assessment system as it stands (allowing all fine defaulters to do community service) is irresponsible, and is dangerous to the offender if medically unfit, to the voluntary agency and the community if criminally unfit to do the work. The Probation and Parole Service should have the power to refuse unsuitable candidates entry to the scheme.

It is also ironic that a community service order can be recommended in a pre-sentence report and rejected; the offender is fined instead and waits for a community service (fine default) order. Such occurrences undermine the careful assessment of a court-based community service order.

#### **Difficulties in the operation of the scheme**

The fine default scheme, under the Community Service Order (Fine Default) Amendment Act did not seem to be an effective deterrent as the process took so long. After the time to pay the fine, the time to report to the Probation & Parole Service (28 days), time to receive a show cause letter from the court, time to reply to that; then the fine default order may perhaps be reissued and the cycle repeats itself, and then the warrant is improbably executed. Even at this point the fine defaulter still has an opportunity to pay the fine, apply for a fine default order or seek an extension of time to pay. The process took so long the punishment was not seen to be related to the crime. In reality, what incentive is there for the offender to pay their fines immediately when that money can sit in the bank gathering interest for months or years?

It is obvious from this research that the fine default scheme was introduced suddenly without adequate planning, training or organisation. There were no pilot studies as

there have been in other states. (See Appendix 1 for a brief account of fine default schemes in the other states of Australia.) The staff were confused, frustrated and demoralised with the time-wasting procedures involved with the administration of the programme.

There was a severe problem with communication between the courts, the police and corrective services. It would appear that nobody wanted the responsibility of fine defaulters. Once the fine was defaulted the court handed the responsibility to the Probation and Parole Service. If the order was revoked the responsibility went back to the court who either reissued the order and the cycle continued or; issued a warrant and the responsibility passed onto the police (where many commitment warrants remain outstanding). If the warrant was served, the responsibility would be back with corrective services and gaol. Communication between the courts and the Probation and Parole Service also needed to be vastly improved regarding breach information, issued orders waiting at courts and feedback concerning Form 7's (payment of fines).

The courts need to clear the enormous backlog of cases that they have not yet issued as fine default orders. At this stage the courts are not even keeping up with issuing current fine default orders, so the backlog is growing. The older the fine the less priority the courts, police, corrective services and fine defaulter will place on it. So, it is important that no recent fines are allowed to join the backlog and that the backlog starts to be cleared. The courts should also have the power to remit the fine in whole or in part. At the present time only the Attorney General can remit the fine.

At the time the study was undertaken, resources were wasted entering every order onto the computer when such a small percentage of clients actually turn up to work. This was ameliorated under the Fine Enforcement Legislation (Amendment) Act which commenced in February 1990.

The workload of the community service organisers could be decreased by transferring case supervision and court duty where

necessary. Also, the sessional supervisors could be allocated greater hours in which case they could be given more responsibility regarding the administration of the scheme. This would give the community service organiser more time to assess clients and recruit new agencies.

All fine default cases should be recorded and credited as part of the office caseload. This would serve to assist in staffing the scheme and would go a long way to solving the very real morale problem amongst the Probation and Parole staff involved with this scheme.

The unreliability of the fine defaulter makes the efficient management of the fine default scheme very difficult. Some agencies have to have a specified number of workers and it is difficult for the community service organiser to estimate how many fine defaulters to send to stay on good terms with the agency but not have too many with not enough work to do.

The community service organiser should match the fine defaulter's skills to the job wherever possible. It makes the offender more useful to the agency, more valuable and less bored. This seemed to be a problem with some fine defaulters doing community service and the three fine defaulters in gaol who had registered to do community service. They claimed that they breached the fine default order because the work was too boring and they would prefer to spend the time in gaol. A few fine defaulters even voluntarily reported to the police so that they could cut out their fines in gaol or police cells.

In most areas a wider range of agencies needs to be sought. One suggestion was that agencies be shared within and across regions. This is especially relevant to group projects, where one office may not have the numbers of fine defaulters available to work every week. A successful example is the Cooks River scheme which has 15-20 fine defaulters from five different offices cleaning up the river every Saturday. Once organised, this kind of group scheme really makes an impact on the community and makes the fine defaulters easy to allocate. An agreement needs to be made with the unions to enable more productive

community service work for the whole community.

It has been suggested by a number of Probation and Parole officers that the Periodic Detention Centres (PDC's) or Attendance Centres should take over the responsibility of the fine default scheme. However, they are already overcrowded and have a limited catchment area. The PDC's could possibly be utilised during the week whilst they are unused (for the fine defaulters who are not employed during the week). Another suggestion was that the Sheriff's Office was more appropriate than the Probation and Parole Service to administer the scheme. However, expansion and computerisation would be prohibitively expensive. Although most community service organisers would prefer to have nothing to do with the fine default scheme, the Probation and Parole Service is the most practical body to deal with fine defaulters, as the community service order scheme is already operative. The Probation and Parole officers agreed with the philosophy behind the scheme (that fine defaulters should not go to gaol) but thought that to achieve its potential the fine default scheme needed major modifications.

### **Benefits**

Other than the obvious benefit of keeping fine defaulters out of gaol, the fine default scheme has a number of other positive effects. Although only a small percentage of fine defaulters were registering to do community service, the ones who did work were gaining and giving considerable benefit. Community service helps the community, saves it money and can increase the fine defaulter's confidence and skills whilst at the same time avoiding contamination from gaol. In a number of cases the fine defaulters have gained financial employment from the agency once their hours were completed.

The scheme also has considerable public relations potential, but without adequate support and encouragement from administration, this will never eventuate. A positive move is that offences against certain authorities, resulting in fines and default may be referred back to the aggrieved authority for work

allocation. A pilot scheme is presently underway which involves community service workers and periodic detainees removing graffiti from trains at Central Railway Station. If this were extended to include defaulters of railway fines, the punishment would be related to the crime and possibly act as a deterrent in the future.

Financially, the fine default scheme should be much more attractive to fine defaulters than gaol. Doing community service for fine default offers \$100 per eight hours' work. So, whereas gaol is approximately 24 hours for \$50, community service is six times this rate, at \$300 per 24 hours work (although eight hours is the maximum to be worked in any one day).

### Future influences

It seems that the flow of fine defaulters to gaol cannot help but increase in the future (as 80.6% of fine defaulters have breached their fine default order by not registering for community service work). Accepting this fact as inevitable, it is important that changes are also made to the system of imprisoning fine defaulters.

Justice Muir in his inquiry into the Central Industrial Prison after the Jamie Partic assault, made 54 recommendations for change. Three of these are relevant to this study:

- 1) The Prison Regulations, 1968, should be amended to include a class of prisoner entitled 'fine-defaulter'. Make specific provision with respect to the conditions of imprisonment of fine default prisoners;

- 2) Fine defaulters should be housed in low security prisons where work is available. They should work. They should not be housed in the CIP (now called the Reception Prison). (This regulation has already been changed. Now, the fine defaulters are received into the Reception Prison for one night and then transferred to the Training Centre (minimum security) for the remainder of their term);

- 3) Fine defaulters should be separated from other prisoners.

It has also been suggested that fine defaulters (after breach of the fine default order) be housed during weekdays in the Periodic Detention Centres or at places other than existing prisons.

Four changes to legislation affecting the fine default scheme have recently been implemented or are likely to be implemented in the near future.

- 1) The Community Service Order (Amendment) Act, 1989 commenced on 25th February, 1990. The purpose of the Act was to increase from 300 to 500 the maximum number of hours of community service work that can be ordered. At the same time, the time allowed to complete hours greater than 300 increased from 12 months to 18 months. These increased hours and time periods will correspondingly increase the already heavy workload of the community service organisers.

- 2) Another legislative change that will indirectly increase the workload of the community service organiser is the harsh new speeding laws. For example a driver going 45+km/hour over the speed limit will face a \$500 fine plus loss of licence. Normally fine default for traffic charges is punished by loss of licence. However once their licence has been lost, this incentive to pay the fine inherent in other traffic fines will be gone. Therefore it is likely that an increased proportion of the higher speeding fines will now be converted into fine default orders. It is also increasingly easier for drivers to lose their licences (through loss of points, and time to get them back has increased from two years to three years). Thus that very successful threat to encourage drivers to pay traffic fines is decreasing, especially if a fine accompanies loss of licence. So, it is predicted that there will be a growing number of fine default orders for traffic offences.

- 3) The Attorney-General, John Dowd, has been quoted as saying that prostitutes should not have the option,



given to other fine defaulters, of doing community service instead of going to gaol. It was reported that he believes that prostitutes work in a "cash economy" and can afford to pay the fines. Their address is usually unstable and community groups do not want prostitutes or their clients working for them (Sydney Morning Herald, 29.11.89).

4) The change that is most directly related to the fine default scheme is the Fine Enforcement Legislation (Amendment) Act, 1989 which commenced on 9th February, 1990. This Act abolishes the automatic issuing of fine default orders. Instead, once the fine is defaulted, a warrant will be issued and notice served. The police will give the fine defaulter seven days' notice to pay the fine or apply to the court for a (fine default) order. If neither option is utilized the warrant may be executed and the fine defaulter imprisoned. It is expected that this change will increase revenue and the Probation and Parole Service will only have to register those fine defaulters who have already applied to the court for a fine default order.

The new scheme under the Fine Enforcement Legislation (Amendment) Act 1989 will only have a chance of success if the police are able to efficiently serve the warrants. The police claim that they are executing warrants now. However, out of the 28 587 fine defaulters who did not register to do community service (80.6%) only 252 went to gaol in the first 18 months of the scheme's operation. This represents a tiny fraction of those who would go to gaol (0.9%) if all warrants were executed. Admittedly, some fine defaulters "cut-out" their fines in police cells but the number who do this is impossible to estimate. Also, police are not permitted to execute warrants for pre-1988 traffic fines. However, these factors cannot possibly account for the remaining fine defaulters (99.1%) in breach of their community service.

Figures from the Warrant Index Unit of the Police Department show that there were 694228 (approx \$72.6 million) outstanding

commitment warrants up until the 10th December, 1989 with 200000 more coming through from Castlereagh Street Court. With this much backlog already, the increased numbers of warrants will be very difficult to serve. Even if all of the warrants were executed there would be no room in the already overcrowded gaols of NSW to place these fine defaulters. One way of slightly reducing the workload of the police would be to issue an options letter prior to the warrant being served. In an "options letter" sent by the court, the fine defaulter would be given the option of applying to the court for a fine default order and then registering at a Probation and Parole office or paying their fine within a specified period of time (28 days). If neither of these alternatives were accepted then a warrant would be served and the options given again. If there were no response within seven days the police would return and the offender would either pay the fine on the spot or be imprisoned.

While the introduction of community service as an alternative to paying the fine removes the necessity for any fine defaulter to go to prison, it is too simplistic to believe that all previous fine defaulters defaulted merely because they did not have the funds and that all of these fine defaulters would be enthusiastic to perform community service. What we as a society now need to decide is, firstly, what are we willing to spend to chase up those who are fined and who are unable or unwilling to pay their fine? How much is the community prepared to spend on police, or others, locating these fine defaulters? Secondly, we need to decide how we should punish those who are either unable or unwilling to do community service work? Should they be imprisoned? Has the community done enough simply by ensuring that community service exists as an option or is there more which should be done to keep fine defaulters out of gaol?

## RECOMMENDATIONS

### I. The problem of the low registration rate

1. That representatives from the three government departments involved in the administration of this scheme (Police Department, Department of Attorney-General and Department of Corrective Services) co-ordinate to formulate strategies firstly to increase the proportion of offenders paying their fines and secondly to increase the proportion of those unable to pay their fines registering to perform a community service (fine default) order.

Amongst other issues which could be discussed would be:

- a.) Clarification at the sentencing stage, of the amount of fine and the conditions for payment (when, where, form of payment, instalments, extensions) in writing to the offender by the court;
- b.) Clarification of the fine default order form from the courts in respect to the details of actually working a community service order, the hours/\$ ratio and the penalty for breach of the fine default order. It seems that, at times, default of the fine or breach of the order is due to insufficient knowledge of the offender;
- c.) That all three departments involved with the fine default scheme give it a higher priority so that the offence is closely followed by the punishment. The courts need to clear the enormous backlog of unpaid fines. This is possible if they reduce the number of orders they continue to reissue. The police need to execute more commitment warrants so that the scheme will be taken seriously by the offenders. The Department of Corrective Services needs to allocate jobs to fine defaulters more quickly. This could be achieved with an increase in the range of agencies and the introduction of assessment.
- d.) The Fine Enforcement Legislation (Amendment) Act 1989 which eliminates fine default orders and instead goes directly to a warrant may be successful if the police are able to serve the warrants.

However, to cut down on the workload for the police, it might be possible for the courts first to distribute an options letter as soon as the fine is in default, instead of immediately serving a warrant for fine default. The fine defaulter would be given the option of applying to the court for a fine default order and then registering at a Probation and Parole office or, paying their fine. This letter would probably attract the same number of people to apply for the fine default order as who register now. If there is no response from the fine defaulter after a specified period of time (28 days) a warrant could then be issued with the same options as above but served personally by the police who would return in seven days if there has still been no response. At this stage the offender would only be able to pay the fine on the spot or be imprisoned. It is expected that when the warrant is served many more people will apply for a community service order which could double or triple the current registration rate.

### II. Not all fine defaulters are suitable for community service

2. That the legislative changes needed to allow the community service organiser to assess a registered fine defaulter as unsuitable to work for various standardised criteria, such as drug use, health, criminal history and community service order history (previous rejection or breach) be made.

3. That the community service organiser should assess fine defaulters who register for community service for the offender's suitability for entrance into the scheme, the type of work they can perform and whether they are suitable to work with a group or alone.

4. That a complete criminal history be made available to all community service organisers via a link-up with the police computer so that they can assess the fine defaulters accurately.

5. A client considered unsuitable by the community service organiser should be given an extension of time to pay the fine from the court.

6. If the unsuitability to work community service is temporary (e.g. pregnancy, broken leg) the fine defaulter (with the recommendation of the community service organiser) should be able to apply to the court to gain an extension of the order.

7. Rather than every community service organiser treating unsuitable fine defaulters differently (breaching, lapsing or returning to court), the procedure for unsuitable clients should be standardised by the Probation and Parole Service. The Probation and Parole Service should supply a clear set of breach procedures and guidelines for the community service organisers.

8. The issuing justice should have the authority to allow a form of no fault revocation (after examining ability to pay the fine and suitability to do community service) for registered fine defaulters.

### **III. Administrative difficulties in the operation of the scheme**

It is anticipated that some of the administrative difficulties identified in this research, such as the previous need of officers of the Department of Corrective Services to register all orders onto the computer rather than merely the orders of those who register for community service, will be overcome by the enactment of the Fine Enforcement Legislation (Amendment) Act 1989. However some other administrative difficulties remain unresolved.

9. When a fine defaulter applies to the Probation and Parole office to pay the fine, the community service organiser should give one copy of the Form 7 (advice on how much of the fine is still owing) to the client and one copy directly to the court. Otherwise, as was the procedure at the time of this research, if the client takes both copies and does nothing they are nobody's responsibility. The courts may not acknowledge the payment of a Form 7 and the client cannot be discharged.

### **IV. Resources**

10. All fine default cases should be recorded and credited as part of the Probation and Parole officer caseload.

11. Extension of agencies where fine defaulters perform their community service should be investigated. The following suggestions are offered:

- a.) A wider range of agencies needs to be sought by community service organisers or regional offices which will mean that less fine defaulters will be considered unsuitable and less will be queued waiting for a job.
- b.) Agencies should be shared within and across regions especially in the case of group projects (e.g., Cooks River scheme). This should either be organised by the Probation and Parole regional offices or the office which is closest to the location of the agency.
- c.) The Department of Corrective Services needs to establish an agreement with unions (especially local councils) to enable more productive community service work for the entire community. First it needs to be shown that the work to be done by community service workers would not be done by a paid worker.
- d.) Agencies need to be extended to allow fine defaulters who defaulted against a specific authority to work their community service with that authority (e.g., railway fine defaulters removing graffiti from trains at Central Railway Station).

12. The role of sessional supervisors should be expanded and their hours increased in order to enable the community service organiser more time to attend to interviews and expand the network of agencies.

## REFERENCES

- Brown, D. (1985) Defaulters jailed for being poor. Sydney Morning Herald, 28th February, 1985.
- Brown, D. (1986) Fine default system ripe for change. Sydney Morning Herald, 31st July, 1986.
- Cole, G.F. (1989) Innovations in collecting and enforcing fines. National Institute of Justice Reports, July/August 1989, No. 215, pp. 2-6.
- De Brito, S. (1989) Jail for fine defaulters. Mirror, 30th November 1989.
- Grimshaw, P. (1989) Fine defaulters risk instant jail. Mirror, 30th November 1989.
- Houghton, J.M. (1985) Fine Default: A Survey of Persons Imprisoned in N.S.W. for the Non-Payment of Fines. N.S.W. Bureau of Crime Statistics and Research, Attorney General's Department, Research Study 3.
- Muir Q.C. (1988) Report of the Inquiry into the Central Industrial Prison.
- Muirhead, J.N. (1988) Royal Commission into Aboriginal Deaths in Custody. Interim Report. Commonwealth of Australia.
- N.S.W. Bureau of Crime Statistics and Research (1989) Lower Criminal Courts and Children's Courts Statistics 1988. N.S.W. Bureau of Crime Statistics and Research, Attorney-General's Department, Statistical Report Series.
- N.S.W. Parliamentary Debates (Hansard) (1985) Justices (Penalties and Procedures) Amendment Bill and Crimes (Summary Procedures) Amendment Bill Second Reading. pp. 11143-11156.
- N.S.W. Parliamentary Debates (Hansard) (1987) Community Service Orders (Fine Default) Amendment Bill and Miscellaneous Acts (Fine Default) Amendment Bill Second Reading. pp. 17005-17007 and 17502-17515.
- Warner, K. (1984) Imprisonment for fine default: Reform at last? Legal Services Bulletin, Vol. 9, No. 4, pp. 178-180.

Zdenkowski, G. (1985) Imprisoning fine defaulters in N.S.W. Legal Services Bulletin, Vol. 10, pp. 102-106.

## APPENDIX 1: SUMMARY OF FINE DEFAULT OPTIONS IN OTHER STATES OF AUSTRALIA

During May, 1989 key personnel in other states' correctional departments were contacted and asked what options were available for fine defaulters in their jurisdictions.

### SOUTH AUSTRALIA

In 1987, 66% of sentenced prisoners received into South Australian gaols were fine defaulters. The Fine Option Scheme was introduced in the Adelaide metropolitan area and three other areas in November 1987, and statewide in July 1988.

Once an offender has been issued a fine and can demonstrate to the Clerk of the Court that they are unable to pay the fine on the grounds of severe hardship, they are given the option of Community Service, supervised by the Department of Correctional Services. (However the courts are not publicising the fine default order option so that everyone who is fined will not apply for it.)

Departmental involvement with the person and with the Court commences when that person reports to the District Office with a copy of the application issued by the Clerk of the Court and ceases once the Department has issued the Notice of Termination to the fine defaulter and to the Court. (Hence, unlike N.S.W. the Department in South Australia only becomes involved once the fine defaulter has registered.)

The fine defaulter works a minimum of 8 hours for a \$100 fine to a maximum of 160 hours for a fine of \$2000. Intake has only averaged 37 per month as compared to 198 per month admitted to prison in South Australia in 1988.

### VICTORIA

The Fine Default community work options operate on a two-tiered basis in Victoria:

- 1) court-ordered fine conversion and

2) administrative transfer from police/prison custody.

1) The Penalties and Sentences Act 1985, allows courts to convert unpaid fines to a Community Based Order, with the requirement to perform unpaid community work. During 1988, 883 Community Based Order fine conversions were registered.

2) Fine defaulters received into police or prison custody are assessed by an officer from the Office of Corrections and, if found suitable (98% are), released on permit to perform unpaid community work equal to the balance of their sentence. Since the scheme commenced in February 1988, an average of 56 fine defaulters per week have been received into custody and immediately released on permit. This represents 31% of all receptions into Victorian prisons. Fine defaulters released on permit perform an average of six hours unpaid community work. (The warrant execution function in relation to unpaid fines has recently been transferred from the Victorian Police to the Office of the Sheriff.)

## TASMANIA

Under Sections 78 and 79 of the Justices Act, when the period for payment of a fine has expired, a warrant of apprehension is issued against the fine defaulter and he is brought to court. The magistrate has four options:

- 1) grant the fine defaulter additional time to pay the fine;
- 2) direct that civil proceedings for the enforcement of the fine be taken against the fine defaulter;
- 3) send the fine defaulter to prison;
- 4) with the defaulter's consent, order a community service order.

However, the magistrates have almost always granted an extension of time to pay. If the offender does not pay at this stage, a warrant of commitment is issued and the fine defaulter cannot choose to do a community service order. Approximately 111 people were imprisoned for fine default in 1987.

Two changes are proposed to this system:

- i) That the Administrator of Courts can extend time to pay, prior to issuing a warrant of apprehension:
- ii) To make available the option of a CSO when a warrant of commitment is executed.

Thus, there will be three options open when a defaulter is faced with execution of the warrant committing him to prison:

- 1) Payment of the fine;
- 2) Issue of a CSO; or
- 3) Prison.

(As at May 1989, only the first and third options were available.)

It is also proposed that the tariff be 14 hours (that, 2 days) of community service for every \$50 of fine imposed; and that the cut out rate in gaol for fine defaulters be increased from \$25 per day to \$50 per day.

## WESTERN AUSTRALIA

A Work and Development Order in Western Australia commenced in March, 1989 and consists of at least 8 hours a week of unpaid community work and up to 6 hours of personal development activities which are tailored to meet the particular needs of the individual offender, such as substance abuse, survival skills, etc. When a final notice for payment of the fine is issued by the court the fine defaulter has 21 days to either pay the fine or attend a Community Corrections Centre where the fine and/or costs will be converted - after the documents have been picked up from the court. If the fine is not paid and the fine defaulter does not report to the Community Corrections Centre, a warrant of commitment will be issued by the clerk of the court. Once in gaol, the fine defaulter can still convert the remainder of their time into a Work and Development Order.

Every default period of up to seven days is the equivalent of one week (or 14 hours) on the Work and Development Order. If the Order is not completed within 12 months a warrant will be issued. The fine defaulter is still able to pay the remainder of his fine to the court at any stage.

(Refer: Western Australia Community Corrections Centres Act, 1988.)

## **QUEENSLAND**

Fine Option Orders - At the time the person has been fined in court, the court informs him that he may apply for a Fine Option Order. He may at this stage apply verbally for an Order, which is determined immediately. The court will not issue a Fine Option Order unless the person is suitable to perform community service, there is work available in their area and that the person is unable to pay the fine. Different community service orders are worked concurrently.

If the fine defaulter fails to comply with the requirements of the order they appear before court again and the order is either extended or revoked.

Queensland is currently piloting a Home Detention Scheme for fine defaulters.

(Refer: Queensland Corrective Services Act 1988, sections 230-246.)

## **A.C.T.**

The A.C.T. agrees that community service orders are the primary alternative for fine defaulters. However, this option is not currently being used owing to a problem in the drafting of the legislation. So procedural change and legislative amendment must occur before community service orders can be regarded as a sentencing alternative in the A.C.T.

APPENDIX 2: QUESTIONNAIRE FOR COMMUNITY SERVICE ORGANISERS (STUDY 2)

Research & Statistics Division  
10th July, 1989.

The Officer in Charge  
Probation & Parole Service,  
Attention: Community Service Organiser.

...Dear Sir/Madam,

My name is Kylie Miller. I work as a project research officer in the Research and Statistics Division of the Department of Corrective Services. I am conducting a state-wide survey of all Community Service Organisers as part of an evaluation of the Fine Default Order Scheme. Other aspects of the evaluation will include surveys of fine default workers and fine defaulters in gaol.

I am trying to discover both how the Fine Default Scheme is working and what are the major issues of concern relating to the scheme. Furthermore, I also want to know which issues are specific to some Probation and Parole offices and which are more general to all offices. For this reason I am sending this survey to all Community Service Organisers in NSW. It is very important that you complete and return your survey so that an accurate picture of the way the scheme is currently functioning can be established. Your response will be confidential and for research purposes only.

It would be appreciated if you could spend about 15 minutes completing this survey. Please return the survey by the 24th July to:

Kylie Miller,  
Research and Statistics Division,  
Department of Corrective Services,  
G.P.O. Box 31,  
Sydney, 2001.

If there are any problems or queries please ring me on (02) 289 1553. You are welcome to make any further comments on the back page.

Yours sincerely,

Kylie Miller  
(Project Research Officer)

Office: \_\_\_\_\_

**FINE DEFAULT ORDER SURVEY**

This is a statewide survey of Community Service Organisers as part of an evaluation of the Fine Default Order Scheme. It is being conducted by the Research and Statistics Division of the Department of Corrective Services.

1) When did you start as the Community Service Organiser for this office?

\_\_\_\_\_

2) How many Fine Defaulters (FDs) from your office actually worked their Community Service (CS) hours in this complete week? (Monday the 10th July - Sunday the 16th July)

\_\_\_\_\_

3) How many Fine Defaulters failed to: work as instructed/report to work as directed, in this complete week? (10/7/89 - 16/7/89)

\_\_\_\_\_

4) Do you send your Fine Defaulters to the same agencies as the Community Service workers?  
(Please Tick)

Yes ( ) No ( )

If no, Where do you send the Fine Defaulters?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5) On what type of jobs do the Fine Defaulters in your district, most commonly work? (e.g; cleaning, etc.)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



6) (i) Do you have any Fine Defaulters participating in group projects?

(Please Tick)

Yes ( ) No ( )

If yes, Give details. \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

ii) Would you be interested in some/more group projects for Fine Defaulters? (Please Tick)

Yes ( ) No ( )

Why/Why not? \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

7) Have you observed any differences between the Fine Default Order (FDO) workers and the normal CSO workers?

(Please Tick)

If yes what are the differences? \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

8) Have you lost any CSO agencies because of Fine Defaulters?

(Please Tick)

Yes ( ) No ( )

If yes, i) How many agencies have you lost? \_\_\_\_\_

ii) Why did you lose them? \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

9) Have any of the Fine Default workers who had finished their order returned to the agency to work since the Fine Default Order scheme commenced? (Please Tick)

Yes ( ) No ( )

If yes, How many fine defaulters went back to the agency as a:

a) Volunteer \_\_\_\_\_

b) Paid worker \_\_\_\_\_

10) When a Fine Defaulter is unsuitable for Community Service work because of health, obvious mental instability, alcoholism or drug use, do you generally: (circle one)

a) Breach the order

b) Let the order lapse.

c) Other (please state). \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

11) At what stage do you usually breach a registered Fine Defaulter who hasn't turned up for work? (circle one)

a) Immediately.

b) Having accepted one excuse.

c) Having accepted a few excuses.

d) After ringing or writing to them.

e) Other (please state) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

12) Since the Fine Default Order scheme commenced, approximately what percentage of the Fine Defaulters in your district would have been in full-time paid employment at the time of work registration?

\_\_\_\_\_ %.

13) Do you think that the current level of assessment for Fine Defaulters is adequate? (Please Tick)

Yes ( ) No ( )

If no, What kind of assessment do you think would be adequate?

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14) Are you forced to queue fine defaulters because you can't place them in jobs immediately? (Please Tick)

Yes ( ) No ( )

If yes, Is this due to: (circle one)

a) Lack of agencies.

b) Enough agencies but the Fine Defaulters being unsuitable for certain jobs.

c) Other (please state) \_\_\_\_\_

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15) To your knowledge, has a Fine Defaulter assigned to your office ever stolen anything, or become violent whilst doing their Community Service hours? (Please Tick)

Yes ( ) No ( )

If yes, Explain what happened. \_\_\_\_\_

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16) How important would you say that the following problems are to the effective operation of the current Fine Default Scheme in your district?

(circle one number for each statement)

	No problem		Some problem	Serious problem	
	1	2	3	4	5
a) Courts slow at processing /issuing Fine Default Orders.	1	2	3	4	5
b) Courts slow at processing breaches	1	2	3	4	5
c) The FD has changed address and so doesn't receive the Fine Default Order	1	2	3	4	5
d) Lack of assessment for suitability to enter the scheme	1	2	3	4	5
e) Limited assessment for allocation to work	1	2	3	4	5
f) Volume of orders to be received from court is unknown and erratic	1	2	3	4	5
g) Magistrates aren't taking into account the means of the offender before fining them	1	2	3	4	5
h) Being told to treat the FD scheme as low priority	1	2	3	4	5
i) Lack of communication/guidelines within the Department/P & P Service	1	2	3	4	5
j) FD's not being counted in caseload	1	2	3	4	5
k) Computer registration of FDO's	1	2	3	4	5
l) Paperwork relating to FD's	1	2	3	4	5
m) Not enough staff to cope with FDO's	1	2	3	4	5
n) Most FD's only have short orders	1	2	3	4	5
o) Police are slow to execute warrants	1	2	3	4	5

17) What other problems have you encountered with the Fine Default Order scheme? ( Please rate the seriousness of each problem as for Question 16.)

- |          |   |   |   |   |
|----------|---|---|---|---|
| 1) _____ | 2 | 3 | 4 | 5 |
| _____    |   |   |   |   |
| _____    |   |   |   |   |
| 2) _____ | 2 | 3 | 4 | 5 |
| _____    |   |   |   |   |
| _____    |   |   |   |   |
| 3) _____ | 2 | 3 | 4 | 5 |
| _____    |   |   |   |   |
| _____    |   |   |   |   |

(Any further problems can be written on the back page)

18) Order in importance, from (1) as the most important to (4) (or 5) as the least important, the reasons that you think the majority of registered Fine Defaulters in your office didn't pay their fines?

- a) Genuinely couldn't afford the fine ( )
- b) Lack of organisation ( )
- c) Out of principle (didn't agree with offence) ( )
- d) Could afford the fine but CSO is a better option ( )
- e) Other (please state) \_\_\_\_\_ ( )
- \_\_\_\_\_ ( )

19) i) What do you see as the main aim of the Fine Default scheme? \_\_\_\_\_

\_\_\_\_\_

ii) What are its best features? \_\_\_\_\_

\_\_\_\_\_

20) i) Do you think that doing a Fine Default Order is a better option than gaol for fine defaulters?

(Please Tick)

Yes ( ) No ( )

ii) Why? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

21) Do you think that the Fine Default scheme could be improved? (Please Tick)

Yes ( ) No ( )

If yes, How? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If you have any additional comments regarding the Fine Default Scheme please write them over the page.

Thank you.

**APPENDIX 3: INTERVIEW SCHEDULE FOR FINE DEFAULTERS DOING COMMUNITY SERVICE  
(STUDY 3)**

**QUESTIONS TO ASK FINE DEFAULTERS DOING COMMUNITY SERVICE.**

INTRODUCTION: I'm conducting a research project for the Department of Corrective Services. The project is concerned with fine defaulters and the operation of the Community Service Order Scheme. I'm here to ask you a few questions. Your answers will be totally confidential. First of all, I'd just like to check if you are doing this community service order because you were fined and didn't pay the fine?

- \*1. What did you get fined for?
- \*2. How much were you fined?
- \*3. When were you fined?
- \*4. When did you receive the Fine Default Order?

	Offence	Fine \$	Date of Fine	Date of Order
1.	_____	_____	_____	_____
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

\*Total Fine \$ \_\_\_\_\_

\*Court costs \$ \_\_\_\_\_

(If more than 5 offences, record the highest 5 fines and the total for all of the fines in the current FDO's)

- \*5. Did you receive this fine after a court appearance?

Yes ( ) No ( )

- 6. Did you think that the fine was too much, about right or too little?

Too much ( ) About Right ( ) Too Little ( )

7. Why didn't you pay the fine? \_\_\_\_\_

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8. Did you know that you could pay the fine in instalments?

Yes ( ) No ( )

9. Did you know that you could ask for an extension of time to pay the fine?

Yes ( ) No ( )

10. Would you have paid the fine if the Fine Default Order wasn't available?

Yes ( ) No ( )

11. Were you aware of the Fine Default Order scheme before you received the Order?

Yes ( ) No ( )

If yes, What did you know about it? \_\_\_\_\_

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\*12. a) Have you been fined (in court) before? Yes ( ) No ( )

Occasion — 1. 2. 3. 4.

If yes, b) How long ago?

\_\_\_\_\_

c) What for? \_\_\_\_\_

d) How much was the fine(s)? \_\_\_\_\_

Total \$ \_\_\_\_\_

e) Did you pay? \_\_\_\_\_

If not, f) What happened?  
(Get details for all fines)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If the number of fines totals more than 4, record the 4 most serious fines (most expensive) and ask:

f) How many fines have you received altogether? \_\_\_\_\_

g) What is the approximate cost of these combined fines? \$ \_\_\_\_\_

\*13. a) Have you ever spent time in gaol? Yes ( ) No ( )

If yes,

b) On how many occasions? \_\_\_\_\_

c) For how long? \_\_\_\_\_

d) Have you ever been to gaol for fine default? Yes ( ) No ( )

\*14. Have you ever had any previous contact with the Probation and Parole service?

Yes ( ) No ( )

If yes, Under what circumstances? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

15. Do you find that doing a FDO is a better alternative than going to gaol for not paying a fine?

Yes ( ) No ( )

Why? \_\_\_\_\_  
\_\_\_\_\_

16. Do you find that doing a FDO is a better alternative to paying the fine?

Yes ( ) No ( )

Why? \_\_\_\_\_  
\_\_\_\_\_

\*17. At what stage did you register to do work for the Fine Default Order? (i.e. within 28 days of receiving it, after being breached and replied to show cause letter, after the warrant had been issued)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\*18. How many hours Community Service were you directed to work, altogether?

\_\_\_\_\_hrs

\*19. How many hours have you worked? \_\_\_\_\_ hrs?

\*20. Generally, how many hours of Community Service do you work per week? \_\_\_\_\_ hrs?

\*21. Have you ever not turned up to an agency when you were expected to work?

Yes ( ) No ( )

If yes, Why? \_\_\_\_\_  
\_\_\_\_\_

22. Do you intend to finish the FDO? Yes ( ) No ( )

b) If not, why not? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\*23. a) What community service jobs have you done?

b) With what agency?

(Look at job sheets as well)

c) How many hours did you do there?

1)a) \_\_\_\_\_ b) \_\_\_\_\_ c) \_\_\_\_\_

2)a) \_\_\_\_\_ b) \_\_\_\_\_ c) \_\_\_\_\_

3)a) \_\_\_\_\_ b) \_\_\_\_\_ c) \_\_\_\_\_

4)a) \_\_\_\_\_ b) \_\_\_\_\_ c) \_\_\_\_\_

24. Are you employed?

Yes ( ) No ( )

Full-time ( ) Part-time ( ) Casual ( )

If yes, What do you do? \_\_\_\_\_  
Weekly Pay(net):\$ \_\_\_\_\_

25. a) Does doing the community service work interrupt or affect your job in any way?

Yes ( ) No ( ) Not applicable ( )

If yes, b) How? \_\_\_\_\_  
\_\_\_\_\_

26. Are you married? Yes ( ) No ( )

27. Do you have any dependents? Yes ( ) No ( )

If yes how many? \_\_\_\_\_

28. Does doing the community service work interrupt or affect your family life in any way ?

Yes ( ) No ( )

If yes, How? \_\_\_\_\_  
\_\_\_\_\_

29. Have you found doing the Community Service beneficial to you, in any way?

Yes ( ) No ( )

If yes, How? \_\_\_\_\_  
\_\_\_\_\_

30. Would you return to do voluntary work at the agency once your hours are completed?

Yes ( ) No ( )

31. a) What do you see as the main aim of the FDO scheme? \_\_\_\_\_

\_\_\_\_\_

b) What are its best features?

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

32. Have you encountered any problems with the FDO scheme?

Yes ( ) No ( )

If yes, What? \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

33. Can you think of any ways the scheme could be improved?

Yes ( ) No ( )

If yes, How? \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\*34. What is your date of birth? \_\_\_\_\_

35. What country were you born in? \_\_\_\_\_

36. Aboriginal? Yes ( ) No ( )

37. Sex of respondent (by observation). Male/Female

**APPENDIX 4: INTERVIEW SCHEDULE FOR FINE DEFAULTERS IN GAOL (STUDY 5)**

Gaol: \_\_\_\_\_

Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

**FINE DEFAULTERS IN GAOL**

INTRODUCTION: I'm conducting a research project for the Department of Corrective Services. The project is concerned with Fine Defaulters, Community Service Orders and Gaol. I'm here to ask you a few questions. Your answers will be totally confidential. First of all, I'd just like to check if you are currently in gaol because you were fined and didn't pay the fine?

- \*1. What did you get fined for?
- \*2. How much were you fined?
- \*3. When were you fined?
- \*4. When did you receive the Fine Default Order?

	Offence	Fine \$	Date of Fine	Date of Order
1	_____	_____	_____	_____
2	_____	_____	_____	_____
3	_____	_____	_____	_____
4	_____	_____	_____	_____
5.	_____	_____	_____	_____

\*Total Fine \$ \_\_\_\_\_

\*Court costs \$ \_\_\_\_\_

\*No. Offences \_\_\_\_\_

(If more than 5 offences, record the highest 5 fines and the total for all of the fines in the current FDO's)

\*5. Did you receive this fine after a court appearance?

Yes ( ) No ( )

6. Did you think that the fine was too much, about right or too little?

Too Much ( )      About Right ( )      Too Little ( )

7. Why didn't you pay the fine? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

8. a) Have you been fined (in court) before?      Yes ( )      No ( )

	1.	2.	3.	4.
If yes, b) How long ago?	_____	_____	_____	_____
c) What for?	_____	_____	_____	_____
d) How much was the fine/s	_____	_____	_____	_____
Total \$ _____				
e) Did you pay?	_____	_____	_____	_____
If not, f) What happened? (probe for all)	_____	_____	_____	_____
	_____	_____	_____	_____

If the number of fines totals more than 4, record the 4 most serious fines (most expensive) and ask:

g) How many fines have you received altogether? \_\_\_\_\_

h) What is the approximate cost of these combined fines? \_\_\_\_\_

9. Did you know that you could pay the fine in instalments?

Yes ( )      No ( )

10. Did you know that you could ask for an extension of time to pay the fine?

Yes ( )      No ( )

11. a) Were you aware of the CSO scheme before you received the order?

Yes ( ) No ( )

If yes, b) What/how did you know about it? \_\_\_\_\_

12. Would you have paid the fine if the Community Service Order wasn't available?

Yes ( ) No ( )

\*13. a) Did you register to do community service with the Department of Corrective Services?

Yes ( ) No ( )

If yes, b) Which office did you report to? \_\_\_\_\_

c) How many hours were you instructed to work? \_\_\_\_\_ hrs

d) How many hours did you complete? \_\_\_\_\_ hrs

e) What jobs did you do? \_\_\_\_\_

14. Why did you breach the CSO? \_\_\_\_\_

15. Did you reply to the courts' notice to give reasons why the CSO shouldn't be revoked?

Yes ( ) No ( )

16. a) Were you reissued with another CSO?

Yes ( ) No ( )

If yes, b) How many times was the CSO issued? \_\_\_\_\_



17. If you had been given the option, would you have chosen to cut-out your fine in gaol, at the stage when you first received the CSO?

Yes ( ) No ( )

18. a) Did you intend to go to gaol when you first received your fine?

Yes ( ) No ( )

If no, b) At what stage did you choose to go to gaol rather than pay the fine? \_\_\_\_\_

\_\_\_\_\_

19. Under what circumstances were you apprehended by the police? \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\*20. How long is your present gaol term? \_\_\_\_\_

\*21 a) Have you ever spent time in gaol before? Yes ( ) No ( )

If yes, b) How many times? \_\_\_\_\_

c) For how long? \_\_\_\_\_

d) Have you ever been to gaol for fine default? Yes ( ) No ( )

\*22. Have you ever had any previous contact with the Probation and Parole Service?

Yes ( ) No ( )

If yes, Under what circumstances? \_\_\_\_\_

\_\_\_\_\_

23. a) Were you employed at the time the current fine was set?

Yes ( ) No ( ) Weekly Pay (net): \$ \_\_\_\_\_

Full-time ( ) Part-time ( ) Casual ( )

If yes, b) What did you do? \_\_\_\_\_

c) Will you be returning to a job on your release?

Yes ( ) No ( )

If no, d) Is it because of your imprisonment? Yes ( ) No ( )

(Details) \_\_\_\_\_

24. Are you married? Yes ( ) No ( )

25. Do you have any dependents? Yes ( ) No ( )

If yes, How many? \_\_\_\_\_

26. a) Does being in prison affect your family in any way?

Yes ( ) No ( ) Not applicable ( )

b) If yes, how? \_\_\_\_\_

27. a) Do you find that going to gaol is a better alternative than paying the fine?

Yes ( ) No ( )

b) Why? \_\_\_\_\_

c) If you get fined again will you: pay the fine, do community service or go to gaol?

fine ( ) community service ( ) gaol ( )

28. a) Do you find that going to gaol is a better alternative than doing a CSO?

Yes ( ) No ( )

b) Why?

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29. What do you see as the main aim of the FD/CSO scheme? \_\_\_\_\_

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30. (if applicable) What problems with the scheme did you encounter? \_\_\_\_\_

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31.a) Do you think that the FD/CSO scheme could be improved?

Yes ( ) No ( )

b) If yes, how? \_\_\_\_\_

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\*32. What is your date of birth? \_\_\_ / \_\_\_ / \_\_\_

33. What country were you born in? \_\_\_\_\_

34. Aboriginal? Yes ( ) No ( )

35. Sex of respondent (by observation) Male/Female