

# Exploring the Relationship between Community-Based Order Conditions and Reoffending

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# Exploring the Relationship between Community-Based Order Conditions and Reoffending

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# Glossary

## Legal terms

<b>Case</b>	A collection of multiple charges against a person sentenced at the one hearing.
<b>Charge</b>	A single proven count of an offence.
<b>Community-based order (CBO)</b>	A now abolished sanction that involved the release of an offender, with or without conviction, for a period of up to two years on an order with attached mandatory and program conditions.
<b>Community correction order (CCO)</b>	A sanction that involves the release of an offender, with or without conviction, for a period up to the length of the maximum term of imprisonment for the sentenced offence on an order with attached mandatory terms and optional conditions.
<b>Co-sentenced offence</b>	An offence sentenced in the same case as the offence of interest.
<b>Imprisonment</b>	A sentence of imprisonment that is served immediately, as distinct from a sentence of imprisonment that is partially or wholly suspended.
<b>Intensive correction order</b>	A now abolished sanction that involved a sentence of imprisonment of not more than 12 months being served by way of release and the intensive correction of an offender for a period of not more than 12 months on an order with attached mandatory and program conditions.
<b>Principal proven offence</b>	The offence attached to the charge that receives the most severe sentence in a case. Where offences have an equal sentence, the offence with the lowest ranking on the National Offence Index is the principal offence.
<b>Recidivism</b>	The commission of at least one criminal act by a person after the imposition of a sentence.
<b>Reoffending</b>	The extent to which an adult person, having been sentenced in any Victorian court, returns to court and is sentenced for a subsequent offence or subsequent offences.
<b>Sentencing episode</b>	A date on which an offender is sentenced.

## Statistical terms

<b>Index offence</b>	The principal proven offence in the index sentencing episode.
<b>Index sentence</b>	The sentence from which subsequent sentencing events are measured. In this report, the index sentence is the most severe sentence imposed in the (chronologically) first sentencing episode (the index sentencing episode) for each offender sentenced in a particular period (the index period).

<b>Index sentencing episode</b>	Chronologically the first sentencing episode for each offender sentenced in a particular period (the 'index period').
<b>Index years/index period</b>	The period in which the index sentencing episode is selected in order to identify the index sentence from which subsequent sentencing events are measured. In this report, the index years are 1 July 2007 to 30 June 2009.
<b>Logistic regression</b>	A statistical technique that measures the independent influence of multiple predictors on a binary outcome measure.
<b>Odds ratio</b>	A measure produced by logistic regression, and some statistical procedures, of the change in the odds of an event (such as reoffending) occurring as a result of an increase of one unit in a particular factor (such as age group).
<b>Statistical power</b>	<p>The probability that a statistical test correctly rejects the null hypothesis and, as such, avoids 'missing' a real effect. This is influenced by three factors:</p> <ol style="list-style-type: none"> <li>1. the significance criterion (most often 5%);</li> <li>2. the effect size; and</li> <li>3. the sample size.</li> </ol> <p>As a general rule, increasing the sample size involved in a test increases the statistical power. (The null hypothesis is the assertion that the things being tested are not related and the results are the product of random chance events.)</p>
<b>Statistical significance</b>	The likelihood that a statistical relationship between two variables has not occurred by chance (conventionally measured by whether the probability that the relationship occurred by chance is less than 5%).
<b>Survival analysis</b>	A set of statistical techniques that examine the time it takes for an event to happen: in this case, the time to reoffending as captured by resentencing.
<b>Test for group differences in survival</b>	A type of survival analysis that examines the statistical significance of difference in survival rates between two groups at specific points in time. This test does not assess the relationship between survival time and predictors.
<b>Variance</b>	A measure explaining how dispersed a set of numbers is with respect to the mean, which is the expected value. The variance accounted for with respect to logistic regression models explains the extent to which the significant model parameters help predict the regression model outcome (ranging from 0.0 to 1.0).
<b>z-score</b>	A score that quantifies the difference between two populations on the characteristic of interest and can be used to determine the statistical significance of this difference.
<b>z-test for population proportions</b>	A statistical test that examines whether two populations differ on a single, categorical characteristic to an extent that is greater than would be expected by chance alone.

# 1. Executive summary

- I.1 This report examines the relationship between conditions imposed on offenders as part of a community-based sentence and subsequent reoffending. Specifically, the report considers community-based orders (CBOs) imposed by the Magistrates' Court of Victoria between 1 July 2007 and 30 June 2009, with a focus on (a) how magistrates used different combinations of conditions and (b) how offender and offence characteristics, including reoffending rates, differed between offenders who did and did not receive 'supervision' as a condition of their order. The analysis provides an insight into the interaction between decisions made by sentencers in relation to community-based sentencing and subsequent reoffending within the Victorian criminal justice system.
- I.2 Although the CBO was abolished in January 2012, this report is highly relevant to the CBO's replacement: the community correction order (CCO). Despite an increased range of conditions available under the latter order, recent research suggests that magistrates are using CCOs in a very similar manner to how they were using CBOs. Thus, the report is still likely to provide an insight into the expected reoffending patterns for CCOs.
- I.3 The Council defines reoffending as any offending that followed the imposition of the index sentence and was sentenced in any Victorian court to 30 June 2012. Defined this way, the overall reoffending rate for offenders who received a CBO is 42.6%.
- I.4 There are multiple methods for examining reoffending. The methodology used in this report is consistent with the approach taken by the New South Wales (NSW) Bureau of Crime Statistics and Research (BOCSAR) in their analysis of reoffending in NSW. This method differs from the Productivity Commission's analysis in a number of significant ways, including:
- focusing on reoffending that follows the imposition (as opposed to completion) of a community order;
  - counting reoffending that results in fines; and
  - including reoffending that occurs between three and five years post-sentence (as opposed to two years).
- I.5 Unpaid community work, assessment/treatment, and supervision were the main conditions attached to CBOs. At least one of these three conditions was included in 97.2% (n = 6,177) of the CBOs imposed during the index period. The focus of this report is on the supervision condition. Of the sample of 6,177 offenders, 45% (n = 2,791) received supervision as at least one of the conditions of a CBO (the 'Supervision CBO' group) while the remaining 55% (n = 3,386) did not (the 'No Supervision CBO' group). The Supervision CBO group had a significantly higher reoffending rate than the No Supervision CBO group (49.5% compared with 36.9%).

- 1.6 The available offender characteristics were examined for systematic differences between offender profiles in relation to the CBOs that involved supervision. Differences between the Supervision CBO and No Supervision CBO groups were statistically significant on almost all available characteristics. Offenders who received supervision as at least one of the CBO conditions were:
- more likely to be male or aged under 25 years;
  - more likely to have committed an index offence that was against the person or drug-related;
  - less likely to have committed an index offence that was property-related or traffic-related;
  - more likely to be sentenced for multiple offences; and
  - more likely to have a recent history of prior offending.
- 1.7 The Council examined the relationship between offender characteristics and reoffending using separate logistic regression analyses for the Supervision CBO group and the No Supervision CBO group. This allowed the effect of supervision on reoffending to be controlled for and the relationship between offender characteristics and reoffending to be assessed. The analysis found that, for both groups of offenders, reoffending was more likely when:
- offenders were male or aged under 25 years;
  - the case involved multiple offences; and
  - the offender had received a recent prior sentence.
- 1.8 Examination of the time to reoffending reveals that the differential rates of reoffending became apparent almost immediately. Within two months of the index offence, offenders in the Supervision CBO group were already reoffending more frequently than offenders in the No Supervision CBO group.
- 1.9 There was also an indication that reoffending resulted in different responses from the courts as a function of whether previous CBOs had been imposed with supervision as at least one of the conditions. Offenders in the Supervision CBO group were more likely to receive a harsher sentence if they reoffended. In comparison, reoffending by offenders in the No Supervision CBO group was more likely to result in less severe subsequent sentences.
- 1.10 The results of this research must not be interpreted as meaning supervision is ineffective. Offenders who are placed on supervision orders are those with the most complex offending profiles. They are more likely to have been convicted of offences against the person for their index offence, more likely to have been sentenced previously, including to prior terms of imprisonment, and more likely to have prior convictions for property offences that are indicative of substance dependence. These offenders are likely to be the most difficult to deter from further offending. The finding that these offenders are more likely to attract a supervision condition suggests that the most intensive community-based correctional interventions are being targeted to the group at highest risk of reoffending.

## 2. Community sentence conditions, reoffending, and the purposes of this report

- 2.1 The Sentencing Advisory Council (the Council) has developed a reoffending database that draws on data collected by all sentencing courts in Victoria and includes people sentenced between July 2004 and June 2013. This database provides an opportunity to follow offenders as they appear and reappear for sentencing in Victorian courts. Prior to the development of this resource, the lack of appropriate data has meant that there has been very little research on reoffending in Victoria.
- 2.2 This report examines the relationship between offender characteristics, offence details, community-based order (CBO) conditions, and reoffending for sentences imposed in the Magistrates' Court of Victoria between 1 July 2007 and 30 June 2009. This research examines 97.2% (n = 6,177) of the CBOs imposed during this period. Cases are included in the analysis if at least one of the three main CBO conditions has been imposed: unpaid community work, assessment/treatment, or supervision.
- 2.3 This report first provides some contextual information regarding the history of CBOs. This is followed by a discussion of the purposes of CBOs and a brief outline of the theory and evidence that underpins these three main CBO conditions. After the relevant research findings from other jurisdictions are summarised, the aims of this report are discussed. Following this, the data specifications and methodology are explained, the results of this reoffending analysis are presented, and the implications of these findings are explored with respect to the criminal justice system in Victoria.
- 2.4 Although CBOs were abolished and replaced by community correction orders (CCOs) in January 2012, the analysis of reoffending following CBOs is likely to provide insight into the reoffending patterns that can be expected under the more recent sanction. Despite an increased range of conditions available under the CCO (for example, a judicial monitoring condition is available for the CCO but was not available for the CBO), recent research suggests that magistrates are using CCOs in a manner that is very similar to how they were using CBOs (Sentencing Advisory Council, 2014a).

### History and Purposes of the CBO

- 2.5 Since the mid 1970s, there have been Victorian sentences served in the community involving the offender undertaking rehabilitative programs and unpaid community work under the management or supervision of correctional officers.<sup>1</sup> In 1985, community sentences were conflated into a single sentence, the CBO. In the decade before 2012, Victorian courts imposed on average just under 6,000 CBOs each year, accounting for roughly 7% of offenders sentenced in the Magistrates' Court and 12% of offenders sentenced in the higher courts (Sentencing Advisory Council, 2014a). Among major legislative changes to sentencing in January 2012 were the abolition of the CBO and the introduction of the CCO.<sup>2</sup>

1. Examples include the attendance centre order (1975) and the community service order (1982).

2. *Sentencing Amendment (Community Correction Reform) Act 2011* (Vic).

- 2.6 CBOs were designed to provide the courts with a flexible sentencing option that allowed the individual tailoring of a sentence.<sup>3</sup> CBOs sat in the middle of the sentencing hierarchy, above fines and below intensive correction orders. CBOs could be imposed with or without conviction for offences punishable by imprisonment or a fine of at least 6 penalty units. It was possible for these orders, which could be imposed for a maximum duration of two years, to be longer than a term of imprisonment for the same offence. Offenders were required to agree to the imposition of a CBO.
- 2.7 With respect to the purposes of sentencing, although CBOs often placed an emphasis on rehabilitation, every order also contained at least an element of punishment.<sup>4</sup> A set of core conditions was attached to all CBOs, along with at least one program condition. Core conditions related to general lawful behaviour, reporting to community corrections, notification of a change of address, and requiring permission to leave Victoria. Program conditions could have included a mix of unpaid community work, supervision, education programs, assessment and treatment (for addictions and/or mental health reasons), drug/alcohol screening, and participation in a justice plan. The combination of the program conditions imposed could not be more than necessary to achieve the purposes of sentencing, and conditions depended on the specific circumstances of the offender and the offence.<sup>5</sup>

## Theory and evidence underpinning the three most frequently imposed CBO program conditions

- 2.8 Over the two years between 1 July 2007 and 30 June 2009, 97.2% (n = 6,177) of the CBOs imposed involved at least one of unpaid community work (82% of sentences), assessment/treatment (38% of sentences), and supervision (45% of sentences). This section explores the theory and research evidence underpinning these three CBO program conditions.

### Unpaid Community Work

- 2.9 Generally, while unpaid community work reflects the punitive component of sentencing, it also encompasses the idea of reparation in terms of giving back to the community.
- 2.10 In addition to the more traditional tasks of clearing litter or removing graffiti, in recent times, Corrections Victoria has expanded the range of work options associated with this condition. Some of the options include reconditioning second-hand bicycles for donation, knitting blankets for needy children, creating books for non-English speaking children about avoiding a life of crime, or allowing work experience to count towards certificates in potential fields of employment such as occupational health and safety. The aim is to better match offenders' needs and abilities to the work they are required to do and to increase offender engagement with unpaid community work by demonstrating real meaning both for the community and for them.
- 2.11 Unpaid community work often represents the first time that offenders have experienced structure, routine, and responsibility in their chaotic lives. It also allows offenders to develop skills that might otherwise be unattainable with potential relevance to future job opportunities.
- 2.12 Evidence into the relationship between unpaid community work and reoffending is 'sparse and dated' (Davis et al., 2008, p. 21). However, there is support for the suggestion that offenders themselves perceive community work to be a positive experience (Davis et al., 2008, p. 21).

3. *Sentencing Act 1991* (Vic) pt 3 div 3 (Division now repealed).

4. *Ibid.*

5. *Ibid.*

## Assessment/Treatment

- 2.13 The assessment and treatment condition is intended to address the causes of offending behaviour. The most effective approaches to assessment and treatment are those that adopt a *risk–need–responsivity* approach to rehabilitation, using cognitive-behavioural programs and providing appropriate treatment for conditions underpinning offending behaviour.
- 2.14 The influential work of Andrews et al. (Andrews, 1995; Andrews et al., 1990) has found that treatment must be targeted appropriately depending on the offender's level of *risk*, with the most intensive treatment and intervention programs reserved for the highest risk offenders. Treatment must also address *needs* that are criminogenic, focusing on dynamic risk factors that predict future criminal behaviour, such as antisocial attitudes, undesirable peers, poor self-control, and addiction. Finally, the treatment must be delivered in a way that is *responsive* to the offender's learning style and personal characteristics.
- 2.15 Corrections Victoria utilises this risk–need–responsivity framework. Assessment officers are able to assess both an offender's risk of reoffending and an offender's criminogenic needs by using the Victorian Intervention Screening Assessment Tool in order to direct offenders into appropriate forms of treatment.
- 2.16 Lipsey and Cullen provide a concise summary of the evidence underpinning the effectiveness of rehabilitative assessment and treatment in their meta-analysis of systematic reviews. Their results displayed 'consistently positive and relatively large' average effects in studies of rehabilitation treatment (Lipsey and Cullen, 2007, p. 297) despite the variation across the meta-analyses examined. Lipsey and Cullen found consistent effects despite variations between studies with respect to:
- the types of treatment that were applied;
  - the quality of treatment implementation; and
  - the specific issues faced by the offenders who received the intervention.
- 2.17 Overall, meta-analyses of treatment programs have found average effect sizes representing reductions in reoffending of around 20%, with some finding reductions of more than 40%. This reduction in reoffending is greater for programs delivered in the community than in custody, with McGuire's overview of 20 meta-analyses identifying that programs delivered in community settings out-performed those delivered in institutional settings by 75% (McGuire, 2002).

## Supervision

- 2.18 Supervision of offenders serving community sentences can meet a rehabilitative purpose, with supervisors assisting offenders and linking them with appropriate services. Supervision may also serve a punitive purpose, with supervising officers monitoring an offender's compliance with the conditions of an order.
- 2.19 Bonta et al. undertook a meta-analysis of 15 studies of community supervision published between 1980 and 2006 to look at the effectiveness of supervision. This analysis concluded that the decrease in recidivism associated with community supervision was extremely small, leading Bonta et al. (2008, p. 251) to deduce that, 'on the whole, community supervision does not appear to work very well'.

- 2.20 Following from this meta-analysis, Bonta et al. undertook an investigation of probation officers in Manitoba, Canada, with the aim of understanding why supervision appeared to fail to reduce recidivism. This study revealed that probation officers demonstrated poor adherence to the risk–need–responsivity principles of effective intervention. The authors concluded that too much time was spent on the enforcement aspect of supervision at the expense of the service delivery component of supervision (Bonta, et al., 2008, pp. 265–268).
- 2.21 Weatherburn and Trimboli's 2008 study demonstrated similar resource-related findings by comparing rates of reconviction and time to reconviction between adults placed on supervised and unsupervised bonds. Weatherburn and Trimboli undertook matched regression analysis examining data on almost 13,000 offenders convicted in the New South Wales Local Court in the year 2000. Their results showed that the risk of reconviction was equivalent regardless of supervision, and in some instances the risk was higher for offenders on a supervised order. Similarly, the only difference Weatherburn and Trimboli observed for time to reconviction was that offenders on supervised orders were reconvicted more quickly after the index offence. Following consultation with New South Wales parole staff, Weatherburn and Trimboli concluded that inadequate treatment and support of offenders were most likely to account for these patterns. Insufficient access to critical rehabilitation services such as mental health treatment, addictions treatment, and housing assistance was presenting a significant barrier to offender rehabilitation.
- 2.22 Another factor that may be influencing the negative relationship between supervision and reoffending involves the frequency of monitoring. In short, it may be the case that, for some offenders, the more frequently and intensively they are supervised the more likely it is they will be detected breaching.
- 2.23 Petersilia and Turner observed this pattern in a study examining variations in recidivism as a function of intensive versus regular supervision. A randomised field experiment evaluated a national demonstration project on intensive supervision programs across nine American states. The primary focus of the various types of intensive supervision programs was a close monitoring of offenders on probation or parole, including some combination of multiple weekly contacts with a supervising officer; unscheduled drug testing, strict enforcement of conditions, requirements to attend treatment, requirements to work, and the need to perform community service (Petersilia and Turner, 1993, p. 282). This research found that, in the 12 months post-supervision program allocation, intensive supervision never resulted in fewer arrests, increased time to failure, or less serious offending behaviour. Furthermore, technical violations were also more prevalent among program participants (65%) than among routine supervision offenders (38%). Petersilia and Turner concluded that, despite the programs being well implemented, intensive supervision did not decrease either the frequency or the seriousness of new arrests, and it actually increased the incidence of technical violations and hence new jail terms being imposed.
- 2.24 Consistent with these findings, following the analysis of 58 intensive supervision programs in the United States, Lowenkamp et al. (2010) discovered that programs that operated using a human services philosophy were more effective at reducing recidivism, relative to those programs with a philosophical focus on deterrence.
- 2.25 Courts are likely to impose supervision as a community sentence condition for offenders who pose a greater risk and require additional support. The combination of the conflicting objectives of surveillance and rehabilitation, in addition to the inconsistent availability and/or application of rehabilitation services, helps explain the mixed research findings about the relationship between supervision and reoffending.

## Research aim and expectations

- 2.26 Prior to the development of the Council's reoffending database, there had been a dearth of appropriate data allowing research on reoffending in Victoria. To date, the Council has utilised the reoffending database to publish an overview of reoffending following sentencing in the Magistrates' Court (Sentencing Advisory Council, 2013a) and to examine the relationship among fines, repayment, and reoffending (Sentencing Advisory Council, 2014b). The Council examined the effect on reoffending of various sentence types, including CBOs, in relation to fines and found that after controlling for the effects of factors such as prior offending, age of the offender, and offence type, the likelihood of reoffending for offenders who received a CBO was 12.7% higher than for offenders who received a fine (Sentencing Advisory Council, 2013a). No measures specific to the nature and combination of CBO conditions were included in the analysis.
- 2.27 This report extends Victorian reoffending research by examining CBOs imposed in the Magistrates' Court and exploring the relationship among individual offender characteristics, CBO conditions, and reoffending. The analysis tracks offenders from their sentence to their subsequent sentencing episodes across the Magistrates' Court and the higher courts.
- 2.28 The range of offender characteristics used to explore this relationship are outlined in the following section, along with details about the data specifications and methodology involved in tracking reoffending. The results of the analysis are then presented and discussed with respect to data limitations, the implications of the findings, and ideas for future research.
- 2.29 The aim of this research is exploratory, and the relationship among individual offender characteristics, CBO conditions, and reoffending is examined with respect to three aspects: reoffending frequency, time to reoffending, and the severity of subsequent sentences imposed when reoffending occurs.
- 2.30 Given the prior research findings in this area, we can draw some expectations when considering the relationship between individual offender characteristics, CBO conditions, and reoffending. It was anticipated that there would be:
- no clear pattern with respect to unpaid community work and reoffending;
  - a relationship between assessment/treatment and reduced reoffending (with the assumption that the rehabilitative aspects of CBO conditions were successfully completed);
  - a relationship between supervision and increased reoffending, potentially as a consequence of:
    - resource limitations and failure to provide appropriate services;
    - increased scrutiny leading to increased detection; or
    - both of these factors operating in parallel.
- Further, if any differences were observed with respect to time to reoffending, they would indicate that offenders sentenced to CBOs with supervision would be reconvicted more quickly.
- 2.31 In addition, this report aims to undertake an exploratory analysis of this issue with respect to community sentences and reoffending based on recent Victorian research demonstrating the influential role of prior offending in predicting subsequent sentencing outcomes.<sup>6</sup>

6. See for example the Council's examination of reoffending following sentencing in the Magistrates' Court of Victoria (Sentencing Advisory Council, 2013a), examination of family violence intervention orders and safety notices (Sentencing Advisory Council 2013b), and analysis of aggravated burglary (Sentencing Advisory Council, 2011).

- 2.32 In some cases, prior offending can be related to an increase in severity of subsequent sentences. In such cases, these patterns are a consequence of the courts considering prior offending and convictions as part of the assessment of the 'offender's previous character'.<sup>7</sup> Within a UK context, Roberts (2005) discusses this issue with respect to the requirement for relevance of previous convictions. This escalation in sentencing is not an automatic consequence upon repeat conviction, however, as there is 'no principle of sentencing that demands increasingly more severe sanctions be administered to persons who persist in their criminality' (Freiberg, 2014, p. 341). With respect to this matter, the High Court of Australia has stated that prior convictions of an offender may not be used to justify the imposition of a sentence that is disproportionate to the offence being sentenced.<sup>8</sup>
- 2.33 In relation to this issue, important findings have emerged from recent research undertaken in The Netherlands involving nearly 33,000 adult offenders (Wetenschappelijk Onderzoeken Documentatiecentrum (WODC), 2014), which examines recidivism following probation (with supervision) or a community service order (without supervision). In addition to overall patterns of reoffending that paralleled results discussed previously, the WODC research demonstrates that an escalation of punishment (to imprisonment) following reoffending occurs more frequently for supervised community-based offenders (38%) compared with offenders who only serve community service orders without supervision (25%).
- 2.34 The Council's analysis also examines the relationship between community sentence conditions, reoffending, and the subsequent severity of the sentences imposed.

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7. *Sentencing Act 1991* (Vic) s 5(2)(f).

8. *Veen v The Queen* [No 2] (1988) 164 CLR 465, 477–478 (Mason CJ, Brennan, Dawson, and Toohey JJ).

## 3. Data specifications and methodology

- 3.1 The Council's reoffending database draws on data collected by all sentencing courts, other than the Court of Appeal, in Victoria. The database includes individuals sentenced for a criminal offence between July 2004 and June 2013 (at the time the data analysis was undertaken for this study, the database included sentencing records to June 2012 only). The Council obtained data on sentencing outcomes, offences, and offender characteristics from two sources: the Courtlink system for the Magistrates' Court and the higher courts sentencing database for the County and Supreme Courts.
- 3.2 Data on community-based order (CBO) conditions were obtained from the EJustice system. The Council linked the CBO conditions data with the reoffending database using a common case identifier. As there are over 8,000 different descriptions listed in the CBO conditions data, the Council undertook an exercise, in conjunction with Corrections Victoria, to categorise the most common 1,000 descriptions into eight meaningful condition categories. An analysis of the distribution of these eight categories found that over 95% received one or more of three condition categories: unpaid community work, supervision, and assessment/treatment.
- 3.3 This section provides details about the CBO cases that were linked and retained for analysis and the offender characteristics that were available for modelling purposes. In order to put the findings of this research into context, the limitations associated with this dataset are also discussed.

### CBOs linked and retained for analysis

- 3.4 Approximately 97% of adult offenders sentenced in Victoria are sentenced in the Magistrates' Court.<sup>9</sup> Offences sentenced in the Magistrates' Court are summary offences and indictable offences of a lower level of seriousness that may be tried summarily. Thus, offences sentenced in the Magistrates' Court will generally have a lower level of seriousness compared with offences sentenced in the higher courts.
- 3.5 The index period for offending (the period within which an offender's index sentencing episode is selected) is 1 July 2007 to 30 June 2009. The index sentencing episode for each offender is defined as the first sentence imposed in the Magistrates' Court during the index period, providing the sentence is a CBO. As the Council's reoffending database only includes the most severe sentence (as defined by the formal sentencing hierarchy for Victoria) for each sentencing episode, CBOs that were imposed on an offender along with more severe sentences, such as imprisonment or a wholly suspended sentence of imprisonment, have not been counted as an index sentencing episode. During the index period, 6,354 offenders received a CBO as the most severe sentence in their index sentencing episode, and these offenders made up 5.7% of all offenders sentenced in the Magistrates' Court over the two-year period. The final sample excludes offenders whose CBO did not include any of the three major condition categories: unpaid community work, assessment/treatment, and supervision. This resulted in 97.2% (n = 6,177 cases) of the CBOs sentenced during the index period being retained for analysis.

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9. This excludes offenders sentenced in the Children's Court of Victoria, that is, offenders aged 10 to 17 at the time of offending and under 19 at the time their court case begins (providing the offences sentenced do not include a homicide offence).

- 3.6 Reoffending is determined by an offender being sentenced between the date of his or her index sentencing episode and the last sentencing date available in the data set (30 June 2012). This is conditional on the offence for which a subsequent sentence was imposed having actually occurred after the imposition of the index sentence. Thus, for offenders whose index sentencing episode occurred at the end of the index period (30 June 2009), the minimum follow-up period for reoffending is three years. The maximum follow-up period is five years for offenders whose index sentencing episode took place at the start of the index period (1 July 2007).
- 3.7 The index offence is the principal proven offence in the index sentencing episode. For each sentencing episode, including the index sentencing episode, the principal proven offence is determined through a ranking process. First, where a sentencing episode has only one offence type, that offence is selected as the principal proven offence. Second, where a sentencing episode contains more than one offence type, the offence with the charge receiving the most severe sentence (including both sentence type and duration or amount of the sentence) is selected as the principal proven offence. Third, where multiple offences have the same severity ranking after this process, the offence with the lowest ranking on the National Offence Index (Australian Bureau of Statistics, 2009) is selected as the principal proven offence.
- 3.8 A method of record matching based on soundex<sup>10</sup> is used to identify when an individual appears within the reoffending database on more than one occasion.

## Offender characteristics available for modelling

### Offender demographic information

- 3.9 The sentencing data include demographic information for offender gender and age. Offender age is calculated using the difference between the date of the index-sentencing episode and the offender's date of birth, capturing the age of the offender at the time of the index sentence. Given the findings of prior research into risk and the relationship between age and reoffending (for example, Smith and Jones, 2008), offender age is converted into a binary variable: under 25 years or 25 years and older.

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10. This method was developed by the New South Wales Bureau of Crime Statistics and Research (BOCSAR) for its own recidivism database (Hua and Fitzgerald, 2006). Soundex is a rule-based process designed to address problems with alternative spellings of names and errors in dates of birth. Three versions of each name are employed, each using the first letter in the name with subsequent letters recoded into alternative values based on their common sounds. For dates of birth, alternative versions are created based on a small number of common mistakes. These include transposing the month and day digits (for example, 07/08/1985 and 08/07/1985) and transposing the 10 and one digits in the year value (for example, 1976 and 1967). Given the dependence on offender name and date of birth for the implementation of this linking technique, cases where either of these variables are missing are excluded from this analysis. Approximately 10% of cases sentenced between July 2004 and June 2012 do not have the date of birth of the offender recorded, the majority of these cases having a principal offence related to parking. See Hua and Fitzgerald (2006) for additional description of this process and the manner in which soundex addresses over- and under-matching of records without a unique identifier.

## Index sentence offence factors

- 3.10 Two broad types of offence-related factors are selected to capture aspects of the index sentencing episode: offence type and co-sentenced charges.

### Offence type

- 3.11 Principal proven index offences are categorised into one of the following offence types:
- offences against the person;
  - property offences;
  - drug offences;
  - traffic offences; and
  - other types of offences.

### Co-sentenced charges

- 3.12 For index sentencing events that involve a large number of offences, grouping based on the principal proven offence can lack sensitivity to discriminate between the relative severity of different cases. To address this limitation, the co-sentenced charges variable provides a proxy for each offender's level of criminality by capturing the number of charges sentenced in the index sentencing episode alongside the principal proven offence. This variable is coded in a binary manner: whether or not the current offence involves co-sentenced charges.

## Recent prior sentences

- 3.13 Recent prior offending is determined by examining the three years prior to the sentence date of the index sentencing episode (from 1 July 2004 to 30 June 2007) and is defined as any sentence imposed in this period. Although index sentencing episodes are restricted to cases sentenced in the Magistrates' Court, all prior sentencing episodes in a Victorian court post-July 2004 are included.
- 3.14 Four aspects of each offender's recent prior sentencing history are examined:
1. any recent prior sentence;
  2. a recent prior CBO;
  3. a recent prior period of imprisonment; and
  4. a recent prior sentence for a property-related offence.

All four of these variables are coded in a binary manner.

- 3.15 The focus on recent prior sentences for a property-related offence is included on the basis of research literature on reoffending showing that people sentenced for property offences are the most likely to reoffend (for example, Broadhurst and Loh, 1995; Thomas, Hurley, and Grimes, 2002; Ulmer, 2001). These findings can be interpreted to suggest that the presence of a property offence is an important factor in understanding reoffending, potentially as a proxy measure for substance dependence.

## Data limitations

- 3.16 The available variables provide valuable, novel insight into the relationship between offender characteristics, CBO conditions, and reoffending patterns. However, as with any database derived from administrative data, as opposed to data generated for research purposes, there are limitations in the Council's reoffending database. Consequently, this research could not examine a number of additional factors that could be influencing reoffending. This section outlines the implications of these limitations.
- 3.17 Representatives of the Victorian Community Correctional Services<sup>11</sup> advised that offenders who receive community sentences are very diverse, ranging from first-time offenders convicted of less serious offending to repeat, serious offenders. Although people on community orders are often young, they have a complex constellation of needs and problems that have influenced their offending behaviour. For a large number of offenders on community orders, their offending behaviour is the product of deep, entrenched problems that stem from childhood trauma and experiences in state care and/or the juvenile justice system. Several problems commonly affect offenders who are given community sentences. In particular, a large number of offenders present with substance addictions – often developed as a form of self-medication as a consequence of a history of trauma – mental health problems, and acquired brain injuries. In addition, offenders may be without stable accommodation or relationships to help them complete their orders and avoid reoffending. In combination, these factors exacerbate the risk of breaching conditions and committing additional offences. The significance of these variables is also supported by other Australian reoffending research (for example, Weatherburn, 2001). In summary, the factors known to be related to reoffending but unavailable for this study include:
- ethnic background (specifically, Aboriginality in Australia, for example, Weatherburn, 2010);
  - addiction; and
  - mental health.
- 3.18 In addition to this, there are data limitations associated with the availability of information relating to offending and sentencing dates.<sup>12</sup> Within the administrative records, the information about offence dates was missing for all higher courts sentencing episodes and for a small proportion of Magistrates' Court records. In total, approximately 10% of the sentencing episodes do not have an offence date (Sentencing Advisory Council, 2013a). Given the systematic nature of this data issue, it was not possible to simply exclude all records without sentence dates, as this would have resulted in removing all reoffending that resulted in sentencing in the higher courts. To address this limitation, where the date of offence was missing, incidents of reoffending were measured indirectly using the date that the subsequent sentence was imposed.
- 3.19 Two problems are associated with this approach to the missing data. The first relates to the delay between the commission of an offence and the sentencing for that offence. The second relates to the possibility that 'reoffending' captured through the proxy of resentencing could reflect sentencing for offences that pre-date the index sentence incident but have been processed after the index sentence.

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11. Dr Karen Gelb undertook consultation with Community Correctional Services stakeholders during the first half of 2013 with respect to the preliminary research into this topic.

12. These issues are discussed in detail within the Council's previous work on reoffending following sentencing in the Magistrates' Court (Sentencing Advisory Council, 2013a).

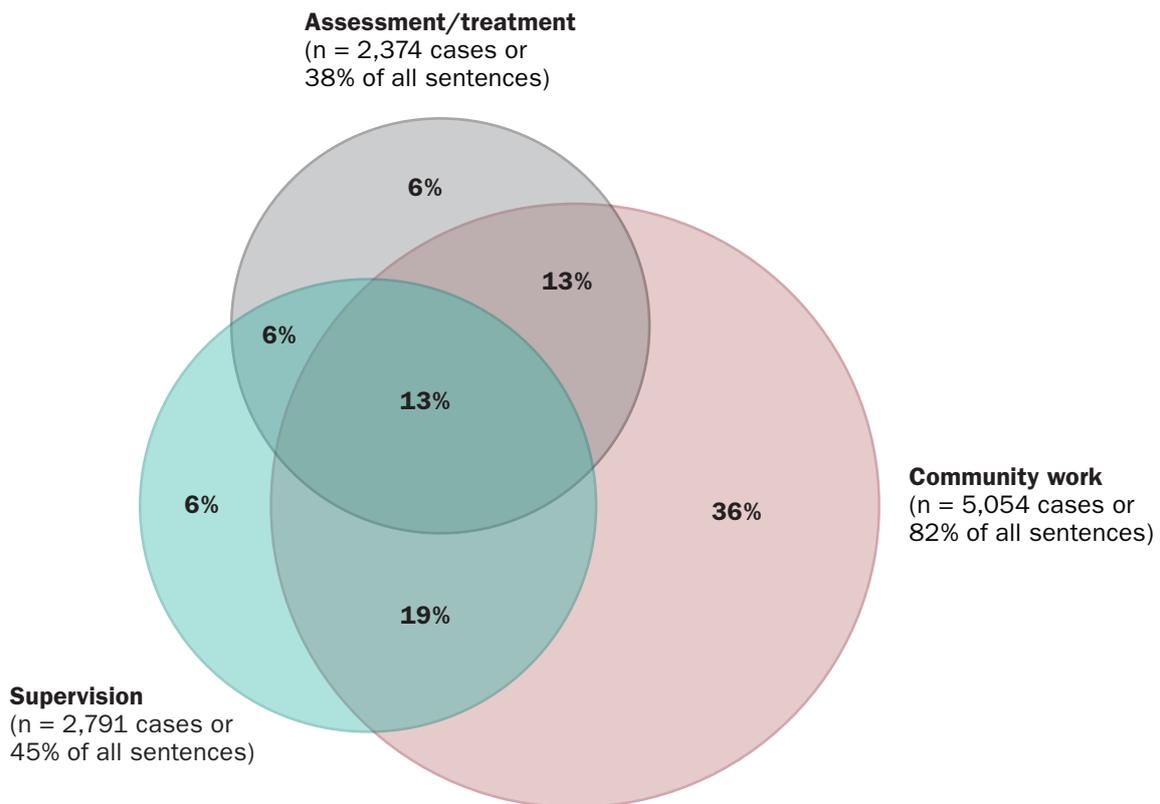
- 3.20 With respect to this first issue, it is always the case that there is a delay between offending and sentencing. The length of that delay varies in a systematic manner according to:
- time taken for police to become aware of the offence;
  - investigation time; and
  - time to appear in court.
- 3.21 The severity of offending (which influences the court that hears the case) also has an effect, with the Council's analysis revealing shorter periods associated with offences heard in the Magistrates' Court (median delay of 6 months) compared with the higher courts (median delay of 19 months).
- 3.22 In relation to the second issue, a number of rules are applied in an effort to minimise the impact of this order effect on the reoffending analysis. Initially, when the offence date is present, the data are screened to ensure only offences committed (and sentenced) following the index sentence date are retained for analysis. Where the offence date is not known, cases are screened to exclude cases where it is deemed insufficient time has elapsed between the CBO sentence date in the index period and the subsequent sentence. Previous research by the Council demonstrates that the 5th percentile for time from offence to sentence for cases heard in the Magistrates' Court is one month and for cases heard in the higher courts seven months (Sentencing Advisory Council, 2013a). Depending on where the reoffending sentence has been imposed, these two time periods are used to exclude cases where the date of offending is not known.
- 3.23 These limitations should be considered when interpreting the findings of this report.

## 4. Results

### The relative combination of conditions across orders

- 4.1 Most community-based orders (CBOs) are likely to include one or more of the conditions of unpaid community work (82% of all orders), assessment/treatment (38% of all orders), or supervision (45% of all orders). Figure 1 displays the relative frequency of each of these combinations within the index year sample in a Venn diagram.
- 4.2 The percentages within each cell of Figure 1 represent the percentage of all CBOs examined here ( $n = 6,177$ ): for example, 19% indicates that 1,187 of the total 6,177 CBOs imposed involved supervision and unpaid community work. Overall, Figure 1 shows that 36% of all CBOs imposed involved only unpaid community work, 6% involved only assessment/treatment, and 6% involved only supervision. The centre cell of the Venn diagram demonstrates that 13% of the CBOs imposed involved all three of these conditions.

**Figure 1:** Venn diagram demonstrating the relative frequency of all combinations of CBO conditions ( $n = 6,177$ )



## Reoffending by combinations of CBO conditions

- 4.3 The overall reoffending rate for offenders on CBOs was 42.6%. That is, of the 6,177 offenders who received a CBO in the Magistrates' Court in the period from July 2007 to June 2009, 2,630 were sentenced for a subsequent offence as at June 2012.
- 4.4 This overall reoffending rate is different from the Victorian data included in the Productivity Commission's 2014 *Report on Government Services* (ROGS), which reports that 22.0%<sup>13</sup> of offenders discharged from community corrections orders<sup>14</sup> during 2010–11 returned to a new correctional sanction within two years (Steering Committee for the Review of Government Service Provision, 2014).
- 4.5 There are multiple methods for examining reoffending. There are significant differences between the ROGS methodology and that chosen for the present report. This report's methodology includes:
- reoffending by individuals regardless of whether they were discharged from their community orders: in 2010–11 only 66.3% of community orders were completed;<sup>15</sup>
  - reoffending that resulted in fines, which are outcomes not administered by corrective services:<sup>16</sup> 64% of cases sentenced in the Victorian Magistrates' Court between 2009–10 and 2012–13 received a fine, in addition to 11% of County Court cases and 3% of Supreme Court cases over the same time period;<sup>17</sup> and
  - reoffending that occurs between three and five years subsequent to the index offence, as discussed at [3.6].
- 4.6 The current methodology is consistent with the approach taken by BOCSAR in its analysis of reoffending in NSW (for example, Snowball and Bartels, 2013; Weatherburn and Trimboli, 2008).

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13. Steering Committee for the Review of Government Service Provision, 2014, c. 23, Table C.6.

14. Within this context, 'community corrections orders' include offenders discharged after serving post-prison orders in the community, such as parole or licence.

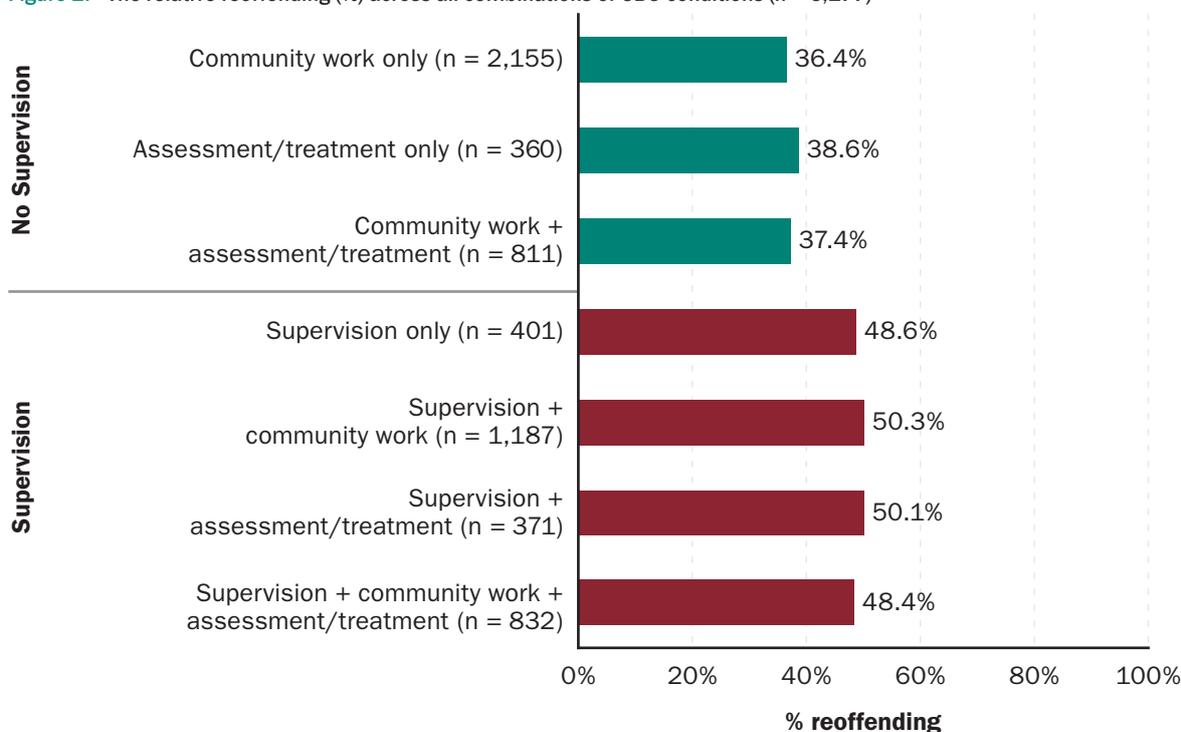
15. Steering Committee for the Review of Government Service Provision, 2014, Table 8A.37 ('Victoria: Effectiveness community corrections').

16. ROGS does not take into account reoffending that leads to outcomes not administered by corrective services, for example, fines.

17. Sentencing Advisory Council, 2014b, p. 18 (Magistrates' Court findings), and p. 19 (higher courts findings).

- 4.7 Figure 2 displays the relative frequency of reoffending associated with the combinations of unpaid community work, assessment/treatment, and supervision. This shows that 36.4% of offenders sentenced to CBOs with unpaid community work as their only condition reoffended within the relevant period. In comparison, 38.6% of offenders who had assessment/treatment as the sole condition reoffended, while 48.6% who had supervision as the sole condition reoffended.
- 4.8 The Council undertook a series of planned z-tests for population proportions, testing the significance of the differences between the relative percentages of reoffending within the groups of CBO conditions. These z-tests examine the relative reoffending within each combination of CBO conditions to determine whether the difference is greater than might be expected by chance alone (for example, is the difference between unpaid community work only and assessment/treatment only statistically significant:  $36.4\% - 38.6\% = -2.2\%$ , or is it within the range expected according to chance?) Z-tests were used to compare all combinations of CBO conditions.
- 4.9 The resulting z-scores produced by this analysis demonstrate that the reoffending for the combinations of orders that do not include supervision (termed No Supervision in Figure 2) are significantly different from all of the combinations of orders that do include supervision (termed Supervision in Figure 2).<sup>18</sup> There are no differences within the Supervision CBO and No Supervision CBO groups. This bifurcation is represented simply by the difference in overall reoffending frequency for the Supervision CBO group (49.5%) and the No Supervision CBO group (36.9%).

**Figure 2: The relative reoffending (%) across all combinations of CBO conditions (n = 6,177)**

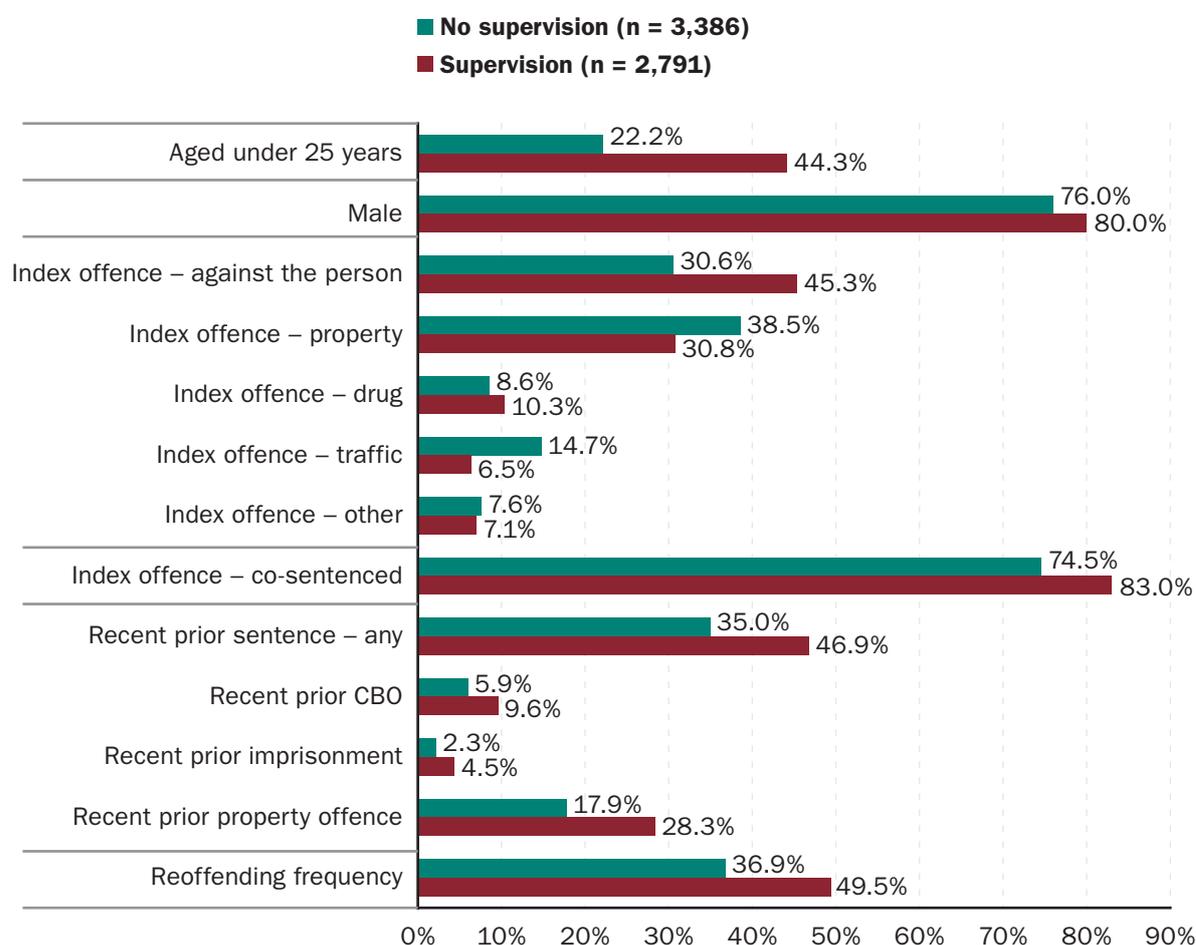


18. See Table A1 (page 23) for the z-scores that result from these comparisons.

## Variations in offender/offence characteristics with respect to supervision

- 4.10 Given the significant differences between the reoffending frequencies of offenders sentenced to Supervision CBOs and No Supervision CBOs, the analysis compares all of the available offender characteristics for these two groups (with the relative group characteristics displayed in Figure 3). These comparisons reveal significant quantitative differences<sup>19</sup> between groups for all of these characteristics with the exception of 'index offence – other'.
- 4.11 In summary, the results of the comparison show that a larger percentage of the offenders in the Supervision CBO group:
- were aged under 25 years;
  - were male;
  - had committed an index offence that was against the person or drug-related;
  - had an index case that involved co-sentenced offences; and
  - had a recent prior sentence.
- 4.12 In contrast, a smaller percentage of offenders in the Supervision CBO group had an index offence related to property offending or traffic offending.

**Figure 3:** Within-group characteristics of offenders for Supervision CBOs and No Supervision CBOs



19.  $|Z| > 2.30$  in all cases.

## Offender characteristics, supervision, and reoffending

- 4.13 Given that offenders in the Supervision CBO group (a) reoffended more frequently and (b) had a different group profile to offenders in the No Supervision CBO group, the relationship between offender characteristics and reoffending was examined separately as a function of supervision.
- 4.14 To achieve this, separate binary logistic regression models investigated the relationship between offender characteristics and reoffending for the No Supervision CBO and Supervision CBO groups. These regression models allow the effect of each offender characteristic on the reoffending outcome to be considered while holding other offender characteristic variables constant. This logistic regression process produces odds ratios,<sup>20</sup> which indicate the likelihood of reoffending in light of the presence of the offender characteristic.
- 4.15 Overall, when supervision is controlled for in this way, these separate regression models demonstrate very similar results, with reoffending more likely when offenders:
- were aged under 25 years;
  - were male;
  - had an index case that involved co-sentenced offences; and
  - had received a recent prior sentence.
- 4.16 There were also offender characteristics that were non-predictive of reoffending in both models. These included information relating to index offences that were against the person, property-related, and drug-related.
- 4.17 The only two offender characteristics that produced divergent results across the two regression models are:
- the index traffic-related offence, which is related to an increased likelihood of reoffending for the Supervision CBO group but is non-significant within the No Supervision CBO model; and
  - the recent prior CBO, which is related to an increased likelihood of reoffending for the No Supervision CBO group but is non-significant within the Supervision CBO model.
- 4.18 Therefore, it seems that similar factors are related to reoffending, and that these factors appear more frequently within the groups of offenders sentenced to Supervision CBOs as compared with No Supervision CBOs.
- 4.19 A possible implication of this is that the substantially higher reoffending rates found for offenders that had a supervision condition attached to their CBO compared with those who did not are due to individual differences of offenders rather than supervision itself. However, to draw such a conclusion requires further investigation that is able to isolate the effect of supervision from the effects of other factors.

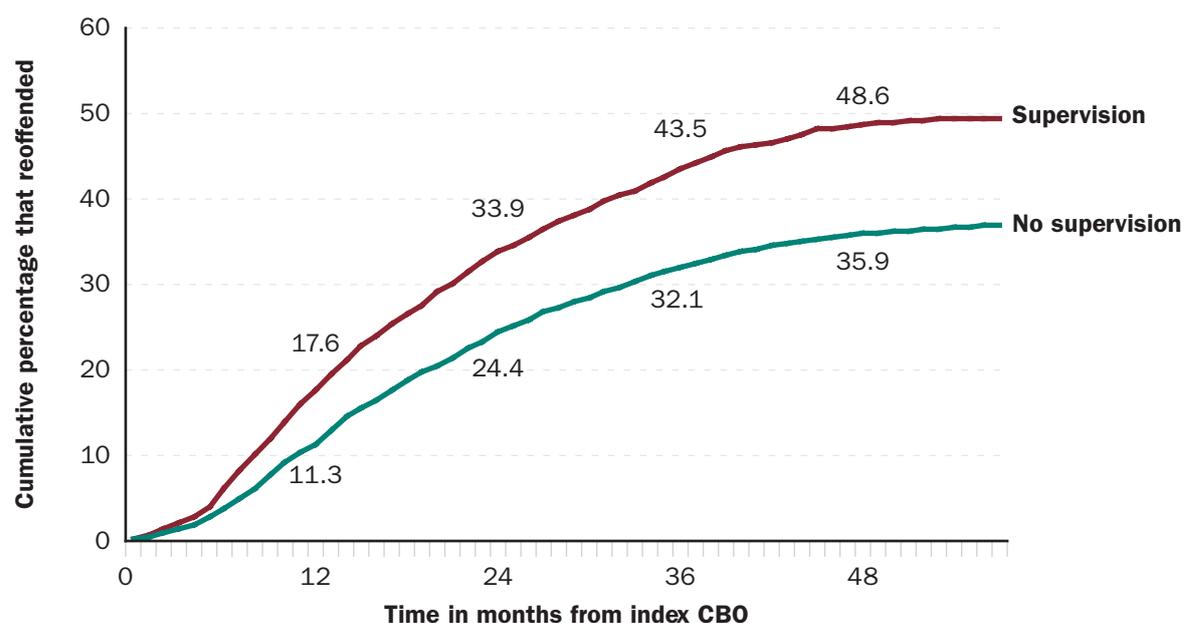
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20. For additional information about odds ratios and a graphical representation of these findings see Figure A1 (page 24).

## Supervision and time to reoffending

- 4.20 As discussed, at the conclusion of the follow-up period, the Supervision CBO group reoffended at a significantly greater rate (49.5%) than the No Supervision CBO group (36.9%). The Council examined variations in reoffending over time to try to identify when the differential rates of reoffending became apparent.
- 4.21 The reoffending rate here is not standardised (that is, three-year reoffending). Instead, offenders sentenced to a CBO during the index period are identified through the entire set of sentences to 30 June 2012. This methodological decision does not systematically affect the findings relating to the differential reoffending as a function of supervision status. Figure 4 displays the relative cumulative percentages of offenders within each CBO group who reoffended in any given month across this period.
- 4.22 To determine the point at which the reoffending of the Supervision CBO group became significantly greater than the reoffending of the No Supervision CBO group, the Council undertook a test for group differences in survival (see Tabachnick and Fidell, 2007). In the context of this analysis, 'survival' means an offender has not reoffended in a particular period. This test reveals that the differential rates of reoffending became apparent almost immediately. Significantly<sup>21</sup> fewer Supervision CBO offenders 'survived' within the second month post-sentence (0.72% of the group) relative to the No Supervision CBO offenders (0.53% of the group).
- 4.23 The results of this analysis indicate that there is no protective influence of supervision that 'wears off' over time. Instead, the two CBO groups appear to behave differently from the outset. This is most likely due to the different group characteristics for those who received CBOs with or without supervision (as captured in Figure 3).

**Figure 4: Cumulative reoffending (%) for Supervision CBOs and No Supervision CBOs over the five-year post-sentencing period of analysis**

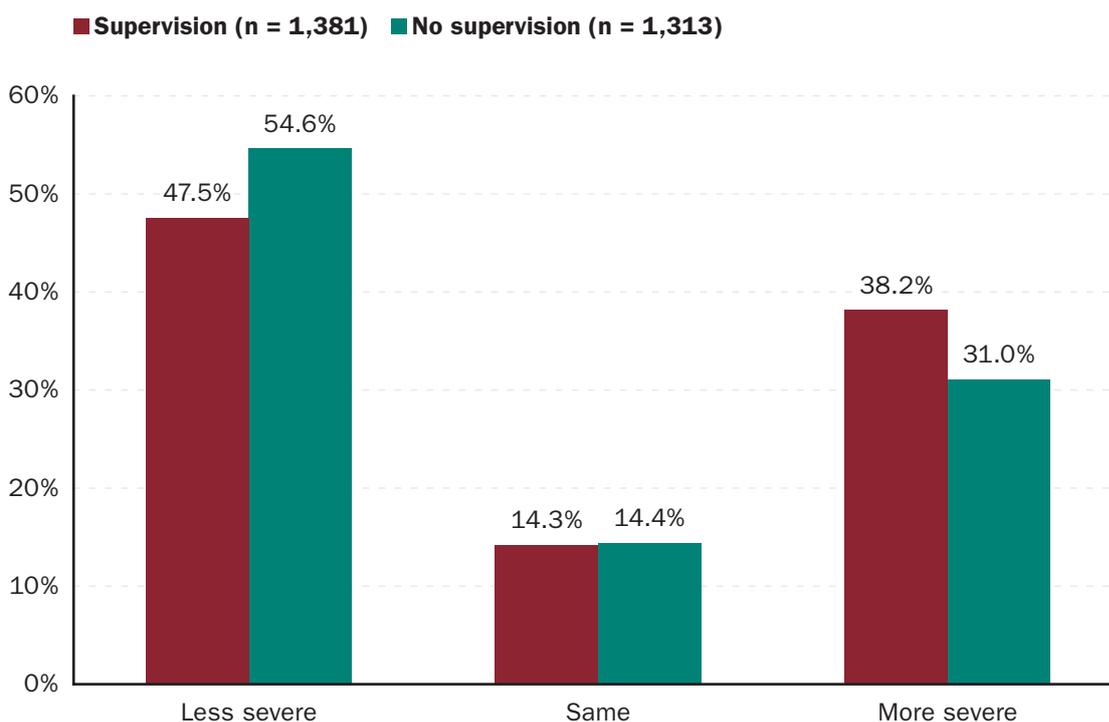


21. Survival analysis test for group differences, Chi-square (df = 1) = 5.28,  $p < 0.05$ .

## Supervision and the severity of subsequent sentences

- 4.24 For those offenders who reoffended, the relative severity of their subsequent sentence has been examined.<sup>22</sup> In broad terms, Figure 5 shows the relative severity of subsequent sentences imposed for both the Supervision CBO and the No Supervision CBO groups. Figure 5 shows that 38.2% of the 1,381 offenders who reoffended following the imposition of a Supervision CBO received a subsequent sentence that was more severe than the CBO imposed for the index offence.
- 4.25 The Council undertook z-tests for population proportions to examine the relative frequencies of the severity of subsequent sentences. This process confirms that the ostensible differences displayed in Figure 5 are statistically significant. Offenders in the No Supervision CBO group received less severe sentences more frequently ( $z = 3.70$ ) and offenders in the Supervision CBO group received more severe sentences more frequently ( $z = -3.96$ ) as a consequence of reoffending.
- 4.26 These patterns indicate that reoffending resulted in different responses from the courts as a function of whether previous CBOs had been imposed with supervision as one of the conditions.
- 4.27 These patterns show a correlation rather than causation. It is not clear from available data if the more severe subsequent sentence for Supervision CBO offenders compared with No Supervision CBO offenders is a function of:
- more serious offending;
  - the CBO supervision condition itself; or
  - characteristics of the offender.

**Figure 5: Relative severity of subsequent sentences imposed on those who reoffended for Supervision CBOs and No Supervision CBOs**



22. See Table A2 (page 25) for information about the process involved in categorising subsequent sentences into 'less severe', 'same', or 'more severe' groups.

# 5. Discussion and conclusions

## Overview of findings

- 5.1 In summary, this report finds that:
- nearly all community-based orders (CBOs) imposed in the Magistrates' Court contained at least one of the following conditions: unpaid community work, assessment/treatment, and supervision;
  - overall, 42.6% of offenders reoffended within three years of having a CBO imposed;
  - reoffending was more frequent (49.5%) for offenders when their CBOs included supervision compared with CBOs without supervision (36.9%);
  - there were very different profiles for offenders sentenced to CBOs with supervision compared with CBOs without supervision;
  - when analysed separately as a function of supervision, reoffending was related to the same pattern of underlying offender characteristics;
  - the differential rates of reoffending for the groups of offenders who received CBOs with and without supervision became apparent almost immediately;
  - subsequent sentences imposed on offenders who received CBOs with supervision were more likely to be more severe, while subsequent sentences for offenders who received a CBO without supervision were more likely to be less severe.
- 5.2 There is partial support for the anticipated results of this analysis in light of the findings from previous criminological research indicating that supervision is related to an increase in offending, although causality could not be determined from the available data. There are mixed findings with respect to the protective influence of assessment/treatment. Similarly, there is no clear indication of the relationship between unpaid community work and reoffending, where differences relating to this condition are also connected to the presence or absence of supervision.
- 5.3 Consistent with expectations, the time-to-reoffending analysis reveals that the difference between the two groups as a function of supervision is apparent from the outset.
- 5.4 In line with previous research findings, reoffending resulted in different responses from the courts as a function of whether previous CBOs had been imposed with supervision as at least one of the conditions, with harsher subsequent sentences imposed for offenders who had previously received CBOs with supervision.

## Limitations

- 5.5 In addition to the data-related limitations associated with this analysis (that is, unavailable offender information and issues associated with offence dates), this analysis does not discriminate between different types of index offending that resulted in CBOs. This has not been done because the focus of this research is on the overall relationship between CBO conditions and reoffending. Further, the reoffending dataset cannot provide insight into important condition characteristics that may be influencing the reoffending patterns observed here. For example this analysis does not:

- discriminate within the major types of CBO conditions (for example, what type of community work was done, what specific assessment/treatment was required, and what were the specific supervision requirements);
  - discriminate between offenders who commenced the requirements of their CBO conditions and offenders who did not;
  - discriminate between offenders who successfully completed the requirements of each of their CBO conditions and offenders who did not;<sup>23</sup> and
  - measure the influence of the relationship between the community corrections officer and the offender, nor does it have any way of capturing how effective the efforts of the community corrections officer were in monitoring, assessing, and assisting the offenders during the terms of their CBOs.
- 5.6 Both regression models account for approximately 11% of the variance in reoffending. This means that many factors systematically influence sentencing and reoffending patterns for offenders who receive community sentences that are not captured by the reoffending data. In addition to the types of variables already considered (that is, substance use/dependence, mental health, intellectual disability), other variables such as the location of the court and the availability of correctional programs in rural and regional areas may be influencing outcomes but have not been measured for the purposes of this analysis.
- 5.7 Furthermore, nothing is known about the status of other dynamic factors (both protective and aggravating) that could be coming into play in the post-sentencing period for each offender. There is no reason to assume these are uniform and that variation between individuals is non-systematic, and, as such, is likely influencing the initial sentence and the reoffending outcomes in ways that cannot be measured by the data involved in this analysis.

## Implications, future research, and conclusions

- 5.8 Community sentences – whether the previous CBOs or the current community correction orders (CCOs) – exhibit an inherent tension between punishment and rehabilitation, compliance and support. The finding that offenders who required supervision reoffended more often is consistent with previous research from other jurisdictions. However, the results of this research must not be interpreted as meaning supervision is ineffective. Offenders who are placed on supervision orders are those with the most complex offending profiles. They are more likely to have been convicted of offences against the person for their index offence, more likely to have been sentenced previously, including to prior terms of imprisonment, and more likely to have priors for property offences that are indicative of substance dependence. Consequently, these offenders are likely to be the most difficult to deter from further offending. The fact that this cohort is more likely to attract a supervision condition suggests that the most intensive community-based correctional interventions are being targeted to the group at highest risk of reoffending.
- 5.9 It is reasonable to assume that the patterns observed here are relevant to the CCO. CCOs are very similar to CBOs, with respect to duration and frequency of imposition, and combinations of conditions imposed (Sentencing Advisory Council, 2014a). Further research, extending beyond the level of data analysed here, is clearly warranted. The focus of future research should be to increase understanding about the relationships between offender characteristics, community sentence conditions, the extent of reoffending, time to reoffending, and the subsequent severity of responses to reoffending from the courts.

23. According to Department of Justice annual report figures, the successful completion rates for supervised CBOs was 67.8% and the successful completion rate for unsupervised CBOs was 51.7% (Department of Justice, 2012).

# Appendix

## Additional information on measuring reoffending across combinations of conditions

Within Table A1, the capitalised letters in brackets on the title line relate to the capitalised letters in brackets next to the labels in the far left column. The conditions marked (A), (B), and (C) in Table A1 represent the combinations of orders that do not include supervision (as presented in Figure 1, page 14). In contrast, (D), (E), (F), and (G) all represent combinations of community-based orders (CBOs) that included supervision.

To help with interpretation of these findings, where z-scores  $> |1.96|$  the difference in reoffending frequency between the two groups (displayed in Figure 2, page 16) is larger than might be anticipated by chance alone. For example:

- the difference in reoffending between (A) community work only (36.4%) and (B) community work + assessment/treatment (37.4%) produces a non-significant z-score,  $z = |0.47|$ , meaning there is no statistically significant difference between the reoffending for these two groups of offenders; and
- the difference between (A) community work only (36.4%) and (D) supervision only (48.6%) produces a significant z-score,  $z = |4.52|$ , meaning there is a difference between the reoffending of these two groups of offenders that is bigger than might be expected by chance alone.

**Table A1: Comparing reoffending percentages across all combinations of CBO conditions (z-scores)**

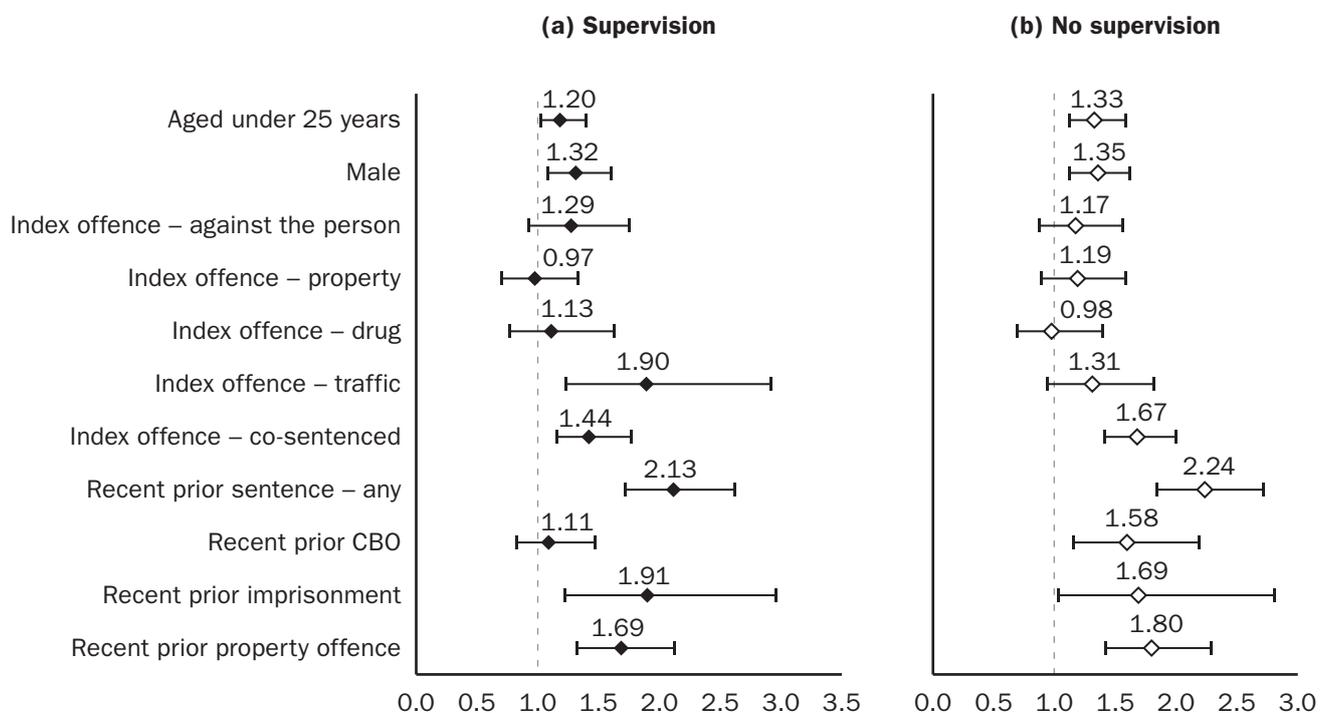
<b>Combination of conditions</b>	<b>(A)</b>	<b>(B)</b>	<b>(C)</b>	<b>(D)</b>	<b>(E)</b>	<b>(F)</b>	<b>(G)</b>
<b>(A)</b> Community work only	–						
<b>(B)</b> Community work + assessment/treatment	–0.47	–					
<b>(C)</b> Assessment/treatment only	–0.79	–0.41	–				
<b>(D)</b> Supervision only	–4.52	–3.73	–2.80	–			
<b>(E)</b> Supervision + community work	–7.81	–5.79	–3.96	–0.58	–		
<b>(F)</b> Supervision + assessment/treatment	–4.91	–4.12	–3.16	–0.42	0.54	–	
<b>(G)</b> All conditions	–5.96	–4.57	–3.17	0.06	0.82	0.54	–

## Additional information on the logistic regression models examining reoffending by supervision

Figure A1 displays the patterns of odds ratios (with corresponding 95% error bars) produced by the separate logistic regression models for Supervision CBOs (panel (a), with odds ratios indicated by the black diamonds)<sup>24</sup> and No Supervision CBOs (panel (b), with odds ratios indicated by the white diamonds)<sup>25</sup>.

The panels of this figure can be interpreted in relation to the broken vertical line originating from 1.0 on the horizontal axis. Odds ratios greater than 1.0 with error bars that do not overlap the broken vertical line indicate statistically significant increases in the likelihood of reoffending.

**Figure A1: Odds ratios (95% error bars) for logistic regression models examining reoffending for Supervision CBOs (panel (a)) and No Supervision CBOs (panel (b))**



24. The overall model fit indicates that the significant variables in this model account for 10.7% of the variance in reoffending; Cox and Snell  $R^2 = 0.107$ .

25. Ibid.

## Additional information on the relationship between supervision and the severity of subsequent sentences

It was necessary to categorise the severity of subsequent sentences relative to CBOs. This categorisation process is summarised in Table A2, along with the relative frequency of each outcome for Supervision CBOs and No Supervision CBOs.

The relative percentages of offenders within the Supervision CBO and No Supervision CBO groups who received each of these subsequent sentences are compared. Statistically significant differences are displayed in Table A1. Offenders in the Supervision CBO group were more likely to receive an imprisonment term or an intensive correction order as their subsequent sentence. Offenders in the No Supervision CBO group were more likely to receive a fine.

**Table A2: Categorisation of the severity of subsequent sentences relative to a CBO by supervision status**

<b>Sentence severity relative to a CBO</b>	<b>Specific sentence imposed</b>	<b>% No Supervision (n = 1,313)</b>	<b>% Supervision (n = 1,381)</b>
More severe	Imprisonment	7.5%*	11.9%*
	Partially suspended sentence	1.8%	2.8%
	Hospital security order	0.0%	0.1%
	Combined custody and treatment order	0.1%	0.1%
	Drug treatment order	0.0%	0.2%
	Home detention	0.0%	0.0%
	Intensive correction order	2.7%*	4.6%*
	Wholly suspended sentence	18.4%	17.5%
	Youth training centre order	0.4%*	1.1%*
	Custodial supervision order	0.0%	0.1%
Same severity	Community correction order	1.1%	1.0%
	Community-based order	13.3%	13.3%
Less severe	Youth attendance order	0.0%	0.0%
	Youth supervision order	0.0%	0.0%
	Probation	0.0%	0.0%
	Fine	43.3%*	36.2%*
	Adjourned undertaking	8.3%	8.3%
	Good behaviour bond	0.0%	0.0%
	Unaccountable undertaking	0.0%	0.0%
	Adjourned for diversion	0.5%	0.3%
	S19	0.2%	0.0%
	S20	0.1%	0.0%
	Convicted and discharged	1.1%	1.1%
	Discharged	0.0%	0.0%
	Dismissed	1.2%	1.6%
Unconditional release	0.0%	0.0%	

\* Indicates statistically significant difference between percentages,  $z > |1.96|$ .

# References

## Works cited

Andrews, D. A. (1995). The Psychology of Criminal Conduct and Effective Treatment. In J. McGuire (ed.), *What Works: Reducing Reoffending. Guidelines from Research and Practice*. Chichester: John Wiley & Sons.

Andrews, D. A., I. Zinger, R. D. Hoge, J. Bonta, P. Gendreau, and F. T. Cullen (1990). Does Correctional Treatment Work? A Clinically Relevant and Psychologically Informed Meta-Analysis. *Criminology*, 28(3), 369–404.

Australian Bureau of Statistics. (2009). *National Offence Index, 2009*. Cat. no. 1234.0.55.001. Canberra: Australian Bureau of Statistics.

Bonta, J., T. Ruge, T.-L. Scott, G. Bourgon, and A. K. Yessine (2008). Exploring the Black Box of Community Supervision. *Journal of Offender Rehabilitation*, 47(3), 248–270.

Broadhurst, R. G. and N. S. Loh (1995). Rearrest Probabilities for the 1984–1993 Apprehended Western Australian Population: A Survival Analysis. *Journal of Quantitative Criminology*, 11(3), 289–313.

Davis, R., J. Rubin, L. Rabinovich, B. Kilmer, and P. Heaton (2008). *A Synthesis of Literature on the Effectiveness of Community Orders*. Technical Report Prepared for the National Audit Office. Santa Monica, CA: RAND Corporation.

Department of Justice (2012). *Annual Report, 2011–12*. Melbourne: Department of Justice.

Freiberg, A. (2014). *Fox and Freiberg's Sentencing: State and Federal Law in Victoria*. 3rd ed., Sydney: Thomson Reuters.

Lipsey, M. W. and F. T. Cullen (2007). The Effectiveness of Correctional Rehabilitation: A Review of Systematic Reviews. *Annual Review of Law and Social Science*, 3, 297–320.

Lowenkamp, C. T., A. W. Flores, A. M. Holsinger, M. D. Makarios, and E. J. Latessa (2010). Intensive Supervision Programs: Does Program Philosophy and the Principles of Effective Intervention Matter? *Journal of Criminal Justice*, 38(4), 368–375.

McGuire, J. (2002). *Offender Rehabilitation and Treatment: Effective Programmes and Policies to Reduce Re-offending*. Chichester: John Wiley & Sons.

Petersilia, J. and S. Turner (1993). Intensive Probation and Parole. *Crime and Justice*, 17, 281–335.

Steering Committee for the Review of Government Service Provision (2014). *Report on Government Services 2014: Volume C, Justice Sector Overview*. Canberra: Australian Government Productivity Services Commission: Canberra.

Roberts, J. V. (2005). Impact of Criminal History on Sentencing: Recent Developments in England and Wales. *Federal Sentencing Reporter*, 17(3), 171–174.

Sentencing Advisory Council (2011). *Aggravated Burglary: Current Sentencing Practices*. Melbourne: Sentencing Advisory Council.

Sentencing Advisory Council (2013a). *Reoffending Following Sentencing in the Magistrates' Court of Victoria*. Melbourne: Sentencing Advisory Council.

Sentencing Advisory Council (2013b). *Family Violence Intervention Orders and Safety Notices: Sentencing for Contravention*. Monitoring Report. Melbourne: Sentencing Advisory Council.

Sentencing Advisory Council (2014a). *Community Correction Orders*. Monitoring Report. Melbourne: Sentencing Advisory Council.

Sentencing Advisory Council (2014b). *The Imposition and Enforcement of Court Fines and Infringement Penalties in Victoria*. Melbourne: Sentencing Advisory Council.

Smith, N. E. and C. Jones (2008). Monitoring Trends in Re-offending among Adult and Juvenile Offenders Given Non-custodial Sanctions. *Crime and Justice Bulletin: Contemporary Issues in Crime and Justice* No. 110. Sydney: NSW Bureau of Crime Statistics and Research.

Snowball, L. and L. Bartels (2013). Community Service Orders and Bonds: a Comparison of Reoffending. *Crime and Justice Bulletin: Contemporary Issues in Crime and Justice* No.171. Sydney: NSW Bureau of Crime Statistics and Research.

Tabachnick, B. G. and L. S. Fidell (2007). *Using Multivariate Statistics*. 5th ed., Boston: Pearson/Allyn & Bacon.

Thomas, M., H. Hurley, and C. Grimes (2002). Pilot Analysis of Recidivism among Convicted Youth and Young Adults – 1999/00. *Juristat* No. 22(9). Ottawa: Canadian Centre for Justice Statistics.

Ulmer, J. T. (2001). Intermediate Sanctions: A Comparative Analysis of the Probability and Severity of Recidivism. *Sociological Inquiry*, 71(2), 164–193.

Weatherburn, D. (2001). What Causes Crime? *Crime and Justice Bulletin: Contemporary Issues in Crime and Justice* No. 54. Sydney: NSW Bureau of Crime Statistics and Research.

Weatherburn, D. and L. Trimboli (2008). Community Supervision and Rehabilitation: Two Studies of Offenders on Supervised Bonds. *Crime and Justice Bulletin: Contemporary Issues in Crime and Justice* No.112. Sydney: NSW Bureau of Crime Statistics and Research.

Weatherburn, D. (2010). The Effect of Prison on Adult Re-offending. *Crime and Justice Bulletin: Contemporary Issues in Crime and Justice* No. 143. Sydney: NSW Bureau of Crime Statistics and Research.

Wetenschappelijk Onderzoek- en Documentatiecentrum (WODC) (2014). *Recidivism Following Probation or a Community Service Order: Overview of the Relapse into Crime of Adult Offenders Dealt with by the Dutch Probation Services in 2002–2009*. The Hague: Ministerie van Veiligheid en Justitie.

## Legislation

*Sentencing Act 1991* (Vic)

*Sentencing Amendment (Community Correction Reform) Act 2011* (Vic)

## Case law

*Veen v The Queen* [No 2] (1988) 164 CLR 465

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