

Intensive correction orders vs other penalties: offender profiles

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Aim: To examine the profile of offenders given intensive correction orders in New South Wales and to compare these offenders with those who received other penalties.

Method: Details of offenders' demographic and offence characteristics, prior convictions and penalties were examined. Logistic regression models were developed to compare those who received intensive correction orders with those who received other penalties.

Results: Between 1 October 2010 and 30 September 2011, 488 offenders in NSW were given an intensive correction order. The majority of offenders were male (89%); on average, they were 32.7 years of age, with 5.3 prior proven court appearances, and most commonly they were convicted of traffic and vehicle regulatory offences (40%). When compared with offenders receiving periodic detention, a suspended sentence with supervision, a community service order or a sentence of imprisonment, those who received intensive correction orders were most similar to those who received periodic detention in the preceding year. However, they were more likely to be female, have a prior prison sentence and live in a major city than those who had received periodic detention.

Conclusion: The profile of offenders receiving intensive correction orders was very similar to the profile of those who previously received periodic detention.

Keywords: intensive correction orders, sentencing, offenders

INTRODUCTION

The *Crimes (Sentencing Legislation) Amendment (Intensive Correction Orders) Act 2010* (NSW) which came into effect on 1 October 2010, abolished periodic detention as a sentencing option in New South Wales (NSW) and introduced intensive correction orders (ICOs) instead. Periodic detention was a sentence of imprisonment that required a person to remain in custody for a specific number of days in each week (NSW Sentencing Council, 2007). ICOs were introduced in response to limitations and inequalities of periodic detention, including that (Office of the Attorney General and Minister for Justice, 2008):

- it had not served its intended purposes of allowing offenders to remain in the workforce, and keeping families together;
- it was not uniformly available across the state, with access limited in rural and remote areas;
- it excluded those who had previously served 6 months in full-time custody;
- it was not achieving a deterrent or rehabilitative outcome;
- its use as a sentencing option was decreasing.

WHAT IS AN INTENSIVE CORRECTION ORDER?

An ICO is a term of imprisonment served by an offender by way of intensive correction in the community rather than in a correctional centre. In NSW, an ICO is served in the community under the supervision of Corrective Services NSW (CSNSW) and requires an offender to comply with directions from a CSNSW supervisor, as well as conditions such as (CSNSW, 2010):

- a minimum of 32 hours of community service work per month;
- participation in programs to address offending behaviour; and,
- drug testing.

The conditions of an ICO may also require an offender to comply with a curfew, and be subject to electronic monitoring, alcohol testing and random home visits. There are four levels of supervision, which vary in terms of these conditions. Level 1 conditions include a curfew, electronic monitoring and at least weekly contact with a CSNSW supervisor. At Level 4, there is no curfew or electronic monitoring and the minimum required contact with a CSNSW supervisor is every 6 weeks (CSNSW, 2010). While subject to an ICO, an offender may continue to work in full-time or part-time employment.

ICOs similar to those in NSW, albeit with varying eligibility criteria and conditions (e.g., a maximum duration of 12 months), have been available in Victoria¹ and Queensland since the early 1990s (Victorian Sentencing Advisory Council, 2008). In 1996, Western Australia introduced a community-based intensive supervision order which shares some similarities with ICOs in NSW, although it is a non-custodial form of order. Intensive supervision orders can also be found in the United States, Europe and New Zealand. Community-based intensive supervision or correction orders have typically been introduced to 'fill the gap' between community service and imprisonment, with the focus on rehabilitation identified as a key benefit of ICOs (NSW Sentencing Council, 2007).

ASSESSMENT OF ELIGIBILITY AND SUITABILITY

Before being sentenced to an ICO, an offender must be deemed both eligible and suitable. To be eligible, the offender must be at least 18 years of age, the court must be considering a sentence of imprisonment of two years or less and the offence for which the offender is being sentenced cannot be a prescribed sexual offence. To determine whether the offender is suited to serving a sentence in the community, CSNSW conducts a suitability assessment, which considers factors such as (CSNSW, 2010):

- the criminal history of the offender, and the likelihood that the offender will reoffend;
- any risks associated with managing the offender in the community;
- the likelihood that the offender will commit a domestic violence offence;
- the suitability of the offender's accommodation;
- any drug and/or alcohol dependency of the offender;
- any physical and/or mental health condition of the offender; and,
- the availability of resources and interventions to address factors associated with the offender's offending.

THE ROLL-OUT OF ICOS ACROSS NSW

According to the roll-out plan stipulated by CSNSW, ICOs were to be made available to those living within a 100 km radius of Sydney, Newcastle, Gosford, Wollongong, Nowra, Bathurst and Orange from 1 October 2010. From 1 February 2011, ICOs were to be made available to those living within a 100 km radius of Grafton, Coffs Harbour, Tenterfield, Glen Innes, Inverell, Tamworth, Armidale, Wagga Wagga and Albury. This was to be extended to offenders living within a 100 km radius of Dubbo, Wellington, Goulburn, Deniliquin, Hay, Broken Hill and Wilcannia from 1 May 2011, and ICOs were intended to be available across the state approximately 12 months after their introduction (CSNSW, 2010). It is important to note that ICOs were not available statewide throughout the period covered by this report, 1 October 2010 to 30 September 2011.

CONCERNS ABOUT ICOS

The NSW Sentencing Council (2007) endorsed the adoption of ICOs in place of periodic detention, conditional on a number of matters. These included statewide capacity for the supervision, electronic monitoring and surveillance of offenders subject to ICOs, and statewide availability of sufficient programs and program providers. The NSW Sentencing Council (2007) also stressed the need to ensure that ICOs were sufficiently understood by judges and magistrates, and that the introduction of ICOs did not lead to offenders who would have previously received periodic detention instead being sentenced to full-time imprisonment or community service orders. These concerns are understandable. There is some evidence to suggest that when alternative sentences to prison are introduced, they are imposed on offenders who would not have gone to prison anyway (Brignell & Poletti, 2003; McInnis & Jones, 2010). This is an example of 'net-widening'. Another concern is 'sentence inflation', which refers to the circumstances where the length of a sentence may be increased to 'compensate' for a perceived leniency in the way in which it might otherwise be imposed or served. Judges may view ICOs as more lenient than full-time imprisonment and adjust the sentence length accordingly.

THE CURRENT STUDY

The aim of the current study was to examine the profile of offenders who received ICOs between 1 October 2010 and 30 September 2011, and to compare these offenders with those sentenced to imprisonment, suspended sentences with supervision, or community service orders during the same period, and periodic detention between 1 October 2009 and 30 September 2010. Given ICOs were introduced as a replacement for periodic detention, it was expected that, as a group, those who received ICOs would be most similar to those who had previously received periodic detention. Since ICOs lie between a community service order and full-time imprisonment on the sentencing hierarchy (NSW Sentencing Council, 2007), offenders who received ICOs were also compared with those who received penalties of imprisonment, suspended sentences with supervision and community service orders.

METHOD

DATA

Details of offenders' demographic and offence characteristics, prior convictions and penalties received were extracted from the Re-offending Database (ROD) maintained by the NSW Bureau of Crime Statistics and Research. ROD contains information on all finalised court appearances in NSW since 1994.

Offence type in ROD is classified according to the Australian and New Zealand Standard Offence Classification (ANZSOC; Australian Bureau of Statistics (ABS), 2011). In this study, offences are mostly described at the ANZSOC division level

(e.g., acts intended to cause injury), but are sometimes described at the group level (e.g., serious assault resulting in injury).

Remoteness of residence was examined using the Accessibility Remoteness Index of Australia (ARIA+; ABS, 2001). This index measures the shortest distance along a road network between a populated area and five urban centres of set population sizes to determine the remoteness of an area. The highest score (15) indicates areas that are more remote and have less access to urban centres, and the lowest score (0) indicates the least remote areas with the most access to urban centres. A postcode-to-ARIA+ concordance table was used to match the postcode in which the offender lived at the time of their court appearance to an ARIA+ score, and areas were grouped as follows (ABS, 2001): major cities, 0.00-0.20; inner regional, 0.21-2.40; outer regional, 2.41-5.92; remote, 5.921-10.53; very remote, 10.531-15.00.

SAMPLE

The primary group of interest consisted of adult offenders who were convicted in a NSW court between 1 October 2010 and 30 September 2011 and received an ICO. These offenders were compared with offenders aged 18 years or older who received periodic detention between 1 October 2009 and 30 September 2010, and those who received imprisonment, a suspended sentence with supervision or a community service order between 1 October 2010 and 30 September 2011. The group of offenders who received imprisonment was restricted to those who received sentences of up to two years.

STATISTICAL ANALYSIS

The characteristics of those who received an ICO were examined using frequency counts and percentages for categorical data (e.g., sex, offence type, Indigenous status), as well as means and medians for continuous data (e.g., age, sentence length, number of concurrent offences).

Four logistic regression models were developed to compare the profile of those who received ICOs with those who received periodic detention, imprisonment, suspended sentences with supervision and community service orders. Models were assessed in relation to their ability to discriminate those who received an ICO from those who received an alternate penalty. A key indicator of model fit was the area under the receiver operating characteristic curve (AUC). The receiver operating characteristic curve is a plot of the proportion of true-positives (those predicted to receive an ICO who did get one) against false-positives (those predicted to receive an ICO who didn't get one). The AUC can be interpreted as the likelihood that an offender who received an ICO will have a higher predicted probability of receiving an ICO than an offender who does not receive an ICO (Hosmer & Lemeshow, 2000). The statistic takes a value between .5 and 1.0. As a rule of thumb, Hosmer and Lemeshow (2000) suggest that scores greater than or equal to

.9 provide 'outstanding' discrimination, scores between .8 and .9 provide 'excellent' discrimination, scores between .7 and .8 provide 'acceptable' discrimination and a score of .5 provides discrimination no better than chance. In the current study, a low AUC suggests that few factors discriminate between those who received an ICO and those who received some other penalty, while a high AUC indicates that the two groups being compared are quite different.

RESULTS

INTENSIVE CORRECTION ORDERS DURING THE FIRST 12 MONTHS

Between 1 October 2010 and 30 September 2011, 488 ICOs were imposed by NSW courts, of which 86 per cent were handed down in the local court. ICOs comprised less than 0.5 per cent of all sentences imposed by the local court during that period.

Table 1 shows the frequency of ICOs by sentence length. ICO sentence lengths ranged from 2 to 24 months, with an average sentence length of 12.2 months. Close to 50 per cent of sentences were less than 12 months, and almost one quarter were of 12 months in length.

Table 1. Sentence length of intensive correction orders, 1 October 2010 to 30 September 2011 (N=488)

Sentence length	n	%	Cumulative %
<6 months	19	3.9	3.9
6 months	52	10.7	14.6
>6 - <9 months	58	11.9	26.5
9 months	78	16.0	42.5
>9 - <12 months	19	3.9	46.4
12 months	112	23.0	69.4
>12 - <18 months	44	9.0	78.4
18 months	46	9.4	87.8
>18 - <24 months	15	3.1	90.9
24 months	45	9.2	100.0

OFFENDER AND COURT APPEARANCE CHARACTERISTICS

Table 2 presents the demographic characteristics of offenders who received ICOs, as well as features of their court appearances. As shown, 89 per cent of those who received an ICO were male and 7 per cent were Indigenous. The mean age of offenders was 32.7 years. Three-quarters of offenders lived in

a major city area, 17 per cent in an inner regional area, and 7 per cent in an outer regional area. Only one offender resided in a remote or very remote area.

Almost 70 per cent of offenders were on bail at the time of their court finalisation. Bail was dispensed with for 27 per cent of offenders and refused for about 5 per cent. The vast majority of offenders (83%) pleaded guilty.

Table 2. Offender and court appearance characteristics relating to intensive correction orders, 1 October 2010 to 30 September 2011 (N=488)

Offender and court appearance characteristics	n	%
Age (years)		
18-24	132	27.1
25-34	157	32.2
35-44	136	27.9
45-54	46	9.4
55+	17	3.5
<i>mean</i>	32.7	
<i>median</i>	31.0	
Sex		
Female	55	11.3
Male	432	88.5
Unknown	1	0.2
Indigenous status		
Non-Indigenous/unknown	456	93.4
Indigenous	32	6.6
Remoteness/ARIA of residence		
Major city	366	75.0
Inner regional	84	17.2
Outer regional	34	7.0
Remote	0	0.0
Very remote	1	0.2
Missing/unknown	3	0.6
Bail status		
Bail dispensed with	130	26.6
On bail	336	68.9
Bail refused	22	4.5
Plea		
Guilty	403	82.6
Not guilty	27	5.5
No plea entered	24	4.9

OFFENCE TYPE/S

Table 3 presents information on the type/s of offences for which ICOs were received. The top panel shows data on the principal offence (i.e., the offence which attracted the highest penalty and was the most serious according to the Offence Seriousness Index, MacKinnell, Poletti, & Holmes, 2010). The middle panel of the table shows the number of concurrent offences (i.e., offences additional to the principal offence). The last panel of the table shows data on the type/s of offences related to the court finalisation, irrespective of the associated penalty or seriousness (e.g., whether any offence related to the court finalisation was an act intended to cause injury).

The most common principal offences were: traffic and vehicle regulatory offences (34%); acts intended to cause injury (19%); and offences against justice procedures (15%). Thirty-five per cent of offenders were convicted of one offence only (i.e., no concurrent offences); 25 per cent of two; and 40 per cent of three or more offences. When considering all offences (not just the principal offence), 40 per cent of offenders were convicted of a traffic and vehicle regulatory offence; 29 per cent were convicted of an offence against justice procedures; and 25 per cent of an act intended to cause injury. Drive while licence disqualified or suspended was the most common traffic and vehicle regulatory offence (30% of offenders were convicted of this offence), breach of suspended sentence was the most common offence against justice procedures (14%), and serious assault resulting in injury was the most common act intended to cause injury (17%).

PRIOR CONVICTIONS AND PENALTIES

Presented in Table 4 is information relating to the criminal history of offenders (since 1994) who received ICOs. On average, offenders who received ICOs had 5.3 prior proven court appearances. Approximately 10 per cent of offenders had no prior proven court appearances. The most frequent types of prior offences were: traffic and vehicle regulatory offences (70%), offences against justice procedures (47%), and acts intended to cause injury (47%). Over 40 per cent of offenders had a proven previous offence of driving while licence disqualified or suspended or exceeding the prescribed content of alcohol or other substance limit. Almost 30 per cent had a prior proven breach of community-based order offence, and over 20 per cent had prior proven offences of serious assault causing injury. As set out in Table 4, 68 per cent of offenders had previously received a bond, 40 per cent a community service order, 37 per cent a suspended sentence and 25 per cent a sentence of imprisonment.

Table 3. Offence characteristics relating to intensive correction orders, 1 October 2010 to 30 September 2011 (N=488)

Offence characteristics	n	%
Principal offence type (ANZSOC code)		
Homicide and related offences (01)	3	0.6
Acts intended to cause injury (02)	93	19.1
Serious assault resulting in injury (0211)	77	15.8
Sexual assault and related offences (03)	3	0.6
Dangerous and negligent acts endangering persons (04)	11	2.3
Abduction, harassment and other offences against the person (05)	3	0.6
Robbery, extortion and related offences (06)	13	2.7
Unlawful entry with intent/burglary, break and enter (07)	16	3.3
Theft and related offences (08)	13	2.7
Fraud, deception and related offences (09)	38	7.8
Illicit drug offences (10)	34	7.0
Weapons and explosives offences (11)	4	0.8
Property damage and environmental pollution (12)	6	1.2
Public order offences (13)	10	2.1
Traffic and vehicle regulatory offences (14)	165	33.8
Drive while licence disqualified or suspended (1411)	115	23.6
Exceed the prescribed content of alcohol or other substance limit (1431)	45	9.2
Offences against justice procedures, government security and government operations (15)	74	15.2
Breach of suspended sentence (1513)	47	9.6
Miscellaneous offences (16)	2	0.4
Number of concurrent offences		
0	171	35.0
1	121	24.8
2	69	14.1
3	51	10.5
4	20	4.1
5+	56	11.5
	<i>mean</i>	2.2
	<i>median</i>	1.0
All offence types (ANZSOC code)		
Acts intended to cause injury (02)	124	25.4
Serious assault resulting in injury (0211)	82	16.8
Unlawful entry with intent/burglary, break and enter (07)	18	3.7
Theft and related offences (08)	32	6.6
Fraud, deception and related offences (09)	47	9.6
Illicit drug offences (10)	50	10.3
Property damage and environmental pollution (12)	34	7.0
Traffic and vehicle regulatory offences (14)	195	40.0
Drive while licence disqualified or suspended (1411)	147	30.1
Exceed the prescribed content of alcohol or other substance limit (1431)	84	17.2
Offences against justice procedures, government security and government operations (15)	139	28.5
Breach of suspended sentence (1513)	66	13.5

Table 4. Prior convictions and penalties of those who received intensive correction orders, 1 October 2010 to 30 September 2011 (N=488)

Prior offence/penalty characteristics	n	%
Number of prior proven court appearances		
0	51	10.5
1	66	13.5
2	54	11.1
3	45	9.2
4	35	7.2
5+	237	48.6
	<i>mean</i>	5.3
	<i>median</i>	4.0
Types of prior offences (ANZSOC code)		
Acts intended to cause injury (02)	228	46.7
Serious assault resulting in injury (0211)	111	22.8
Unlawful entry with intent/burglary, break and enter (07)	51	10.5
Theft and related offences (08)	150	30.7
Fraud, deception and related offences (09)	90	18.4
Illicit drug offences (10)	107	21.9
Traffic and vehicle regulatory offences (14)	342	70.1
Drive while licence disqualified or suspended (1411)	221	45.3
Exceed the prescribed content of alcohol or other substance limit (1431)	210	43.0
Offences against justice procedures, government security and government operations (15)	231	47.3
Breach of custodial order offences (151)	27	5.5
Breach of community-based order (152)	139	28.5
Breach of violence order (1531)	82	16.8
Prior penalties		
Imprisonment	124	25.4
Home detention	11	2.3
Periodic detention	73	15.0
Suspended sentence	182	37.3
Community service order	195	40.0
Bond	331	67.8

COMPARISONS OF THOSE WHO RECEIVED ICOS WITH THOSE WHO RECEIVED OTHER PENALTIES

In this section, the profiles of offenders who received an ICO are compared with those who received periodic detention, imprisonment, a suspended sentence with supervision or a community service order. The comparison is made using logistic regression analysis, which allows us to see whether a particular factor predicts the penalty choice (i.e., discriminates between the

two groups) after controlling for other factors. The characteristics of offenders and offences, related court appearances, prior convictions and penalties are presented in Table A1 of the Appendix, broken down by the type of penalty received (ICO vs. other penalties). Tables A2 to A5 provide details of the logistic regression models. These models are summarised in Table 5 and will be discussed in turn.

Table 5. Summary of logistic regression models comparing the profile of those who received intensive correction orders (ICOs) with those who received periodic detention, imprisonment, suspended sentences with supervision or community service orders

Characteristic	ICOs (N=487) vs			
	Periodic detention (N=872)	Imprisonment (N=7,374)	Suspended sentence (N=3,000)	Community service order (N=3,636)
Female vs male	+		o	
45+ vs <45 years of age		o	o	
Indigenous vs non-Indigenous/unknown		o		
Inner regional vs major city		o	o	o
Outer regional, remote, very remote vs major city	o	o	o	o
Missing vs major city	o	o	o	o
Acts intended to cause injury		o	o	
Serious assault resulting in injury				+
Theft and related offences	o	o	o	
Fraud, deception and related offences			+	
Illicit drug offences				+
Drive while licence disqualified or suspended		+	+	+
Breach of custodial order		+		
Breach of suspended sentence			+	+
Breach of community-based order	o	o	o	o
Prior sexual assault and related offences		o		
Prior break and enter		o	o	o
Prior theft and related offences		o	o	
Prior illicit drug offences		o	o	o
Prior exceed the prescribed content of alcohol offence	+	+		
Prior breach of custodial order		o		
Prior prison	+	o		
Prior periodic detention		+	+	+
Prior suspended sentence			+	+
Prior community service order		+	+	+
AUC	.625	.864	.794	.749
(95% confidence interval)	(.595, .655)	(.851, .878)	(.773, .815)	(.725, .773)

Note. o = ICO less likely; + = ICO more likely.

Two offenders with unrecorded sex were not included in the analyses, reducing the sample of offenders who received intensive correction orders to 487 and the sample of those given prison sentences to 7,374.

In Table 5, the characteristics found to be significantly different between those who received an ICO and those who received an alternative penalty are indicated with the symbol + when those who received ICOs were *more* likely to have the characteristics, and o when they were *less* likely. For example, those who received ICOs were more likely to be female than were those who received periodic detention (+), while those who received ICOs were less likely to be Indigenous than were those who received imprisonment (o).

ICOs VS PERIODIC DETENTION

As set out previously in the Method section, a low AUC suggests that few known factors discriminate between those who received an ICO and those who received some other penalty, while a high AUC indicates that the two groups being compared are quite different. Those who received ICOs were similar to those who received periodic detention in the year preceding the introduction of ICOs (1 October 2009 to 30 September 2010).

As such, there were few characteristics that discriminated between the two groups and the model performed poorly, with less than acceptable discrimination according to the rule of thumb proposed by Hosmer and Lemeshow (2000; AUC=.625). However, compared with those who received periodic detention (N=872), those who received ICOs (N=487) were:

- more likely to be female;
- less likely to live outside a major city (particularly in outer regional and remote/very remote areas);
- less likely to have been convicted of theft offences and to have breached community-based orders;
- more likely to have a prior offence of exceeding the prescribed content of alcohol or other substance limit; and,
- more likely to have received a prior prison sentence.

ICOS VS IMPRISONMENT

Overall, those who received ICOs were different from those who received prison sentences (of up to 24 months) in terms of offender and offence characteristics, prior history and prior penalties received. As such, the model had 'excellent' discrimination (AUC=.864). Compared with those who received prison sentences (N=7,374), those who received ICOs (N=487) were:

- less likely to be aged 45 years or more;
- less likely to be Indigenous;
- less likely to live outside a major city (i.e., to live in inner regional and outer regional/remote/very remote areas);
- less likely to have been convicted of an act intended to cause injury, or theft or to have breached a community-based order;
- more likely to have been convicted of an offence of driving while licence was disqualified or suspended or of breaching a custodial order;
- more likely to have prior offences of exceeding the prescribed content of alcohol or other substance limit;
- less likely to have prior offences of sexual assault, break and enter, theft, illicit drugs or breaching a custodial order;
- less likely to have received a prior prison sentence; and,
- more likely to have prior penalties of periodic detention and community service orders.

ICOS VS SUSPENDED SENTENCES WITH SUPERVISION

Overall, those who received ICOs were quite different to those who received supervised suspended sentences in terms of offender and offence characteristics, prior history and prior penalties received. The model had 'acceptable' discrimination (AUC=.794). Compared with those who received supervised

suspended sentences (N=3,000), those who received ICOs (N=487) were:

- less likely to be female;
- less likely to be aged 45 years or more;
- less likely to live outside a major city (in inner regional and outer regional/remote/very remote areas);
- less likely to have been convicted of an act intended to cause injury, or theft, or to have breached a community-based order;
- more likely to have been convicted of a fraud or related offence, or driving while licence was disqualified or suspended, or breaching a suspended sentence;
- less likely to have prior break and enter, theft, and illicit drug offences; and,
- more likely to have prior penalties of periodic detention, suspended sentences and community service orders.

ICOS VS COMMUNITY SERVICE ORDERS

Overall, those who received ICOs were quite different to those who received community service orders in terms of offender characteristics and prior history. Compared with those who received community service orders (N=3,636), those who received ICOs (N=487) were:

- less likely to live outside a major city (in inner regional and outer regional/remote/very remote areas);
- less likely to have been convicted of a breach of a community-based order;
- more likely to have been convicted of serious assault resulting in injury, an illicit drug offence, driving while licence was disqualified or suspended, or breach of a suspended sentence;
- less likely to have prior break and enter and illicit drug offences; and,
- more likely to have prior penalties of periodic detention, suspended sentences and community services orders.

According to the rule of thumb of Hosmer and Lemeshow (2000), the performance of the model was 'acceptable' in terms of discriminating those who received ICOs from those who received community service orders (AUC=.749).

DISCUSSION

The purpose of this study was to examine the characteristics of those who received an ICO during the 12 months since their commencement in October 2010. The profile of these offenders was then compared with those who received periodic detention in the year prior to the commencement of ICOs and with those who received penalties of imprisonment, suspended sentences with supervision, and community service orders in the same period.

The majority of offenders who received ICOs were male (89%); on average they were 32.7 years of age, with 5.3 prior proven court appearances, and most commonly they were convicted of traffic and vehicle regulatory offences (40%). When compared with offenders receiving periodic detention, a sentence of imprisonment, a suspended sentence with supervision or a community service order, those who received ICOs were most similar to those who received periodic detention in the preceding year. However, those who received ICOs were more likely to be female, less likely to have been convicted of theft offences and less likely to have breached community-based orders than were those who had received periodic detention in the year preceding the introduction of ICOs. That those who received ICOs were more likely to be female than were those who received periodic detention is most likely a consequence of there having been limited availability of periodic detention for female offenders, particularly in regional areas (NSW Sentencing Council, 2007). During the period examined, only 7.8 per cent of those who received periodic detention were female, compared with 11.3 per cent of those who received ICOs and between 10.8 and 15.2 per cent of those who received the other penalties examined. In line with differing eligibility criteria (those who served imprisonment for more than 6 months by way of full-time detention were excluded from periodic detention), those who received ICOs were more likely than those who received periodic detention to have had a prior prison sentence.

As with the sanction it replaced (i.e., periodic detention), ICOs appear easier to obtain in urban areas than in rural areas. Three-quarters of those who received an ICO lived in a major city (compared with, for example, 66 per cent of those who received periodic detention and 50 per cent who received a supervised suspended sentence), and only 7 per cent lived in an outer regional, remote or very remote area (compared with 12 per cent of those who received periodic detention and 27 per cent of those who received a supervised suspended sentence). This may change over time, although it should be noted that the roll-out plan envisaged that ICOs would be available in all areas of the state within 12 months of their introduction (CSNSW, 2010). A key criticism of periodic detention was that it was not readily available throughout the state, and that this could disadvantage those in country areas (NSW Sentencing Council, 2007) and have a particularly negative impact on Indigenous offenders (Law Reform Commission New South Wales, 1996). If ICOs are made available in all areas of the state as intended, those living in outer regional, remote and very remote parts of the state, including a large proportion of Indigenous offenders, could potentially access them.²

While similar proportions of offenders who received ICOs and periodic detention were Indigenous (6.6% and 7.3%, respectively), offenders who received ICOs were less likely to

be Indigenous than were offenders who received imprisonment (6.6% vs 24.6%). In reviewing periodic detention, the NSW Sentencing Council (2007) reported that Indigenous offenders constituted a much smaller proportion of the periodic detention population than of the overall Indigenous offender population in correctional facilities. The Sentencing Council suggested several possible explanations for this difference, including the remote location of many Indigenous offenders, the exclusion of offenders who had previously served a sentence of full-time custody of 6 months or longer, and the fact that some ICO facilities are not accessible by public transport. These considerations should not weigh against Indigenous offenders being placed on ICOs because they were meant to be available statewide, there are no eligibility criteria relating to prior sentences of imprisonment and the transport needs of offenders being given ICOs are meant to be accommodated (NSW Sentencing Council, 2007). If Indigenous offenders continue to be under-represented in the ICO population, the reasons will need to be investigated.

While it is too early to conclude that the introduction of ICOs has resulted in those who previously would have received periodic detention instead receiving sentences of imprisonment or community service orders, it is worthy of note that the number of offenders who received ICOs in the 12 months following their introduction was little more than half the number who received periodic detention in the preceding 12 months. Even the number of offenders living in major cities who received an ICO was less than two-thirds the number of offenders living in a major city who received periodic detention in the 12 months prior. Indeed, around one-third of ICOs came from four courts in the Sydney region, and these four courts accounted for between 8 and 14 per cent of the other sentences examined. These data suggest the extent to which ICOs were under-utilised in the first 12 months, and highlight the need to support and promote the incorporation of ICOs as a sentencing option across NSW.

CONCLUSION

On 1 October 2010, periodic detention was abolished as a sentencing option in NSW and ICOs were introduced. The profile of offenders receiving ICOs during the first year was very similar to the profile of those who previously received periodic detention, suggesting that ICOs were being used as a substitute for periodic detention. As females previously had limited access to periodic detention, a positive finding of this study was that those who received ICOs were more likely to be female than were those who received periodic detention. The effect of the removal of eligibility criteria relating to prior full-time custody was also observed, with those who received ICOs more likely to have a prior prison sentence than those who previously received periodic detention. However, while it was hoped that ICOs would be more accessible than periodic detention had been, during the

first 12 months, those who received ICOs were less likely to live in outer regional, remote and very remote areas than were those who previously received periodic detention. Further, the number of those who received ICOs in the 12 months following their introduction was little more than half the number who received periodic detention in the preceding 12 months, suggesting that some offenders who previously would have received periodic detention were instead receiving a penalty other than an ICO. In coming years the utilisation and accessibility of ICOs, and the impact of their introduction on the use of other penalties, should be further monitored.

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NOTES

1. Community-based orders, intensive correction orders and combined custody and treatment orders were replaced by a single community correction order in Victoria in January 2012.
2. In 2006, the ABS estimated that approximately 5 per cent of the Indigenous population in NSW lived in a remote or very remote area and 18 per cent in an outer regional area, compared with less than 0.5 per cent and 6 per cent, respectively, of the non-Indigenous population (ABS, 2006).

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APPENDIX

Table A1. Characteristics relating to offenders who received intensive correction orders, imprisonment, suspended sentences with supervision, and community service orders, 1 October 2010 to 30 September 2011, and periodic detention, 1 October 2009 to 30 September 2010

	Intensive correction order (N=488)		Periodic detention (N=872)		Imprisonment (N=7,375)		Suspended sentence with supervision (N=3,000)		Community service order (N=3,636)	
	n	%	n	%	n	%	n	%	n	%
Offender characteristics										
Age (years)										
18-24	132	27.1	272	31.2	1,689	22.9	755	25.2	1,124	30.9
25-34	157	32.2	288	33.0	2,795	37.9	998	33.3	1,292	35.5
35-44	136	27.9	181	20.8	1,918	26.0	778	25.9	774	21.3
45-54	46	9.4	95	10.9	766	10.4	339	11.3	364	10.0
55+	17	3.5	36	4.1	207	2.8	130	4.3	82	2.3
mean	32.7		31.9		32.9		33.3		31.3	
median	31.0		29.0		31.0		32.0		29.0	
Sex										
Female	55	11.3	68	7.8	795	10.8	436	14.5	551	15.2
Male	432	88.5	804	92.2	6,579	89.2	2,564	85.5	3,085	84.9
Unknown	1	0.2	0	0.0	1	0.0	0	0.0	0	0.0
Indigenous status										
Non-Indigenous/unknown	456	93.4	808	92.7	5,559	75.4	2,526	84.2	3,326	91.5
Indigenous	32	6.6	64	7.3	1,816	24.6	474	15.8	310	8.5
Remoteness/ARIA of residence										
Major city	366	75.0	579	66.4	3,006	40.8	1,489	49.6	2,123	58.4
Inner regional	84	17.2	166	19.0	1,143	15.5	587	19.6	780	21.5
Outer regional	34	7.0	103	11.8	1,357	18.4	689	23.0	583	16.0
Remote	0	0.0	0	0.0	226	3.1	71	2.4	42	1.2
Very remote	1	0.2	0	0.0	123	1.7	64	2.1	32	0.9
Missing/unknown	3	0.6	24	2.8	1,520	20.6	100	3.3	76	2.1
Court appearance characteristics										
Bail status										
Bail dispensed with	130	26.6	300	34.4	810	11.0	696	23.2	1,817	50.0
On bail	336	68.9	493	56.5	1,455	19.7	2,039	68.0	1,701	46.8
Bail refused	22	4.5	71	8.1	3,968	53.8	238	7.9	91	2.5
In custody for prior offence	0	0.0	7	0.8	1,116	15.1	8	0.3	2	0.1
Unknown	0	0.0	1	0.1	26	0.4	19	0.6	25	0.7
Plea										
Guilty	403	82.6	605	69.4	5,413	73.4	2,470	82.3	3,035	83.5
Not guilty	27	5.5	56	6.4	692	9.4	191	6.4	190	5.2
No plea entered	24	4.9	39	4.5	584	7.9	159	5.3	223	6.1
Other/unknown	0	0.0	172	19.7	686	9.3	180	6.0	188	5.2
Jurisdiction										
Children's Court	1	0.2	1	0.1	34	0.5	9	0.3	11	0.3
Local Court	418	85.7	753	86.4	6,893	93.5	2,646	88.2	3,594	98.8
District Court	67	13.7	118	13.5	427	5.8	345	11.5	31	0.9
Supreme Court	2	0.4	0	0.0	17	0.2	0	0.0	0	0.0
Other	0	0.0	0	0.0	4	0.1	0	0.0	0	0.0

Table A1. Characteristics relating to offenders who received intensive correction orders, imprisonment, suspended sentences with supervision, and community service orders, 1 October 2010 to 30 September 2011, and periodic detention, 1 October 2009 to 30 September 2010 - cont'd

	Intensive correction order (N=488)		Periodic detention (N=872)		Imprisonment (N=7,375)		Suspended sentence with supervision (N=3,000)		Community service order (N=3,636)	
	n	%	n	%	n	%	n	%	n	%
Sentence length										
<6 months	19	3.9	106	12.2	1,921	26.1	220	7.3		
6 months	52	10.7	140	16.1	582	7.9	193	6.4		
>6 - <9 months	58	11.9	104	11.9	708	9.6	593	19.8		
9 months	78	16.0	122	14.0	782	10.6	486	16.2		
>9 - <12 months	19	3.9	25	2.9	239	3.2	115	3.8		
12 months	112	23.0	175	20.1	1,348	18.3	716	23.9		
>12 - <18 months	44	9.0	51	5.9	604	8.2	225	7.5		
18 months	46	9.4	48	5.5	612	8.3	218	7.3		
>18 - <24 months	15	3.1	15	1.7	191	2.6	68	2.3		
24 months	45	9.2	34	3.9	388	5.3	159	5.3		
>24 months			52	5.9			7	0.2		
<i>mean</i>	12.2	(months)	11.4	(months)	9.9	(months)	11.2	(months)	139.2	(hours)
<i>median</i>	12.0	(months)	9.0	(months)	9.0	(months)	10.0	(months)	120.0	(hours)
Offence characteristics										
Principal offence type										
Homicide and related offences	3	0.6	6	0.7	5	0.1	4	0.1	3	0.1
Acts intended to cause injury	93	19.1	159	18.2	1,713	23.2	831	27.7	693	19.1
Serious assault resulting in injury	77	15.8	114	13.1	935	12.7	67	2.2	62	1.7
Sexual assault and related offences	3	0.6	14	1.6	138	1.9	93	3.1	14	0.4
Dangerous and negligent acts endangering persons	11	2.3	35	4.0	191	2.6	70	2.3	144	4.0
Abduction, harassment and other offences against the person	3	0.6	5	0.6	95	1.3	30	1.0	29	0.8
Robbery, extortion and related offences	13	2.7	22	2.5	84	1.1	70	2.3	7	0.2
Unlawful entry with intent/burglary, break and enter	16	3.3	32	3.7	611	8.3	169	5.6	106	2.9
Theft and related offences	13	2.7	33	3.8	907	12.3	210	7.0	181	5.0
Fraud, deception and related offences	38	7.8	59	6.8	308	4.2	63	2.1	303	8.3
Illicit drug offences	34	7.0	43	4.9	373	5.1	255	8.5	117	3.2
Weapons and explosives offences	4	0.8	4	0.5	66	0.9	19	0.6	30	0.8
Property damage and environmental pollution	6	1.2	8	0.9	142	1.9	47	1.6	88	2.4
Public order offences	10	2.1	17	2.0	309	4.2	98	3.3	143	3.9
Traffic and vehicle regulatory offences	165	33.8	259	29.7	893	12.1	586	19.5	1,352	37.2
Drive while licence disqualified or suspended	115	23.6	172	19.7	683	9.3	319	10.6	776	21.3
Exceed the prescribed content of alcohol or other substance limit	45	9.2	84	9.6	192	2.6	259	8.6	531	14.6
Offences against justice procedures, government security and government operations	74	15.2	174	20.0	1,509	20.5	446	14.9	414	11.4
Breach of suspended sentence	47	9.6	90	10.3	488	6.6	10	0.3	3	0.1
Miscellaneous offences	2	0.4	2	0.2	31	0.4	9	0.3	12	0.3

Table A1. Characteristics relating to offenders who received intensive correction orders, imprisonment, suspended sentences with supervision, and community service orders, 1 October 2010 to 30 September 2011, and periodic detention, 1 October 2009 to 30 September 2010 - cont'd

	Intensive correction order (N=488)		Periodic detention (N=872)		Imprisonment (N=7,375)		Suspended sentence with supervision (N=3,000)		Community service order (N=3,636)	
	n	%	n	%	n	%	n	%	n	%
Number of concurrent offences										
0	171	35.0	321	36.8	1,935	26.2	992	33.1	1,447	39.8
1	121	24.8	214	24.5	1,493	20.2	723	24.1	903	24.8
2	69	14.1	137	15.7	1,101	14.9	446	14.9	545	15.0
3	51	10.5	69	7.9	826	11.2	305	10.2	297	8.2
4	20	4.1	46	5.3	569	7.7	189	6.3	159	4.4
5+	56	11.5	85	9.8	1,451	19.7	345	11.5	285	7.8
<i>mean</i>	2.2		1.9		2.9		2.0		1.8	
<i>median</i>	1.0		1.0		2.0		1.0		1.0	
All offence types										
Acts intended to cause injury	124	25.4	215	24.7	2,503	33.9	1,121	37.4	873	24.0
Serious assault resulting in injury	82	16.8	129	14.8	1,121	15.2	522	17.4	401	11.0
Unlawful entry with intent/burglary, break and enter	18	3.7	36	4.1	710	9.6	184	6.1	116	3.2
Theft and related offences	32	6.6	80	9.2	1,909	25.9	403	13.4	300	8.3
Fraud, deception and related offences	47	9.6	72	8.3	496	6.7	102	3.4	333	9.2
Illicit drug offences	50	10.3	71	8.1	870	11.8	410	13.7	219	6.0
Property damage and environmental pollution	34	7.0	65	7.5	969	13.1	359	12.0	344	9.5
Traffic and vehicle regulatory offences	195	40.0	328	37.6	1,551	21.0	749	25.0	1,524	41.9
Drive while licence disqualified or suspended	147	30.1	237	27.2	1,101	14.9	440	14.7	918	25.3
Exceed the prescribed content of alcohol or other substance limit	84	17.2	135	15.5	474	6.4	430	14.3	692	19.0
Offences against justice procedures, government security and government operations	139	28.5	302	34.6	3,235	43.9	1,070	35.7	1,024	28.2
Breach custodial order	67	13.7	110	12.6	775	10.5	43	1.4	16	0.4
Breach of suspended sentence	66	13.5	109	12.5	699	9.5	37	1.2	11	0.3
Breach of community-based order (includes CSO, bail, bond)	56	11.5	154	17.7	1,645	22.3	702	23.4	728	20.0
Prior criminal history										
Number of prior appearances with guilty outcome										
0	51	10.5	117	13.4	412	5.6	321	10.7	629	17.3
1	66	13.5	98	11.2	360	4.9	304	10.1	506	13.9
2	54	11.1	81	9.3	371	5.0	278	9.3	501	13.8
3	45	9.2	101	11.6	389	5.3	257	8.6	431	11.9
4	35	7.2	93	10.7	400	5.4	284	9.5	356	9.8
5+	237	48.6	382	43.8	5,443	73.8	1,556	51.9	1,213	33.4
<i>mean</i>	5.3		4.7		10.0		6.2		4.1	
<i>median</i>	4.0		4.0		9.0		5.0		3.0	

Table A1. Characteristics relating to offenders who received intensive correction orders, imprisonment, suspended sentences with supervision, and community service orders, 1 October 2010 to 30 September 2011, and periodic detention, 1 October 2009 to 30 September 2010 - cont'd

	Intensive correction order (N=488)		Periodic detention (N=872)		Imprisonment (N=7,375)		Suspended sentence with supervision (N=3,000)		Community service order (N=3,636)	
	n	%	n	%	n	%	n	%	n	%
Type of prior offences										
Acts intended to cause injury	228	46.7	396	45.4	5,195	70.4	1,663	55.4	1,365	37.5
Serious assault resulting in injury	111	22.8	185	21.2	3,113	42.2	790	26.3	618	17.0
Sexual assault and related offences	4	0.8	10	1.2	365	5.0	60	2.0	25	0.7
Robbery, extortion and related offences	38	7.8	34	3.9	1,229	16.7	201	6.7	160	4.4
Unlawful entry with intent/burglary, break and enter	51	10.5	92	10.6	2,848	38.6	573	19.1	424	11.7
Theft and related offences	150	30.7	259	29.7	4,701	63.7	1,260	42.0	984	27.1
Fraud, deception and related offences	90	18.4	132	15.1	1,944	26.4	465	15.5	395	10.9
Illicit drug offences	107	21.9	188	21.6	3,503	47.5	1,013	33.8	747	20.5
Traffic and vehicle regulatory offences	342	70.1	586	67.2	5,009	67.9	1,928	64.3	2,321	63.8
Drive while licence disqualified or suspended	221	45.3	363	41.6	2,931	39.7	997	33.2	1,249	34.4
Exceed the prescribed content of alcohol or other substance limit	210	43.0	320	36.7	2,315	31.4	1,119	37.3	1,367	37.6
Offences against justice procedures	231	47.3	385	44.2	5,392	73.1	1,576	52.5	1,286	35.4
Breach of custodial order	27	5.5	31	3.6	1,440	19.5	227	7.6	122	3.4
Breach of community-based order	139	28.5	213	24.4	3,674	49.8	883	29.4	659	18.1
Breach of violence order	82	16.8	148	17.0	2,396	32.5	680	22.7	448	12.3
Prior penalties										
Imprisonment	124	25.4	134	15.4	4,974	67.4	955	31.8	585	16.1
Home detention	11	2.3	14	1.6	151	2.1	39	1.3	34	0.9
Periodic detention	73	15.0	106	12.2	895	12.1	297	9.9	221	6.1
Suspended sentence	182	37.3	287	32.9	3,419	46.4	863	28.8	550	15.1
Community service order	195	40.0	330	37.8	3,017	40.9	1,004	33.5	880	24.2
Bond	331	67.8	583	66.9	5,880	79.7	2,188	72.9	2,219	61.0

Table A2. Logistic regression model comparing the profile of those who received intensive correction orders (N=487) with those who received periodic detention (N=872)

	Odds ratio	95% confidence interval	p
Female vs male	1.60	(1.09, 2.35)	.017
Inner regional vs major city	0.79	(0.59, 1.06)	.122
Outer regional, remote, very remote vs major city	0.51	(0.34, 0.77)	.001
Missing vs major city	0.20	(0.06, 0.67)	.009
Theft and related offences	0.61	(0.39, 0.95)	.030
Breach of community-based order	0.63	(0.45, 0.88)	.007
Prior exceed the prescribed content of alcohol or other substance limit offence	1.30	(1.03, 1.64)	.027
Prior prison	2.01	(1.51, 2.67)	<.001

Note. The one offender with unrecorded sex who received an intensive correction order was not included in the analyses, reducing the sample of offenders who received intensive correction orders to 487.

Table A3. Logistic regression model comparing the profile of those who received intensive correction orders (N=487) with those who received imprisonment (up to 24 months) (N=7,374)

	Odds ratio	95% confidence interval	p
45+ vs <45 years of age	0.58	(0.43, 0.78)	<.001
Indigenous vs non-Indigenous/unknown	0.62	(0.42, 0.92)	.018
Inner regional vs major city	0.56	(0.43, 0.73)	<.001
Outer regional, remote, very remote vs major city	0.18	(0.12, 0.26)	<.001
Missing vs major city	0.03	(0.01, 0.08)	<.001
Acts intended to cause injury	0.77	(0.60, 0.98)	.031
Theft and related offences	0.32	(0.22, 0.47)	<.001
Drive while licence disqualified or suspended	1.68	(1.31, 2.15)	<.001
Breach of custodial order	1.42	(1.06, 1.91)	.020
Breach of community-based order	0.39	(0.29, 0.52)	<.001
Prior sexual assault and related offences	0.28	(0.10, 0.78)	.014
Prior break and enter	0.59	(0.42, 0.82)	.002
Prior theft and related	0.71	(0.55, 0.91)	.008
Prior illicit drug offences	0.60	(0.47, 0.77)	<.001
Prior exceed the prescribed content of alcohol or other substance limit offence	1.40	(1.13, 1.73)	.002
Prior breach of custodial order	0.59	(0.38, 0.91)	.016
Prior prison	0.37	(0.29, 0.48)	<.001
Prior periodic detention	1.51	(1.12, 2.04)	.007
Prior community service order	1.26	(1.00, 1.57)	.048

Note. Two offenders with unrecorded sex were not included in the analyses, reducing the sample of offenders who received intensive correction orders to 487 and the sample of those given prison sentences to 7,374.

Table A4. Logistic regression model comparing the profile of those who received intensive correction orders (N=487) with those who received a supervised suspended sentence (N=3,000)

	Odds ratio	95% confidence interval	p
Female vs male	0.66	(0.47, 0.93)	.017
45+ vs <45 years of age	0.60	(0.43, 0.82)	.001
Inner regional vs major city	0.54	(0.40, 0.71)	<.001
Outer regional, remote, very remote vs major city	0.17	(0.11, 0.24)	<.001
Missing vs major city	0.10	(0.03, 0.33)	<.001
Acts intended to cause injury	0.76	(0.59, 0.98)	.034
Theft and related offences	0.45	(0.30, 0.69)	<.001
Fraud, deception and related offences	3.69	(2.44, 5.59)	<.001
Drive while licence disqualified or suspended	2.16	(1.65, 2.83)	<.001
Breach of suspended sentence	18.29	(10.85, 30.83)	<.001
Breach of community-based order	0.32	(0.22, 0.44)	<.001
Prior theft and related offences	0.67	(0.52, 0.88)	.003
Prior break and enter	0.63	(0.44, 0.91)	.013
Prior illicit drug offences	0.54	(0.41, 0.71)	<.001
Prior periodic detention	1.39	(1.00, 1.93)	.047
Prior suspended sentence	1.31	(1.00, 1.71)	.048
Prior community service order	1.33	(1.04, 1.69)	.021

Note. The one offender with unrecorded sex who received an intensive correction order was not included in the analyses, reducing the sample of offenders who received intensive correction orders to 487.

Table A5. Logistic regression model comparing the profile of those who received intensive correction orders (N=487) with those who received a community service order (N=3,636)

	Odds ratio	95% confidence interval	p
Inner regional vs major city	0.59	(0.45, 0.78)	<.001
Outer regional, remote, very remote vs major city	0.30	(0.20, 0.44)	<.001
Missing vs major city	0.27	(0.08, 0.88)	.030
Serious assault resulting in injury	2.30	(1.72, 3.08)	<.001
Illicit drug offences	2.27	(1.57, 3.28)	<.001
Drive while licence disqualified or suspended	1.30	(1.02, 1.66)	.035
Breach of suspended sentence	41.80	(20.54, 85.06)	<.001
Breach of community-based order	0.40	(0.29, 0.57)	<.001
Prior break and enter	0.63	(0.44, 0.90)	.012
Prior illicit drug offences	0.72	(0.55, 0.95)	.019
Prior periodic detention	1.78	(1.27, 2.48)	.001
Prior suspended sentence	2.10	(1.62, 2.74)	<.001
Prior community service order	1.88	(1.48, 2.39)	<.001

Note. The one offender with unrecorded sex who received an intensive correction order was not included in the analyses, reducing the sample of offenders who received intensive correction orders to 487.