Prevention and Intervention Summary Report 2

Reoffending outcomes of people managed under the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997* (Vic) ('CMIA')

- ✓ The reoffending rate of people subject to an order under the CMIA is low.

- ✓ During the first 20 years of the CMIA's operation, no person subject to an order under the CMIA has been charged with a serious violent offence following revocation of the order.

- ✓ Factors predictive of reoffending include prior criminal history, comorbid diagnoses of substance use disorder and/or personality disorder, and the commission of a *less* serious index offence.

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Background

In Victoria, a person who commits a criminal offence and is found not guilty by reason of mental impairment (NGRMI) or unfit to be tried, can be placed on a Custodial or Non-Custodial Supervision Order under the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997* (Vic) ('CMIA'). Individuals subject to the CMIA have several possible pathways to conditional release and absolute discharge (where they are no longer subject to supervision under the Act).

Figure 1: Overview of CMIA pathways to conditional release and absolute discharge
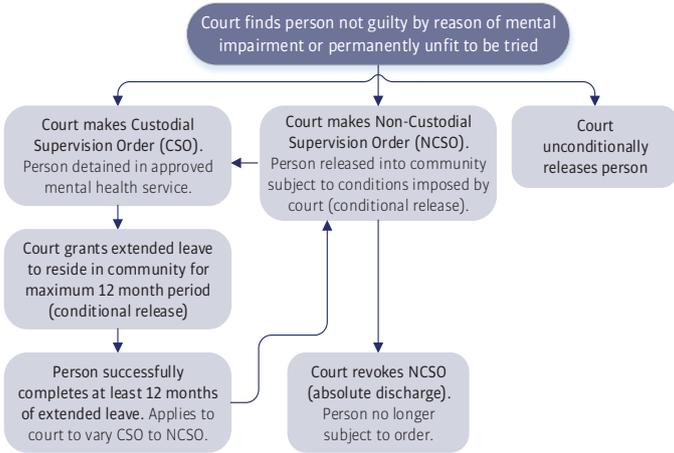
Little is currently known about the reoffending outcomes of people subject to the CMIA following community release. This information is important to inform the CMIA's complex decision-making framework that underpins the judicial decision to make, vary or revoke a supervision order. A significant part of this decision hinges on the court's assessment of the dangerousness of the person subject to an order under the CMIA, with the aim to strike a fair balance between community safety and the civil liberties of the person subject to the order.

Aim of the study

The study examined the reoffending outcomes of people subject to supervision orders under the CMIA following conditional release and absolute discharge, and the factors that modified reoffending pathways.

Potential benefits

Insight into the effectiveness of the CMIA's treatment, supervisory and management framework in reducing reoffending in people with a mental disorder and supporting successful community transition.

Examination of factors that modify offending outcomes provides valuable information for service delivery and intervention to optimally prepare people subject to the CMIA for community release.

Method

Sample

The sample comprised all adults placed on a supervision order under the CMIA in the first 18 years of the Act's operation (April 1998 to April 2016) who, between the imposition of the order and the end of December 2018, were subsequently granted community release.

Figure 2: Overview of study sample
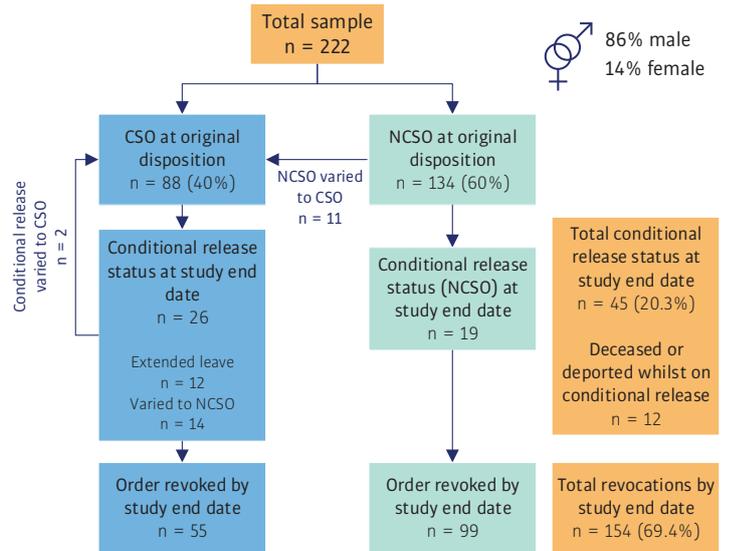
Data collection

We collected data on all new criminal charges incurred by participants following community release. Criminal charges (rather than convictions) captures incidents that may ultimately be dealt with under mental health provisions.

To examine potential modifiers of reoffending outcomes, we collected data regarding participants' socio-demographic, mental health and criminological characteristics.
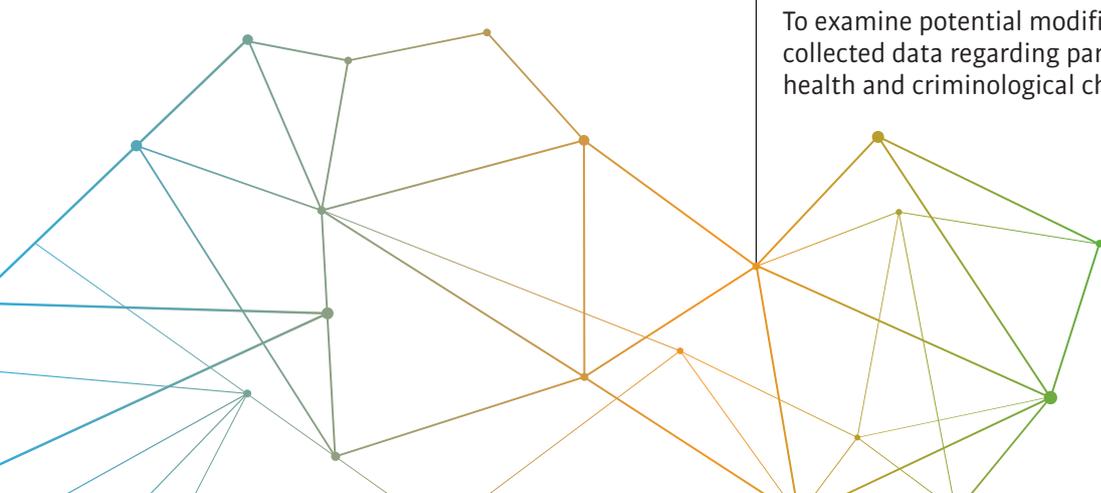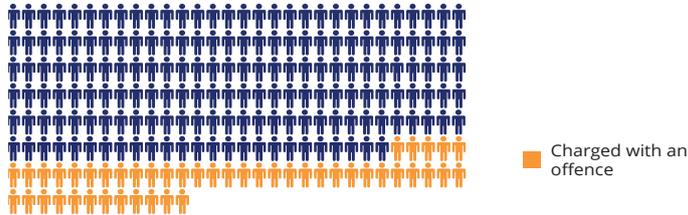
Findings

How many people subject to an order under the CMIA reoffend following community release?

The reoffending rate of people subject to the CMIA was found to be low.

21% (n = 47) of the sample were charged with an offence following conditional release and absolute discharge to the community.

Charged with an offence

75% of those charged with an offence were on conditional release (and, therefore, under CMIA supervision) at the time of the offence.

Under CMIA supervision at time of the offence

11% of those whose orders had been revoked acquired a new charge following absolute discharge (and the removal of CMIA supervision).

Charged with an offence
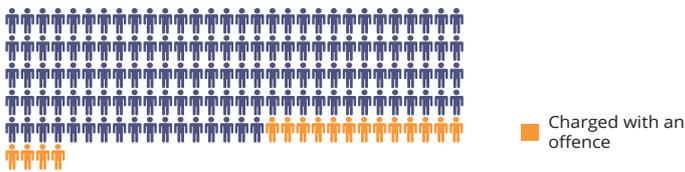
What kinds of offences are committed by those who reoffend?

No person granted absolute discharge during the first 20 years of the CMIA's operation has been charged with an offence involving serious violence (murder, manslaughter, intentionally/recklessly cause serious injury) following absolute discharge.

Of the 47 individuals who were charged with an offence following community release, 60% were charged with a personal injury offence. The most common charge was **assault**. 40% were charged with a non-violent offence only (e.g., drug offences, theft, criminal damage).

Only one participant was charged with an offence involving serious violence (recklessly cause serious injury) which was committed whilst on conditional release.

Ten participants (21% of those charged with an offence following community release) were received into prison for any period of time following community release.

Frequency of offending

Not only was the reoffending rate of people subject to the CMIA found to be low, but the number of charges acquired by those who reoffended was also low.

Figure 3: *Number of offences acquired by participants following community release*
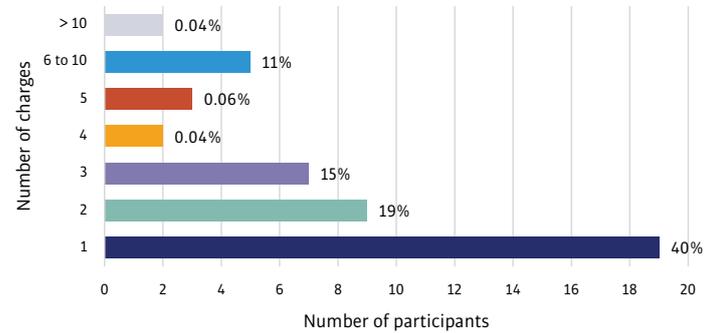

When did participants reoffend?

Just over half (54%) of those who reoffended during conditional release did so within the first two years following the granting of conditional release. Average time to reoffending from conditional release was 2.8 years.

Average time to reoffending following absolute discharge was 3.1 years, with an even spread of offending across the years. The number of participants who reoffended following absolute discharge was, however, very low (n = 17).

Figure 4: *Time to reoffending*
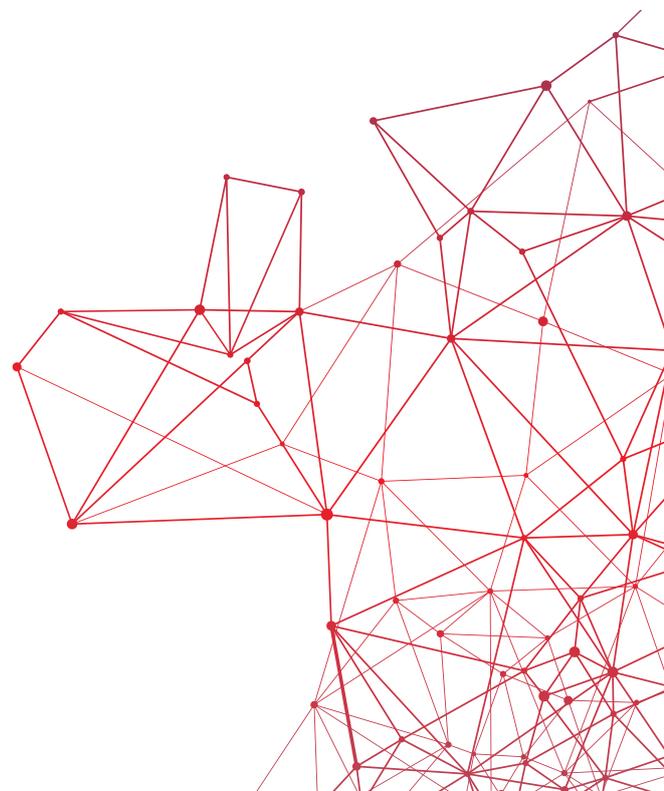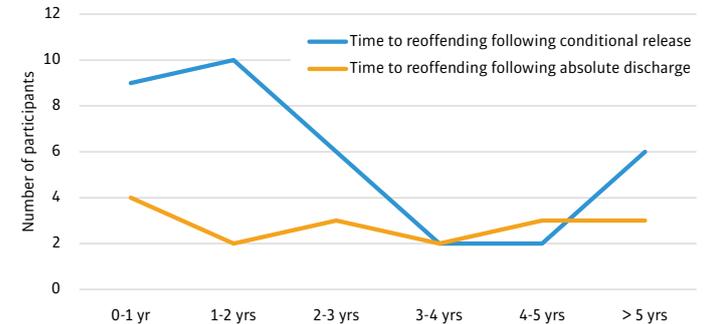
Factors associated with reoffending are consistent with similar studies in other jurisdictions

Past criminal history was a significant predictor of both general and violent reoffending.

A comorbid diagnosis of **personality disorder** increased the risk of general and violent reoffending.

A comorbid diagnosis of **substance use disorder** increased the risk of general and violent reoffending. Being under the influence of drugs or alcohol at the time of the index offence was also a significant predictor of reoffending.

Participants who committed a **severe index offence** (murder or attempted murder) were 3.14 times *less* likely to reoffend than those who committed less serious offences.

Why are more serious index offences associated with a *lower* risk of reoffending?

That severe index offences were indicative of a lower risk of reoffending may be related to the finding that supervision order type was also significantly associated with reoffending risk.
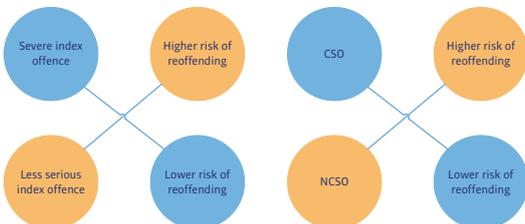
People originally placed on a NCSO (who tend to be those who committed less serious offences) were at higher risk of reoffending. This may be because people on a NCSO have a greater opportunity to reoffend immediately following imposition of the order given that the order allows them to be managed and supervised in the community.

In comparison, those initially placed on a CSO (who tend to be those who committed more serious offences) undergo a lengthy period of treatment and management in a secure forensic facility before transitioning through a staggered system of community reintegration.

Key implications

✓ Reoffending rates amongst people subject to an order under the CMIA are low, particularly when compared to reoffending rates in the general offending population (which fluctuates around 50% or more).

✓ Low reoffending rate suggests that the CMIA's community release framework is effective at reducing recidivism risk. Important features include a staggered approach to community reintegration, intensive community care and supervision post-release, and a low threshold for rehospitalisation.

✓ Factors predictive of reoffending (e.g., prior criminal history, comorbid diagnoses of substance use disorder and/or personality disorder) highlight potential treatment targets that may accelerate movement through the system and further reduce recidivism rates.

✓ Low reoffending rate may reflect a conservative organisational and judicial approach to release decisions. People supervised under the CMIA spend a long period of time on orders, far in excess of what is required to achieve symptom resolution. The low rate of recidivism raises the question of whether the current level of risk tolerated by the system is too high. This has important clinical, policy and financial implications for a system with limited resources.

Key limitations

⚠ Small, complex and heterogeneous sample.

⚠ Varied pathways to community release.

Changes in law and treatment facilities over time.

⚠ No control group (for example, a sample of convicted offenders with similar psychiatric disorders).

⚠ Low recidivism rates impacted statistical power, resulting in the potential underestimation of the impact of some factors associated with recidivism.

⚠ Offending data were based on official criminal records which may underestimate reoffending given that new offences may sometimes lead to rehospitalisation rather than criminal charges, particularly during conditional release.

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