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# **FINE DEFAULT: ENFORCING FINE PAYMENT**

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1995

Published by the NSW Bureau of Crime Statistics and Research

Attorney General's Department

Level 8

St James Centre

111 Elizabeth Street

Sydney

ISBN 0 7310 6425 9

## PREFACE

As at 10 February this year, there were 397,074 individuals in New South Wales (i.e. 7.7 per cent of the NSW adult population) with 744,160 warrants outstanding for unpaid or unexpiated fines. As a proportion of fines imposed, the rate of fine default is probably fairly low. However, more than 90 per cent of the warrants outstanding for fine default are warrants of commitment valued (in total) at \$123.5 million. It is impossible to determine how much of this money is eventually recouped but we can be sure that a significant proportion is lost altogether. Between July 1991 and June 1993 the NSW Police Service and (what was then known as) the Office of Public Management culled selected classes of warrant older than five years. This resulted in the removal of about 460,000 warrants valued at \$39.9 million. This represents a significant loss of revenue to the State.

Before the tragic assault in prison on Jamie Partlic on 7 November 1987 the only sanction for non-payment of fines in NSW was imprisonment. As a result, persons unable to pay their fine often found themselves facing a penalty out of all proportion to the gravity of the offence. The introduction of community service order alternatives to fine payment and more flexible fine payment arrangements dealt with this problem. However it did not have a lasting effect on the rate of imprisonment for fine default. After a temporary drop in the number of fine defaulters received into prison, the number began rising again. By mid-1993 the rate of imprisonment for fine default had risen above the level which prevailed before the introduction of more flexible fine payment arrangements and alternatives to fine payment.

Traditional policy approaches to the problem of fine default have emphasised defaulters' legal options for avoiding imprisonment rather than devising ways to keep the total number of fine defaulters down to a manageable size. The assumption underpinning the research discussed in this report is that it is impossible to produce any lasting reduction in the number of fine defaulters in prison without producing a lasting reduction in the overall number of fine defaulters. Previous research has shown that one of the major factors influencing the rate of fine payment is the speed of enforcement action. The aim of this research was to examine the extent of delays in the enforcement process and, where possible, to identify their causes and potential remedies.

Dr Don Weatherburn  
Director

August 1995

## **ACKNOWLEDGEMENTS**

As with all Bureau publications, a large number of people made a contribution to the final report. Constructive feedback on the various drafts was provided by Christine Coumarelos, Bronwyn Lind and Don Weatherburn of the Bureau. Desktop publishing was carried out by Les Kery.

Valuable assistance was provided by Ian Jordan of the Attorney General's Department, Christopher Spangaro and Simon Eyland of the Department of Corrective Services and Ray Choy of the New South Wales Police Service. Thanks are also due to the staff at Newcastle Local Court, Waverley Local Court, Long Bay Complex and Silverwater Industrial Complex for their assistance.

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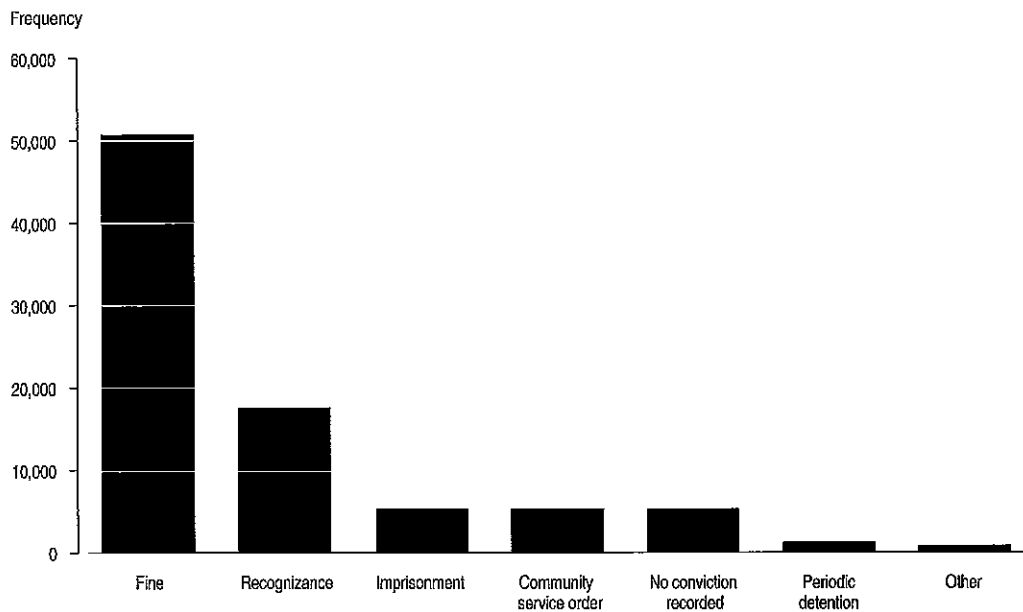
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# 1. INTRODUCTION

Fines provide one of the most important forms of sanction used in the New South Wales (NSW) court system. Many advantages are claimed for the use of fines over custodial penalties. Firstly they are adjustable to both the seriousness of the offence and the offender's ability to pay. Secondly in the case of error or mitigating circumstances, fines can be refunded. Thirdly, fines are a means of raising revenue, yet are relatively cheap to administer (Houghton 1985). Moreover, fines are considered to be an effective deterrent whilst having less social stigma attached to them than imprisonment and they also spare the offender the potentially damaging effects of imprisonment (Miller & Gorta 1990). Fines are, by far, the most common penalties dispensed by magistrates in NSW Local Courts. Figure 1 shows the frequency distribution of penalties for principal offence for persons found guilty in NSW Local Courts in 1994. The figure shows that, of 88,418 persons found guilty in 1994, there were 50,352 (56.9%) who received fines as a penalty for their principal offence.

**Figure 1: Frequency distribution of penalties for principal offence, NSW Local Courts, 1994**

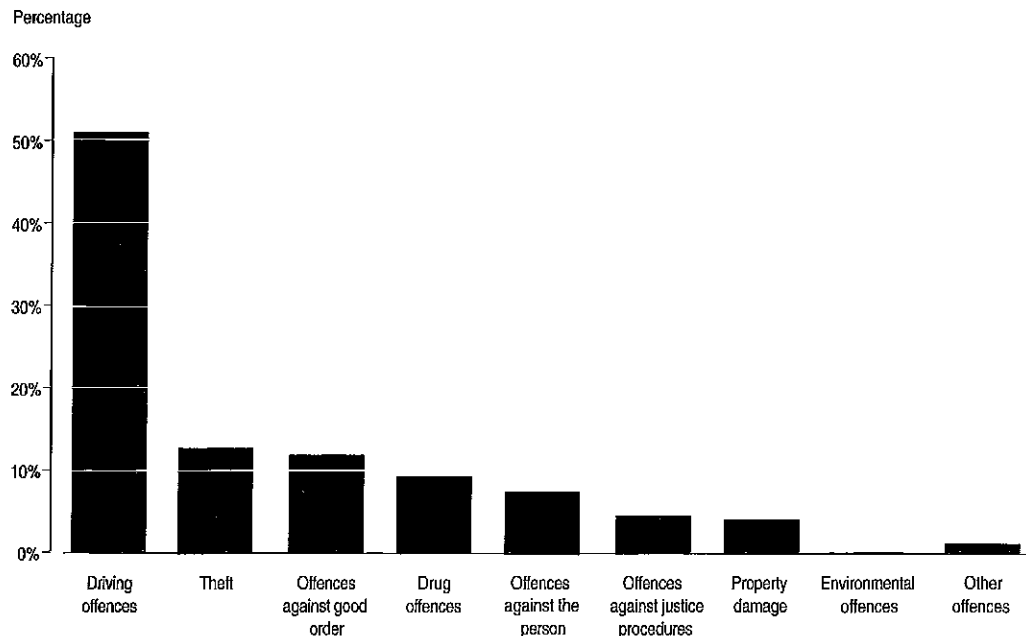


Source: New South Wales Criminal Courts Statistics 1994.

An indication of the types of offences for which fines are imposed by NSW Local Courts is given in Figure 2 which shows the fines imposed for each type of principal offence as a percentage of all fines imposed in NSW Local Courts in 1994. The figure shows that half (50.5%) of the 50,352 fines imposed were for driving offences. A further 12.4 per

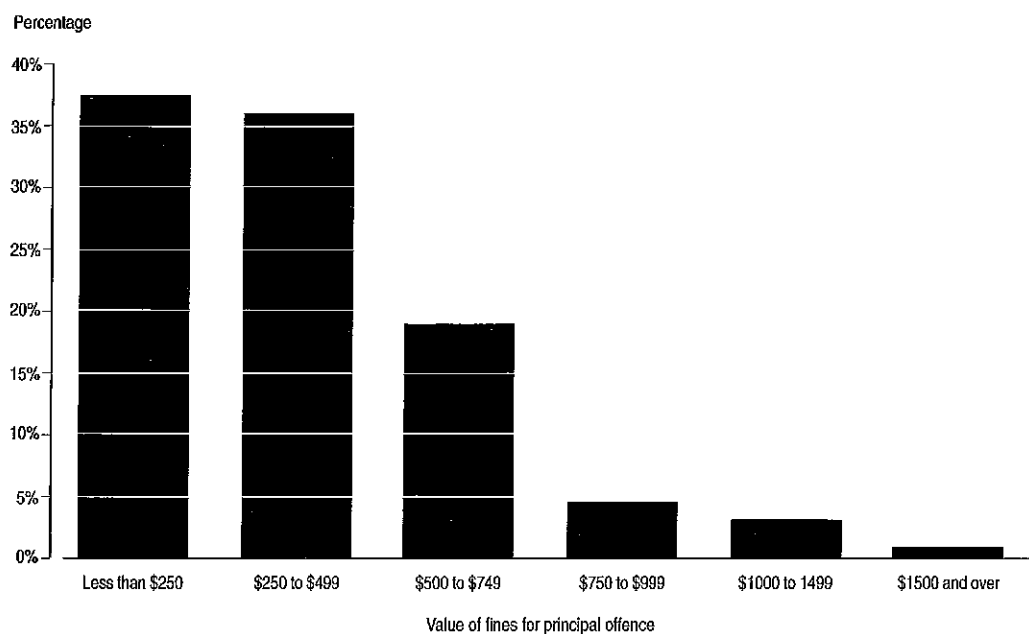
cent were for theft offences and 11.5 per cent were for offences against good order. Fines were also frequently imposed penalties for drug offences and for offences against the person (NSW Bureau of Crime Statistics and Research 1995).

**Figure 2: Frequency distribution of fines imposed for principal offence, NSW Local Courts, 1994**



Source: New South Wales Criminal Courts Statistics 1994.

**Figure 3: Frequency distribution of the value of fines for principal offence, NSW Local Courts, 1994**



Source: New South Wales Criminal Courts Statistics 1994.



Figure 3 shows the distribution of the value of the fines imposed for principal offences dealt with by NSW Local Courts in 1994. The fines most commonly imposed were valued at less than \$250 (37.2%) followed by fines between \$250 and \$499 (35.9%) and then fines between \$500 and \$749 (18.8%). In total, including fines issued for offences other than the principal offence, over 87,000 fines were imposed by Local Courts in 1994 with an average value of \$327, resulting in a total of \$28.5 million due in fines (NSW Bureau of Crime Statistics and Research, unpublished data).

The vast majority of fines issued in the State are not imposed by the courts, but rather, are issued through *infringement notices*. According to the New South Wales Auditor-General's Report (Audit Office of New South Wales 1994), 1,632,869 *infringement notices* were issued for parking and traffic infringements, and a further 106,333 *infringement notices* were issued for infringements detected by red light and speed cameras in the financial year 1993/94. In addition to these, there are *infringement notices* issued by councils and other organisations. In 1990/91, a total of 65 councils issued an estimated 91,650 *infringement notices* and some 150 other organisations issued another 180,736 *infringement notices* (Monaghan 1993).

The number of fines imposed by Local Courts which result in further enforcement action for non-payment of the fine is unknown, but of the 1,632,869 traffic and parking *infringement notices* examined in the 1994 Auditor-General's Report, 477,806 (29.3%) of the fines were not paid to the New South Wales Police Service's Infringement Processing Bureau by their due date. The majority of these unpaid matters were either referred to the Roads and Traffic Authority (RTA) for further enforcement or waived. Of these unpaid parking and traffic fines, 76,770 (16.1%) resulted in the issue of *enforcement orders*. *Enforcement orders* are certificates ordering the person, to whom an *infringement notice* or *penalty notice*<sup>1</sup> was served, to pay the clerk at a specified Local Court an amount equal to the amount payable under the original notice, together with a specified amount for enforcement costs.<sup>2</sup> A further 13,330 (2.8%) unpaid parking and traffic fines resulted in a *summons* being issued. A *summons* requires a fine defaulter to appear before a justice to be dealt with according to the law.<sup>3</sup>

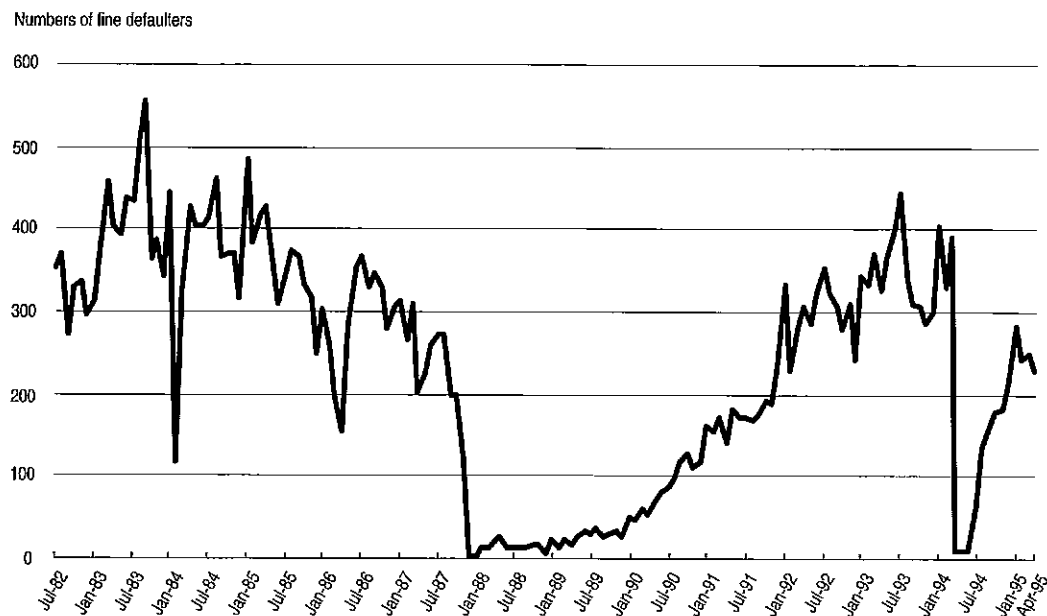
Notwithstanding a range of non-custodial options now available to fine defaulters to expiate their fines, a large number of defaulters still 'cut-out'<sup>4</sup> their fines in gaol. This is despite the fact that imprisonment for fine default is intended as the sanction of last resort in the fine enforcement process. According to the second reading speech for the NSW *Justices (Fine Default) Amendment Act 1994*, (Hansard 1994, p. 1861):

...it has been decided that it is not feasible to abolish default imprisonment altogether. Without that final sanction, there is no means to encourage fine defaulters to take advantage of the other options available to them.

Figure 4 reveals the nature of the fine default imprisonment problem by showing the number of fine defaulter receptions into NSW correctional centres each month between July 1982 and April 1995.

The two troughs that appear in the figure, commencing in December 1987 and March 1994, coincide with the announcements of moratoria which entailed the suspension of any action pertaining to *warrants of commitment*<sup>5</sup> for fine default. Each of these moratoria were followed by amendments to legislation aimed at improving the enforcement scheme and reducing the number of fine defaulters in custody.<sup>6</sup> Nevertheless, Figure 4 shows

**Figure 4: Number of fine defaulters received into correctional centres, NSW, July 1982 - April 1995**



Source: NSW Department of Corrective Services

that after each moratorium, fine defaulter receptions into prison returned to previously high levels.<sup>7</sup> Since the lifting of the last fine default moratorium in July 1994, the fine defaulter population has almost returned to its pre-moratorium level. There are also an unknown number of defaulters who have 'cut-out' their fines in police lock-ups. Fine defaulters have, at times, accounted for up to half the prisoner receptions into NSW correctional centres (NSW Bureau of Crime Statistics and Research 1993) even though, because they generally serve very short sentences, they account for only a small proportion of the prison population. Even at peak levels, the number of fine defaulters in custody may be less than one hundred on any particular day. Thus, while fine defaulters may not be responsible for a large proportion of the cost of accommodating prisoners, they often do account for a large proportion of the cost of prisoner reception and discharge.

Notwithstanding the high rate of flow into prison, the number of defaulters who are taken into custody, 3,920 in 1993,<sup>8</sup> represents an extremely small proportion of the total number of fine defaulters in the State at any one time. Under the current fine enforcement system, unpaid fines or fines which are not expiated through a non-custodial sanction eventually result in a warrant being issued. Most of these are *warrants of commitment*. *Warrants of commitment* are certificates issued by an authorised justice committing a defendant to prison to be kept there according to the terms of the warrant unless the defendant sooner pays the amount together with the costs of enforcing the conviction or order.<sup>9</sup> As at 10 February 1995, there were 397,074 individuals with 744,160 warrants outstanding for unpaid or unexpiated fines. The number of individuals with outstanding warrants represents 7.7 per cent of the NSW adult population. Of these outstanding

warrants, 681,442 (91.5 %) were *warrants of commitment* valued at \$123.5 million (NSW Police Service 1995a). Fine defaulters who are taken into custody therefore represent the tip of a very much larger fine default iceberg. (See Appendix A for details on the distribution of *warrants of commitment* per defaulter, status of the *warrants of commitment* and details of other warrants.)

The loss of fine revenue to the State is itself a significant problem as such revenue can be used to help defray the cost of enforcement. Given the frequency with which fines are employed by the courts and police as a sanction for offending, the possibility that a significant number of fines may never be paid or expiated is also a matter of concern from the vantage point of crime control. Although doubts have been expressed about the impact of heavy fines on illegal conduct (Homel 1980) the perceived existence of some form of sanction would seem an integral part of any effective system of crime control.

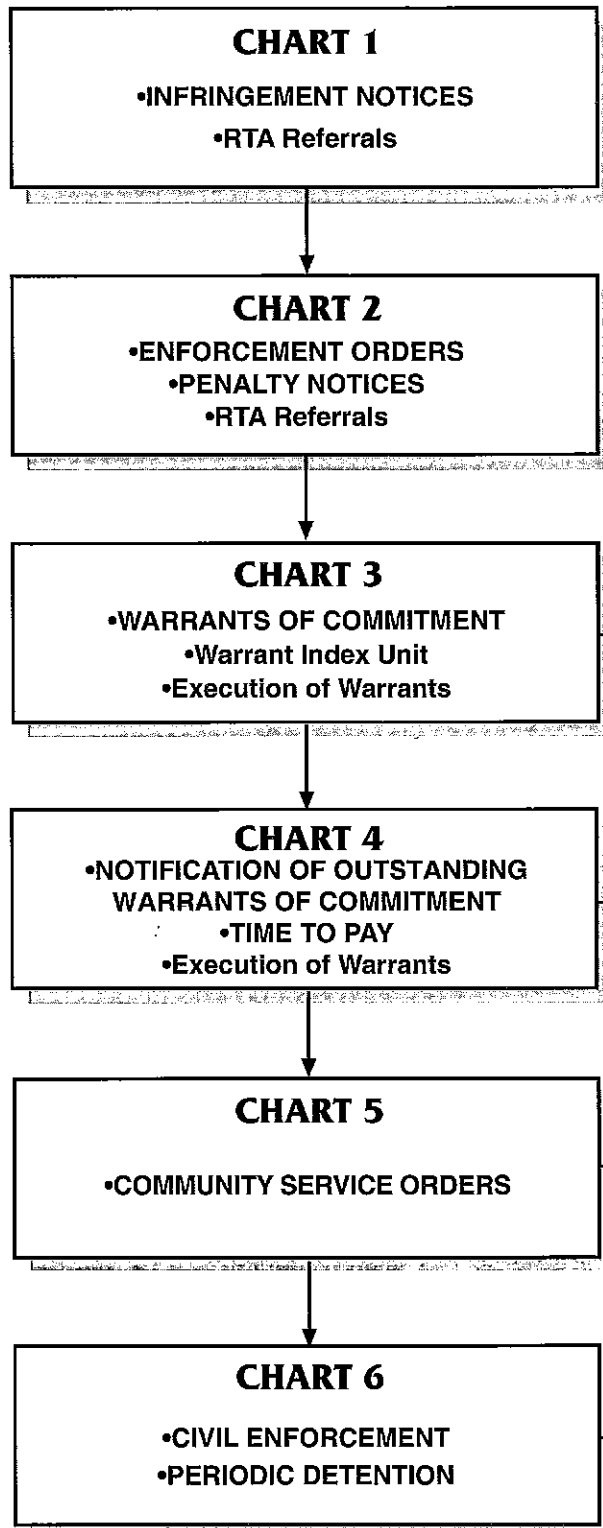
The 1987 and 1994 changes to the NSW fine enforcement laws were prompted by a desire to reduce the number of fine defaulters in prison. The general thrust of the changes was to provide defaulters with enhanced opportunities to pay their fines or elect non-custodial sanctions as a means of avoiding imprisonment for fine default. Although fine defaulters in large numbers have availed themselves of these opportunities, the legislative changes have had little effect in stemming the flow of fine defaulters into prison. It would seem unlikely, under the circumstances, that further loosening of the arrangements under which fines can be paid or expiated would result in a reduction in the rate of entry into prison for fine default. Moreover, unless the size of the population of fine defaulters (outside prison) is reduced, the Department of Corrective Services is likely to continue to experience sudden and often unpredictable increases in the reception rate of fine defaulters. With nearly 400,000 individuals in default in NSW at any one time, slight shifts in the intensity of the fine enforcement process can produce large changes in the rate of entry into prison for fine default. For example, if in a given year, one per cent of the individuals for whom warrants are outstanding were to have their warrants executed, the reception rate of fine defaulters into prison would increase by about 100 per cent.<sup>10</sup> Because there are now flexible payment arrangements and alternatives to fine payment, it is no longer possible to mount a credible argument that the problem of fine default stems solely from widespread inability to pay fines. An alternative explanation for the large number of fine defaulters in NSW may be an inefficient and/or ineffective fine enforcement process. If fine enforcement action is uncertain or insufficiently swift, the incentive to pay a fine is diminished and the rate of non-payment can be expected to rise. To put the matter another way, the problem of fine default may stem from the simple fact that large numbers of people who are fined do not expect to get caught if they do not pay or expiate their fines.

The aim of this report is to describe the fine enforcement scheme in NSW, to examine the extent of the delays in the enforcement process, and to discuss their implications. Section 2 of this report provides an overview of the operation of the fine enforcement scheme and highlights the key enforcement stages. Section 3 presents the results of a survey of *warrants of commitment* belonging to a sample of fine defaulters who 'cut-out' their fines in NSW correctional centres. The section examines the characteristics of the defaulters and their fines, and then focuses on the time delays experienced between the key enforcement stages. The discussion in Section 4 considers the sources of these delays and discusses possibilities for reducing delays and enhancing compliance with fine payment.

## 2. OPERATION OF THE FINE ENFORCEMENT SYSTEM

This section provides an account of the fine enforcement system in NSW as it operates under the legislative changes detailed in the Justices (Fine Default) Amendment Act.<sup>11</sup> The narrative that follows is accompanied by six interlinked flow charts illustrating the basic chain of events within the enforcement process. Each Chart is numbered from 1 to 6 and steps within each chart are numbered from 1 to  $n$ . The notation used to refer to a particular step on a given chart is given by  $Cx:n$  where  $x$  is the chart number and  $n$  is the step number in that chart. For example Step 2 in Chart 1 is represented as  $C1:2$ . This notation is provided in subscript at the relevant points in the text as a source of reference to various stages of the enforcement process in the relevant charts. Figure 5 indicates how the six flow charts are interlinked. Note that the main feedback loop is from the non-custodial options (Chart 4, Chart 5 and Chart 6) back to re-issues of *warrants of commitment* (Chart 3).

Figure 5: Summary flow chart of the fine enforcement system



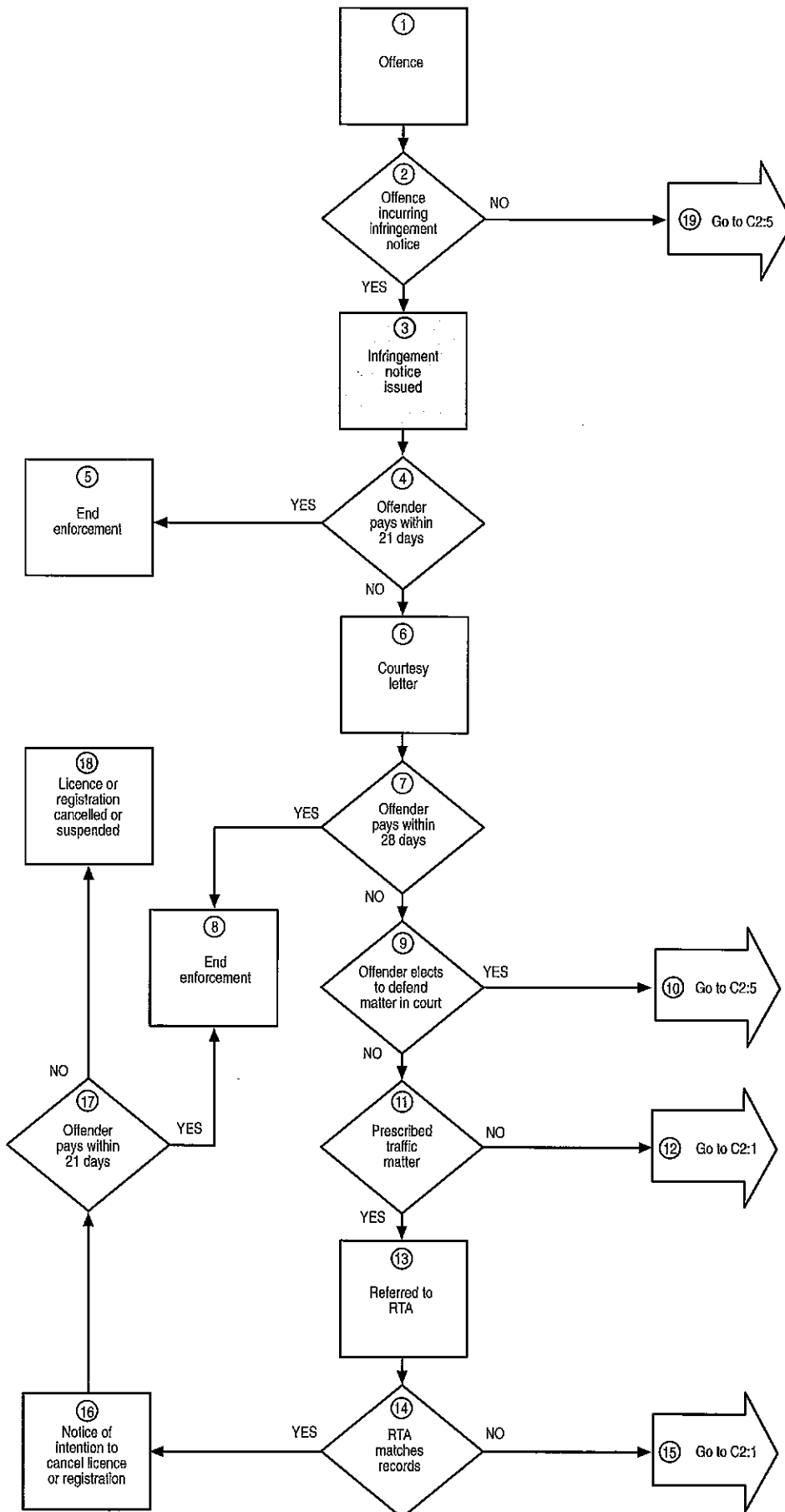
## 2.1 INFRINGEMENT NOTICES (CHART 1)

An *infringement notice* is a prescribed form, informing an offender of an infringement, detailing the nature of the offence, the amount of the fine and the payment conditions. *Infringement notices* are issued by police, parking inspectors, transit police, the State Rail Authority, local councils, and other organisations.<sup>12</sup> C1.3 Once an *infringement notice* has been issued, the offender is required to pay the fine to the Infringement Processing Bureau of the New South Wales Police Service within 21 days. C1.4 If payment is not received within this period, a *courtesy letter* is mailed to the offender, C1.6 reminding the person to pay the amount on the *infringement notice*, or should they wish to defend the matter, to complete and return the court election section on the *infringement notice* or *courtesy letter*. If the court election is made, the defendant receives a summons to appear in court at a later date. C1.9

If the offender does not elect to defend the matter, and does not pay the Infringement Processing Bureau within 28 days of receiving the *courtesy letter*, C1.7 then the *infringement notice*, if it is for a traffic matter prescribed under s. 18C of the *Traffic Act 1909* (NSW), C1.11 is referred to the RTA. C1.13 Personal details of the offender are then matched against the records of the RTA. C1.14 Where a match is made, the RTA sends a *notice of intention to cancel [licence or registration]* C1.16 to the offender advising that unless the outstanding fine together with an additional sum for the enforcement costs is paid to the RTA within 21 days, C1.17 the offender's licence or vehicle registration will be suspended or cancelled without further notice.<sup>13</sup> C1.18 Following cancellation, the defaulter is required to re-apply for a valid driver's licence or to re-register his or her vehicle if they wish to continue to drive legally. In order to have a suspended or cancelled licence reinstated a defaulter is required to pay all outstanding amounts.

If the RTA is unable to match the personal details provided by the Infringement Processing Bureau with its own records, C1.14 the matter is directed back to the Infringement Processing Bureau.<sup>14</sup> The Infringement Processing Bureau will subsequently forward these infringements to a Local Court which will deal with these rejected matters by way of *enforcement orders*.<sup>15</sup> C2.1

Chart 1: Infringement notices



## 2.2 ENFORCEMENT ORDERS AND PENALTY NOTICES (CHART 2)

### 2.2.1 ENFORCEMENT ORDERS

Also dealt with by way of *enforcement orders* are offences incurring *infringement notices* that are not prescribed traffic matters (e.g. fare evasion, council fines). <sup>C1:11</sup> These unpaid matters are not referred to the RTA; rather they are referred directly to the Local Court where they are pursued by the issuance of *enforcement orders*. <sup>C2:1</sup>

Notice of the *enforcement order* will be sent by the Local Court to the offender. If an offender fails to satisfy an *enforcement order* within 28 days of its issuance, <sup>C2:2</sup> the court may pursue the appropriate enforcement action. <sup>C2:4</sup> This usually means the issue of a *warrant of commitment*.<sup>16</sup> <sup>C3:1</sup>

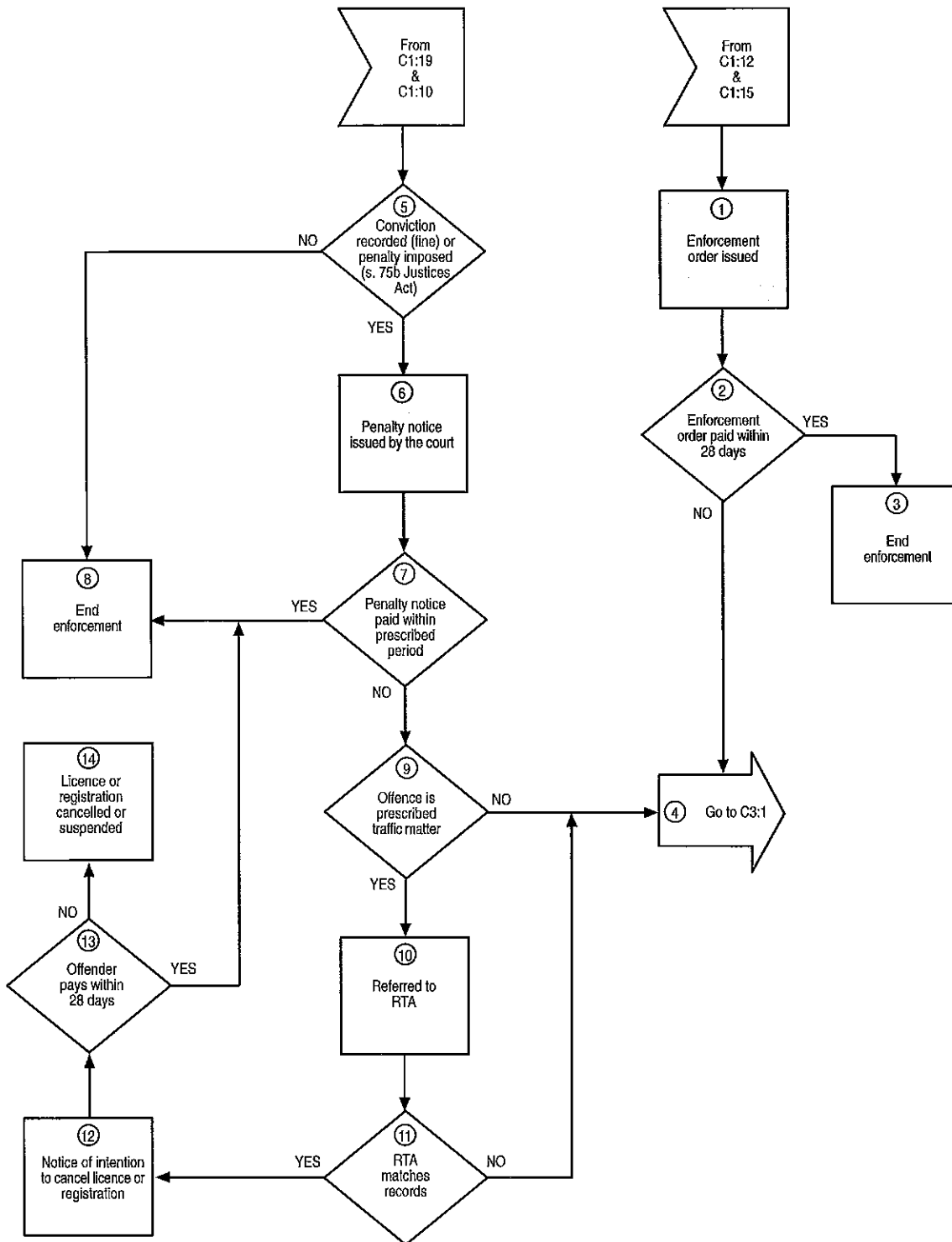
### 2.2.2 PENALTY NOTICES

Both offenders who elect to defend a matter associated with an *infringement notice*, <sup>C1:9</sup> and defendants who are charged with an offence not sanctioned by an *infringement notice* <sup>C1:19</sup> (e.g. assault, drink driving) are summoned to appear before a magistrate in a Local Court.<sup>17</sup> If the defendant successfully defends the charge or the *infringement notice*, the fine is waived. <sup>C2:5 & C2:8</sup> If the defendant appears in court and is convicted, <sup>C2:5</sup> he or she may be fined and issued with a *penalty notice*. <sup>C2:6</sup> A *penalty notice* is a notice issued by an authorised justice at a Local Court specifying the particulars of the offence, the amount owed and the due date.<sup>18</sup> A *penalty notice* may also eventuate where a person is summoned to appear in court to defend an *infringement notice* or to face charges for an offence, but fails to attend court at the designated time and place set for the hearing. <sup>C2:5</sup> In some of these cases a penalty is imposed in the person's absence (i.e. *ex parte*) and a *penalty notice* is subsequently issued. <sup>C2:6</sup> *Penalty notices* vary in the time allowed for completion of payment depending on the circumstances of the defendant and the discretion of the magistrate. In the event that the payment date arrives and payment is yet to be made, <sup>C2:7</sup> prescribed traffic and non-prescribed traffic matters are once again dealt with separately. <sup>C2:9</sup>

Prescribed traffic offences for which the *penalty notice* remains unpaid <sup>C2:9</sup> are referred to the RTA where a matching process is undertaken. <sup>C2:11</sup> If a match is made, the defaulter is notified that his or her licence will be suspended or cancelled <sup>C2:12</sup> unless they pay within 28 days.<sup>19</sup> <sup>C2:13</sup> Where the personal details on the unpaid *penalty notice* cannot be matched with RTA records, <sup>C2:11</sup> enforcement proceeds by means of the issue of a *warrant of commitment*.<sup>20</sup> <sup>C3:1</sup> (Note that this procedure is similar to the one where unmatched *infringement notices* <sup>C1:14</sup> result in the issuance of *enforcement orders*. <sup>C2:1</sup>) *Penalty notices* issued by the court for non-prescribed traffic offences <sup>C2:9</sup> which are not paid within the time specified <sup>C2:7</sup> result in the issuance of a *warrant of commitment*. <sup>C3:1</sup>



Chart 2: Enforcement Orders and Penalty Notices

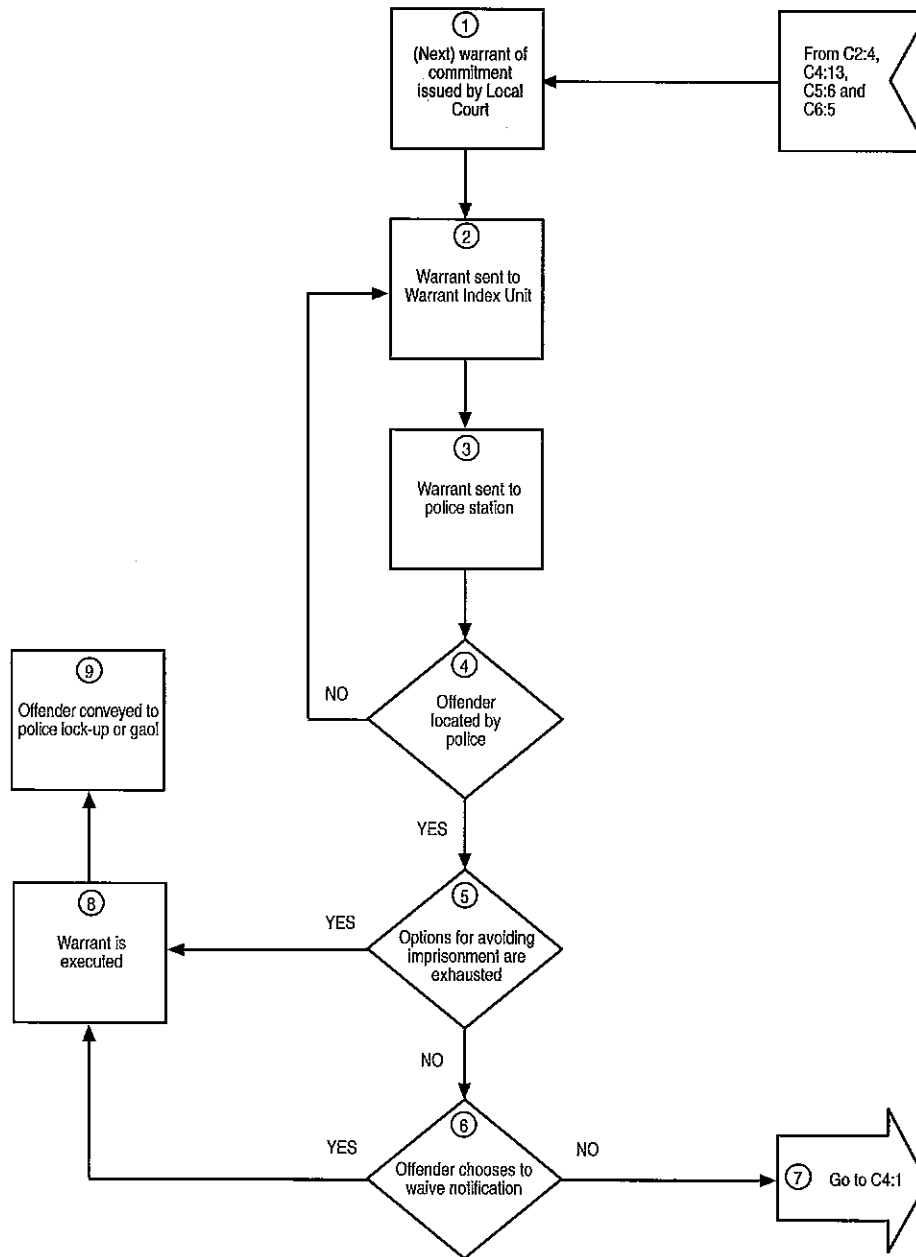


### 2.3 WARRANTS OF COMMITMENT (CHART 3)

*Warrants of commitment* are issued by justices at Local Court registries <sup>c3.1</sup> and are forwarded to the Central Warrant Index maintained by the NSW Police Service's Warrant Index Unit. <sup>c3.2</sup> The warrants are then sent to the police station nearest to the last known address of the defaulter.<sup>21</sup> <sup>c3.3</sup> Upon receiving a warrant, police officers are required to formally notify the defaulter of the existence of their outstanding warrants. In the event that police are unable to locate an offender, the warrants are returned to the Warrant Index Unit. <sup>c3.2</sup>

When a defaulter is located by police, <sup>c3.4</sup> they determine from the warrant(s) whether the defaulter is eligible for alternatives to full-time imprisonment.<sup>22</sup> <sup>c3.5</sup> If all alternatives to full-time imprisonment have been exhausted, <sup>c3.5</sup> police officers may execute the warrant(s) immediately <sup>c3.8</sup> and convey the defaulter to a police lock-up or gaol. <sup>c3.9</sup> The current 'cut-out' rate for fine default is \$100 per 24 hours in prison and is calculated on a pro-rata basis.

**Chart 3: Warrants of commitment**



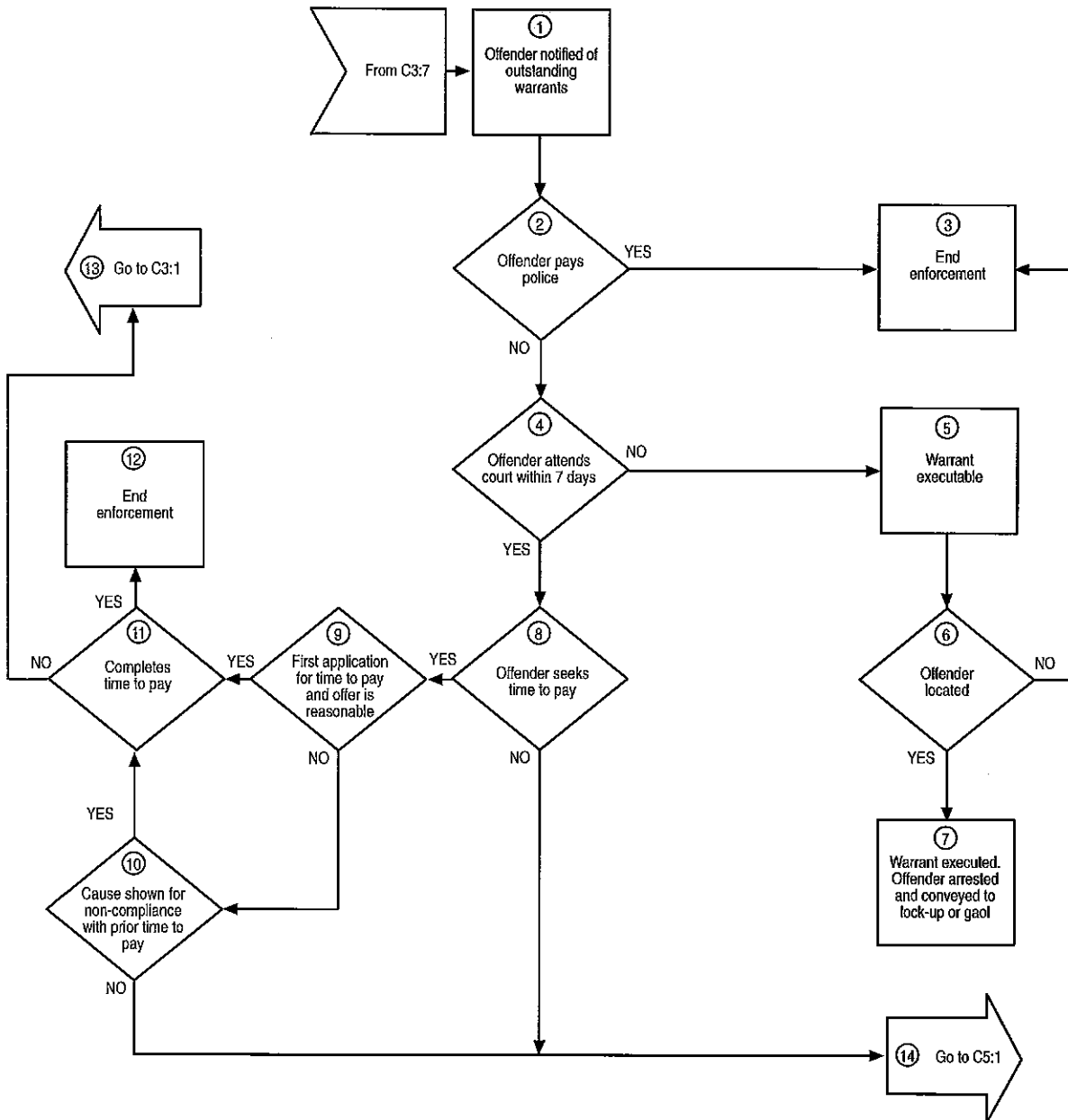
## 2.4 NOTIFICATION OF OUTSTANDING WARRANTS AND TIME TO PAY (CHART 4)

### 2.4.1 NOTIFICATION OF OUTSTANDING WARRANTS

If the most recent warrant indicates that alternatives to full-time imprisonment are still available to the defaulter, <sup>c3:5</sup> police officers are instructed to issue the defaulter with a written *notice of outstanding commitment warrant(s)*<sup>23</sup> and to inform the defaulter of the options available to them. This proceeding is formally termed *notification*. <sup>c4:1</sup> The police advise the fine defaulter to attend a police station to obtain details (including the status) of all their outstanding warrants. The defaulter may, at the time of *notification*, decide to pay the amount owed on the warrant(s) directly to the police <sup>c4:2</sup> who will forward the money to the Local Court registry. Otherwise, the warrant details must be produced by the defaulter at any Local Court registry within seven days of the date of *notification* by police.<sup>24</sup> The defaulter also maintains the right to waive the seven-day notice period and request that the warrant(s) be executed immediately.<sup>25</sup> <sup>c3:6</sup> Failing to attend a Local Court registry within the seven-day period renders the defaulter's warrant(s) executable <sup>c4:5</sup> and the defaulter is arrested when next located by police. <sup>c4:6 & c4:7</sup> Once defaulters have obtained their warrant details from police and presented themselves at a Local Court registry (following *notification*), <sup>c4:4</sup> they may either pay the *total amount* owing on the warrant(s), or make an application to enter into an alternative agreement to satisfy the warrant(s). An authorised justice of the peace may then rescind the warrant(s) in favour of allowing the offender to take up an option as an alternative to full-time imprisonment.

### 2.4.2 TIME TO PAY

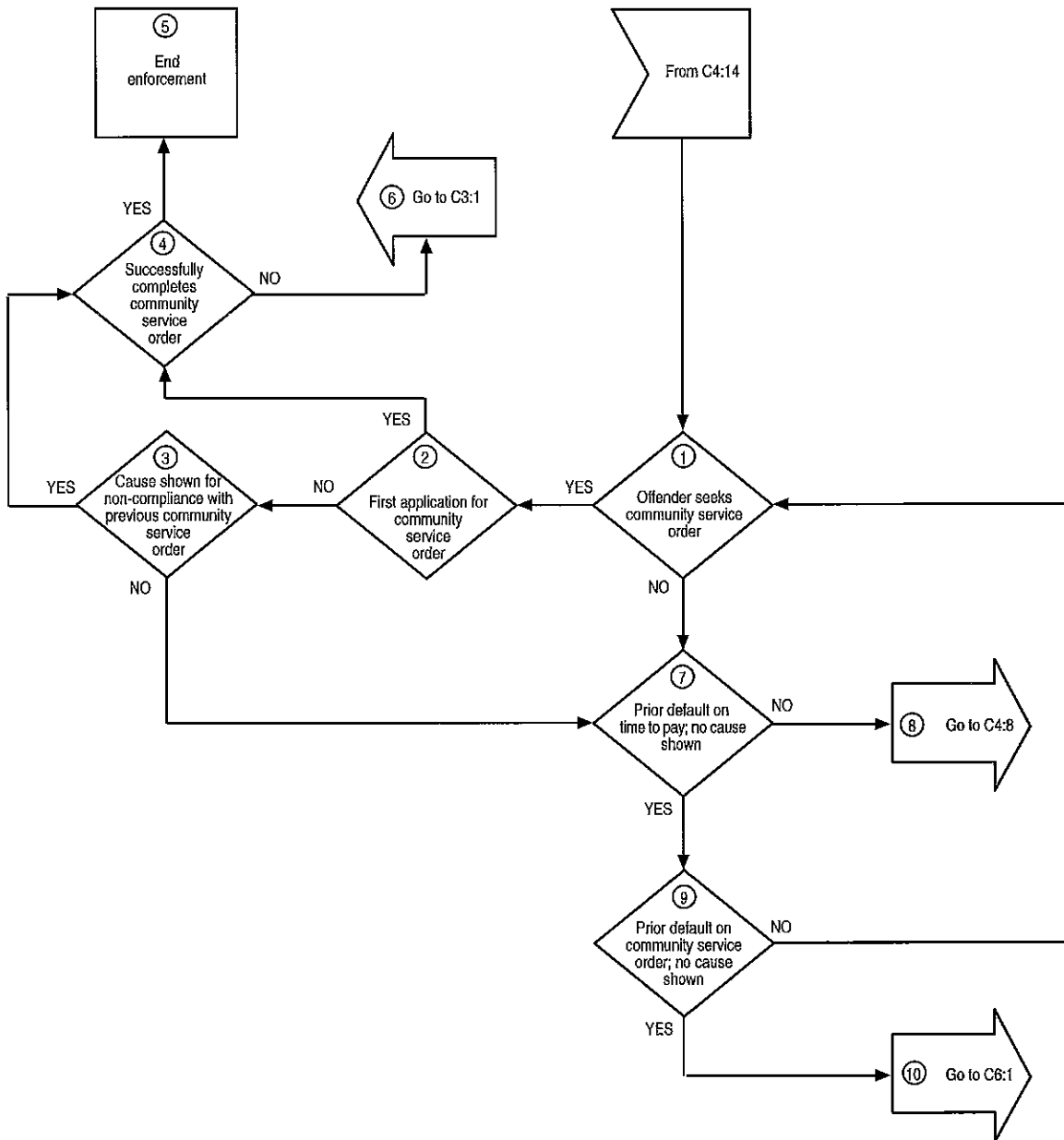
One of the non-custodial options available is for further *time to pay*. <sup>c4:8</sup> Under this option the defaulter is permitted to defer payment of the fine to such a date as agreed to by an authorised justice. Alternatively, under the same provisions (s. 90 of the Justices Act) an application for a payment by instalments agreement may be negotiated with the justice.<sup>26</sup> As a general rule the first application for *time to pay* should always be granted if the offer is reasonable.<sup>27</sup> <sup>c4:9</sup> Subsequent applications for *time to pay* are required in writing and will be granted if the fine defaulter can provide adequate reasons for the failure to comply with the prior *time to pay* arrangements.<sup>28</sup> <sup>c4:10</sup> The onus is on the fine defaulter to provide the necessary information.<sup>29</sup> The justice must be satisfied that the defaulter is likely to comply on this occasion and that the present offer is reasonable. If a *time to pay* agreement is not honoured, <sup>c4:11</sup> the offender is once again in default of an order, and the court will issue a subsequent *warrant of commitment* for that offence. <sup>c4:13</sup>

**Chart 4: Notification of outstanding warrants and time to pay**

## 2.5 COMMUNITY SERVICE ORDERS (CHART 5)

Another non-custodial alternative to full-time imprisonment for fine defaulters is community service. This option is granted by the court through the issuance of a *community service order*.<sup>30</sup> c5:1 If the defaulter chooses this option they may 'cut-out' the amount owed under their warrants at a rate of \$15.00 per hour (\$120.00 for an 8 hour day) by working under the supervision of an organisation overseen by the NSW Probation Service. First applications for a *community service order* are always granted. c5:2 Subsequent applications, however, are required in writing, and are granted only if the fine defaulter can provide sufficient reasons for their failure to comply with previous *community service orders*.<sup>31</sup> c5:3 As from 1 July 1994, an application for the issue of *community service order* may be made both before and after the issue of a *warrant of commitment*.<sup>32</sup>

Upon receiving a *community service order*, the defaulters have 28 days in which to present themselves to a specified office of the NSW Probation Service for assessment or work placement. If the defaulter does not present within that time, or does not comply with the conditions of the *community service order*, the order may be breached c5:4 and a subsequent *warrant of commitment* may be issued.<sup>33</sup> c5:6

**Chart 5: Community service orders**

## 2.6 CIVIL ENFORCEMENT AND PERIODIC DETENTION (CHART 6)

### 2.6.1 CIVIL ENFORCEMENT

In the event that a defaulter has failed to comply with both a *time to pay* agreement <sup>c5:7</sup> and a *community service order* <sup>c5:9</sup> and has failed to provide reasonable explanations for non-compliance of those orders, then a third non-custodial option can be explored. <sup>c5:10</sup> Specifically, the authorised justice of the peace at the Local Court registry may pursue *civil enforcement* as an alternative to the issue of a *warrant of commitment*.<sup>34</sup> <sup>c6:1</sup> *Civil enforcement* involves the confiscation of assets belonging to the defaulter to the value of the outstanding fines plus any enforcement costs. To facilitate asset recovery, the authorised justice is required to ascertain details of means and assets from the defaulter. Provided that the justice believes that there is a reasonable chance that *civil enforcement* will be successful, there are two possible choices of action.

Firstly, the justice may issue a *warrant of execution* and forward it to the NSW Sheriff's Office. <sup>c6:2</sup> A *warrant of execution* authorises the Sheriff's Office to seize property owned by the defaulter for sale at auction. Alternatively, the justice may issue and forward a *garnishee warrant* to the Sheriff's Office, whereby it is arranged that monetary instalments are to be deducted from the defaulter's account. <sup>c6:2</sup> If the *civil enforcement* action is unsuccessful,<sup>35</sup> <sup>c6:3</sup> a new warrant is issued. <sup>c3:1</sup>

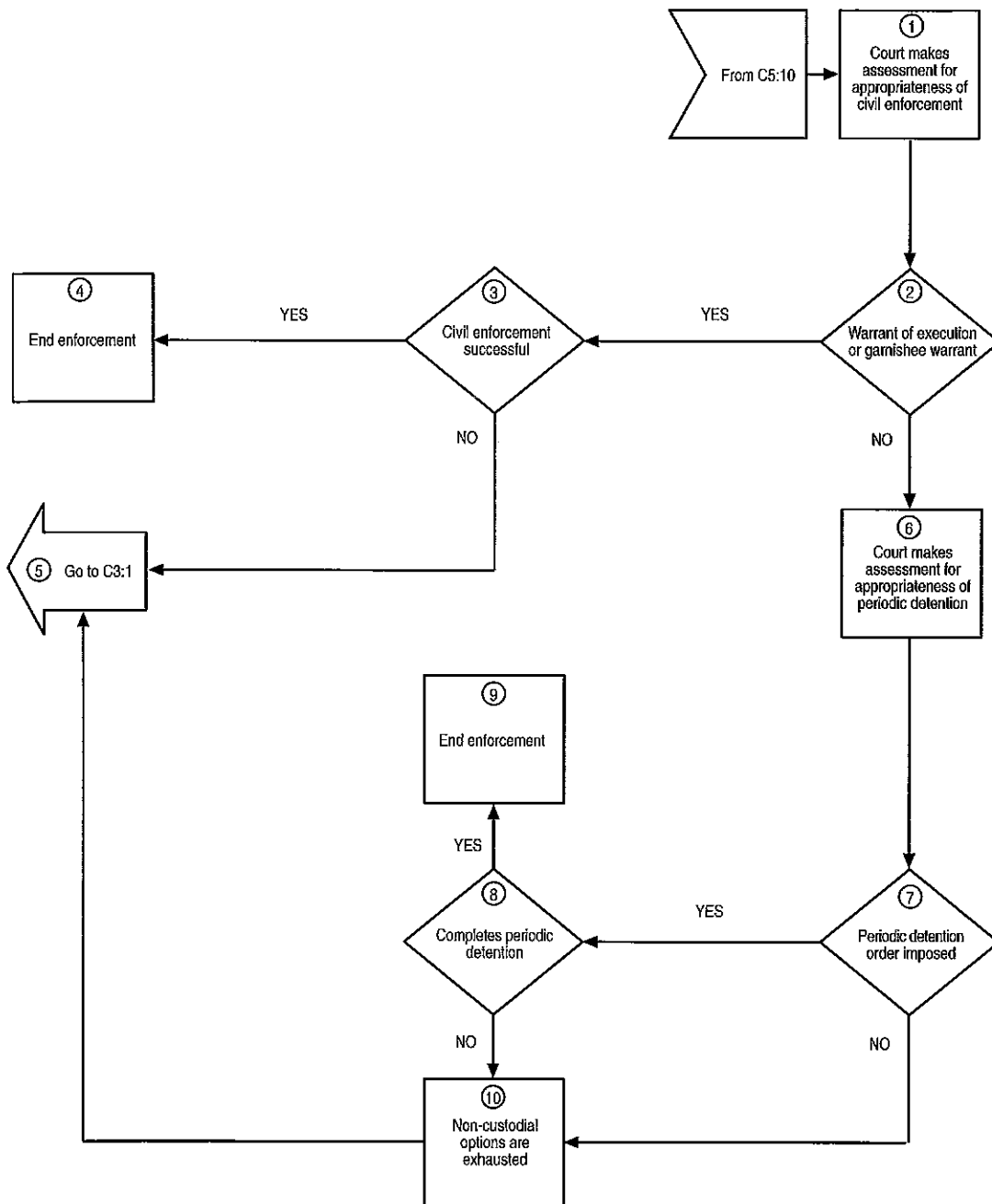
### 2.6.2 PERIODIC DETENTION

In the event that *civil enforcement* action is not considered appropriate action by the justice, the Justices (Fine Default) Amendment Act then provides that the last remaining alternative to full-time imprisonment is to serve time for the fine and associated costs by way of *periodic detention*.<sup>36</sup> <sup>c6:6</sup> Serving a *periodic detention* requires a defaulter to present at a detention centre and remain within the centre for two consecutive days per week until the total number of days required to be served on the warrant(s) has been served. A *periodic detention* order can only be offered if a warrant exists that has been issued for non-compliance with a previous *time to pay* agreement or *community service order*, or if *civil enforcement* has been impractical or unsuccessful.<sup>37</sup> <sup>c6:7</sup> These restrictions are intended to ensure that defaulters are encouraged to take advantage of the non-custodial options available.<sup>38</sup>

A breach of a *periodic detention* will result in all alternatives to full-time imprisonment being exhausted. <sup>c6:10</sup> A new *warrant of commitment* is issued, <sup>c3:1</sup> but upon apprehension by police, *notification* will not be given, rather, the warrant is executed <sup>c3:8</sup> and the defaulter conveyed to a police lock-up or gaol. <sup>c3:9</sup>



Chart 6: Civil enforcement and periodic detention



## 2.7 NON-COMPLIANCE WITH OPTIONS

Generally, non-compliance with any of the alternative options to full-time imprisonment results in the issuance of a subsequent *warrant of commitment*. <sup>c3.1</sup> The re-issued warrants like their predecessors are forwarded to the Warrant Index Unit <sup>c3.2</sup> and then to police officers <sup>c3.3</sup> who are, once again, instructed to notify the defaulter of the existence of the outstanding warrant(s). <sup>c4.1</sup> At the time of *notification*, only warrants that indicate that all available alternatives to full-time imprisonment have been exhausted, <sup>c3.5</sup> are executed. <sup>c3.8</sup> Otherwise, following *notification*, defaulters are faced with the same range of options as before, with the guidelines used to assess the options being applied according to criteria specified for second and subsequent warrants. Under these criteria, all the options are not automatically available and the onus lies with the defaulter to show cause for non-compliance with previous orders.

The options available, and whether they are granted by the court, are generally a matter of discretion for an authorised justice of the peace at the Local Court registry. It is possible, however, that the process of rescinding warrants and granting alternatives to full-time imprisonment continues perpetually, provided that the defaulter continues to show an authorised justice due cause for non-compliance with the prior orders, and continues to demonstrate a capacity to enter into a new agreement.

## 2.8 KEY ENFORCEMENT STAGES

While the enforcement process is extremely complicated, it can be more simply understood when considered as a series of key enforcement stages. Setting aside the preliminary enforcement procedures pursued by the Infringement Processing Bureau and the RTA in Chart 1, the four key enforcement stages are presented in Figure 6 and are described below.

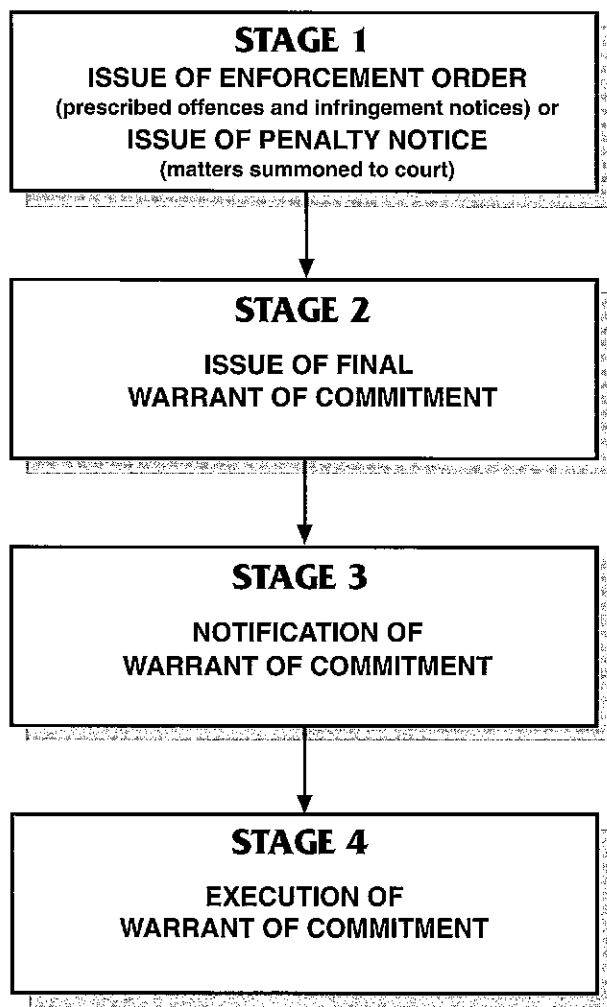
The first key stage of the enforcement process may be considered to be the issuance of an *enforcement order* <sup>c2.1</sup> or a *penalty notice*. <sup>c2.6</sup> An *enforcement order* is the initial stage in the enforcement of an unpaid *infringement notice* (for prescribed traffic offences) or for fines issued by the State Rail Authority, transit police, local councils or other organisations. Alternatively, the enforcement process commences with a *penalty notice* for cases where a matter is summoned to court.

If the *enforcement order* or *penalty notice* is not paid, the next key stage of enforcement is the issuance of a *warrant of commitment*. <sup>c3.1</sup> Warrants can, as detailed above, be issued a number of times for the same offence, however, for the purposes of the analysis in this report, the second key enforcement stage will be considered to be issuance of the final *warrant of commitment* for an offence prior to arrest. The final *warrant of commitment* therefore represents the warrant for which the defaulter is arrested.<sup>39</sup>

Stage three of the enforcement process entails the procedure where a defaulter is notified of the final *warrant of commitment* by police. <sup>c4.1</sup> The non-custodial alternatives to full-time imprisonment are most likely to be taken up after this stage, but before the last key stage of the enforcement process.

The fourth and final stage is the *execution* of the final *warrant of commitment*. <sup>c3.8 or c4.7</sup> The defaulter, at this stage, is either no longer eligible for alternatives to full-time imprisonment, or has elected to waive *notification* and have his or her warrant(s) executed immediately.

Figure 6: Key enforcement stages





### 3. SURVEY OF WARRANTS FOR FINE DEFAULTERS IN CUSTODY

#### 3.1 AIM

The prime concern in this section is to examine the delays between the key enforcement stages presented above.

#### 3.2 METHODOLOGY

##### 3.2.1 SAMPLE

The survey sample consisted of 578 *warrants of commitment* belonging to 171 prisoners incarcerated for fine default between September 1993 and March 1994.<sup>40</sup> Of these prisoners, 150 were male and 21 were female. One hundred of the 171 prisoners were incarcerated at the Silverwater Industrial Complex, 50 were incarcerated at the Long Bay Complex and 21 were incarcerated at the Mulawa Correctional Centre. These three centres accommodate the largest numbers of fine defaulters in NSW.

The present sample of defaulters was used to gauge how protracted the enforcement process is for persons who are imprisoned for fine default. In addition to examining the delays between enforcement stages for imprisoned fine defaulters, it would have been useful to examine those delays for a representative sample of defaulters completing each stage of the enforcement process. Unfortunately this was impossible in the present study due to the absence of relevant data.

##### 3.2.2 MATERIALS

The survey entailed transcribing data from the warrants onto a coding sheet (see Appendix B). The data extracted included the age, gender and date of birth of the defaulter; the number of warrants and types of offences committed, the value of the fines and other associated costs; and the dates of each of the respective key enforcement stages.

##### 3.2.3 PROCEDURE

The survey of warrants was conducted in November 1994. Warrants for fine defaulters in custody are kept at each of the correctional centres. The relative number of fine defaulters whose warrants were selected from each of the correctional centres was roughly in proportion to the number of fine defaulters who were accommodated at each centre during the measurement period.

At the Silverwater Industrial Complex, the warrant files for 100 of the defaulters were randomly selected from the warrant files for all fine defaulters released during March 1994. At the Long Bay Complex, where fine defaulters were not as abundant, the warrant files for all 50 of the fine defaulters released between September 1993 and March 1994 were examined. At the Mulawa Correctional Centre the warrant files for all 21 of the fine defaulters released in March 1994 were examined.

### 3.3 RESULTS

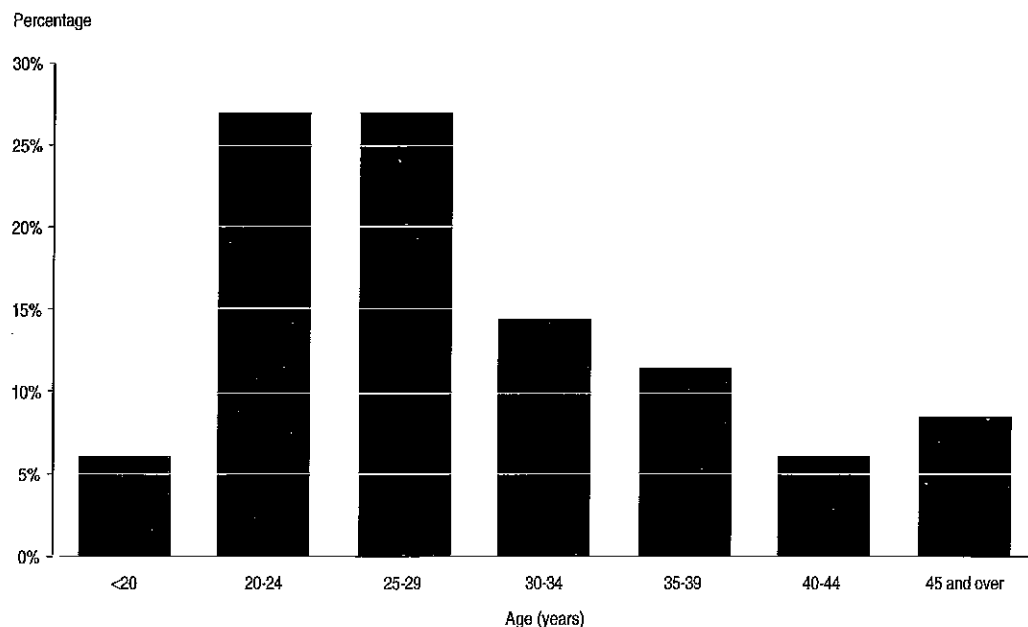
The first set of results below describes the general characteristics of the sample of imprisoned fine defaulters. The second set of results provides information on the delays associated with the enforcement of fines for these offenders.

#### 3.3.1 CHARACTERISTICS OF THE FINE DEFAULTERS SAMPLED

##### *Age of fine defaulters*

Figure 7 shows the frequency distribution of the ages of fine defaulters sampled. The figure shows that 59.9 per cent of the defaulters were aged between 20 and 29 years with a further 26.9 per cent being between 30 and 39 years of age. The youngest defaulter was 19 years of age and the eldest 51. The mean age of the defaulters was 29.6 years.<sup>41</sup>

**Figure 7: Frequency distribution of the age of fine defaulters**

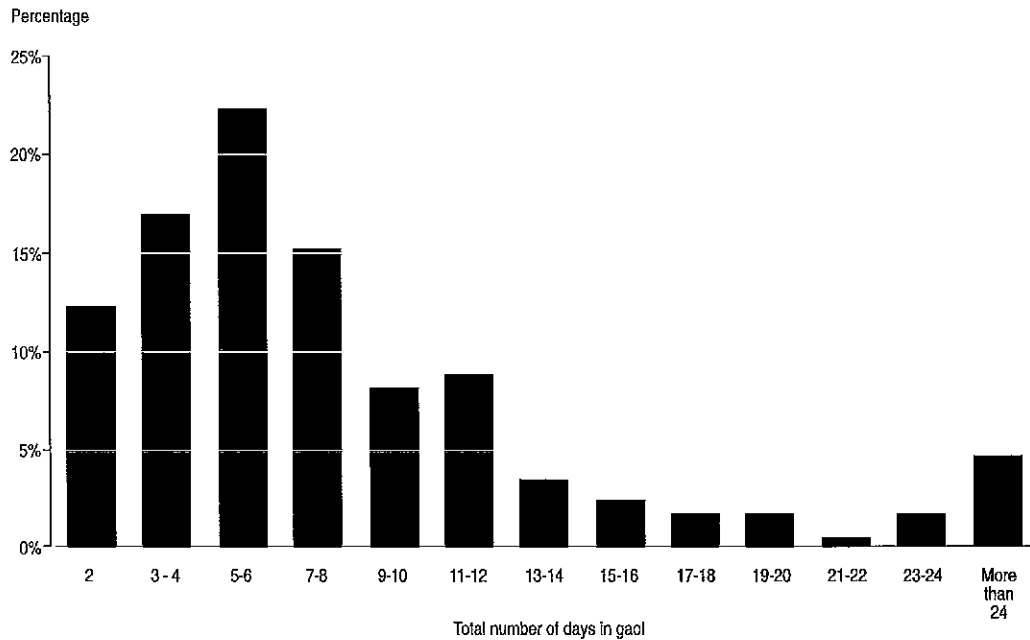


N=167. The age of the defaulter was not known in 4 cases.

##### *Duration of default imprisonment*

Figure 8 shows the frequency of the total number of days that the fine defaulters were required to serve upon their reception into prison.<sup>42</sup> The length of time that the fine defaulters were required to spend in gaol varied considerably. The shortest time served was 2 days, and the longest stay was 45 days. Figure 8 shows that over half the defaulters (51.5%) were required to serve 6 days or less, and the most frequent length of stay was for 5 or 6 days (22.2%). The average number of days required to be served per defaulter was 8.5 days.<sup>43</sup>

**Figure 8: Frequency distribution of the number of days to serve upon reception into gaol per defaulter**

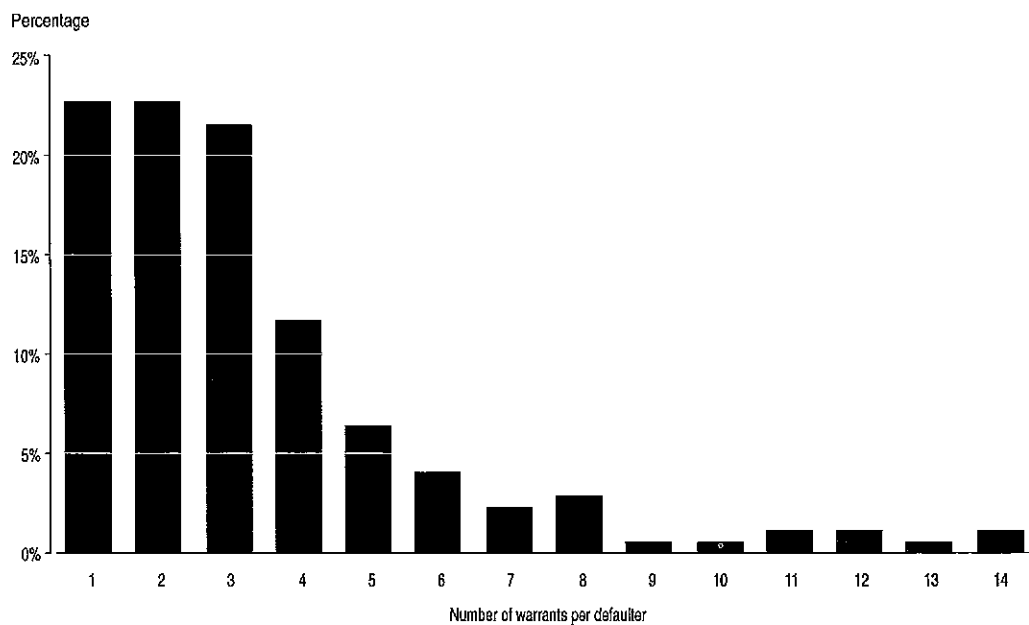


N=171

#### ***Number of warrants per defaulter***

Figure 9 shows the frequency distribution of the number of warrants per defaulter. The fine defaulters sampled were cutting out between 1 and 14 warrants with an average of

**Figure 9: Frequency distribution of the number of warrants per defaulter**



N = 171

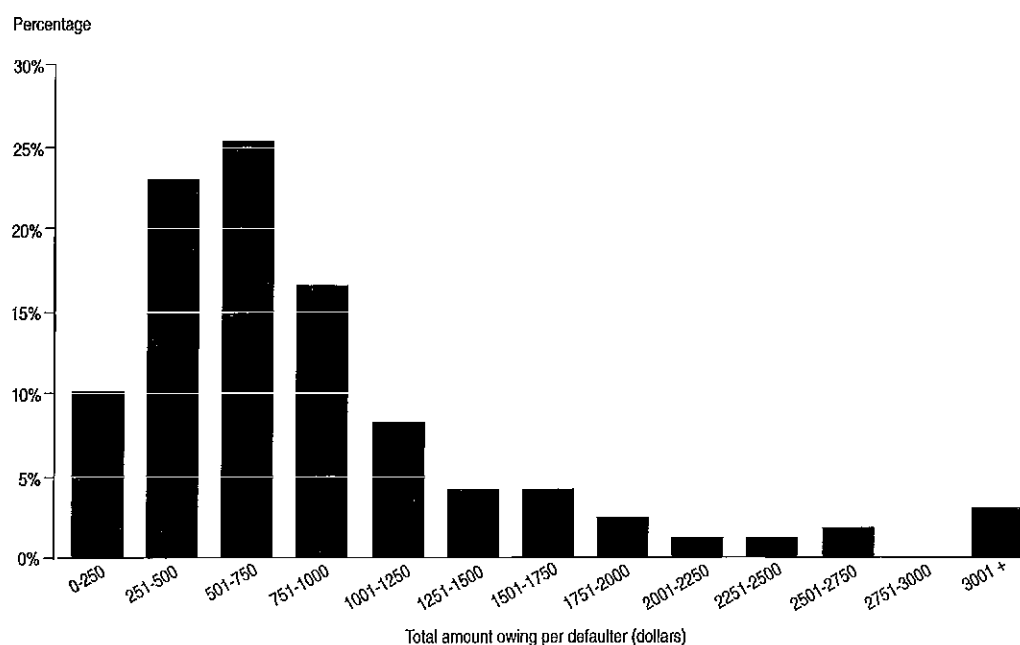
3.9 warrants per defaulter. Almost 23 per cent of the defaulters had only one warrant, 22.8 per cent had two warrants and 21.6 per cent had three warrants. Around one third (32.7%) of the defaulters had four or more warrants.

#### ***Total amount owing per defaulter***

The *total amount* owing per defaulter is the sum of the actual *fine amounts* for all outstanding warrants plus any *other costs* that may be associated with the defaulter's warrants (e.g. enforcement costs or court costs etc.). Collectively, the 171 defaulters surveyed owed a *total amount* of \$148,013. Two-thirds of this *total amount* (\$100,406) comprised actual *fine amounts*, and the remainder (\$47,607) comprised *other costs* imposed by the courts. The analysis that follows describes the distributions of each of these three amounts separately.

Figure 10 shows the frequency distribution of the *total amount* owing per defaulter upon reception into prison. Ten per cent of the defaulters owed \$250 or less, 22.8 per cent owed between \$251 and \$500, and 25.1 per cent owed between \$501 and \$750. Almost three-quarters (74.3%) of the defaulters owed \$1,000 or less in total for all warrants. The modal *total amount* owing was between \$501 and \$750 (25.1%). The average *total amount* of money owing per defaulter was \$865.

**Figure 10: Frequency distribution of the total amount owing per defaulter**



N = 171

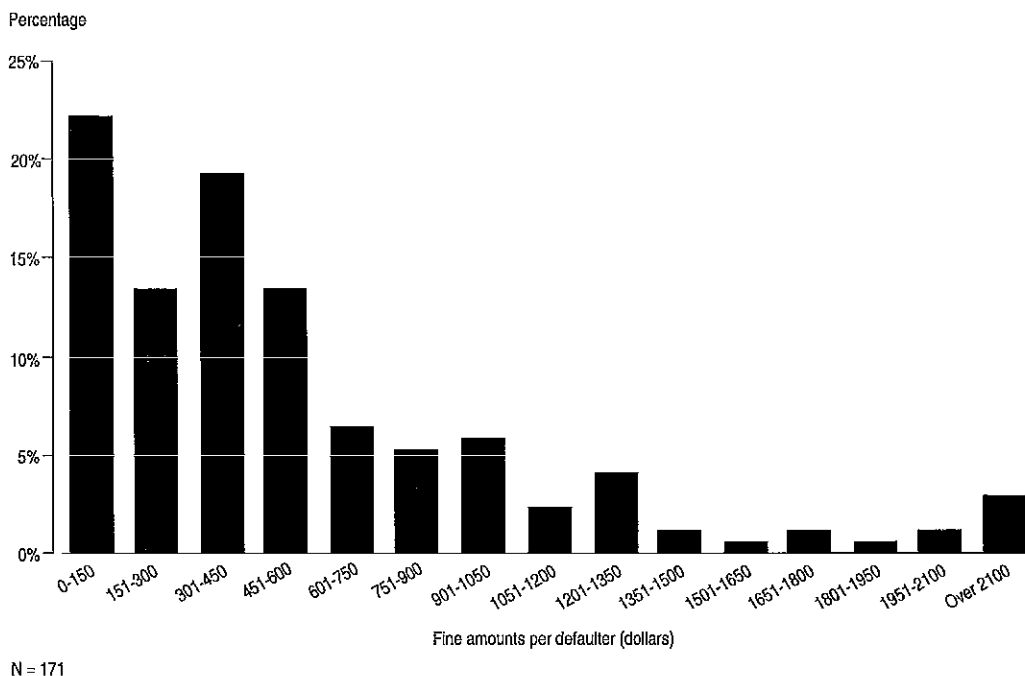
#### ***Fine amounts owing per defaulter***

The frequency distribution of the actual *fine amounts* per defaulter is shown in Figure 11. The *fine amounts* for each defaulter are comprised of the *fine amounts* for all of the defaulter's outstanding warrants. The *fine amounts* were \$150 or less for 22.2 per cent of the defaulters, between \$151 and \$300 for 13.5 per cent of the defaulters, between \$301 and \$450 for 19.3 per cent, and between \$451 and \$600 for 13.5 per cent of the defaulters. The remaining 31.6 per cent of the *fine amounts* per defaulter were valued over \$600.



The variation in the *fine amounts* was considerable, with the smallest *fine amount* for a single warrant being as little as \$10 and the highest *fine amount* being for \$1,500. The average *fine amount* per warrant was \$173, whilst the average *fine amount* owing per defaulter was \$587.

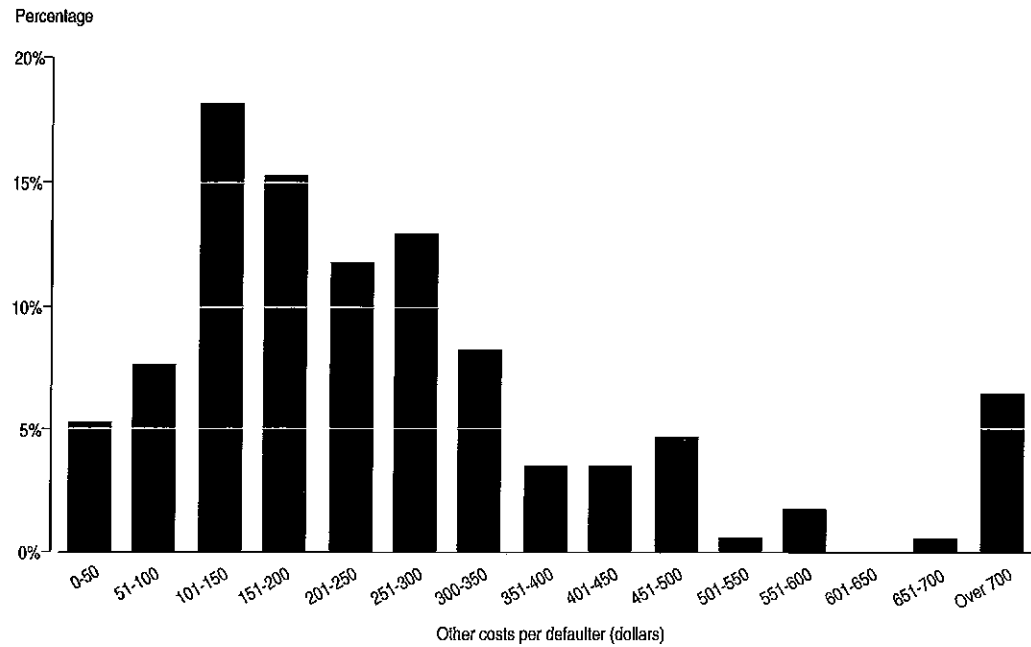
**Figure 11: Frequency distribution of actual fine amounts owing per defaulter**



#### ***Other costs owing per defaulter***

The *other costs* were comprised mainly of enforcement costs (57.1%) which were imposed on 98.0 per cent of the warrants sampled and presently stand at \$50 per warrant. Court costs, presently standing at \$45 per warrant, were imposed on just over two-thirds of the warrants to make up a further 29.5 per cent of the *other costs*. Victim compensation levies (paid to the court) accounted for 7.5 per cent, compensation costs (paid to the victim(s)) accounted for 1.7 per cent, witness expenses accounted for 0.8 per cent, and professional costs accounted for 0.3 per cent of all *other costs*.<sup>44</sup>

Figure 12 shows the frequency distribution of the amount of *other costs* for the defaulters sampled. Eighteen per cent of the defaulters had between \$101 and \$150 added to their total *fine amounts* through *other costs*, 15.2 per cent of the defaulters had between \$151 and \$200 added, and 24.6 per cent had between \$201 and \$300 added. The average amount owed in *other costs* per warrant was \$83 and the average amount owed in *other costs* per defaulter was \$278.

**Figure 12: Frequency distribution of amounts owing in other costs per defaulter**

### ***Types of offences***

Table 1 shows, for the fine defaulters surveyed, the number and percentage of *warrants of commitment* issued for various types of offences. Traffic related and non-traffic related matters are shown separately.

Non-traffic related matters accounted for 61.1 per cent of the *warrants of commitment* surveyed and the remaining 38.9 per cent of warrants were for traffic related offences. Amongst the non-traffic related matters, offences concerning the railways (e.g. fare evasion and unlawful exit from stations) were the most common, accounting for 12.3 per cent of all offences for which warrants were issued. Theft offences were the second most frequent type of non-traffic related offences, accounting for 8.7 per cent of all offences, and were followed by offensive language/manner (6.1%) and then assault (5.5%). Drug related offences accounted for a further 4.5 per cent of all warrants and malicious damage a further 3.8 per cent.

Traffic related warrants were primarily for unlicensed driving and for driving without valid registration (12.3% and 10.9% of all offences respectively). A further 8.1 per cent of the warrants were for speeding or failing to wear a helmet. Parking offences accounted for 4.0 per cent of all warrants.

**Table 1: Number and percentage of offences for which warrants of commitment were issued  
(Traffic related and non-traffic related)**

	<i>Number of warrants</i>	<i>Percentage</i>
<b><i>Non-traffic related</i></b>		
Railway, and other transport offences*	71	12.3
Theft	50	8.7
Offensive language/manner	35	6.1
Assault	32	5.5
Drug related	26	4.5
Malicious damage	22	3.8
Unlawful possession goods	17	2.9
Fraud	15	2.6
Break and enter	14	2.4
Soliciting	12	2.1
Resist police	9	1.6
Other against justice procedures	8	1.4
Fail to report for periodic detention	6	1.0
Possess firearm	5	0.9
Cultivate prohibited drug	5	0.9
Possess utensil to use drug	5	0.9
Electoral - fail to vote	4	0.7
Motor vehicle theft	3	0.5
Shopstealing	3	0.5
Breach CSO	3	0.5
Breach probation	3	0.5
Breach ADVO	2	0.3
Fisheries Act	2	0.3
Trespass	1	0.2
<b>Non-traffic total</b>	<b>353</b>	<b>61.1</b>
<b><i>Traffic related</i></b>		
Unlicensed driver	71	12.3
Registration offences	63	10.9
Not wear helmet/speeding	47	8.1
Parking	23	4.0
Driving PCA	12	2.1
Negligent driving	6	1.0
Roadworthiness	3	0.5
<b>Traffic total</b>	<b>225</b>	<b>38.9</b>
<b>All warrants total</b>	<b>578</b>	<b>100.0</b>

\* Includes fare evasion, refusal to pay fare and unlawful exit from station

### 3.3.2 CHARACTERISTICS OF THE ENFORCEMENT PROCESS FOR THE FINE DEFAULTERS SAMPLED

The analysis that follows describes the time intervals between key steps in the enforcement process for the 171 defaulters sampled. For each defaulter, calculations on the interval between the key enforcement stages are based on the information recorded on the final *warrant of commitment* issued for their earliest occurring offence.

Before examining the initial delays, an important distinction between Local Court registries should be made. At some Local Courts (Downing Centre, Sutherland, Burwood, Parramatta and Orange) a computer system known as the General Local Courts (GLC) is in operation. Under this GLC system an appropriate enforcement document is automatically generated when a *penalty notice, enforcement order* or *time to pay* order falls due.<sup>45</sup> At non-GLC courts, however, which operate on a manual basis (i.e. most suburban courts), senior court staff are required to check the fines owing to determine which fines are due in order to instigate further enforcement action.

#### ***Delays between Stage 1 and Stage 2***

Figure 13 shows, separately for GLC and non-GLC courts, the frequency distribution of the time intervals between the issue date of an *enforcement order/penalty notice* by the court (Stage 1) and the issue date of a subsequent *warrant of commitment* for non-compliance with that *enforcement order/penalty notice* (Stage 2).

From Figure 13 it can be seen that under the GLC system nearly half (48.2%) of the warrants were issued within three months of the initial *enforcement order/penalty notice* issue date, although a large percentage took much longer than this. A further 14.1 per cent were issued within four to six months of the initial *enforcement order/penalty notice* issue date. On average, the time from the issue date of the initial order until the date a warrant was issued was 10.9 months for courts on the GLC system.

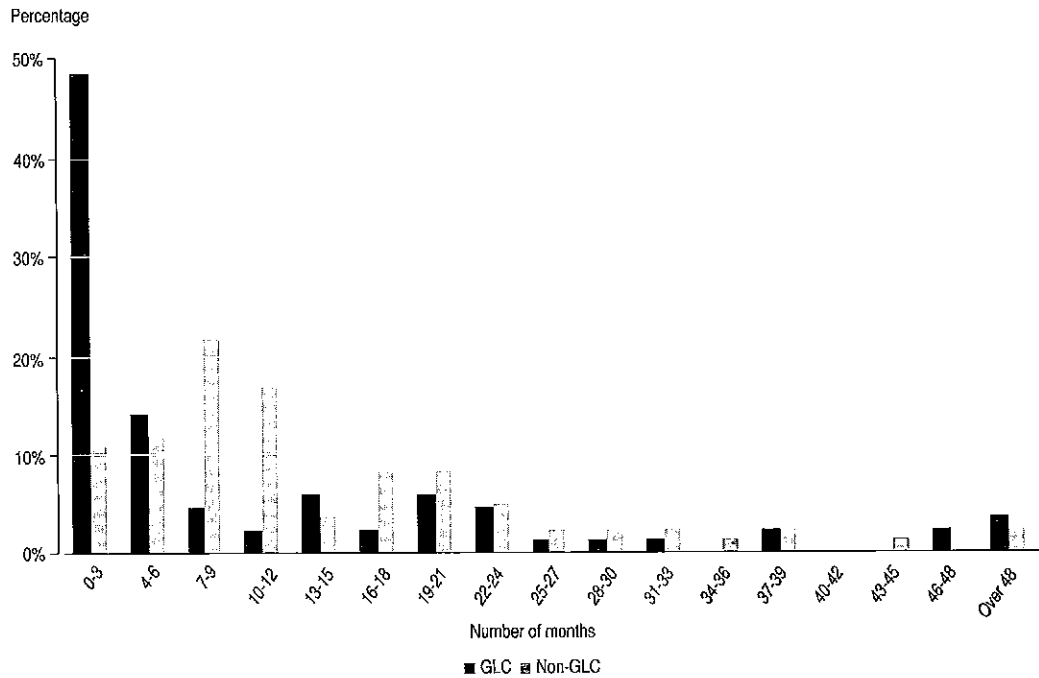
At non-computerised, non-GLC courts only 10.7 per cent of warrants were issued within three months of the *enforcement order/penalty notice* issue date. A further 11.9 per cent of warrants were issued within four to six months and another 21.4 per cent were issued between seven and nine months after the initial *enforcement order/penalty notice* issue date. The average time from the issue date of the *enforcement order/penalty notice* until the date a warrant was issued was 15 months for courts not operating under the GLC system.

Figure 14 shows the cumulative frequency distribution of the time intervals between the issue date of an *enforcement order/penalty notice* by the court (Stage 1), and the issue date of a subsequent *warrant of commitment* for non-compliance with that *enforcement order/penalty notice* (Stage 2). Figure 14 shows that, under the GLC system, 69.4 per cent of unexpiated *enforcement orders/penalty notices* resulted in the issuance of a warrant within one year, 88.2 per cent within two years and 91.8 per cent within three years. The corresponding percentages for non-GLC courts were 60.7 per cent, 85.7 per cent and 94.0 per cent respectively.

#### ***Delays between Stage 2 and Stage 3***

Figure 15 shows, for those defaulters who were notified by police,<sup>46</sup> the frequency distribution of the time intervals between the date that a *warrant of commitment* was issued by a Local Court (Stage 2), and the date that warrant *notification* took place (Stage 3).

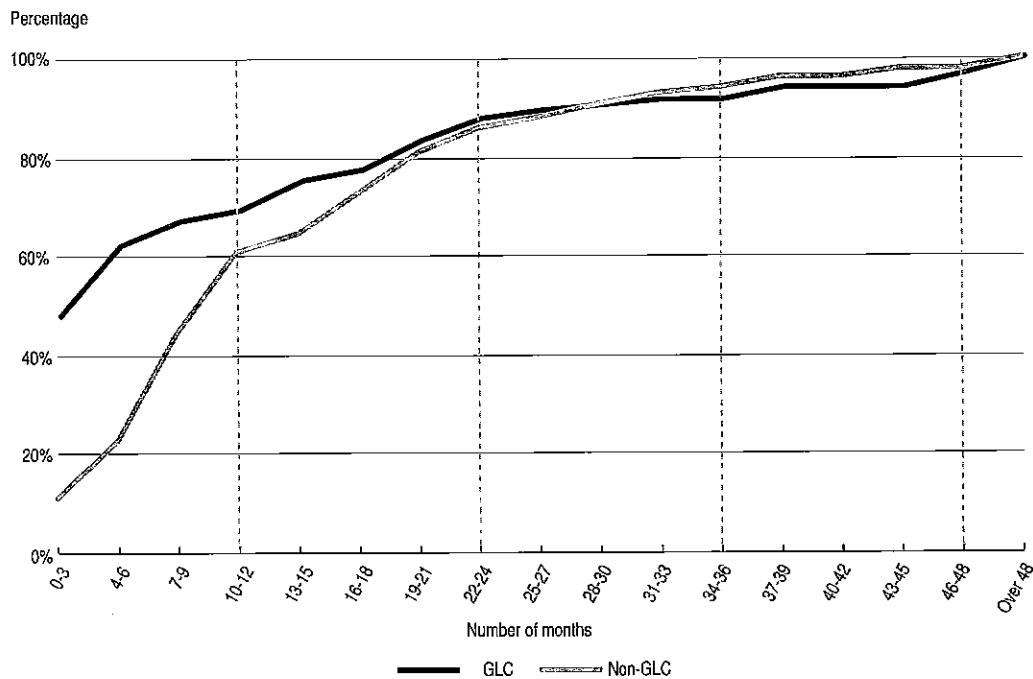
**Figure 13: Frequency distribution of time intervals between Stage 1 and Stage 2, GLC and non-GLC Courts**



GLC N=85, non-GLC N=84. For two cases the date of issue of enforcement order/penalty notice (Stage 1) was unknown.

Stage 1: Issue of enforcement order or issue of penalty notice.  
Stage 2: Issue of final warrant of commitment.

**Figure 14: Cumulative frequency distribution of time intervals between Stage 1 and Stage 2, GLC and non-GLC Courts**



GLC N=85, non-GLC N=84. For two cases the date of issue of enforcement order/penalty notice (Stage 1) was unknown.

Stage 1: Issue of enforcement order or issue of penalty notice.  
Stage 2: Issue of final warrant of commitment.

From Figure 15 it can be seen that 36.6 per cent of those notified were notified within three months of the issue of a *warrant of commitment*. A further 24.6 per cent were notified within four to six months and 10.4 per cent were notified within seven to nine months of the issue of a *warrant of commitment*.

**Figure 15: Frequency distribution of time intervals between Stage 2 and Stage 3**

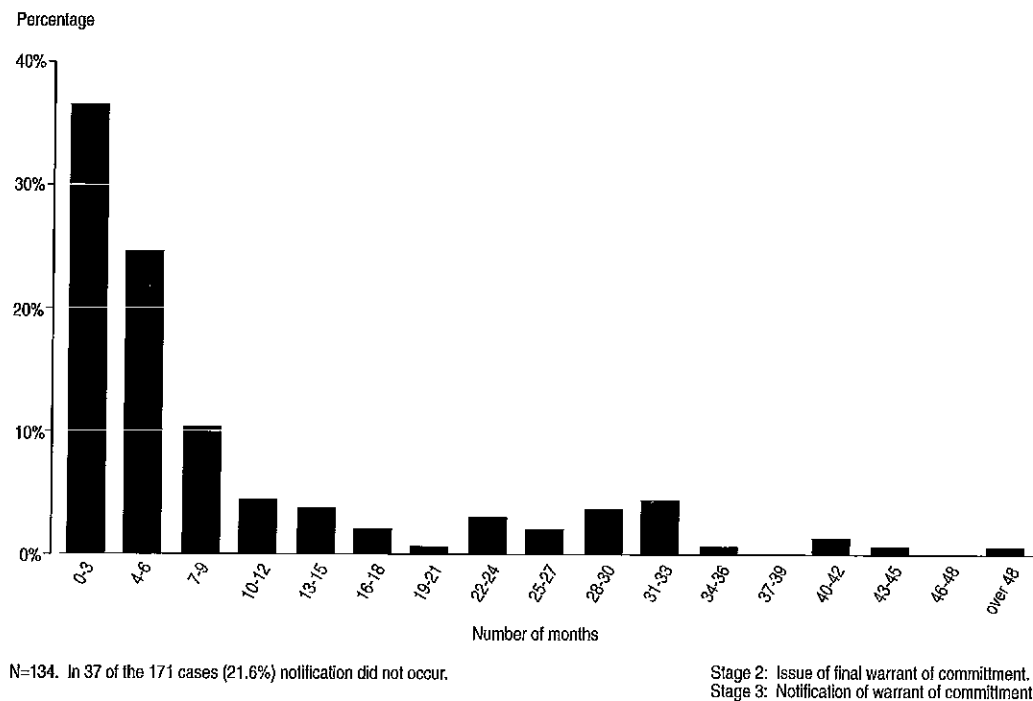
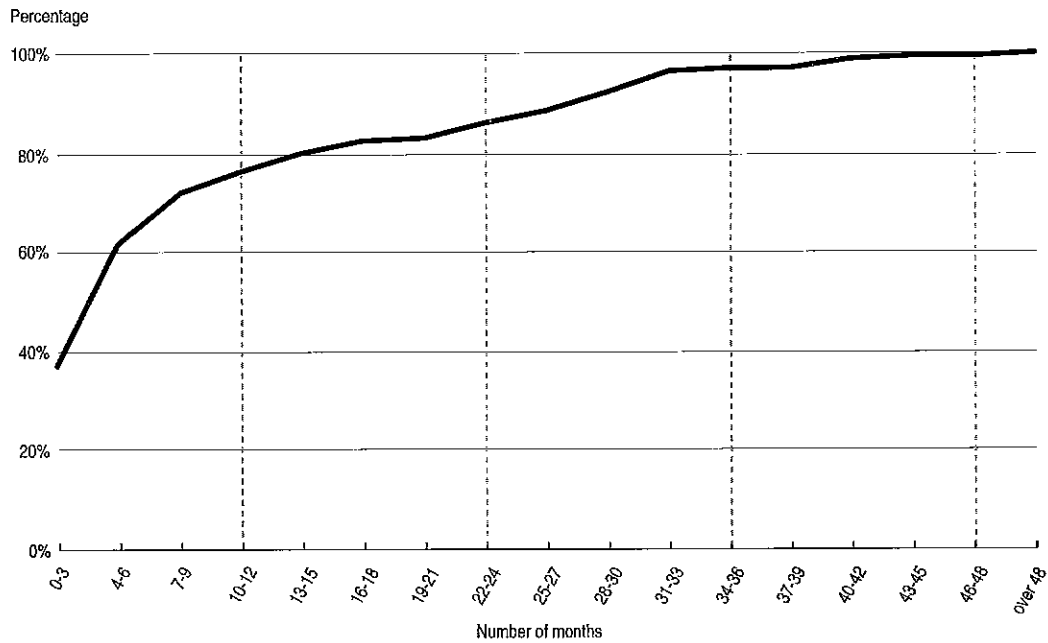


Figure 16 shows the cumulative frequency distribution of the time intervals between the date that a *warrant of commitment* was issued by a Local Court (Stage 2), and the date that *notification* took place (Stage 3). For 76.1 per cent of the defaulters, *notification* had taken place within one year. Thus for 23.9 per cent of defaulters, more than one year elapsed between warrant issue and *notification*. Eighty-six per cent had been notified within two years and hence for 14.0 per cent of defaulters more than two years had elapsed between the time that their final *warrant of commitment* (for their earliest occurring offence) was issued and the time they were notified of their outstanding warrants by police. The average time interval between warrant issuance and warrant *notification* was 9.5 months.

**Figure 16: Cumulative frequency distribution of time intervals between Stage 2 and Stage 3**



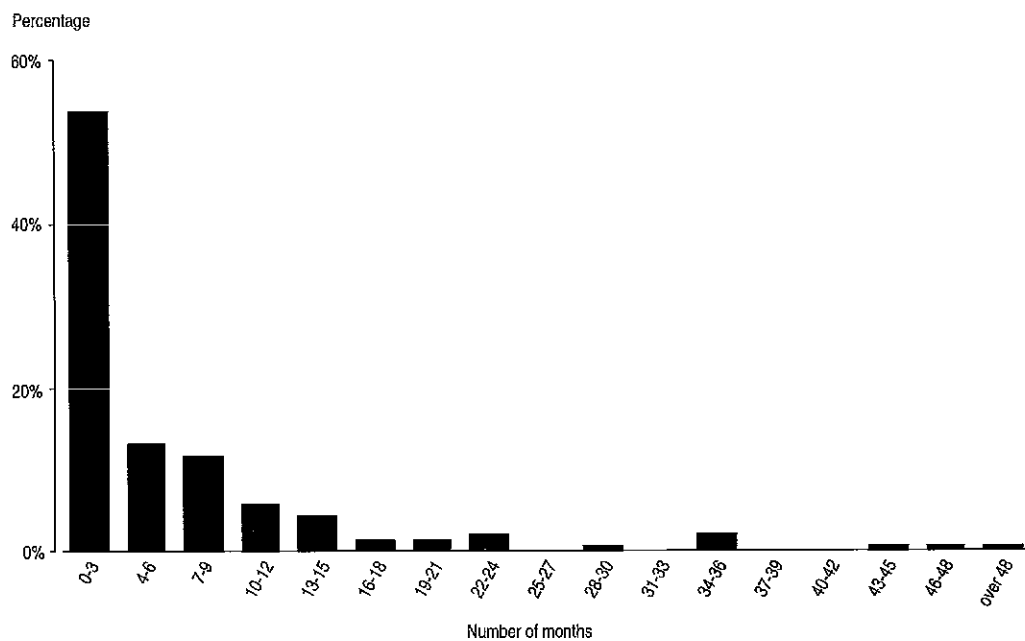
N=134. In 37 of the 171 cases (21.6%) notification did not occur.

Stage 2: Issue of final warrant of commitment.  
Stage 3: Notification of warrant of commitment.

#### **Delays between Stage 3 and Stage 4**

Figure 17 shows the frequency distribution of the time intervals between the date of *notification* (Stage 3) and the date that the *warrant of commitment* was finally executed

**Figure 17: Frequency distribution of time intervals between Stage 3 and Stage 4**



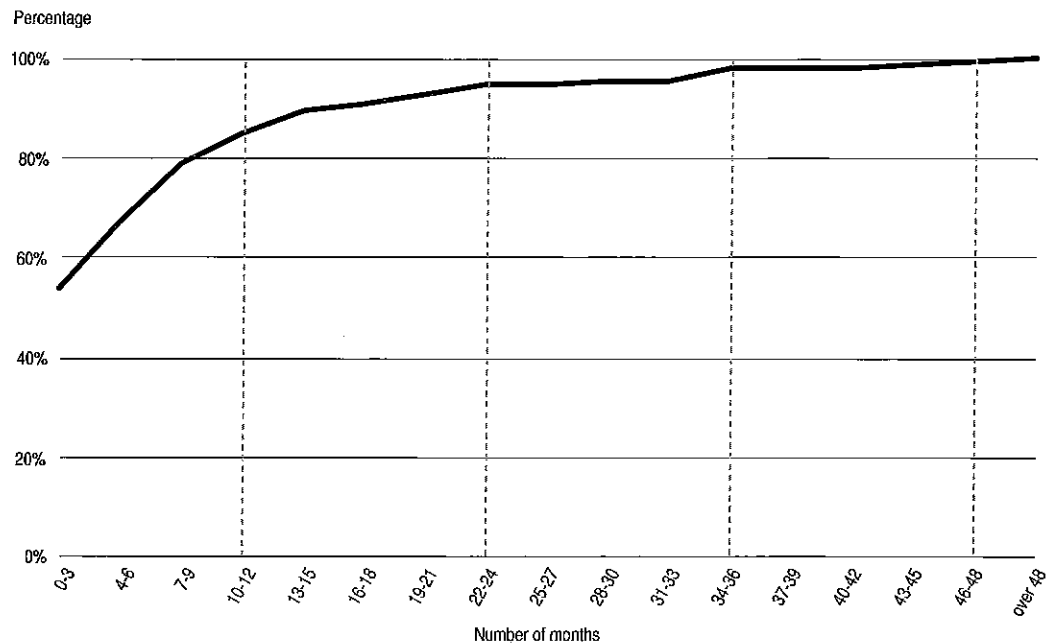
N=134. In 37 of the 171 cases (21.6%) notification did not occur.

Stage 3: Notification of warrant of commitment.  
Stage 4: Execution of warrant of commitment.

(Stage 4). Over half (53.7%) of the defaulters who were notified<sup>47</sup> had their warrants executed within three months of *notification*. A further 13.4 per cent had their warrants executed within four to six months of *notification* and 11.9 per cent within seven to nine months of *notification*.

Figure 18 shows the cumulative frequency distribution of the time intervals between the date of *notification* (Stage 3) and the date that the *warrant of commitment* was finally executed (Stage 4). The figure shows that 85.1 per cent of defaulters had their warrant executed within one year and 94.8 per cent within two years of *notification*. The average time between *notification* and *execution* of warrants was 6.8 months. Note that the warrants are deemed executable seven days after *notification* if the defaulter does not present at a Local Court to expiate the matters at hand.

**Figure 18: Cumulative frequency distribution of time intervals between Stage 3 and Stage 4**



N=31. In 37 of the 171 cases (21.6%) notification did not occur

Stage 3: Notification of warrant of commitment.  
Stage 4: Execution of warrant of commitment.

### **Delays between Stage 1 and Stage 4**

Figure 19 gives an indication of the length of the entire enforcement system. The figure shows the frequency distribution of time intervals between the issue date of the *enforcement order / penalty notice* for an offence (Stage 1) and the date that the *warrant of commitment* for that offence was finally executed (Stage 4). Less than three per cent of warrants were executed within three months of the issuance of an *enforcement order / penalty notice*. A further 7.1 per cent took 4 to 6 months, 10.1 per cent took 7 to 9 months and 10.1 per cent took 10 to 12 months from the time of issuance of an *enforcement order / penalty notice* to the time of *execution*.



**Figure 19: Frequency distribution of time intervals between Stage 1 and Stage 4**

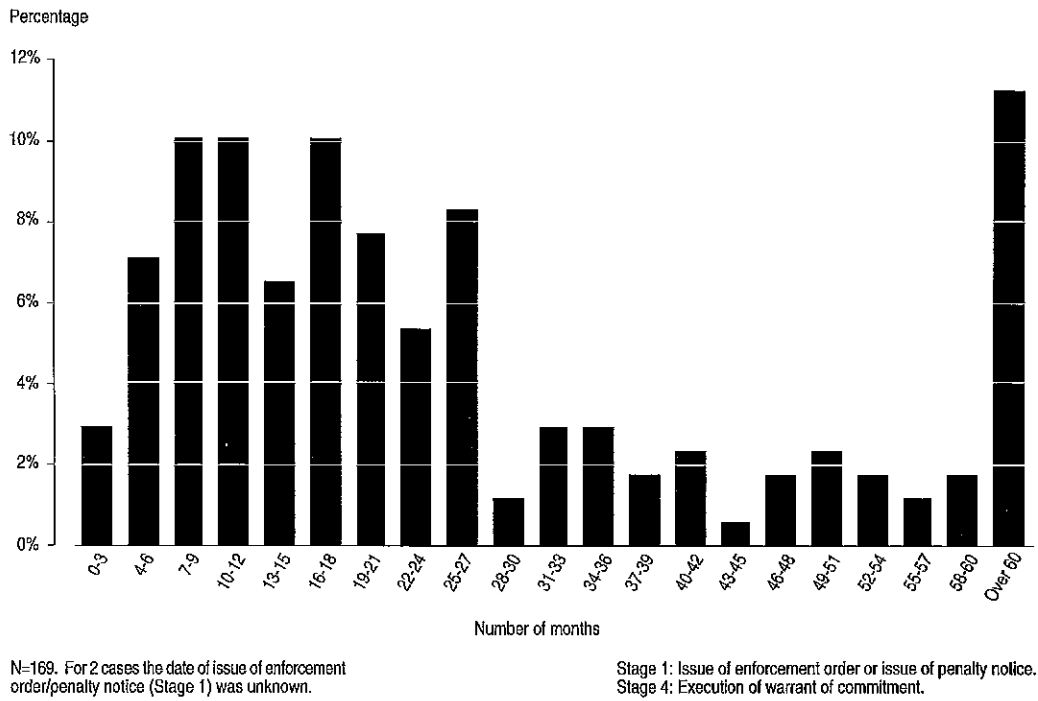
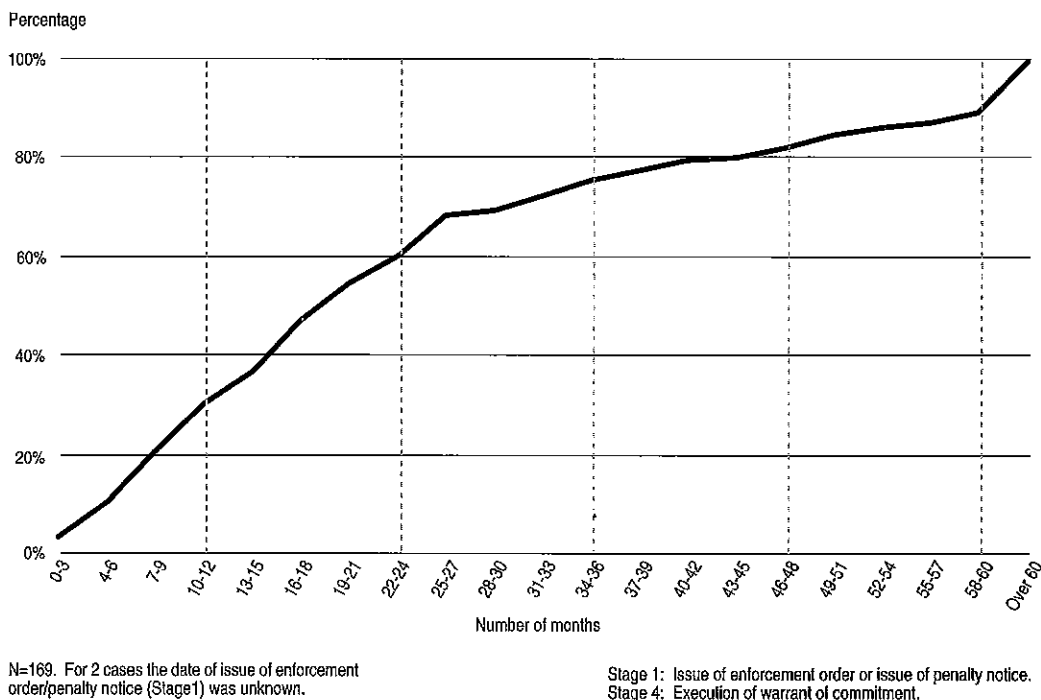


Figure 20 shows the cumulative frequency distribution of time intervals between the issue date of the *enforcement order / penalty notice* for an offence (Stage 1) and the date that the *warrant of commitment* for that offence was finally executed (Stage 4).

**Figure 20: Cumulative frequency distribution of time intervals between Stage 1 and Stage 4**



From Figure 20 it is evident that only 30.2 per cent of the defaulters had the warrant for their first occurring offence executed within one year of the issue of an *enforcement order / penalty notice*. The figure shows that 59.8 per cent of defaulters were taken into custody within two years of the issue of an *enforcement order / penalty notice* for their earliest-occurring offence and 75.2 per cent had their warrants executed within three years of the issue of an *enforcement order / penalty notice*. For 18.3 per cent of the defaulters sampled, the time between the issue of an *enforcement order / penalty notice* for their first occurring offence and *execution* of the warrant was more than four years, and for 11.2 per cent it was more than five years. The mean length of the enforcement process (from Stage 1 to Stage 4) was 27.8 months.

## 4. DISCUSSION

### 4.1 ENFORCEMENT DELAY

The survey results in Section 3 show that for a sample of incarcerated fine defaulters who experienced each of the enforcement stages, the delays between key stages were lengthy. The average delays between Stages 1 and 2, Stages 2 and 3, and Stages 3 and 4 were 13.0 months, 9.5 months and 6.8 months respectively.<sup>48</sup> Although incarcerated fine defaulters represent only a small proportion of the fine defaulter population there is reason to believe that the long enforcement delays for fine defaulters who end up in prison are typical of the delays for fine defaulters in general. An examination of all *warrants of commitment* held at the Central Warrant Index shows that many of the warrants held there are quite old.

Of the approximately 680,000 *warrants of commitment* currently held at the Central Warrant Index, only 17.6 per cent have been on the Index for less than 1 year. A further 14.1 per cent are 1 to 2 years old, 14.7 per cent are 2 to 3 years old, 15.5 per cent are 3 to 4 years old and the remaining 38.1 per cent of *warrants of commitment* are more than 4 years old (New South Wales Police Service 1995b). Moreover, if one looks at the age of the *warrants of commitment* that have been recently finalised (satisfied or executed), 45.3 per cent were less than 1 year old, 21.8 per cent were between 1 and 2 years old, 7.8 per cent were between 2 and 3 years old and 5.2 per cent were between 3 and 4 years old. The remaining 19.9 per cent of warrants finalised were between 4 and 17 years old. (New South Wales Police Service 1995b). Thus, clearly for many fine defaulters there is a large delay between the issuance of a *warrant of commitment* and the final stage in the enforcement process, namely, the *execution* of the warrant. Indeed, a large number of these defaulters with outstanding *warrants of commitment* never reach the stages of warrant *notification* or warrant *execution* and hence are never imprisoned because either they are not actively pursued or they manage to avoid location by police.

The long delays between enforcement stages contribute towards the fine defaulter population becoming very large. The larger the fine defaulter population, the more difficult it is to manage. The extent of the problem created by large enforcement delays is evident from the fact that during 1990/91, the NSW Police Service reviewed the growing number of outstanding *warrants of commitment* and in consultation with the Office of Public Management, an Action Plan was developed. A key strategy of this proposal was to cull warrants older than five years for parking and traffic offences from the Index except where offenders had more than one warrant or where offenders had warrants issued for more serious matters. More recently, multiple warrants over five years old were culled unless they could be linked to a warrant less than five years old. By June 1993, the project had resulted in the removal of over 460,000 warrants valued at \$39.9 million (Audit Office of New South Wales 1994).

Clearly, the scope of the fine default problem extends beyond the difficulty of keeping fine defaulters out of gaol, towards the need to reduce the widespread incidence of fine default. Traditional policy approaches seem to have emphasised the importance of enhancing defaulters' legal options for avoiding imprisonment rather than devising strategies to keep the total number of fine defaulters down to a manageable size. If the total population of fine defaulters were reduced, there should be an accompanying decrease in the number of fine defaulters imprisoned.

Reducing the total population of fine defaulters requires an effective enforcement system which operates with expediency and certainty. At least two studies have found that the most important factor relating to the successful collection of fines is the speed with which the defaulter is recognised and action is taken (NACRO 1981, cited in Freiberg & Fox 1994; Department of Justice 1985, cited in Freiberg & Fox 1994). An efficient system requires that enforcement agencies are prompt in contacting slow payers and must signal their enforcement intention clearly and repeatedly (Hillsman, Sichel & Mahoney 1984, cited in Freiberg & Fox 1994; Hillsman & Mahoney 1988, cited in Freiberg & Fox 1994). Delays in the current enforcement system, therefore, are likely to be major impediments to the rate of successful enforcement. To improve the rate of enforcement, it is necessary to identify where the delays occur and the sources of the delays and to address possible ways of reducing these delays.

#### 4.1.1 SOURCES OF DELAY

##### ***Sources of delay between Stage 1 and Stage 2***

The results in Section 3 indicate that the issuance of the final *warrant of commitment* following the maturity of *penalty notices*, *enforcement orders*, and *time to pay* orders accounts for the largest component of delay in enforcement. Although some portion of the delay may be attributable to the courts offering lengthy periods of time for the payment of fines, the major delay probably stems from the fact that warrants are not expeditiously generated at all Local Courts. Where a computerised automatic warrant generating program is utilised by courts operating under the GLC system, almost half of the final *warrants of commitment* were issued within three months of the issuance of a *penalty notice* or *enforcement order*. Most court registries, however, keep track of the penalties owing to the court by using a cumbersome manual card filing system. For these courts only 10.7 per cent of the final *warrants of commitment* surveyed showed that they were issued within three months of the preceding *penalty notice* or enforcement order. Furthermore, the procedure of checking payment cards and generating warrants is regarded as low priority work in some courts and is often postponed.

##### ***Sources of delay between Stage 2 and Stage 3***

The second major delay occurs between the stages of warrant issuance and warrant *notification*. For *notification* to take place, the defaulter must be located by police. There are a number of difficulties associated with locating defaulters. Firstly, the long delays preceding warrant *notification* decrease the likelihood that the defaulter still reside at the last known address and hence, increases the difficulty in locating the offender. Part of this difficulty is caused by the belated issue of warrants by the courts as discussed above. Part of it, though, occurs because warrants are held up for long periods at the Central Warrant Index before being distributed to the relevant police stations. Secondly, the deficiency of resources available to police for the pursuit of warrants also adds to the difficulty of locating offenders. The New South Wales Police Service no longer has dedicated warrant police, so the tasks of *notification* and *execution* of warrants are absorbed into the mainstream of policing activities carried out by beat police, highway patrols and general duties police. Consequently, a large number of the defaulters who are informed about their outstanding warrants are informed, not after being actively pursued by police, but after being apprehended by police for other offences at which point routine radio enquiries reveal the existence of outstanding warrants. Many warrants become notified therefore, more by coincidence than by intention.

### **Sources of delay between Stage 3 and Stage 4**

The third major delay occurs in the period between warrant *notification* and warrant *execution*. While the minimum prescribed period between these two enforcement stages is seven days, the average delay actually recorded between these two stages was 6.8 months for the sample surveyed. Allowing a seven day period between *notification* and *execution* of a warrant effectively means that the offender needs to be located by police at least twice during the enforcement process. Furthermore, the seven days notice provides the opportunity for 'professional defaulters' to abscond, and hence, evade apprehension after *notification*. This opportunity has been previously identified as an anomaly in the enforcement system (Fine Enforcement Working Party (FEWP) 1992).

### **Other sources of delay**

Other operational problems associated with the recalling and re-issuance of warrants are also a major source of delay. When defaulters make applications for alternatives to fine payment, the Justices Act provides that applications may be made at any Local Court regardless of which court issued the warrants in question. Fine defaulters frequently have a number of warrants outstanding which have been issued by different Local Courts. Counter staff at court registries when made aware of this fact are then required to contact each of the issuing courts to recall the outstanding warrants. This process can be extremely time-consuming and constitutes a significant proportion of the overall workload for many counter staff at court registries.

Various legislative provisions and administrative procedures also complicate the enforcement process. The Justices Act (s. 89C and s. 89F) allows justices of the peace to exercise discretion in determining which options may be offered to defaulters. Section 26A of the *Community Services Orders Act 1979* (NSW), however, provides that community service should be automatically available to defaulters if they have at least one fresh *warrant of commitment* in existence.<sup>49</sup> Other Ministerial Guidelines stipulate that the options available to a defaulter to expiate their warrants must be considered on the basis of their freshest warrant.<sup>50</sup> Habitual offenders who are likely to incur *infringement notices* on a regular basis can thus preserve the full range of options on all their outstanding warrants as long as they are subject to a fresh *warrant of commitment* for any offence. Thus, for these individuals, more stringent enforcement action is, in effect, repeatedly postponed.

Finally, Section 2 of this report demonstrated that the enforcement process is inordinately complex and requires documentary information to be transferred between a host of different agencies. Because of the high degree of interdependency between these participating agencies, inadequate inter-agency coordination especially in information transfer serves to encumber the enforcement process further.

## **4.2 IMPROVING THE FINE ENFORCEMENT SYSTEM**

### **4.2.1 REDUCING DELAYS**

Given the limited resources available to each agency to deal with fine defaulters, more effective enforcement action could be achieved if these limited resources were engaged in pursuing a smaller group of defaulters. The fundamental objective of an improved fine enforcement system should be to reduce the size of the pool of fine defaulters. If an enforcement system can eliminate the need for costly enforcement action for the majority

of defaulters then resources can be freed up for pursuing the more difficult cases (Western Australia 1993, cited in Freiberg & Fox 1994). To this end shortening the delays in enforcement and increasing compliance for fine payment by defaulters are essential strategies. There are a number of arrangements which may be considered in reducing enforcement delays.

### ***Reducing delays between Stage 1 and Stage 2***

The availability of computer technology presents many opportunities for improving fine enforcement management. The computerisation of non-GLC courts could facilitate easier access and transfer of information between courts. Warrants could then be automatically generated at all court registries when required, eliminating the cumbersome nature of the task and hence the lengthy delays between the maturity dates of *penalty notices/enforcement orders*, and issue dates of *warrants of commitment*. Furthermore, *warrants of commitment* could be recalled electronically from other court registries and warrant information could be exchanged with police and other agencies more efficiently.

### ***Reducing delays between Stage 2 and Stage 3***

The delay between Stages 2 and 3 would be reduced if more stringent enforcement action was adopted for habitual offenders who repeatedly incur *infringement notices*. For example, this delay would be reduced if the options available to such regular offenders were not based on their freshest warrant. Another way in which the delay between Stages 2 and 3 could be reduced would be if more general restrictions for all defaulters were placed on the number of times each non-custodial option could be offered. At present, *time to pay* and community service can each be offered on more than one occasion (i.e. after they have already been defaulted on).

Furthermore, if the *notification* process is to work effectively then a more concerted effort is required on the part of the Warrant Index Unit in distributing warrants to police stations and appropriate resources need to be allocated to police for pursuing outstanding warrants.

### ***Reducing delays between Stage 3 and Stage 4***

One of the major problems of fine enforcement has been to locate offenders quickly and efficiently (Freiberg & Fox 1994). The provision for seven days notice following *notification* of a warrant creates a situation where the offenders have to be located by police on at least two separate occasions. The survey results in Section 3 indicate that there are indeed lengthy delays between warrant *notification* and warrant *execution*. Given the considerable difficulties in locating defaulters, any provisions to circumvent the *notification* requirement could serve to reduce enforcement delay.

### ***Reducing delays by coordinating agencies and monitoring compliance***

The current enforcement system could also benefit if those administering it set and adhered to time and performance standards for each stage of enforcement. For processes where such standards already exist they need to be carefully monitored and strictly adhered to. Management information systems could be employed to monitor the progress of cases through the entire system. Where up-to-date information on case flow through the system can be easily accessed, appropriate enforcement action might be directed towards individuals or particular classes of defaulters. Moreover, improved management information systems would allow relevant information on the operation

of the enforcement system to be fed to groups such as the Criminal Justice System Chief Executive Officers Standing Committee who could then coordinate a cooperative approach to reducing delays on a more informed basis.

Besides those strategies directed at reducing enforcement delays, there are other arrangements that can help to reduce the pool of fine defaulters through efforts aimed at increasing the rate of compliance with respect to fine payment.

#### 4.2.2 ENHANCING FINE PAYMENT

A variety of strategies have recently been considered for increasing the rate of fine payment.

The FEWP canvassed the idea of privatising the task of fine collection by utilising mercantile agents (debt collectors) to locate fine defaulters. The private sector, however, has shown little interest in undertaking such a task. In any event, the costs associated with this type of approach would be exorbitant, and on this basis, the FEWP did not consider this option to be viable.

In South Australia, the Enforcement of Fines Working Group (EFWG) considered the sanction of selling details of fine defaulters to credit-rating agencies (EFWG 1994). The reasoning here was that fine defaulters would pay their fines in order to avoid poor credit ratings. Privacy objections could be raised against this option on the grounds that details of a person's criminal record are usually not provided to third parties. The EFWG was of the opinion that this sanction may operate as a disincentive to some defaulters but probably not for the target group intended. In other words, for some defaulters, having a low credit rating is of little consequence.

The possibility of increasing fine payment through *civil enforcement* has also been explored. In NSW the Justices (Fine Defaults) Amendment Act made provisions for *civil enforcement* as an alternative to imprisonment for fine default. In other Australian jurisdictions, warrants to seize property may also be utilised as a fine enforcement mechanism. Despite these provisions, this form of enforcement is extremely rare and if used tends to be used only against companies (Freiberg & Fox 1994). Some problems with *civil enforcement* include: difficulties in locating defaulters, difficulties in obtaining suitable goods, difficulties in establishing the ownership of the goods, the disproportionate amount of effort in relation to the size of the small fines, and the creation of more debt problems for the debtors. *Civil enforcement* may also entail garnisheeing of wages, but many defaulters do not have any income to seize and Commonwealth legislation precludes the garnisheeing of social security benefits (EFWG 1994). Notwithstanding these problems, where *civil enforcement* is appropriate it may prove to be effective only if undertaken at an early stage of enforcement rather than at the tail end of the process.

Another method for enhancing fine payment is by increasing the perceived risk of apprehension by police following non-payment. Because scarce police resources have to be rationed according to priorities, it is unlikely that police would be able to sustain constant heavy enforcement upon fine defaulters. A growing body of theory and evidence about how people make decisions under conditions of uncertainty show that intermittent and unpredictable crackdowns not only increase the actual risk of apprehension, but also cause criminals to substantially overestimate the probability of apprehension (Sherman 1990). The residual deterrent effect following a crackdown can often last for periods far exceeding the enforcement program itself. Increasing the

perceived risk of apprehension through crackdowns for previously under-enforced offences like fine default may prove to be a more efficient use of police resources than constant but more low-level police enforcement.

Encouraging fine payment compliance by increasing perceptions of risk can also be facilitated through publicity. The use of media campaigns in other spheres of law enforcement (e.g. drink-driving) has proven to be highly effective in promoting more law-abiding behaviour. In a two-month advertising campaign in 1988 the RTA informed people that their licence or registration could be cancelled for outstanding fines. During this period the payment rate for parking and traffic fines increased by 20 per cent (FEWP 1992). A statewide advertising campaign warning defaulters of the consequences of fine non-payment may be worthwhile exploring.

If the perceived risk of apprehension for fine default is to be raised, it is important to target both old and new fines. The past tendency has been to cull large numbers of the warrants older than five years on the grounds that the success rate in locating the subjects of these warrants is low. This practice, however, provides defaulters with the incentive to hold out for as long as possible in the hope that their warrants will also eventually be culled. The writing off of unpaid fines is likely to increase widespread disregard for the law (Fox 1994). Rather than set a specified age limit for warrants which are pursued it would be better to deploy the enforcement resources in a way which increases the perceived risk of apprehension for fine default.

Although disincentives to late payment are already present in the system by means of the addition of enforcement costs, consideration might also be given to the provision of incentives for prompt or early payment (Freiberg & Fox 1994). Discounts for payments made prior to the issue of *enforcement orders* have been suggested for those experiencing financial hardship (EFWG 1994). In Victoria, reports indicate a significant response to a government announced amnesty during which defaulters could pay fines without threat of loss of property through *civil enforcement* (Freiberg & Fox 1994). Incentives may therefore be as effective as threats in procuring payment. Furthermore, to facilitate the ease of payment it has also been suggested that appropriate payment facilities should be made available to those wishing to pay fines. For example, it has been suggested that payment should be made possible at banks, post offices or by credit card as well as at court registries (EFWG 1994).<sup>51</sup>

A further possible method for increasing fine recovery is to appropriately allocate more enforcement resources to those who are most likely to default on fines. A Victorian study revealed that recovery rates for fines vary widely according to the type of offence committed (Freiberg & Fox 1994). The rate of recovery for certain offences was found to be as high as 81 per cent and as low as 22 per cent for others. Data of this nature can help law enforcement officials target specific types of offences which require more stringent enforcement. Similarly, individuals can be targeted for appropriate enforcement based on their prior payment or default history, with habitual offenders being targeted with tougher enforcement procedures. Various businesses which involve bill payment already tailor their payment enforcement strategies according to the type of customer. Telstra, for example, assigns codes to different classes of customers according to the length of time they have been a customer and according to their past bill payment record. Suitable credit limits are then set for each class of customer and the appropriate bill payment enforcement procedures are administered according to the customer's assigned code. In this way, Telstra is able to minimise the potential debt resulting from bill non-payment. There is no reason why information about the relative rate of fine recovery



for particular offences and the default history of offenders cannot similarly be used to identify and effectively target those most likely to default on fines.

#### **4.2.3 REDUCING THE EXISTING FINE DEFAULTER POPULATION**

Instituting an efficient enforcement process which increases the rate at which *warrants of commitment* are executed presents a dilemma given the size of the existing pool of fine defaulters. As noted earlier, if one per cent of individuals for whom warrants are currently outstanding were to have their warrants executed, the reception rate of fine defaulters going to prison would increase by about 100 per cent. Sudden increases in the level of fine enforcement activity with the current stock of fine defaulters may place an intolerable burden on the court and/or prison system.

An amnesty of outstanding warrants may be the most effective way of reducing the existing fine defaulter population, but is likely to further erode fine defaulters' expectations of getting caught in the future, and may foster an attitude of indifference to the law. Offering sizeable discounts for early payment before a police crackdown may prove to be less effective in reducing the defaulter population but would cause fewer problems with regard to perceptions of apprehension. Whatever method is used to reduce the existing fine defaulter population, it would be unwise to implement a program of active enforcement before an effective and efficient fine enforcement process has been formulated.

### **4.3 SUMMARY AND CONCLUSIONS**

In NSW today, approximately 7.7 per cent of the adult population has at least one outstanding warrant on hand at the Central Warrant Index. The bulk of these warrants are more than a year old. The most important factors relating to the successful collection of fines are the speed and certainty with which enforcement action is taken. There are extremely long delays between the key enforcement stages under the current NSW fine enforcement system. Traditional policy approaches seem to have emphasised the importance of enhancing defaulters' legal options for avoiding imprisonment rather than devising effective management strategies to keep the total number of fine defaulters down to a manageable size. Because there are now legislative alternatives to fine payment it can no longer be argued that imprisonment is an inappropriate last-resort sanction in the fine enforcement system. It is, however, a sanction which would only need to be used rarely if the fine enforcement system operated with certainty and efficiency, informing defaulters of their obligations and of the consequences which flow from the failure to meet those obligations.

## NOTES

- 1 A *penalty notice* is a notice issued by a Local Court specifying the particulars of the offender, the offence, the amount due and the date by which the amount is to be paid.
- 2 See s. 100L of the *Justices Act 1902* (No. 27) (NSW). The associated costs may include court costs, professional costs, witness expenses, compensation, enforcement costs, victim's compensation levies and other costs.
- 3 See s. 60(1) of the *Justices Act*.
- 4 To 'cut-out' a fine means that a fine is expiated at a determined rate by the defaulter by a method other than monetary payment (e.g. community service or imprisonment).
- 5 *Warrants of commitment* are certificates issued by an authorised justice committing a defendant to prison to be kept there according to the terms of the warrant unless the defendant sooner pays the amount together with the costs of enforcing the conviction or order.
- 6 Several amendments to legislation concerning fine default were passed in parliament in November and December of 1987. (See, for example, the *Justices (Penalty Defaults) Amendment Act 1987* (NSW).) These changes included the introduction of cancellations of drivers' licences or motor vehicle registrations for the non-payment of traffic and parking fines as well as the automatic issuance of *community service orders* for offenders fined in court who defaulted on payment. The legislative changes passed in July 1994 (see, for example, *Justices (Fine Default) Amendment Act*) provided for multiple applications for alternate options to imprisonment and easier access to *community service orders*. The July 1994 legislative changes also saw the introduction of *civil enforcement* and *periodic detention* orders as alternatives to imprisonment.
- 7 The gradual increase in fine default receptions following the first moratorium is partly attributable to the introduction and implementation of the General Local Courts computer system at the Downing Centre in 1988. During the implementation stage a backlog of warrants eventuated which were then subsequently released.
- 8 These 3,920 defaulters who served time to 'cut-out' their fines were in prison for fine default only. This number therefore does not take into account those already in custody or on remand who 'called-in' their warrants to serve them concurrently with other sentences.
- 9 See s. 87(1) of the *Justices Act*.
- 10 The percentage increase in reception rate was estimated as follows. One per cent of the 397,074 individuals with outstanding warrants as at 10/2/95 is 3,971. If this number of individuals (3,971) had been incarcerated in 1993 in addition to the 3,920 individuals actually incarcerated in 1993 (New South Wales Department of Corrective Services 1995), the total reception rate for fine defaulters would have been 7,891 instead of 3,920. This increase represents an increase of 101 per cent (i.e.  $(7,891 - 3,920) \times 100 / 3,920$ ). Note that 1993 reception data were used in this estimate because 1994 reception data were affected by the March moratorium.
- 11 The *Justices (Fine Default) Amendment Act* provides for amendments to the *Justices Act 1902*, the *Periodic Detention of Prisoners Act 1981* (No. 18) (NSW), the *Community Service Order Act 1979* (No. 19) (NSW), the *Children (Community Service Orders) Act 1987* (No. 56) (NSW), and the *Prisons Act 1952* (No. 9) (NSW).
- 12 Fines and other monetary orders owing to private payees or statutory bodies are not specifically examined in this report. They are usually dealt with either by the issue of a *warrant of commitment* or by *civil enforcement* methods.
- 13 Sees. 18C of the *Traffic Act 1909* (NSW) and the *Traffic (Penalty Defaults) Amendment Act 1994* (NSW). In 1994/95 there were 36,495 licences cancelled by the RTA. Between July 1994 and January 1995, 21,688 licences were suspended by the RTA.
- 14 It is estimated that 6% - 8% of referrals to the RTA are returned unmatched (Monaghan 1993).
- 15 *Enforcement orders* are certificates ordering the person to whom a *penalty notice* or *infringement notice* has been served to pay the clerk at a specified Local Court an amount equal to the amount payable

- under the original notice, together with a specified amount for costs. These orders are in effect orders to enforce prior *penalty or infringement notices*. See s.100L of the Justices Act.
- 16 Other possible enforcement action may be by way of a *warrant of apprehension* if the offender resides interstate.
- 17 Defendants may be summoned by way of a *summons* or a *court attendance notice*.
- 18 Section 86A of the Justices Act defines an 'authorised justice' as (a) a magistrate; (b) a justice employed in the Local Courts Administration, Attorney General's Department; or (c) a justice employed in a prescribed office.
- 19 See Traffic (Penalty Defaults) Amendment Act.
- 20 If the offender resides interstate, then a warrant of apprehension may be issued.
- 21 Not all warrants are immediately sent out to police stations for *execution*. The warrants that are sent out from the Warrant Index Unit are determined according to certain criteria. Warrants that have not been followed up at the last known address for at least 6 months are usually given priority. Also targeted are defaulters with a large number of warrants. (White, A., NSW Police Service, Warrant Index Unit 1994, pers. comm., 10 Mar.)
- 22 When alternatives to full-time imprisonment are exhausted, either *time to pay* and *community service orders* have been defaulted without a suitable explanation, *civil enforcement* has been unsuccessful or refused, or a *periodic detention* has been defaulted or not granted.
- 23 The *notice of outstanding commitment warrant(s)* is given in writing on a prescribed form. Prior to 1 July 1994 only oral notice was required to be given.
- 24 Section 89B(1) of the Justices Act requires that the seven days notice must be given regardless of whether the warrant is a first, second or subsequent issue warrant except where (a) the defaulter has exhausted his/her options for avoiding full-time imprisonment; (b) the applicant is under detention in, or remanded to, a detention centre; and (c) the applicant has consented to s. 89B not applying to the warrant.
- 25 See s. 89B(3)(c) of the Justices (Fine Default) Amendment Act.
- 26 Changes resulting from the Justices (Fine Default) Amendment Act allow applications for *time to pay* to be made both before and after the issuance of a *warrant of commitment*.
- 27 An offer is generally considered to be reasonable if it entails the fortnightly (or more frequent) payment of an amount that is at least 5% of the *total amount* owed by the defaulter. A fine defaulter with multiple matters will automatically be granted *time to pay* on all outstanding matters if there is at least one matter where the defaulter is still entitled to be granted *time to pay*.
- 28 Adequate reasons for failing to comply with *time to pay* could include: sudden unemployment, serious illness or sudden unexpected major expenditure.
- 29 The fine defaulter must also complete a statement of means and assets in the form of a statutory declaration, setting out sources of income, property owned and liabilities, on each occasion when making application for a second or subsequent *time to pay*.
- 30 See s. 89C of the Justices Act. An application for a *community service order* may not be made if the defaulter has previously not complied with a *periodic detention* sentence, is in detention or is remanded in a detention centre.
- 31 Sufficient reasons for failing to comply with a *community service order* could include serious illness, family emergencies, or sudden unforeseeable work demands. The onus is upon the defaulter to provide the necessary information.
- 32 See s. 89C(1) of the Justices Act. Given that it is highly unlikely that a defaulter presents at a court for a *community service order* before they have been notified of an outstanding warrant, for the sake of simplicity, this eventuality is not provided for on the flow chart.
- 33 A letter is sent to the defaulter seeking an explanation as to why he/she did not comply with the *community service order*. If no satisfactory response is received, the court will issue a further *warrant of commitment* for the offender.

- 34 See s. 89E of the Justices Act. Insofar as s. 89E(1)(b) is concerned, unless the justice has independent knowledge of the means and assets of the fine defaulter, then *civil enforcement* will not arise for consideration until after a second or subsequent application for a *community service order* has been made when a statutory declaration as to the means and assets of the fine defaulter is obtained.
- 35 *Civil enforcement* action may be unsuccessful if the Sheriff's Office is unable to locate the offender, seize any goods or garnishee any funds.
- 36 See s. 5C(1) of the Periodic detention of Prisoners Act. The authorised justice may commit the fine defaulter to prison for an 'appropriate term of imprisonment'. Section 5C(2) defines 'appropriate term of imprisonment' as the term that contains the number of detention periods calculated at the rate of one detention period for every two prescribed units (i.e. \$100 is one prescribed unit).
- 37 There are a number of other conditions that need to be satisfied before an application for a *periodic detention* can be granted. These are as follows. (a) The fine defaulter is at least 18 years of age. (b) The fine defaulter is subject to a second or subsequent warrant because the fine defaulter has failed to comply with a *community service order* or is a periodic detainee. (c) The liability concerned is not in respect of an offence under the Periodic Detention of Prisoners Act (s.89D(3)). (d) The fine defaulter has not breached a prior *periodic detention* sentence. (e) The defaulter is not under detention, on remand or in prison. (f) Accommodation is available at a prison for the fine defaulter to serve the sentence by way of *periodic detention*.
- 38 See the second reading speech, Legislative council, Justices (Fine Default) Amendment Act 1994.
- 39 Note that during the period in which warrants were issued for the defaulters surveyed (i.e. before July 1994, see Section 3 of the report), only first and second issue warrants were sanctioned under the prevailing legislation. The final warrants are therefore either first or second issue warrants.
- 40 This represents the period immediately before the declaration of the moratorium on the *execution* of fine default warrants which came into effect on 31 March 1994.
- 41 This distribution closely mirrors the age distribution of the general prison population. See Australian Institute of Criminology 1993.
- 42 Once in gaol, fine defaulters can pay (on a pro rata basis) the amounts owing on their warrants in order to reduce or terminate their stay in gaol. The time already 'cut-out' is deducted from the *total amount* owing at a rate of \$100 per 24 hours in custody or part thereof.
- 43 This number is less than half the average stay (20.6 days) of defaulters surveyed in 1990. See Miller & Gorta 1990.
- 44 The remaining 3.1 per cent of *other costs* were for unspecified items.
- 45 A 28 day grace period is built into this system. A check on outstanding *penalty notices, enforcement orders* and *time to pay* orders is run every Friday at the Downing Centre and monthly at other GLC courts.
- 46 Not all the defaulters in this sample were notified before their warrants were executed. Thirty-seven (21.6%) of the defaulters had warrants executed without *notification* as they either had exhausted their non-custodial options at the time of *notification* or had waived *notification*. Also note that for the defaulters considered in this survey, *notification* was only required to be given orally as stipulated by legislation prior to the Justices (Fine Default) Amendment Act.
- 47 See previous note.
- 48 The 13 month delay between Stages 1 and 2 represents the average for both GLC and non-GLC courts. Note that while the three delays between consecutive stages (13.0, 9.5 and 6.8 months) sum to a total of 29.3 months, the results section (p. 38) indicates that the total delay between Stages 1 & 4 is 27.8 months. This discrepancy occurs because defaulters who were not notified (N = 37) were excluded from the calculation of the delays involving Stage 3 (i.e. notification) but not from the calculation of the total delay between Stages 1 and 4.
- 49 A fresh warrant is the first warrant issued for a particular offence.
- 50 See Government of New South Wales 1994.
- 51 Whilst convenient, these arrangements may cause more information exchange problems.

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## APPENDIX A

Data presented in this appendix were obtained from the New South Wales Police Service, Information Technology Branch.

### 1. Warrant statistics for warrants of commitment for fine default as of 10 February 1995

<i>Number of warrants per defaulter</i>	<i>Frequency</i>	<i>Percentage</i>
1 warrant	273,316	68.83%
2 warrants	59,621	15.02%
3 warrants	26,002	6.55%
4 warrants	13,261	3.34%
5 warrants	7,627	1.92%
6 warrants	4,650	1.17%
7 warrants	3,085	0.78%
8 warrants	2,172	0.55%
9 warrants	1,495	0.38%
10 or more warrants	5,845	1.47%
	397,074	100.00%

Total number of warrants = 744,160

### 2. Warrant statistics for week ending 12 February 1995

#### a. Warrants of Commitment

<i>Status</i>	<i>Number</i>	<i>Value</i>
On hand	681,442	\$123,478,822
Received	3,529	\$844,581
Finalised	3,448	\$713,864
Finalised warrants		
Executed	636	\$137,415
Satisfied	458	\$92,779
Pro rata	100	\$18,946
Recalled	1,506	\$359,837
Returned	18	\$5,400
Deceased		
Matured	827	\$117,771
Duplicate	3	\$660

b. There were also 9,765 warrants of apprehension valued at \$1,975,735 and 53,795 first instance warrants valued at \$745,002 on hand on 12/02/95.

## APPENDIX B

# NSW Bureau of Crime Statistics and Research FINE DEFAULT SURVEY CODING SHEET

1. Form number:		<input type="text"/>
2. Correctional centre:	1. Long Bay      2. Silverwater      3. Mulawa	<input type="text"/>
3. Identifier:		<input type="text"/>
4. Total days to serve:		<input type="text"/>
5. Number of warrants on file:		<input type="text"/>
6. Sex:	1. Male      2. Female	<input type="text"/>
7. Date of birth:		<input type="text"/>



# APPENDIX B continued

No.	Offence	Offence code	Date of offence	Order date (court)	Date warrant issued	Date of notification of warrant	Date of execution of warrant	Fine amount	Court costs	Professional costs	Witness expenses	Costs	Compensation	Enforcement costs	Other costs	Victims compensation levy	Total	Court	1 - PFP; 2 - FTS / Amount	No. of days served for warrant
1								\$	\$	\$	\$	\$	\$	\$	\$	\$	\$		\$	
2								\$	\$	\$	\$	\$	\$	\$	\$	\$	\$		\$	
3								\$	\$	\$	\$	\$	\$	\$	\$	\$	\$		\$	
4								\$	\$	\$	\$	\$	\$	\$	\$	\$	\$		\$	