



Royal Commission into Aboriginal Deaths in Custody Recommendation

103. Value of a day's community service

That in jurisdictions where a Community Service Order may be imposed for fine default, the dollar value of a day's service should be greater than and certainly not less than, the dollar value of a day served in prison.¹

Background²	The Royal Commission into Aboriginal Deaths in Custody (RCIADIC) highlighted the need to reform sentencing to effectively use non-custodial options like community service orders. It recommended assigning a higher monetary value to a day of community service than a day in prison, to address the lack of available community work in certain areas and encourage courts to treat community-based sentences as legitimate alternatives to imprisonment, particularly for fine defaults.
Intent	Ensure the dollar value of a day's community service is not less than a day served in prison.
Responsibility	All state and territory governments.
Key contacts	Corrections and Justice Services, Department of Justice and Community Safety.

Key action taken

2005 Review³	<p>The Department of Justice assessed Recommendation 103 as partially implemented.</p> <p>Department of Justice</p> <p>Legal Policy confirmed that this recommendation was implemented.</p> <p><i>Terms of imprisonment or hours of unpaid work</i></p> <p><i>(1) The term for which a person in default of payment of a fine or an instalment order may be imprisoned is one day for each \$100 or part of \$100 then remaining unpaid with a maximum of 24 months.</i></p> <p><i>(2) The number of hours for which a person in default of payment of a fine or an instalment order may be required to perform unpaid community work is one hour for each \$20 or part of \$20 then remaining unpaid up to \$10,000 with a minimum of eight hours and a maximum of 500 hours.</i></p> <p>The legislation specified an amount by hours rather than a day value. At the rate of \$20 per hour the dollar value of an eight-hour day of community service was \$160, which was greater than the dollar value of a day served in prison which was specified at \$100.</p>
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¹ Royal Commission into Aboriginal Deaths in Custody (Final Report, 1991) vol 3, 80 ('RCIADIC').

² Ibid vol 3, 70-80 [22.4.1].

³ Aboriginal Justice Forum (Vic), Department of Justice (Vic), *Victorian Implementation Review of the Recommendations from the Royal Commission into Aboriginal Deaths in Custody* (Review Report, October 2005) vol 1, 476 ('2005 Review').

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2018 Review⁴

Deloitte concluded that Recommendation 103 was **fully implemented** in Victoria through the *Sentencing Act 1991* (Vic) which provided that the dollar value of a day of community service was greater than the dollar value of a day of imprisonment.

Since then

Department of Justice and Community Safety⁵

The Department of Justice and Community Safety has specific policies regarding the conversion of fines to community service. Under the Fine Conversion Order, a person can convert their outstanding fine into unpaid community work. This conversion is regulated by the *Sentencing Act 1991* (Vic) and requires that one hour of community work converts 0.2 penalty units, making the rate for a day's work dependent on the current value of a penalty unit.

Penalty Units determine the amount fined for infringement offences. From 1 July 2024 to 30 June 2025, the value of a penalty unit was \$197.59. For example, an offence carrying two penalty units resulted in a \$395 fine.

Late charges apply if fines are not paid on time, with the amount varying based on the fine type and duration of payment delay. The penalty interest rate for civil judgment debts or court orders is set at 10 per cent per annum.

Department of Treasury and Finance⁶

Victorian Government departments and agencies impose fees for services and regulatory activities, such as licensing, registration, and fines for misconduct to deter unlawful actions. These fees and fines are established and periodically updated through relevant legislation. The Victorian Government annually indexes specific fees and penalties.

Evidence of impact

Authorising documents

***Sentencing Act 199* (Vic)⁷**

Section 64 outlines the process for converting fines into unpaid community work hours:

Fine conversion order

If a court decides to fine an offender it may, on the application of the offender, order him or her to perform unpaid community work as directed by the Secretary for a number of hours fixed in accordance with section 690.

An order can only be made under this section if—

a) the amount of the fine is not more than an amount equivalent to the value of 100 penalty units; or

⁴ Deloitte Access Economics, Department of Prime Minister and Cabinet, *Review of the Implementation of the Recommendations of the Royal Commission into Aboriginal Deaths in Custody* (Report, August 2018) 203-204 ('2018 Review').

⁵ Department of Justice and Community Safety Victoria State Government, 'Penalties and values', *Victoria State Government, Justice and Community Safety* (Website 01 July 2024) <<https://www.justice.vic.gov.au/justice-system/fines-and-penalties/penalties-and-values>> ('Penalties and values').

⁶ Department of Treasury and Finance Victoria State Government, 'Indexation of fees and penalties', *Victoria State Government, Treasury and Finance* (Website 07 May 2024) <<https://www.dtf.vic.gov.au/financial-management-government/indexation-fees-and-penalties>> ('Indexation of fees and penalties').

⁷ *Sentencing Act 1991* (Vic) ('*Sentencing Act*').

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b) the amount of the fine exceeds an amount equivalent to the value of 100 penalty units, and the application is made for a part of it up to an amount equivalent to the value of 100 penalty units.

Division 6 sets out the calculations for converting penalty units into unpaid community work or periods of imprisonment.

69N Term of imprisonment

The term for which a person in default of payment of a fine or an instalment under an instalment order may be imprisoned under Division 5 is 1 day for each penalty unit or part of a penalty unit then remaining unpaid with a maximum of 24 months.

69O Term of unpaid community work

The number of hours for which a person in default of payment of a fine or an instalment under an instalment order may be required to perform unpaid community work is 1 hour for each 0.2 penalty unit or part of 0.2 penalty unit then remaining unpaid up to an amount equivalent to the value of 100 penalty units with a minimum of 8 and a maximum of 500 hours.

Outputs

Under the *Sentencing Act 1991* (Vic), fines can be converted to community service through Fine Conversion Orders. Fines are converted to community service at a rate determined by penalty units. There are application and financial documentation requirements for people seeking to convert their fines, and guidance material describing how to apply for a Fine Conversion Order.

Outcomes

The dollar value of a day's community service is greater than a day served in prison in Victoria. Five hours of community work equals 1 penalty unit (worth \$197.59 in 2024-25), whereas a person in default of payment of a fine may be imprisoned for 1 day for each penalty unit.

Community views

None identified.

Related recommendations

2005 Review⁸

Recommendation 104

That the Victorian Government continue to implement and monitor Recommendation 102 and Recommendation 103 through any monitoring process established from this Review.

Assessment summary⁹

Recommendation 103 was one of several made by the Royal Commission into Aboriginal Deaths in Custody to reduce the number of people being sent to prison for unpaid fines. It encouraged the use of Community Service Orders instead of jail and aimed to make sure that the value of a day doing community work wasn't less than a day spent in prison.

⁸ 2005 Review, 507.

⁹ Meeting with Aboriginal Justice Caucus Working Group (Project Team, In Person 12 September 2024) ('Working Group Meeting (12 September 2024)'); Meeting with Aboriginal Justice Caucus (Project Team, In Person, 11 December 2024) ('AJC Meeting (11 December 2024)').

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Since then, steps have been taken that match the intent of this recommendation. In Victoria, under the *Sentencing Act 1991*, people who can't pay their fines can apply to have them converted to community service through a Fine Conversion Order. The amount of community service is worked out based on penalty units, which are updated every year by the Victorian Treasurer.

Also, if someone has an outstanding warrant and is already in prison, they can write to the sheriff and ask to serve extra time in jail instead of paying the fine. The sheriff can then ask the court for approval.

In 2024-25, it takes five hours of community service to 'pay off' one penalty unit (\$197.59). If a person in prison hasn't paid their fines, they can be jailed for an additional day for each penalty unit.

This recommendation is still important, but because a day of community service is now worth more than a day in prison, the original goal of Recommendation 103 has effectively been met.

Assessment of Recommendation 103

Is the intent of the recommendation accurately described?

Yes No

Does the action taken align with the intent of the recommendation?

0 – No action taken

1 – Action taken is of little relevance to the intent of the recommendation

2 – Action taken partially aligns with the intent of the recommendation

3 – Action taken fully aligns with the intent of the recommendation

2.5

(Score out of 3)

Is there evidence of the desired impact or outcome/s?

0 – No evidence

1 – Evidence of output rather than outcome

2 – Some evidence action contributed to outcome/s

3 – Clear link between action and impact or outcome/s

3

(Score out of 3)

How relevant is the recommendation in the current context?

0 – No relevance – refers to practices, agencies or laws that no longer exist

1 – Low – some relevance, but most aspects of the recommendation no longer apply

2 – Moderate – remains relevant, but some aspects of recommendation no longer apply

3 – High – entirely relevant to current context

3

(Score out of 3)

Does full implementation have the potential to reduce incarceration, increase safety in custody and/or progress Aboriginal self-determination?

0 – No potential to improve Aboriginal justice outcomes

1 – Low – potential to improve Aboriginal justice outcomes, but none of the three identified

2 – Moderate – potential to progress one or two of the outcomes identified

3 – High – potential to reduce incarceration AND increase safety in custody AND self-determination

1

(Score out of 3)

Potential actions for further work

None identified.

Relevance and potential impact

		Low (0-2)	Moderate (3-4)	High (5-6)
Extent of action taken and evidence of outcomes	High (5-6)		Rec 103	
	Moderate (3-4)			
	Low (0-2)			

Bibliography

Meeting with Aboriginal Justice Caucus (Project Team, In Person, 11 December 2024)

Meeting with Aboriginal Justice Caucus Working Group (Project Team, In Person 12 September 2024)

Aboriginal Justice Forum (Vic), Department of Justice (Vic), *Victorian Implementation Review of the Recommendations from the Royal Commission into Aboriginal Deaths in Custody* (Review Report, October 2005)

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