

Corrections Research Paper Series  
Paper No. 02 September 2007

# 02

Intellectual Disability in the  
Victorian Prison System  
Characteristics of prisoners  
with an intellectual disability  
released from prison in  
2003-2006

Corrections  
Research  
Paper Series

# 02

DEPARTMENT  
OF JUSTICE

State Government  
Victoria

Published by Department of Justice,  
Melbourne, Victoria, Australia.

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Department of Justice

Authorised by Kelvin Anderson,  
Commissioner, Corrections Victoria,  
Department of Justice,  
121 Exhibition Street, Melbourne.

Design by Celia Dymond Design, St Kilda.  
Printed by Blue Print, Port Melbourne.

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ISSN 1834-7703

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Department of Justice  
GPO Box 4356, Melbourne, Victoria, 3001

[www.justice.vic.gov.au](http://www.justice.vic.gov.au)

Telephone +61 3 8684 6600  
Facsimile +61 3 8684 6611  
[corrections@justice.vic.gov.au](mailto:corrections@justice.vic.gov.au)

**Corrections Research Paper Series**

Paper No. 1 June 2007

*Who returns to prison?  
Patterns of recidivism among prisoners  
released from custody in 2002-03*

Intellectual Disability in the  
Victorian Prison System  
Characteristics of prisoners  
with an intellectual disability  
released from prison in  
2003-2006

Shasta Holland  
Research and Evaluation Unit  
Corrections Victoria, Department of Justice

Peter Persson, Megan McClelland and Robyn Berends  
Strategic Policy and Diversity Unit  
Corrections Victoria, Department of Justice

## Foreword

I am pleased to present the second paper of Corrections Victoria's Research Paper Series, *Intellectual Disability in the Victorian Prison System: Characteristics of prisoners with an intellectual disability released from prison in 2003-2006*

This paper examines and compares the characteristics of a group of prisoners with an intellectual disability in the Victorian prison system with a group that does not have an intellectual disability. It highlights a number of significant differences between offenders in the mainstream prison population and those with an intellectual disability. This is an important step towards building Corrections Victoria's evidence-based knowledge of offenders with an intellectual disability and their needs, which is critical to our ability to develop and deliver a differentiated response to prisoners with an intellectual disability. Findings from this research will further inform the implementation of Corrections Victoria's 2007-2009 Disability Framework, *Addressing the Barriers*, and is an excellent example of Corrections Victoria's increasing use of research to inform policy development and program design.

I trust you will find this second paper of the *Corrections Research Paper Series* informative and valuable reading. I have been delighted by the positive feedback to the recent release of the first paper in this series, and welcome any feedback or comments you might have regarding this paper and the areas recommended for further research.



KELVIN ANDERSON

Commissioner  
Corrections Victoria

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## Executive Summary

This study explored the characteristics of male prisoners with an intellectual disability (ID) who were released from prison in Victoria between 1 July 2003 and 30 June 2006, and compared those characteristics to a random sample of non-intellectually disabled prisoners released during the same period. For the purpose of this study the definition of intellectual disability set out in Victorian legislation was adopted, which requires the establishment of sub-average intelligence functioning and deficits in adaptive behaviour before the age of 18 years. Prisoners registered with the Department of Human Services as having an intellectual disability comprised the prisoners with an ID in the study cohort.

The study cohort was drawn from a total of 7,805 prisoners released during the study period, and consisted of 346 prisoners of whom 102 had an identified intellectual disability. Female prisoners were excluded from the study due to the statistically insignificant number of female prisoners with an intellectual disability released from prison during the study period.

Overall, prisoners with an intellectual disability were younger and had three times the rate of youth detention episodes of non-intellectually disabled prisoners...

The findings of the study illustrate that prisoners with an intellectual disability differ from non-intellectually disabled prisoners in a number of important ways. Key findings include:

- 1.3 per cent of male prisoners released from prison were identified as having an intellectual disability, which is marginally higher than the presence of intellectual disability in the general Victorian population, estimated at 1 per cent. This is broadly consistent with other comparable estimates of the prevalence of intellectual disability in prison populations in Australia.
- Of the study cohort (346 prisoners), a significantly greater proportion of prisoners with an intellectual disability was Indigenous (16.7 per cent) than in the non-intellectually disabled sample (4.9 per cent).
- Overall, prisoners with an intellectual disability were younger and had three times the rate of youth detention episodes of non-intellectually disabled prisoners, and had a greater number of community corrections orders, prior sentenced terms of imprisonment and prior remand-only terms of imprisonment.
- Prisoners with an intellectual disability were more likely to be denied parole and less likely to receive parole at their earliest eligibility date than non-intellectually disabled prisoners. A lack of suitable accommodation was the most common reason for parole being delayed and denied to prisoners with an intellectual disability.
- There was a marked difference in the security classification of prisoners with an intellectual disability and the non-intellectually disabled sample, with significantly more prisoners with an intellectual disability classified as medium security and significantly fewer classified as minimum security at release. Prisoners with an intellectual disability also had a higher average number of prison

incidents recorded against them and were assessed as being at higher risk of re-offending. No prisoners with an intellectual disability were assessed as being low risk, and 81 per cent were assessed as being at high-risk of re-offending, compared to 36 per cent of the non-intellectually disabled sample.

The study provides up to date information on the characteristics of prisoners in the Victorian prison system with an intellectual disability, but does not attempt to explore causal links between intellectual disability and offending. The significant differences that emerged between this cohort and mainstream prisoners confirms the need for a differentiated response to prisoners with an intellectual disability. Key areas for further development are:

- Program and service features that work best for prisoners with an intellectual disability, the optimum time for delivery of these treatment efforts, and implications for the sentence management process.
- Patterns of recidivism among these prisoners would be useful, together with an examination of the causal drivers of recidivism, given the research indicates that prisoners with an intellectual disability are at significantly higher risk of re-offending.
- The relationship of environmental circumstances with re-offending, especially the issue of post-release housing.
- The needs of Indigenous prisoners with an intellectual disability and the issues involved in developing and delivering programs and services to this cohort.
- Examination of the experiences of offenders serving Community Correctional Services Orders and the supervision and support needs of offenders in non-custodial settings.

# Introduction

## 1.1 Background

The Victorian correctional system has historically responded differently to those offenders and prisoners known to have a disability, from those who are part of the mainstream offender and prisoner population. This differential management approach has generally been implemented to ensure that prisoners with an intellectual disability, or those with a mental illness who may be vulnerable or at risk of self-harm as a result of their disability, are kept safe. More recently, Corrections Victoria has developed a systemic response for prisoners and offenders with a disability through the development of its Disability Framework<sup>1</sup>. This response is intended to ensure that prisoners and offenders with a disability are not only managed in a manner that ensures their safety and security, but also promotes their active and effective engagement with programs and services to reduce re-offending.

There has been a significant philosophical shift on the issue of disability in the Western world in the last thirty years. The paradigm has moved from the medical model, which focused on the unfortunate individual requiring specialist support to recuperate, to the welfare model where the person with a disability became a client not a patient, moving towards independence, to the social model which shifts the focus to the societal barriers hindering the broad inclusion of people with a disability (Bowles, 2005; Oliver, 1990).

There has been a shift, too, in how people with an intellectual disability and crime are viewed. Various theories have developed to explore the link in light of the perceived or actual over-representation of people with an intellectual disability in the criminal justice system, including susceptibility hypotheses, different treatment hypotheses and psychological and socio-economic disadvantage theory (NSW Law Reform Commission, 1996). However, there remains a body of research "seemingly attesting to the criminal propensities of the intellectually disabled" (Glaser & Deane, 1999, p. 338).

This study seeks to add to the body of knowledge that supports the development of theory explaining the prevalence of intellectual disability among prison populations. It attempts to do this by exploring the characteristics of male prisoners with an intellectual disability, highlighting implications for the criminal justice system and the community more broadly, and identifying areas requiring further research.

Two terms are used throughout this paper to refer to people sentenced by the courts once convicted of an offence. The current study makes a distinction between 'prisoners' and 'offenders': *prisoners* are those people sentenced or remanded by the courts to be placed in the custody of Corrections Victoria in an adult prison; *offenders* are those people sentenced by the courts to a non-custodial corrections order, or released on parole or home detention by the Adult Parole Board of Victoria, to be managed by the Community Correctional Services Branch of Corrections Victoria. The study examines prisoners released from prison between 1 July 2003 and 30 June 2006. However, previous research has variously examined intellectual disability in both the offender and prisoner populations of correctional

systems, and often used the term 'offender' more generally in reference to both people in prison and people serving a non-custodial corrections order. Where the term 'offender' is used in the discussion of previous research, this refers to both offenders and prisoners unless otherwise specified.

One of the challenges for correctional systems is the identification of prisoners and offenders who have a disability, whether this be cognitive impairment (both intellectual disability and acquired brain injury), mental illness, sensory disabilities, and/or physical disabilities. In Victoria, the screening and recording of sensory disabilities and acquired brain injury among the prisoner and offender population is not undertaken in a routine or systematic manner. Reliable information relating to prisoners' and offenders' disability status is limited to those people who have an intellectual disability and are registered with the Department of Human Services as eligible for disability services, which monitors the entry of these people into the correctional system and advises Corrections Victoria when appropriate.

Corrections Victoria has units at two prison locations that accommodate male prisoners registered as having an intellectual disability. Marlborough Unit at Port Phillip Prison (a maximum security prison) can accommodate 33 male prisoners, both sentenced prisoners and those on remand. The second unit is at Loddon Prison (a medium security facility), which has three four-bedroom cottages. Each cottage can accommodate two prisoners with an intellectual disability. Female prisoners with an intellectual disability are located at the Dame Phyllis Frost Centre, a multi-security level prison, however given the small number of women with intellectual

disability, there is no unit dedicated to managing these prisoners. Rather, female prisoners with an intellectual disability are located in units according to a range of considerations, including offence type and functioning level.

The Statewide Forensic Service, a forensic disability service managed by the Department of Human Services, also provides accommodation for offenders with an intellectual disability in the form of a secure residential facility as well as case management and consultative services. The Statewide Forensic Service provides treatment services to both prisoners and people in the community with an intellectual disability. The residential treatment facility can accommodate up to 19 offenders with an intellectual disability. At the time of writing there were also three offenders with an intellectual disability detained under the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997*. These offenders are detained securely for an indeterminate period in the Long Term Rehabilitation Program at the Plenty Residential Services, which is also managed by the Department of Human Services.

Corrections Victoria has adopted individual case formulation, informed by psychometric and other assessments including disability specific factors, to underpin a differentiated response to address re-offending by prisoners with a disability.

The remainder of this section examines previous research on intellectual disability among prisoners and offenders, methodological limitations of this research, and comparisons of the characteristics of prisoners and offenders who have an intellectual disability with those who do not.

## 1.2 Methodological Limitations of Previous Research

While the methodological shortcomings of research on prisoners and offenders with an intellectual disability are not discussed in detail in this paper, it is important to be aware that such limitations exist when considering research findings. Problems in research designs may include: issues with sampling bias resulting from the selection criteria used; non-randomised samples; selected sampling of prisons; group-based analysis of intelligence tests; non-validated intelligence instruments; unqualified persons administering tests; exclusion of particular cohorts (such as prisoners under protection); non-standardised assessment of particular cohorts (such as Indigenous prisoners); and variations in definitions and assessment practices across jurisdictions (Cockram, 2005b; Hayes, 2005a; Holland, Clare & Mukhopadhyay, 2002; Lindsay, 2002; Simpson & Hogg, 2001b). A consequence of these limitations is that comparison of research findings is problematic. Prevalence estimates vary considerably depending on the definition of intellectual disability, while exclusion of particular prison locations or prisoner cohorts (for example, prisoners under protection) may alter the cohort characteristics.

Adding further complexity to the validity of comparisons, a range of terminology is used throughout the literature to refer to intellectual disability (Hayes, 1997, 2005a). In Ireland and the United Kingdom the term 'learning disability' is used, while in the United States this refers to conditions such as dyslexia. In the United States the term 'mental retardation' is used (Murphy, Harrold & Carey, 2000).

In Australia, the term preferred by organisations representing people with disabilities is 'intellectual disability' or 'intellectual impairment' (Glaser & Deane, 1999). For ease of reading, and in keeping with the approach used by authors such as Cockram (2005b) and Hayes (1994, 1997), the term 'intellectual disability' is used throughout this paper in place of the range of terms employed in the literature.

### 1.3 Prevalence of Intellectual Disability

Notwithstanding the debate about the definition of intellectual disability, prisoners with an intellectual disability are commonly found to be over-represented in prison populations when compared with the prevalence of intellectual disability in the general population (Cockram, 2005b, 2005d; Hayes, 2005a). Community estimates of the prevalence of intellectual disability across Australia, and internationally, vary from 0.3 per cent to 3 per cent (Australian Institute of Health and Welfare, 2003), while estimates of the prevalence of intellectual disability among prison populations range from 1.5 per cent to 29 per cent (Denkowski & Denkowski, 1985; Murphy et al., 2000).

In New South Wales, a survey of prisoners found that only 2 per cent had Intelligence Quotients (IQs) below 70 (Hayes & McIlwain, 1988). However, when prisoners with borderline IQs (range of 70 to 79) were included, the proportion of prisoners considered to have an intellectual disability increased to 12.5 per cent. Hayes (1997) also found that up to 24 per cent of defendants appearing in

Australian courts may have an intellectual disability. However, this study involved a considerable proportion of Indigenous people, for whom psychometric assessment instruments were not standardised. Hayes (1994) further described the majority of persons presenting with an intellectual disability in the criminal justice system as having a mild to borderline disability as assessed on IQ tests, indicating that prevalence estimates will vary considerably depending on the IQ range used to define intellectual disability.

International comparisons of prevalence studies of intellectual disability are problematic due to the variation in terminology and differing operational definitions and systems for identification (Hayes, 1997, 2005a). A review of studies examining intellectual disability among United States prison populations reported prevalence rates of 1.5 per cent to 19.1 per cent, with an average of 6.2 per cent (Denkowski & Denkowski, 1985). However, the comparability of the studies is limited by methodological differences such as the use of individual and group IQ tests, non-validated psychometric tests, and unqualified persons administering tests. Petersilia (1997, cited in Hayes, 2005a) reported an estimated prevalence of intellectual disability among the United States prison population of between 4 and 14 per cent. However, these figures are primarily based on administrators' estimates rather than psychometric testing of prisoners, limiting their validity.

A survey of intellectual disability among Ireland's prison population found 28.8 per cent of the sample scored on psychometric tests in a range suggestive of an intellectual disability (Murphy et al., 2000), while prevalence rates of intellectual disability among the British prison population as low as less than 2 per cent have been reported (Murphy, Harnett, & Holland, 1995). However, a more recent study examining the prevalence of intellectual disability among British prisoners (Mottram, 2007) found that 7.1 per cent of male prisoners and 8.3 per cent of female prisoners had an intellectual disability (IQs below 70), and a further 23.6 per cent of male prisoners and 31.7 per cent of female prisoner bordered on being considered intellectually disabled (IQs between 70 and 79).

The wide range of data reported in the literature, and the varying methods and definitions used to arrive at them, highlight the difficulties in making comparisons of the prevalence of intellectual disability in the prison system between jurisdictions. These differences also illustrate the importance of being clear about how intellectual disability is defined and measured to allow valid comparisons across studies.

## 1.4 Characteristics of Offenders with an Intellectual Disability

A key area of interest for researchers and criminal justice agencies is the extent to which offenders and prisoners with an intellectual disability differ from those who do not have an intellectual disability, both in the extent of their involvement in offending and differences in socio-demographic and other characteristics which are relevant for management and rehabilitation purposes.

### Socio-demographic Variables

Offenders with an intellectual disability tend to be young (Glaser & Deane, 1999; Murphy et al., 2000) and male (Cockram, 2005d; Lund, 1990), although it should again be noted that findings vary across studies. Early onset of offending among male offenders with an intellectual disability was also reported by Crocker and Hodgins (1997).

In their comparison of Victorian prisoners with an intellectual disability and the mainstream male prisoner population, Glaser and Deane (1999) found that prisoners with an intellectual disability were more likely to be Indigenous than mainstream male prisoners. However, limitations in the identification of intellectual disability among Indigenous persons suggests that these results need to be considered with caution.

Cockram (2005d) found that offenders with an intellectual disability who served prison sentences were more likely to be single at entry into prison, and were less likely to be married or living in a de facto relationship. Glaser and Deane (1999) also found that this cohort was more likely to be single.

A history of homelessness is also associated with offending among individuals with an intellectual disability (Cockram, 2005b; Simpson & Hogg, 2001b). Winter, Holland and Collins (1997) found current or previous homelessness was significantly associated with offending behaviour by individuals with an intellectual disability. Klimecki, Jenkinson and Wilson (1994) also found a relationship between transient accommodation and extent of offending: 43 per cent of offenders who committed a fourth offence had only transient accommodation prior to their offence, compared with only 22 per cent of offenders who committed their first offence.

### Education and Employment

Murphy et al. (2000) found in their study of intellectual disability in Irish prisons that the average school leaving age for prisoners with an intellectual disability was slightly lower than for non-intellectually disabled prisoners (13.7 years and 15 years, respectively). The cohort with an intellectual disability was also less likely to have attended secondary school, sat a formal examination, or to be currently involved in an educational program.

In a study of offenders with an intellectual disability in Western Australia, Cockram (2005d) found that 81 per cent of offenders with an intellectual disability received into prison reported they had no educational/training qualifications, compared with 68 per cent of the general offender group. Cockram also found that only 3 per cent of the offender group with an intellectual disability received into prison reported they had a trade compared to 8 per cent of the comparison group. This is supported by Murphy et al. (2000) who found that prisoners with an intellectual disability were less likely to have ever held a job, trade, or profession, less likely to have been working prior to entering prison, and had lower incomes than non-intellectually disabled prisoners.

Cockram (2005d) also found that offenders with an intellectual disability were far more likely to be unemployed at their first reception into prison, compared to non-intellectually disabled offenders (81 per cent and 33 per cent, respectively). Winter et al. (1997) also identified that two-thirds of offenders with an intellectual disability were unemployed, compared with 41 per cent among the non-offending sample.

### Psychiatric History

Glaser and Deane (1999) reported that prisoners with an intellectual disability had more than twice the rate of contact with psychiatric services as mainstream male prisoners. Almost three quarters of the intellectually disabled prisoner cohort had previous contact with psychiatric services (at least 38 per cent had been an inpatient of a psychiatric facility, and 29 per cent had a recorded diagnosis of a major psychiatric disorder). Similarly, Klimecki, Jenkinson and Wilson (1994) found that 75 per cent of their sample of offenders with an intellectual disability had previously received psychiatric treatment.

Property, sexual and assault offences are common for offenders with an intellectual disability.

### Substance Abuse

Co-existing substance abuse problems are also commonly reported among the intellectually disabled offender population (Glaser & Deane, 1999; Hayes, 2005a). Similar to non-disabled offenders, high proportions of offenders with an intellectual disability report consuming alcohol at the time of the offence (Hayes, 1996) and are likely to have a history of substance abuse (Hayes, 2005a). Glaser and Deane (1999) identified abuse of prescription medication, illicit drugs, alcohol, or multiple drugs in 79 per cent of their sample of Victorian prisoners with an intellectual disability selected for in-depth analysis (n = 42), while almost 60 per cent of offenders with an intellectual disability in a study by Klimecki, Jenkinson and Wilson (1994) had a history of drug and alcohol abuse.

### Offending Behaviour Patterns

In a review of studies examining offending by people with an intellectual disability, Simpson and Hogg (2001a) suggest that offenders classified as being in the 'borderline' range of intellectual disability have higher rates of sexual offending, criminal damage and burglary than the general population. They further found that very serious offences such as homicide and armed robbery appear to be under-represented among offenders with an intellectual disability.

Other studies have variously found that property, sexual and assault offences are common for offenders with an intellectual disability. Klimecki, Jenkinson, and Wilson (1994) identified property offences as the most common offence type for offenders with an intellectual disability, followed by assault, sex-related offences, and property damage. Denkowski and Denkowski (1985) similarly found the most common offences for offenders with an intellectual disability were theft, burglary, followed by assault. Glaser and Deane (1999) found that offenders with an intellectual disability were more likely to be charged and/or convicted of offences against the person (54 per cent compared to 35 per cent of the male mainstream prison population), and sexual offences (27 per cent compared with 15 per cent of the male mainstream prison population). However, sex-offenders were "deliberately over-sampled" in this study because they were overrepresented in the population from which the sample was drawn, and they had been "repeatedly identified in the literature as a problem group" (Glaser & Deane, 1999, p. 341). Cockram (2005d) found that offenders with an intellectual disability were more likely to receive a prison sentence for offences against good order

and offences against property. In contrast, non-intellectually disabled offenders were more likely to receive a custodial sentence for drink driving and drug charges.

A Western Australian study (Cockram, 2005a) found a significantly higher rate of re-arrest among offenders with an intellectual disability over a 10-year period (73 per cent compared with 52 per cent of non-intellectually disabled offenders). While Cockram (2005b) suggests this rate is higher than in other jurisdictions, Lund (1990) also reported high re-offending rates (72 per cent) for offenders with an intellectual disability serving statutory care orders over a 10-year follow-up period. Klimecki, Jenkinson and Wilson (1994) found that 41 per cent of prisoners with an intellectual disability who served their sentence in a segregated unit were re-imprisoned within two years of release, with one-third of those re-offending within six months and almost 85 per cent within 12 months of release. Lindsay, Taylor and Michie (2007), in a review of studies in the management and treatment of offenders with intellectual disabilities, commented on the limited number of studies comparing recidivism rates for intellectually and non-intellectually disabled offenders, indicating a need for further research in this area.

### Criminal Justice Outcomes

Cockram (2005c; 2005d; Cockram & Underwood, 2000) argues that offenders with an intellectual disability are treated differently from mainstream offenders throughout the criminal justice system. Cockram and Underwood (2000) found that offenders with an intellectual disability apprehended by the police were arrested at twice the rate of non-intellectually disabled offenders, whether they had a prior police record or not. Similarly, Cockram (2005a) found that re-arrest rates were higher for offenders with an intellectual disability.

In another Western Australian study, Cockram (2005d) found that although offenders with an intellectual disability were no more likely to be convicted by the courts than non-intellectually disabled offenders, they were significantly more likely to be sentenced to imprisonment (34 per cent compared with 13 per cent of non-intellectually disabled offenders). The higher rate of custodial sentences received by offenders with an intellectual disability may be a result of the increased likelihood of this cohort having a prior history of offending. For example, Glaser and Deane (1999) found prisoners with an intellectual disability were more likely to have been previously imprisoned (86 per cent versus 70 per cent of the male mainstream prison population). However, other factors may also contribute to the higher rates of custodial sentences among offenders with an intellectual disability, since Cockram (2005d) also found that first-time offenders with an intellectual disability were more than twice as likely to receive a custodial sentence than the general offender population (16 per cent and 7 per cent respectively).

Furthermore, Cockram (2005d) found that offenders with an intellectual disability were more likely to be remanded to custody than non-intellectually disabled offenders (5 per cent and 2 per cent respectively). Glaser and Deane (1999) also found that prisoners with an intellectual disability were more than twice as likely to be held on remand as male mainstream prisoners (26 per cent and 12 per cent respectively). However, prisoners with an intellectual disability received shorter minimum prison sentences (after discounting remandees and indefinite sentences) than the mainstream population.

There are also differences in the parole of prisoners with an intellectual disability and non-intellectually disabled prisoners. Cockram (2005d) found that relatively fewer prisoners with an intellectual disability received custodial terms with a minimum parole period set than the general prisoner population (25 per cent and 31 per cent, respectively). The author noted that issues such as perceived dangerousness, a lack of transition programs, and inadequate accommodation mean that prisoners with an intellectual disability may actually spend more time in custody compared to non-intellectually disabled prisoners due to difficulty obtaining parole. Difficulty in obtaining parole for prisoners with an intellectual disability was also reported by Fabrycki Reed (1989).

### Prison Experience

Mental and physical abuse by other prisoners, disciplinary problems, and the possibility of regression in the prison environment leads to many prisoners with an intellectual disability serving part or all of their sentences in maximum security (Cockram, 2005d). Glaser and Deane (1999) found that prison security ratings of prisoners with an intellectual disability did not differ from the mainstream male prison population, however it was harder for them to move out of maximum security units that were not equipped to manage the complex issues and problem behaviours of this cohort.

Glaser and Deane (1999) also found that incidents committed by prisoners with an intellectual disability predominantly involved rule infractions or minor physical altercations. They further noted that prison officers believed that prisoners with an intellectual disability were involved in more incidents and were more difficult to manage, although data were not available to confirm this perception. The management of prisoners with an intellectual disability remains an area where relatively little research has been conducted.

## 1.5 Conclusions Based on Previous Research

Comparative studies of offenders with an intellectual disability and non-intellectually disabled offenders have produced mixed findings. After reviewing the literature concerning offending and intellectual disability, Simpson and Hogg (2001b) stated that, while firm conclusions cannot be drawn, there does not appear to be any evidence that the prevalence of offending among people with an intellectual disability is higher than in the general population. Kendall (2004, p. 268) also dismisses any link between intellectual disability and offending, arguing that offenders with an intellectual disability are no different from the mainstream offender population:

*“While the evidence base around intellectual disability and crime remains weak, it is the case that people do not commit crime simply because of their intellectual disability, but rather that the same complex, multi-faceted processes around offending behaviour and the regulation of offending apply equally to this group as to others.”*

There is, however, evidence that offenders with an intellectual disability differ from non-intellectually disabled offenders in a number of important ways. Glaser and Deane (1999) suggest that offenders with an intellectual disability are likely to have skills deficits that differentiate them from non-intellectually disabled prisoners and require attention in treatment responses.

## 1.6 Study Aims

This study does not attempt to explore causal links between intellectual disability and offending. Rather, it seeks to examine the characteristics of a cohort of prisoners with an intellectual disability in the Victorian prison system, and determine how they differ from non-intellectually disabled prisoners. Specifically, the study aims to answer six questions about intellectual disability among Victorian prisoners:

1. What is the prevalence of intellectual disability among the Victorian prison population?
2. Do prisoners with an intellectual disability differ from non-intellectually disabled prisoners with regard to socio-demographic characteristics (age, Indigenous status, education, employment status and psychiatric treatment)?
3. Do prisoners with an intellectual disability differ from non-intellectually disabled prisoners on criminal history variables (prior youth detention, adult corrections history)?
4. Do prisoners with an intellectual disability differ from non-intellectually disabled prisoners on offence, sentence and custody variables (offence type, sentence length, remand, security rating and parole)?
5. Do prisoners with an intellectual disability differ from non-intellectually disabled prisoners in terms of incidents within prison?
6. Do prisoners with an intellectual disability differ from non-intellectually disabled prisoners in terms of level of risk of re-offending and offence-specific and offence-related needs?

“... it is the case that people do not commit crime simply because of their intellectual disability, but rather that the same complex, multi-faceted processes around offending behaviour and the regulation of offending apply equally to this group as to others.”

# 2

## Method

### 2.1 Definition of Intellectual Disability in the Victorian Prison System

The Victorian correctional system has historically adopted the definition of intellectual disability contained in Victorian legislation<sup>2</sup> which requires use of a standardised measurement of intelligence to establish both significantly sub-average general intellectual functioning and deficits in adaptive behaviour before 18 years of age. A person with an intelligence not higher than two standard deviations below the population average is defined as having 'significantly sub-average general intellectual functioning', which equates to an IQ score of 70 or below.

Once assessed as having an intellectual disability, the person is registered by the Department of Human Services (DHS) as being eligible to receive disability services. Identification of prisoners with an intellectual disability is undertaken by both DHS and Corrections Victoria. A specialist forensic disability unit in DHS monitors the entry into prison of

people registered as having an intellectual disability, and confirms their presence with Corrections Victoria in order to ensure appropriate placement within the prison system. This process is complemented by an assessment of the prisoner upon reception, which is carried out by a qualified psychiatric nurse, and prescribed questions asked of all prisoners for the purpose of determining their intellectual disability status. Prison reception staff may also refer or make contact with DHS if they believe that a prisoner has an intellectual disability. DHS and the relevant Corrections Victoria staff are notified of prisoners identified as having an intellectual disability, or a potential intellectual disability, as a result of this assessment.

For the purpose of this study, 'prisoners with an intellectual disability' are defined as those prisoners identified and confirmed by DHS as having an intellectual disability. Because the intelligence quotient of prisoners is not assessed by Corrections Victoria staff, the mean IQ of both non-intellectually disabled and

intellectually disabled prisoners in the study cohort and the IQ range of these prisoners was not ascertained. This also meant that prisoners with a borderline intellectual disability were not identified and incorporated into analyses.

### 2.2 Study Cohort

Study cohort was drawn from all sentenced male prisoners who were released from Victorian prisons between 1 July 2003 and 30 June 2006. Although female prisoners were intended to be included in the sample, only four females with an intellectual disability were released from prison over the three year study period. The study cohort was therefore restricted to male prisoners only, given the statistically insignificant number of female prisoners with an intellectual disability.

In total, 9,481 male prisoner discharge records were extracted from Corrections Victoria’s Prisoner Information Management System (PIMS), relating to 7,805 distinct individuals. A number of individuals had been released from prison more than once during the study period and, for these individuals, the most recent discharge record was retained and previous records discarded. Throughout this paper the episode of imprisonment selected for the study is referred to as the ‘current episode’. Of the 7,805 distinct individuals, 102 had an identified intellectual disability (ID) and made up the ID cohort (see Figure 1). A random sample of the 7,703 non-intellectually disabled prisoners (non-ID) was taken, providing a non-ID cohort of 244 individuals.<sup>3</sup>

**Figure 1** The study cohort

INITIAL		
n = 9,481 discharge records		
n = 7,805 persons		
PRISONERS WITH AN INTELLECTUAL DISABILITY (ID)	NON-INTELLECTUALLY DISABLED PRISONERS (non-ID)	
ID = 102	n = 7,703	
RANDOM SAMPLE		
n = 244 persons		
FINAL COHORT		
ID = 102	non-ID = 244	Total = 346

## 2.3 Variables

A range of socio-demographic, offence-related, sentence type, criminal history, prison incident and criminogenic need variables were utilised in the study. These are outlined in Appendix A.

## 2.4 Methods of Analysis

Differences between prisoners with an intellectual disability and non-intellectually disabled prisoners on the range of study variables were examined using bivariate statistics, which is a process of examining and describing the relationship between different sets of two variables. Two types of tests were used to examine whether the relationships between sets of variables were significant. Chi square tests were used to compare the distribution of categorical variables (variables that yield data in categories, for example, Most Serious Offence type or Indigenous status). Independent means t-tests were used to evaluate the differences in means between variables that yielded numerical data, for example, the number of prior terms of imprisonment, or the number of community corrections orders previously served.

## 2.5 Data Limitations

The main limitation associated with the study cohort was its size. Prisoners with an intellectual disability represent only a small proportion of all prisoners in the Victorian prison system, and consequently it was necessary for the study to draw on prisoner release numbers spanning several years in order to obtain an adequate cohort. Further, prisoners with an intellectual disability frequently have multiple terms of imprisonment, so each extra year incorporated in the study yielded only a small additional

number of individuals with an intellectual disability. As a result, the final cohort of prisoners with an intellectual disability was relatively small, potentially limiting the results of analyses in this study.

The means of selecting distinct individuals in this study also meant that recidivism could not be examined. A number of prisoners in both the intellectually disabled and non-intellectually disabled groups had been released from prison more than once in the study period. To better reflect the total number of terms of imprisonment served by the study cohort, records relating to the most recent releases from prison were retained for the study and records relating to previous releases were discarded. At the time that data were extracted 50 per cent of the study cohort had been released from prison a minimum of two years earlier – the standard interval for calculating rates of return to prison in Australia<sup>4</sup>. Because the most recent release was selected for prisoners with multiple releases, these prisoners were over-represented in the group who had not been out of prison for a period of time sufficient for examination of recidivism. These prisoners were also more likely to be recidivists than prisoners who had only one release during the study period. Consequently, any rates calculated for this study would have under-estimated recidivism by counting prisoners who were less likely to return to prison and excluding prisoners who were more likely to return to prison.

Although recidivism rates were not calculated for this particular study cohort, some discussion of the relative recidivism rates of prisoners with an intellectual disability and non-intellectually disabled prisoners released from prison in Victoria in 2005-06 is presented in the discussion section of this paper.

# 3

## Results

### 3.1 Prevalence

During the study period, 1 July 2003 to 30 June 2006, 7,805 distinct individuals were released from prison. One-hundred and two of these individuals were registered with the Department of Human Services as having an identified intellectual disability. Thus, in this cohort, the prevalence of intellectual disability among prisoners was 1.3 per cent.

### 3.2 Socio-demographic Variables

Table 1 summarises the socio-demographic characteristics of the ID and non-ID samples. Prisoners with an ID were significantly younger on reception to prison than the non-ID sample ( $M = 28.2$  years compared with  $M = 33.3$  years) ( $t = 4.409, p < .001$ ). They were also significantly younger than the non-ID sample ( $M = 21.8$  years compared with  $M = 29.1$  years) at their first adult term of sentenced imprisonment ( $t = 6.115, p < .001$ ).

**Table 1** Socio-demographic variables of the ID and non-ID samples

	ID		non-ID	
	N	%	N	%
<b>Age at current reception</b>				
17-20	9	8.8	10	4.1
21-24	31	30.4	42	17.2
25-29	27	26.5	60	24.6
30-34	19	18.6	40	16.4
35-39	9	8.8	30	12.3
40+	7	6.9	62	25.4
<b>Indigenous status</b>				
Indigenous	17	16.7	12	4.9
Non-Indigenous	85	83.3	232	95.1
<b>Education level</b>				
No formal schooling	0	0.0	1	0.4
Primary only	9	8.8	5	2.0
Part secondary	90	88.2	218	89.3
Completed secondary	1	1.0	13	5.3
Tertiary	0	0.0	6	2.5
Not recorded	2	2.0	1	0.4
<b>Employment status</b>				
Employed	17	16.7	82	33.6
Unemployed	75	73.5	146	59.8
Student/pensioner	10	9.8	11	4.5
Not recorded	0	0.0	5	2.0
<b>Psychiatric treatment</b>				
Yes	28	27.5	32	13.1
No	72	70.6	201	82.4
Not recorded	2	2.0	11	4.5

A significantly greater proportion of the ID sample was Indigenous (16.7 per cent) than the non-ID sample (4.9 per cent) ( $\chi^2 = 12.742$ ,  $df 1$ ,  $p < .001$ ).

The majority of both the ID and non-ID samples reported their highest level of education as part secondary. However, prisoners with an ID were more likely to have reported only primary-level education (8.8 per cent) than the non-ID sample (2.0 per cent) and less likely to have reported completing secondary education than prisoners from the non-ID sample (1.0 and 5.3 per cent respectively).

Significantly fewer prisoners with an ID were employed prior to their imprisonment (16.7 per cent compared with 34.3 per cent of the non-ID sample) and twice as many prisoners with an ID as prisoners in the non-ID sample were students/pensioners prior to their imprisonment (9.8 per cent and 4.6 per cent respectively).

Significantly more prisoners with an ID (27.5 per cent) reported having received psychiatric treatment in the past than prisoners in the non-ID sample (13.1 per cent) ( $\chi^2 = 9.640$ ,  $df 1$ ,  $p = .002$ ).

**Table 2** Criminal history variables of the ID and non-ID samples

	ID		non-ID	
	N	%	N	%
<b>Youth detention</b>				
Yes	38	37.3	25	10.2
No	64	62.7	219	89.8
<b>Prior fine default orders</b>				
0	77	75.5	176	72.1
1	9	8.8	22	9.0
2-3	7	6.9	22	9.0
4-5	6	5.9	13	5.3
6+	3	2.9	11	4.5
<b>Prior community orders</b>				
0	5	4.9	88	36.1
1	15	14.7	38	15.6
2-3	29	28.4	62	25.4
4-5	27	26.5	37	15.2
6+	26	25.5	19	7.8
<b>Prior sentenced terms</b>				
0	20	19.6	127	52.0
1	24	23.5	32	13.1
2-3	17	16.7	39	16.0
4-5	21	20.6	26	10.7
6+	20	19.6	20	8.2
<b>Prior remand-only terms</b>				
0	41	40.2	168	68.9
1	23	22.5	45	18.4
2-3	18	17.6	18	7.4
4-5	9	8.8	6	2.5
6+	11	10.8	7	2.9

### 3.3 Criminal History Variables

A profile of the ID and non-ID samples according to criminal history variables is presented in Table 2. Approximately one-third of prisoners with an ID had been held in youth detention, which was significantly greater than the 10 per cent of prisoners from the non-ID sample ( $\chi^2 = 35.234$ ,  $df 1$ ,  $p < .001$ ).

Close to three-quarters of both the ID and non-ID samples had not had a fine default order prior to their imprisonment, and the average number of orders for the two groups did not differ significantly ( $M = 0.75$  and  $0.98$  respectively). Prisoners with an ID had, however, a significantly greater average number of other community corrections orders ( $M = 3.84$ ,  $SD = 2.55$ ) prior to their current episode of imprisonment than prisoners in the non-ID sample ( $M = 2.03$ ,  $SD = 2.22$ ) ( $t = -6.625$ ,  $p < .001$ ). Although more than one-third of prisoners from the non-ID sample had not had a community corrections order prior to their current episode of imprisonment, only 4.9 per cent of prisoners with an ID had not had such an order. Conversely, only 7.8 per cent of prisoners from the non-ID sample had had six or more community corrections orders prior to their current episode of imprisonment, compared with close to 25 per cent of prisoners with an ID.

Prisoners with an ID had a significantly greater number of both prior terms of sentenced imprisonment and prior terms of remand-only imprisonment. On average, prisoners with an ID had 3.2 ( $SD = 3.19$ ) prior terms of sentenced imprisonment, compared with an average of 1.5 ( $SD = 2.16$ ) terms for prisoners from the non-ID sample ( $t = -5.494$ ,  $p < .001$ ). Only 19.6 per cent of the prisoners with an ID had not previously served a term

of sentenced imprisonment, compared with more than 50 per cent of the non-ID sample. While around 8 per cent of the non-ID sample had served six or more prior terms of sentenced imprisonment, close to 20 per cent of the prisoners with an ID had served this number of prior terms.

On average, prisoners with an ID had served 1.8 ( $SD = 2.34$ ) prior terms of remand-only imprisonment, compared with an average of 0.7 ( $SD = 1.55$ ) terms for the non-ID sample ( $t = -5.254$ ,  $p < .001$ ). Although only 2.9 per cent of the non-ID sample had served six or more prior terms of remand-only imprisonment, this proportion was four times higher for prisoners with an ID (10.8 per cent).

### 3.4 Offence, Sentence and Custody Variables

Table 3 presents a profile of ID and non-ID prisoners according to offence, sentence and custody variables. Overall, a greater proportion (55 per cent) of prisoners with an ID came into prison unsentenced (i.e. on remand) than prisoners from the non-ID sample (44 per cent), although this difference was not significant. On average, prisoners with an ID served slightly fewer days in prison ( $M = 316.2$  days) than prisoners from the non-ID sample ( $M = 328.7$  days), however again the difference was not significant. Similarly, the two groups did not differ significantly in the average number of days spent on remand (ID  $M = 46.7$  days, non-ID  $M = 42.5$  days).

Prisoners with an ID did, however, differ markedly from prisoners from the non-ID sample in their most serious offence (MSO) type. Significantly more prisoners with an ID had a property offence as their MSO (46.1 per cent) than prisoners from the non-ID sample (27.5 per cent) ( $\chi^2 = 11.288$ ,  $df 1$ ,  $p = .001$ ). Conversely, significantly fewer prisoners with an ID had a drug offence as their MSO (1.0 per cent) than prisoners from the non-ID sample (11.1 per cent). Prisoners with an ID were also slightly less likely to have justice procedure and good order offences (16.7 per cent) as their MSO than the non-ID sample (23.4 per cent), although this difference was not statistically significant. While prisoners with an ID were no more or less likely than prisoners from the non-ID sample to have a violent offence (homicide, sex, other violent offences or robbery and extortion) as their MSO, they were significantly more likely to have a violent offence as one of their offences (but not necessarily as their most serious offence). Forty-five per cent of prisoners with an ID had any violent offence compared with 32 per cent of prisoners from the non-ID sample ( $\chi^2 = 5.044$ ,  $df 1$ ,  $p = .025$ ).

On average, prisoners with an ID had 3.3 transfers to management cells during the current episode, which was not significantly different from the average of 4.1 transfers to management cells for the non-ID sample.

**Table 3** Offence, sentence and custody variables of the ID and non-ID samples

	ID		non-ID	
	N	%	N	%
<b>Reception type</b>				
Sentenced	46	45.1	136	55.7
Unsentenced	56	54.9	108	44.3
<b>Sentence type</b>				
Fixed term	43	42.2	134	54.9
Non-parole period	59	57.8	110	45.1
<b>Days served</b>				
< 3 months	24	23.5	74	30.3
3 < 6 months	27	26.5	43	17.6
6 < 12 months	25	24.5	62	25.4
1 < 2 years	19	18.6	37	15.2
2+ years	7	6.9	28	11.5
<b>Days unsentenced</b>				
None	46	45.1	136	55.7
< 3 months	38	37.3	71	29.1
3 < 6 months	13	12.7	15	6.1
6 < 12 months	4	3.9	17	7.0
1 < 2 years	1	1.0	5	2.0
<b>Most Serious Offence</b>				
Homicide	1	1.0	2	0.8
Sex	5	4.9	14	5.7
Other violent	12	11.8	29	11.9
Robbery & extortion	9	8.8	17	7.0
Burglary	22	21.6	28	11.5
Other property	25	24.5	39	16.0
Justice procedure & good order	17	16.7	57	23.4
Drugs	1	1.0	27	11.1
Driving & traffic	6	5.9	24	9.8
Other	4	3.9	7	2.9
<b>Security rating</b>				
Minimum	10	9.8	80	32.8
Medium	81	79.4	134	54.9
Maximum	0	0.0	1	0.4
Not recorded	11	10.8	29	11.9
<b>Transfers to management</b>				
0	91	89.2	222	91.0
1	3	2.9	7	2.9
2-3	4	3.9	9	3.7
4+	4	3.9	6	2.5

Of the 306 prisoners with security ratings recorded at release, significantly more prisoners with an ID (89.0 per cent) were classified as medium security than prisoners from the non-ID sample (62.3 per cent), and significantly fewer prisoners with an ID were classified as minimum security at release (11 per cent), compared with 37.2 per cent of the non-ID sample ( $\chi^2 = 21.849$ ,  $df 2$ ,  $p < .000$ ). There were also differences between the two groups in terms of security ratings at discharge and the security level of the prison they were released from. Only 30 per cent of prisoners from the non-ID sample were released from a prison with a higher security rating than their individual rating, compared with 68 per cent of prisoners with an ID ( $\chi^2 = 37.827$ ,  $df 1$ ,  $p < .000$ ). While the vast majority of prisoners with an ID were classified as medium security, 72 per cent of these prisoners were released from a maximum security prison, compared with only 32 per cent of prisoners from the non-ID sample ( $\chi^2 = 22.370$ ,  $df 1$ ,  $p < .000$ ). However, of the medium security prisoners with an ID released from a maximum security prison, the majority (69 per cent) were released from the specialist intellectual disability Marlborough Unit at the Port Phillip Prison.

A greater proportion of prisoners with an ID had a non-parole period on their sentence (57.8 per cent compared with 45.1 per cent of prisoners from the non-ID sample), however this difference was not statistically significant. There was, however, a significant difference in both the proportion of prisoners with an ID who were granted parole and who received parole on their earliest eligibility date (EED), compared with prisoners from the non-ID sample (see Table 4).

Overall, 59 prisoners with an ID and 110 prisoners from the non-ID sample were eligible for parole (i.e. they did not have a fixed term of imprisonment). Only 6.4 per cent of non-ID prisoners were denied parole, compared with 15.3 per cent of prisoners with an ID. Further, of the prisoners with an ID who were granted parole, significantly fewer received parole on their earliest eligibility date (42 per cent), compared with prisoners from the non-ID sample (67.6 per cent) ( $\chi^2 = 9.396$ ,  $df 2$ ,  $p = .009$ ).

The reasons for parole denial and granting parole after earliest eligibility are presented in Table 5. Three of the 9 prisoners with an ID were denied parole because of lack of suitable accommodation upon release. The remainder of the prisoners with an ID were denied parole because of previous parole breaches, insufficient time remaining on their sentence and at the prisoner's request. For prisoners from the non-ID sample, reasons for parole denial included previous parole breaches, insufficient time remaining on their sentence, refusing programs and prisoners' requests. No prisoners from the non-ID sample were denied parole because of a lack of suitable accommodation.

Almost 20 per cent of non-ID prisoners did not receive parole at their EED because of a positive drug test. In contrast, no prisoners with an ID had parole delayed as a result of a positive drug test. Lack of suitable accommodation was the most common reason that parole was delayed for prisoners with an ID (50 per cent), and this included three prisoners who were being assessed / waiting for secure residential accommodation provided by DHS for people with an intellectual disability. A further 21 per cent of prisoners with an ID were not granted parole on their EED because of previous parole breaches. Breaches of previous parole was the most common

**Table 4** Outcome of parole hearing (N=168) and parole by earliest eligibility date (N=152)

	ID		non-ID	
	N	%	N	%
<b>Parole outcome</b>				
Granted parole	50	84.7	102	93.6
Denied parole	9	15.3	7	6.4
<b>Parole by EED</b>				
Parole on EED	21	42.0	69	67.6
Parole after EED	28	56.0	31	30.4
No set EED	1	2.0	2	2.0

**Table 5** Reason for parole denial (N=16) or parole after earliest eligibility date (N=59)

	ID		non-ID	
	N	%	N	%
<b>Reason denied parole</b>				
Accommodation	3	33.3	0	0.0
Breach of previous parole	2	22.2	3	42.9
Refused programs	0	0.0	1	14.3
Insufficient time	2	22.2	2	28.6
Prisoner's request	2	22.2	1	14.3
<b>Reason parole after EED</b>				
Accommodation	14	50.0	4	12.9
Positive drug test	0	0.0	6	19.4
Programs / support	4	14.3	4	12.9
Administrative	4	14.3	8	25.8
Breach of previous parole	6	21.4	9	29.0

reason for non-ID prisoners not being granted parole on their EED (29 per cent), followed by administrative reasons (for example, late parole assessment reports, outstanding arrangements for interstate transfers; 26 per cent). Approximately 13 per cent of both ID and non-ID prisoners had parole delayed as a result of program/support requirements. For all four non-ID prisoners this consisted of assessments regarding suitability for a sex offender program, while for prisoners with an ID it related to the development of justice plans and, for one prisoner, the need to complete programs before release.

Although prisoners with an ID were more likely to be granted parole after their EED than prisoners from the non-ID sample, the average number of days each group was held after their EED did not differ significantly (84.5 days and 83.2 days, respectively).

### 3.5 First Term of Sentenced Imprisonment

Prisoners with an ID had served a significantly greater number of sentenced terms prior to their current episode of imprisonment than prisoners from the non-ID sample. This may account for other differences found between the two groups, such as the number of prior Community Correctional Services Orders, number of prior remand only terms, and receiving parole at earliest eligibility. In order to determine whether differences between the two groups were simply due to the greater number of prior sentenced terms served by prisoners with an ID, only prisoners whose current episode was their first sentenced term of imprisonment were examined.

As shown in Table 2, 20 ID and 127 non-ID prisoners had not previously served a sentenced term of imprisonment. These prisoners are referred to hereafter as 'first termers'. ID first termers had a significantly greater average number of Community Correctional Services Orders prior to their current episode ( $M = 1.85$ ,  $SD = 1.53$ ) than non-ID first termers ( $M = 0.72$ ,  $SD = 1.18$ ) ( $t = -3.822$ ,  $p < .001$ ). Similarly, ID first termers had served a significantly greater number of remand only terms prior to their current episode ( $M = 0.55$ ,  $SD = 0.76$ ) than non-ID first termers ( $M = 0.20$ ,  $SD = 0.62$ ) ( $t = -2.301$ ,  $p < .05$ ). On average, ID first termers also spent twice as many days on remand in their current episode ( $M = 94.70$ ,  $SD = 152.74$ ) as non-ID first termers ( $M = 46.17$ ,  $SD = 98.44$ ), although this difference only approached significance ( $t = -1.377$ ,  $p = .062$ ).

In total, 56 first termers (47 non-ID and 9 ID) were eligible for parole, and all but one were granted parole. Overall, first termers were more likely to be granted parole on their EED – 70.9 per cent of first termers compared with 59.2 per cent of the entire cohort. However, ID first termers were still less likely to receive parole on their EED than non-ID first termers ( $\chi^2 = 3.654$ ,  $df 1$ ,  $p = .056$ ). Only 44.4 per cent of ID first termers received parole on their EED, compared with 76.1 per cent of non-ID first termers. ID first termers also served a greater average number of days after their EED ( $M = 96.20$ ,  $SD = 121.20$ ) than non-ID first termers ( $M = 73.55$ ,  $SD = 119.10$ ), although this difference was not significant, probably because of the small numbers involved.

### 3.6 Prison Incidents

In total, 478 incidents were recorded against 152 individual prisoners in the study cohort (55 prisoners with an ID and 97 non-ID prisoners). Incidents were categorised according to whether prisoners were the victim, the perpetrator, or where two or more prisoners were involved and the victim/perpetrator status could not be determined. Incidents were also categorised according to the type of incident (for example, assault, self-harm, property damage).

On average, prisoners with an ID had a greater total number of incidents ( $M = 1.81$ ,  $SD = 2.90$ ) recorded against them than prisoners in the non-ID sample ( $M = 1.20$ ,  $SD = 2.77$ ), although this difference only approached significance ( $t = -1.852$ ,  $p = .065$ ). Only 46 per cent of prisoners with an ID did not have an incident recorded against them, compared with 60 per cent of prisoners from the non-ID sample. Conversely, 19 per cent of prisoners with an ID had four or more incidents recorded against them, compared with only 9 per cent of prisoners from the non-ID sample.

Type of involvement in incidents also varied between the ID and non-ID groups. Of the prisoners who had at least one incident recorded against them, around 8 per cent of prisoners from the non-ID sample were involved only as victims, while no prisoners with an ID were involved only as victims. Approximately 50 per cent of both ID and non-ID prisoners involved in incidents were involved only as perpetrators, with another 5-7 per cent of prisoners being involved in incidents where no clear victim/perpetrator status could be determined. However, slightly more prisoners with an ID were involved in incidents as both victims and perpetrators (25.5 per cent), compared with prisoners from the non-ID sample (14.4 per cent), although this difference was not significant ( $\chi^2 = 2.837$ ,  $df 1$ ,  $p = .092$ ).

There was also a number of differences in the type of incidents in which ID and non-ID prisoners were involved. For incidents where the prisoner was either involved or was the perpetrator, the most common type of incident for prisoners from the non-ID sample involved drugs (either a positive drug test or being found with drugs/drug paraphernalia) (see Table 6). In contrast, the most common type of incident for prisoners with an ID involved physical assaults or fights. Prisoners with an ID were involved in significantly more incidents involving assaults/fights, property damage and attempted suicide/self-harm than prisoners from the non-ID sample, and significantly fewer incidents involving drugs and rule infractions (for example, smoking, refusing directions, possession of unauthorised property) ( $\chi^2 = 50.217$ ,  $df 6$ ,  $p < .000$ ).

For incidents where the prisoner was the victim, there were no differences between ID and non-ID prisoners in terms of incident type. For both groups, approximately 54 per cent of incidents involved assaults by other prisoners, and another 38 per cent involved threats by other prisoners.

### 3.7 Risk Level and Offence-specific and Offence-related Needs

Since 2001, male prisoners with sentences of six months or longer have received an assessment of risk of re-offending, offence-specific program requirements (for example, sex offender program, violence program) and other offence-related needs (for example, housing, literacy), known as a Tier 1 assessment<sup>5</sup>. Approximately one-third of prisoners from both the ID and non-ID samples received a Tier 1 assessment during their current episode, ( $n=126$ ).

**Table 6** Type of incident for incidents where the prisoner was the perpetrator or was involved (N=430)

	ID		non-ID	
	N	%	N	%
Assault / fight	44	26.8	30	11.3
Abuse / threaten	17	10.4	26	9.8
Attempt suicide / self harm	17	10.4	9	3.4
Drug	32	19.5	116	43.6
Property damage	17	10.4	11	4.1
Rule infraction	22	13.4	57	21.4
Other	15	9.1	17	6.4

Significant differences in assessed level of risk emerged between the ID and non-ID samples ( $\chi^2 = 21.521$ ,  $df 2$ ,  $p < .001$ ). No prisoners with an ID were assessed as low-risk, compared with 11 per cent of prisoners from the non-ID sample. Further, while 36 per cent of non-ID prisoners were assessed as high-risk, 81 per cent of prisoners with an ID were so assessed. Prisoners with an ID also had a significantly higher average risk score ( $M = 6.19$ ,  $SD=1.28$ ) than prisoners from the non-ID sample ( $M = 4.61$ ,  $SD = 1.73$ ) ( $t = -4.959$ ,  $p < .001$ ). In terms of offence-specific program requirements, few differences emerged between the ID and non-ID prisoner samples (see Table 7). A substantial proportion of both groups was assessed as requiring drug and alcohol and cognitive skills programs, and approximately 38 per cent was assessed as requiring a violence program. Only a small proportion of both groups was assessed as requiring a sex offender program. However, this proportion was approximately three times higher for prisoners with an ID than for prisoners from the non-ID sample (11.1 per cent and 3.3 per cent respectively).

Table 7 also presents the proportion of ID and non-ID prisoners assessed as having a range of offence-related needs. For prisoners with an ID the most common offence-related needs identified were literacy (47 per cent), homelessness (44 per cent), psychiatric (39 per cent), employment (36 per cent) and family and social support (25 per cent). For prisoners from the non-ID sample the most common offence-related needs identified were employment (40 per cent), psychiatric (30 per cent), homelessness (20 per cent) and family and social support (18 per cent). Although homelessness was among the top four identified needs

**Table 7** Offence-specific program and offence-related needs (N=126)

	ID		non-ID	
	N	%	N	%
<b>Offence-specific programs</b>				
Drug and Alcohol	32	88.9	76	84.4
Violence	14	38.9	34	37.8
Sex Offender	4	11.1	3	3.3
Cognitive Skills	32	88.9	80	88.9
<b>Offence-related needs</b>				
Family and social support	9	25.0	16	17.8
Literacy	17	47.2	4	4.4
Financial management	0	0.0	9	10.0
Homelessness	16	44.4	18	20.0
Gambling	1	2.8	7	7.8
Parenting	3	8.3	8	8.9
Violence behaviour	3	8.3	6	6.7
Employment	13	36.1	36	40.0
Psychiatric	14	38.9	27	30.0
Cultural Identity	1	2.8	2	2.2
Negative peer group	2	5.6	9	10.0
Acquired brain injury	1	2.8	1	1.1
English as a second language	0	0.0	6	6.7

for both ID and non-ID prisoners, significantly more prisoners with an ID were identified with this need ( $\chi^2 = 1.081$ ,  $df 1$ ,  $p = .005$ ). Significantly more prisoners with an ID were also identified with literacy ( $\chi^2 = 33.880$ ,  $df 1$ ,  $p < .001$ ) needs than prisoners from the non-ID sample, while significantly fewer prisoners with an ID were identified with financial management ( $\chi^2 = 3.877$ ,  $df 1$ ,  $p < .05$ ) needs than non-ID prisoners. The two groups did not significantly differ in terms of any other identified needs.

# 4

## Discussion

### 4.1 Summary of Findings

This study examined differences between prisoners with an intellectual disability and non-intellectually disabled prisoners on a range of socio-demographic, offence related, sentence type, criminal history, prison incident and criminogenic need variables. A number of differences between the two groups emerged from the analysis.

Overall, prisoners with an intellectual disability were younger (both at their current reception to prison and at their first reception to the adult prison system), had lower educational attainment and were less likely to be employed prior to entry to prison than non-intellectually disabled prisoners. A greater proportion of prisoners with an intellectual disability were Indigenous, and prisoners with an intellectual disability had twice the rate of prior psychiatric treatment of non-intellectually disabled prisoners.

Prisoners with an intellectual disability also had three times the rate of youth detention episodes of non-intellectually disabled prisoners, and had a greater number of prior community corrections orders, prior sentenced terms of imprisonment and prior remand-only terms of imprisonment. They were more likely to be classified as medium security and less likely to be classified as minimum security at release than non-intellectually disabled prisoners. Prisoners with an intellectual disability were also more likely to be released from a prison with a higher security rating than non-intellectually disabled prisoners.

While intellectually and non-intellectually disabled prisoners did not differ significantly in their type of sentence (i.e. fixed term or non-parole period), prisoners with an intellectual disability were more likely to be denied parole and less likely to receive parole by their earliest eligibility date than non-intellectually disabled prisoners. While previous parole breaches was the most common reason for parole denial and delayed parole for non-intellectually disabled prisoners, accommodation was the most significant reason for prisoners with an intellectual disability.

When considering only prisoners who were serving their first sentenced term of imprisonment, prisoners with an intellectual disability had a greater number of prior community corrections orders and remand-only terms of imprisonment than non-intellectually disabled prisoners. They also spent longer on remand.

Prisoners with an intellectual disability were more likely to have a property offence as their most serious offence and less likely to have a drug offence than non-intellectually disabled prisoners, but did not differ significantly for any other most serious offence types.

Prisoners with an intellectual disability had a greater average number of prison incidents recorded against them and were more likely to be involved in incidents as both perpetrators and victims than non-intellectually disabled prisoners. Although drug incidents were common for both groups, they were significantly more prevalent for non-intellectually disabled prisoners. The other most common incidents in which non-intellectually disabled prisoners were involved were rule infraction incidents, such as smoking. In contrast, the most common incidents in which prisoners with an intellectual disability were involved related to assaults and fights. Attempted suicide and self-harm incidents were also significantly higher for prisoners with an intellectual disability than for non-intellectually disabled prisoners.

Prisoners with an intellectual disability were assessed as higher risk of re-offending on average than non-intellectually disabled prisoners. However, in terms of offence-specific program requirements to address re-offending there were few differences between the two groups. Although there were also considerable similarities in identified offence-related needs for intellectually and non-intellectually disabled prisoners, more prisoners with an intellectual disability were identified with literacy, homelessness and psychiatric needs.

## 4.2 Correspondence to Previous Research Findings

The findings from this study are generally consistent with those reported from previous research in this area, particularly in relation to the socio-demographic characteristics of prisoners with an intellectual disability and the extent and nature of their involvement with the prison system. However, a number of inconsistent findings also emerged.

While several researchers have concluded that persons with an intellectual disability are over-represented in prison populations compared with the general population, this does not appear to be the case in Victoria. In the current study, the prevalence of intellectual disability among Victorian prisoners was 1.3 per cent, which is only marginally higher than that for the general Victorian population, estimated at 1 per cent (Betterhealth, 2007). However, the prevalence of intellectual disability in this study is broadly consistent with other comparable estimates in Australia, for example Hayes and McIlwain's (1988) prevalence of 2 per cent for New South Wales prisoners, but lower than comparable estimates in the United Kingdom (see Mottram, 2007).

Several researchers have also found that sex offences are more common for offenders with an intellectual disability. In the current study, prisoners with an intellectual disability were no more likely than non-intellectually disabled prisoners to have a sex offence as their most serious offence, or to have been convicted of any sex offence.

The findings from other studies regarding the offending patterns of offenders with an intellectual disability (for example, property and violent offences) were consistent with the findings from the current study.

Glaser and Deane (1999) found in their Victorian study that prisoners with an intellectual disability were predominantly involved in minor physical altercations and rule infractions, such as swearing and failing to obey orders. In the current study, rule infractions represented less than 15 per cent of all incidents involving prisoners with an intellectual disability, and these prisoners were most frequently involved in assaults and fights, and drug incidents. However the finding in the current study that prisoners with an intellectual disability had a greater average number of incidents recorded against them than non-intellectually disabled prisoners supports the perception of prison officers (reported by Glaser and Deane) that prisoners with an intellectual disability are involved in more incidents than their non-intellectually disabled counterparts.

Two other differences from previous findings relate to prisoners' security ratings and sentence types. Glaser and Deane (1999) did not find any differences in the security ratings of intellectually and non-intellectually disabled prisoners. However, the current study found that prisoners with an intellectual disability were less likely to be rated minimum security and more likely to be rated medium security at release than non-intellectually disabled prisoners. Prisoners with an intellectual disability were also more likely to be released from a prison with a higher security rating than their personal security rating, consistent with findings from both Glaser and Deane (1999) and Cockram (2005d).

The higher security ratings of prisoners with an intellectual disability may be related to the lack of availability of appropriate support in the prison system. Where dedicated units are not available in minimum security prisons and prisoners are unlikely to be transferred to such prisons, they may not be given a minimum security rating. The implications of these two findings for Corrections Victoria are discussed in more detail in the next section.

Cockram (2005d) also found that significantly fewer prisoners with an intellectual disability had sentences with parole (non-fixed terms) than non-intellectually disabled prisoners. In contrast, a greater proportion of prisoners with an intellectual disability in the current study had sentences with parole set than non-intellectually disabled prisoners, although this difference was not statistically significant. The proportion of prisoners with parole sentences was substantially higher in the current study than that reported for Western Australian prisoners, however it is not clear why a difference between sentence types for intellectually and non-intellectually disabled prisoners was found in Western Australia but not Victoria. Importantly, despite being at least as likely to be eligible for parole, prisoners with an intellectual disability in the current study were more likely to be denied parole and less likely to be granted parole at their earliest eligibility date than non-intellectually disabled prisoners. Reasons for parole denial and delayed parole also differed between the two groups, with accommodation issues being most significant for prisoners with an intellectual disability.

Although recidivism rates were not able to be calculated for this particular study cohort, the rate of recidivism (defined as a return to prison under sentence within two years of release) for prisoners with an intellectual disability in Victoria in 2005-06 was significantly higher than for non-intellectually disabled prisoners – 58 per cent and 36 per cent, respectively. These data were derived from Corrections Victoria's Prisoner Information Management System and relate to all prisoners released from prison in 2003-04. This is consistent with the limited literature available.

The findings from the current study clearly illustrate that prisoners with an intellectual disability differ from non-intellectually disabled prisoners in a number of important ways. Prisoners with an intellectual disability are characterised by significant involvement with the criminal justice system (prior youth detention, Community Correctional Services Orders and adult imprisonment), a high risk of re-offending, difficulties with moving to minimum security and obtaining parole, higher rates of involvement in incidents within prisons, and significant literacy, homelessness, employment and psychiatric issues. Together, these findings indicate that prisoners with an intellectual disability form a group with complex histories and needs, presenting considerable management and rehabilitation challenges for both the correctional system, the broader forensic disability and disability service systems, and the wider community.

## 4.3 Implications for Corrections Victoria Policy and Practice

The findings of this study support a differentiated approach to the management of, and treatment approaches for, prisoners with an intellectual disability. Lindsay et al. (2007) note the importance of utilising appropriate assessments of risk of re-offending and offence-specific treatment requirements with the intellectually disabled prisoner population.

### Sentence Management Process

In recognition of the need for a more holistic approach to the rehabilitation of offenders with an intellectual disability, Corrections Victoria has adopted a treatment community approach at the major prison location for male prisoners with an intellectual disability. Although in the early stages of development, the intention of the treatment community is to lengthen offenders' exposure to therapeutic and offence-related programs (rather than punctuate their time in prison with short treatment programs) and tackle the range of issues underpinning offending behaviour. However, a key barrier to the effectiveness of this community is its location within a maximum security prison. This necessarily limits opportunities for prisoners to learn and practice skills such as independent living. Currently there is no defined pathway for prisoners with an intellectual disability to a minimum security location. The current identified medium-security prison location for this cohort is limited by the available places and appropriate programs offered.

### Customised Programs and Services During Imprisonment

The finding that prisoners with an intellectual disability were more likely to be involved in incidents involving physical assault suggests greater volatility and disinhibited behaviour among this cohort, and may indicate a need for better training for custodial staff in managing this behaviour. Importantly, it points to a need to customise violence and other offence-related programs to meet the needs of offenders with an intellectual disability.

One such offence-specific, customised program has recently been introduced at Port Phillip Prison – a sex offender program designed specifically for prisoners with an intellectual disability. However, appropriate design of programs is a significant issue, given that ‘universal’ responses designed to address the needs of the mainstream offender population and programs designed for people in the general population with an intellectual disability are often not a good fit for the needs of prisoners with an intellectual disability. While certain aspects or principles of programs designed for these ‘mainstream’ populations may be applicable to offenders with an intellectual disability, this group may have additional needs that generic programs will not meet. An example of this is the need for habilitation programs, given that in some cases the skills of prisoners with an intellectual disability are non-existent – it is not simply a matter of *regeneration* of skills or *restoration* to previously good health. This same issue is likely to vex other programs and services designed to rehabilitate offenders and support them to lead meaningful lives, such as education, literacy, transition and community work programs.

### Customised Programs and Services Post-release

The higher recidivism rates for prisoners with an intellectual disability highlight the need for coordinated service and program provision both in the correctional system and in the community post-release. It would also appear to be particularly important to sustain support services for offenders post-release, as the barriers that are faced by all offenders post-release are arguably more problematic for those who have an intellectual disability. Such challenges might include developing or re-integrating into social and familial support networks, building the vocational skills necessary not only for income but also for other forms of community participation, and embedding themselves in a stable environment that is conducive to good health. There is an opportunity for Corrections Victoria to work more closely with other Victorian Government departments, agencies and service providers in the future to ensure that the needs of offenders with an intellectual disability are better addressed not only within the correctional system, but also in the community after release from prison.

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### Cross-sectoral Cooperation to Achieve Better Outcomes

Findings from this study illustrate the importance of cross-sectoral cooperation. There are two key areas which are particularly in need of further exploration. One involves the issue of homelessness, which has emerged as a major service gap for offenders with an intellectual disability and has multiple ramifications, including the ability to obtain parole. The issue of accommodation for this cohort is both the provision of adequate housing and appropriate staffing support, and is central to the successful transition of these offenders into the community. Solutions to this issue will require a strategic, cross-sectoral approach.

The other key area to explore is the earlier onset of offending and the pathway that leads young prisoners with an intellectual disability into youth detention, onto adult Community Correctional Services Orders and then into prison. This highlights the need for working in partnership with the Youth Justice Branch of the Department of Human Services to explore youth detention episodes, and for further examination of the experiences of offenders with an intellectual disability serving Community Correctional Services Orders, and the factors influencing their behaviour. This may yield information concerning the support and treatment needs of young offenders that can be incorporated into future program design and help prevent the worsening of offending behaviour and subsequent imprisonment.

### Indigenous Prisoners With an Intellectual Disability

The substantial over-representation of Indigenous prisoners with an intellectual disability, over and above the general over-representation of Indigenous people in the correctional system, is a significant issue. This finding concurs with Glaser and Deane's (1999) research, and is consistent with elevated levels of intellectual disability found by Glasson et al. (2005) in the general Indigenous community in Western Australia. Although there are questions regarding the cultural sensitivity of intelligence testing used as part of the assessment of intellectual disability, this raises a number of issues regarding treatment approaches for Indigenous prisoners with an intellectual disability, including the cultural appropriateness of program delivery and content of adapted treatment programs.

Given the slim body of existing research on Indigenous prisoners with an intellectual disability, further research is required to inform policy development. A number of factors suggest that action research projects may be a suitable methodology to employ, given that this type of research can simultaneously build knowledge and develop intervention options. The complexity and urgency of the problem, the specialised nature of this group's needs and the lack of research available on programs tailored for Indigenous prisoners – let alone Indigenous prisoners with an intellectual disability – mean research that helps to both explore and understand issues, and develop and trial programs, would be useful. Additionally, this cohort's repeated contact with the criminal justice system means that the longer time frames typical of action research projects may be viable for this group. However, this has organisational implications such as research continuity and collaboration across other Victorian Government departments, since any effective treatment program will necessarily involve multiple services and require a 'joined-up', partnership approach. The need for this approach holds true for the broader cohort of prisoners with an intellectual disability.

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## Future research directions

This study did not attempt to explore causal links between intellectual disability and offending, but rather to describe and compare the characteristics of a cohort of prisoners with an intellectual disability with a cohort that did not have an intellectual disability, in order to inform policy and program development.

Some significant differences between this cohort and mainstream offenders emerged, confirming the need for a differentiated response to offenders with an intellectual disability. The challenge now is to identify “what works” for this particular cohort, and when it works best.

Consideration needs to be given to extending Corrections Victoria’s research networks beyond the criminal justice system. Longitudinal, collaborative research projects between the Department of Justice, the Department of Human Services and community based services that address challenging behaviours in young people with an intellectual disability could enrich our understanding of the emergence of offending behaviour, and how it might be prevented.

The sampling methodology used for the study meant that the patterns of recidivism among prisoners with an intellectual disability released from custody could not be examined. The findings of the study suggest, however, that research in this area would be valuable. Analysis of Tier 1 assessments shows that prisoners with an intellectual disability are at significantly higher risk of re-offending, with 81 per cent of the ID cohort deemed to be at ‘high risk’. A descriptive (i.e. quantitative) profile of recidivists with an intellectual disability would be a useful starting point from which to examine this issue and identify predictors of recidivism among this group. However, this type of study will not identify or

explain causal drivers. Research examining the impact of the circumstances and environment to which prisoners with an intellectual disability return following release from prison – especially the issue of homelessness – and how these factors interact with other demographic, criminogenic and program history factors would be valuable.

An exploration of pathways to release through the prison system (i.e. from maximum to medium to minimum security prisons to parole and any combination of these) and whether there is any association between these pathways and rates of re-offending may point to further areas worth examining. This may prompt consideration of the potential impact of the environment of different prisons on offenders, and the clustering and timing of different rehabilitative programs. This will have particular implications for prisoners with an intellectual disability, because of the current limited location of services for these prisoners. Corrections Victoria currently has units at two prison locations that accommodate male prisoners registered as having an intellectual disability, with the majority of these placements in a maximum security facility, and the

remainder in a medium security facility. The higher security rating these prisoners tend to receive compared to the mainstream prison population will also be a factor to consider in any research in this area.

In summary, priority areas for future research include:

- Program and service features that work best for prisoners with an intellectual disability, the optimum time for delivery of these treatment efforts, and implications for the sentence management process.
- Examination of the patterns of recidivism among these prisoners would be useful, together with research into the causal drivers of recidivism.
- The relationship of environmental circumstances with re-offending, especially the issue of post-release housing.
- The needs of Indigenous prisoners with an intellectual disability and issues involved in developing and delivering programs and services to this cohort.
- Examination of the experiences of offenders serving Community Correctional Services Orders and the supervision and support needs of offenders in non-custodial settings.

Longitudinal, collaborative research projects between the Department of Justice, the Department of Human Services and community based services that address challenging behaviours in young people with an intellectual disability could enrich our understanding of the emergence of offending behaviour, and how it might be prevented.

## Endnotes and References

### Endnotes

- 1 Corrections Victoria Disability Framework 2007-2009. This framework is linked to the Department of Justice's Disability Action Plan 2005-2008.
- 2 *Intellectually Disabled Persons' Services Act 1986*. On 1 July 2006 this Act was repealed and replaced by the *Disability Act 2006*.
- 3 The random sample of non-ID prisoners did not significantly differ from the full cohort on age at reception, number of terms of imprisonment, time served, days unsentenced, Indigenous status or psychiatric treatment.
- 4 The national definition of prisoner recidivism in Australia, as reported in the *Report on Government Services*, is a return to prison under sentence within two years of release.
- 5 The Tier 1 assessment is an assessment of risk of re-offending undertaken by non-clinicians.

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## Acknowledgements

The authors would like to thank the following people for reviewing drafts of this paper and providing invaluable feedback: Professor Bill Lindsay, The State Hospital, NHS Tayside and Univ. Abertay, Dundee; Dr Bill Glaser, Consultant Psychiatrist; Michael Hepworth, Full-Time Member of the Adult Parole Board of Victoria; David Provan, General Manager of the Adult Parole Board of Victoria; and Prue Burns, Malcolm Feiner Maddy Harford, and Kim Eldridge of Corrections Victoria.

## Appendix A – Study Variables

**Age** – the prisoner’s age at: (a) their first sentenced reception to prison, and (b) their reception for the current episode.

**Current offence type** - the most serious offence (MSO) for which the current episode of imprisonment was given. The most serious offence is determined as the offence that received the longest sentence. Where equal sentences are given for two different offences, the MSO is the offence with the lowest Australian National Classification of Offences (ANCO) code (Australian Bureau of Statistics, 1985). Offences were grouped into nine categories: violent (including homicide, assault and other offences against the person); sex; robbery and extortion; burglary; other property; justice procedure and good order; drug; driving and traffic; and other offences.

**Days unsentenced** – the number of days the prisoner was held on remand during the current episode.

**Education level** – the highest level of education obtained, as reported by the prisoner on reception to prison.

**Employment status** – whether the prisoner was employed, unemployed or a student/pensioner prior to their current reception to prison, as reported by the prisoner.

**Indigenous status** – whether the prisoner had identified themselves as being of Aboriginal or Torres Strait Islander descent.

**Management transfers** – the number of times a prisoner was transferred to management cells during the current episode.

**Offence-related needs** – the number and type of other needs (for example, housing or literacy) identified during assessment.

**Offence-specific needs** – whether the prisoner was assessed as requiring cognitive-skills, sex offending, violence, or drug and alcohol programs.

**Parole on EED** – whether the prisoner was released from prison on their earliest eligibility date (for prisoners with non-parole periods on their sentence).

**Prior community corrections orders** – the number of community corrections orders (excluding fine default orders) served by the prisoner prior to their current reception.

**Prior fine default orders** – the number of fine default orders served by the prisoner prior to their current reception.

**Prior youth detention** – whether the prisoner had previously been held in a youth detention facility, as reported by the prisoner on reception to prison.

**Prior remand only terms** – the number of terms of imprisonment served by the prisoner prior to their current reception where the prisoner was not sentenced at any point.

**Prior sentenced terms** – the number of sentenced terms of imprisonment served by the prisoner prior to their current reception.

**Prison incidents** – the number and type of incidents recorded against a prisoner in the current episode.

**Psychiatric treatment** – whether the prisoner had previously received psychiatric treatment, as reported by the prisoner on reception to prison.

**Reception type** – whether the prisoner was sentenced at the time of reception to prison or came into prison on remand.

**Risk level** – whether the prisoner was assessed as low, moderate or high risk according to the LSI-screening version.

**Security rating** – whether the prisoner was classified as minimum, medium or maximum security at release from the current episode.

**Sentence type** – whether the prisoner was sentenced to a fixed term of imprisonment or to a term of imprisonment with a non-parole period.

**Time served** – the total length of time served in prison during the current episode.



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