

Transport for NSW | Centre for Road Safety

NSW Drink and Drug Driving Reforms

Monitoring Report
July 2020



1 About the reforms

The NSW Drink and Drug Driving reforms that are part of the *Road Transport Legislation Amendment (Penalties and Other Sanctions) Act 2018* (the Act) implement key measures of the Road Safety Plan 2021. The Act draws on evidence from across Australian jurisdictions and globally, to enhance the penalty framework to increase deterrence of drink and drug driving and reduce road trauma. The following key elements of the reforms are currently being implemented:

- **The introduction of penalty notices for lower range drink and drug driving first offenders**

The reforms aim to ensure penalties are consistently and swiftly applied to low, novice, and special range prescribed concentration of alcohol (PCA) and drug presence first offences. The Act enabled penalty notices (coupled with licence suspension) to be issued for novice, special and low range PCA offences and driving with the presence of an illicit drug offences that are a first time offence. This element of the reforms came into effect from May 2019.

The timing of the issue of the penalty notice and the licence suspension is different for drink driving offenders compared to drug driving offenders. This is because while robust evidence of a drink driving offence can be obtained at the roadside or station (breath analysis), oral fluid samples require laboratory confirmation of the presence of illicit drugs.

- **The extension of mandatory alcohol interlocks to mid-range drink driving first offenders**

The Mandatory Alcohol Interlock Program was introduced by the NSW Government in February 2015 and was used for high-range PCA (a blood alcohol concentration of 0.15 or more), 'refusal', and all repeat offenders. Under the reforms, the requirement was extended to the next highest risk group, all mid-range offenders (a blood alcohol concentration between 0.08 and 0.149) convicted of a first offence. The extension came into effect from December 2018.

A new category of exemption was added for offenders convicted of a mid-range first offence only, which allows the court to issue an exemption if it is proven that an interlock order would cause severe hardship to the offender.

- **The option for vehicle sanctions at the roadside for high risk drink driving offenders**

NSW has a vehicle sanctions scheme (where a vehicle can be impounded or number plates confiscated) in place for 'hoon' offences (such as aggravated burnout, street racing, and speeding by more than 45km over the limit). This element of the reforms, which came into effect from December 2018 provides for the imposition of vehicle sanctions for certain repeat drink driving offences.

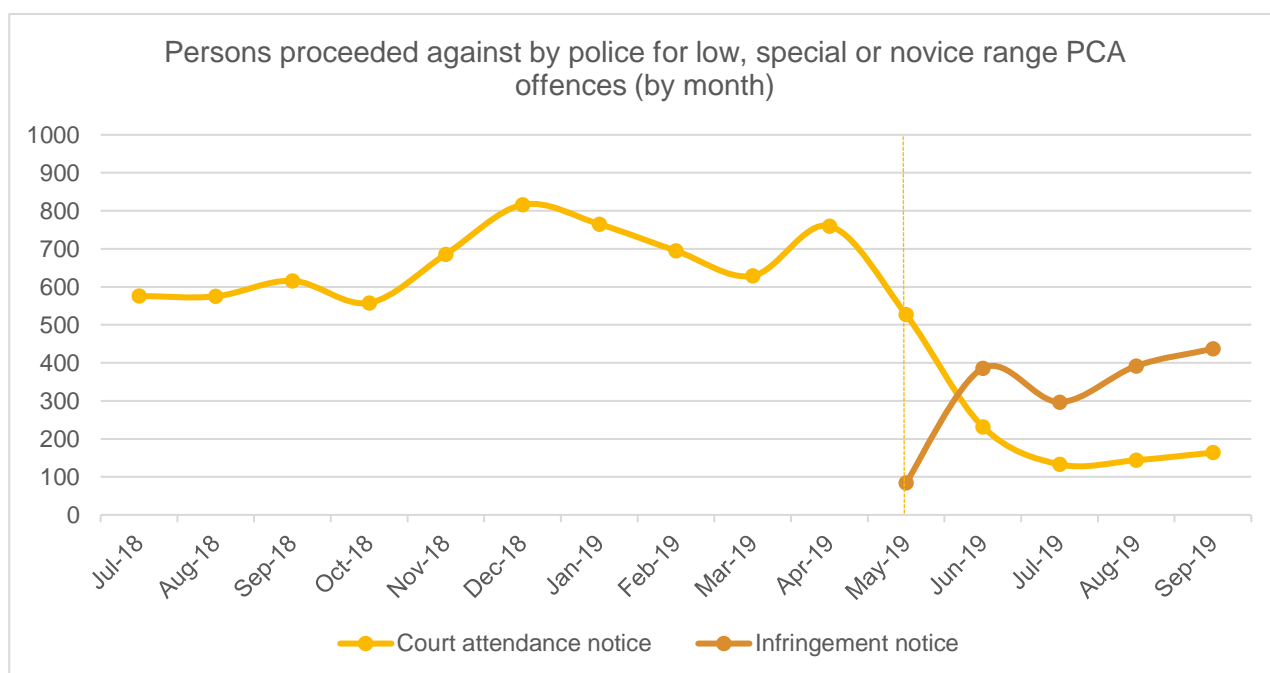
2 Key monitoring trends

Selected metrics are outlined below to demonstrate implementation of key areas of the reforms. One external factor, number of RBT and MDTs conducted has also been included.

2.1. Penalty notice and licence suspension for first-time offenders (Commenced May 2019)

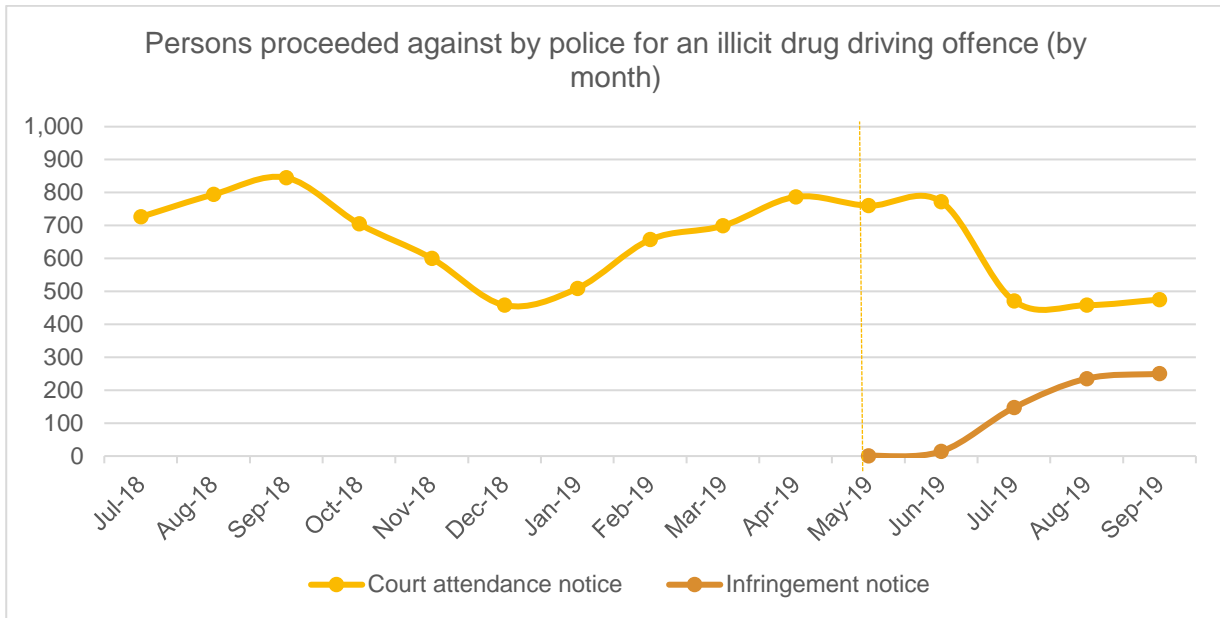
Expected changes:

1. Decrease in number of persons issued with a court attendance notice
2. Increase in the number of persons issued an infringement notice



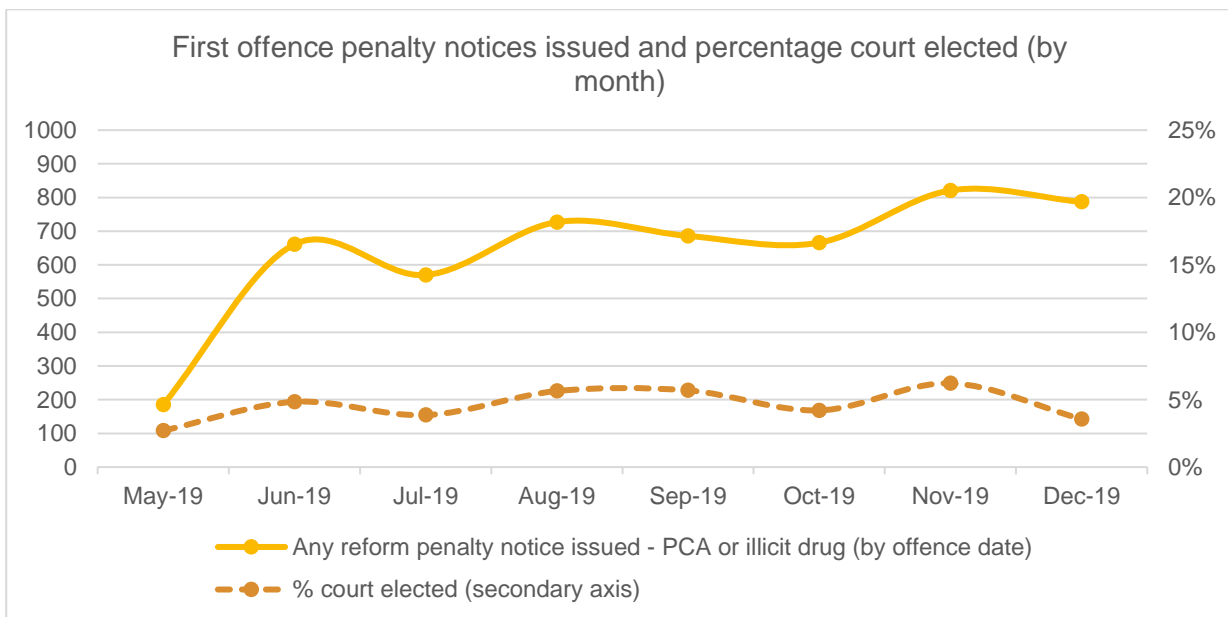
Source: NSW Bureau of Crime Statistics and Research

For lower range PCA offences, there is a noticeable drop in the number of court attendance notices starting in May 2019, when penalty notices and licence suspensions for first time lower range offenders were introduced. By June 2019, the number of infringement notices issued per month was higher than the number of court attendance notices, and has remained higher through September 2019.



Source: NSW Bureau of Crime Statistics and Research

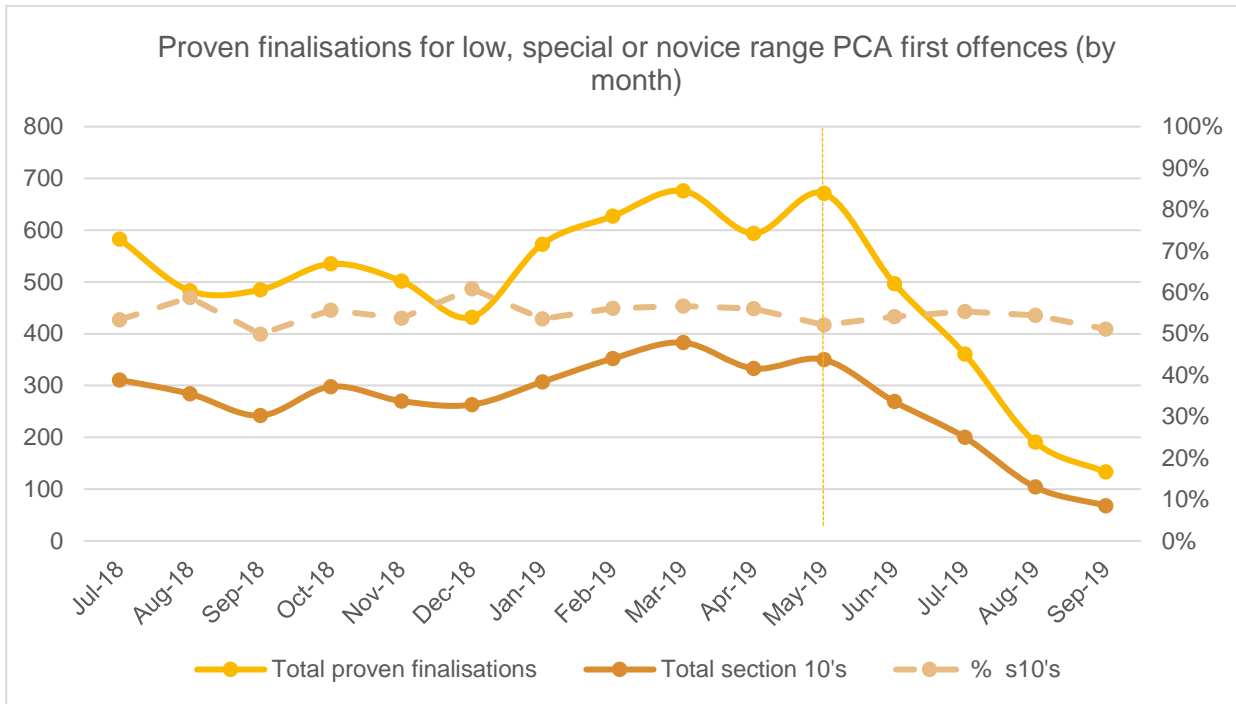
For the number of persons proceeded against for illicit drug driving offences, there is also a drop in the number of court attendance notices issued, and increase in number of infringement notices which happens later than for PCA offences, in July 2019; this is likely because an infringement notice for illicit drug driving cannot be issued on the spot, instead they are issued after laboratory confirmation of drug test results.



Source: Revenue NSW

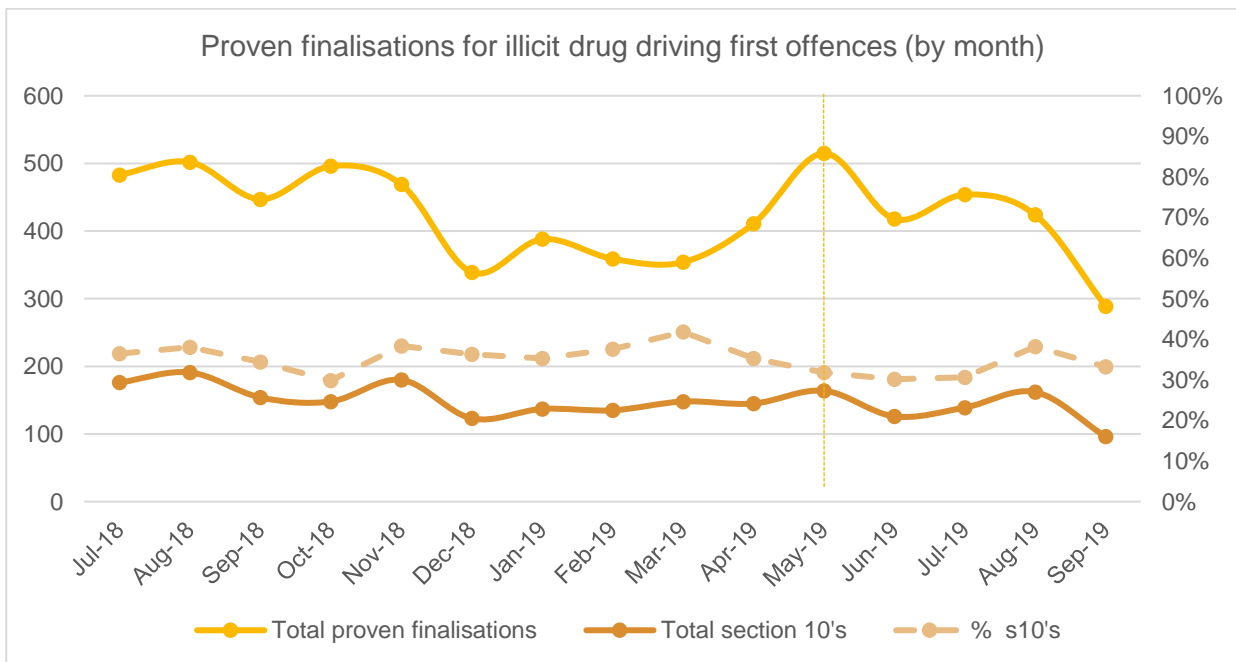
Note: The total penalty notices figure includes all penalty notices introduced in the reforms (first time low range PCA and illicit drug offences); The per cent court detected is calculated by identifying the number of PNs with an offence date in a particular month of issue, that have the status 'Closed CAN Issued' or 'Finalised CAN Issued.'

Penalty notices for first time offences were issued starting in May 2019. From May 2019 to December 2019, the percentage of penalty notices that were court elected ranged between 3.2 per cent and 6.6 per cent. A preliminary impact assessment provided by Department of Justice prior to implementation of the reforms estimated a higher court elect rate of 20 per cent.



Source: NSW Bureau of Crime Statistics and Research

The number of proven finalisations for lower range PCA first offences decreases from May 2019, when the reforms were introduced. While the absolute number of section 10 orders granted also decreases, the proportion of cases resulting in a section 10 order remains constant, at just over 50 per cent.



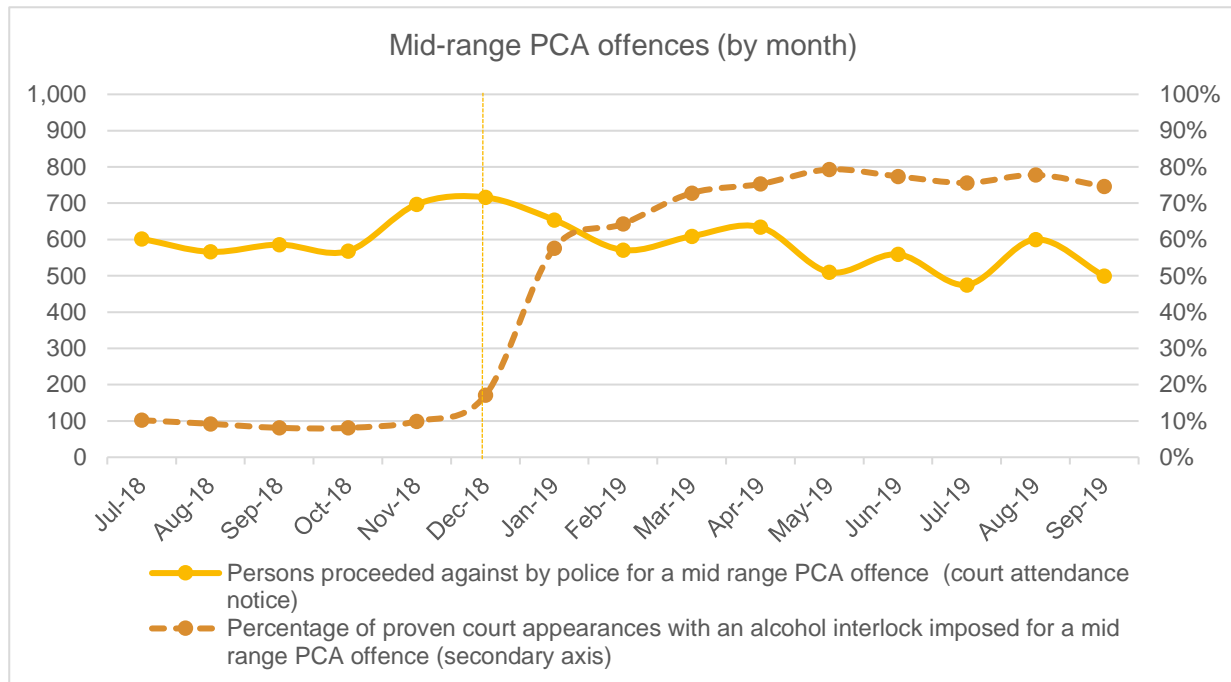
Source: NSW Bureau of Crime Statistics and Research

The number of proven finalisation for illicit drug driving first offences starts to decrease in September 2019. The proportion of cases resulting in a section 10 order remains constant, at around 30 per cent.

2.2 MAIP for mid-range drink driving first-time offenders (commenced December 2018)

Expected changes:

1. Increase in number and percentage of court appearances with an alcohol interlock imposed for a mid-range PCA offences.
2. Increase in total number of MAIP orders issued.
3. Increase in percentage of offenders granted an exemption

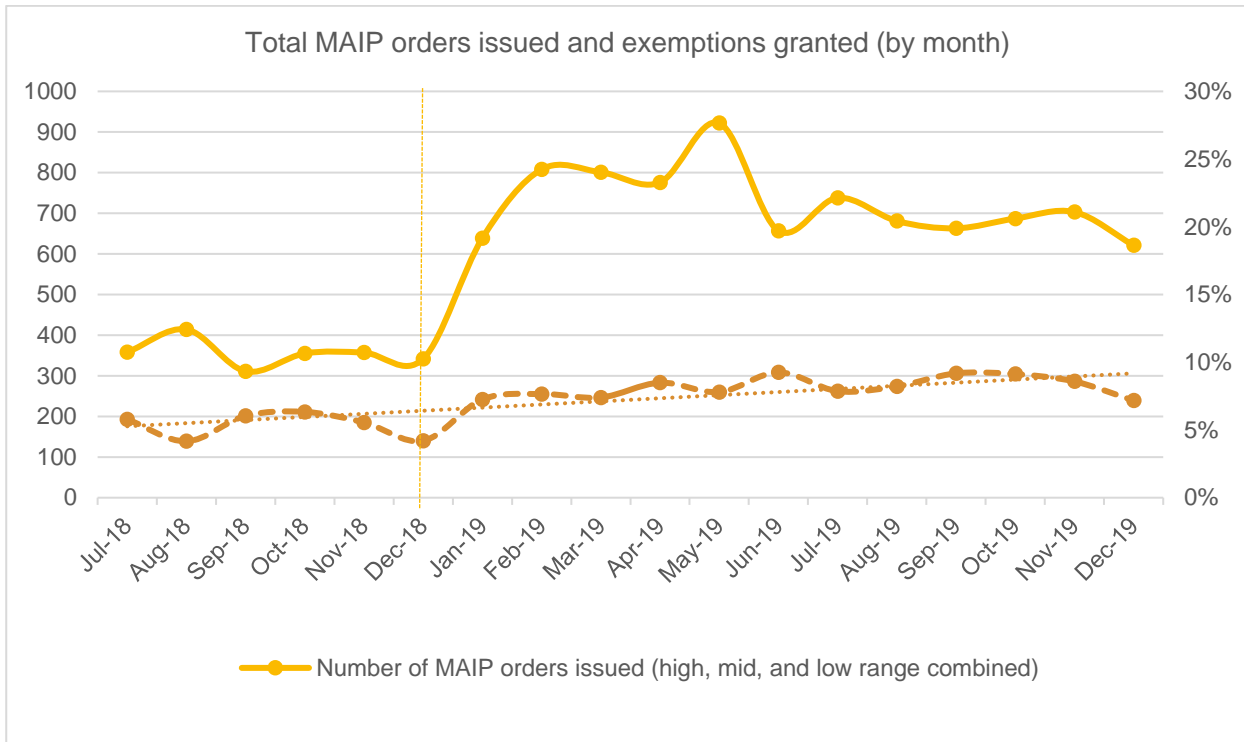


Source: NSW Bureau of Crime Statistics and Research

Extension of the mandatory alcohol interlock program to include first-time mid-range offences came into effect in December 2018.

From July to December 2018, the percent of proven court appearances with an alcohol interlock imposed for a mid-range PCA offence ranged between 8.1 per cent and 10.2 per cent. By January this figure increased to 57.6 per cent, and from April 2019 to September 2019 was above 70.0 per cent each month.

The BOCSAR data provided in this section is for all mid-range offences, it does not distinguish between first-time and repeat offences, but as all first-time offences are now mandatory alcohol interlock offences, that will push up the overall figures.

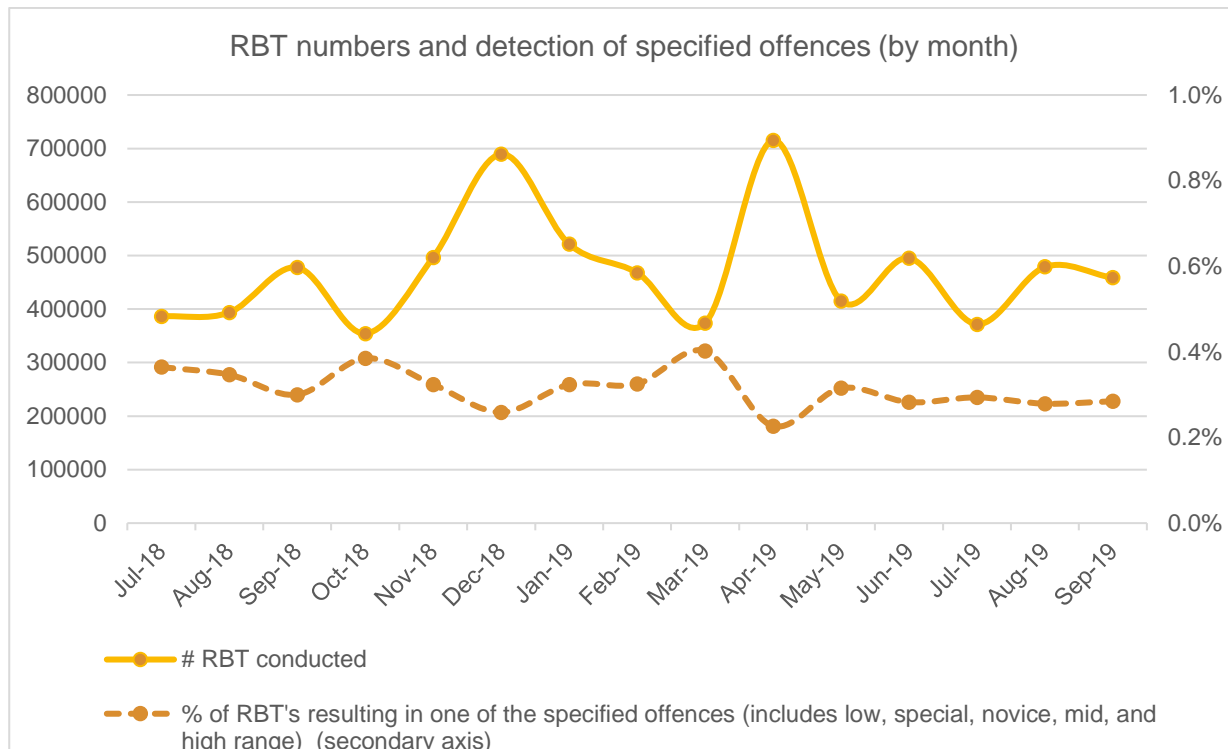


Source: Alcohol Interlock Unit

After December 2018, the absolute number of MAIP orders issued increased (across high, mid, and low range offences – it is not possible to divide the data into PCA ranges with the current data).

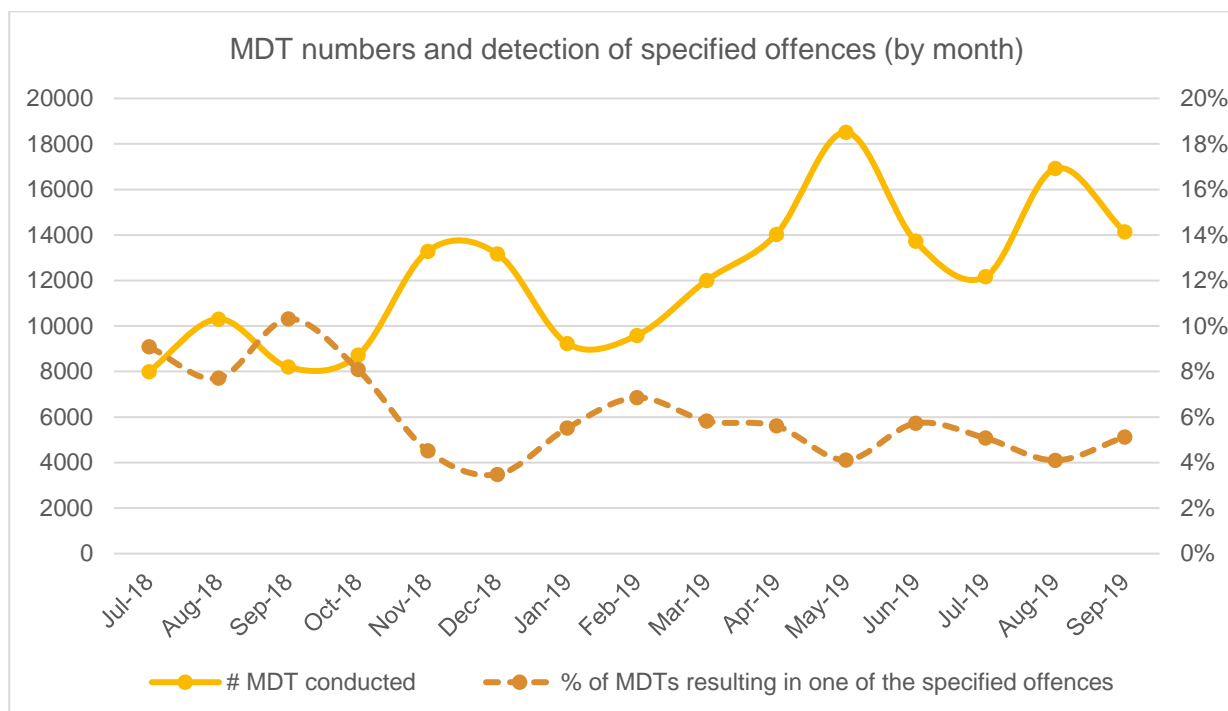
During this period, the proportion of offenders granted an exemption also has increased. From July to January, the percent of exemptions ranged between 4.2 per cent and 6.3 per cent. From February onwards, the percent of exemptions ranged between 7.3 per cent and 9.3 per cent. This may have been caused by mid-range first time offenders taking up the new severe hardship exemption category.

2.3 External factor – Mobile testing rates (RBT and MDT)



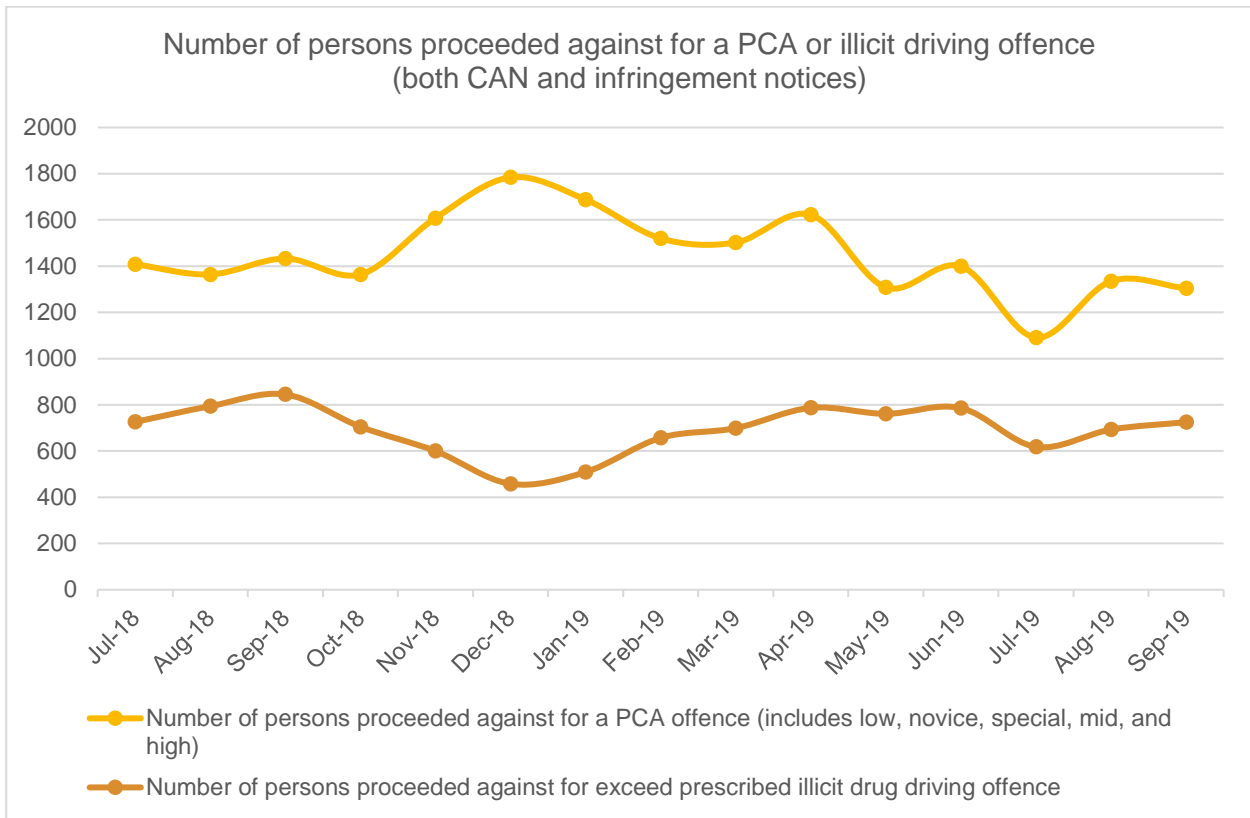
Sources: NSW Police, NSW Bureau of Crime Statistics and Research

Note: The percentage of RBTs resulting in one of the specified offences is calculated using NSW Police and BOCSAR data. It represents the number of persons proceeded against for low, special, novice, mid, and high range PCA offences in a particular month (BOCSAR), divided by the number of RBTs conducted in that month (NSW Police).



Sources: NSW Police, NSW Bureau of Crime Statistics and Research

Note: The percentage of MDTs resulting in one of the specified offences is calculated using NSW Police and BOCSAR data. It represents the number of persons proceeded against for specific illicit drug driving offences in a particular month (BOCSAR), divided by the number of MDTs conducted in that month (NSW Police).



Source: NSW Bureau of Crime Statistics and Research

The number of RBTs conducted is higher than the number of MDTs conducted by NSW police. The proportion of MDTs resulting in an illicit drug driving offence is higher than the proportion of RBTs that result in one of the specified PCA offences.

Increases in testing occurred during state-wide periods for Labour Day (28 September 2018 to 1 October 2018), Christmas/New Year (21 December 2018 to 1 Jan 2019), Easter Long Weekend (19 April to 22 April 2019) and ANZAC Day (24 April to 28 April 2019).

Transport for NSW, Centre for Road Safety

Website roadsafety.transport.nsw.gov.au

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