

04 March 2022

C146461

S 9(2)(a)

Tēnā koe S 9(2)(a)

Thank you for your email of 16 January 2022 to the Department of Corrections – Ara Poutama Aotearoa, requesting information about Provision of Advice to the Courts (PAC) reports. Your request has been considered under the Official Information Act 1982 (OIA).

On 2 February 2022 Corrections advised you that your request had been extended in accordance with section 15A(1)(b) of the OIA. Thank you for your patience.

PAC reports are prepared at the request of a judge following a person pleading or being found guilty of an offence. The report is prepared by a probation officer and contains information about the person's circumstances and their offending. It also outlines the probation officer's recommendation about the type of sentence to be imposed. The report is used by the sentencing judge in court to make a fully informed decision when sentencing an offender. It is also an opportunity to consider what rehabilitation or reintegration needs that the person may require assistance with, for example harmful alcohol or drug use, or the need to obtain a driver's license.

When compiling the report, the probation officer interviews the person and, with their consent, may speak with other people including their family, friends and employer. The report may also include information about the suitability of the offender and their address for an electronically monitored sentence. Information held by Corrections and Police may also be included in the report. Corrections does not decide what sentence or order a person receives as that is the role of the courts. However, the information provided in a PAC report may aid the Judge in making a final decision.

For ease of response, some of your questions have been re-ordered.

You requested:

1. *How many PACs were conducted on offenders in 2021?*
2. *Section 26 of the Sentencing Act says: "If an offender who is charged with an offence punishable by imprisonment is found guilty or pleads guilty, the court may direct a*

probation officer to prepare a report for the court..." How many PACs were conducted in 2021 on such offenders?

3. *Section 26A says: "If the court is considering a sentence of community detention or home detention, the court must direct a probation officer to prepare a pre-sentence report for the court..." How many PACs were conducted in 2021 on such offenders?*

PAC reports are rarely written for offences where imprisonment is not the maximum penalty, though that penalty may not be imposed. Therefore, when interpreting your request, we have looked at the primary recommendation from each PAC report. This data represents the number of PAC reports where the recommended sentence was either imprisonment, home detention or community detention.

Please find the information requested in the table below for the year 2021.

Primary Recommendation	Report Count
Imprisonment	5,843
Home Detention	3,272
Community Detention	3,604
Total reports	23,951

4. *Does Corrections have an estimated average cost for conducting a PAC. If so, what is that cost?*

Corrections does not have an estimated average cost for completing a PAC report. Probation officers are not required to complete a PAC report within a set period of time or at a particular cost. An individualized approach is taken with each PAC report, as the needs of the individual and their whānau, the complexity of the case, any particular requests made by the court, and the degree of input from third parties must all be considered. It also can vary depending on the probation officer's level of experience.

Community Corrections uses a workflow tool to assist managers in allocating work to probation officers. Using this tool, probation officers are allocated on average 8.2 hours to complete a PAC report. This allows time to interview the person, complete address enquires, conduct third-party contact, and time for the Probation officer to complete the report, however this is dependent on the factors listed above.

While we can calculate the average allocated time to complete a PAC report, costs associated with this work are absorbed within existing staffing budgets. As such this part of your request is refused in accordance with section 18(e) of the OIA as the information requested does not exist.

5. *Why is it that a PAC must be done where the court is considering a sentence of community detention or home detention but only may be done where the offender is facing a prison sentence? What is the rationale for this?*

When a court is considering a sentence of community detention or home detention, there are a number of things a Judge will want information about before being able to make a

sentencing decision and must be satisfied that the probation officer has completed the relevant matters under section 26A of the Sentencing Act 2002. This information is not immediately available to provide to the Judge, which is where a PAC report is requested. The same information is not required when making a sentencing decision of a prison sentence which is why a PAC report is not always required in those cases.

Community-based sentences must consider factors that are not relevant in the case of prison sentences. The main difference is where a person may live while on a community-based sentence. A PAC report can provide information about an address including who lives there, what supports they may offer and whether it's suitable for electronic monitoring equipment. Additionally, a PAC report can outline further considerations, including the rehabilitative needs of the person, childcare or family duties, employment, and community and social circumstances.

As community-based sentences usually require a person to be electronically monitored, PAC reports include information about the electronic feasibility of an address. This information includes, but not limited to:

- Does the applicant have an address suitable for an electronically monitored sentence?
- Is the address accessible – is the address accessible for field officers / probation officers e.g. is accessible by road?
- Does the address have a signal suitable for Electronic monitoring?
- Do the occupants of the address agree to the applicant serving a sentence at the address and do they consent to such?
- Are there any health and safety consideration – are there dangerous dogs at the location that would be a health and safety risk to probation officers / Field Officers?
- Are there any consideration required in respect of other people at the address including children who reside either permanently or part-time at, or regularly visit, the address?
- Is there any information the court may require from partner agencies e.g. Police, Oranga Tamariki and other agencies as appropriate?

6. *Under what circumstances would a PAC be done (or not be done) where the offender is facing a prison sentence?*

A PAC report for someone facing a term of imprisonment is requested at the discretion of the court. Community Corrections will undertake this request at the court's discretion.

Please note that this response may be published on Corrections' website. Typically, responses are published quarterly, or as otherwise determined. Your personal information including name and contact details will be removed for publication.

I trust the information provided is of assistance. I encourage you to raise any concerns about this response with Corrections. Alternatively, you are advised of your right to also raise any concerns with the Office of the Ombudsman. Contact details are: Office of the Ombudsman, PO Box 10152, Wellington 6143.

Ngā mihi

A handwritten signature in black ink, appearing to read 'Brydie Raethel', with a large, sweeping flourish extending to the right.

Brydie Raethel
Principal Adviser Ministerial Services
People and Capability