

Waiting For Justice: Bail and Prisoners in Remand

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Background...

Bail is a defendant's undertaking to attend court in return for release from custody. The provision of bail is based on the presumption of innocence which is a cornerstone of our justice system. However, releasing a defendant must be balanced against the risk to the community.

For bail to be effective, the defendant must attend court as required. Failure to attend delays justice, inconveniences the court and requires police resources to reapprehend the defendant. Defendants not granted bail or unable to meet bail requirements are detained in custody. The annual cost of detaining these defendants is about \$10.5 million.

What the examination found...

Bail

- Twenty per cent of defendants breach bail of whom 20 per cent remain at large after one year.
- Fifty three per cent of those who breach bail are not charged for that offence. For those that are charged, forfeiture of defendant and surety bail amounts often does not occur because of inconsistent administrative practices.
- Fines forgone and bail amounts not forfeited are estimated at \$3.9 million per annum.
- Eighty seven per cent of fines for breach of bail remain unpaid after eight months.

Remand

- The rapid increase in remand prisoner numbers is causing added pressure on a prison system which is already close to its capacity.
- Many low-security remand prisoners are detained in maximum-security prisons. Potential yearly savings of \$1.3 million could be made if 30 per cent of remand prisoners who are a low risk to the community were held in lower security prisons.
- Improving the facilitation of bail could reduce the number of remand prisoners: 18 per cent of prisoners sent to remand are released within two days when their bail has been arranged and many prisoners cannot find a person to act as surety, even when the amount is small.

What the examination recommended...

- The Ministry and the courts analyse and consider:
 - the circumstances where the various types of bail are most effective.
 - standardising the administrative processes for defendant and surety bail forfeiture.
- The Ministry and the Police Service monitor changes in the charge rate for breach of bail.
- The Ministry and Government investigate opportunities to accommodate remand prisoners in lower security prisons.
- The Ministry:
 - resolve the deficiencies relating to the collection of fines for breach of bail.
 - speed up arrangements by which defendants obtain bail to reduce the numbers in remand.