



NSW Bureau of Crime
Statistics and Research

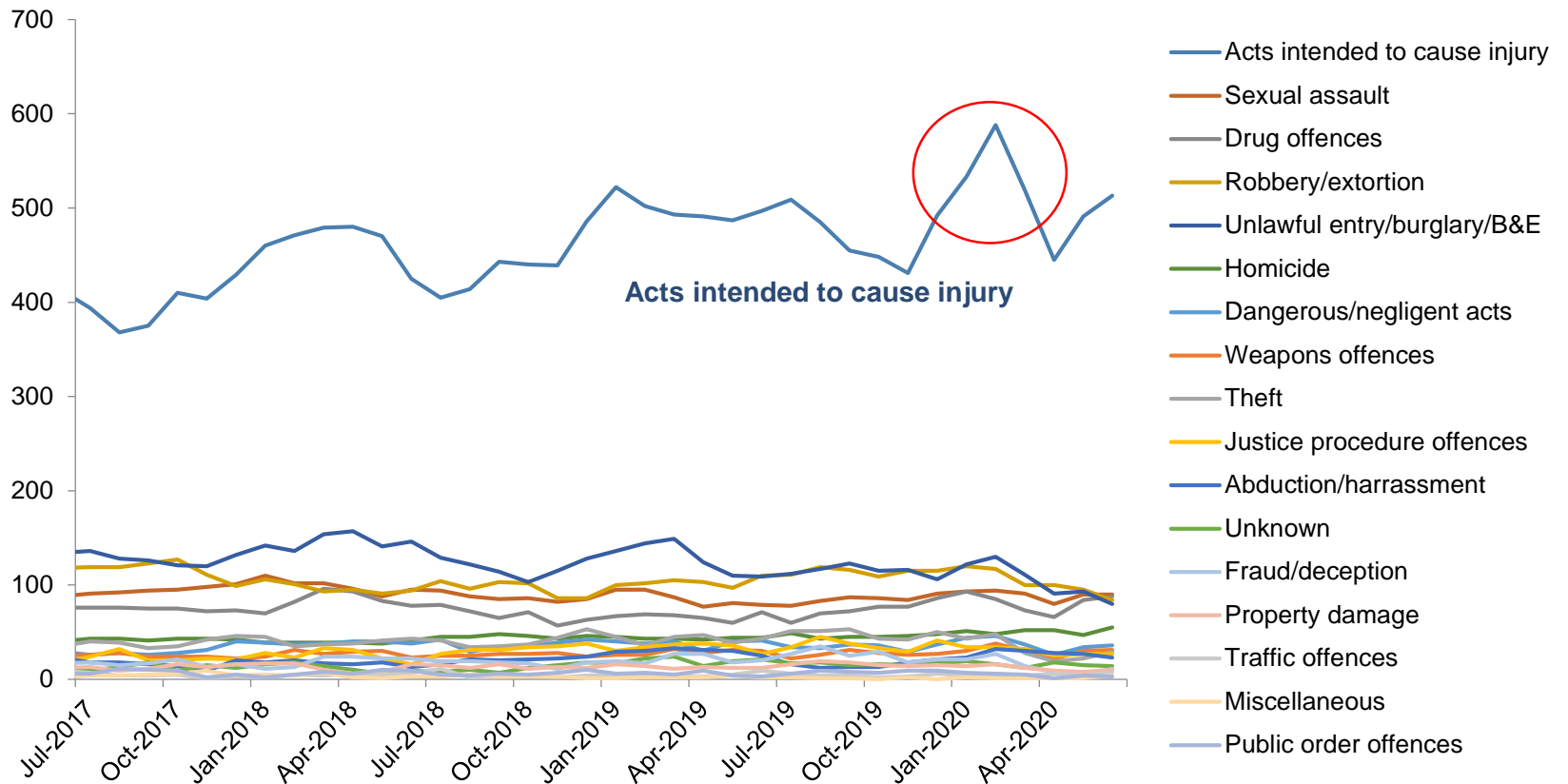
Inquiry into the high level of First Nations people in custody

Questions on notice
NSW Bureau of Crime Statistics and Research
January 2021

Question 1. Why did the remand population increase so sharply in early 2020? The rise was larger than in previous years.

- As can be seen for the chart below, the increase appears largely driven by Aboriginal defendants remanded for acts intended to cause injury, which increased by 96 between December 2019 and February 2020 (from 492 to 588).
- During the same period in the previous year (December 2018 and February 2019), the corresponding increase was 16 (from 486 to 502).

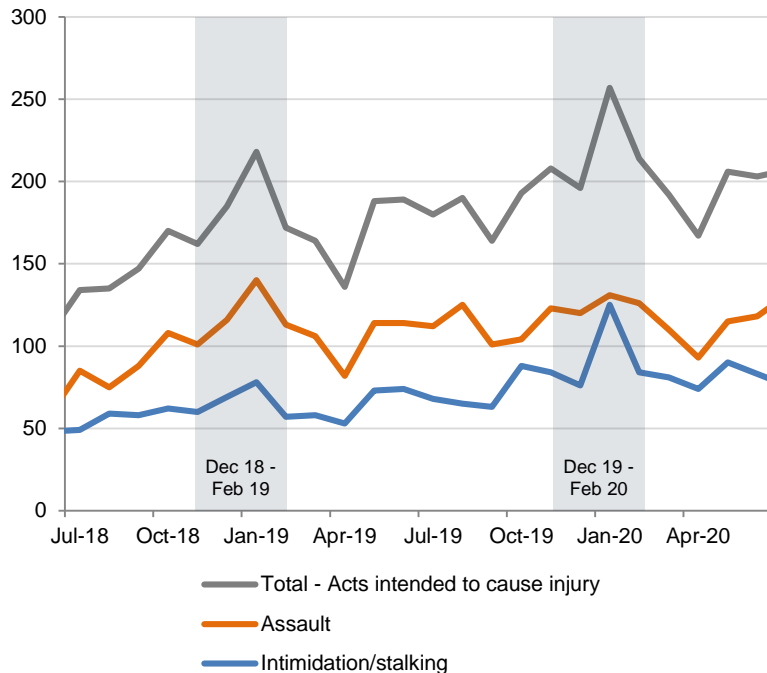
Aboriginal adults in prison by most serious offence



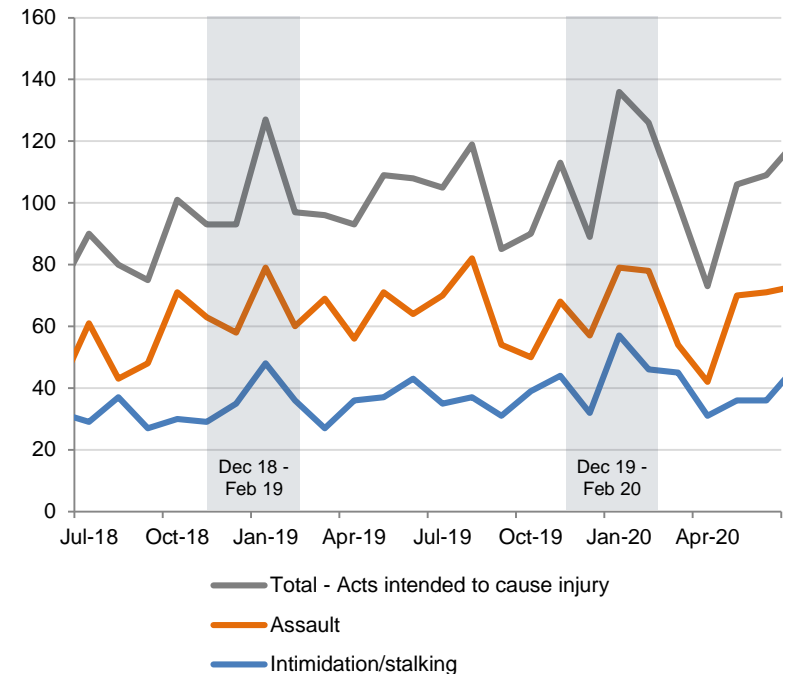
Question 1. Why did the remand population increase so sharply in early 2020? The rise was larger than in previous years.

- Court data suggest some increase in police and court bail refusals during the corresponding period (December – February). Comparing Dec 2019 – Feb 2020 with Dec 2018 – Feb 2019:
 - Police bail refusals for Intimidation / stalking offences increased by 40%, while Assault increased by 2%
 - Court bail refusals for Intimidation / stalking offences increased by 13%, while Assault increased by 9%

Aboriginal adults police bail refused for acts intended to cause injury



Aboriginal adults court bail refused for acts intended to cause injury



Question 2. Does BOCSAR hold any information on the nature of breaches in incidents of 'Breach Community Service Order' adjudicated by the courts?

- No, BOCSAR doesn't hold this type of data. As advised by Ms Jackie Fitzgerald in her transcript., this data would need to be provided by State Parole Authority.

Question 3. Pages 6 and 7 of the original slide deck provided by BOCSAR showed:

- 1) Aboriginal Adults in prison by offence
- 2) Change in volume of Aboriginal adults in prison by offence

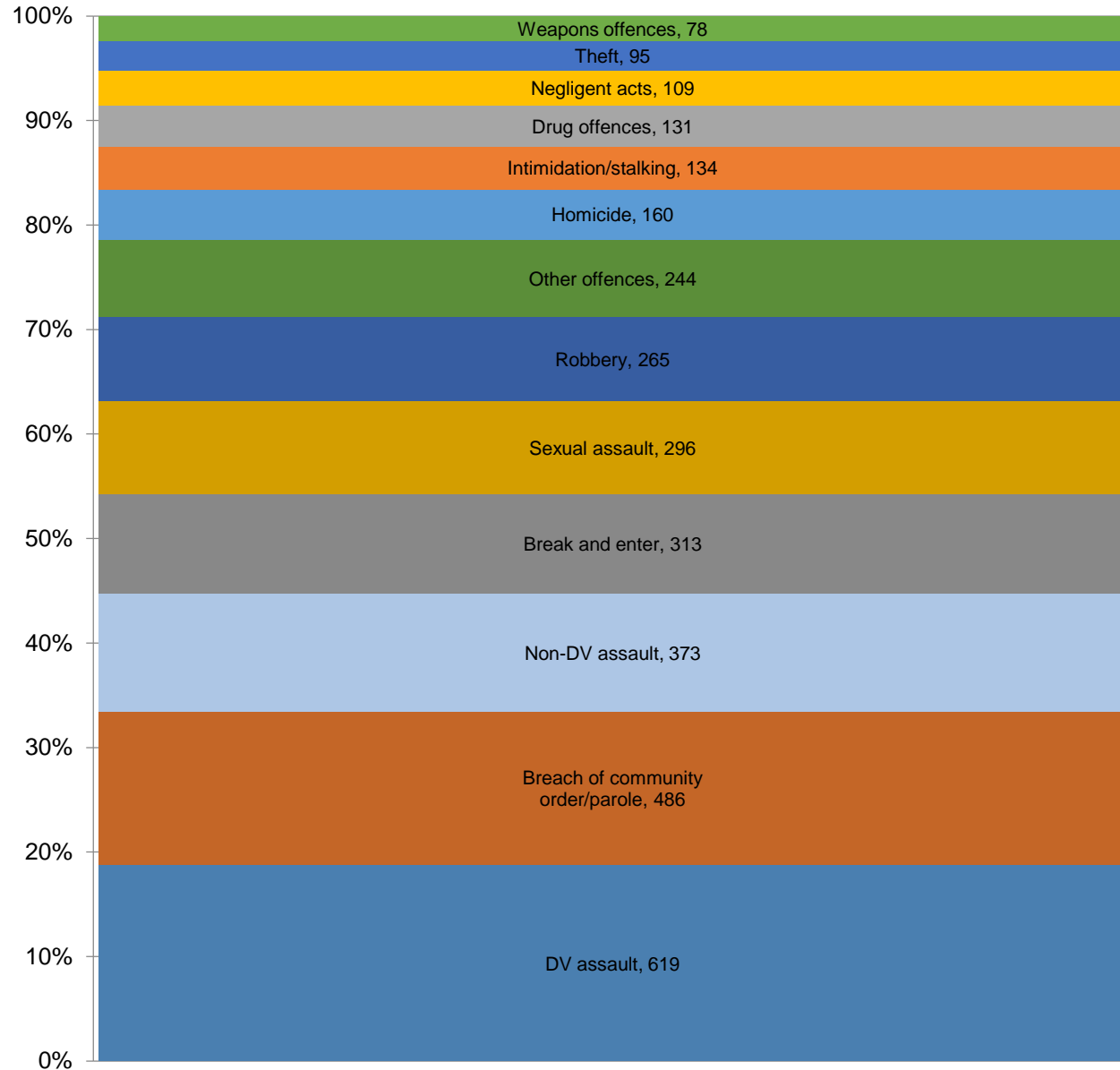
Could you provide the following versions of these charts:

- (a) a version for Aboriginal male Adults
- (b) a version for Aboriginal female adults,
- (c) a version for non-Aboriginal adults (men and women combined).

For (a) and (b) could you also split assault into DV related and not DV related.

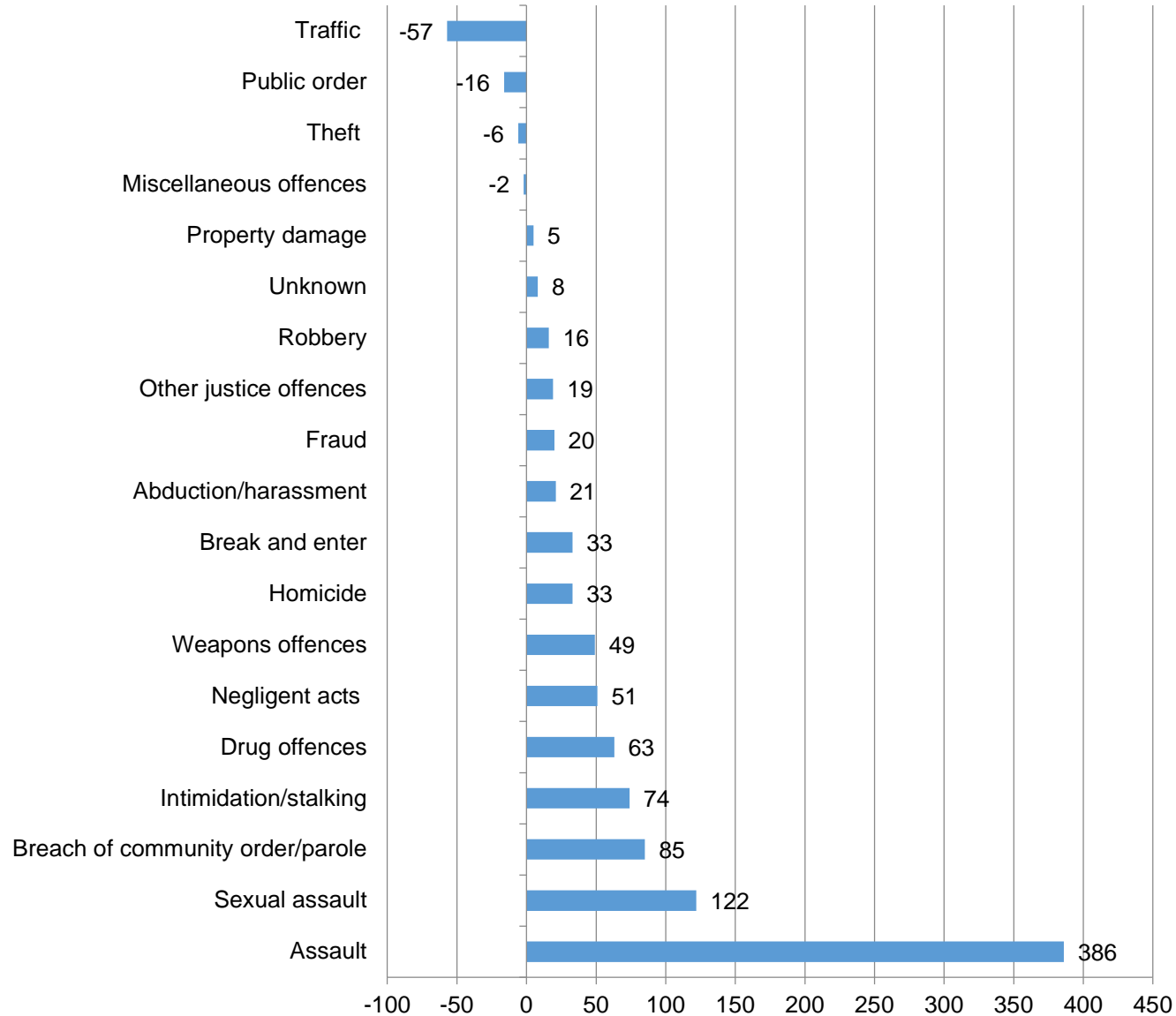
Question 3a. Aboriginal adult men in prison by offence

Aboriginal adult men in prison by offence, February 2020, n = 3303

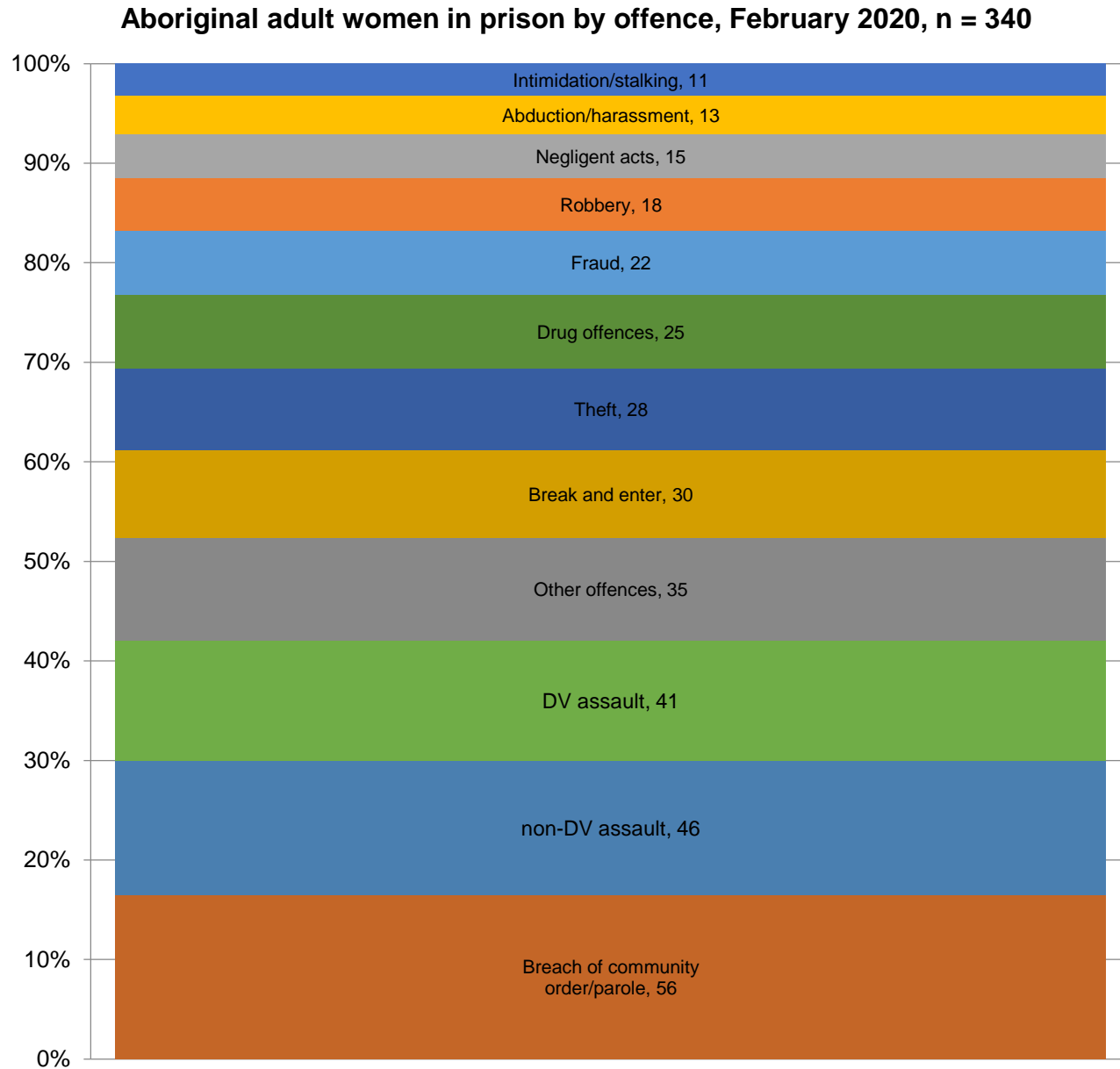


Question 3a. Aboriginal adult men in prison by offence

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

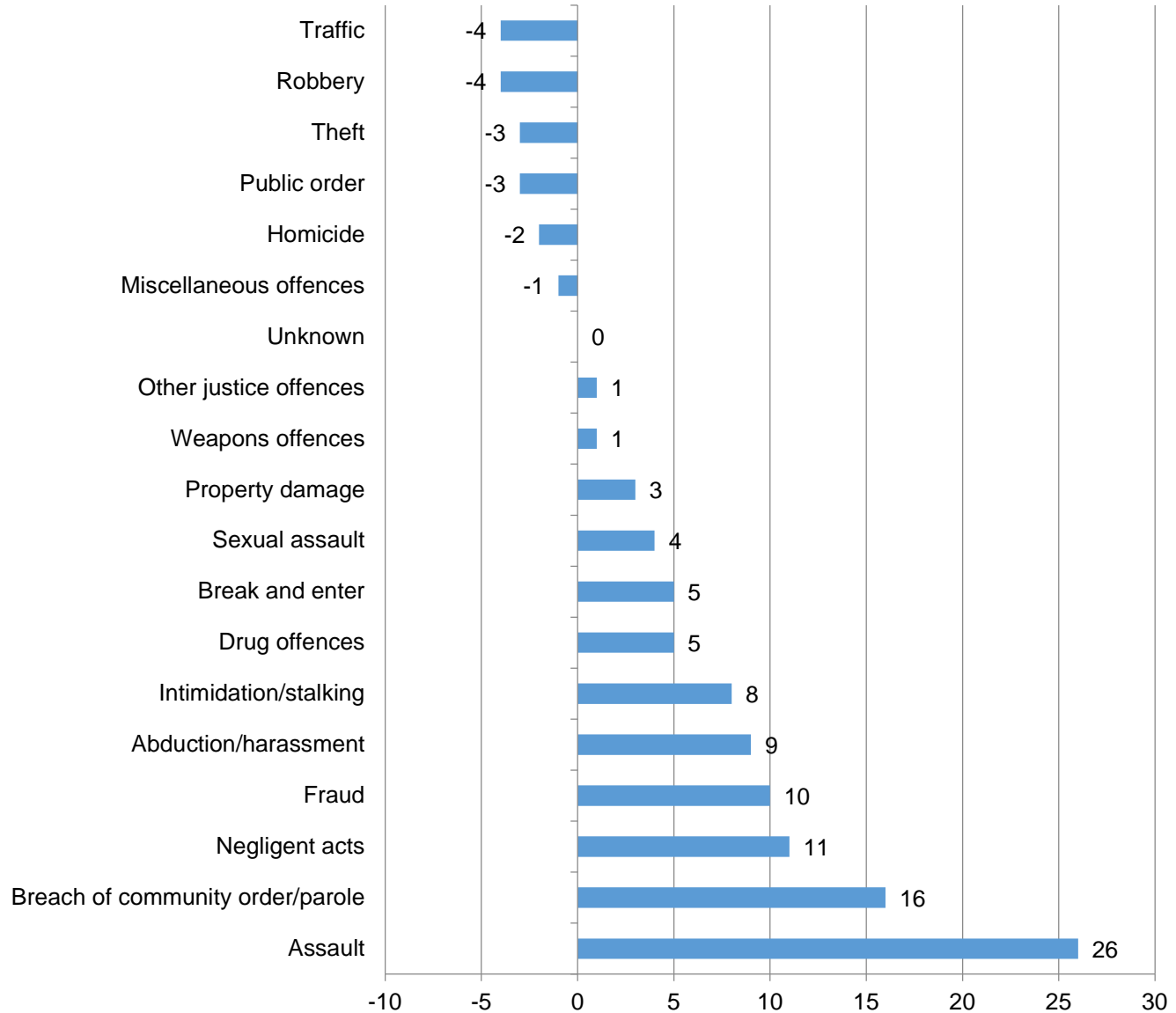


Question 3b. Aboriginal adult women in prison by offence



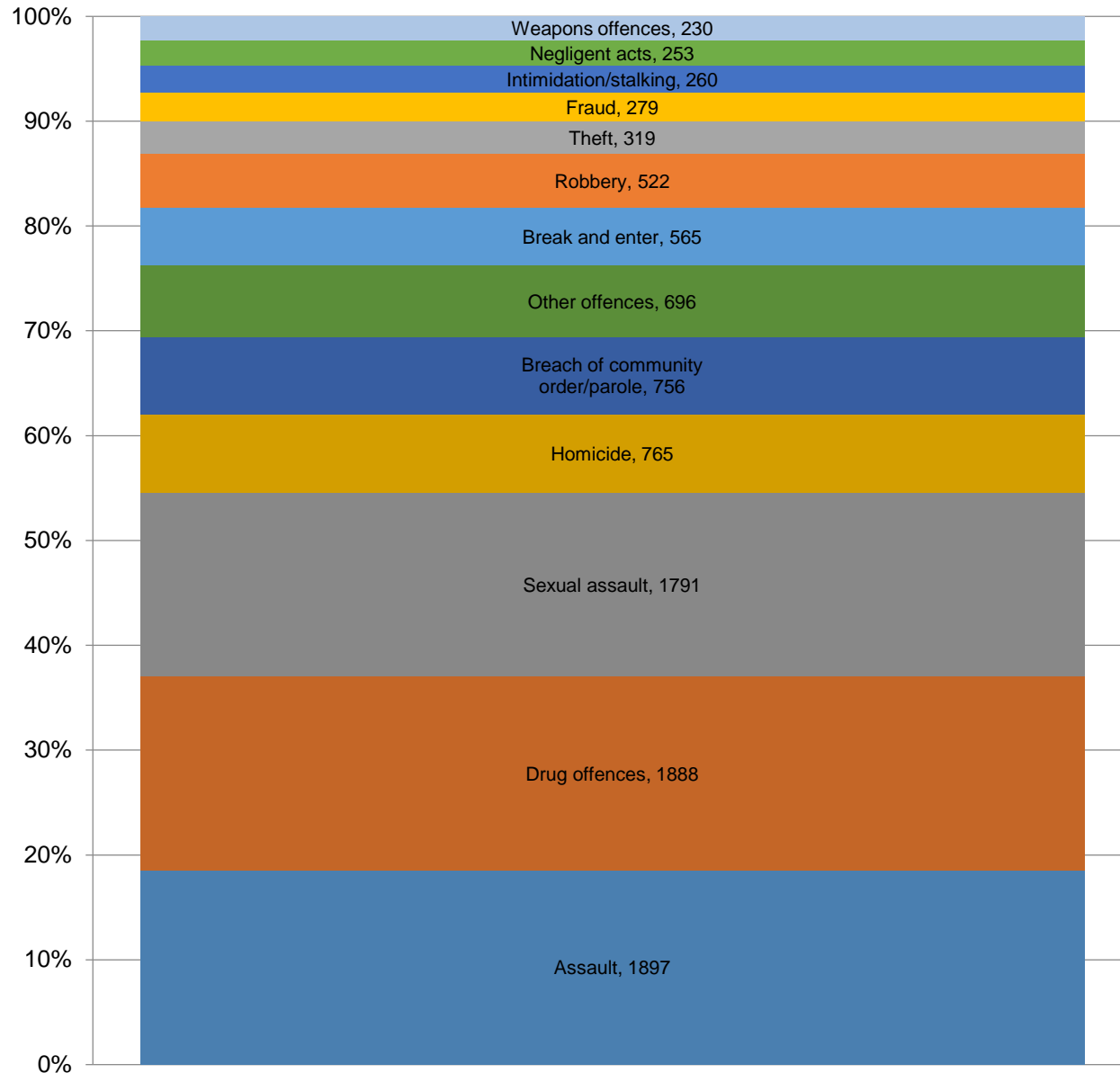
Question 3b. Aboriginal adult women in prison by offence

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



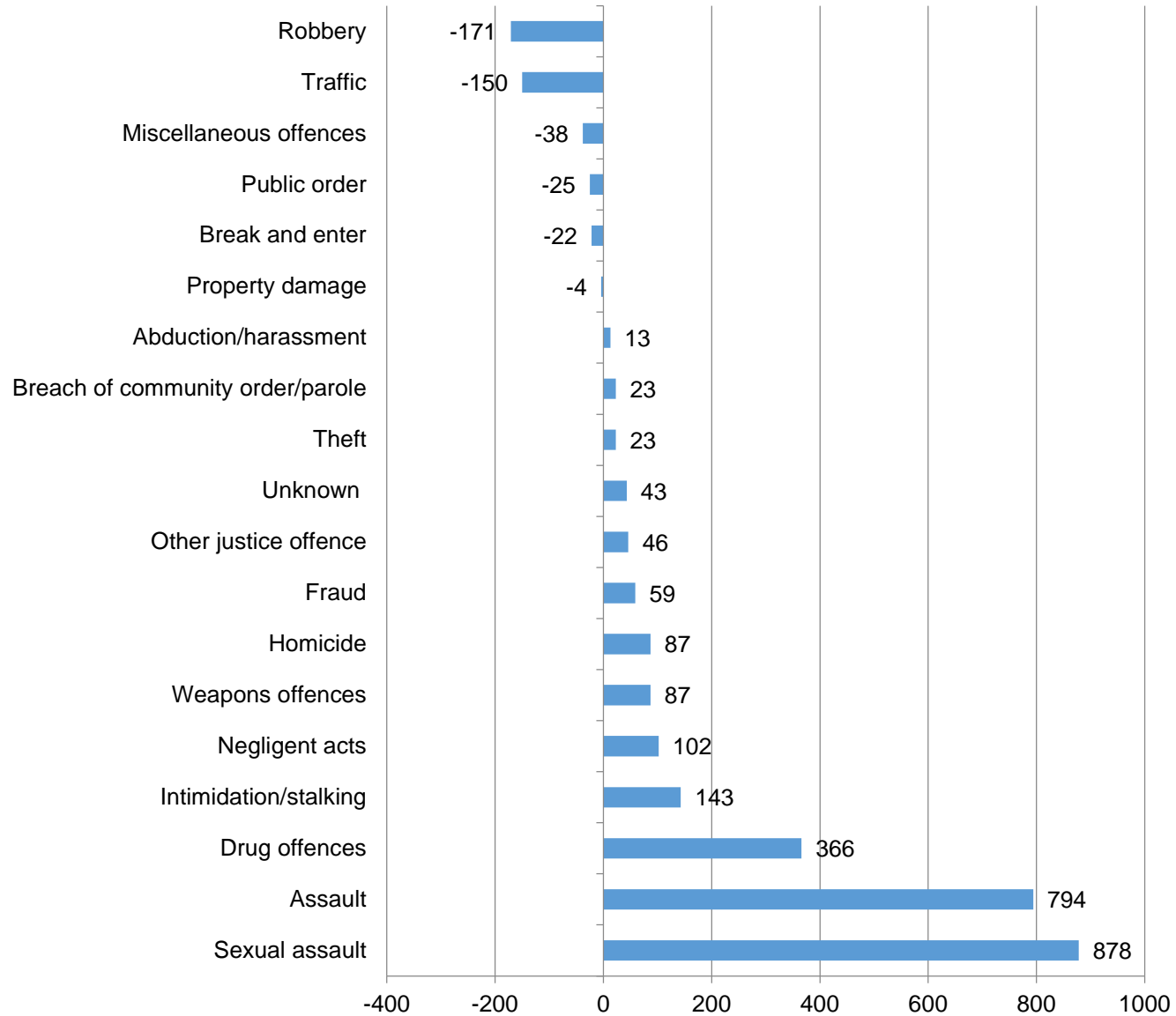
Question 3c. Non-Aboriginal adults in prison by offence

Non-Aboriginal adults in prison by offence, n=10,221



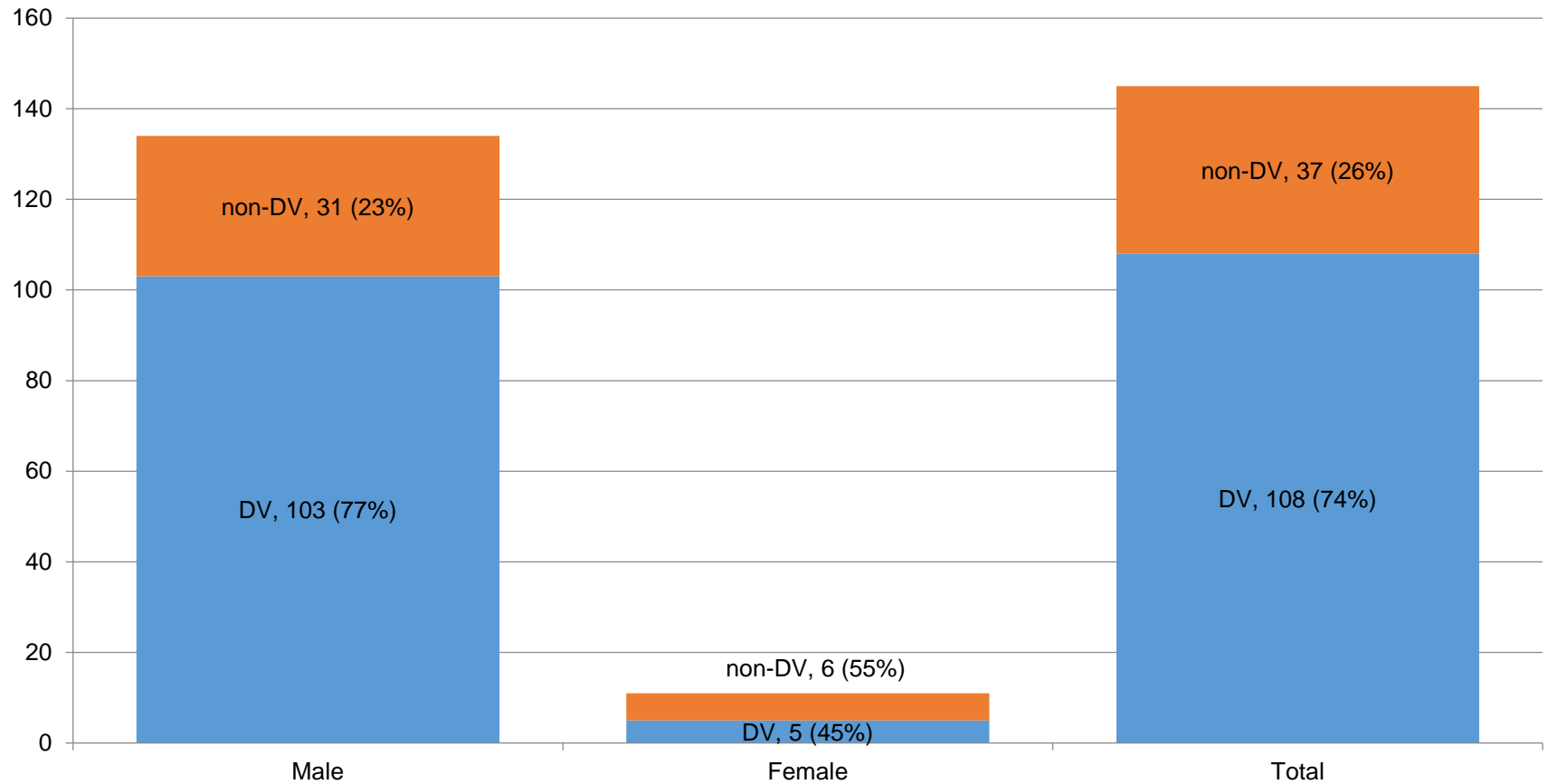
Question 3c. Non-Aboriginal adults in prison by offence

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



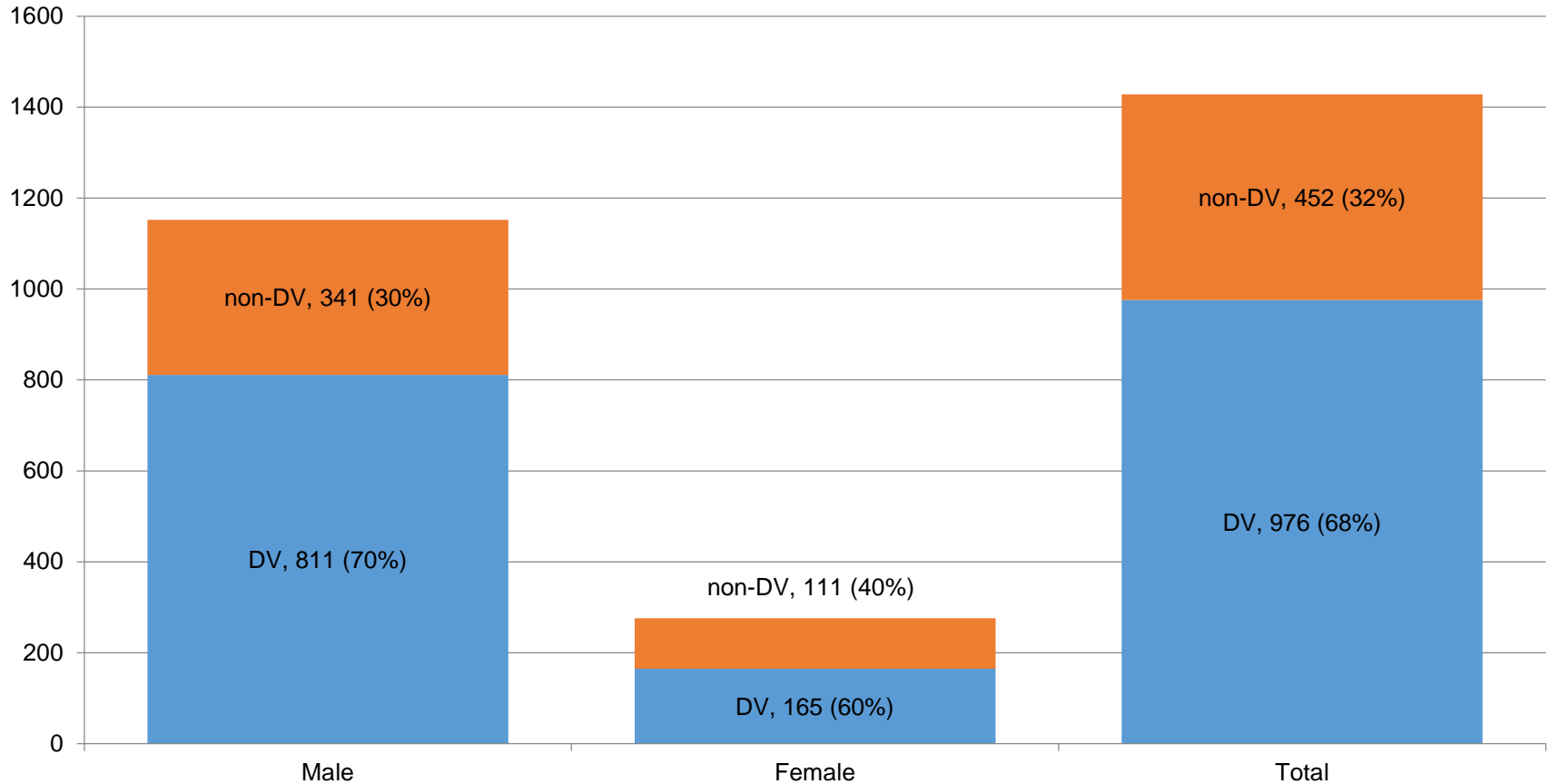
Question 4. For Aboriginal Adults in prison for intimidation/stalking in February 2020, what percentage are there for a DV version of the offence versus a non-DV version? Please split by gender

Aboriginal Adults in prison for intimidation/stalking in Feb 2020, by whether or not DV related, and gender



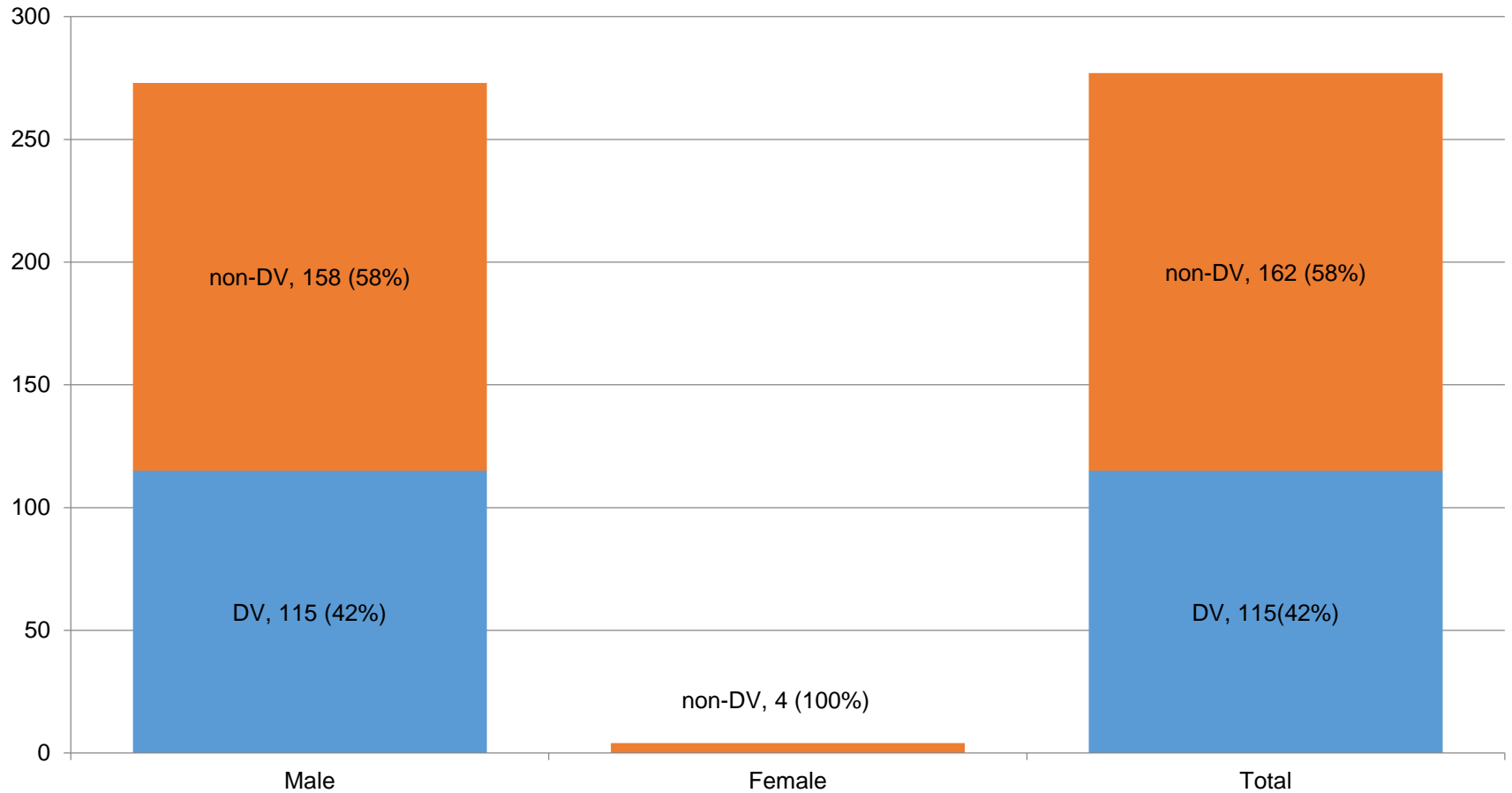
Question 5. For Aboriginal Adults found guilty of intimidation/stalking as their principal offence in 2019 what percentage had a DV version of the offence versus a non-DV version? Please split by gender

Number of proven court appearances where the principal offence was Intimidation/stalking for Aboriginal Adults found guilty, by gender and whether or not the offence was DV related.



Question 6. For Aboriginal Adults in prison for sexual assault in February 2020, what percentage are there for a DV version of the offence versus a non-DV version? Please split by gender

Aboriginal Adults in prison for sexual assault in Feb 2020, by whether or not DV related, and gender



Question 7. Please provide links to 2 previous published BOCSAR reports

1. Offenders sentenced to time already served in custody

https://www.bocsar.nsw.gov.au/Pages/bocsar_publication/Pub_Summary/BB/bb140-Offenders-sentenced-to-time-already-served-in-custody.aspx

2. Evaluating the first tranche of the Table Offences Reform

https://www.bocsar.nsw.gov.au/Pages/bocsar_publication/Pub_Summary/CJB/cjb231-Evaluating-the-first-tranche-of-the-Table-Offences-Reform.aspx

Question 8a. Data on bail refusal by police, for Indigenous and non-Indigenous adults and youth.

Aboriginality	Age	Police Bail refusal	2013	2014	2015	2016	2017	2018	2019
Aboriginal	Young people	Bail refused	975	1038	1058	999	1127	1190	1185
		Total proceeded against to court	2672	2966	3157	2935	3039	3106	2879
		% police bail refused	36.49%	35.00%	33.51%	34.04%	37.08%	38.31%	41.16%
	Adult	Bail refused	4110	4283	5555	6098	6391	7144	8522
		Total proceeded against to court	11265	13020	14775	15737	15536	16834	18556
		% police bail refused	36.48%	32.90%	37.60%	38.75%	41.14%	42.44%	45.93%
Non-Aboriginal	Young people	Bail refused	1664	1159	1200	1214	1299	1274	1428
		Total proceeded against to court	6043	5241	5319	5158	5125	4826	4741
		% police bail refused	27.54%	22.11%	22.56%	23.54%	25.35%	26.40%	30.12%
	Adult	Bail refused	14633	13674	15621	17926	17569	18687	20917
		Total proceeded against to court	74052	79965	83102	87135	82425	82899	83926
		% police bail refused	19.76%	17.10%	18.80%	20.57%	21.32%	22.54%	24.92%

- **Young people**

- In 2019, 41% of Aboriginal youth people were refused bail by the police. By comparison, 30% of non-Aboriginal young people were refused bail by the police in 2019.
- The proportion of Aboriginal young people refused bail by police has increased from 36% in 2013 to 41% in 2019.

- **Adults**

- In 2019, 46% of Aboriginal adults were refused bail by the police. By comparison, 25% of non-Aboriginal adults were refused bail by the police in 2019.
- The proportion of Aboriginal adults refused bail by police has increased from 36% in 2013 to 46% in 2019.

Question 8b. Data on bail refusal by the courts, for Indigenous and non-Indigenous adults and youth.

Aboriginality	Age	First court bail decision	2013	2014	2015	2016	2017	2018	2019
Aboriginal	Young people	Bail refused	597	647	701	592	639	661	603
		Total proceeded against to court	2672	2966	3157	2935	3039	3106	2879
		% court bail refused	22.34%	21.81%	22.20%	20.17%	21.03%	21.28%	20.94%
	Adult	Bail refused	2525	2613	3553	3827	4017	4204	4985
		Total proceeded against to court	11265	13020	14775	15737	15536	16834	18556
		% court bail refused	22.41%	20.07%	24.05%	24.32%	25.86%	24.97%	26.86%
Non-Aboriginal	Young people	Bail refused	828	644	621	596	661	539	571
		Total proceeded against to court	6043	5241	5319	5158	5125	4826	4741
		% court bail refused	13.70%	12.29%	11.68%	11.55%	12.90%	11.17%	12.04%
	Adult	Bail refused	7551	7508	9392	10240	9857	10527	11111
		Total proceeded against to court	74052	79965	83102	87135	82425	82899	83926
		% court bail refused	10.20%	9.39%	11.30%	11.75%	11.96%	12.70%	13.24%

- **Young people**

- In 2019, 21% of Aboriginal youth people were refused bail by the courts at their first bail hearing. By comparison, 12% of non-Aboriginal young people were refused bail by the courts in 2019.
- The proportion of Aboriginal young people refused bail by the courts at their first bail decision has decreased slightly from 22% in 2013 to 21% in 2019.

- **Adults**

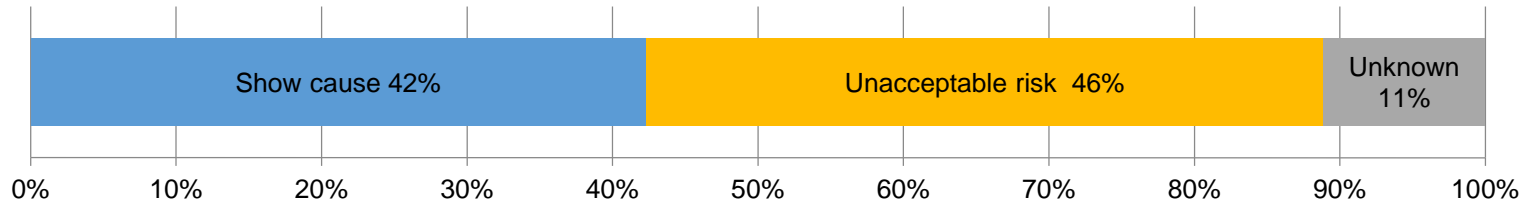
- In 2019, 27% of Aboriginal adults were refused bail by the courts at their first bail hearing. By comparison, 13% of non-Aboriginal adults were refused bail by the courts in 2019.
- The proportion of Aboriginal adults refused bail by the courts at their first bail decision has increased from 22% in 2013 to 27% in 2019.

Question 8c. Agreement between police and first court decision, for Indigenous and non-Indigenous adults and youth.

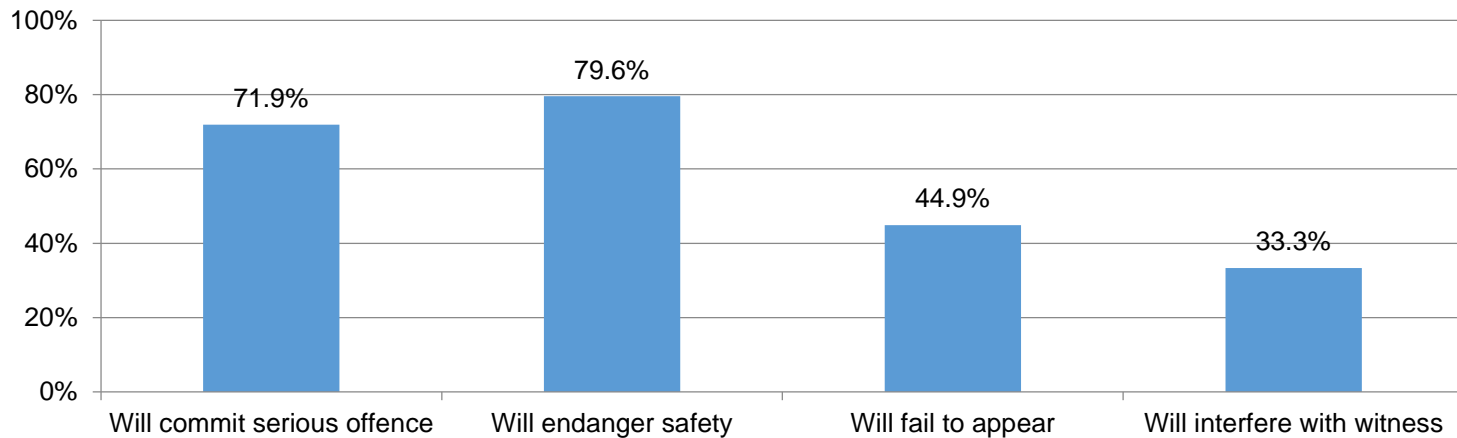
Aboriginality	Age	Police Bail refusal	Court bail refusal decision	2013	2014	2015	2016	2017	2018	2019
Aboriginal	Under 18	Police Bail refused	Bail refused	496	538	592	501	567	579	539
			On bail	402	452	413	449	517	549	580
			Bail dispensed with	77	48	53	49	43	62	66
			Total proceeded against to court	975	1038	1058	999	1127	1190	1185
			% agreement between police and first court decision - bail refused	50.87%	51.83%	55.95%	50.15%	50.31%	48.66%	45.49%
	Adult	Police Bail refused	Bail refused	2272	2348	3243	3494	3760	3960	4726
			On bail	1468	1589	1769	2088	2050	2518	3029
			Bail dispensed with	370	346	543	516	581	666	767
			Total proceeded against to court	4110	4283	5555	6098	6391	7144	8522
			% agreement between police and first court decision - bail refused	55.28%	54.82%	58.38%	57.30%	58.83%	55.43%	55.46%
Non-Aboriginal	Under 18	Police Bail refused	Bail refused	710	532	522	520	578	491	525
			On bail	802	546	599	626	652	712	808
			Bail dispensed with	152	81	79	68	69	71	95
			Total proceeded against to court	1664	1159	1200	1214	1299	1274	1428
			% agreement between police and first court decision - bail refused	42.67%	45.90%	43.50%	42.83%	44.50%	38.54%	36.76%
	Adult	Police Bail refused	Bail refused	6817	6710	8514	9363	9166	9924	10517
			On bail	6399	5615	5518	6868	6637	6981	8390
			Bail dispensed with	1417	1349	1589	1695	1766	1782	2010
			Total proceeded against to court	14633	13674	15621	17926	17569	18687	20917
			% agreement between police and first court decision - bail refused	46.59%	49.07%	54.50%	52.23%	52.17%	53.11%	50.28%

Question 9. Page 8 of the original slide deck provided by BOCSAR showed the reason that are Aboriginal people are refused bail at their first court appearance. Can you prepare the same for non-Aboriginal?

Non-Aboriginal Adults bail refused at their first court appearance by reason, 2019



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



Question 10. In BOCSAR Court data, do we adopt the Corrective Services or Youth Justice Aboriginality status if one is recorded. Or do we still use the 'ever identified' but including the Corrections status in that?

BOCSAR Court Data: Definition of Aboriginality

- Indicates whether a defendant has ever identified as being of Aboriginal and/or Torres Strait Islander origin at any time when proceeded against by NSW Police. The status is determined by self-identification in response to questions asked by NSW Police.
- BOCSAR source Aboriginal and/or Torres Strait Islander origin status for persons with charges finalised in court from either court systems (where provided by NSW Police with charge records) or by matching finalised court records with Person of Interest (POI) records from NSW Police.
- BOCSAR's Reoffending Database (ROD) contains "Aboriginality ever recorded" which is set to 'Aboriginal' for any person who had identified as being of Aboriginal and/or Torres Strait Islander origin in their contact with Police in relation to any charges finalised since 1994.
- A person's Aboriginality as recorded by Corrective Services and Youth Justice is not currently used to compare with or supplement their Aboriginality as recorded by NSW Police.

Question 11a. For Aboriginal adults receiving a custodial sentence for prohibited and regulated weapons and explosives offences in 2013 to 2019, can you breakdown to the lowest ANZSOC to show the nature of the offences.

Proven court appearances involving Aboriginal adults where the principal offence was prohibited and regulated weapons and explosives offences by detailed offence type

ANZSOC Offence category		Measure	2013	2014	2015	2016	2017	2018	2019	
Prohibited weapons/explosives offences	Sell, possess and/or use prohibited weapons/explosives	Number sentenced to prison	7	14	21	26	25	31	39	
		Proven court appearances	38	63	84	88	123	127	195	
		% sentenced to prison	18.4%	22.2%	25.0%	29.5%	20.3%	24.4%	20.0%	
	Prohibited weapons/explosives offences, other	Number sentenced to prison	0	2	0	1	1	1	2	
		Proven court appearances	1	4	0	3	3	3	6	
		% sentenced to prison	0.0%	50.0%	0.0%	33.3%	33.3%	33.3%	33.3%	
	Total Prohibited weapons/explosives offences		Number sentenced to prison	7	16	21	27	26	32	41
			Proven court appearances	39	67	84	91	126	130	201
			% sentenced to prison	17.9%	23.9%	25.0%	29.7%	20.6%	24.6%	20.4%
	Regulated weapons/explosives offences	Unlawfully obtain or possess regulated weapons/explosives	Number sentenced to prison	23	43	54	52	66	67	94
Proven court appearances			195	314	373	385	445	455	553	
% sentenced to prison			11.8%	13.7%	14.5%	13.5%	14.8%	14.7%	17.0%	
Misuse of regulated weapons/explosives		Number sentenced to prison	4	9	8	7	8	11	10	
		Proven court appearances	11	25	20	23	28	35	26	
		% sentenced to prison	36.4%	36.0%	40.0%	30.4%	28.6%	31.4%	38.5%	
Deal or traffic regulated weapons/explosives offences		Number sentenced to prison	1	4	2	5	2	2	1	
		Proven court appearances	2	7	2	10	6	3	3	
		% sentenced to prison	50.0%	57.1%	100.0%	50.0%	33.3%	66.7%	33.3%	
Regulated weapons/explosives offences, other		Number sentenced to prison	0	0	0	0	0	1	0	
		Proven court appearances	0	1	0	1	0	3	1	
		% sentenced to prison	0.0%	0.0%	0.0%	0.0%	0.0%	33.3%	0.0%	
Total Regulated weapons/explosives offences		Number sentenced to prison	28	56	64	64	76	81	105	
		Proven court appearances	208	347	395	419	479	496	583	
		% sentenced to prison	13.5%	16.1%	16.2%	15.3%	15.9%	16.3%	18.0%	
Total Prohibited and regulated weapons and explosives offences		Number sentenced to prison	35	72	85	91	102	113	146	
		Proven court appearances	247	414	479	510	605	626	784	
		% sentenced to prison	14.2%	17.4%	17.7%	17.8%	16.9%	18.1%	18.6%	

Question 11b. Also provide a regional split.

Proven court appearances involving Aboriginal adults where the principal offence was prohibited and regulated weapons and explosives offences by the defendant's residential Statistical Area at finalisation

Defendants residential Statistical Area at finalisation	Measure	2013	2014	2015	2016	2017	2018	2019
Total NSW	Number sentenced to prison	35	72	85	91	102	113	146
	Proven court appearances	247	414	479	510	605	626	784
	% sentenced to prison	14.2%	17.4%	17.7%	17.8%	16.9%	18.1%	18.6%
Greater Sydney	Number sentenced to prison	11	23	19	21	23	31	39
	Proven court appearances	104	150	183	178	219	219	290
	% sentenced to prison	10.6%	15.3%	10.4%	11.8%	10.5%	14.2%	13.4%
Capital Region	Number sentenced to prison	1	0	0	1	2	1	3
	Proven court appearances	6	7	6	7	13	9	24
	% sentenced to prison	16.7%	0.0%	0.0%	14.3%	15.4%	11.1%	12.5%
Central West	Number sentenced to prison	2	2	0	0	2	3	3
	Proven court appearances	15	19	29	26	32	48	45
	% sentenced to prison	13.3%	10.5%	0.0%	0.0%	6.3%	6.3%	6.7%
Coffs Harbour - Grafton	Number sentenced to prison	1	1	2	1	1	0	2
	Proven court appearances	3	14	14	11	16	12	18
	% sentenced to prison	33.3%	7.1%	14.3%	9.1%	6.3%	0.0%	11.1%
Far West and Orana	Number sentenced to prison	3	1	1	1	2	1	2
	Proven court appearances	18	30	19	28	36	41	50
	% sentenced to prison	16.7%	3.3%	5.3%	3.6%	5.6%	2.4%	4.0%
Hunter Valley exc Newcastle	Number sentenced to prison	1	2	2	2	4	7	5
	Proven court appearances	18	33	11	26	37	27	32
	% sentenced to prison	5.6%	6.1%	18.2%	7.7%	10.8%	25.9%	15.6%
Illawarra	Number sentenced to prison	1	1	6	1	8	9	5
	Proven court appearances	10	17	18	15	30	26	32
	% sentenced to prison	10.0%	5.9%	33.3%	6.7%	26.7%	34.6%	15.6%
Mid North Coast	Number sentenced to prison	0	1	1	4	6	3	2
	Proven court appearances	8	22	25	23	33	30	25
	% sentenced to prison	0.0%	4.5%	4.0%	17.4%	18.2%	10.0%	8.0%

Question 11b. Also provide a regional split (continued).

Proven court appearances involving Aboriginal adults where the principal offence was prohibited and regulated weapons and explosives offences by the defendant's residential Statistical Area at finalisation (cont)

Defendants residential Statistical Area at finalisation	Measure	2013	2014	2015	2016	2017	2018	2019
Murray	Number sentenced to prison	0	0	0	2	3	2	1
	Proven court appearances	3	8	7	6	7	15	9
	% sentenced to prison	0.0%	0.0%	0.0%	33.3%	42.9%	13.3%	11.1%
New England and North West	Number sentenced to prison	1	4	10	8	7	7	8
	Proven court appearances	12	26	29	35	27	32	33
	% sentenced to prison	8.3%	15.4%	34.5%	22.9%	25.9%	21.9%	24.2%
Newcastle and Lake Macquarie	Number sentenced to prison	1	3	3	6	6	7	9
	Proven court appearances	12	11	30	26	31	27	41
	% sentenced to prison	8.3%	27.3%	10.0%	23.1%	19.4%	25.9%	22.0%
Richmond - Tweed	Number sentenced to prison	0	1	2	3	0	2	3
	Proven court appearances	7	10	18	26	18	33	25
	% sentenced to prison	0.0%	10.0%	11.1%	11.5%	0.0%	6.1%	12.0%
Riverina	Number sentenced to prison	2	2	1	4	3	2	7
	Proven court appearances	8	11	23	29	21	25	40
	% sentenced to prison	25.0%	18.2%	4.3%	13.8%	14.3%	8.0%	17.5%
Southern Highlands and Shoalhaven	Number sentenced to prison	1	1	3	0	3	1	0
	Proven court appearances	6	5	11	6	12	12	21
	% sentenced to prison	16.7%	20.0%	27.3%	0.0%	25.0%	8.3%	0.0%
Other*	Number sentenced to prison	10	30	35	37	32	37	57
	Proven court appearances	17	51	56	68	73	70	99
	% sentenced to prison	58.8%	58.8%	62.5%	54.4%	43.8%	52.9%	57.6%