

Serious Offending by People Serving a Community Correction Order: 2018–19

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1. The Council's reporting requirements and the focus of this report

This report addresses a requirement in the *Corrections Act 1986* (Vic) that:

[f]or each financial year commencing on or after 1 July 2016, the Sentencing Advisory Council must report for that year the number of persons convicted during that year of a serious offence committed while subject to a community correction order.¹

In this report, the Council identifies the number of people sentenced in 2018–19 for a serious offence that was committed while the person was serving a community correction order (CCO). It updates *Serious Offending by People Serving a Community Correction Order: 2017–18*.

This is the Council's third report on serious offending by people serving a CCO.² 'The Council has also published monitoring reports on CCOs as well as other reports on how courts use CCOs.'³

This report examines some important issues relating to people sentenced for a serious offence while serving a CCO, including:

- the prevalence of different types of serious offences committed by people while serving a CCO;
- the total number of people sentenced in 2018–19 for committing a serious offence; and
- the time between when people commenced a CCO and when they committed a serious offence.

2. Community correction orders in Victoria

The CCO is a non-custodial sentence available in the higher courts (the Supreme and County Courts) and the Magistrates' Court in Victoria. It is not available in the Children's Court.

The purpose of the CCO is to 'provide a community-based sentence that may be used for a wide range of offending behaviours while having regard to and addressing the circumstances of the offender'.⁴

A court may only impose a CCO if:

- the offender has been convicted or found guilty of an offence punishable by more than five penalty units; and
- the court has received a pre-sentence report (if required) and has had regard to any recommendations, information or matters identified in the pre-sentence report; and
- the offender consents to the order.⁵

Under the *Sentencing Act 1991* (Vic), the CCO is considered more severe than an adjourned undertaking or a fine but less severe than a custodial sentence. In practice, the severity of a CCO varies according to the conditions and length of the specific CCO imposed.

1. *Corrections Act 1986* (Vic) s 104AA(2).

2. Sentencing Advisory Council, *Serious Offending by People Serving a Community Correction Order: 2016–17* (2018); Sentencing Advisory Council, *Serious Offending by People Serving a Community Correction Order: 2017–18* (2019).

3. Sentencing Advisory Council, *Community Correction Orders: Monitoring Report* (2014); Sentencing Advisory Council, *Community Correction Orders: Second Monitoring Report (Pre-Guideline Judgment)* (2015); Sentencing Advisory Council, *Community Correction Orders: Third Monitoring Report (Post-Guideline Judgment)* (2016); Sentencing Advisory Council, *Community Correction Orders in the Higher Courts: Imposition, Duration, and Conditions* (2014); Sentencing Advisory Council, *Parole and Sentencing: Research Report* (2016).

4. *Sentencing Act 1991* (Vic) s 36(1).

5. *Sentencing Act 1991* (Vic) ss 37(a)–(c).

Changes to the community correction order

The CCO became available to the courts on 16 January 2012. At the same time, a number of other orders were abolished, including the community-based order, the intensive correction order, the combined custody and treatment order and the home detention order.

Since its introduction, the CCO has been affected by a number of amendments to the *Sentencing Act 1991* (Vic):

- The courts were encouraged in September 2014 to use a CCO in place of a suspended sentence.⁶
- Initially, the maximum length of a CCO that could be imposed in the higher courts was equal to the maximum term of imprisonment available for the offence,⁷ but in March 2017 the maximum length of a CCO was set at five years for all offences.⁸
- Initially, the maximum term of imprisonment that could be combined with a CCO (a ‘combined order’) was set at three months,⁹ but it was increased to two years in September 2014¹⁰ and reduced to one year in March 2017.¹¹
- The courts’ use of CCOs was limited in March 2017 for two classes of serious offences, described as Category 1 offences and Category 2 offences.¹² The courts must impose a custodial order when sentencing Category 1 offences (for example, murder, rape). The courts are prohibited from imposing a combined order for Category 1 offences. Similarly, the courts must impose a custodial order for Category 2 offences (for example, manslaughter, culpable driving causing death) unless there are special reasons.¹³ If there are special reasons, a CCO or combined order remain available as sentencing options.

In addition to these legislative changes, the Victorian Court of Appeal’s first guideline judgment offered guidance to the courts on the purposes, strengths and limitations of the CCO.¹⁴

Conditions of a community correction order

All CCOs have a set of *mandatory (core) conditions*, including that the offender does not reoffend.

The court must attach at least one *discretionary condition* to the CCO for all or part of the duration of the order (see page 4).

Mandatory conditions (attached to all CCOs) include requiring the offender to:

- not reoffend
- not leave Victoria without permission
- report to a community corrections centre
- comply with written directions from the Secretary to the Department of Justice and Community Safety.

6. *Sentencing Act 1991* (Vic) s 36(2), as inserted by *Sentencing Amendment (Emergency Workers) Act 2014* (Vic) s 17.

7. *Sentencing Act 1991* (Vic) s 38(1)(b)(i), as amended by *Sentencing Amendment (Community Correction Reform) Act 2011* (Vic) s 21.

8. *Sentencing Act 1991* (Vic) s 38(1)(b), as amended by *Sentencing (Community Correction Order) and Other Acts Amendment Act 2016* (Vic) s 10.

9. *Sentencing Act 1991* (Vic) s 44(1), as amended by *Sentencing Amendment (Community Correction Reform) Act 2011* (Vic) s 21.

10. *Sentencing Act 1991* (Vic) s 44(1), as amended by *Sentencing Amendment (Emergency Workers) Act 2014* (Vic) s 18(1).

11. *Sentencing Act 1991* (Vic) s 44(1), as amended by *Sentencing (Community Correction Order) and Other Acts Amendment Act 2016* (Vic) s 12(1).

12. *Sentencing Act 1991* (Vic) ss 5(2G), (2H), as inserted by *Sentencing (Community Correction Order) and Other Acts Amendment Act 2016* (Vic) s 4(1).

13. *Sentencing Act 1991* (Vic) s 5(2H), as inserted by *Sentencing (Community Correction Order) and Other Acts Amendment Act 2016* (Vic) s 4(1).

14. *Boulton v The Queen* [2014] VSCA 342 (22 December 2014).

Discretionary conditions include requiring the offender to:

- undertake medical treatment or other rehabilitation
- not enter licensed premises (such as a hotel, club or restaurant)
- complete unpaid community work up to a total of 600 hours
- be supervised, monitored and managed by a corrections worker
- abstain from contact or association with particular people (for example, co-offenders)
- live (or not live) at a specified address
- stay away from nominated places or areas
- abide by a curfew, remaining at a specified place for between two and 12 hours each day
- be monitored and reviewed by the court to ensure compliance with the order
- pay a bond – a sum of money that may be given up wholly or partly if the offender fails to comply with any conditions imposed.

Length of a community correction order

The maximum length of a CCO imposed on a single offence is five years in the higher courts¹⁵ and two years in the Magistrates' Court.¹⁶

A CCO may be imposed on multiple offences, providing the offences 'are founded on the same facts or form or are part of a series of offences of the same or a similar character'.¹⁷

Where a CCO is imposed on multiple offences in the higher courts, the maximum length of the CCO remains five years. In the Magistrates' Court, the maximum length is four years in relation to two offences and five years in relation to three or more offences.¹⁸

Sentences in addition to a community correction order

A court may impose a fine¹⁹ or a sentence of imprisonment in addition to a CCO.²⁰

If a court imposes a sentence of imprisonment in addition to a CCO, the term of imprisonment must not exceed one year.²¹

Contravention of a community correction order

Contravention (breach) of a CCO without a reasonable excuse is a criminal offence with a maximum penalty of three months' imprisonment.²²

If a person contravenes their CCO, either through committing a new offence or through failing to comply with another condition of the order, they face a number of potential consequences.

If the person is found guilty of the offence of contravention of a CCO, the court must make a decision about how to deal with the original CCO. If the contravention is due to new offending, the offender is also sentenced for the new offences.

15. *Sentencing Act 1991* (Vic) s 38(1)(b).

16. *Sentencing Act 1991* (Vic) s 38(1)(a)(i).

17. *Sentencing Act 1991* (Vic) s 40(1).

18. *Sentencing Act 1991* (Vic) ss 38(1)(a)(ii)–(iii).

19. *Sentencing Act 1991* (Vic) s 43.

20. *Sentencing Act 1991* (Vic) s 44.

21. *Sentencing Act 1991* (Vic) s 44(1). This restriction does not apply to arson offences listed in *Sentencing Act 1991* (Vic) sch 1 cl 5 (*Sentencing Act 1991* (Vic) s 44(1A)).

22. *Sentencing Act 1991* (Vic) s 83AD(1).

3. Serious offences

This report identifies the number of serious offences committed by people while serving a CCO. Serious offences²³ include:

- serious violent offences²⁴ such as armed robbery, aggravated burglary, arson causing death and false imprisonment; conspiracies, attempts and incitements of these offences; and similar offences committed in Victoria or elsewhere that contain elements of these offences; and
- sexual offences²⁵ such as rape, sexual assault and sexual penetration of a child under 16.

The definition of *serious violent offence* has not changed since 30 June 2018. However, from 3 September 2018, two summary offences are no longer included in the definition of sexual offences: distribution of an intimate image (*Summary Offences Act 1966* (Vic) s 41DA) and threat to distribute an intimate image (*Summary Offences Act 1966* (Vic) s 41DB).²⁶

Specific information is required in the source data to determine whether an offence is serious. However, this information was not available for a small number of offence types. These include burglary, which, if sexually motivated, falls within the definition of a serious offence, and offences relating to the commission of an indictable offence where the indictable offence is not specified. In these instances, the offence has been classified as not serious and has therefore been excluded from the analysis.

4. Meaning of the term convicted

The *Corrections Act 1986* (Vic) uses the term *convicted* in relation to serious offences committed by people on CCOs that the Council must report on. Two meanings of the term are relevant. One is a finding of guilt made by a court against a person; the other is a recording made by a court following a finding of guilt.²⁷

In this report, *convicted* is defined as a finding of guilt made by a court. This excludes a finding of not guilty due to mental impairment, or a qualified finding of guilt, at a special hearing under the *Crimes (Mental Impairment and Unfitness to Be Tried) Act 1997* (Vic).²⁸ The report also excludes offences that are dealt with in the Magistrates' Court using a court-ordered diversion, as these are not formal findings of guilt even though the accused must acknowledge responsibility for the offence before a diversion can be granted.²⁹

The date of conviction is required for the count of convicted persons within a given period. However, the date of conviction was not available in the data that the Council used for this report.

The closest available date to the date of conviction is the date of sentence. Therefore, the date of sentence is used in this report as a proxy for the date of conviction.

23. *Corrections Act 1986* (Vic) s 104(AA)(3). The Council has published a comprehensive list of serious offences for 2018–19 on its website: Sentencing Advisory Council, *Serious Offences Current between 16 January 2012 and 30 June 2019* (2020).

24. *Corrections Act 1986* (Vic) s 3(1); *Sentencing Act 1991* (Vic) sch 1 cl 2.

25. *Corrections Act 1986* (Vic) s 3(1). For part of the 2018–19 reference period, the relevant list of sexual offences was found in *Serious Sex Offenders (Detention and Supervision) Act 2009* (Vic) sch 1. This Act was repealed by the *Serious Offenders Act 2018* (Vic) on 3 September 2018. The relevant list of sexual offences is now found in *Serious Offenders Act 2018* (Vic) sch 1.

26. *Serious Offenders Act 2018* (Vic) sch 1.

27. *Sentencing Act 1991* (Vic) s 8.

28. *Crimes (Mental Impairment and Unfitness to Be Tried) Act 1997* (Vic) ss 17–18.

29. *Criminal Procedure Act 2009* (Vic) s 59.

5. Reference period

The reference period for this report is 1 July 2018 to 30 June 2019. This period relates to the date on which a sentence was *imposed* rather than the date on which an offence was *committed*. The date that the offence was committed is irrelevant to the Council's reporting obligation, which only requires that the relevant offence was:

- committed by a person who was serving a CCO at the time; and
- convicted (sentenced) in the reference period.

Some serious offences included in this report were committed prior to the reference period. There is always some delay between the commission of an offence and the sentence for that offence. For example, a person who committed a serious offence on 30 May 2017 while serving a CCO may not have been sentenced for the offence until 1 July 2018.

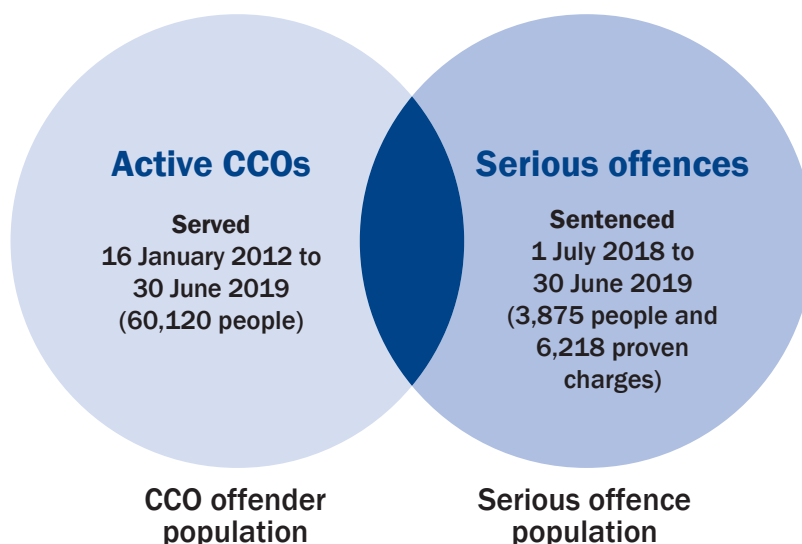
6. Methodology

The analysis in this report measures the overlap between two populations (see Figure 1):

- the population of offenders serving a CCO (the *CCO offender population*); and
- the population of offenders who committed a serious offence (the *serious offence population*).

The CCO offender population comprises all people who served a CCO from the order's introduction on 16 January 2012 to the end of the reference period on 30 June 2019. If the same person received two or more CCOs during that time, they would be counted once within the CCO offender population.

Figure 1: Populations used to identify people sentenced in 2018–19 for a serious offence committed while serving a CCO



The number of people in the CCO offender population is 60,120. This number includes people who may have received two or more CCOs.

The serious offence population comprises all proven charges of a serious offence committed by any person and sentenced in the Magistrates' Court or in the higher courts from 1 July 2018 to 30 June 2019. The number of people in the serious offence population is 3,875, and they committed 6,218 proven charges of a serious offence. These numbers are lower than the numbers for 2017–18³⁰ (4,032 people and 6,570 proven charges), representing a 3.9% decrease in the number of people and a 5.4% decrease in the number of proven charges.

The number of people in 2018–19 was also lower than in 2016–17,³¹ although the number of proven charges was slightly higher. The number of people in the serious offence population in 2016–17 was 3,956, and they committed 6,180 proven charges. The serious offender population thus showed a 2% decrease in the number of people but a 0.6% increase in the number of charges in 2018–19, compared with 2016–17.

Data limitations

There are a number of limitations in the data used for this analysis.

Exclusions

Due to data limitations, serious offences have been excluded if the offence was:

- committed outside Victoria – it is possible for a person serving a CCO to depart Victoria and commit a serious offence in another jurisdiction;
- committed while the person was serving a CCO but no link was established between the serious offence population and the CCO offender population; and/or
- insufficiently described in the source data (for example, burglary is not classed as a serious offence even though it falls within the definition of a serious offence in some circumstances – see Section 3).

Each of these exclusions may result in an undercount of the number of people who committed a serious offence while serving a CCO.

Inclusions

Due to data limitations, serious offences have been included if:

- the convictions for the offences were subsequently quashed by an appellate court;
- offenders had proceedings initiated against them for contravention of a CCO and were awaiting a court decision, even though they may not necessarily be under active supervision; and/or
- the relevant CCO was cancelled before the serious offence was committed, and the cancellation date was not available in the source data at the time of writing.

Each of these inclusions may result in an overcount of the number of people who committed a serious offence while serving a CCO.

30. Sentencing Advisory Council (2019), above n 2, 5–6.

31. Sentencing Advisory Council (2018), above n 2, 5–6.

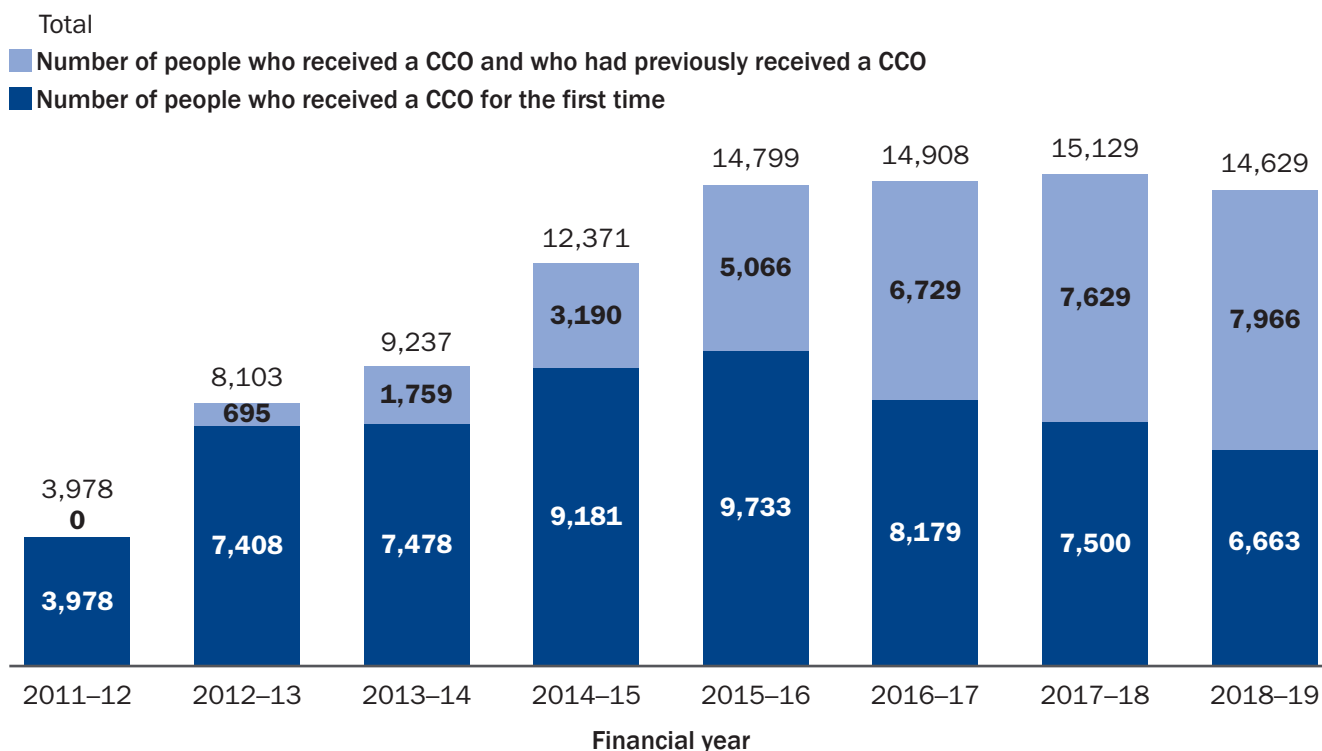
7. All people serving a community correction order

Figure 2 shows the number of people who received a CCO each financial year from 2011–12 to 2018–19, based on the date of imposition. It also shows whether the person had previously received a CCO. A total of 60,120 people received a CCO for the first time from 16 January 2012 to 30 June 2019 (see the lower part of each bar in Figure 2). A subset of these people (33,034 of 60,120 people or 55%) received a second or subsequent CCO during a different financial year from 16 January 2012 to 30 June 2019 (see the upper part of each bar in Figure 2). Some of these 33,034 people were counted more than once, as they may have received a new CCO over multiple years. The number of *unique individuals* that received a CCO over multiple years was 22,421 people or 37% of the overall number of 60,120 people.

The total number of people who received a CCO plateaued in the three financial years to 30 June 2018 before decreasing slightly in 2018–19.

Another pattern to emerge from Figure 2 is a steady increase in the number and percentage of people who received a second or subsequent CCO each year since the order was introduced in January 2012. For instance, in 2012–13, only 9% of people were on their second or subsequent CCO (695 of 8,103 people). By 2016–17, the percentage of people on their second or subsequent CCO had risen to 45% (6,729 of 14,908 people). In 2018–19, the percentage of people on their second or subsequent CCO had increased to 54% (7,966 of 14,629 people), overtaking the percentage of first-time CCO recipients for that year. This increase in the number and percentage of people receiving a second or subsequent CCO is not entirely unexpected, as people have a greater chance of accumulating more CCOs the longer this sentencing option is available to the courts.

Figure 2: Number of people who received a CCO from 16 January 2012 to 30 June 2019, by financial year and whether the person had previously received a CCO³²

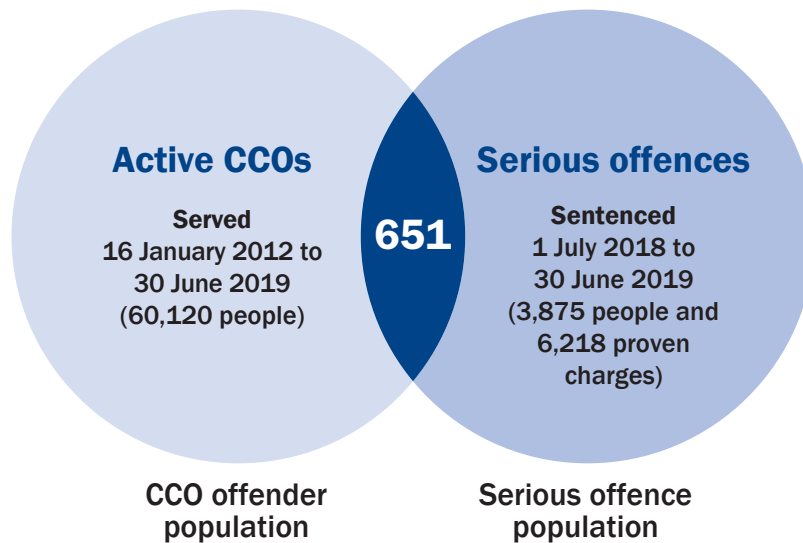


32. The numbers in Figure 2 are subject to change. Some orders may not have been entered into the case management system at the time that the data was extracted and/or additional data quality checks may have improved the count of unique individuals. The number in 2011–12 is substantially lower than in other years because the CCO was only introduced part way through that financial year on 16 January 2012.

8. People sentenced for a serious offence committed while serving a community correction order

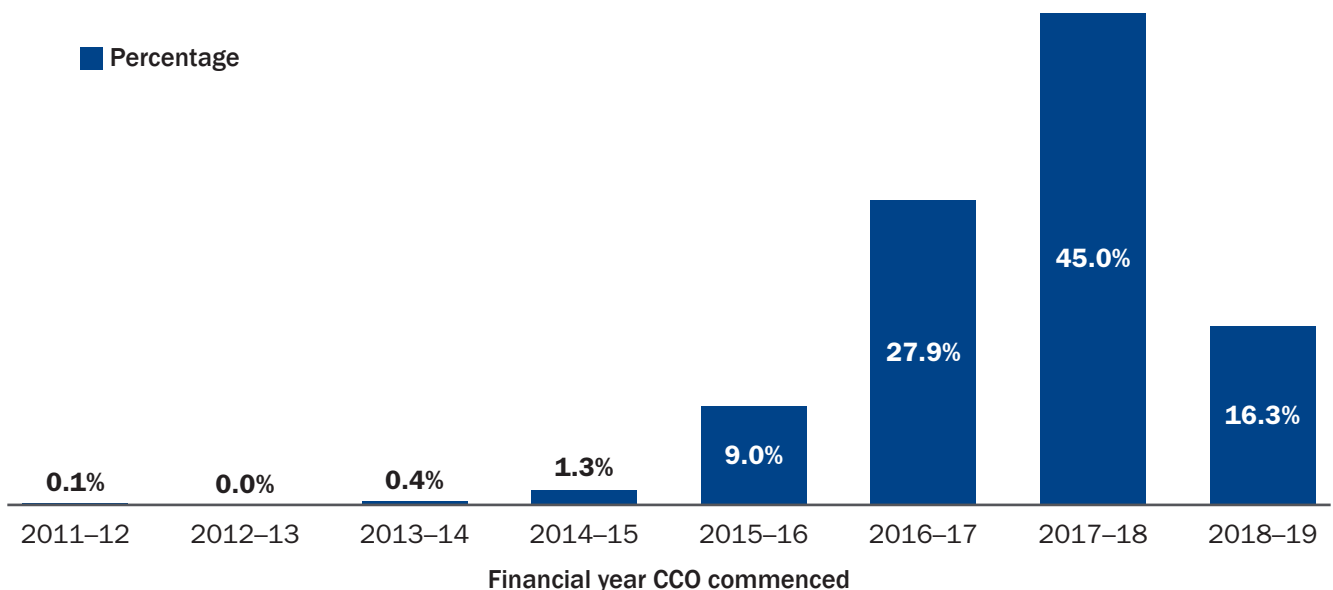
Of the 60,120 people who received a CCO from 16 January 2012 to 30 June 2019, 651 were sentenced in 2018–19 for a serious offence committed while the person was serving a CCO (see Figure 3).

Figure 3: Populations used to identify the number of people sentenced in 2018–19 for a serious offence committed while serving a CCO



CCO commencement dates varied widely for people sentenced in 2018–19 for a serious offence committed while serving a CCO, ranging from 1 June 2012 to 13 May 2019. However, as Figure 4 shows, the vast majority of CCOs (89.2%) commenced from 2016–17 to 2018–19.

Figure 4: Percentage of total CCOs contravened by people sentenced in 2018–19 for committing a serious offence, by financial year in which CCO commenced



The 651 people sentenced in 2018–19 for a serious offence committed while serving a CCO represent a 3.0% increase on the 632 people sentenced in 2017–18³³ and an 18.1% increase on the 551 people sentenced in 2016–17.³⁴ The percentage increase between 2017–18 and 2018–19 (3.0%) was much lower than the percentage increase between 2016–17 and 2017–18 (14.7%) (see Figure 5).³⁵

Rate of contravention of community correction orders by serious offending

It is not possible to calculate an accurate rate of CCO contravention by serious offending using the reference period that the Council is required to report on. This is because the reference period is:

- based on the date of sentence for a serious offence, which results in non-standardised follow-up periods; and
- restricted to a single financial year, meaning serious offending sentenced outside the reference period is excluded.

This report adopts the methodology from the previous two reports in this series to estimate a proxy for the rate of CCO contravention by serious offending: it only considers CCOs imposed in the three years to the end of the reference period (1 July 2016 to 30 June 2019). A total of 33,573 people received a CCO over the three-year period; of these, 585 were sentenced in 2018–19 for a serious offence committed while serving a CCO. The estimated rate of CCO contravention by serious offending for 2018–19 is 1.7%, which has barely changed from previous years (see Figure 6).³⁶ These percentages most likely underestimate the true rates of CCO contravention by serious offending as some people who committed a serious offence while serving a CCO imposed in the three-year period may have been sentenced either before or after 2018–19.

Figure 5: Number of people sentenced for a serious offence committed while serving a CCO, by financial year

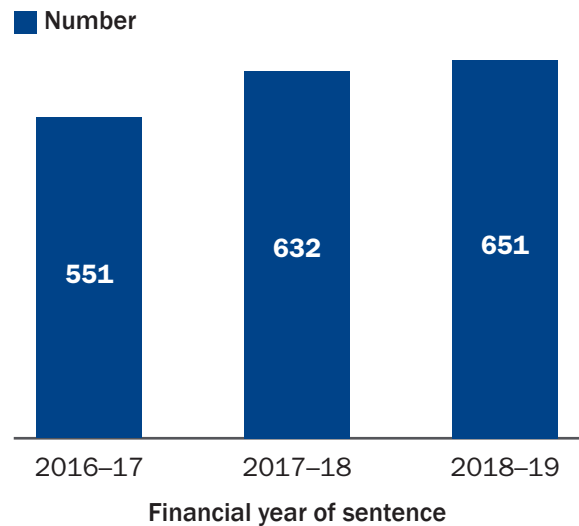
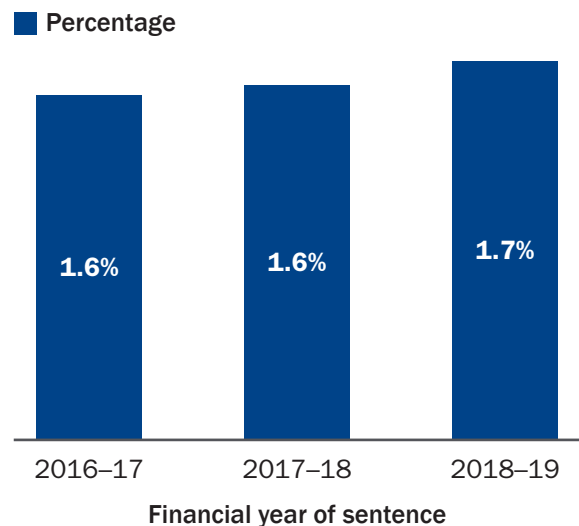


Figure 6: Estimated rate of CCO contravention by serious offending, by financial year of sentence for serious offence



33. Sentencing Advisory Council (2019), above n 2, 8.

34. Ibid.

35. Ibid.

36. Ibid.

9. Types of serious offences committed while serving a community correction order

This section provides an analysis of the types of serious offences committed by people serving a CCO. It considers all *sentenced charges* of a serious offence committed while serving a CCO. This contrasts with all *people sentenced* for committing a serious offence while serving a CCO, which was the focus earlier in this report.

In 2018–19, the courts sentenced 914 charges of serious offences committed by people serving a CCO. This represents a 0.2% increase on the 912 charges from 2017–18³⁷ and a 15.1% increase on the 794 charges from 2016–17.³⁸

Figure 7 (page 12) presents the number of charges sentenced in 2016–17, 2017–18 and 2018–19 for serious offences committed by people serving a CCO, according to the 10 most common serious offences sentenced in 2018–19. The appendix gives a full list of serious offences sentenced in 2018–19 that were committed by people serving a CCO.

Three offences stand out from the most common serious offences committed by people serving a CCO in 2018–19:

- make threat to kill (319 charges);
- make threat to inflict serious injury (187 charges); and
- aggravated burglary (138 charges).

All three offences were also the most common serious offences sentenced in 2016–17 and 2017–18.³⁹

The number of charges of make threat to kill in 2018–19 decreased slightly from the number in 2017–18 (325 charges to 319 charges, a decrease of 1.8%). However, the number of charges of make threat to inflict serious injury increased in 2018–19 from both 2016–17 and 2017–18 (187 charges in 2018–19 from 172 charges in 2016–17 and 2017–18, an increase of 8.7%). On the other hand, the number of charges of aggravated burglary decreased in 2018–19: 138 charges in 2018–19 from 154 charges in 2017–18 (a decrease of 10.4%) and 152 charges in 2016–17 (a decrease of 9.2%).

The most common sexual offences were sexual assault (26 charges in both 2017–18 and 2018–19) and knowingly possess child abuse material (15 charges in 2018–19). The number of charges of knowingly possess child abuse material was highest in 2018–19 as this is a new offence that replaced knowingly possess child pornography. However, prior to its repeal, knowingly possess child pornography was among the 10 most common serious offences committed by people serving a CCO, with a similar number of charges (10 in 2016–17 and 11 in 2017–18).⁴⁰

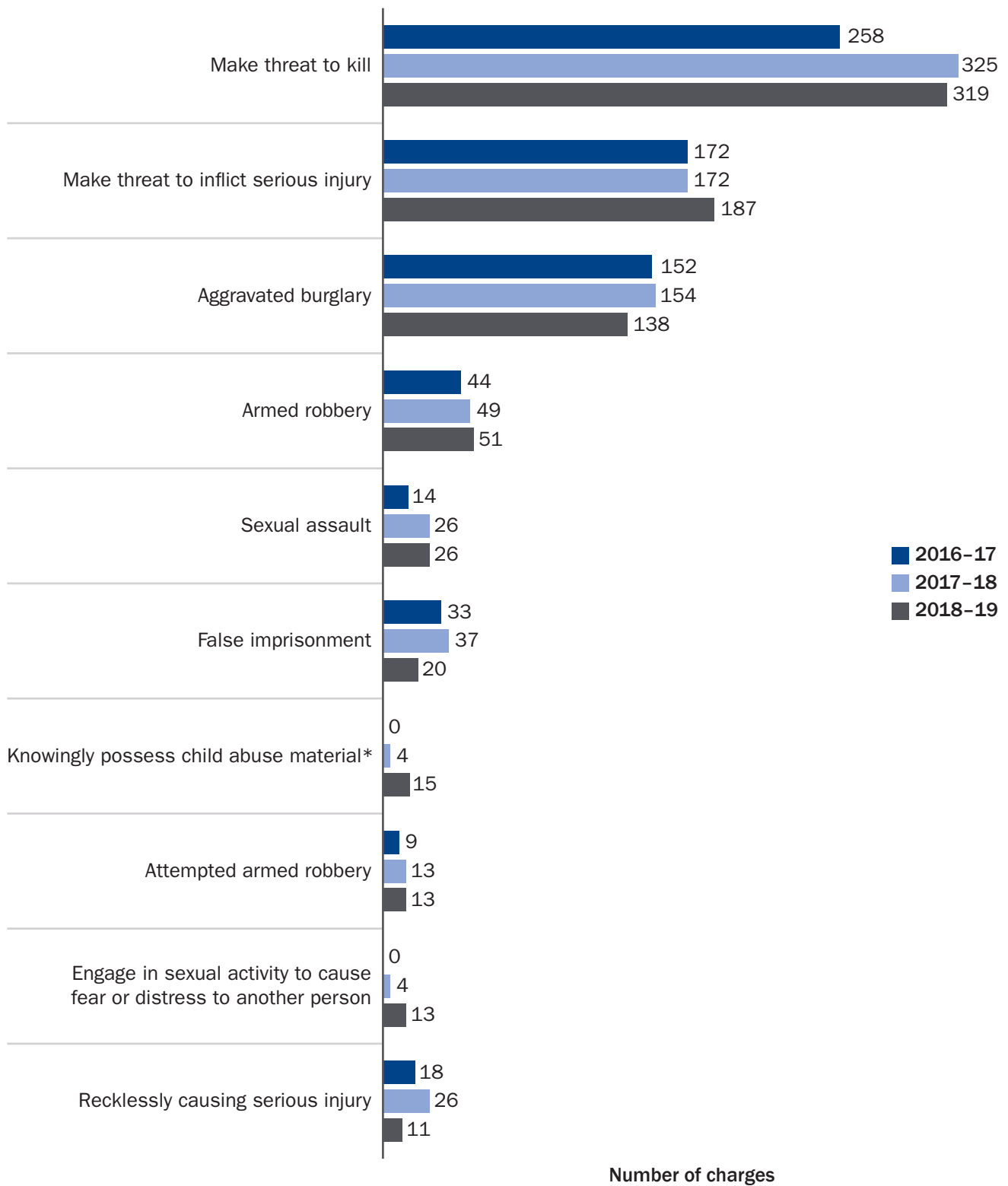
37. Ibid 9.

38. Ibid.

39. Ibid 9–10.

40. Ibid.

Figure 7: Number of sentenced charges of a serious offence committed by people serving a CCO according to the 10 most common serious offences sentenced in 2018–19, by type of serious offence and financial year of sentence



*Knowingly possess child abuse material is a relatively new offence under section 51G of the *Crimes Act 1958* (Vic). Prior to its introduction, a similar offence of knowingly possess child pornography existed under section 70 (repealed) of the *Crimes Act 1958* (Vic). People sentenced in 2016–17 and 2017–18 were more likely to be charged with knowingly possess child pornography under section 70 than knowingly possess child abuse material under section 51G.

In addition, the courts sentenced two charges of murder committed by people serving a CCO.⁴¹ This represents 5.7% of all murder charges sentenced in 2018–19. This is substantially lower than the percentage in 2017–18, when 16.7% of sentenced murder charges were committed by people serving a CCO,⁴² but slightly higher than in 2016–17, when 4.7% of sentenced murder charges were committed by people serving a CCO.⁴³

Two offences of manslaughter⁴⁴ and eight charges of rape⁴⁵ were also committed by people serving a CCO. The percentage of people who committed manslaughter while serving a CCO represented 9.5% of all manslaughter charges sentenced in 2018–19, 7.7% in 2016–17⁴⁶ and 13.3% in 2017–18.⁴⁷ The percentage of people who committed rape while serving a CCO represented 7.8% of all rape charges sentenced in 2018–19, 6.8% in 2016–17⁴⁸ and 1.9% in 2017–18.⁴⁹

Overall, the percentages for murder and manslaughter were lower in 2018–19 than in 2017–18, but slightly higher than in 2016–17. The percentage for rape was highest in 2018–19, although this can be attributed to one person committing multiple rape offences.

41. Additional details relating to these two charges of murder are as follows:

1. A murder was committed approximately six months into a two-year CCO imposed for theft, arson, throwing a missile to damage property, entering a private space without excuse, make threat to kill, make threat to inflict serious injury, stalking and assault.
2. A murder was committed approximately nine months into a two-year CCO (combined with a term of imprisonment) imposed for offences including several counts of theft, burglary, obtaining property by deception, unlicensed driving, careless driving, dangerous driving and committing indictable offences on bail.

42. Sentencing Advisory Council (2019), above n 2, 10.

43. Sentencing Advisory Council (2018), above n 2, 9.

44. Additional details relating to these two charges of manslaughter are as follows:

1. A manslaughter was committed approximately 10 months into a 15-month CCO imposed for a series of regulatory driving offences, drug possession, recklessly causing injury and committing indictable offences on bail. At the time of the manslaughter, the person was also one month into a second CCO of one year imposed for recklessly causing injury, theft and false imprisonment.
2. A manslaughter was committed approximately 10 months into a one-year CCO imposed for a range of offences including recklessly causing injury, affray, unlawful assault, intentionally damaging property and possess a dangerous article in public.

45. Additional details relating to these eight charges of rape are as follows:

1. Six rapes were committed by a single offender against a single victim over two days, approximately 13 months into a CCO originally imposed for 12 months (the CCO had been extended multiple times so that the offender was still serving it 13 months later). The CCO was imposed for driving while disqualified, fraudulently using identification, failing to answer bail, committing indictable offences on bail, drug possession, dealing with suspected proceeds of crime, possess controlled weapons, trespassing, unlawful assault and contravening a family violence intervention order.
2. A rape was committed approximately 20 months into a CCO originally imposed for 18 months (the CCO had been extended multiple times so that the offender was still serving it 20 months later). The CCO was imposed for one count of recklessly causing injury.
3. A rape was committed approximately eight months into a one-year CCO imposed for theft of and from a motor vehicle, unlicensed driving, driving an unregistered vehicle and failing to answer bail.

46. Sentencing Advisory Council (2018), above n 2, 10.

47. Sentencing Advisory Council (2019), above n 2, 10.

48. Sentencing Advisory Council (2018), above n 2, 10.

49. Sentencing Advisory Council (2019), above n 2, 10.

10. Gender and age of people committing a serious offence while serving a community correction order

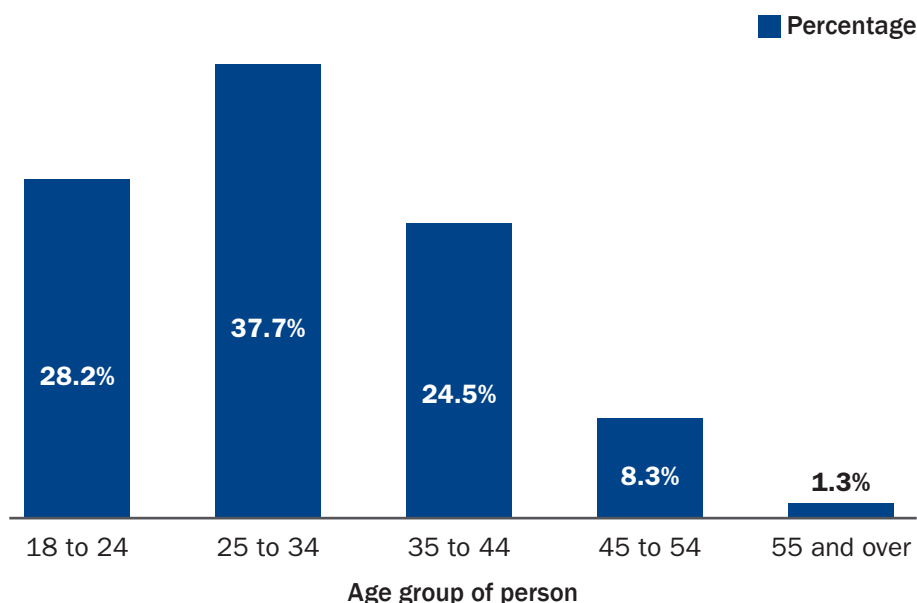
A total of 599 males (92% of people) and 52 females (8% of people) were sentenced in 2018–19 for a serious offence committed while serving a CCO. This is consistent with patterns observed for 2016–17⁵⁰ and 2017–18,⁵¹ during which the majority (90% or more) of people committing a serious offence while serving a CCO were also male.

The majority of people sentenced for a serious offence committed while serving a CCO were aged between 18 and 44 when their CCO was imposed. This represents just over 90% of all CCOs imposed on people who subsequently committed a serious offence while serving a CCO. A large contingent of this group was aged under 35 (65.9%) (see Figure 8).

The median age of people sentenced for a serious offence committed while serving a CCO was 30 years (at the time of receiving their CCO). Ages ranged from 18 to 65 years.

As Figure 8 shows, the most prevalent age group was 25 to 34 years (37.7%), and the least prevalent age group was 55 years and over (1.3%). The patterns in Figure 8 are almost identical to the patterns observed in previous reports:⁵² 25 to 34 years is the most prevalent age group, and 55 years and over is the least prevalent.

Figure 8: Percentage of total CCOs contravened for people sentenced in 2018–19 for committing a serious offence while serving a CCO, by the person's age when the CCO was imposed



50. Sentencing Advisory Council (2018), above n 2, 8.

51. Sentencing Advisory Council (2019), above n 2, 11.

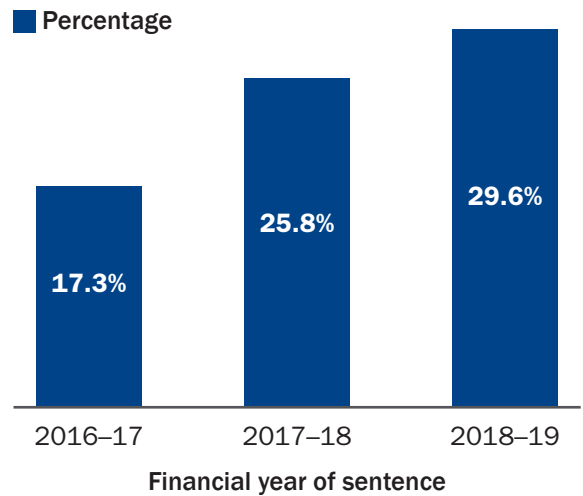
52. Ibid; Sentencing Advisory Council (2018), above n 2, 8.

11. Community correction orders combined with imprisonment

In 2018–19, 29.6% of people sentenced for a serious offence committed while serving a CCO (193 of 651 people) were on a CCO combined with imprisonment. This percentage is higher than the percentage in both 2016–17 (17.3%) and 2017–18 (25.8%) (see Figure 9).⁵³ The reasons for this are unclear, although the percentage increase in combined orders may have been driven by a combination of changes to legislation, sentencing practices, offending profiles and/or the offender’s prior history. Additionally, Figure 2 indicates that a higher percentage of people received a second or subsequent CCO in more recent years. It is possible that people serving their second or subsequent CCO may be more likely to receive a combined order to reflect an escalation in the severity of their penalty on the sentencing hierarchy.

The remaining 70.4% (458 people) sentenced in 2018–19 for committing a serious offence while serving a CCO had contravened a CCO that was not combined with imprisonment.

Figure 9: Percentage of people sentenced for a serious offence committed while serving a CCO combined with imprisonment, by financial year



12. Time to first serious offence

For people sentenced in 2018–19 for a serious offence committed while serving a CCO, the median time between the start of their CCO and their earliest serious offence was 151 days (approximately 5 months). This is longer than the median time for people sentenced in 2016–17 (140 days) but shorter than the median for people sentenced in 2017–18 (166 days).⁵⁴ Expressed in percentages, the median time between the start of a CCO and the earliest serious offence for people sentenced in 2018–19 was 7.9% longer than in 2016–17 but 9.0% shorter than in 2017–18. Note that a person on multiple CCOs when they committed a serious offence is counted only once, based on the shortest amount of time between the start of the CCO and the commission of the serious offence.

The maximum time between the start of a CCO and the earliest serious offence was 1,455 days (3 years and 11 months) for people sentenced in 2018–19. By comparison, the maximum time was 881 days in 2016–17 and 1,368 days in 2017–18.⁵⁵

53. Sentencing Advisory Council (2019), above n 2, 12.

54. Ibid.

55. Ibid.

As Figure 10 shows, the majority (59%) of people sentenced in 2018–19 committed their first serious offence within six months of their CCO commencing, and 88% committed their first serious offence within the first year of their CCO commencing. In general, people sentenced in 2018–19 seemed to fall somewhere between the 2016–17 and the 2017–18 cohorts: the 2018–19 cohort took slightly less time to offend than the 2017–18 cohort but slightly more time to offend than the 2016–17 cohort.

The biggest differences between the percentages for 2016–17 and 2018–19 were at 12 months, when 95% of people had already committed a serious offence in 2016–17 but under 90% had committed a serious offence in 2018–19.

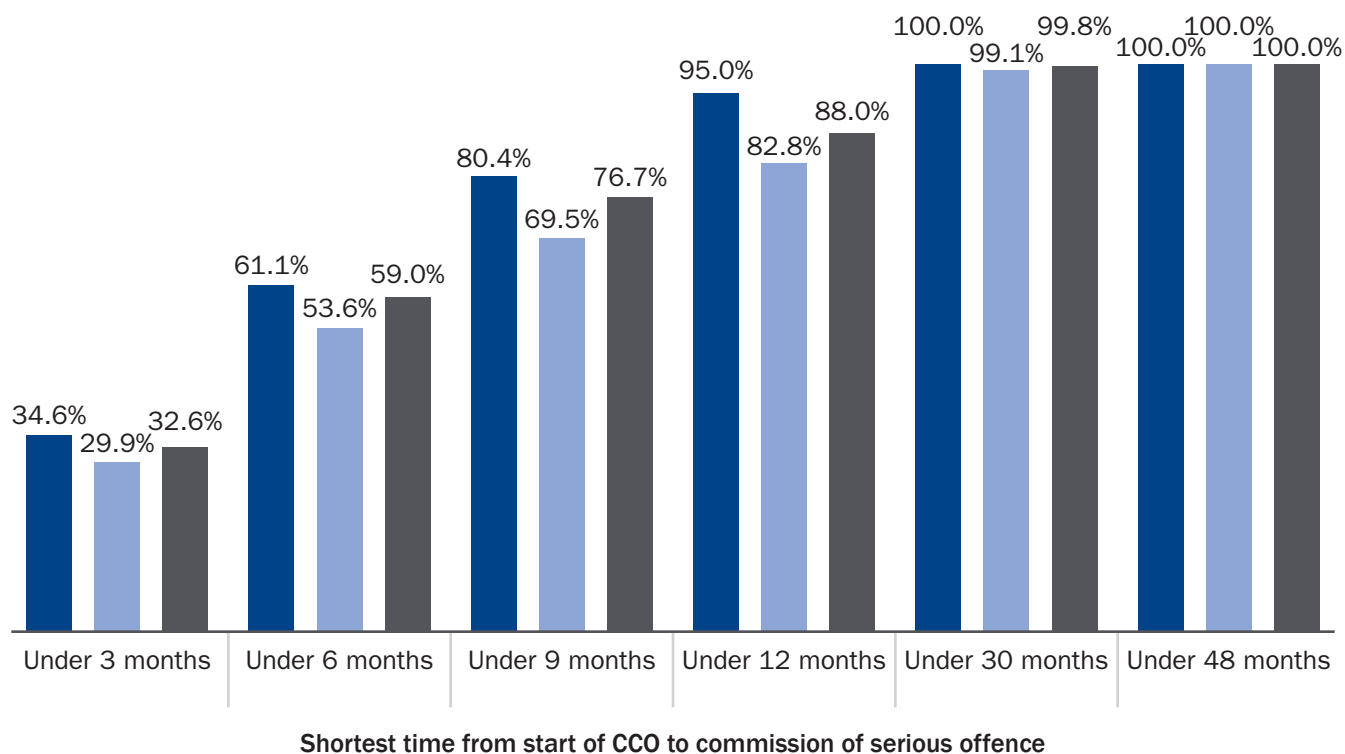
The biggest differences between the percentages for 2017–18 and 2018–19 were at 6 months, 9 months and 12 months, when the percentage of people committing a serious offence within these time frames was consistently lower in 2017–18 than in 2018–19 (and in 2016–17).

Almost all people who committed a serious offence while serving a CCO had done so within 30 months of the CCO commencing.

Figure 10: Cumulative percentage of people sentenced for a serious offence committed while serving a CCO, by shortest time from start of CCO to commission of serious offence, by financial year

Cumulative percentage by financial year

■ 2016–17 ■ 2017–18 ■ 2018–19



13. Summary

Of the 60,120 people who received a CCO between 16 January 2012 and 30 June 2019, 651 were sentenced in 2018–19 for a serious offence committed while serving a CCO.

The number of people sentenced in 2018–19 for committing a serious offence while serving a CCO (651 people) represented a relatively minor 3% increase from the number of people sentenced in 2017–18 (632 people). By comparison, the percentage change between 2016–17 (551 people) and 2017–18 (632 people) was much larger at 14.7%.

The reduced growth rate of people sentenced for a serious offence committed while serving a CCO may be related to a decrease in the number of unique individuals committing serious offences overall: from 4,032 people in 2017–18 to 3,875 people in 2018–19, a decrease of 3.9%. If fewer people are sentenced for serious offending overall, then the rate of people committing serious offences while serving a CCO may also decrease. Changes in legislation and sentencing practices may make it harder for people at risk of committing serious offences to be sentenced to a CCO in the first instance, further contributing to the reduced growth rate.

The estimated rate of CCO contravention by serious offending has remained relatively steady over the three financial years to 30 June 2019. The rate rose from 1.6% in 2016–17 and 2017–18 to 1.7% in 2018–19. As discussed, this proxy rate is likely to underestimate the true rate of CCO contravention by serious offending. Of greater concern is the rise in the proportion of people sentenced to a CCO combined with imprisonment among those sentenced for a serious offence while serving a CCO. This percentage has risen from 17.3% in 2016–17 to nearly 30% (29.6%) in 2018–19. Although the overall rate of CCO contravention by serious offending remains relatively low (1.7%), a higher proportion of people who contravene their CCO by serious offending are doing so after serving a period of imprisonment.

Overall, people were sentenced in 2018–19 for 914 charges of a serious offence committed while serving a CCO. This is only slightly above the 912 charges sentenced in 2017–18 (an increase of 0.2%).

The three most common serious offences sentenced in 2018–19 for people serving a CCO were make threat to kill (319 charges), make threat to inflict serious injury (187 charges) and aggravated burglary (138 charges). These were also the three most common serious offences sentenced in both 2016–17 and 2017–18. The most common serious sexual offences in 2018–19 were sexual assault (26 charges) and knowingly possess child abuse material (15 charges). These were also among the 10 most common serious offences in 2016–17 and 2017–18 (although people were more likely to be charged with knowingly possess child pornography than knowingly possess child abuse material during these two years).

In addition, the courts sentenced two charges of murder, two charges of manslaughter and eight charges of rape committed by people serving a CCO.

For people sentenced in 2018–19, the median amount of time between the start of a CCO and the commission of a serious offence was 151 days. Thus the 2018–19 cohort took more time to commit a serious offence than the 2016–17 cohort, who took a median of 140 days (an increase of 7.9%), but less time than the 2017–18 cohort, who took a median of 166 days (a decrease of 9.0%).

Appendix: Serious offences committed while serving a community correction order

Table 1: Charges of serious offences sentenced in 2018–19, by number and percentage of charges committed by people serving a CCO and number and percentage of charges committed by any person

Offence	Sentenced charges of serious offences committed by people serving a CCO		Sentenced charges of serious offences committed by any person	
	Number	Percentage of total charges committed by people serving a CCO	Number	Percentage of charges of specific offence committed by people serving a CCO
Make threat to kill	319	34.9%	1,801	17.7%
Make threat to inflict serious injury	187	20.5%	929	20.1%
Aggravated burglary	138	15.1%	514	26.8%
Armed robbery	51	5.6%	258	19.8%
Sexual assault	26	2.8%	333	7.8%
False imprisonment	20	2.2%	139	14.4%
Knowingly possess child abuse material	15	1.6%	119	12.6%
Attempted armed robbery	13	1.4%	75	17.3%
Engage in sexual activity to cause fear or distress to another person	13	1.4%	77	16.9%
Recklessly causing serious injury	11	1.2%	113	9.7%
Attempted aggravated burglary	10	1.1%	35	28.6%
Use carriage service for child pornography material	10	1.1%	95	10.5%
Carjacking	9	1.0%	32	28.1%
Groom a child or a child's carer to facilitate a sexual offence	9	1.0%	38	23.7%
Aggravated carjacking	8	0.9%	26	30.8%
Rape	8	0.9%	103	7.8%
Sex offender loiter near school or public place frequented by children	7	0.8%	14	50.0%
Home invasion	5	0.5%	34	14.7%
Indecent act with or in the presence of a child aged under 16	5	0.5%	298	1.7%
Sexual assault of a child aged under 16	4	0.4%	76	5.3%
Threaten to distribute intimate images*	4	0.4%	33	12.1%

Offence	Sentenced charges of serious offences committed by people serving a CCO		Sentenced charges of serious offences committed by any person	
	Number	Percentage of total charges committed by people serving a CCO	Number	Percentage of charges of specific offence committed by people serving a CCO
Attempt to commit an aggravated carjacking	3	0.3%	7	42.9%
Attempted carjacking	3	0.3%	13	23.1%
Engage in sexual activity in the presence of a child aged under 16	3	0.3%	32	9.4%
Intentionally causing serious injury	3	0.3%	33	9.1%
Intentionally distribute intimate images*	3	0.3%	31	9.7%
Make threat to commit a sexual offence	3	0.3%	20	15.0%
Sexual penetration of a child aged under 16 (may also include children aged under 12)	3	0.3%	124	2.4%
Use carriage service to groom a child aged under 16 for sexual activity	3	0.3%	16	18.8%
Use carriage service to procure a child aged under 16 for sexual activity	3	0.3%	23	13.0%
Aggravated home invasion	2	0.2%	12	16.7%
Intend to procure a child aged under 16 for sexual activity outside Australia	2	0.2%	11	18.2%
Knowingly possess child pornography	2	0.2%	47	4.3%
Manslaughter	2	0.2%	21	9.5%
Murder	2	0.2%	35	5.7%
Use carriage service to transmit indecent communications to a child aged under 16	2	0.2%	35	5.7%
Attempted sexual assault	1	0.1%	1	100.0%
Intentionally causing serious injury in circumstances of gross violence	1	0.1%	6	16.7%
Kidnapping (common law)	1	0.1%	10	10.0%
Other serious offences	0	0.0%	599	0.0%
Total	914	100.0%	6,218	14.7%

*Only includes a count of offences committed before 3 September 2018, after which this was no longer defined as a serious offence.

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