



Aboriginal Over-representation in the Justice System

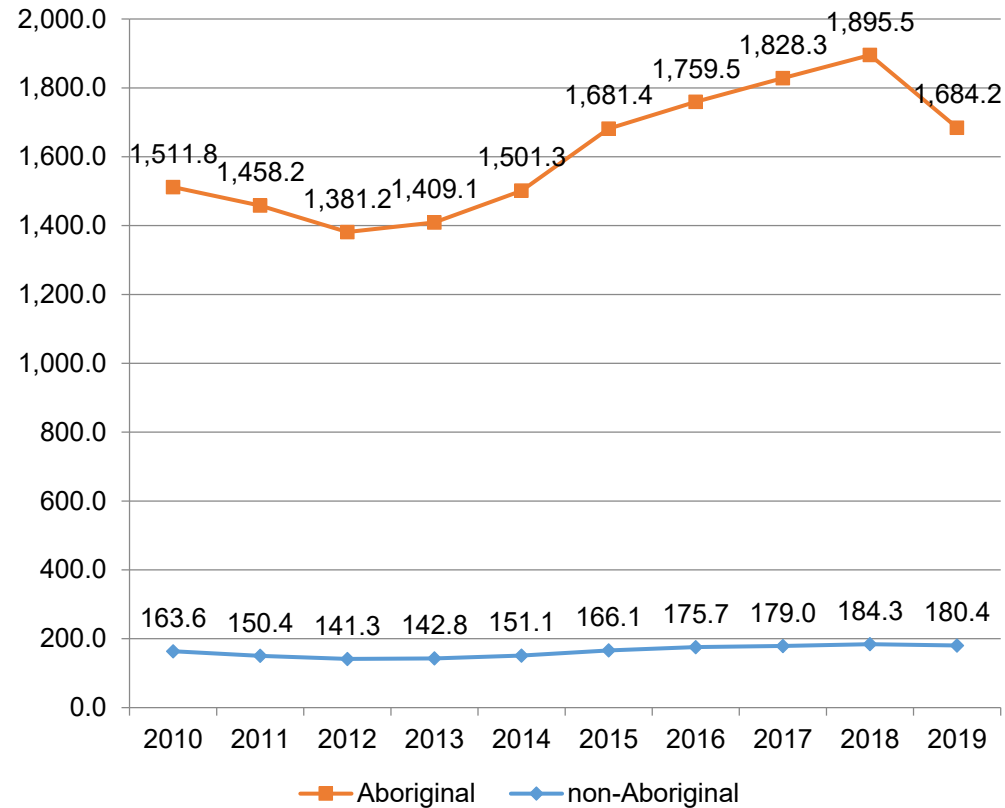
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BOCSAR



What is the over-representation rate for Aboriginal Adults in custody?

- In 2019 Aboriginal adults were nine times more likely to be in prison than non-Aboriginal adults
- The rate of over-representation has remained stable over the past 11 years
 - > 2010 Aboriginal people 9.2 times
 - > 2019 Aboriginal people 9.3 times
- Source: ABS

Aboriginal and non-Aboriginal Imprisonment rate, NSW

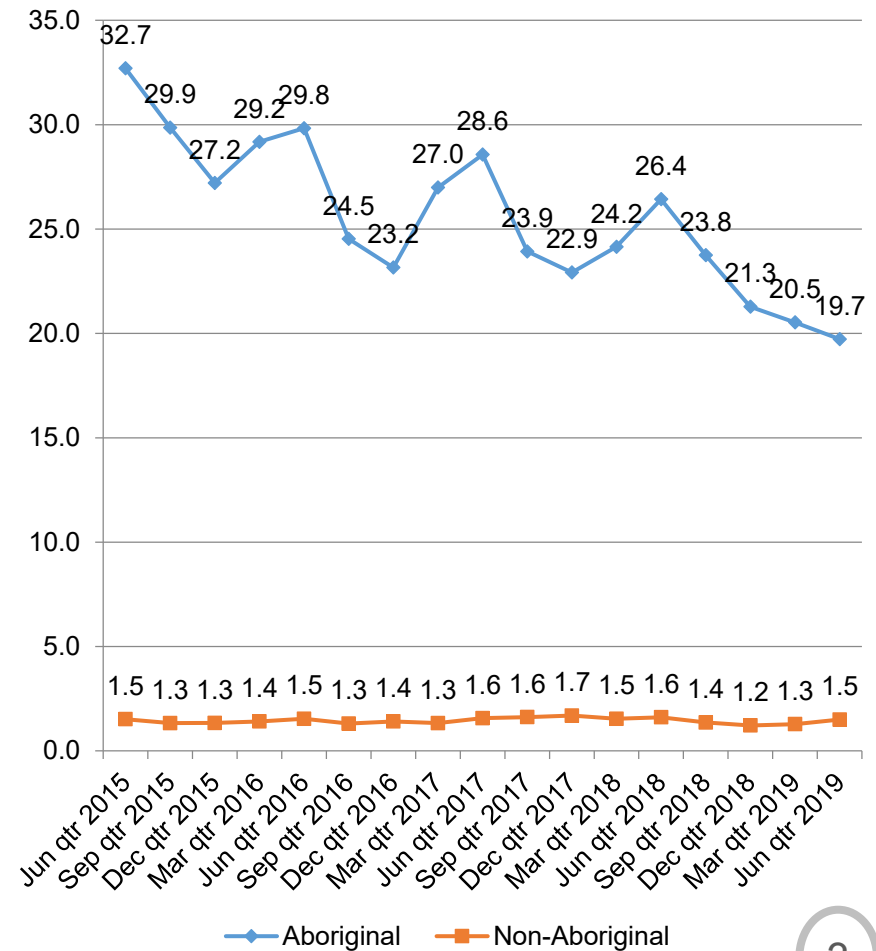




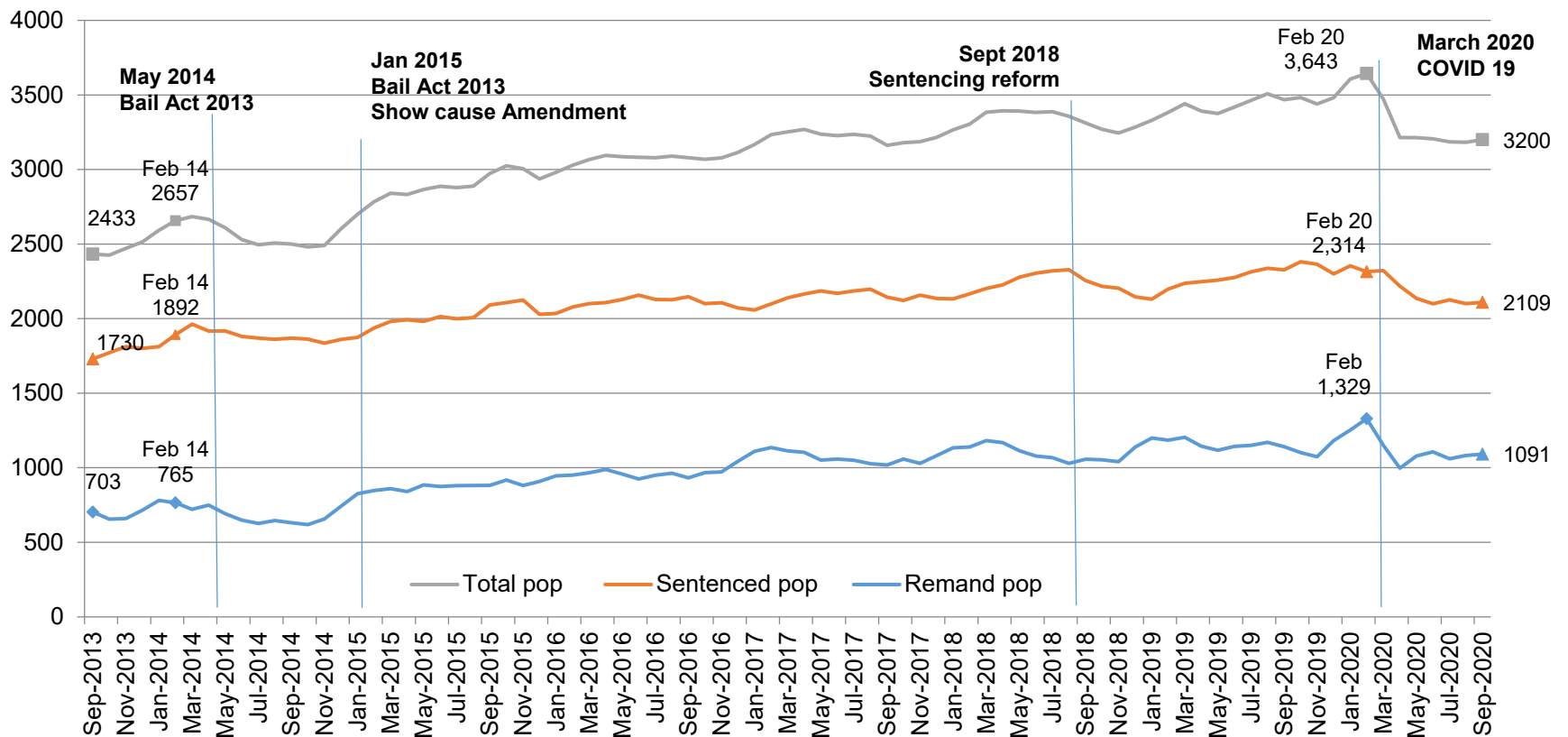
What is the over-representation rate for Aboriginal Young people in custody?

- In the first half of 2019 Aboriginal young people were about 15 times more likely to be in custody than non-Aboriginal young people
- The rate of over-representation has fallen over the years.
 - > June 2015 Aboriginal people 21.5 times
 - > June 2019 Aboriginal people 13.2 times
- Source: AIHW

Aboriginal and non-Aboriginal youth custody rate



No. of Aboriginal Adults in custody: sentenced, remand and total

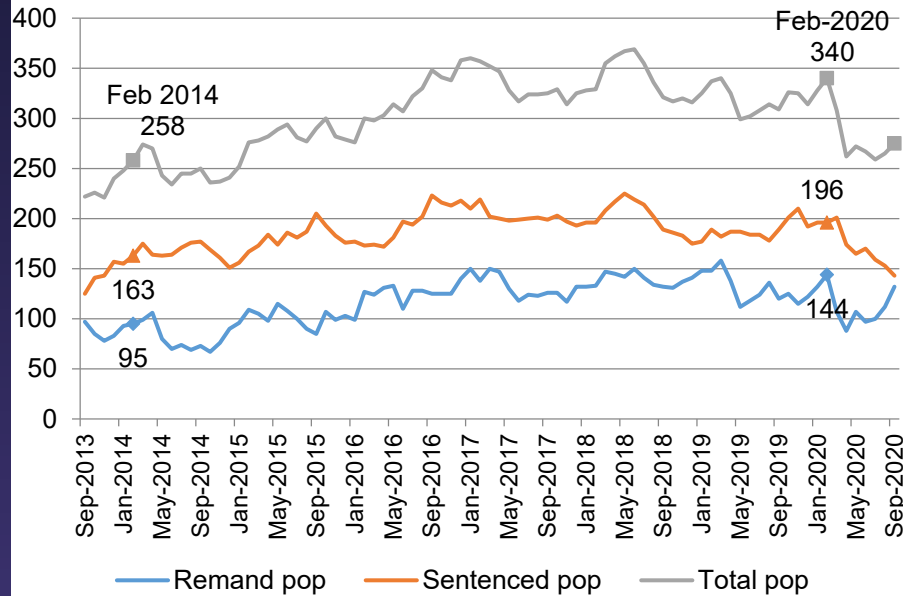


	Feb-2014		Feb-2020		Change from Feb 2014 to Feb 2020		
	Number	% by status	Number	% by status	Volume change	% increase	% of the overall increase
Remand pop	765	29%	1329	36%	564	74%	57%
Sentenced pop	1892	71%	2314	64%	422	22%	43%
Total pop	2657		3643		986	37%	

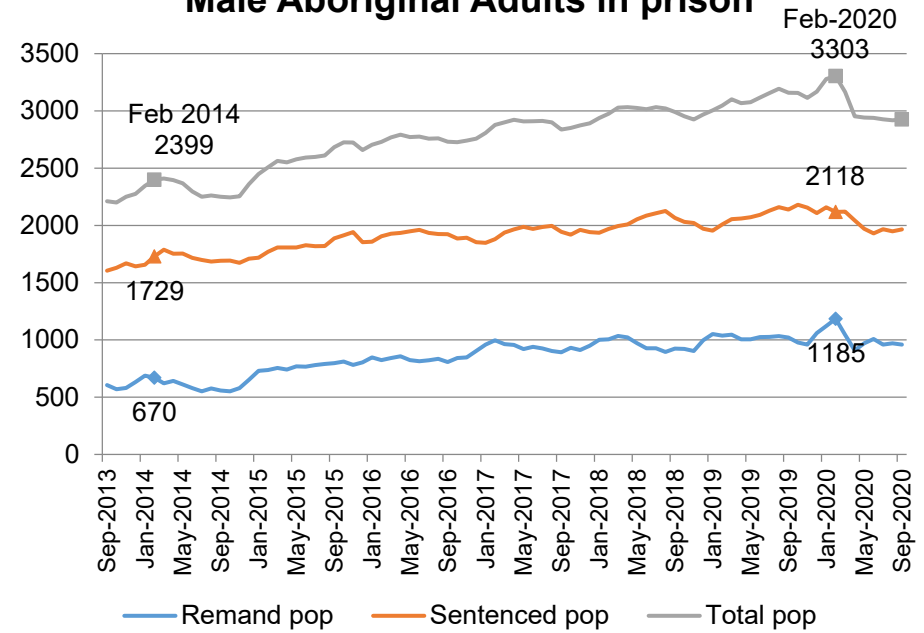
- Aboriginal prison population increased 37% in the 6 years to February 2020
- Both the remand and sentenced populations have increased, but the remand population has increased more rapidly (up 74% in the 6 years versus an increase of 22% for the sentenced prisoner population)



Female Aboriginal Adults in prison



Male Aboriginal Adults in prison

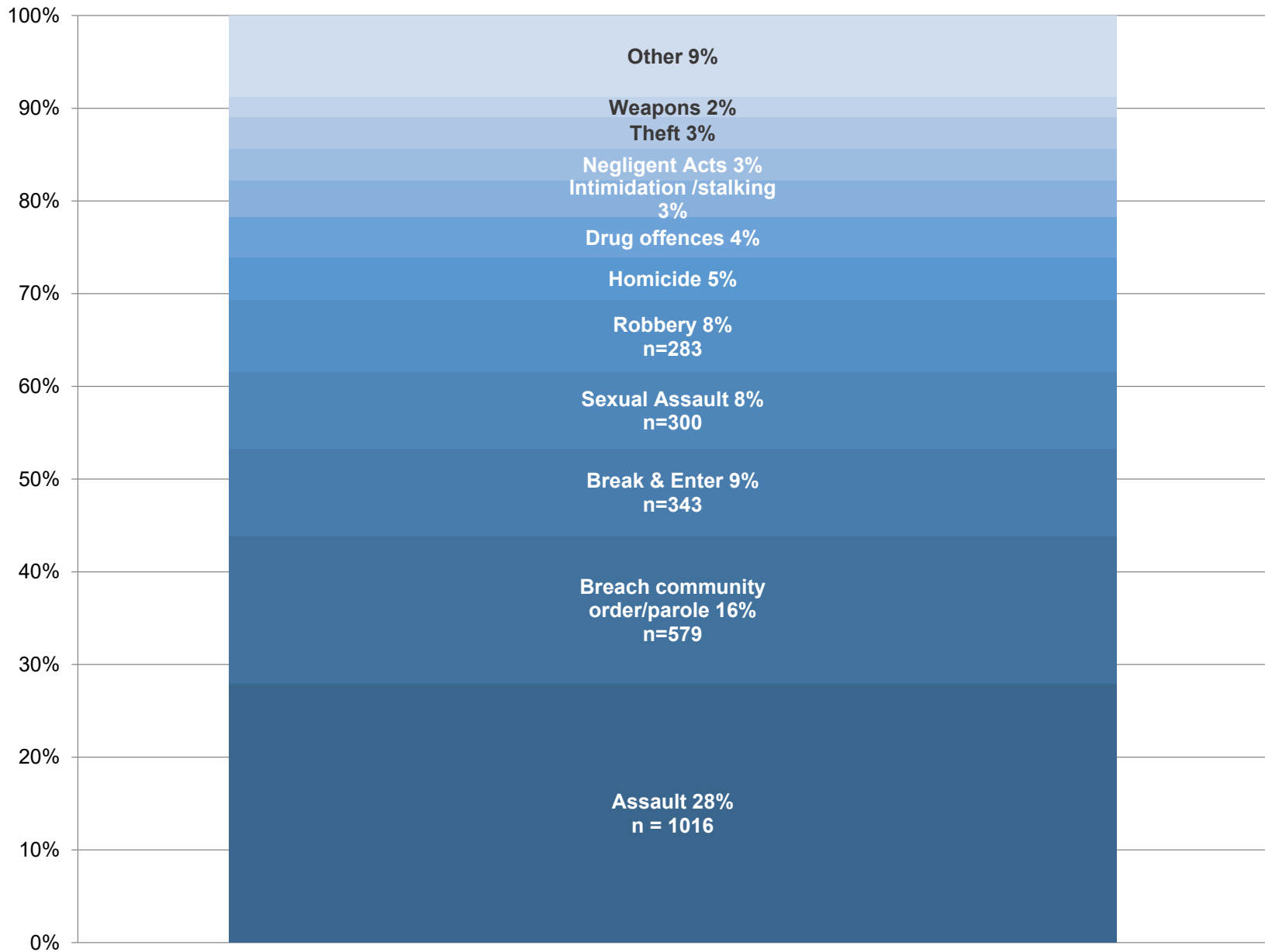


	Feb-2014		Feb-2020		Change from Feb 2014 to Feb 2020		
	Number	% by status	Number	% by status	Volume change	% increase	% of the overall increase
Aboriginal Women							
Remand pop	95	37%	144	42%	49	52%	60%
Sentenced pop	163	63%	196	58%	33	20%	40%
Total pop	258		340		82	32%	
Aboriginal Men							
Remand pop	670	28%	1185	36%	515	77%	57%
Sentenced pop	1729	72%	2118	64%	389	22%	43%
Total pop	2399		3303		904	38%	

- Aboriginal male and Aboriginal female prisoners increased by similar amounts in the 6 years to February 2020 (32% and 38% respectively). The remand and sentenced prisoners was similar for men and women
- Note a higher proportion of Aboriginal female prisoners are on remand than Aboriginal men.

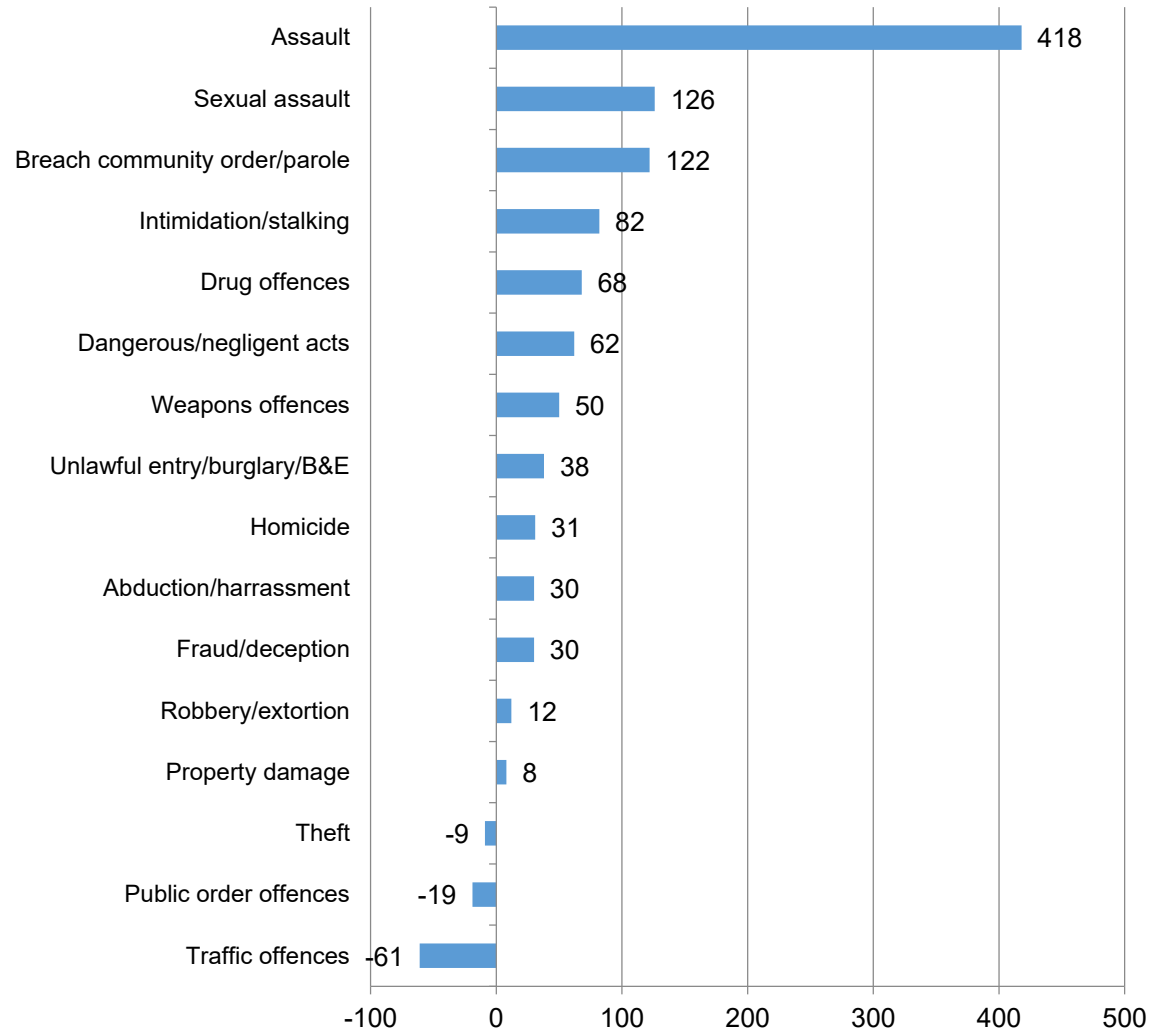
Aboriginal Adults in prison: offence information

Aboriginal Adults in prison by offence, February 2020, n = 3643



Aboriginal Adults in prison: offence information

Change in volume of Aboriginal adults in prison by offence,
Feb 2014 versus Feb 2020



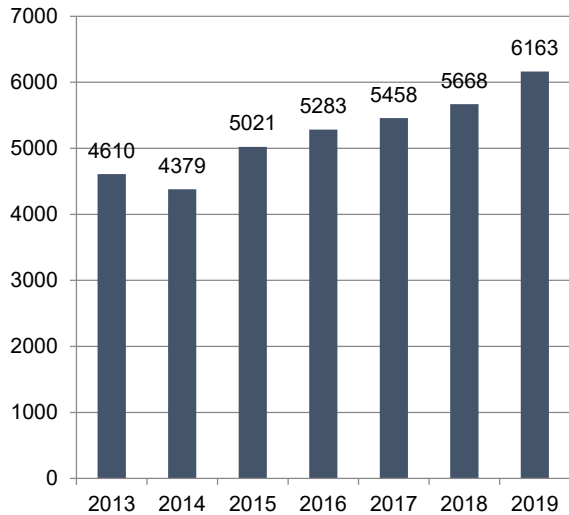
* Exclude changes of less than 10



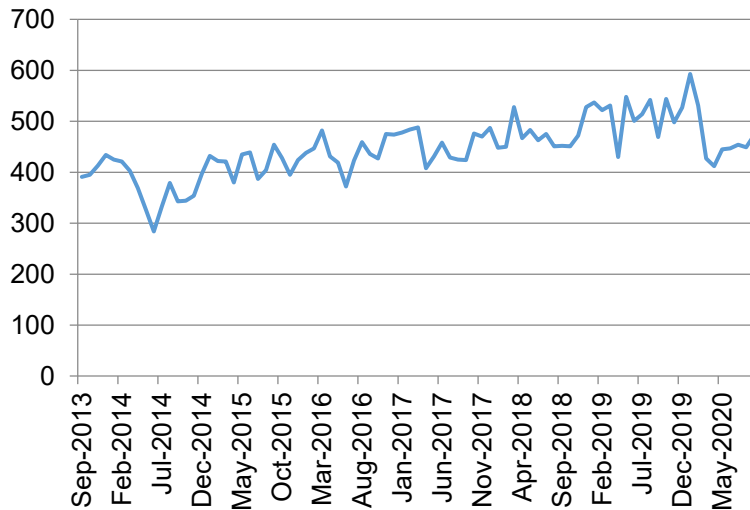
Factors influencing the Prison Population

New prison admissions – Aboriginal Adults

Annual prison receptions, Aboriginal Adults



Aboriginal prison receptions by month, Sept 2013 to Sept 2020

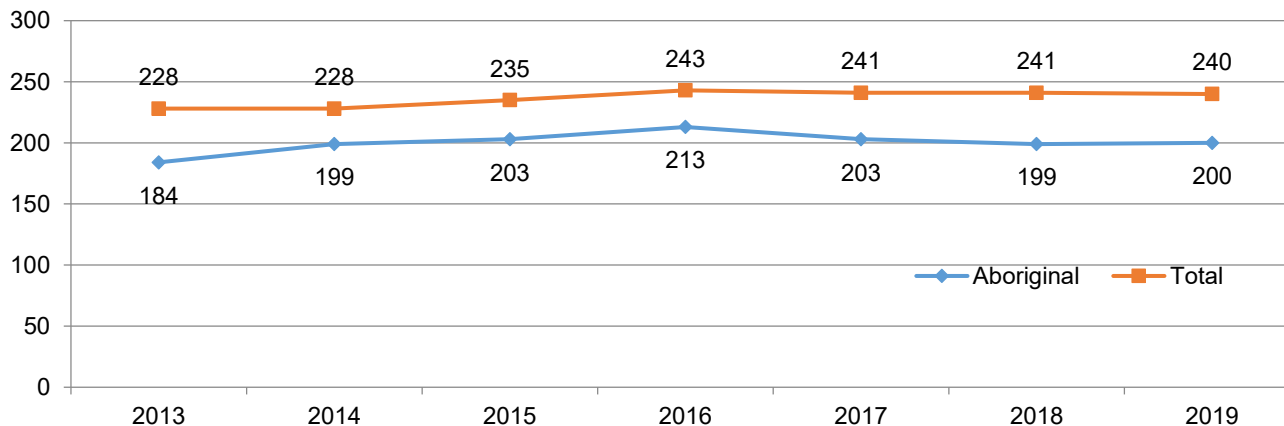


Change from 2013 to 2019

- The number of Aboriginal Adults entering prison each year increased 34% from 2013 to 2019. By comparison, TOTAL prison receptions increased by 29% over the same period.
- In 2013, 4,610 Aboriginal adults entered prison compared with 6,163 in 2019, an increase of 1,553 individuals.
- In 2020 receptions have fallen due to COVID court interruptions, altered offending patterns and associated changes in bail decisions.

Length of stay in custody– Aboriginal Adults

Average length of stay in custody, Adults discharged (days)



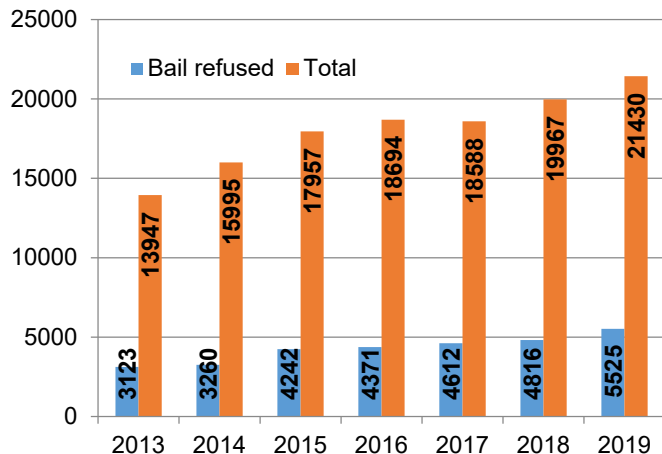
Change from 2013 to 2019

- The duration of Aboriginal Adult custodial episodes are roughly stable.
- The average duration of an Aboriginal Adult custody episode in 2019 was equivalent to 2014 figures.
- In previous years the average duration of Aboriginal Adults' custodial episodes increased from 2013 to 2016.
- The average length of stay in custody for Aboriginal Adults is less than the general average. Aboriginal Adults discharged in 2019 spent 200 days on average in custody versus the general average of 240 days.

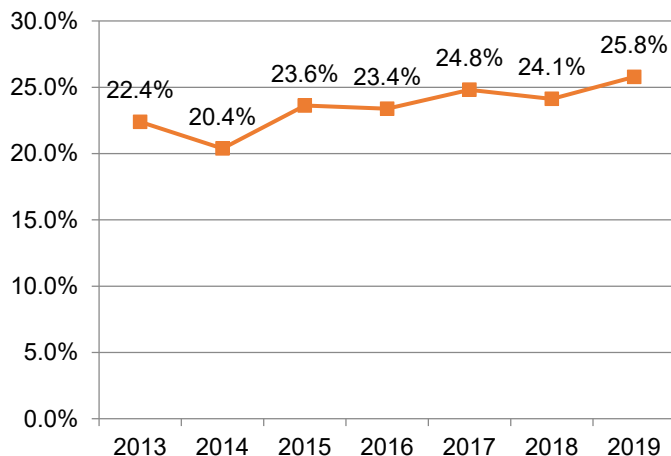
Police Activity & Bail Decisions

Bail decisions – Aboriginal Adults

Aboriginal adult first court appearances total and bail refused



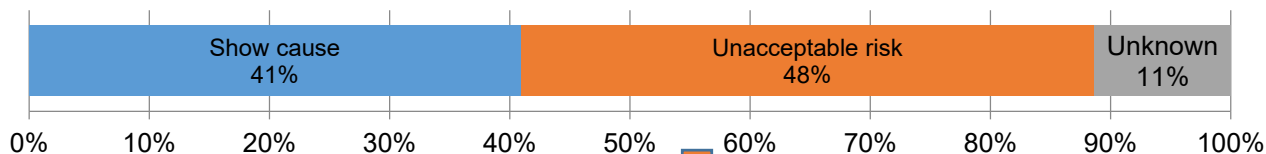
% Aboriginal defendants bail refused at first court appearance



Change from 2013 to 2019

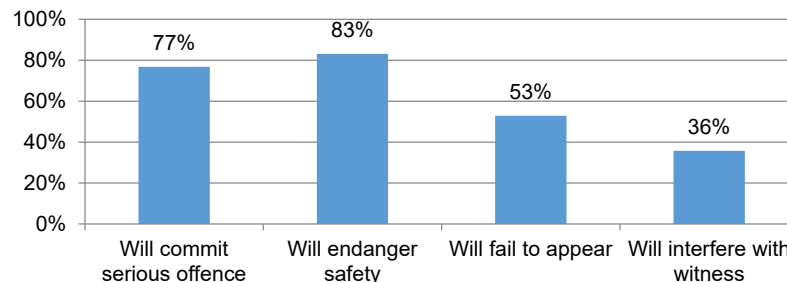
- The total number of first court appearances by Aboriginal Adults increased 54%; while first court appearances where the defendant was bail refused increased 77%.
- The rate of Aboriginal adult defendants refused bail at first appearance increased 15%, from 22.4% in 2013 to 25.8% in 2019.
- A BOCSAR evaluation of the 2013 Bail Act found an increase bail refusal for most defendants, and that the impact was greater for Aboriginal defendants.
 - Overall the Act increased the likelihood of court remand from 7.3% to 8.1%, an increase of 0.8 percentage points or an 11% increase.
 - For Aboriginal defendants, however, court remand increased from 15% to 16.9% up 1.9 percentage points or a 13% increase.

Aboriginal people bail refused at their first court appearance by reason, 2019



The most commonly triggered 'Show Cause' condition is 'committed while on bail/parole'.

Recorded reasons for bail refusal under the unacceptable risk test, Aboriginal adults 2019



Bail decisions

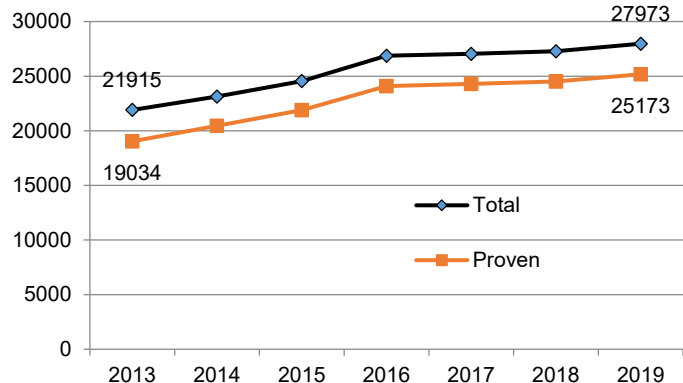
- The most reason that Aboriginal Adults are bail refused is because they fail the unacceptable risk test (48% of bail refusals) followed by the 'Show Cause' determination (41% of bail refusals)
- Among Aboriginal Adults who fail the unacceptable risk test, 17% have a single risk recorded, 34% have 2 risks recorded, 33% have 3 risks recorded and 16% have all four risks recorded.
- Among the four risks, the most commonly nominated for Aboriginal Adults is that the defendant will be a danger to individuals or the community (83% in 2019) followed by concerns that the defendant will commit a serious offence while on bail.



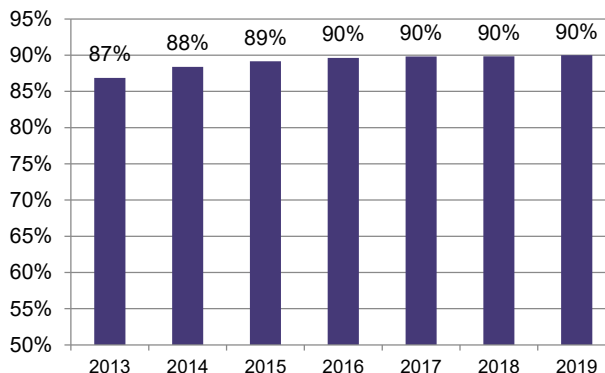
Recorded Criminal Incidents

Court Finalisations – Aboriginal Adults

Finalised Court Appearances



Conviction rate

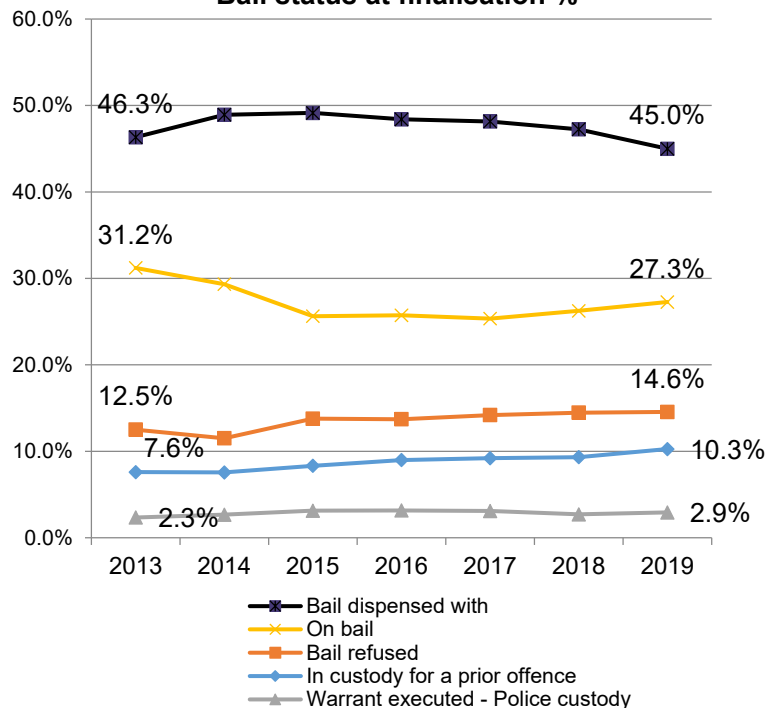


Change from 2013 to 2019

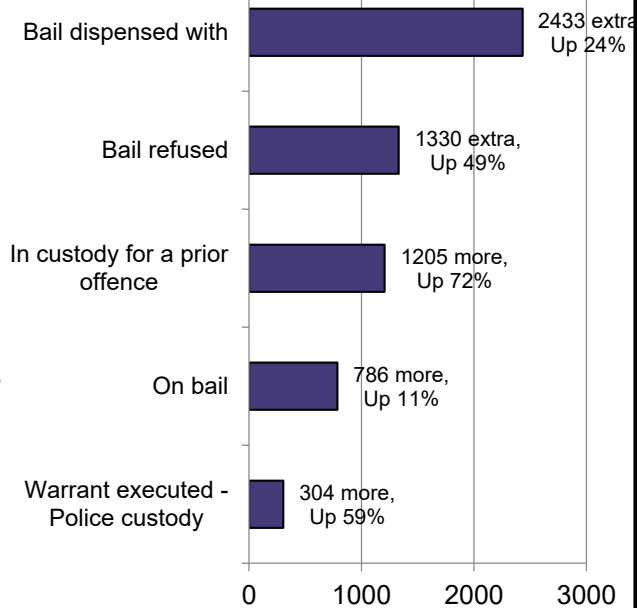
- Finalised Court appearances involving Aboriginal adults increased 28% (up 6,058 appearances). By comparison, ALL adult court appearances rose 17%.
- Proven court appearances involving Aboriginal adults increased 32%. By comparison ALL proven adult court appearances rose 20%
- The proportion of court appearances resulting in a proven outcome increased 3 percentage points to 90%. By comparison the conviction rate for ALL court appearances rose 2 p.p. to 91%.

Bail decisions – Aboriginal Adults

Bail status at finalisation %



Increase in court appearances by final bail status 2013 to 2019, no.



Change from 2013 to 2019

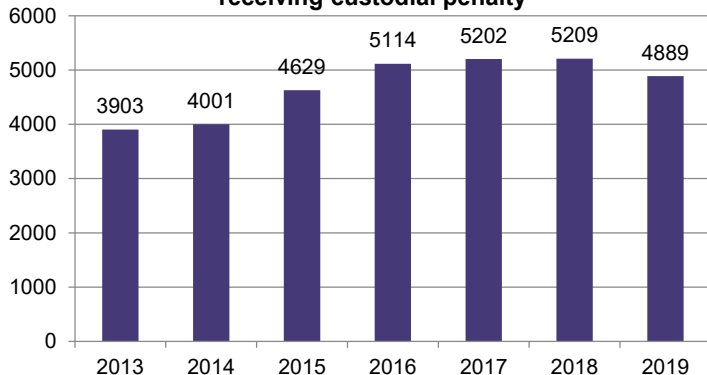
- The proportion of Aboriginal adults in custody at their court finalisation increased 24% in 6 years from 22% in 2013 to 28% in 2019. By comparison in ALL adult court appearances the proportion in custody at finalisation increased 36% from 10% in 2013 to 14% in 2019
- The rise in Aboriginal adults in custody at finalisation was driven by a 35% increase for 'in custody for a prior offence', a 25% increase in 'Warrant executed-police custody' and a 16% increase in 'bail refused'.
- Volumetrically, the number of Aboriginal Adults in custody at their final court appearance increased by 58% (up 2,839 people) due mainly to a 72% increase in Aboriginal adults in custody for a prior offence at their court appearance, and a 49% increase in bail refused at finalisation.



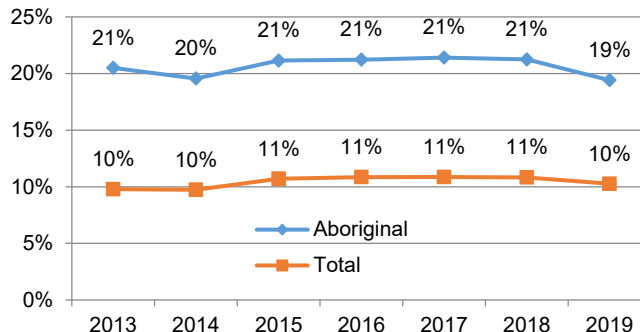
Recorded Criminal Incidents

Custodial Penalties – Aboriginal Adults

Proven Aboriginal Adult court appearances receiving custodial penalty



Percentage of proven court appearances receiving imprisonment, %

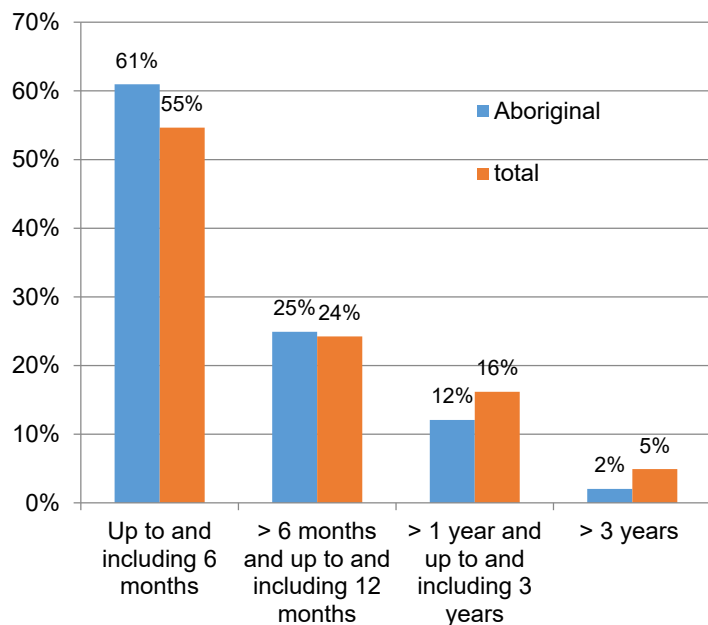


Change from 2013 to 2019

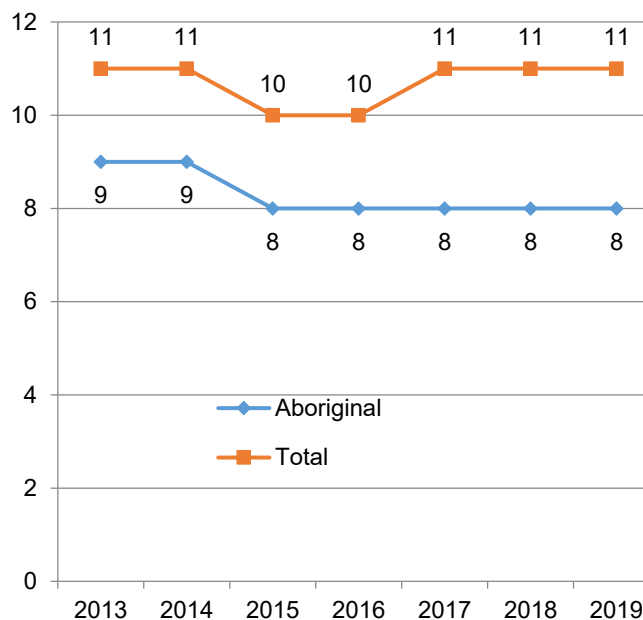
- The number of Aboriginal Adults sentenced to prison increased 25% from 3,903 in 2013 to 4,889 in 2019. By comparison, the TOTAL number of adult court appearances resulting in a prison sentence increased 26%.
- The increase in Aboriginal adult prison sentences is largely due to the increase in court volume as the imprisonment rate is reasonable stable – although fell slightly after the 2018 Sentencing reforms.
- Aboriginal adults found guilty in court have a much higher imprisonment rate than average – 19% versus 10% in 2019

Prison Sentences – Aboriginal Adults

Prison sentence durations, non-parole period, 2019



Trends in average non-parole period duration, months



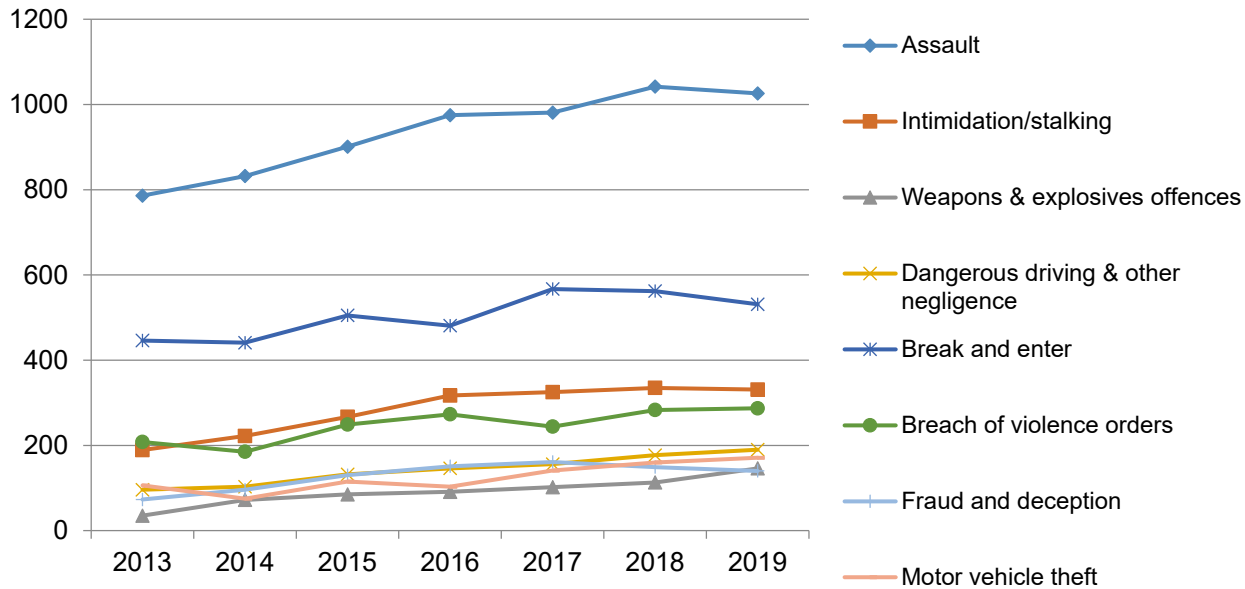
Change from 2013 to 2019

- The average duration of prison sentences received by Aboriginal adults is shorter than the general average. In 2019 the average sentence duration for Aboriginal adults was 8 months versus 11 months in general.
- In 2019, 61% of sentences received by Aboriginal adults were for 6 months or less versus 55% for the general average.
- Sentence durations remained reasonably stable between 2013 and 2019

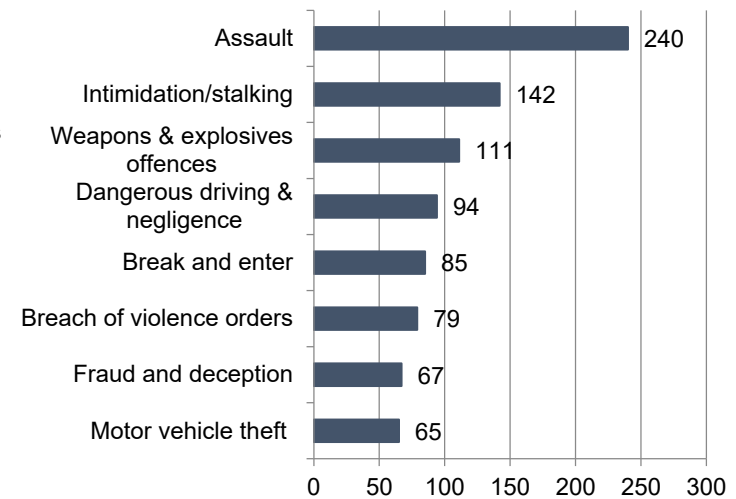


Recorded Criminal Incidents

Aboriginal Adult Prison Sentences, select offences

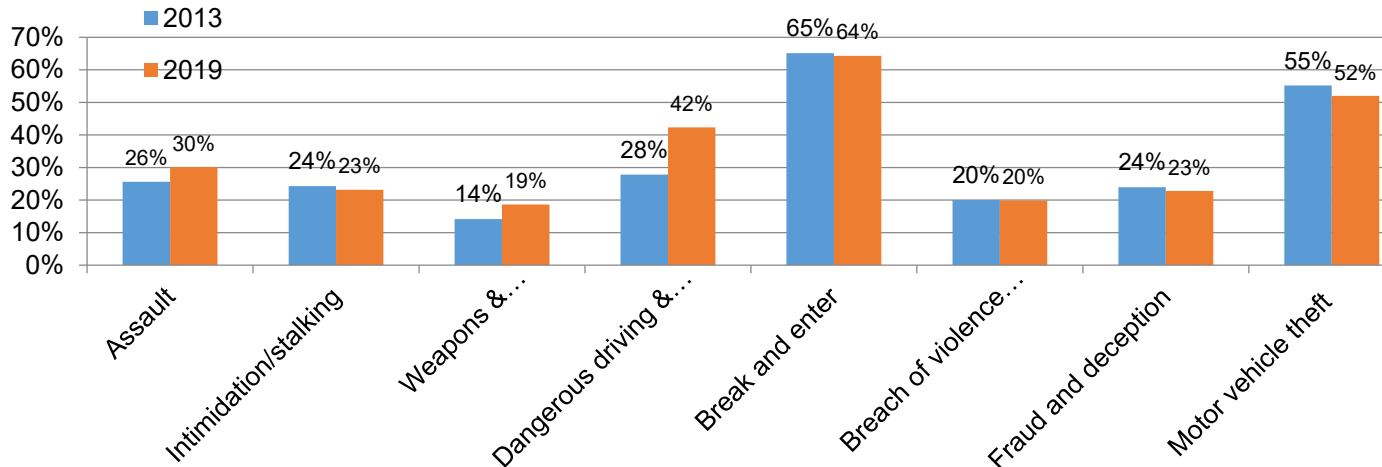


Number of additional Aboriginal Adult prison sentences, select offences 2013 to 2019



Custodial Penalties – Aboriginal Adults

Imprisonment rate for Aboriginal Adults guilty for select offences



Change from 2013 to 2019

- The offences with the greatest increase in Aboriginal Adult prison sentences from 2013 to 2019 are: Assault, Intimidation, Weapons offence, dangerous driving and break and enter.
- All these offences have seen an increase in the volume of Aboriginal Adults found guilty between 2013 to 2019. The number of Aboriginal Adults convicted of Assault increased 11%, Intimidation increased 84%, Weapons increased 200%.
- Some of these offences also increased their imprisonment rate: Assault (from 26% to 30%), Weapons (from 14% to 19%) and Dangerous driving (from 28% to 42%)