



**Australian Government**

**Australian Institute of  
Health and Welfare**

# **Using the Juvenile Justice National Minimum Data Set to measure returns to sentenced youth justice supervision**

**Stage 2**

JUVENILE JUSTICE SERIES NO. 17





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*Authoritative information and statistics  
to promote better health and wellbeing*

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Number 17

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## **Stage 2**

Australian Institute of Health and Welfare  
Canberra

Cat. no. JUV 54

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# Abbreviations

ABS	Australian Bureau of Statistics
AIC	Australian Institute of Criminology
AIHW	Australian Institute of Health and Welfare
AJJA	Australasian Juvenile Justice Administrators
JJ NMDS	Juvenile Justice National Minimum Data Set

## Notes

n.a not available

Percentages and ratios are rounded in text and calculated from unrounded numbers.

# Summary

In Australia, youth justice departments are responsible for providing services to young people sentenced to community-based supervision or detention. These services aim to reduce the frequency and seriousness of youth offending. When considered with other outcome indicators, the rate of return to sentenced supervision is one possible indicator of the performance of a youth justice department (although there are factors beyond the control of youth justice departments that will impact on the level of reoffending). This is the second report that examines measures of returns to sentenced youth justice supervision using data from the Juvenile Justice National Minimum Data Set (JJ NMDS). The first report (AIHW 2013) explored the feasibility of using this longitudinal person-based data set, which contains information on young people under supervision, and found that it was possible to fulfil many of the principles developed by Richards (2011). This second report further examines timeframes for measuring returns and explores the potential for using JJ NMDS data to measure the seriousness of reoffending.

## **Timeframes for measuring returns to sentenced supervision**

Returns to sentenced supervision can be measured over a number of timeframes. While longer timeframes will capture more returns, the nature of youth justice supervision means that the cohort used for analysis must be age restricted. Shorter timeframes allow for more recent data to be used, but will be affected by the length of time required for administrative procedures such as court proceedings. Based on a comparison of 5 timeframes (returns within 3 months, 6 months, 1 year, 2 years and at any time during possible youth justice supervision), it is recommended that timeframes of 6 months and 1 year be used. It is also recommended that analyses be contextualised by the impact of prior supervised sentences to account for the effect of offending history on the type of sentence received.

## **Measuring the seriousness of reoffending**

Measuring whether the seriousness of offending has escalated could also provide valuable information on performance. The JJ NMDS contains offence data for 3 states and preliminary analyses of the escalation of reoffending are provided in this report. However, it is unlikely that offence data for the remaining states and territories will be available in the foreseeable future. One possible alternative that uses available JJ NMDS data is the severity of supervised sentences received for reoffending. A preliminary analysis found that an increase in sentence severity was more likely to correspond with an increase in offence seriousness than with a decrease or no change in offence seriousness. This indicates that an increase in sentence severity can be used as a proxy indicator of an escalation of offending behaviour in the absence of offence data, although sentence severity is also influenced by other factors. It is recommended that this measure be used until offence data for all states and territories are available.

## **Future work**

Recommendations for future work include agreeing on measures to be reported annually and exploring the feasibility of using other data sources in addition to the JJ NMDS to enable a more comprehensive analysis on youth recidivism.



# 1 List of recommendations

The AIHW proposes the following recommendations to the Australasian Juvenile Justice Administrators (AJJA) for measuring and reporting returns to sentenced supervision. Further details and contextual information are presented in the body of this report.

## Chapter 3 Timeframes for measuring returns to sentenced supervision

### Recommendation 1

That timeframes of 6 months and 1 year be used to measure returns to sentenced supervision.

### Recommendation 2

That if a timeframe of 6 months is used, the age range for that cohort be expanded from 10–16 years to 10–16 years and 6 months.

### Recommendation 3

That analyses of the rate of returns to sentenced supervision be contextualised by the impact of prior supervised sentences (for example, by conducting extra analyses restricted to those whose index order is their first supervised sentence).

## Chapter 4 Seriousness of offences resulting in returns to sentenced supervision

### Recommendation 4

That the usefulness of measuring the seriousness of reoffending based on data from only 3 states be examined.

## Chapter 5 An alternative to offence seriousness: severity of supervised sentences received for reoffending

### Recommendation 5

That an increase in sentence severity be used as a proxy indicator of an escalation of offending behaviour until offence data for all states and territories are available.

## Chapter 6 Future work

### Recommendation 6

That measures of returns to sentenced supervision using the JJ NMDS be agreed and reported on an annual basis.

### Recommendation 7

That the feasibility of using other data sources in addition to the JJ NMDS to provide a more comprehensive picture of outcomes for young people who have experienced youth justice supervision be explored.

## 2 Introduction

In Australia, young people who have committed or who are alleged to have committed an offence are processed through the youth justice system. Where a young person has been proven guilty of an offence, they may be given an unsupervised community-based order such as a good behaviour bond; alternatively, they may be sentenced to a period of supervision, either in the community or in detention. Youth justice departments in the relevant state and territory government departments are responsible for this supervision.

As part of their supervision of young people, youth justice departments provide services designed to rehabilitate and reintegrate them into their communities, with the aim of reducing the frequency and seriousness of youth offending. Consequently, one possible measure of the performance of youth justice departments is the rate of returns to sentenced supervision (although it is important to acknowledge that there are factors beyond the control of youth justice departments that will impact on the level of reoffending).

This is the second report on the development of measures of returns to sentenced youth justice supervision. The first report (AIHW 2013) explored the feasibility of using the Juvenile Justice National Minimum Data Set (JJ NMDS) to measure returns to sentenced supervision. The feasibility study found that there were several benefits to using the JJ NMDS to measure returns to sentenced supervision, and that in its current form, the JJ NMDS could be used to fulfil a number of the 12 principles developed by the Australian Institute of Criminology (AIC), although there were some limitations (see Section 2.2). This second report further examines the possible timeframes for measuring returns and explores the possibility of using JJ NMDS data to measure the seriousness of reoffending (see Section 2.3).

### 2.1 Project background

In 2009, the AJJA funded the AIC to explore a number of issues relating to youth recidivism, including principles for measuring youth recidivism on a comparable basis across Australia's states and territories (Richards 2011).

The principles identified in the resulting report (Richards 2011) cover:

- counting young people (rather than offences, convictions or sentences)
- using a prospective approach
- using offence date (rather than conviction or sentencing date)
- counting recidivism from the *start* of community-based orders and the *end* of detention orders
- tracking young people into the adult criminal justice system
- measuring recidivism over multiple timeframes
- measuring the frequency and seriousness of offending
- including data from specialty courts
- excluding minor offences, technical breaches of supervised sentences, restorations of suspended sentences and pseudo-recidivism.

Following the release of the report, the AJJA determined that the development and implementation of a data collection to measure returns to sentenced supervision would occur in a number of stages. The first stage, which was concluded in 2013, assessed the feasibility of using the JJ NMDS. The second stage, which is the focus of this report, involved reviewing the timeframes for measuring returns and developing a method to measure the seriousness of reoffending. Details on these stages are below.

## 2.2 Stage 1: feasibility of using the JJ NMDS

The first stage found it was possible to fulfil most of the AIC's principles using data from the JJ NMDS, although the JJ NMDS only contains data relating to returns to sentenced supervision (and not recidivism in general) (AIHW 2013). In addition, several of the principles require offence data, which is limited in the JJ NMDS, and one principle requires data on adult supervision, which is outside the scope of the JJ NMDS. Following a review of stage 1 by the representatives of the state and territory youth justice departments, the principle relating to when to count returns was altered. Each of these issues is detailed below.

### Data relate to returns to sentenced supervision, not recidivism

Recidivism refers to the repeated or habitual reversion to criminal behaviour. Accurately measuring recidivism requires information on all criminal acts committed by a person. Usually, recidivism is measured using data on police arrests or court orders, although these measures will be imperfect (for example, some people will commit offences for which they are not charged and will therefore not appear in either police arrest or court orders data, and some people will be charged with offences that they have not committed).

However, the JJ NMDS only contains data on supervised orders – it does not contain data on offences that resulted in unsupervised orders (such as good behaviour bonds and fines). Consequently, using the JJ NMDS to measure recidivism will not reflect the true level of recidivism in the general population, for several reasons.

First, the base population in the JJ NMDS is restricted to those who have received a supervised sentence. To provide a complete picture of recidivism, this base population would need to include anyone who had committed an offence, including those who received unsupervised sentences. Because both the seriousness of the offence and the extent of prior offending are taken into account during sentencing, it is likely that those with supervised sentences will have a longer offending history or have committed offences that are more serious than those who had committed an offence that did not result in a supervised sentence. If the propensity to recidivate is higher among those who have committed offences that are more serious, or among those who have already committed an offence, using the JJ NMDS will result in an *overestimation* of the level of recidivism in the general population.

Second, the return population in the JJ NMDS is restricted to those who have committed an offence that is serious enough to result in a supervised sentence. Ideally, all offences, including those resulting in unsupervised sentences, would be included. Restricting the count to only those who received a supervised sentence will result in an *underestimation* of the level of recidivism, as young people who commit a recidivist act but do not receive a supervised sentence will not be counted as having recidivated.

However, while data from the JJ NMDS cannot be used to accurately measure recidivism, they can be used to measure the extent of returns to sentenced supervision. Because youth justice departments are responsible for providing rehabilitative services only to the young people they supervise, a measure of returns to sentenced supervision is likely to be a more useful measure of the effectiveness of their services than a more general measure of recidivism.

## **Offence data are limited**

Data on the type of offence and the date the offence was committed are required for several of the AIC's principles, including using the offence date (rather than the conviction or sentencing date) and excluding minor offences and pseudo-recidivism. Although the JJ NMDS contains an optional offences collection that includes offence type, only 3 states supply data for this collection.

### **Minor offences**

Stage 1 of this project noted that the inclusion or exclusion of minor offences was unlikely to significantly affect measures derived from JJ NMDS data, as minor offences such as traffic offences and fare evasion do not typically result in supervised sentences (AIHW 2013).

### **Offence date**

The JJ NMDS does not currently contain offence dates and so the start and end dates of sentenced supervision orders are used. This means the time to return will include the time required for administrative processes such as court proceedings. It also means that it is not possible to exclude pseudo-recidivism, which occurs when offences that were committed before the index offence but adjudicated after the index offence are falsely captured as recidivist acts. The potential impact of pseudo-recidivism was assessed in stage 1 of this project using pilot data from 2 states. Although the data were limited, the analysis suggested pseudo-recidivism did not have a substantial impact on person-based analyses of returns to sentenced supervision.

## **No information on adult supervision**

One of the AIC's principles is to track young people into the adult criminal justice system to avoid underestimating the levels of returns. The JJ NMDS contains information on young people supervised by youth justice departments – it does not contain information on people supervised by adult justice departments. In most states and territories, young people are only eligible for youth justice supervision until they are aged 17. Including young people who, because of their age, are not eligible to return to sentenced youth justice supervision within the period of measurement will underestimate the rate of return.

In the absence of suitable data on adult supervision, the 2 main options for dealing with this issue are to:

- restrict the cohort to those whose age makes them eligible to return to youth justice supervision within the period of measurement
- measure returns across all the years for which a young person is eligible to return to supervision before 'ageing out'.

Both these options have benefits and limitations – see Section 2.3 for more detail.

## Returns are counted from the end of both detention and community-based orders

Richards (2011) notes that there is debate about whether offences committed while serving a sentence should be counted as recidivist acts. Those in detention are subject to greater surveillance and have fewer opportunities to commit offences compared with those serving their sentence in the community, so counting returns from the start of sentences may result in inaccurate comparisons between detention and community-based sentences. To deal with this issue, it was proposed that different starting points be used; that is, that returns be counted from the *end* of detention orders and the *start* of community-based orders. This principle was used in assessing the feasibility of using the JJ NMDS (AIHW 2013). However, following the release of the feasibility study, representatives from state and territory youth justice departments agreed to revise this principle so that returns to sentenced supervision were counted from the *end* of detention orders and the *end* of community-based orders. Including only reoffending that occurs after the completion of a sentenced order is consistent with the idea of measuring the performance of youth justice departments.

## 2.3 Stage 2: timeframes and offence seriousness

The second stage, which is the focus of this report, involved reviewing the timeframes for measuring returns to sentenced supervision and developing a method to measure the seriousness of reoffending.

### Timeframes for measuring returns

Recidivism and related measures such as returns to sentenced supervision are commonly measured over specific timeframes, such as within 1 or 2 years of completing a sentence. Richards (2011) notes that a 1-year timeframe is beneficial because several studies have shown that recidivism is most likely to occur within 1 year, and the effectiveness of an intervention is likely to be greatest in the period immediately following its delivery. In addition, this has the benefit of focusing on those who return within a relatively short period, which may be most relevant when assessing the effectiveness or performance of the system. However, there are some advantages to using a longer timeframe (such as 2 years), especially as the time required to progress from the offence to the start of a sentence is likely to be dependent on the type of offence, with offences that are more serious requiring more time.

Irrespective of the timeframe used to measure returns, the lack of data on adult supervision means that including young people who, because of their age, are not eligible to return to sentenced youth justice supervision within the period of measurement will underestimate the rate of return. One solution is to restrict the population to those whose age means they are eligible to return to youth justice supervision. To measure returns within a 1-year period, the population must be limited to those who were aged 16 or under at the end of their index sentence (the sentence from which returns are counted), while for returns within a 2-year period, only those aged 15 or under can be included. However, as peak offending and supervision typically occurs in mid to late adolescence, it is likely that these age restrictions will underestimate the true level of returns to supervision.

An alternative to measuring returns within a specified timeframe is to measure returns across all the years for which a young person is eligible to return to youth justice supervision

before ‘ageing out’ of the youth justice system (after which, they will be processed by the adult justice system). This is possible with longitudinal data sets such as the JJ NMDS and has the benefit of including all ages, but it does mean that returns can only be measured after a sufficient number of years have elapsed to allow for young people to have completed all possible youth justice supervision. This may make the analysis less relevant for developing policy and measuring performance and could therefore impact on the ability of governments to respond to changes in a timely manner.

Timeframes will differ in the years of data used, the range of ages included, and the proportion of returns that are captured. For example, measuring returns over a 1-year timeframe will allow for data that are more recent to be used than measuring returns over a 2-year timeframe, because returns can be measured after 1 year of return data have been collected. The 1-year measure also allows for a greater age range (10–16 years) compared with the 2-year measure (10–15 years). But because the 2-year measure allows for more time for returns, it will include a greater proportion of the possible returns. In contrast, measuring returns that occur any time during possible youth justice supervision allows for all returns to youth justice supervision to be captured over the greatest possible age range (10–17). However, this requires that data be restricted to those born before a particular year (see Appendix for more detail).

The most useful measure for measuring performance will depend on the impact of several factors on the rates of return, as below.

- **The impact of changes in legislation, policies and practices:** if the rate of return is affected by these changes, measures using recent data will be more useful than those using older data. The stage 1 feasibility study found the rate of return differed by less than 5 percentage points for both returns over 1 year (based on 11 years of data) and returns over 2 years (10 years of data) (AIHW 2013), which suggests that the rate of return does not differ significantly over time, although it may in the future.
- **The impact of age on offending patterns:** as the rate and seriousness of offending varies by age, measures using a broader age range will be most useful.
- **The length of time between the index order and the first return order:** the stage 1 feasibility study found that of those who returned to sentenced supervision at some time during the years for which they were eligible for youth justice supervision, almost half did so within 6 months. Therefore, shorter timeframes may capture a sufficient proportion of returns for evaluating the performance of youth justice supervision.

The rates of return within 3 months, 6 months, 1 year and 2 years, and for those who have completed all possible youth justice supervision, are compared in Chapter 3.

## Measuring the seriousness of reoffending

Analysing whether young people’s offences have escalated in seriousness could also provide valuable performance information for youth justice departments. The AIC’s report recommended that measuring the seriousness of offending be considered (Richards 2011).

Chapter 4 presents the results of analysis using offence data available in the JJ NMDS to measure the seriousness of offences resulting in returns to sentenced supervision. However, as noted in Section 2.2, offence data in the JJ NMDS are limited to 3 states – New South Wales, Victoria and Queensland – and it is unlikely that offence data for the remaining states and territories will be supplied in the foreseeable future. Consequently, measuring the seriousness of reoffending using offence data in the JJ NMDS currently has limited national

benefit. In Chapter 5, an alternative using order data to measure the severity of supervised sentences received for reoffending is presented. As sentence severity can be analysed for all states and territories participating in the JJ NMDS, it may provide useful interim data on performance until offence data are available for all states and territories. Additionally, information on sentence severity will also illuminate the pathways young people take through sentenced supervision.

## **2.4 Report structure**

This report comprises 6 chapters.

Chapter 1 lists the recommendations arising from this second stage.

Chapter 2 (this chapter) provides an overview of the findings from the first stage of the project to develop a recidivism data collection and a background to this second stage.

Chapter 3 reviews the timeframes for measuring returns to sentenced supervision.

Chapter 4 uses available offence data from the JJ NMDS to assess the seriousness of offences resulting in returns to sentenced supervision.

Chapter 5 explores a possible alternative to using offence data.

Chapter 6 outlines future work in the development of a recidivism data collection.

The Appendix provides information on data and methods.

## 3 Timeframes for measuring returns to sentenced supervision

Returns to sentenced supervision can be measured over any number of timeframes, including any time during all possible youth justice supervision. As discussed in Section 2.3, each timeframe will have features that may make it more or less useful for measuring performance. Longer timeframes will capture more returns but will require greater age restrictions – for example, a 2-year timeframe will capture more returns than a 1-year timeframe, but the 2-year timeframe will be restricted to those aged 15 and under at the index sentence, compared with 16 years and under for the 1-year timeframe. In addition, data that are more recent can be used for the 1-year timeframe (see Appendix for more details).

The study exploring the feasibility of using the JJ NMDS to measure returns found that almost half of those who returned to supervision at any time during their possible youth justice supervision did so within 6 months. Therefore, it was recommended that timeframes shorter than 1 and 2 years be considered. This chapter compares the rate of return within 3 months, 6 months, 1 year, 2 years and at any time during possible youth justice supervision using data from the JJ NMDS.

### 3.1 Method

At the time of analysis, JJ NMDS data were available for 2000–01 to 2012–13.

To analyse the rate of return to sentenced youth justice supervision at any time during all possible youth justice supervision, a cohort was constructed comprising young people born in 1995–96. As the supervision data for this cohort comprises all their supervision orders, the index order (the supervised sentence from which returns are calculated) is the first ever supervision order for these young people. This measure is referred to as ‘any time’ in the figures.

To analyse the rate of return to sentenced youth justice supervision within particular timeframes, cohorts were constructed comprising young people whose age made them eligible to return to supervision within the timeframe using the most recently available data:

- for returns within 2 years, the cohort comprised young people aged 15 and under with supervision in 2010–11
- for returns within 3 months, 6 months and 1 year, the cohort comprised young people aged 16 and under with supervision in 2011–12.

As these cohorts comprise young people who were under supervision in the same year, it is possible for individuals to appear in multiple cohorts. Additionally, the index order is not necessarily the young person’s first ever supervised sentence (that is, they may have had multiple supervised sentences before the index order for that particular timeframe).

The same cohort was used for the returns within 3 months, 6 months and 1 year for ease of comparison, but it is possible to expand the cohorts for 3 months (to those aged 16 years and 9 months and under, with supervision in the period preceding April 2014) and 6 months (to those aged 16 years and 6 months and under, with supervision in the period preceding January 2014). However, while expanding the age ranges would increase the

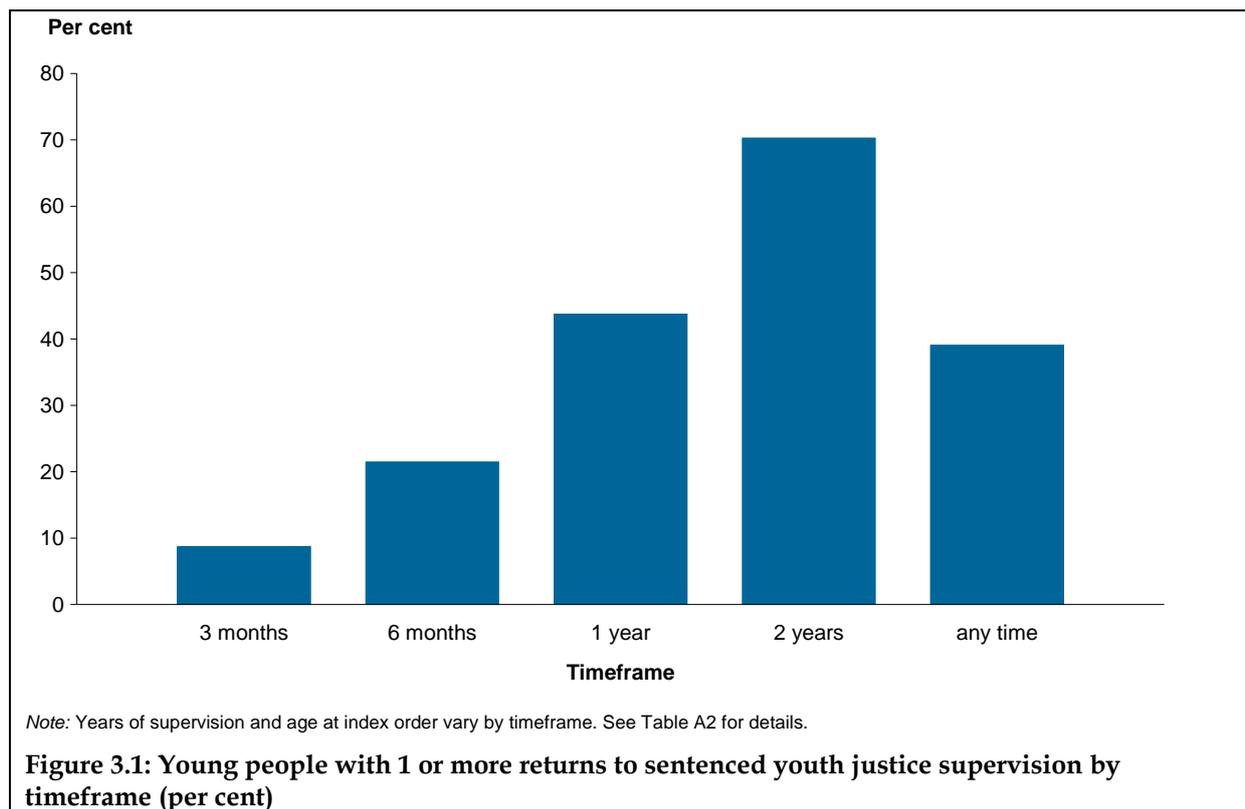
representativeness of the cohort, altering the period of supervision from a standard financial year would likely cause confusion for little added benefit.

## 3.2 Analysis

### Returns by timeframe

As expected, the proportion of young people who returned to sentenced supervision increased as the time allowed for returns increased (Figure 3.1). Of those aged 16 and under with sentenced youth justice supervision in 2011–12, almost 1 in 10 (9%) returned to sentenced supervision within 3 months, compared with just over 2 in 10 (21%) in 6 months and more than 4 in 10 (44%) in 1 year. Of those aged 15 and under with supervision in 2010–11, 7 in 10 (70%) returned within 2 years. In contrast to the rate of return within 1 and 2 years, 4 in 10 young people (39%) returned to sentenced supervision at some time before they ‘aged out’ of the system at the age of 18.

It is important to note that the timeframes to return to sentenced supervision do not correspond directly to the time to reoffend. There are a number of administrative procedures, such as court proceedings, that occur before a young person can be returned to sentenced supervision, and these will impact on the rate of return, particularly for shorter timeframes. In 2012–13, over one-third (36%) of cases heard in children’s courts where the defendant was proven guilty took longer than 3 months to be finalised, while almost one-sixth (16%) took more than 6 months (ABS 2014). In addition, it is possible that acts of pseudo-recidivism (where the return offence actually occurred before the index offence) are being captured. Previous analysis suggested that pseudo-recidivism had limited impact on measures of young people’s returns to supervision, although more data are required to confirm the extent of pseudo-recidivism (AIHW 2013).



The analysis showed that young people were more likely to return within the 1- and 2-year timeframe than at any time during possible youth justice supervision (Figure 3.1). There are several possible reasons for this discrepancy.

First, it is likely that some of the young people in the cohorts used for the specified timeframes will have longer offending histories than the young people in the cohort used to analyse returns at any time during possible youth justice supervision, and this will mean they are more likely to return to sentenced supervision if they reoffend. This is because the index order for the young people in the latter cohort is their first ever sentenced supervision order. In contrast, while the index order in the cohorts for the specified timeframes may be the first ever sentenced supervision order for some of the young people, others will have had multiple preceding supervision sentences. Although both groups may have had an offending history that resulted in unsupervised orders, it is likely that someone with only previous unsupervised orders has an offending history that contains fewer offences or less serious offences (or both) than someone with multiple prior supervised sentences. As offending history is taken into consideration when sentencing, a young person with multiple sentenced supervision orders is likely to have a longer offending history than someone with only 1 sentenced supervision order. Consequently, when those with multiple previous sentenced supervision orders reoffend, they will be more likely to receive a further supervised sentence (that is, return to sentenced supervision).

This idea is confirmed by restricting the cohorts to those young people whose index order was their first sentenced supervision order. For the longer timeframes of 1 and 2 years, young people whose index order was their first supervised sentence were less likely to return than those whose index order was not their first supervised sentence, and this occurred irrespective of whether the index order was detention or community-based supervision. However, for shorter timeframes, this pattern only occurred where the index

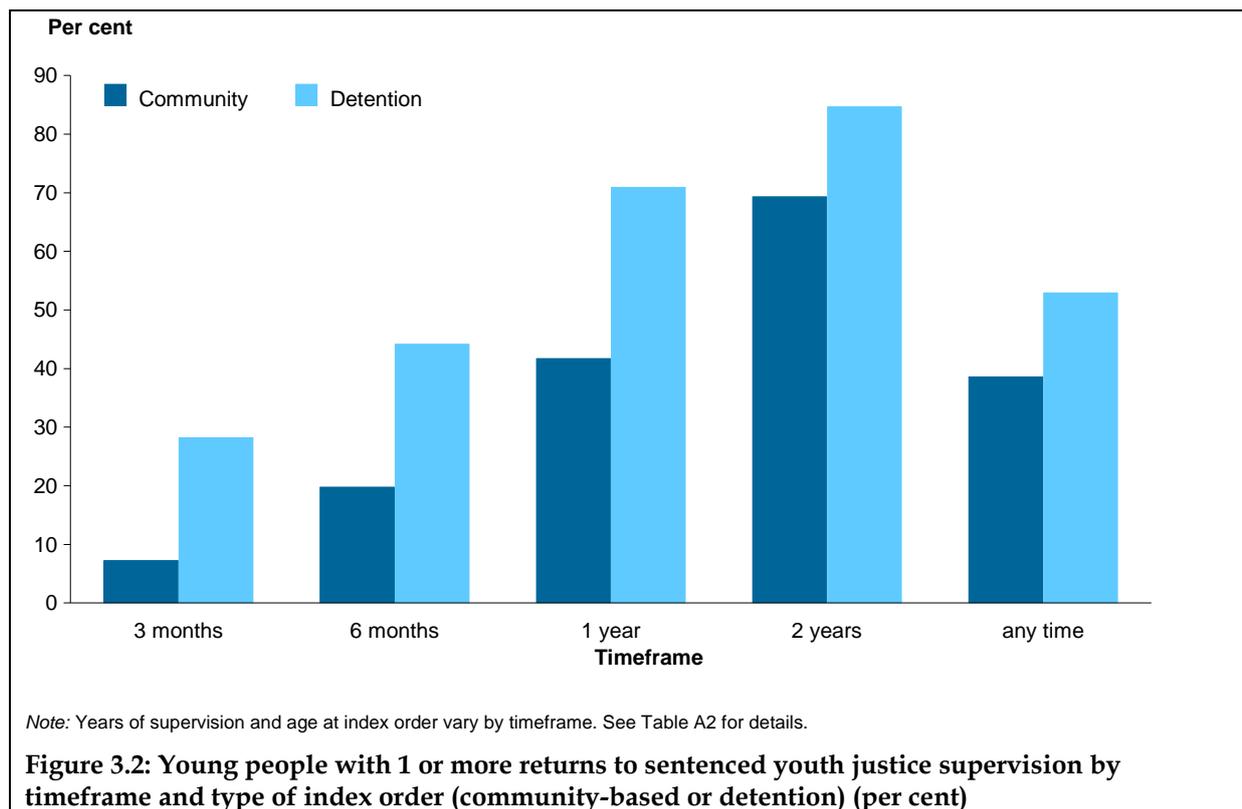
order was a sentence of detention. Where the index order was a sentence of community-based supervision, there was no difference.

Second, it is possible that changes in policies and practices over time affect the rate of return. Each cohort uses supervision data from different years, and so policies and practices may have a different effect on the rate of return in each timeframe.

Also, the cohort used for the 3- and 6-month and 1-year timeframes and the cohort used for the 2-year timeframes are restricted to those aged 16 and under, and those aged 15 and under, respectively. In contrast, the cohort used to assess returns at any time during youth justice supervision contains young people aged 10–17. However, it is unlikely that this has a substantial impact on the rates of returns within 1 and 2 years being greater than the rate of return at any time, as offending tends to peak in late adolescence.

### **Index order—detention or community-based supervision**

For each timeframe, young people whose index order was detention were more likely to return than those whose index order was community-based supervision (Figure 3.2). This was particularly the case for shorter timeframes: young people with an index order of detention were more than 2 times as likely to return within 6 months, and almost 4 times as likely to return within 3 months, as those whose index order was community-based supervision. In contrast, those with a detention index order were less than twice as likely to return within the remaining 1- and 2-year timeframes (1.7 and 1.2 times, respectively), and over all possible years, they were 1.4 times as likely to return. The increased likelihood of returning with a sentence of detention in the shorter timeframes could indicate that young people who commit offences that are more serious or have longer offending histories (as these 2 groups are more likely to result in a detention sentence than a community-based one) will reoffend sooner than those who commit less serious offences or have shorter offending histories, but it could also indicate that those who ultimately receive a sentence of detention are processed faster through the system.



### Sex and Indigenous status

For all timeframes, Indigenous young people were more likely to return than non-Indigenous young people, and males were more likely to return than females. Males were even more likely to return in the shorter timeframes – males were twice as likely to return in 3 months and 1.4 times as likely to return in 6 months as females, while they were around 1.2 times as likely to return in the other timeframes.

## 3.3 Key findings and recommendations

The rates of returns to sentenced supervision steadily increased as the time allowed for returns increased, from 9% in 3 months to 21% in 6 months and 44% in 1 year. Those whose index order was detention were more likely to return in all timeframes than those whose index order was community-based supervision. However, the likelihood was greater for shorter timeframes, indicating that these timeframes are less likely to capture those who commit less serious offences resulting in community-based supervision than longer timeframes, which may affect the representativeness of the overall return population. Similarly, while males were more likely to return than females in all timeframes, the ratio was higher in the shorter timeframes. These differences are particularly apparent in the 3-month timeframe, suggesting that those who return in a relatively short period of time are not representative of the overall population who return to sentenced supervision. Also, because around one-third of cases heard in children’s courts take longer than 3 months to be finalised (ABS 2014), it is possible that shorter timeframes are contaminated by pseudo-recidivism.

It is important to note that the cohorts constructed to assess the rate of returns within each timeframe varied by year of supervision and age. In addition, the rate of return at any time

during possible youth justice supervision will likely be lower than the rate of return during 1 or 2 years, as the cohorts for the latter timeframes include those who have had multiple previous supervision sentences. These factors will impact on the rate of returns and should be considered when interpreting results. As noted below, the same cohort was used for the 3-month, 6-month and 1-year timeframe for ease of comparison. However, if timeframes shorter than 1 year were to be used, the age group could be expanded to include nearly all young people who are eligible to return to sentenced supervision. (The range of data could also be expanded to use an extra 6 or 9 months of data, but this would probably increase confusion for little added benefit).

**Recommendation 1**

That timeframes of 6 months and 1 year be used to measure returns to sentenced supervision.

**Recommendation 2**

That if a timeframe of 6 months is used, the age range for that cohort be expanded from 10–16 years to 10–16 years and 6 months.

**Recommendation 3**

That analyses of the rate of returns to sentenced supervision be contextualised by the impact of prior supervised sentences (for example, by conducting extra analyses restricted to those whose index order is their first supervised sentence).

## 4 Seriousness of offences resulting in returns to sentenced supervision

One of the recommendations of the AIC's report on the principles for measuring youth recidivism was that the seriousness of reoffending be measured to assess whether offending behaviour was escalating. The JJ NMDS contains an optional offence collection with data currently available for New South Wales, Queensland and Victoria for a subset of orders. This chapter uses these data to analyse whether there was an increase in the seriousness of offences resulting in new supervised sentences.

### 4.1 Method

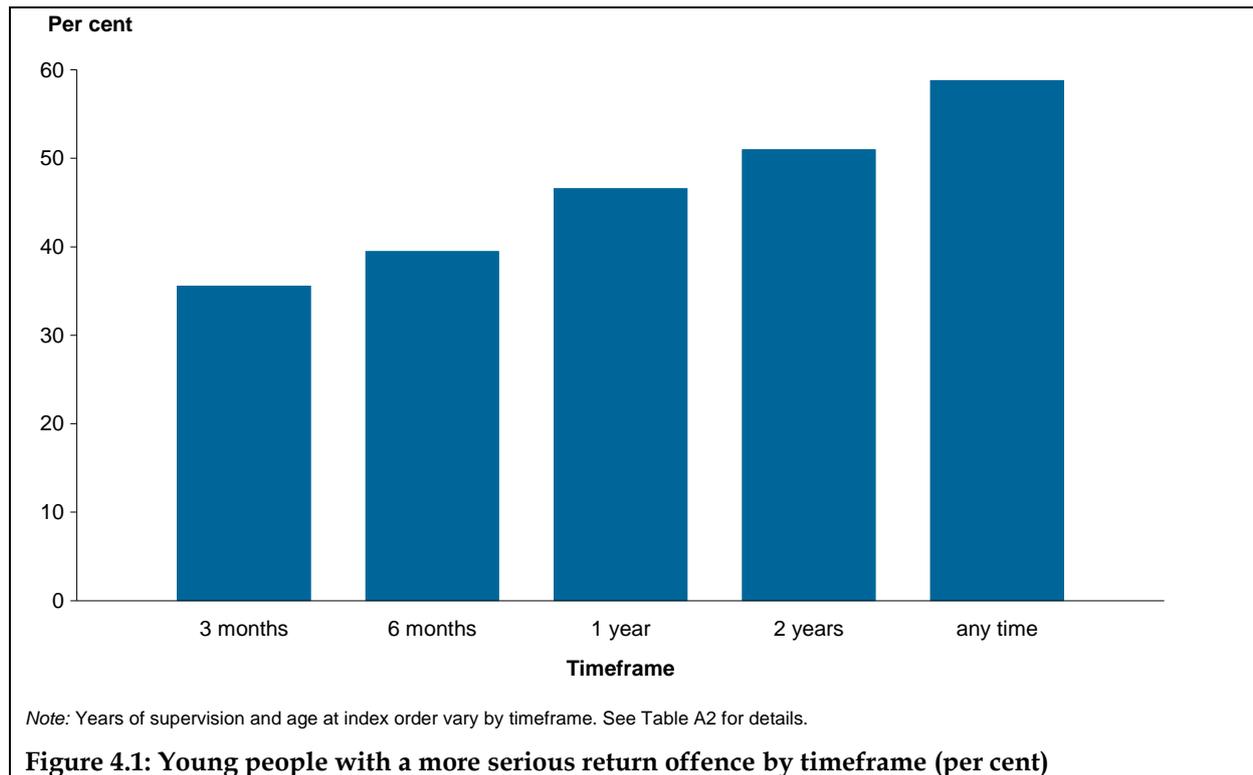
To assess whether there was an escalation in the seriousness of offending resulting in a return to sentenced supervision, offences were ranked using the Australian Bureau of Statistics' National Offence Index (ABS 2009), which allows offence categories in the Australian and New Zealand Standard Offence Classification (ABS 2011) to be ranked according to their perceived level of seriousness. All return offences within the timeframe were considered, not just the initial return offence. For example, if a young person first returns to sentenced supervision 7 months after the end of the index order and then has another sentenced supervision order 9 months after the index order, they are considered to have a more serious return offence within 1 year if *either* of the return orders has a more serious offence.

The data in this chapter are limited to young people for whom the JJ NMDS contains offence data for both the index order and at least 1 of the return orders. The cohorts used to measure returns over the different timeframes are constructed in the same manner as in Chapter 3. See Appendix for more details.

### 4.2 Analysis

The proportion of those who returned to sentenced supervision for a more serious offence increased as the timeframe increased (Figure 4.1). While just over one-third (36%) of those who returned to sentenced supervision within 3 months had a return order for a more serious offence within that timeframe, this increased to 39% in 6 months and about half for those who returned within 1 (47%) or 2 (51%) years. Of those who returned to sentenced supervision over all possible years of youth justice supervision, almost three-fifths (59%) had a return order for a more serious offence. This general pattern occurred for both community-based and detention index orders. (The scope for increasing the seriousness of reoffending is already somewhat limited for those who have already received a supervised sentence, which presumably requires an initial offence of a certain level of seriousness.)

It is important to note that the time taken to return to sentenced supervision is a function not only of the time taken to reoffend, but also the time taken to finalise the court case. In general, offences that are more serious tend to need more time for finalisation: of the cases heard in the children's courts in 2012–13 where the defendant was proven guilty, the time to finalisation was more than 6 months for almost one-quarter (24%) where the principal offence was 'acts intended to cause injury' compared with 12% for 'theft and related offences' and 9% for 'illicit drug offences' (ABS 2014).



As with the overall proportion of returns (see Chapter 3), there are several possible reasons for the differences between the timeframes other than the time allowed for return. First, it is possible that some cohorts contain young people who are more likely to have committed offences that are more serious than other cohorts due to the age restrictions used in constructing the cohorts. Second, the cohorts use supervision data from different years, so any changes in the overall pattern of offences over time would affect the results.

For returns over all possible years of supervision, there was no difference in the proportion of young people with offences that were more serious by Indigenous status, and this was also the case for returns within 6 months and 1 year. Indigenous young people were slightly less likely to have a more serious return offence than non-Indigenous young people over 3 months but were slightly more likely over 2 years. Similarly, there was little difference between males and females for returns over all possible years and for returns within 6 months and 1 year, although males were more likely to have a more serious return offence for both the 3-month and the 2-year timeframes. There was little difference among the timeframes for age at index order.

### 4.3 Key findings and recommendations

The proportion of those who returned to sentenced supervision for a more serious offence increased as the time allowed for returns increased, from 36% in 3 months and 39% in 6 months to 47% in 1 year. Of those who returned at any time during possible youth justice supervision, almost three-fifths (59%) had a return order for a more serious offence.

It is important to note that the cohorts constructed to assess the rate of returns within each timeframe varied by year of supervision and age. In addition, as offences that are more serious tend to need more time for finalisation, shorter timeframes may not be representative

of the escalation of offence seriousness that occurs among those who return to sentenced supervision.

As offence data in the JJ NMDS are limited to 3 states, and data for the remaining states and territories are unlikely to be available from youth justice departments in the foreseeable future, an alternative is to explore the feasibility of using data from children's courts, as these data would contain the offences for which young people are proven guilty. A second alternative, which is explored in the next chapter, is to use the currently available JJ NMDS data to assess the severity of supervised sentences.

**Recommendation 4**

That the usefulness of measuring the seriousness of reoffending based on data from only 3 states be examined.

# 5 An alternative to offence seriousness: severity of supervised sentences received for reoffending

The preceding chapter shows that it is possible to use the JJ NMDS to measure the changes in seriousness of reoffending. However, this analysis is restricted to the 3 states with available data.

One possible alternative is to measure changes in the severity of sentences supervised by youth justice departments. Because the seriousness of the offence is one of the primary factors taken into consideration when handing down a sentence, a relationship between offence seriousness and sentence severity is expected. This chapter presents preliminary findings of this alternative measure and assesses the strength of the relationship between sentence severity and offence seriousness.

## 5.1 Method

When a young person returns to sentenced supervision, the return sentence can be categorised as either more severe, less severe or equally as severe (no change in severity).

In this report, when a young person has *community-based supervision* as their index sentence, their return sentence is considered more severe if either:

- the order type is more severe – either a detention sentence or a more severe community-based supervision order (see Appendix for details)
- the order type is the same but the duration of the sentence is longer.

Where the young person has an index sentence of *detention*, they cannot have a more severe order type, as detention is the most severe sentence. Their return sentence is considered more severe if:

- the order type is the same but the duration of the sentence is longer.

Within a specified timeframe, the change in severity refers to the *most severe* return sentence. For example, if a young person has an index sentence of detention lasting 3 months and receives 3 return orders within 1 year – 1 of suspended detention, 1 of detention lasting 2 months and 1 of detention lasting 4 months – they are considered to have received a more severe return sentence within the 1-year timeframe.

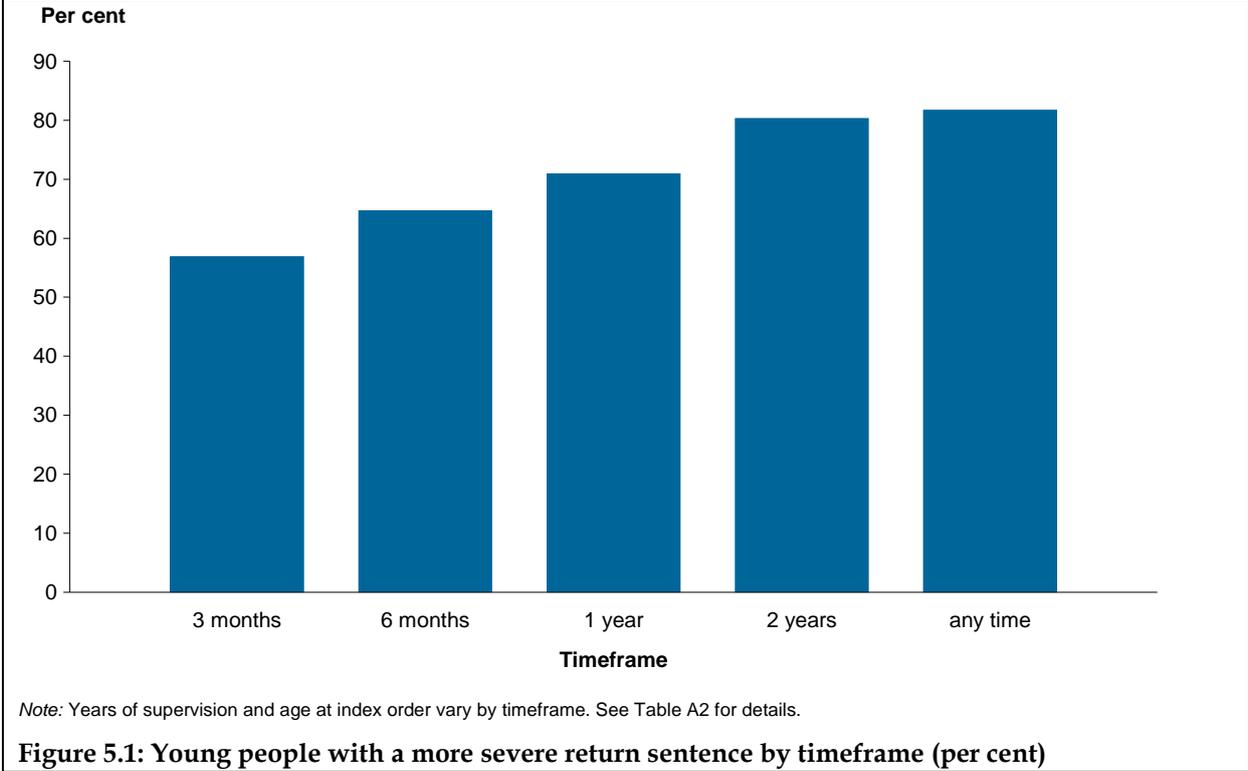
The relationship between offence seriousness and sentence severity was assessed by restricting the analysis cohorts to those where the young person had offence data for the index order and at least one of the return orders.

## 5.2 Analysis

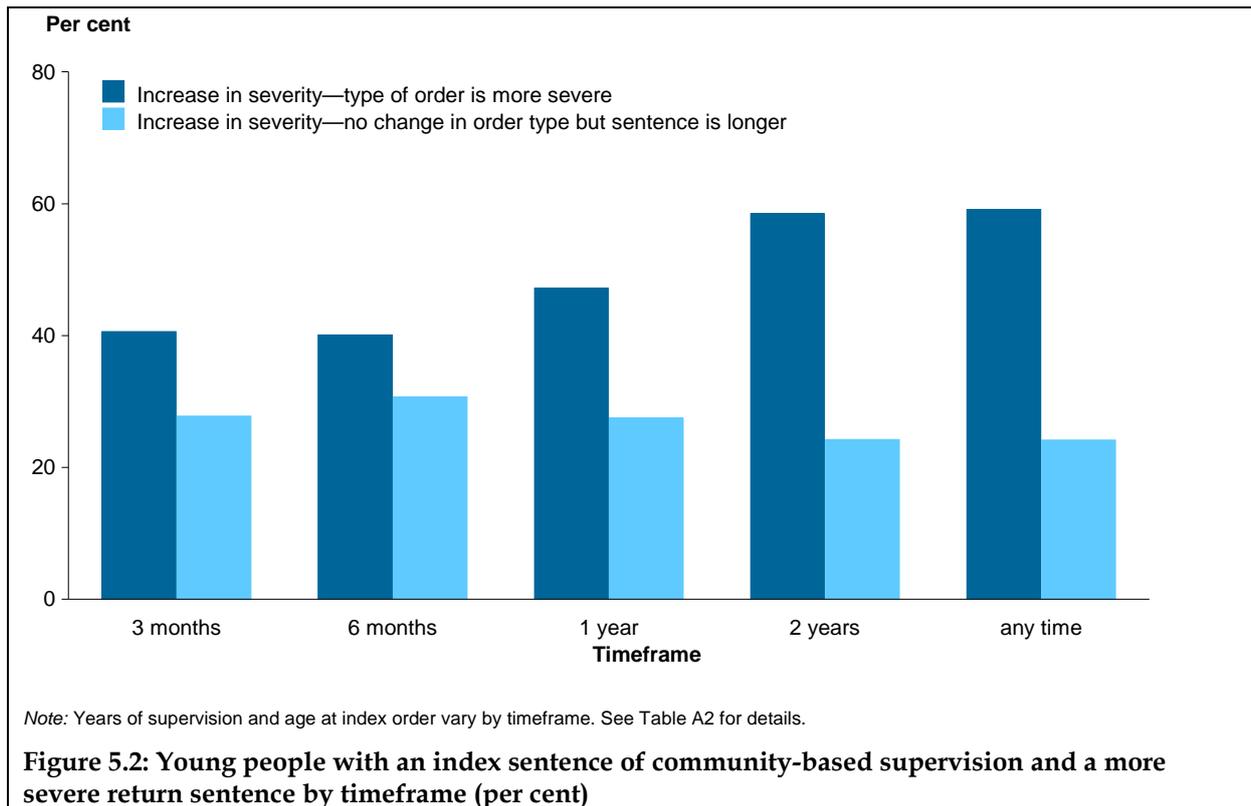
### Returns by timeframe

In each timeframe, the majority of young people who returned to sentenced supervision received at least 1 return order that was more severe than their index order, and the

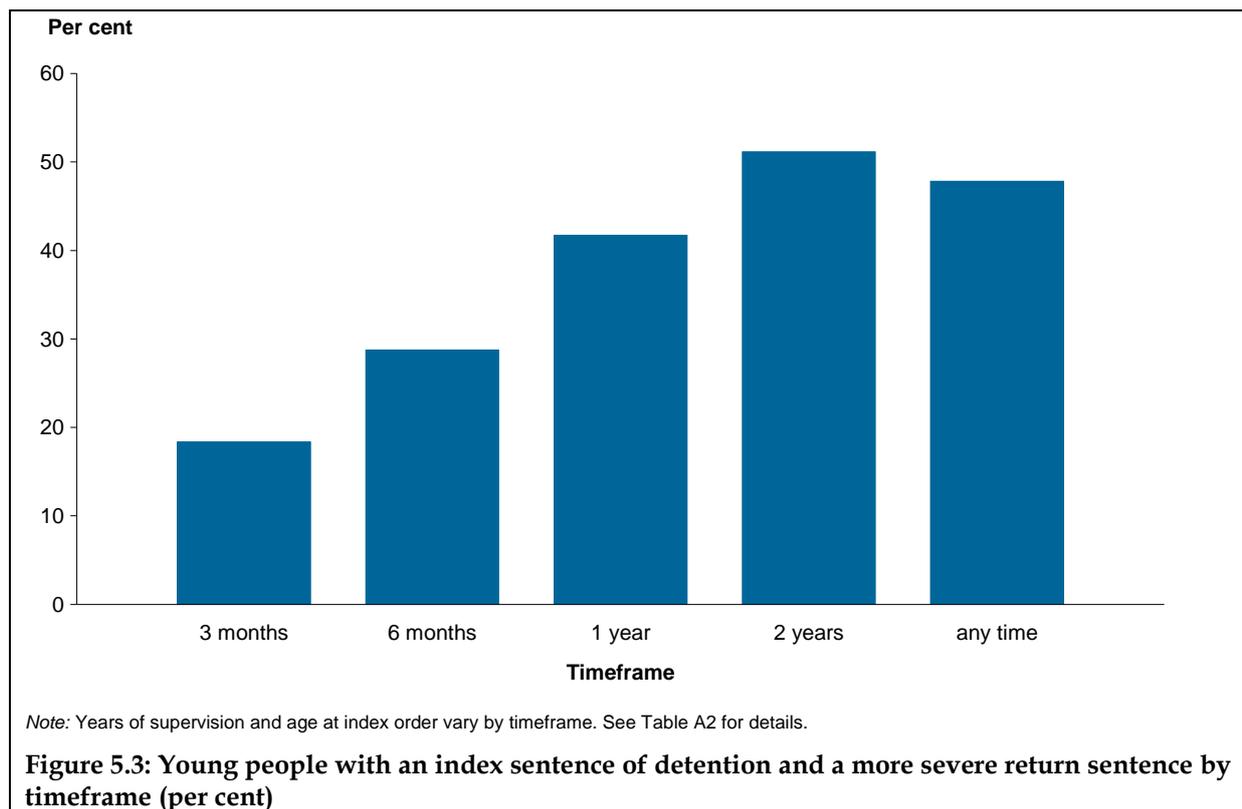
proportion increased as the timeframe increased (Figure 5.1). Within 3 months, 57% of young people who returned to sentenced supervision received a more severe return sentence, and this increased to 65% within 6 months, 71% within 1 year and 80% within 2 years. Over the extent of possible youth justice supervision, 82% of young people who returned received at least 1 return sentence that was more severe.



Reflecting the fact that a majority of index orders are community-based supervision, the proportion that had a more severe return sentence for those with a community-based index order was similar to the proportion for all index orders. Where there was an increase in severity, it was more likely that this was because the order type was more severe than that the order types were the same but the sentence was longer, and this was particularly likely to occur in the longer timeframes (Figure 5.2).



For detention index orders, it is only possible to have a more severe return order where the sentence is for a longer period of detention than the index order. As with community-based supervision orders, the proportion of returns with a more severe return order increased as the timeframe increased, but for all timeframes except 2 years, the majority of those who returned did not have a more severe return order within the timeframe (Figure 5.3). Around 1 in 5 (18%) of those who returned in 3 months received a detention sentence that was longer than their index detention sentence; this proportion increased to almost 1 in 3 (29%) within 6 months and 1 in 2 (51%) within 2 years. Over the extent of possible supervision, 48% of those who returned had a more severe sentence.



## Relationship between offence seriousness and sentence severity

The reliability of using sentence severity as a proxy for offence seriousness can be assessed by examining whether a change in sentence severity is accompanied by a corresponding change in offence seriousness.

Where the index sentence was community-based supervision, an increase in sentence severity was more likely to correspond with an increase in offence seriousness than with either no change or a decrease in offence seriousness, especially for longer timeframes. Of those who returned with an increase in severity due to a more severe order type within 3 months, 43% also had a more serious return offence (compared with 40% who had no change in seriousness and 17% who had a decrease in seriousness). This increased to 46% within 6 months (35% had no change in offence seriousness and 20% had a decrease in offence seriousness), 54% within 1 year, 58% within 2 years and 66% at any time during all possible youth justice supervision. This general pattern also occurred where the increase in severity was due to a longer sentence of the same order type for all timeframes except 3 months, although to a lesser extent.

A similar pattern occurred where the index sentence was detention – especially for the longer timeframes. Of those who returned with an increase in severity within 6 months, 48% also had a more serious return offence (33% had no change in offence seriousness and 19% had a decrease), and this increased to 64% within 1 year, 73% within 2 years and 95% at any time during all possible supervision. However, this pattern did not hold for those who returned within 3 months, although the number of young people who returned in this timeframe was small.

In general, the opposite pattern was also true: where sentenced severity decreased, it was most likely that there was either no change or a decrease in offence seriousness. However,

there was still a small proportion for which the most severe return order was less severe than the index order while the most serious return offence was more serious than the index offence (around 1–3% for those with an index order of community-based supervision and 10–30% for those with an index order of detention). Further analysis of the types and ranges of offences may provide more information.

### 5.3 Key findings and recommendations

Most of those who returned to sentenced supervision received at least 1 return order that was more severe than the index order, and the proportions increased with the timeframes. Around two-thirds (65%) of those who returned within 6 months had a more severe return sentence, compared with 82% of those who returned at any time during possible youth justice supervision.

As most of the index orders are community-based supervision, the proportions for those with a community-based index order were similar to the overall proportions. However, this was not the case for those with an index order of detention. Almost one-third (29%) of those who returned within 6 months had a more severe return sentence, compared with almost half (48%) of those who returned at any time during possible youth justice supervision.

For both community-based and detention index orders, an increase in sentence severity was more likely to correspond with an increase in offence seriousness than a decrease or no change in offence seriousness over the timeframe. This indicates that an increase in sentence severity can be used as a proxy indicator of an escalation of offending behaviour in the absence of offence data, although it will result in an overestimation of the level of increase in offending seriousness. In addition, sentence severity is also influenced by a range of other factors including the young person’s offending history.

**Recommendation 5**

That an increase in sentence severity be used as a proxy indicator of an escalation of offending behaviour until offence data for all states and territories are available.

## 6 Future work

Both this and the previous feasibility study have shown it is possible to measure returns to sentenced supervision using the JJ NMDS. Future work relates to 2 areas: using the JJ NMDS to measure returns to sentenced supervision, and using other data sources to allow for a more comprehensive analysis of youth recidivism and other outcomes of youth justice more broadly.

### 6.1 Reporting on returns to sentenced supervision

While the JJ NMDS alone cannot give a complete picture on youth recidivism, it can be used to measure returns to sentenced supervision. Both the feasibility study and this report have presented a number of possible measures. It is recommended that the next stage of this work include agreeing on the measures of returns to sentenced supervision and consider disaggregating these by state and territory. Once measures have been agreed, it is recommended that these be reported on an annual basis and used to inform the provision of youth justice services.

#### **Recommendation 6**

That measures of returns to sentenced supervision using the JJ NMDS be agreed and reported on an annual basis.

### 6.2 Exploring other data sources

There is a range of other data sources that could be linked with the JJ NMDS to enable a more comprehensive analysis of youth recidivism.

**Data on court orders** would provide information on unsupervised orders and would mean that all offences for which a young person has been proven guilty are included, not just those that resulted in a supervised order. Data on court orders would also contain information on both the type of offence and the date the offence was committed.

**Data on adult supervision** would enable returns to supervision after the young person has 'aged out' of the youth justice system to be analysed, providing a more complete picture of young people's experience of the justice system.

**Data on education, health and employment outcomes** would allow for a broader understanding of the outcomes of young people who experience youth justice supervision, including their participation in education and employment and their long-term reintegration in the community.

#### **Recommendation 7**

That the feasibility of using other data sources in addition to the JJ NMDS to provide a more comprehensive picture of outcomes for young people who have experienced youth justice supervision be explored.

# Appendix: Data and methods

## Data sources

The data used in this project came from the Juvenile Justice National Minimum Data Set (JJ NMDS), which contains information on young people under supervision by departments responsible for youth justice. This supervision can occur in the community or in detention.

For this report, JJ NMDS data for most states and territories were available from 2000–01 to 2012–13 (see Table A1). For more information on JJ NMDS data quality and coverage, see the JJ NMDS Data Quality Statement (available from <http://meteor.aihw.gov.au/content/index.phtml/itemId/558327>).

**Table A1: JJ NMDS data availability**

State or territory	Sentenced orders	Offence type
NSW	2000–01 to 2012–13	2000–01 to 2012–13
Vic	2000–01 to 2012–13	2000–01 to 2012–13
Qld	2000–01 to 2012–13	2000–01 to 2012–13
WA	2000–01 to 2007–08	n.a.
SA	2000–01 to 2012–13	n.a.
Tas	2000–01 to 2012–13	n.a.
ACT	2004–05 to 2012–13	n.a.
NT	2000–01 to 2007–08	n.a.

## Linkage method

In the JJ NMDS, each young person within a state or territory is given a unique person identifier. As the individual state and territory data sets in the JJ NMDS are not routinely linked, it is possible that an individual in one state or territory may also be in another state or territory. For this project, data for the 8 states and territories were linked using the AIHW's key-based linkage method, which systematically varies available variables to increase the number of true matches and reduce the number of false matches while allowing for missing data. For further information on this method see *Linking SAAP, child protection and juvenile justice data: technical report* (AIHW 2012). The method was updated to include information from the 2012–13 JJ NMDS.

After available data were linked, some young people had multiple sets of demographic information (date of birth, sex and Indigenous status). A single set of demographic information for each person was selected from the most recent year of data – where multiple sets of demographic information were available from this year, 1 set was randomly selected.

# Analysis data sets

## Cohorts

This report examines returns to sentenced supervision for people who were born in the same period (birth cohorts) and people who were under supervision in the same period (supervision cohorts).

In all states and territories in Australia, the youngest a person can be to have a sentenced youth justice order is 10 years. The upper age limit for receiving a sentenced youth justice order is 17 in all states and territories except Queensland, where it is 16.

The birth cohorts comprise all young people in the JJ NMDS who were born from 1990–91 to 1995–96 as these people will have all their sentenced youth supervision orders in the JJ NMDS, which has data from 2000–01 to 2012–13. Although it is possible for young people over the age of 17 to be supervised by youth justice departments for a number of reasons, to ensure comparability, returns to supervision are only counted for the period in which all young people in most states and territories were eligible to be supervised by youth justice.

The supervision cohorts comprise young people in the JJ NMDS whose age made them eligible to return to youth justice supervision in either 1 or 2 years. For the 2-year supervision cohorts, young people were excluded if they were aged 16 or over at the end of their index order. For the remaining cohorts (3 months, 6 months and 1 year), young people were excluded if they were aged 17 or over at the end of their index order.

**Table A2: Analysis cohorts**

Timeframe	Type of cohort	Years of birth	Years of supervision		Age at end of index order
			Index order	Return orders	
3 months	Supervision	1994–95 to 2001–02	2011–12	2012–13	10–16
6 months	Supervision	1994–95 to 2001–02	2011–12	2012–13	10–16
1 year	Supervision	1994–95 to 2001–02	2011–12	2012–13	10–16
2 years	Supervision	1993–94 to 2000–01	2010–11	2011–12 to 2012–13	10–15
Any time	Birth	1995–96	2005–06 to 2012–13	2005–06 to 2012–13	10–17

## Index and return orders

For the birth cohorts, the index order is the first sentenced supervision order that the young person received. Where there is more than 1 possible index order, the order that ends first is selected; if this does not resolve the issue and 1 of the possible index orders is a detention order, this order is selected as the index order. If there are multiple possible index orders that end on the same date and none is a detention order then an order is randomly selected from the set.

For the supervision cohorts, the index order is the first sentenced supervision order that ended in the relevant financial year. Where there is more than 1 possible index order (because multiple orders end on the same date), the order that started first is selected; if this does not result in a single index order and 1 of the possible index orders is a detention order, this is selected. If there are multiple possible index orders and none is a detention order then

an order is randomly selected from the set. As the supervision cohorts comprise young people who were under supervision in the same year, it is possible for individuals to appear in multiple cohorts. Additionally, the index order is not necessarily the young person's first ever supervised sentence (that is, they may have had multiple supervised sentences before the index order for that particular timeframe).

Return orders are any sentenced supervision orders with a start date after the end date of the index order. In contrast to the analysis presented in the stage 1 report (AIHW 2013), this is irrespective of whether the index order is community-based supervision or detention. The time to return is calculated by subtracting the end date of the index order from the start date of the first return order. Some young people who exit detention are released into community-based supervision on parole or supervised release. Any returns that occur in this period are included unless they are explicitly excluded (see below).

## **Order severity**

When measuring the change in severity, the following index was used (from most to least severe):

- 1 Detention
- 2 Home detention
- 3 Immediate release or suspended detention
- 4 Community-based supervision with additional mandated requirements
- 5 Community-based without additional mandated requirements and probation or similar not elsewhere classified
- 6 Other

## **Exclusions**

### **Orders where the young person was aged 18 or over**

Orders where the young person was aged 18 or over at the start of the order were excluded as in most states and territories young people are typically not eligible to be supervised by the youth justice system once they have turned 18.

### **Orders that ended because the young person died**

Orders that ended because the young person died were excluded as further reoffending is not possible.

### **Orders overturned on review**

Orders that were overturned on review were excluded as these are no longer considered to relate to an offence. In the JJ NMDS, these orders appear with an end reason indicating that the order was 'cancelled, discharged, quashed or varied on appeal or review'.

### **Parole or supervised release orders**

Parole or supervised release orders were excluded as these orders relate to an existing offence, not a new one.

### **Restoration of suspended sentences**

One of the principles identified by Richards (2011) is that restorations of suspended sentences resulting from a breach of conditions should be excluded from measures of recidivism. For this report, sentenced detention orders that followed a suspended sentence within 1 day, where the suspended sentence ended because the sentence was revoked or cancelled for reoffending or failure to comply with conditions, were excluded from all data sets (that is, both as index and return orders). Where there were multiple sentenced detention orders that followed a suspended sentence, the detention order with the earliest start and end date was removed.

# Glossary

**Index order (index sentence):** the order from which returns to sentenced supervision are counted.

**Pseudo-recidivism:** where offences that were committed before the index offence but adjudicated after the index offence are falsely captured as recidivist acts. For example, offence A was committed on 1 January and the related sentence started 1 June and ended 30 June. Offence B was committed on 1 February and the related sentence started 1 March and ended 15 March. If offence dates are used, offence A is correctly considered the index offence and offence B the recidivist act. However, if sentence dates are used (and the offence dates are unknown), the sentence relating to offence B is incorrectly considered the index order and the sentence relating to offence A is considered the return order.

# References

ABS (Australian Bureau of Statistics) 2009. National Offence Index. ABS cat. no. 1234.0.55.001. Canberra: ABS.

ABS 2011. Australian and New Zealand Standard Offence Classification (ANZSOC), 2011. ABS cat. no. 1234.0. Canberra: ABS.

ABS 2014. Criminal courts, Australia, 2012–13. ABS cat. no. 43513.0. Canberra: ABS.

AIHW (Australian Institute of Health and Welfare) 2012. Linking SAAP, child protection and juvenile justice data: technical report. Data linkage series no. 14. Cat. no. CSI 14. Canberra: AIHW.

AIHW 2013. Using the Juvenile Justice National Minimum Data Set to measure juvenile recidivism. Juvenile justice series no. 14. Cat. no. JUV 32. Canberra: AIHW.

Richards K 2011. Technical and background paper: measuring juvenile recidivism in Australia. Canberra: Australian Institute of Criminology.

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## More information and related publications

More information about young people under youth justice supervision in Australia is available from the AIHW website at <<http://www.aihw.gov.au/youth-justice/>>.

This report can be downloaded free of charge from <<http://www.aihw.gov.au/youth-justice-publications/>>.

The following AIHW publications may also be of interest:

- AIHW 2013. Youth justice in Australia 2011–12: an overview. Bulletin no. 115. Cat. no. AUS 170. Canberra: AIHW.
- AIHW 2013. Young people aged 10–14 in the youth justice system. Juvenile justice series no. 12. Cat. no. JUV 19. Canberra: AIHW.
- AIHW 2012. Juvenile detention population in Australia 2012. Juvenile justice series no. 11. Cat. no. JUV 11. Canberra: AIHW.
- AIHW 2012. Indigenous young people in the juvenile justice system: 2010–11. Bulletin no. 109. Cat. no. AUS 164. Canberra: AIHW.
- AIHW 2012. Girls and young women in the juvenile justice system: 2010–11. Bulletin no. 107. Cat. no. AUS 162. Canberra: AIHW.
- AIHW 2012. Children and young people at risk of social exclusion: links between homelessness, child protection and juvenile justice. Data linkage series no. 13. Cat. no. CSI 13. Canberra: AIHW.
- AIHW 2012. Linking SAAP, child protection and juvenile justice data: technical report. Data linkage series no. 14. Cat. no. CSI 14. Canberra: AIHW.

This is the second of 2 reports presenting measures of returns to sentenced youth justice supervision using data from the Juvenile Justice National Minimum Data Set (JJ NMDS). This report further examines timeframes for measuring returns and explores the potential for using JJ NMDS data to measure the seriousness of reoffending. A number of recommendations are made, including that timeframes of 6 months and 1 year be used; that an increase in sentence severity be used as an interim proxy indicator of escalating offending behaviour; and that future work include reporting on returns to sentenced supervision on an annual basis.