
The Mandatory Alcohol Ignition Interlock Sentence in New Zealand



Researching Impaired Driving in New Zealand

Gerald Waters. 2019

Researching Impaired Driving in New Zealand

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Researching Impaired Driving in New Zealand is a Registered Charitable Trust that provides research and information on the causes of harm on New Zealand's road and possible solutions to inherently risky driving behaviours. The Research Director Gerald Waters has 7 years' experience working in these and associated fields and is an international award winning researcher. For further information contact the Author Gerald Waters:

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Executive Summary

The Automobile Association Research Foundation (AARF) wants to understand how many drink drivers are appearing before the courts that are eligible for an interlock sentence and what proportion of those are being given such a sentence? AARF are also interested in whether certain courts are sentencing high or low proportions of offenders to an interlock. If eligible offenders are not being sentenced to an interlock, we want to understand what the justification for those are. Researching Impaired Driving in New Zealand were contracted to conduct research to answer these questions. This research reveals that:

- From July to December 2018 there were 2,056 offenders who were eligible for an Alcohol Interlock Order (AIO)
- For the months July to December 52 per cent of those eligible for an AIO received the order with 48 per cent of eligible offenders not receiving the AIO mandatory sentence
- The under 19's age group represent the lowest percentage of AIOs issued to those who were eligible
- No real impact on percentages of use whether other offending was considered in the sentence
- 28 per cent of those eligible to receive the AIO had a monetary outcome (fine) only
- The Justice Service area of Taranaki/Manganui has the largest percentage of those receiving an AIO who were eligible

A discussion of the reviewed data is provided as well as areas of possible further research.

Acknowledgments

This research work would not have been possible without the cooperation and involvement of the Ministry of Justice. Researching Impaired Driving in New Zealand (RIDNZ) would like to thank the analysts at the Ministry of Justice for their assistance in the compilation of this report:

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Glossary and Abbreviations

AARF.....	<i>Automobile Association Research Foundation</i>
AIO.....	<i>Alcohol Interlock Order</i>
MoJ.....	<i>Ministry of Justice</i>
RIDNZ.....	<i>Researching Impaired Driving in New Zealand</i>

Introduction

Alcohol interlock orders have been a sentence option in New Zealand since September 2012. From July 2018, alcohol interlock orders (AIO) became mandatory for alcohol eligible offences - either those with 2 driving under the influence or refusal offences within 5 years (based on offence dates) or EBA of 800 or more (blood alcohol of 160 or more).

The Automobile Association Research Foundation (AARF) contracted Researching Impaired Driving in New Zealand (RIDNZ) earlier in 2019 to undertake a report (Waters, G. 2019 a) that confirmed a significant gap between the numbers of drink drivers being sentenced to an interlock and those going on to obtain an interlock licence, and identified possible issues in the system preventing greater uptake. As a next step in research, AARF contracted RIDNZ to perform a scoping exercise (Waters, G. 2019 b) to discover what data was available to identify how many interlock eligible offenders were being sentenced to an AIO at court. The scoping exercise confirmed that there is accessible data to answer the key questions that AARF is interested in.

AARF further wants to understand how many drink drivers are appearing before the courts that are eligible for an interlock sentence and what proportion of those are being given such a sentence? AARF are also interested in whether certain courts are sentencing high or low proportions of offenders to an interlock. If eligible offenders are not being sentenced to an interlock, AARF wants to understand what the justification for those are.

Methodology

Data was requested from the MoJ (Ministry of Justice) on the number of offenders who were eligible to receive an interlock sentence, and the actual numbers who received it from July 1st 2018 (when the mandatory sentence for repeat and high level came into effect) until the present.

The data is presented by month and output numbers receiving interlocks and eligible to receive interlocks by month and demographic and offence variables by court district, court, gender, ethnicity and age group. Also reviewed were any other offences involved as well as the drink drive offence as this may impact on the sentence outcome.

All Data is final to December 2018

AIO-eligible offences includes either those with 2 driving under the influence or refusal offences within 5 years (based on offence dates) or EBA of 800 or more (blood alcohol of 160 or more).

AIO-mandatory offences are AIO-eligible offences where the qualifying offence occurred from 1 July 2018 onwards.

This data contained in this report is extracted based on the charge outcome year/month of each charge (e.g. the year that a charge is convicted).

Results

The data contained in the following tables is broken down using the terminology described below:

‘Number of AIO-mandatory offenders’ are AIO eligible offenders where the qualifying offence occurred from 1 July 2018 onwards.’ If an offender had 2 or more convictions, the month is determined by when they were first convicted of an AIO eligible offence. Includes those who have previously had an AIO. ‘Number of offenders receiving mandatory AIOs’ are offenders receiving AIOs where the qualifying offence occurred from 1 July 2018 onwards.

Using the above key we can see that (Table 1 below), from July to December 2018 there were 2,056 offenders who were eligible for an AIO for the months July to December. Nationally, 52 per cent of those eligible for an AIO received the order. This amount is a significant increase on the 2 per cent uptake reported (Waters. G, 2013) in the AIOs first year as a sentencing option for the judiciary. However this reveals that 48% of eligible offenders are not receiving the AIO mandatory sentence

Table 1: Number of offenders receiving mandatory AIOs, Number of AIO-mandatory offenders, and Percent of AIO-mandatory offenders receiving AIOs, by month: Jul-Dec 2018

Month	Number of AIO-mandatory offenders	Number of offenders receiving mandatory AIOs	Percent of AIO-mandatory offenders receiving AIOs
Jul	63	28	44
Aug	287	140	49
Sep	320	167	52
Oct	502	258	51
Nov	475	247	52
Dec	409	232	57
Total	2,056	1,072	52

The number of AIO mandatory offenders rose from 63 in July to 502 in Oct, dropping to 409 in December but with a larger percentage receiving the AIO in December. Taken into consideration were also any other offences that may impact on whether or not an offender received the AIO. For example a driver may have been drink driving and driving disqualified whilst driving dangerously and these further charges may demand that a greater sentence than an AIO be required. A review of data on other offences committed in the same year as the drink drive offence revealed that there appears to be little impact on the percentage of those receiving the AIOs regarding whether there was other offending involved in the conviction or not (Table 2 below). The MoJ reports that for the majority of convictions, the other offence is in the same case as the drink driving offence.

Table 2: Number of offenders receiving mandatory AIOs, Number of AIO-mandatory offenders, and Percent of AIO-mandatory offenders receiving AIOs, by month: Jul-Dec 2018 with other offences

Month	Number of AIO-mandatory offenders	Number of offenders receiving mandatory AIOs	Percent of AIO-mandatory offenders receiving AIOs
Jul	20	5	25
Aug	72	28	39
Sep	100	48	48
Oct	168	82	49
Nov	175	78	45
Dec	150	79	53
Total	685	320	47

As can be seen in Table 3 below There is a fairly equal spread of AIO orders by ethnicity with the ethnicity 'European/Other' receiving the largest percentage of AIO's.

Table 3: Number of offenders receiving mandatory AIOs, Number of AIO-mandatory offenders, and Percent of AIO-mandatory offenders receiving AIOs, by ethnic group: 2018 Jul-Dec

Ethnic Group	Number of AIO-mandatory offenders	Number of offenders receiving mandatory AIOs	Percent of AIO-mandatory offenders receiving AIOs
Maori	653	301	46
Pasifika	180	88	49
European/Other	933	568	61
Unknown	290	115	40
Total	2,056	1,072	52

As can be seen in Table 4 (below), Males account for 76 per cent of those eligible to receive an AIO. The gender division is the same as reported in earlier drink driver profile research (Waters, 2012). Gender, ethnicity and age information originates from Police. A small number of records in the Ministry of Justice database are missing some details. Blank or missing details are labelled as Unknown.

Table 4: Number of offenders receiving mandatory AIOs, Number of AIO-mandatory offenders, and Percent of AIO-mandatory offenders receiving AIOs, by gender: 2018 Jul-Dec

Gender	Number of AIO-mandatory offenders	Number of offenders receiving mandatory AIOs	Percent of AIO-mandatory offenders receiving AIOs
Female	490	262	53
Male	1,564	810	52
Unknown	2	0	0
Total	2,056	1,072	52

As is shown in Table 5 (below), the highest percentage of those eligible to receive an AIO and doing so are the 35-39 year old age group (73 per cent), with the lowest percentage represented by the under 19 year olds age group (11 per cent). The under 19 and 20-34 year age groups account for 67 per cent of all those eligible for an AIO. Interestingly the under 19yr old age group are the only group where those with other offences outnumber those with no other offences in the use of the AIO (see Appendix B).

Table 5: Number of offenders receiving mandatory AIOs, Number of AIO-mandatory offenders, and Percent of AIO-mandatory offenders receiving AIOs, by age group: 2018 Jul-Dec

Age Groups	Number of AIO-mandatory offenders	Number of offenders receiving mandatory AIOs	Percent of AIO-mandatory offenders receiving AIOs
19 years and under	363	39	11
20-24	417	223	53
25-29	350	196	56
30-34	243	146	60
35-39	185	135	73
40-44	139	89	64
45-49	136	91	67
50-54	84	58	69
55-59	69	50	72
60-64	43	28	65
65 years and over	27	17	63
Unknown	0	0	
Total	2,056	1,072	52

Table 6 (below) shows that of those eligible to receive an AIO those who received a sentence of intensive supervision along with an AIO made up the greatest percentage (74 per cent). 28 per cent of those eligible to receive the AIO had a monetary outcome only (fine). There were 1058 mandatory AIO offenders who received a monetary sanction. Of these 46 per cent also received an AIO. 430 mandatory offenders received a sentence of community work of these 52 per cent also received an AIO. (See Appendix C for further descriptions of sentence outcomes).

Table 6: Number of offenders receiving mandatory AIOs, Number of AIO-mandatory offenders, and Percent of AIO-mandatory offenders receiving AIOs, by sentence: 2018 Jul-Dec

Sentence	Number of AIO-mandatory offenders	Number of offenders receiving mandatory AIOs	Percent of AIO-mandatory offenders receiving AIOs
Imprisonment	41	16	39
Home detention	35	20	57
Community detention	109	72	66
Intensive supervision	54	40	74
Community work	430	222	52
Supervision	233	152	65
Monetary	1,058	485	46
Deferment	0	0	
Other	91	65	71
No sentence recorded	5	0	0
Total	2,056	1,072	52

The Court data shows that overall 52 per cent of those eligible for the AIO received such a sentence.

Justice service areas (Table 7 below) are geographical groupings of individual court locations for administrative purposes. The Justice Service area of Taranaki/Manganui has the largest percentage of those receiving an AIO who were eligible with the lowest percentage being in Taitokerau (38 per cent). Taitokerau only has one service centre, not quite covering the tip of the north island (See Appendix A), the same cannot be said for Auckland which has complete coverage (Also Appendix A), and achieved a 42 per cent AIO sentence for those eligible.

Table 7: Number of offenders receiving mandatory AIOs, Number of AIO-mandatory offenders, and Percent of AIO-mandatory offenders receiving AIOs, by justice service area 2018 Jul-Dec

Justice Service Area	Number of AIO-mandatory offenders	Number of offenders receiving mandatory AIOs	Percent of AIO-mandatory offenders receiving AIOs
Taitokerau	84	32	38
Waitemata	185	106	57
Auckland	134	56	42
South Auckland	208	111	53
Waikato	162	85	52
Bay of Plenty	216	122	56
Waiariki	85	39	46
East Coast	171	78	46
Taranaki/Whanganui	111	77	69
Manawatu/Wairarapa	118	63	53
Northern Wellington	102	47	46
Wellington	31	16	52
Nelson/Marlborough/West Coast	92	42	46
Canterbury	156	95	61
Otago	93	48	52
Southland	108	55	51
Total	2,056	1,072	52

The court location is the location of the court where the charge outcome occurred (eg Wellington District Court is recorded as Wellington). Table 8 below shows the percentage of those eligible for an AIO by Court District. Whilst Kaikoura comes top of this table, by percentage of interlock sentences for those eligible, it is worth referring to the actual numbers involved (Kaikoura has one drink driver represented in the data).

Table 8: Number of offenders receiving mandatory AIOs, Number of AIO-mandatory offenders, and Percent of AIO-mandatory offenders receiving AIOs, by Court location 2018 Jul-Dec

Court Location	Number of AIO-mandatory offenders	Number of offenders receiving mandatory AIOs	Percent of AIO-mandatory offenders receiving AIOs
Dargaville	3	1	33
Kaikohe	20	5	25
Kaitaia	13	2	15
Whangarei	48	24	50
North Shore	110	69	63
Waitakere	75	37	49
Auckland	134	56	42
Manukau	138	71	51
Papakura	34	16	47
Pukekohe	36	24	67
Hamilton	119	57	48
Huntly	12	7	58
Morrinsville	16	14	88
Te Awamutu	10	3	30
Te Kuiti	5	4	80
Opotiki	17	11	65
Tauranga	132	81	61
Thames	12	7	58
Waihi	14	5	36
Whakatane	41	18	44
Rotorua	48	18	38
Taumarunui	4	1	25
Taupo	25	15	60
Tokoroa	8	5	63
Gisborne	34	20	59
Hastings	60	36	60
Napier	50	16	32
Ruatoria	6	1	17
Waipukurau	10	4	40
Wairoa	11	1	9
Hawera	10	7	70
Marton	6	4	67
New Plymouth	49	36	73
Taihape	4	2	50
Whanganui	42	28	67
Dannevirke	6	2	33
Levin	27	17	63
Masterton	29	12	41
Palmerston North	56	32	57
Hutt Valley	62	29	47
Porirua	40	18	45
Wellington	29	16	55
Chatham Islands	2	0	0
Blenheim	35	17	49
Greymouth	6	4	67
Kaikoura	1	1	100
Nelson	45	19	42
Westport	5	1	20
Ashburton	13	10	77
Christchurch	143	85	59
Dunedin	56	25	45
Oamaru	10	3	30
Timaru	27	20	74
Alexandra	10	4	40
Gore	14	10	71
Invercargill	53	28	53
Queenstown	31	13	42
TOTAL	2,056	1,072	52

Discussion and Recommendations

The data shows that nationally just over half of those eligible for the mandatory AIO are receiving such an order. Overall whether or not an offender had other charges in the year the outcome was still the same in that both sets were around 50 per cent. That the youngest age group (under 19 years age group) were the lowest percentage to receive the AIO may be due to financial circumstances or that they may have been in possession of a family members vehicle at the time of detection?

Further detailed reporting on what these other charges were to ascertain whether or not they would have had an influence on the application of an AIO or not would also need to be undertaken. As reported in the process evaluation (Waters 2019 a) there are several reasons why the AIO may not be applied. These are:

1. has a medical condition (as certified by an appropriately qualified health practitioner) that renders him or her incapable of providing a valid breath sample to activate an alcohol interlock device; or
2. usually lives in a non-serviced area² and is not prepared to drive to a serviced area for an initial installation and any necessary service; or
3. has never held a New Zealand licence; or
4. holds a licence that has been revoked or is suspended (except one that is suspended under section 90, 95, or 95A); or
5. is not likely, during the term of any alcohol interlock sentence that would otherwise apply, to have lawful possession of a motor vehicle to the extent of being able to use it and fit it with an alcohol interlock device.

Whilst no data on reasons for those who were eligible but did not receive the order is readily available further investigation could be carried out on whether or not individual records can be obtained and the reasons for not issuing an AIO identified from these. No meaningful explanation on why certain Courts are issuing AIOs more than others can be ascertained without further detailed individual case information either overall or as a sample group of case studies.

It would be of value for evaluation purposes that information on why the AIO was not used be gathered. This may help to inform for the need for further service stations (regarding point 2 above). It would also be useful to know how many of those offenders claim point 5, as a reason for not fitting the interlock, actually do not have access to motor vehicle. This may be ascertained by detected traffic offences after sentencing. As reported in Waters 2019a:

'Non-compliance with an interlock sentence effectively means a life time ban on driving or driving whilst disqualified'

Considering this it would also be desirable to follow up on any traffic offending data regarding those who were issued an AIO but did not comply with the order.

It may be that those receiving the AIO and a monetary sentence outcome may have had a lesser amount to pay than those receiving just the monetary sentence outcome? Again this would require

² See [Appendix B](#) for service area coverage.

further investigation into whether or not gathering of this information is possible. This may require a review of each case to ascertain the facts. There appears to be no uneven distribution of AIOs by justice area or Court location.

Discussions with the MoJ need to be undertaken to reveal if it would be possible to identify documents that would hold information relating to the reasons why an AIO was not issued when the qualifying offence was present. This may necessitate the manual reading of Court documents but it would identify in detail why the AIO was not issued. This could be ascertained by a deeper scoping study.

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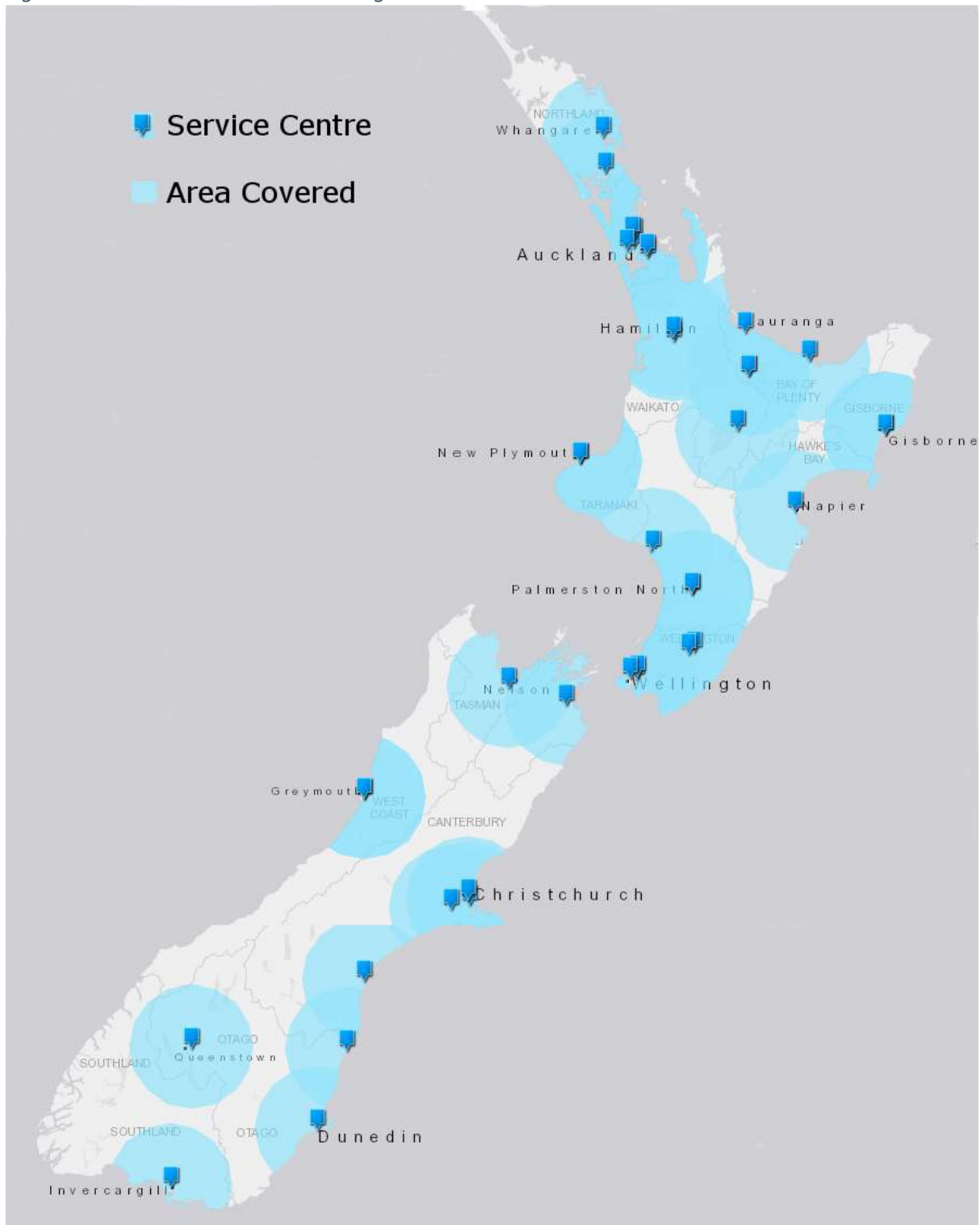
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Appendix A

Figure 1: Interlock Service Area Coverage in New Zealand



Retrieved from <https://maphub.nzta.govt.nz/public/?appid=83b2fa4344a94bfcae9b728a69ab0bf9> last accessed 27 February 2017.

Appendix B:

Table 9 : Number of offenders receiving mandatory AIOs, Number of AIO-mandatory offenders, and Percent of AIO-mandatory offenders receiving AIOs, by age group and other offences: 2018 Jul-Dec

Age group	Other offences in year?						Percent of AIO-mandatory offenders receiving AIOs		
	No		Yes		Total		Other offences = No	Other offences = Yes	Total
	Number of offenders receiving mandatory AIOs	Number of AIO-mandatory offenders	Number of offenders receiving mandatory AIOs	Number of AIO-mandatory offenders	Number of offenders receiving mandatory AIOs	Number of AIO-mandatory offenders			
19 years and under	21	274	18	89	39	363	8	20	11
20-24	134	231	89	186	223	417	58	48	53
25-29	126	207	70	143	196	350	61	49	56
30-34	95	157	51	86	146	243	61	59	60
35-39	111	133	24	52	135	185	83	46	73
40-44	70	103	19	36	89	139	68	53	64
45-49	65	90	26	46	91	136	72	57	67
50-54	46	64	12	20	58	84	72	60	69
55-59	45	57	5	12	50	69	79	42	72
60-64	26	36	2	7	28	43	72	29	65
65 years and over	13	19	4	8	17	27	68	50	63
Unknown			0	0	0	0			
Total	752	1,371	320	685	1,072	2,056	55	47	52

Appendix C:

Description of Sentence Outcomes

A person may receive more than one type of sentence when convicted of a charge. The most serious sentence is used in these tables. Sentences include (in order of seriousness):

- Imprisonment (includes Life imprisonment, Preventive detention and Imprisonment)
- Community sentences (Home detention, Community detention, Intensive supervision, Community work, Supervision)
- Monetary (includes Reparation, Fine and Order for restitution of property)
- Deferment (which includes To come up for sentence if called upon)
- Other (includes orders related to driving (eg Disqualification from driving, Alcohol interlock order, Zero alcohol order), orders related to forfeiture and confiscation (eg Order for forfeiture and Order for confiscation of motor vehicle), Final Protection Order (Sentencing Act), and Committed to a facility on conviction)
- No sentence recorded (includes where a person has been Convicted and discharged and where a person has been ordered to pay court costs)."



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