

# **Description and processing of individuals found Not Criminally Responsible on Account of Mental Disorder accused of “serious violent offences”**

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# EXECUTIVE SUMMARY

Under Canadian law, individuals can be found Not Criminally Responsible on account of Mental Disorder (NCRMD) “for an act committed or an omission made while suffering from a mental disorder that rendered the person incapable of appreciating the nature and quality of the act or omission or of knowing that it was wrong.” Such individuals are then under the jurisdiction of provincial or territorial Review Boards that are obliged to regularly review NCRMD dispositions (detention in hospital, conditional release, absolute discharge). Under section XX.I of the Canadian *Criminal Code* and case law, detention under the Review Board is intended to protect the public, address the clinical and other needs of the accused, as well as other considerations. In order to understand the population and processing of those individuals found NCRMD after being accused of selected serious violent offences (homicide, attempted murder, or sexual offences), we analyzed data from the National Trajectory Project (NTP), a file-based study of a cohort of persons found NCRMD in Québec, Ontario and BC in the early 2000s.

At the request of the Department of Justice’s Research and Statistics Division, we examined the following questions using NTP data: (1) What was the primary psychiatric diagnosis at the time of the index offence? (2) What were the initial dispositions after the NCRMD verdict for the most serious offence? (3) How many prior violent and total convictions did persons found NCRMD have, by most serious offence at verdict? (4) What was the average length of time under the Review Board and in detention? (5) How many persons found NCRMD for serious violent offences had reoffended while under a Review Board disposition?

We examined data from 165 persons found NCRMD for a serious violent offence (84% male), representing 9.2% of all NCRMD cases in our sample. This translates into 8.1% of the total NCRMD population when appropriate weights are applied. There were 58 persons accused of homicide, 65 accused of attempted murder, and 42 accused of sexual offences. Approximately two-thirds of this sample had a primary psychosis disorder diagnosis, predominantly schizophrenia, at the time of the index offence; mood disorders and substance use disorders were also common, as was psychiatric comorbidity (multiple diagnoses). Most of the NCRMD persons accused of homicide (90%) or attempted murder (91%) were detained at the time of the first hearing, as were a majority of those accused of sexual offences (60%). In terms of criminal history, 39% of the sample had a prior criminal record (conviction, 35.8%, or NCRMD finding, 6.1%): there were no meaningful differences across serious violent offence categories (28% for homicide cases, 42% for attempted murder cases, and 50% for sexual offence cases). Approximately one third of the sample had a prior violent offence history (29%), with persons accused of homicide (21%) having lower rates than persons accused of sexual offence (43%), and attempted murder accused (28%) in the middle.

At the end of our data collection (December 31, 2008), 41% of homicide accused, 49% of attempted murder accused, and 60% of sexual offence accused had been absolutely discharged from review board jurisdiction; approximately one third of the individuals were still detained in hospital. For the entire sample of individuals with a serious violent offence, the average length of tenure under the Review Board was four years. For those who had been absolutely discharged, the average length of tenure at the time they were discharged was 3.2 years for homicide accused, 2.4 years for attempted murder accused, and 1.8 years for sexual offence accused. Variability in tenure was quite high. During a fixed three year follow up period, 10% of the sample committed a new offence for which they were convicted or found NCRMD, 7% for a violent offence and 4% for a non-violent offence. The rate of recidivism was similar for individuals who were still under the Review Board (10%) compared to individuals absolutely discharged (8%).

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# CONTEXT

In an attempt to better understand the population and processing of individuals found Not Criminally Responsible on account of Mental Disorder (NCRMD) accused of “serious violent offences” (SVO), a request was submitted by the Research and Statistics division of the Department of Justice Canada to the National Trajectory Project team to answer the following questions based on available data for SVOs.

- 1) *What was the primary psychiatric diagnosis at the time of the offence?*
- 2) *What are the initial dispositions after verdict by offence category/most serious offence at verdict?*
- 3) *What is the average length of time under the purview of the Review Board (e.g., date of absolute discharge - date of verdict) by offence category/most serious offence at verdict? If they are still under the Review Board, what was their disposition status at their last hearing (hospital custody, conditional discharge)?*
- 4) *What is the average length of time in psychiatric detention by offence category/most serious offence at verdict? (if possible to assess)*
- 5) *How many previous violent convictions does this population have by offence category/most serious offence at verdict?*
- 6) *How many previous other convictions does this population have by offence category/most serious offence at verdict?*
- 7) *How many individuals found NCRMD are reconvicted for a new criminal offence (violent vs. other) while under a Review Board disposition? (or however you defined recidivism) by offence category/most serious offence at verdict.*

## Data extraction

Data for the current analyses were extracted from the National Trajectory Project database (NTP). The NTP is a file-based study of individuals found NCRMD in Québec, Ontario, and British-Columbia (<https://ntp-ptn.org>):

The NTP is funded through the Mental Health Commission of Canada (MHCC) and the *Fonds de recherche en santé du Québec* (FRSQ). It examines the operation of current criminal justice provisions for individuals declared NCRMD and under the authority of a provincial or territorial review board (pursuant to s. 672.38, Criminal Code). It examines the antecedents and trajectories of NCRMD accused, including mental health and criminal justice involvement, review board decision-making, and mental health and criminal outcomes. The study includes the three largest provinces (Ontario, Québec and British Columbia), which comprise the majority of NCRMD cases. It is a multidimensional study which involves quantitative and qualitative research projects.

## Definitions

**NCRMD:** In line with the principles of justice that it is inappropriate to punish individuals who did not have criminal intent at the time of an offence (*mens rea* or 'guilty mind'), the insanity defence (now NCRMD) represents a legal mechanism for some offenders with serious mental illness whose crimes can be understood to be a result of their condition (Wrightsmann, Nietzel, & Fortune, 1994). In Canada, section 16 of the *Criminal Code* defines the verdict of NCRMD as "No person is criminally responsible for an act committed or an omission made while suffering from a mental disorder that rendered the person incapable of appreciating the nature and quality of the act or omission or of knowing that it was wrong."

**Legal Dispositions:** Prior to the 1992 Criminal Code changes, defendants successfully raising the NCRMD defence were automatically and indefinitely confined in an institution. After the stay of the *Swain* case in 1991 ("R. v Swain," 1991), the Supreme Court concluded that certain dispositions of the *Criminal Code* violated the rights of people with a mental illness protected by the *Canadian Charter of Rights and Freedoms*. As a result of the *Swain* case, the legislation of the Canadian *Criminal Code* outlining the oversight of individuals underwent important changes:

- 1) The creation of provincial Review Boards, quasi-judicial entities that operate independently and have jurisdiction over accused individuals found NCRMD;
- 2) These Review Boards must apply the principle that decisions should be the least restrictive and least onerous as possible following a NCRMD verdict;
- 3) The duration of indeterminate detention was clarified;
- 4) Treatment cannot be ordered by an intermediary during a disposition, and;
- 5) The establishment of annual reviews of the dispositions of NCRMD individuals.

The changes made to Part XX.1 of the *Criminal Code* had important repercussions on the processing and detention of individuals suffering from serious mental illness at the time of an offence. Since 1992, there has been a steady increase in the number of individuals found NCRMD across the country (Latimer & Lawrence 2006).

Furthermore, in the initial Bill to amend the *Criminal Code* (known as Bill C-30 in 1992), capping provisions were included in Part XX.1 in order to place maximum times for which individuals could be detained under Review Board dispositions. However, these provisions were subsequently repealed from the *Criminal Code* without ever having been brought into force. Little is known as to whether the duration of Review Board dispositions over NCRMD accused are consistent with the essence of what the capping provisions initially intended.

**Review Boards:** Provincial and territorial Review Boards are independent administrative tribunals established under the *Criminal Code of Canada* (s. 672.38 Part XX.1). They are commissioned to render and annually to revise the dispositions of offenders declared unfit to stand trial or NCRMD by a court. It is the responsibility of the Review Board to protect public safety while

also safeguarding the rights and freedoms of mentally disordered persons who are alleged to have committed an offence. The criteria which govern the Board's dispositions are contained in s. 672.54 of the Criminal Code.

*"Where a court or Review board makes a disposition pursuant to subsection 672.54(2) or section 672.47, it shall, taking into consideration the need to protect the public from dangerous persons, the mental condition of the accused, the reintegration of the accused into society and the other needs of the accused, make one of the following dispositions that is the least onerous and least restrictive to the accused: 1) absolute discharge; 2) conditional discharge; or 3) detention in a provincial mental health institution.*

These fundamental policy objectives of Part X.X.1 were affirmed by the Supreme Court of Canada in *Winko v. B.C.* (*Winko v. British Columbia Forensic Psychiatric Institute*, 1999). In *Winko*, the Supreme Court of Canada ruled that the Review Board is required to grant an absolute discharge to an NCRMD accused unless the Board is satisfied that it is more likely than not, on the evidence, that the accused continues to pose a significant threat to the safety of the public. The judgment in *Winko* included the following statements of law:

*A "significant threat to the safety of the public" means a real risk of physical or psychological harm to members of the public that is serious in the sense of going beyond the merely trifling or annoying. The conduct giving rise to the harm must be criminal in nature. There is no presumption that the NCR accused poses a significant threat to the safety of the public. Restrictions on his or her liberty can only be justified if, at the time of the hearing, the evidence before the court or Review Board shows that the NCR accused actually constitutes such a threat. The court or Review Board cannot avoid coming to a decision on this issue by stating, for example, that it is uncertain or cannot decide whether the NCR accused poses a significant threat to the safety of the public. If it cannot come to a decision with any certainty, then it has not found that the NCR accused poses a significant threat to the safety of the public.*

In more recent case law, *R. v. Owen* (2003), the Supreme Court of Canada concluded that while the Review Board, like courts and other administrative tribunals, is required to make findings of fact regarding past events, the tribunal's central and most difficult task relates to "*prediction regarding future risk of harm*". In that case the court recognized the inherent challenges in balancing individual liberties against public safety.

# METHODS

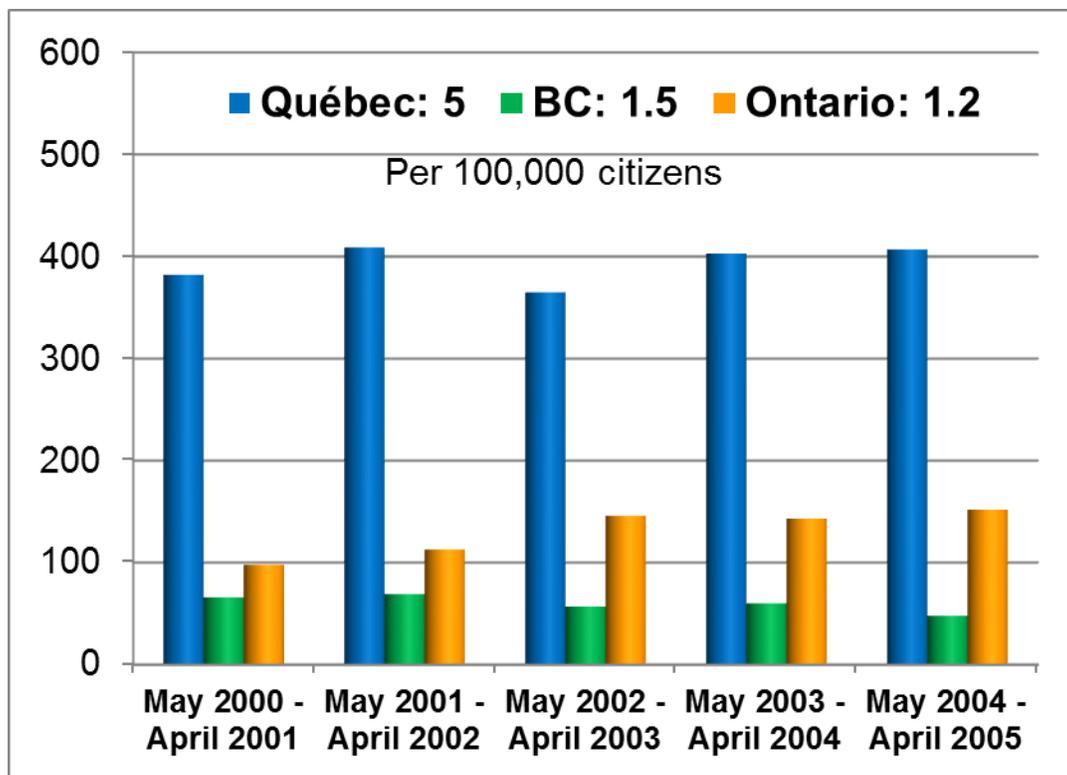
## Design

This study used a cross-sectional and longitudinal design (retrospective and prospective) to individuals found NCRMD in Canada. We included cases from the three largest Canadian provinces by population (Ontario, Québec, and British Columbia), these provinces also comprised the majority of NCRMD cases (Latimer & Lawrence, 2006).

## Participants

The sample selection start date took into account the *Winko* decision (*Winko v. British Columbia Forensic Psychiatric Institute*, 1999), which could have influenced the Review Board decisions thereafter, and the end date of data collection allowed for a minimum of a three-year follow-up for all cases. Our sample selection period spans from May 1, 2000 to April 30, 2005. As can be observed in Figure 1, Québec had a significantly higher number of NCRMD verdicts per capita per year than both Ontario and BC.

Figure 1. Number of NCRMD decisions per year by provincial review board.



In each province, for each individual found NCRMD during the time period between May 1, 2000 and April 30, 2005, we identified the first NCRMD verdict within that time frame (hereafter called the *index verdict*). This does not exclude the possibility that some individuals might also have had a finding of NCRMD prior to the study period (i.e. prior to May 2000).

## Sample Size

The sample size in each province was determined by:

1. Annual NCRMD verdicts between May 2000 and April 2005 in each province;
2. Geographic representativeness of the population studied for Québec, given the large number of NCRMD cases (see Figure 1);
3. Budgetary and time constraints.

In **Québec** on average, 393 men and women were found NCRMD annually during our five-year sampling period. There were a total of **2,392 NCRMD verdicts** between May 1<sup>st</sup> 2000 and April 30<sup>th</sup> 2005, **corresponding to 1,966 distinct individuals** identified as having at least one NCRMD verdict during the study timeframe (see Figure 1). In order to obtain a geographically representative sample of all 17 administrative regions of Québec, a random sampling procedure was applied for each region according to a finite population correction factor (FPC). The total number of individuals sampled in Québec is thus 1,096, producing a 2% margin of error for the whole province and a 6% margin of error for individual regions. A participant's first NCRMD verdict in the study period was considered as the index NCRMD verdict for the analyses (***sampled N = 1,096, weighted N=1,966***). Because data from the province of Québec were drawn using a stratified random sampling strategy to represent all administrative regions of the province, some descriptive analyses required weighting. Thus, the general description of sociodemographic data and types of offences of the total NCRMD population are weighted. All analyses focusing on the SVOs are not weighted, however.

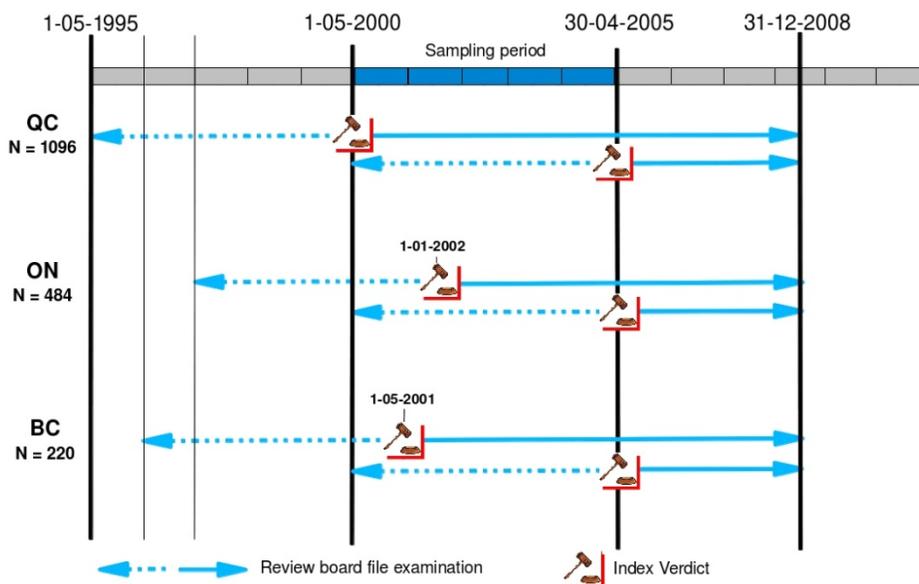
**Ontario** had an average of 144 NCRMD findings annually in the years captured by the study. The Ontario sample was comprised of **all adult individuals** with an NCRMD verdict between January 1, 2002, and April 30, 2005 (***N = 484***). We opted to begin with the same end date as Québec and then coded files backwards in time for the **entire population**. Due to budget and time constraints, we were only able to code back to January 1, 2002.

**British Columbia** had an average of 62 NCRMD findings annually in the years captured by the study (both adult and youth). The BC sample was identified by requesting the number of new NCRMD verdicts for all men and women between May 1<sup>st</sup> 2001 and April 30<sup>th</sup> 2005 from the BC Review Board. The BC Registrar had 220 adult NCRMD individuals in this period (***N = 220***). Except for the dates of the timeframe, the procedures were identical to those of Ontario.

In summary, for BC and Ontario the full population of individuals found NCRMD is presented, whereas for Québec, a random sample of individuals was selected, stratified by region. Thus, weights are attributed to the Québec sample and total sample when presenting total population rates.

For each individual, we examined Review Board files five years prior to the date of the index NCRMD verdict in case they had a previous NCRMD finding and then forward until December 31st 2008. The exact periods covered by data collection varies by province due to budget and time constraints (see Figure 2).

Figure 2. Sample selection timeframes by province and data source



## Measures and sources of information

### ***Forensic file information***

For each individual, we reviewed Review Board files five years prior to the index NCRMD verdict in case they had a previous NCRMD finding and then forward until December 31<sup>st</sup>2008. To illustrate, for someone who was found NCRMD in September 2003, we coded information back to September 1998 (if a previous NCRMD verdict was on file) and forward until December 31, 2008 (see Figure 2 above).

From the Review Board files, we collected the following information:

- Psychiatric assessments and hearing processes;
- Characteristics of the accused and the offence;
- Locations of custody and conditional discharge;
- Custody dispositions (detention, conditional discharge and unconditional discharge) and justifications for the determination following from all Review Board hearings.

### ***Index offence***

For the purpose of the present report, the request was made that analyses focus on three categories of “serious violent offence” (SVO) which fell under the following headings:

- 1) Homicide (and murder; *Criminal Code* s. 222, 223, 229, 230), including criminal

negligence causing death (*Criminal Code* s. 220), infanticide (*Criminal Code* s. 233, 238), manslaughter (*Criminal Code* s. 232, 234).

- 2) Attempted murder (*Criminal Code* s. 239).
- 3) Sexual offences (*Criminal Code* s. 151, 152, 153, 155, 160, 170, 171, 172, 271, 272, 273).

In order to select these cases, a combination of three variables was used: the *Criminal Code* section number, the corresponding descriptive text of the offence and the Uniform Crime Reporting Code (Canadian Centre for Justice Statistics Policing Services Program, 2012).

### ***Psychiatric Diagnosis***

We collected all information pertaining to diagnosis in the NCRMD assessment reports presented to the courts (leading to the index NCRMD verdict) and in the risk assessment reports at Review Board hearings. The diagnoses were rarely identified using standard diagnostic codes (DSM or ICD codes). Diagnoses often take into account a variety of factors and descriptors that are not necessarily described in the standard schemes. We therefore categorized diagnoses into eight broad categories that were not mutually exclusive:

1. Psychotic (e.g. schizophrenia, schizoaffective disorders, unspecified psychosis etc.);
2. Mood (e.g. depressive disorder, bipolar disorder etc.);
3. Organic (e.g., dementia),
4. Anxiety (e.g. obsessive compulsive disorder, agoraphobia);
5. Substance use (e.g., Substance misuse, alcohol and polysubstance abuse);
6. Personality (e.g. cluster B personality traits);
7. Other (e.g., intellectual disabilities, autism spectrum disorders)
8. None (e.g. no diagnosis provided in the reports).

In 7.9% of NCRMD assessment reports presented to the courts, no clear diagnosis was provided. We therefore used diagnoses from the two hearings following the verdict on the assumption that (1) there would be less missing information; and (2) further clinical evaluation could clarify the primary diagnosis and that said diagnosis would be relatively stable over time (see Appendix1 for a detailed explanation of this procedure). In only one case, was no diagnostic information available because no expert reports were found in the Review Board files. Therefore, the distribution of diagnoses for this report was calculated on 164 instead of 165 individuals.

### ***Criminal history and recidivism***

Information on lifetime criminal charges and convictions until December 2008 was coded from the Fingerprint Services (FPS) records of the Royal Canadian Mounted Police (RCMP). Requests for criminal records were submitted between June 2010 (Québec) and 2011 (BC and Ontario) in order to allow enough time for the RCMP to update records to ensure all information for our study time frame would have been recorded in their database. This allowed for a minimum of three years

follow-up post NCRMD verdict for all cases (see Figure 2 above). Given that NCRMD verdicts are not recorded in the FPS records in a systematic fashion, we coded new NCRMD verdicts from Review Board files and cross-checked with FPS records to avoid any double counting. All available information on offences was recorded (*Criminal Code* section numbers and description) and coded using the Uniform Crime Reporting categories, Version 1.0 (Canadian Centre for Justice Statistics Policing Services Program, 2012) and the Canadian Crime Severity Index (Wallace, Turner, Matarazzo, & Babyak, 2009). Violent offences were defined as the first 10 categories of offences as described in Appendix 2, all other offences were categorized as non-violent for this study.

### **Ethical considerations**

Ethics approval was obtained from the principal investigators' primary institutional affiliations.

# RESULTS

Results will be presented in two main sections:

- 1) Population description will provide a general portrait of individuals found NCRMD for SVOs. These results are weighted for sample representation, whereas the process and outcome results are presented using unweighted data.
- 2) Process and outcome will provide a general overview of how individual found NCRMD with an SVO index offence move through the Review Board system within the timeframe of the study.

## POPULATION DESCRIPTION

### *Rates and distribution of SVOs*

In our sample, 165 men and women were accused of a SVO as their index NCRMD verdict. This represents 9.2% of all NCRMD index offences in our sample. This translates into 8.1% of the total NCRMD population when appropriate weights are applied (weighted:  $n = 216$ ). Weighted results indicate that there are significant differences between the three provinces, with Québec having the lowest percentage (6.1%) followed by BC (10%) and Ontario (15.1%) ( $X^2(2) = 43.6$ ;  $p < .001$ ). No statistically significant differences were observed between BC and Ontario. Attempted murder accounts for 39.4% of SVOs across provinces, followed by homicide and murder (35.1%) and sexual offences (25.4%). For a detailed distribution of each category of offence see Appendix 3.

Serious Violent Offences represent a small proportion of all NCRMD offences in these three provinces (8.1%, weighted). Attempted murders represent 3.3% (weighted  $n=89$ ) of all NCRMD index offences (weighted  $n=2,670$ ), homicides 2.6% (weighted  $n=70$ ) and sex offences 2.1% (weighted  $n=57$ ) (see Table 1 below for distribution by province).

Table 1. Distribution of type of SVO by province in the total NCRMD sample.

	Total NCRMD population			
	Québec	Ontario	British-Columbia	Total (3 provinces)
<b>Type of index offence</b>	1,966 <sup>1</sup>	484	220	2,670
<b>Homicide</b>	1.7%	5.2%	5.5%	2.6%
<b>Attempted murder</b>	2.8%	6.0%	2.7%	3.3%
<b>Sexual offence</b>	1.7%	3.9%	1.8%	2.1%

<sup>1</sup>For weighting procedures see Methods section.

There are significant differences between provinces in the distribution of the SVO ( $X^2(6) = 50.4$ ;  $p < .001$ ). Homicides represent a higher proportion of NCRMD index offences in BC than in Québec ( $X^2(1) = 14.2$ ;  $p = .001$ ) and a higher proportion of NCRMD index offences in Ontario than in Québec ( $X^2(1) = 20.4$ ;  $p < .001$ ). Attempted murder represents a higher proportion of NCRMD index offences in Ontario than in Québec ( $X^2(1) = 12.5$ ;  $p = .001$ ). Sexual offences also represent a higher proportion of NCRMD index offences in Ontario than in Québec ( $X^2(1) = 8.9$ ;  $p = .005$ ). No other differences reached statistical significance ( $p > .05$ ).

**Sociodemographic characteristics**

No statistically significant age differences between SVOs and non-SVOs were observed (see Table 2 below).

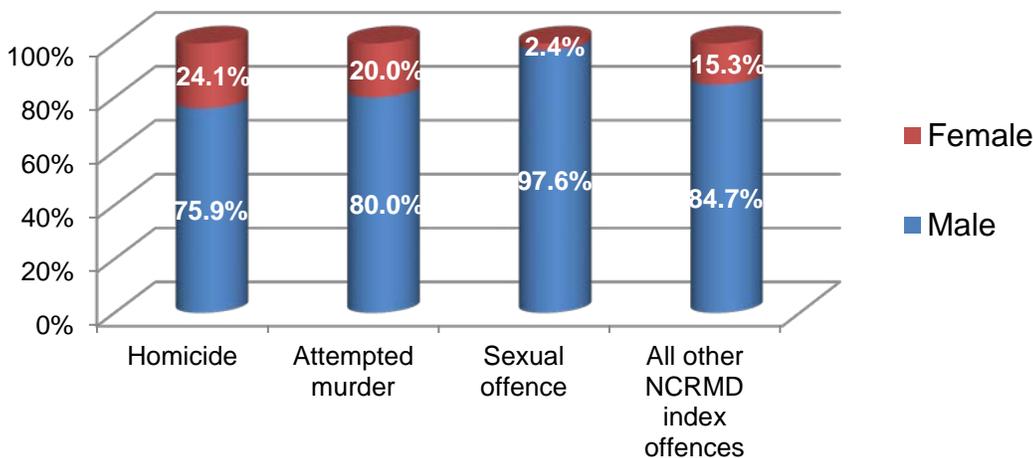
Table 2. Age at time of verdict by type of SVO.

Type of index offence	Age at verdict Mean (SD)
Homicide	38.7 (15.9)
Attempted murder	35.8 (12.6)
Sexual offence	32.5 (10.9)
All other NCRMD index offences	36.5 (12.4)

$F(2, 161) = 2.6$ ;  $p = .081$

As is evidenced in Figure 3 below, women comprised a small proportion of all individuals found NCRMD (weighted  $n = 13$ ; 15.5%). A significantly lower proportion of women found NCRMD were accused of a sexual offence (Cramer’s  $V = .232$ ;  $p = .012$ ) compared to the three other offence categories.

Figure 3. Gender distribution by type of SVO



***From here onwards, unweighted results are presented as they are not compared to the full NCRMD population. Of the 165 men and women found NCRMD for a SVO in our sample from the three provinces, 58 were accused of homicide, 65 of attempted murder and 42 of a sexual offence.***

***Psychiatric diagnosis at the time of the verdict.***

As can be observed in Table 3, the majority of NCRMD individuals accused of an SVO had a diagnosis in the psychosis spectrum (68.9%).

Table 3. Distribution of diagnoses (non-exclusive) at verdict as a function of type of SVO.

<b>Diagnosis</b>	<b>Homicide n=57 n(%)</b>	<b>Attempted murder n=65 n(%)</b>	<b>Sexual offence n=42 n(%)</b>	<b>Total n=164<sup>1</sup> n(%)</b>
<b>Psychosis</b>	38 (65.5%)	50 (76.9%)	25 (59.5%)	113 (68.9%)
<b>Mood</b>	16 (27.6%)	12 (18.5%)	11 (26.2%)	39 (23.6%)
<b>Organic</b>	1 (1.7%)	2 (3.1%)	1 (2.4%)	4 (2.4%)
<b>Anxiety</b>	1 (1.7%)	1 (1.5%)	1 (2.4%)	3 (1.8%)
<b>Substance</b>	14 (24.1%)	20 (30.8%)	12 (28.6%)	46 (27.9%)
<b>Personality</b>	7 (12.1%)	18 (27.7%)	10 (23.8%)	35 (21.2%)
<b>Others</b>	4 (6.9%)	11 (16.9%)	12 (28.6%)	27 (16.4%)
<b>None specified</b>	1 (1.7%)	0	0	1 (0.6%)

<sup>1</sup> Missing a diagnosis for one person: N=164.

When combining diagnoses (see Table 4), individuals accused of homicide were more likely than other groups to have a single diagnosis of psychosis spectrum disorder. In contrast, 57% of individuals accused of a sexual offence tended to have a combination of disorders).

Table 4. Distribution of co-occurring diagnoses (exclusive) at the index verdict as a function of type of SVO

Diagnoses	Homicide n=57 n(%)	Attempted murder n=65 n(%)	Sexual offence n=42 n(%)	Total n=164 n(%)
<b>Psychosis only</b>	26 (44.8%)	24 (36.9%)	12 (28.6%)	62 (37.8%)
<b>Mood only</b>	8 (13.8%)	7 (10.8%)	6 (14.3%)	21 (12.8%)
<b>Psychosis + Substance only</b>	7 (12.1%)	5 (7.7%)	4 (9.5%)	16 (9.8%)
<b>Mood + Substance only</b>	3 (5.2%)	1 (1.5%)	1 (2.4%)	5 (3%)
<b>Psychosis + Personality only</b>	2 (3.4%)	5 (7.7%)	2 (4.8%)	9 (5.5%)
<b>Psychosis + Substance + Personality only</b>	1 (1.7%)	5 (7.7%)	2 (4.8%)	8 (4.9%)
<b>Psychosis + Substance + Personality + Other</b>	1 (1.7%)	2 (3.1%)	2 (4.8%)	5 (3%)
<b>Other combinations</b>	9 (15.5%)	16 (24.6%)	13 (31%)	38 (23%)

## Victims

Table 5 below depicts the distribution of victims by type of SVO as reported in the Review Board files. Results show that for murder and attempted murder, the victims are most often a family member (58.4% and 55.4% respectively), with a parent being the most likely victim (24.1% and 24.6% respectively). A partner or spouse is the second most likely victim among family members, followed by children.

Table 5. NCRMD accused relationship to index offence victims.

	Homicide n=58 n(%)	Attempted murder n=65 n(%)	Sexual offence n=42 n(%)	Total n=165 n(%)
<b>Victim unknown to the accused</b>	4 (6.9%)	10 (15.4%)	18 (42.9%)	32 (19.4%)
<b>Peace Keeper/Police officer</b>	1 (1.7%)	1 (1.5%)	0	2 (1.2%)
<b>Mental health professional</b>	0	3 (4.6%)	3 (7.1%)	6 (3.6%)
<b>Roommate, Co-Resident or Co-Patient</b>	4 (6.9%)	2 (3.1%)	2 (4.8%)	8 (4.8%)
<b>Family member (sum)</b>	<b>34 (60.3%)</b>	<b>36 (55.4%)</b>	<b>7 (16.7%)</b>	<b>77 (46.7%)</b>
- Offspring	6 (10.3%)	5 (7.7%)	2 (4.8%)	13 (7.9%)
- Partner/spouse	10 (17.2%)	10 (15.4%)	2 (4.8%)	22 (13.3%)
- Parent	14 (24.1%)	16 (24.6%)	0	30 (18.2%)
- Other family member	4 (6.9%)	5 (7.7%)	3 (7.1%)	12 (7.3%)
<b>Other</b>	15 (25.9%)	13 (20%)	12 (28.6%)	40 (24.2%)

Note. Co-resident includes roommates (i.e., living independently in the community), co-patients and co-residents (i.e., living in hospital) and co-residents (i.e., living in group home or other supervised setting), 'Other' includes: neighbours, friends, coworkers, etc.

## Criminal history

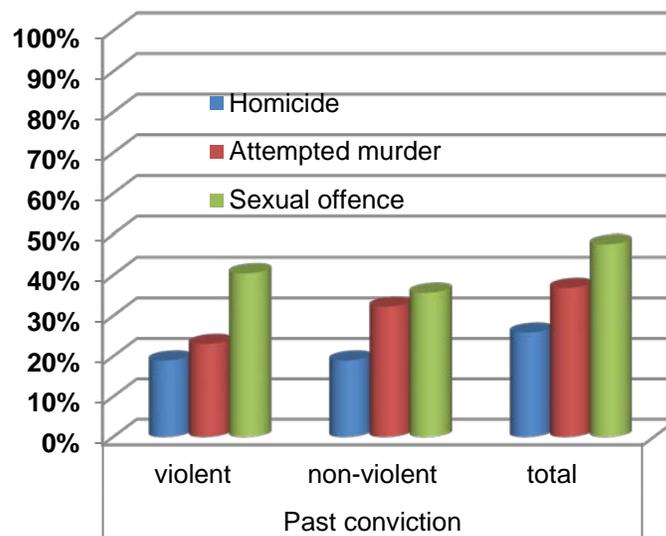
In order to present an accurate portrait of the criminal history of individuals found NCRMD, we used both RCMP national criminal records (FPS) as well as information contained in the Review Board files.

Of the total SVO sample, 38.8% had been previously convicted or found NCRMD. More specifically, 35.8% of the SVO sample had at least one past conviction and 6.1% had a past finding of NCRMD. Half (50%) of NCRMD accused of a sex offence had a previous conviction or NCRMD finding: 47.6% had at least one past conviction and 9.5% had a prior NCRMD finding. Among NCRMD individuals accused of attempted murder, 41.5% had been previously convicted or found

NCRMD; more specifically, 36.9% had at least one prior conviction and 4.6% at least one prior NCRMD finding. Finally, among NCRMD individuals accused of murder or homicide, 27.6% had a criminal history; 25.9% had at least one conviction and 5.2% at least one previous finding of NCRMD.

Figure 4 depicts offences for which the individuals were previously convicted by index NCRMD verdict category.

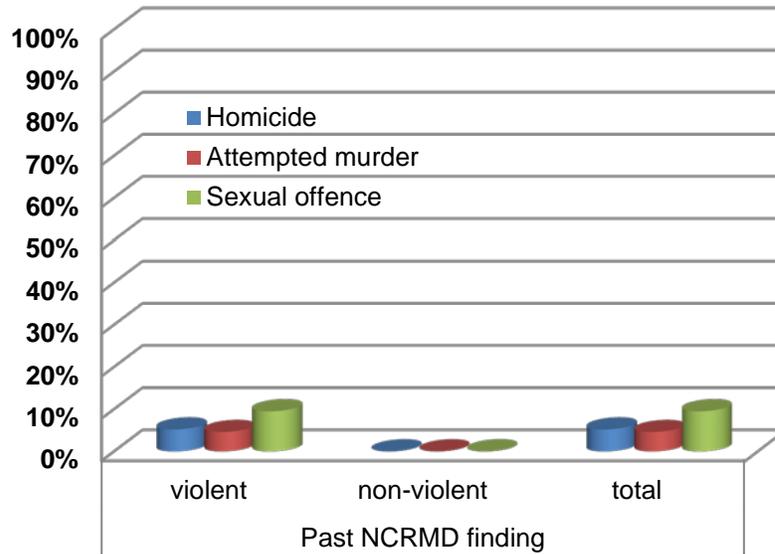
Figure 4. Rate of past convictions as a function of type of NCRMD index offence



	Past conviction		
	Violent	Non-violent	Total
Homicide	19%	19%	25.9%
Attempted murder	23.1%	32.3%	36.9%
Sexual offence	40.5%	35.7%	47.6%

Figure 5 depicts offences for which individuals were previously found NCRMD (or not guilty by reason of insanity, if before 1992). A detailed account of all past convictions and NCRMD findings can be found in Appendix 4.

Figure 5. Rate of past NCRMD findings as a function of type of NCRMD index offence



	Past NCRMD finding		
	Violent	Non-violent	Total
<b>Homicide</b>	5.2%	-	5.2%
<b>Attempted murder</b>	4.6%	-	4.6%
<b>Sexual offence</b>	9.5%	-	9.5%

Table 6. Number of individuals with a previous conviction or NCRMD finding (violent and non-violent offence) by type of type of SVOs

Category of index offence and nature of any prior violent conviction or NCRMD finding	No past conviction or NCRMD	1 past conviction or NCRMD	2 past convictions or NCRMD	3 past convictions or NCRMD	4 or more past convictions or NCRMD
<b>Homicide(n=58)</b>					
Violent	46 (79.3%)	6 (10.3%)	3 (5.2%)	1 (1.7%)	2 (3.4%)
Non-violent	47 (81%)	5 (8.6%)	2 (3.4%)	2 (3.4%)	2 (3.4%)
<b>Attempted murder (n=65)</b>					
Violent	47 (72.3%)	9 (13.8%)	4 (7.7%)	0	4 (6.2%)
Non-violent	44 (67.7%)	9 (13.8%)	4 (6.2%)	1 (1.5%)	7 (10.8%)
<b>Sexual offence (n=42)</b>					
Violent	24 (57.1%)	7 (16.7%)	2 (4.8%)	5 (11.9%)	4 (9.5%)
Non-violent	27 (64.3%)	8 (19%)	3 (7.1%)	3 (7.1%)	1 (2.4%)
<b>All SVOs (n=165)</b>					
Violent	117 (70.9%)	22 (13.3%)	10 (6.1%)	6 (3.6%)	10 (6.1%)
Non-violent	118 (71.5%)	22 (13.3%)	9 (5.5%)	6 (3.6%)	10 (6.1%)

Note. A criminal conviction or NCRMD finding could include more than one offence. In Table 6, all offences with a conviction on the same date were collapsed and counted only once in each category of the most severe offence (violent or non-violent) within that conviction or NCRMD finding. Among individuals with a past conviction or NCRMD finding, the majority had been convicted or found NCRMD on less than four different events. For details of the actual number of offences see Appendix 5.

## PROCESS

### *Initial disposition*

From our sample of individuals found NCRMD who were accused of a SVO under the authority of the Québec, Ontario or British Columbia Review Boards, more than half of the initial dispositions (at the time of the verdict) were officially deferred to the Review Boards (see Table 7); however, there were inter-provincial differences. In Ontario, 93.2% ( $n = 68$ ) of initial court dispositions were deferred to the Review Board, the results were very similar in BC (90.9%;  $n = 20$  cases). The average time between verdict and first Review Board hearing was 51.2 days ( $SD = 36$ ) in Ontario and 37.8 days in BC ( $SD = 16.8$ ). In Québec, however, the courts provided a disposition in 94.3% of cases at the time of verdict. The Québec Review Board held a hearing on average within 60.2 days

of the verdict (SD = 53.9). The mean time between the index verdict and the first Review Board hearing was 53.2 days (SD = 43.4) for the three provinces (for details see Appendix 6).

For deferred cases, little information was readily available in Review Board files as to the location of residence (prison, hospital, community) of NCRMD individuals between the verdict and the first hearing. We therefore used the address of the first hearing as a means of estimating the location of custody. Thus, 89.7% of individuals accused of murder or homicide, 90.8% of cases of those accused of attempted murder and 59.5% of sexual offenders were detained at the time of the first hearing in a prison or hospital.

Table 7. Court's decision regarding the NCRMD disposition by type of SVO.

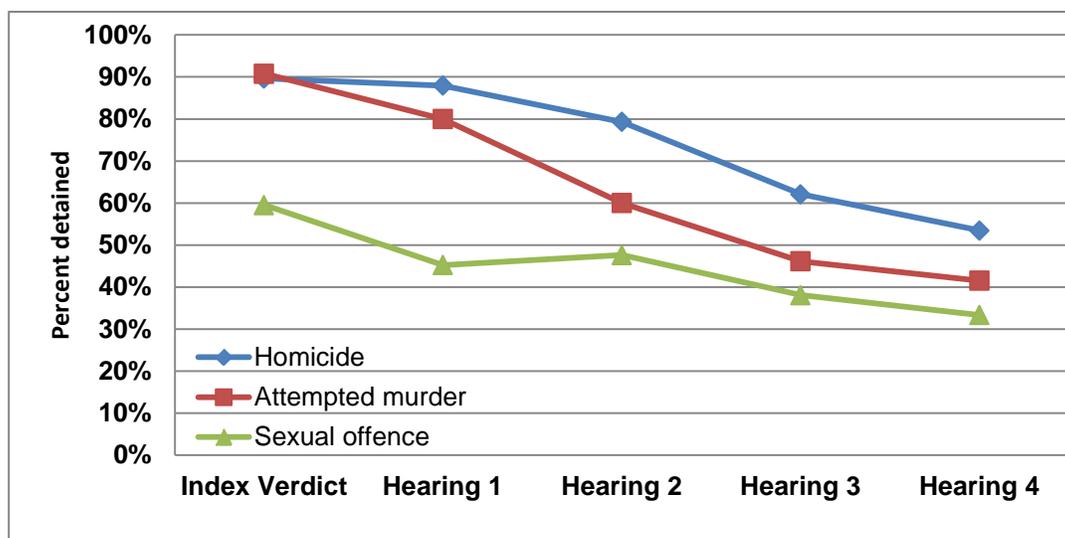
	<b>Homicide</b> n = 58 n(%)	<b>Attempted murder</b> n = 65 n(%)	<b>Sexual offence</b> n = 42 n(%)	<b>Total</b> N=165 N (%)
<b>Court's decision at verdict</b>				
<b>Detention</b>	19 (32.8%)	28 (43.1%)	11 (26.2%)	58 (35.2%)
<b>Conditional release</b>	3 (5.2%)	3 (4.6%)	9 (21.4%)	15 (9.1%)
<b>Absolute discharge<sup>1</sup></b>	N/A	N/A	N/A	N/A
<b>Decision deferred to the Review Board</b>	36 (62.1%)	34 (52.3%)	22 (52.4%)	92 (55.8%)
Total	100%	100 %	100%	100%
<b>Detained at first Review Board hearing</b>	52 (89.7%)	59 (90.8%)	25 (59.5%)	136 (82.4%)

<sup>1</sup> Due to the study parameters (all cases were under the purview of the Review Board), it was not possible to capture any instances of absolute discharges at time of verdict.

### **Rates of release**

Given the follow-up time for this study was limited, the results here must be interpreted with caution. We estimated the rate of absolute discharge and detention over time (see Figure 6). By the end of data collection time frame (December 31, 2008), nearly half (49.1%) of the NCRMD individuals accused of a SVO were absolutely discharged (see Table 8 below). A higher proportion of NCRMD individuals accused of a sexual offence were released by the end of the study period than individuals of the two other categories of SVOs (see Table 8); eighty-four individuals were still under jurisdiction of the Review Board at the end of the study period, the majority of whom were being detained in a psychiatric institution (i.e. custody, 64.3%,  $n = 54$ ). With the exception of the first hearing following the verdict, hearings are usually held annually, for example, the average number of days between the first and the second hearing was 327.6 days (SD = 173.31).

Figure 6. Rate of detention over time (by Review Board hearing) and type of SVO.



Individuals who received an absolute discharge during the study period had been detained on average 16 months (SD = 20.2) and under Review Board purview (detention+ conditional discharge) on average 30.1 months (SD = 23.1).

Table 8. Custody status at the end of the data collection timeframe (31<sup>st</sup> December 2008) by NCRMD index offence type

	Homicide n= 58 n (%)	Attempted murder n=65 n(%)	Sexual offence n=42 n (%)	Total n=165 n(%)
<b>Legal status at the end of the study period</b>				
<b>Detention</b>	19 (32.8%)	22 (33.8%)	13 (30.9%)	54 (32.7%)
<b>Conditional release</b>	15 (25.9%)	11 (16.9%)	4 (0.9%)	30 (18.1%)
<b>Absolute discharge</b>	24 (41.4%)	32 (49.2%)	25 (59.5%)	81 (49.1%)
<b>Total</b>	100%	100 %	100%	100%

For the 84 individuals who were still under Review Board disposition at the end of the study period, the mean time under Review Board till that time was 66.2 months (SD = 14.6).

### **Recidivism**

One individual died within the year following the NCRMD verdict; therefore recidivism was based on the 164 remaining SVO individuals. Given the design of the study, the follow-up times for

each individual varied (i.e. those whose NCRMD verdict was in 2002 had six years of follow-up whereas those who had a verdict in 2005 had three years follow-up - see Figure 2).

Out of 164 individuals, 153 (93.3%) were either detained or under conditional release from the Review Board at one year; of these, 5.2% were either convicted or found NCRMD for a new offence. For the 125 (76.2%) who were under the purview of the Review Board after two years, 11 (8.8%) were either convicted or found NCRMD for a new offence. For the 110 (67.1%) still under the purview of the Review Board after three years post-index verdict, 11 (10%) were either convicted or found NCRMD for a new offence.

Among the 49 individuals with at least a three year post-absolute discharge follow-up time, 4 (8.2%) were convicted or found NCRMD for a new offence, half of which for a violent offence (see Appendix 7). Whether under Review Board or absolutely discharged, 10.4% of the total SVO sample recidivated, 7.3% with a violent offence and 3% with a non-violent offence in the three-years of follow-up (see Appendix 8). Those whose index offence for the NCRMD verdict was a sexual offence had the highest recidivism rate post index verdict (14.3%). For details about recidivism and different types of offences see Appendix 9. Again, the absolute numbers overall are quite small, and should be interpreted with caution.

# CONCLUSIONS

This research shows that SVOs defined as homicide, attempted murder and sexual offences represent less than one in ten offences perpetrated by the entire NCRMD population in the three most populated provinces in Canada. Individuals accused of homicide were more likely to have a single diagnosis rather than comorbid disorders and displayed the lowest rate of recidivism among the three categories of severe violent offences. Victims of individuals found NCRMD accused of homicide or attempted murder were more likely to be in close proximity to individuals living with mental illness such as family members or professionals and less likely to be strangers. Individuals accused of a sexual offence were almost exclusively male, tended to have a higher rate of previous offences and a higher rate of recidivism. They were also more likely to recidivate violently and have a violent criminal past. Their victims were more likely to be strangers than the two other groups. The rates of absolute discharge were also higher earlier than the two other groups.

Less than 40% of NCRMD individuals accused of a SVO had been previously convicted (35.6%) or had a previous finding of NCRMD (6.1%), most often non-violent offences. There is significant variability in the rates of absolute discharge by type of SVO. Finally, rates of re-offending over a three year follow-up period (10.4%).

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**Appendix 1: Level of convergence between the expert report diagnosis presented at the verdict and the diagnosis from the first and the second hearing reports.**

Diagnosis	Reliability between diagnosis at verdict and at first hearing			Reliability between diagnosis at verdict and at second hearing		
	Kappa	p	Convergence %	Kappa	p	Convergence %
Psychosis	0.74	<0.001	89.5%	0.62	<0.001	85.3%
Mood	0.75	<0.001	90.5%	0.66	<0.001	87.9%
Organic	0.75	<0.001	98.1%	0.66	<0.001	97.4%
Anxiety	0.67	<0.001	98.6%	0.44	<0.001	98.2%
Substance abuse	0.58	<0.001	81.4%	0.45	<0.001	74.7%
Personality	0.51	<0.001	81.3%	0.38	<0.001	75.4%
Others	0.59	<0.001	90.5%	0.46	<0.001	86.7%
None	0.25	<0.001	99.6%	-0.01	0.896	99.2%

*Note.* This table shows that, except for the « None » category, the diagnosis recorded in the report for the verdict is often consistent with the diagnosis given in the following two Review Board hearings. This implies that in cases where there is no diagnosis at the verdict, the diagnosis provided in one of the two following hearings can be used with confidence.

## ***Appendix 2: Classification of offences by severity***

1. Violations Causing Death or attempting to commit a capital crime – includes murder 1, murder 2, manslaughter, infanticide, criminal negligence causing death, other related offences causing death, attempt murder, conspire to commit murder
2. Sexual Assault Level II, III aggravated sexual assault, sexual assault with a weapon
3. Sexual Assault Level I (if the number/sample size is too small it can be merged with category 7)
4. Other sexual assault (includes all others)
5. Assault Level II, III and also unlawfully causing bodily harm (with a weapon, aggravated) includes against a peace officer using bodily harm and other types of assaults
6. Robbery
7. Other crimes against person (e.g., kidnapping, confinement, hostage taking)
8. Assault Level I and assault against a peace officer (if the number/sample size is too small then it can be merged with category 2)
9. Uttering threats, criminal harassment
10. Firearms (related to persons)
11. Other – all other offences not violent or sexual (or can separate generally, drugs vs. administration of justice vs. thefts etc)

**Appendix 3: Distribution of most severe offence at the index verdict for the SVO sample**

<b>Most severe offence at the index verdict</b>	<b>n=165 n (%)</b>
<b>Homicide</b>	<b>58 (35.2%)</b>
First degree murder	15 (9.1%)
Second degree murder	37 (22.4%)
Manslaughter	5 (3%)
Infanticide	1 (0.6%)
<b>Attempted murder</b>	<b>65 (39.4%)</b>
<b>Sexual offences</b>	<b>42 (25.5%)</b>
Sexual assault with a weapon	2 (1.2%)
Sexual assault causing bodily harm	3 (1.8%)
Sexual assault	35 (31.2%)
Sexual interference	1 (0.6%)
Invitation to sexual touching	1 (0.6%)

**Appendix 4: Distribution of past convictions and NCRMD verdicts by type of offence for each type of index SVOs**

	At least one past conviction	At least one past NCRMD verdict
<b>Homicide n= 58</b>	<b>n (%<sup>1</sup>)</b>	<b>n (%<sup>1</sup>)</b>
Violations Causing Death or attempting to commit a capital crime	0	1 (1.7%)
Sexual Assault Level II, III aggravated sexual assault, sexual assault with a weapon	0	0
Sexual Assault Level I	1 (1.7%)	0
Other sexual assault (includes all others)	0	0
Assault Level II, III and also unlawfully causing bodily harm	1 (1.7%)	1 (1.7%)
Robbery	1 (1.7%)	0
Other crimes against person (e.g., kidnapping, confinement, hostage taking)	0	0
Assault Level I and assault against a peace officer	6 (10.3%)	1 (1.7%)
Uttering threats, criminal harassment	8 (13.8%)	0
Firearms (related to persons)	0	0
<b>Total Violent</b>	<b>11 (19%)</b>	<b>3 (5.2%)</b>
Other – all other offences not violent nor sexual	11 (19%)	0
<b>Total</b>	<b>15 (25.9%)</b>	<b>3 (5.2%)</b>

**Distribution of past convictions and NCRMD verdicts by type of offence for each type of index SVOs (cont.)**

	<b>At least one previous conviction</b>	<b>At least one previous NCRMD verdict</b>
	<b>n= (%<sup>2</sup>)</b>	<b>n= (%<sup>2</sup>)</b>
<b>Attempted murder n = 65</b>		
Violations Causing Death or attempting to commit a capital crime	0	1 (1.5%)
Sexual Assault Level II, III aggravated sexual assault, sexual assault with a weapon	0	0
Sexual Assault Level I	1 (1.5%)	0
Other sexual assault (includes all others)	0	0
Assault Level II, III and also unlawfully causing bodily harm	8 (9.2%)	2 (3.1%)
Robbery	2 (3.1%)	0
Other crimes against person (e.g., kidnapping, confinement, hostage taking)	0	0
Assault Level I and assault against a peace officer	9 (7.7%)	1 (1.5%)
Uttering threats, criminal harassment	5 (1.5%)	0
Firearms (related to persons)	0	0
<b>Total Violent</b>	<b>15 (20.0%)</b>	<b>3 (4.6%)</b>
Other – all other non-violent/non-sexual	21 (30.8%)	0
<b>Total</b>	<b>24 (35.4%)</b>	<b>3 (4.67%)</b>
<b>Sexual offence n=42</b>	<b>n (%<sup>3</sup>)</b>	<b>n (%<sup>3</sup>)</b>
Violations Causing Death or attempting to commit a capital crime	0	0
Sexual Assault Level II, III aggravated sexual assault, sexual assault with a weapon	0	0
Sexual Assault Level I	2 (4.8%)	1 (2.4%)
Other sexual assault (includes all others)	1 (2.4%)	0
Assault Level II, III and also unlawfully causing bodily harm	6 (14.3%)	1 (2.4%)
Robbery	3 (7.1%)	
Other crimes against person (e.g., kidnapping, confinement, hostage taking)	2 (4.8%)	1 (2.4%)
Assault Level I and assault against a peace officer	7 (16.7%)	1 (2.4%)
Uttering threats, criminal harassment	8 (19%)	0
Firearms (related to persons)	1 (2.4%)	0
<b>Total Violent</b>	<b>17 (40.5%)</b>	<b>4 (9.5%)</b>
Other – all other offences not violent nor sexual	15 (35.7%)	0
<b>Total</b>	<b>20 (47.6%)</b>	<b>4 (9.5%)</b>

<sup>1</sup> Percents calculated on n=58 (accused of homicide as index NCRMD)

<sup>2</sup> Percents calculated on n=65 (accused of attempted murder as index NCRMD)

<sup>3</sup> Percents calculated on n=42 (accused of sexual offence as index NCRMD)

**Appendix 5: Distribution of past charges by type of offence for past offenders only by type of index SVO**

	1 past offence n	2 past offences n	3 past offences n	4 or more past offences n
<b>Homicide</b>				
Violations Causing Death or attempting to commit a capital crime	0	0	0	0
Sexual Assault Level II, III aggravated sexual assault, sexual assault with a weapon	0	0	0	0
Sexual Assault Level I	1	0	0	0
Other sexual assault (includes all others)	0	0	0	0
Assault Level II, III and also unlawfully causing bodily harm	1	0	0	0
Robbery	0	1	0	0
Other crimes against person (e.g., kidnapping, confinement, hostage taking)	0	0	0	0
Assault Level I and assault against a peace officer	5	0	1	0
Uttering threats, criminal harassment	5	2	0	1
Firearms (related to persons)	0	0	0	0
<b>Any type of Violent</b>	<b>5</b>	<b>4</b>	<b>1</b>	<b>1</b>
Other – all other offences not violent nor sexual	4	2	2	2
<b>Any type of offence</b>	<b>4</b>	<b>6</b>	<b>1</b>	<b>4</b>
<b>Attempted murder</b>				
Violations Causing Death or attempting to commit a capital crime	0	0	0	0
Sexual Assault Level II, III aggravated sexual assault, sexual assault with a weapon	0	0	0	0
Sexual Assault Level I	1	0	0	0
Other sexual assault (includes all others)	0	0	0	0
Assault Level II, III and also unlawfully causing bodily harm	7	0	1	0
Robbery	2	0	0	0
Other crimes against person (e.g., kidnapping, confinement, hostage taking)	0	0	0	0
Assault Level I and assault against a peace officer	5	2	2	0
Uttering threats, criminal harassment	3	0	1	1
Firearms (related to persons)	0	0	0	0
<b>Any type of Violent</b>	<b>7</b>	<b>4</b>	<b>0</b>	<b>4</b>
Other – all other offences not violent nor sexual	9	4	1	7
<b>Any type of offence</b>	<b>7</b>	<b>5</b>	<b>2</b>	<b>10</b>

**Distribution of past charges by type of offence for past offenders only by type of index SVOs (cont.)**

	1 past offence n	2 past offences n	3 past offences n	4 or more past offences n
<b>Sexual offence</b>				
Violations Causing Death or attempting to commit a capital crime	0	0	0	0
Sexual Assault Level II, III aggravated sexual assault, sexual assault with a weapon	0	0	0	0
Sexual Assault Level I	1	1	0	1
Other sexual assault (includes all others)	1	0	0	0
Assault Level II, III and also unlawfully causing bodily harm	4	1	1	0
Robbery	3	0	0	0
Other crimes against person (e.g., kidnapping, confinement, hostage taking)	2	0	0	0
Assault Level I and assault against a peace officer	4	1	1	1
Uttering threats, criminal harassment	5	2	0	1
Firearms (related to persons)	1	0	0	0
<b>Any type of Violent</b>	<b>6</b>	<b>3</b>	<b>5</b>	<b>3</b>
Other – all other offences not violent nor sexual	8	3	3	1
<b>Any type of offence</b>	<b>3</b>	<b>4</b>	<b>4</b>	<b>9</b>

**Distribution of past charges by type of offence for past offenders only by type of index SVOs (complement).**

	1 past offence	2 past offences	3 past offences	4 or more past offences
<b>Homicide n=58</b>	<b>n (%<sup>1</sup>)</b>	<b>n (%<sup>1</sup>)</b>	<b>n (%<sup>1</sup>)</b>	<b>n (%<sup>1</sup>)</b>
Any type of Violent	5 (8.6%)	4 (6.9%)	1 (1.7%)	1 (1.7%)
Other – all other offences not violent nor sexual	4 (6.9%)	2 (3.4%)	2 (3.4%)	2 (3.4%)
<b>Any type of offence</b>	<b>4 (6.9%)</b>	<b>6 (10.3%)</b>	<b>1 (1.7%)</b>	<b>4 (6.9%)</b>
<b>Attempted murder n=65</b>	<b>n (%<sup>2</sup>)</b>	<b>n (%<sup>2</sup>)</b>	<b>n (%<sup>2</sup>)</b>	<b>n (%<sup>2</sup>)</b>
Any type of Violent	7 (10.8%)	4(6.2%)	0	4 (6.2%)
Other – all other offences not violent nor sexual	9 (13.8%)	4 (6.2%)	1 (1.5%)	7 (10.8%)
<b>Any type of offence</b>	<b>7 (10.8%)</b>	<b>5 (7.7%)</b>	<b>4 (3.1%)</b>	<b>10 (15.4%)</b>
<b>Sexual offence n=42</b>	<b>n (%<sup>3</sup>)</b>	<b>n (%<sup>3</sup>)</b>	<b>n (%<sup>3</sup>)</b>	<b>n (%<sup>3</sup>)</b>
Any type of Violent	6 (14.3%)	3 (7.1%)	5 (11.9%)	3 (7.1%)
Other – all other offences not violent nor sexual	8 (19%)	3 (7.1%)	3 (7.1%)	1 (2.4%)
<b>Any type of offence</b>	<b>3 (7.1%)</b>	<b>4 (9.5%)</b>	<b>4 (9.5%)</b>	<b>9 (21.4%)</b>

<sup>1</sup> Percents calculated on n=58 (accused of homicide as index NCRMD)

<sup>2</sup> Percents calculated on n=65 (accused of attempted murder as index NCRMD)

<sup>3</sup> Percents calculated on n=42 (accused of sexual offence as index NCRMD)

## Appendix 6: Details about deferred cases by province

### NCRMD disposition at verdict and at first hearing by province

Decision at verdict or first hearing	Québec n = 70 n (%)	Ontario n = 73 n (%)	British- Columbia n = 22 n (%)	Total n = 165 n (%)
<b>n</b>	<b>70</b>	<b>73</b>	<b>22</b>	<b>165</b>
<b>Detention - custody</b>	53 (75.7%)	5 (6.8%)	0	58 (35.2%)
<b>Conditional release</b>	13 (18.6%)	0	2 (9.1%)	15 (9.1%)
<b>Deferred to the Review Board</b>	4 (5.7%)	68 (93.2%)	20 (90.9%)	92 (55.8%)
<b>Detained at first Review Board hearing</b>	55 (78.6%)	64 (87.7%)	17 (77.3%)	136 (82.4%)

### Average duration between Index verdict and the first hearing by province (in days)

	Québec			Ontario			British-Columbia			Total		
	n	M	SD	n	M	SD	n	M	SD	n	M	SD
<b>Decision deferred</b>	4	55	35.2	68	49.47	36.4	20	34.1	11.8	92	46.4	33
<b>Decision not deferred</b>	66	60.5	55	5	75.2	20.6	2	75	15.6	73	61.9	52.7
<b>Total</b>	70	60.2	53.9	73	51.2	36	22	37.8	16.8	165	53.2	43.4

For deferred decisions: In BC there were no cases beyond 45 days, in Ontario 19 cases beyond 45 days (27.9%), and in Québec 2 cases beyond 45 days (50.0%)

For decisions made by the courts : In BC no cases beyond 90 days, in Ontario 1 case beyond 90 days (20%) and in Québec 3 cases beyond 90 days (4.5%).

**Appendix 7: Rates of violent and non-violent recidivism (conviction or NCRMD) three-years post absolute discharge by type of index SVO.**

Index offence and nature of recidivism	Elapsed time since absolute discharge		
	1 year	2 years	3 years
<b>Homicide</b>	<b>n=17<sup>1</sup></b>	<b>n=16<sup>1</sup></b>	<b>n=12<sup>1</sup></b>
Violent	0	0	1 (8.3%)
Non-violent	0	0	0
Violent and/or Non-violent	0	0	1 (8.3%)
<b>Attempted murder</b>	<b>n=28<sup>2</sup></b>	<b>n=24<sup>2</sup></b>	<b>n=21<sup>2</sup></b>
Violent	1 (3.6%)	1 (4.2%)	1 (4.8%)
Non-violent	0	0	1 (4.8%)
Violent and/or Non-violent	1 (3.6%)	1 (4.2%)	2 (9.5%)
<b>Sexual offence</b>	<b>n=24<sup>3</sup></b>	<b>n=21<sup>3</sup></b>	<b>n=16<sup>3</sup></b>
Violent	0	0	0
Non-violent	1 (4.2%)	1 (4.8%)	1 (6.3%)
Violent and/or Non-violent	1 (4.2%)	1 (4.8%)	1 (6.3%)
<b>All SVOs</b>	<b>n=69<sup>4</sup></b>	<b>n=61<sup>4</sup></b>	<b>n=49<sup>4</sup></b>
Violent	1 (1.4%)	1 (4.9%)	2 (4.1%)
Non-violent	1 (1.4%)	1 (1.6%)	2 (4.1%)
Violent and/or Non-violent	2 (2.9%)	2 (6.6%)	4 (8.2%)

<sup>1</sup> Percent calculated on available sample of accused of homicide as index NCRMD for each period

<sup>2</sup> Percent calculated on available sample of accused of attempted murder as index NCRMD for each period

<sup>3</sup> Percent calculated on available sample of accused of sexual offence as index NCRMD for each period

<sup>4</sup> Percent calculated on all available sample for each period

**Appendix 8: Rates of violent and non-violent recidivism (conviction or NCRMD verdict) in a 3 year period post-index verdict, by type of index SVO.**

Index offence and nature of recidivism	Elapsed time since index verdict (under Review Board)		
	1 year	2 years	3 years
<b>Homicide</b>	<b>n=58<sup>2</sup></b>	<b>n=58<sup>2</sup></b>	<b>n=58<sup>2</sup></b>
Violent <sup>1</sup>	3 (3.6%)	4 (6.9%)	4 (6.9%)
Non-violent	0	0	1 (1.7%)
Violent and/or Non-violent	3 (5.2%)	4 (6.9%)	4 (6.9%)
<b>Attempted murder</b>	<b>n=64<sup>3</sup></b>	<b>n=64<sup>3</sup></b>	<b>n=64<sup>3</sup></b>
Violent	1 (1.6%)	3 (4.7%)	5 (7.8%)
Non-violent	2 (3.1%)	3 (4.7%)	3 (4.7%)
Violent and/or Non-violent	3 (4.7%)	5 (7.8%)	7 (10.9%)
<b>Sexual offence</b>	<b>n=42<sup>4</sup></b>	<b>n=42<sup>4</sup></b>	<b>n=42<sup>4</sup></b>
Violent	2 (4.8%)	3 (7.1%)	3 (7.1%)
Non-violent	1 (2.4%)	2 (4.8%)	3 (7.1%)
Violent and/or Non-violent	3 (7.1%)	5 (11.9%)	6 (14.3%)
<b>All SVOs</b>	<b>n=164<sup>5</sup></b>	<b>n=164<sup>5</sup></b>	<b>N=164<sup>5</sup></b>
Violent	6 (3.7%)	10 (6.1%)	12 (7.3%)
Non-violent	3 (1.8%)	5 (3%)	7 (4.3%)
Violent and/or Non-violent	9 (5.5%)	14 (8.5%)	17 (10.4%)

<sup>1</sup>Violent and non-violent offences were defined according to classification in Appendix 2.

<sup>2</sup> Percent calculated on n=58 (accused of homicide as index NCRMD)

<sup>3</sup>Percent calculated on n=64 (accused of attempted murder as index NCRMD)

<sup>4</sup> Percent calculated on n=42 (accused of sexual offence as index NCRMD)

<sup>5</sup> Percent calculated on total sample

**Appendix 9: Distribution of recidivism by type of offence and type of index SVO**

	1 new offence	2 new offences	3 new offences	4 or more new offences
<b>Index offence and nature of recidivism</b>	<b>n</b>	<b>n</b>	<b>n</b>	<b>n</b>
<b>Homicide</b>				
Violations Causing Death or attempting to commit a capital crime	1	0	0	0
Sexual Assault Level II, III aggravated sexual assault, sexual assault with a weapon	0	0	0	0
Sexual Assault Level I	0	0	0	0
Other sexual assault (includes all others)	0	0	0	0
Assault Level II, III and also unlawfully causing bodily harm	1	0	0	0
Robbery	0	0	0	0
Other crimes against person (e.g., kidnapping, confinement, hostage taking)	0	0	0	0
Assault Level I and assault against a peace officer	0	0	0	1
Uttering threats, criminal harassment	4	0	0	0
Firearms (related to persons)	0	0	0	0
<b>Any type of Violent</b>	<b>5</b>	<b>0</b>	<b>0</b>	<b>1</b>
Other – all other offences not violent nor sexual	2	1	0	0
<b>Any type of offence</b>	<b>5</b>	<b>1</b>	<b>0</b>	<b>1</b>
<b>Attempted murder</b>				
Violations Causing Death or attempting to commit a capital crime	3	0	0	0
Sexual Assault Level II, III aggravated sexual assault, sexual assault with a weapon	0	0	0	0
Sexual Assault Level I	0	0	0	0
Other sexual assault (includes all others)	0	0	0	0
Assault Level II, III and also unlawfully causing bodily harm	3	1	0	0
Robbery	1	0	0	0
Other crimes against person (e.g., kidnapping, confinement, hostage taking)	1	0	0	0
Assault Level I and assault against a peace officer	2	1	0	0
Uttering threats, criminal harassment	1	0	0	0
Firearms (related to persons)	0	0	0	0
<b>Any type of Violent</b>	<b>6</b>	<b>3</b>	<b>1</b>	<b>0</b>
Other – all other offences not violent nor sexual	1	3	0	0
<b>Any type of offence</b>	<b>7</b>	<b>4</b>	<b>1</b>	<b>1</b>

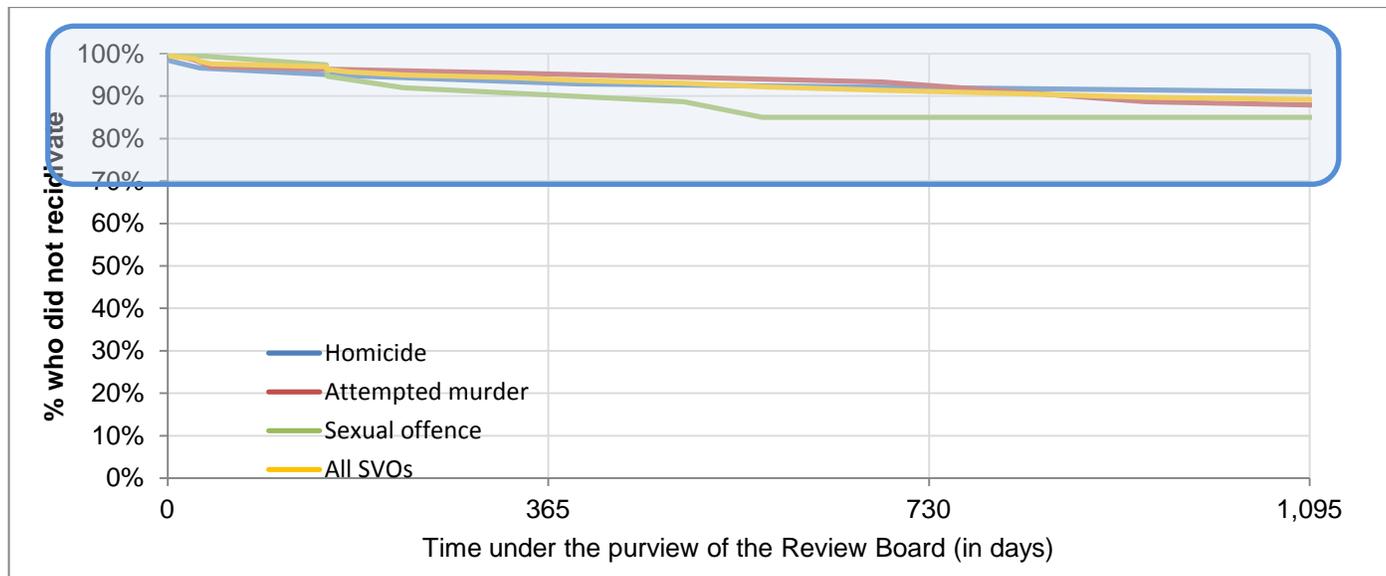
### Distribution of recidivism by type of offence and type of index SVO (cont.)

	1 new offence	2 new offences	3 new offences	4 or more new offences
Index offence and nature of recidivism	n	n	n	n
<b>Sexual offence</b>				
Violations Causing Death or attempting to commit a capital crime	0	0	0	0
Sexual Assault Level II, III aggravated sexual assault, sexual assault with a weapon	0	0	0	0
Sexual Assault Level I	1	0	0	0
Other sexual assault (includes all others)	0	0	0	0
Assault Level II, III and also unlawfully causing bodily harm	2	0	0	0
Robbery	0	0	0	0
Other crimes against person (e.g., kidnapping, confinement, hostage taking)	1	0	0	0
Assault Level I and assault against a peace officer	2	0	0	0
Uttering threats, criminal harassment	1	1	0	0
Firearms (related to persons)	0	0	0	0
<b>Any type of Violent</b>	<b>6</b>	<b>0</b>	<b>1</b>	<b>0</b>
Other – all other offences not violent nor sexual	3	1	0	0
<b>Any type of offence</b>	<b>6</b>	<b>2</b>	<b>0</b>	<b>1</b>

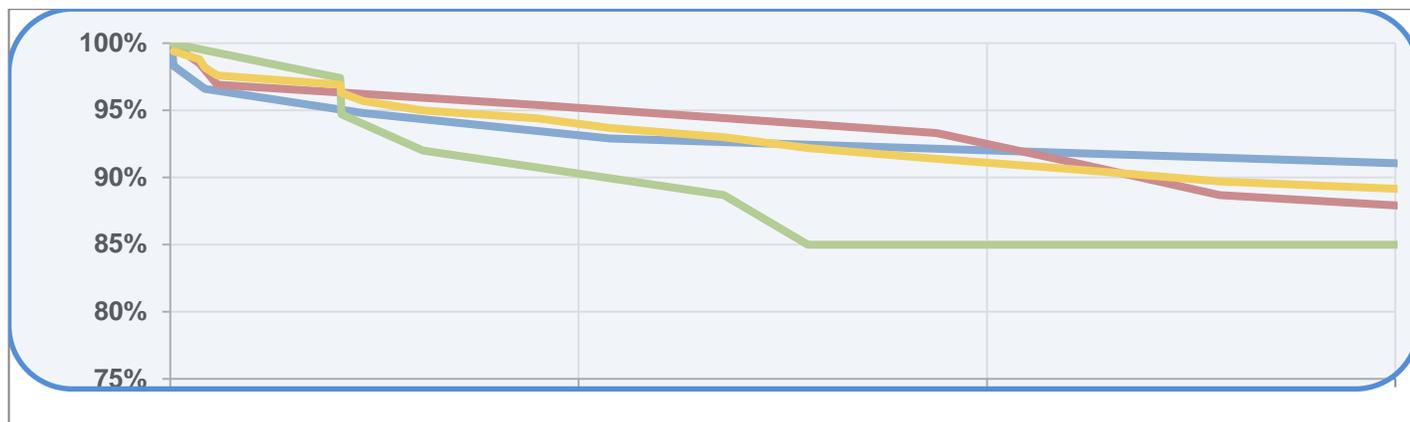
## Appendix 10: Survival Curves for Recidivism

We present the survival curves three year post-verdict for cases still under the Review Board , for three years post-absolute discharge as well as for the total SVO sample collapsed, i.e. under Review Board and absolute discharge Survival curves start at 100%, meaning that 100% of individuals survive without a new offence at the start of the follow-up. Curves then move downward as some individuals reoffend over time.

### Recidivism survival curve (any offence) while under the Review Board

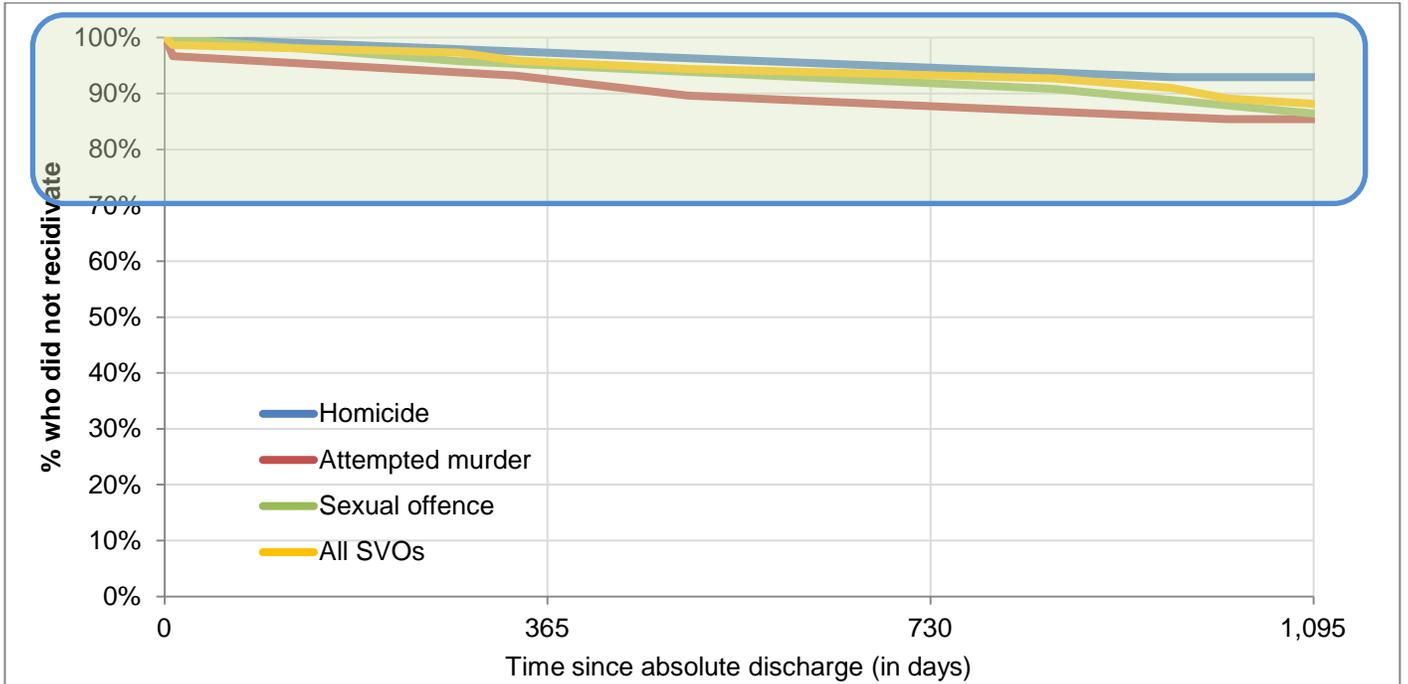


### Zoomed recidivism survival curve (any offence) while under the Review Board



## Survival Curves for Recidivism (cont.)

### Recidivism survival curve (any offence) following absolute discharge

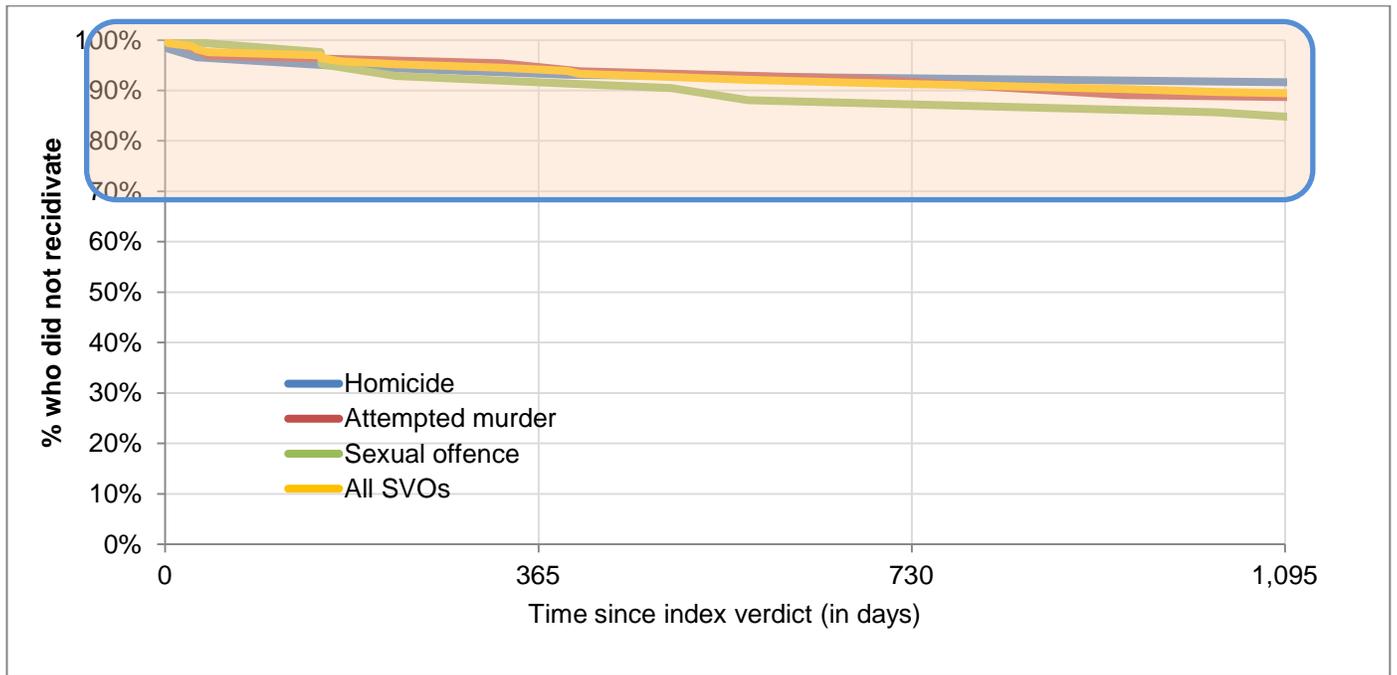


### Zoomed recidivism survival curve (any offence) following absolute discharge



## Survival Curves for Recidivism (cont.)

### Total recidivism survival curve (any offence)



### Zoomed total recidivism survival curve (any offence)

