



M A Y 2 0 0 3

# Child Sexual Assault

## Tracking from police incident report to finalisation in court<sup>1</sup>

JOY WUNDERSITZ

### Introduction

This paper outlines some preliminary findings from a detailed study of child sexual offence victims currently being undertaken by the Office of Crime Statistics and Research as part of a broader study into child victimizations.

The study was motivated by anecdotal evidence that a high proportion of child sexual offence victimisations which are reported to police never progress through to successful prosecution in court. To verify this, the Office sought to track the same set of sexual offence incidents from their initial point of entry into the criminal justice system, through to the apprehension of an alleged suspect, to prosecution in court, through to final court outcome and penalty, in an attempt to identify:

- how many proceed to finalisation;
- how many 'drop out' at key points along the criminal justice pathway; and
- how the 'drop out' rate varies depending on such factors as the age of the victim and the relationship between the victim and offender.

<sup>1</sup> Paper presented at conference, 'Evaluation in Crime and Justice: Trends and Methods', The Australian Institute of Criminology with the Australian Bureau of Statistics, Canberra, 24-25 March 2003.

## Police incident reports involving child victims of sexual offences: some background details

The starting point for this study was all incident reports lodged by police during the financial year, July 2000 to June 2001, that involved a sexual offence and where the victim was aged less than 18 years at the time when the offence was committed as well as when the offence was actually reported to police. Those who were victimised as children but who did not report the offence to police until they became adults have not been included.

In the period, 1<sup>st</sup> July 2000 to 30<sup>th</sup> June 2001, police lodged 952 incident reports where the victim was less than 18 years of age at both the time of the offence and the time of the police report, and where the offences on that incident report all involved a sexual offence<sup>1</sup>.

Of the 952 child sexual offence victimisations, the overwhelming majority (80%) involved a female victim. This held true across each type of sexual offence, with females accounting for about 80% of those incident reports involving rapes, USIs and indecent assaults.

Almost half of the child sexual offence victims were aged 14 and over (45.1%). However, there were 84 aged less than five and 295 aged less than 10.

The majority of these child sexual offence victimisations were committed by someone who was either directly related to, or was acquainted with the victim. In over one third of incidents (38.8%), the alleged perpetrator was identified as a family member (either intimate or non-intimate), with a parent or guardian accounting for a high proportion of these. In almost one half of the incidents (46.3%) the alleged offender was known to the victim but was not a family member. Only 14.9% were allegedly committed by strangers.

## Tracking the incident report through the criminal justice system

This section details the key results from tracking the 952 sexual offence incidents involving a child victim recorded by police during the 2000/01 financial year through four key stages of criminal justice processing: ie

- Stage 1: From police incident report to clearance, and in particular, clearance by way of the apprehension of a suspect;
- Stage 2: From apprehension report to next destination (court, family conference, caution or withdrawal);
- Stage 3: For those cases which proceeded to court, from initiation in court to court outcome status (ie guilty/not guilty/withdrawn); and

Stage 4: For those cases with at least one finding of guilt, the type of penalty imposed.

In the first part of the ensuing discussion, each of these four stages are treated as discrete entities, with the level of 'drop out' identified separately within each level. For example, at Stage 2, all police apprehension reports involving sexual offences against children are taken as the 100% baseline for calculating the proportion that did not proceed to the next destination. Similarly, at Stage 4, the starting point is all court cases where there was a finding of guilt.

<sup>1</sup> There were an additional 47 incident reports which involved a sexual offence combined with another type of offence, such as a major or minor assault. These have not been considered here.

However, in addition to analysing each of these stages separately, the aim is to track across the system as a whole: ie to take the 952 incidents as the 100% base line and determine what proportion of these ultimately lead to a court penalty. The results are presented in Stage 5 below.

### Stage 1 From incident report to clearance status

Table 1 details the clearance status, as at 30 June 2002, of those incident reports lodged by police in 2000/01 which involved a child victim of a sexual offence. For all of these incident reports, police had a minimum of twelve months and a maximum of two years in which to clear them. Hence, some of those listed as uncleared may be cleared in the future<sup>2</sup>.

As shown, of the 952 incident reports lodged, six in ten (59.8%) had been cleared by 30 June 2002. Conversely, 40% had not been cleared and so had not progressed further into the criminal justice system.

The primary method of clearance was via the apprehension of a suspect. However, this accounted for only just over one third of these incident reports. A further 16.6% were cleared as a result of the victim requesting no further action.

Table 1 Clearance status for Police Incident Reports for sexual offences		
Method of clearance	Sexual offences	
	No	%
Apprehension	346	36.3
Unfounded	46	4.8
Caution	9	0.9
Victim requests no further action	158	16.6
Cleared - other	10	1.1
<b>Total cleared</b>	<b>569</b>	<b>59.8</b>
<b>Total not cleared</b>	<b>383</b>	<b>40.2</b>
<b>Total</b>	<b>952</b>	<b>100.0</b>

There seemed to be some association between clearance status and the relationship between the victim and offender.

As shown in Table 2, the highest clearance levels were recorded for those child sexual offence incidents where the alleged perpetrator was an intimate family member. However, within this category, a high proportion were cleared because the victim requested that no further action be taken. In contrast, the lowest clearance levels were recorded for stranger-perpetrated incidents and this category also had the lowest proportion cleared by way of the apprehension of a suspect. The highest proportion cleared via apprehension was those involving a person known but not related to the victim.

<sup>2</sup> However, statistical evidence (see, for example, *Crime and Justice in South Australia, 2001, Volume 1: p.45*) indicates that very few offences are cleared once a twelve month period has elapsed.

Table 2 Clearance status by victim/offender relationship

Clearance status	Family - intimate %	Family - non %	Not family but known %	Stranger %
Apprehension	38.3	35.2	42.0	29.3
Unfounded	8.5	8.1	3.4	2.3
Caution	0	1.0	1.5	0.0
Victim requests no further action	31.9	15.4	17.7	9.0
Other	2.1	1.0	1.5	0.0
<b>Total cleared</b>	<b>80.9</b>	<b>60.7</b>	<b>66.0</b>	<b>40.6</b>
<b>Total not cleared</b>	<b>19.1</b>	<b>39.3</b>	<b>34.0</b>	<b>59.4</b>
<b>Total</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>
	n=47	n=298	n=412	n=133

*There were 62 sexual offence incidents where the victim/offender relationship was unknown*

## Stage 2 From apprehension report to incident\*apprehension destination

As noted above, 346 sexual offence incident reports were cleared by way of an apprehension during the period under investigation. However, this does not translate into an equivalent number of suspects being apprehended. In some situations, several incidents were cleared by the apprehension of the one person. In other situations, the same incident led to the apprehension of more than one suspect. And in yet other circumstances, multiple incidents were cleared by the apprehension of the same group of suspects.

In order to deal with these one-to-many and many-to-many relationships when tracking further into the system, it was decided to count each incident report each time it appeared on an apprehension report. The term adopted for this counting unit was the incident\*apprehension.<sup>3</sup>

This approach means that, in some situations, the same apprehension report is counted several times, while in other situations, where there are multiple perpetrators involved, the same incident may have more than one outcome.

According to this counting unit, while we began with 346 incident reports, we ended up tracking 356 incident\*apprehensions involving a child sexual offence incident into the next stage of the criminal justice system.

### *The results*

As shown in Table 3, just over two thirds of incident\*apprehensions resulting from a child sexual offence incident led to a prosecution in either an adult or youth court. A further 6.4%

<sup>3</sup> For further explanation, see Wundersitz, 2003 *Tracking from Incident Report to Finalisation in Court: some methodological issues*. Paper presented at joint AIC/ABS conference 'Evaluation in Crime and Justice: Trends and Methods', Canberra March 2003

were diverted to either a police caution or family conference<sup>4</sup>. For just over one quarter, the matter was either withdrawn or no corresponding court file could be found. While the inability to locate a court file may have been due to data problems in linking apprehension report numbers with a subsequent court file, a more probable explanation is that the matter simply did not proceed to court. The relatively high number of sexual offence incident\*apprehensions for which a subsequent court file could not be found accords with anecdotal evidence that many are dropped at the adjudication stage.

Table 3 Destination of incident\*apprehension arising from a child sex offence incident

Destination of incident*apprehension	Sexual offences	
	No	%
<b>No court/diversion file found</b>	<b>88</b>	<b>24.7</b>
<b>Progress to juvenile jurisdiction</b>		
Withdrawn	6	1.7
Police Caution	8	2.2
Family Conference	15	4.2
Youth Court	39	11.0
<b>Total Juvenile</b>	<b>68</b>	<b>19.1</b>
Adult Court	200	56.2
<b>Total</b>	<b>356</b>	<b>100.0</b>

### Stage 3 Tracking to court outcome for those incident\*apprehensions which were prosecuted in court

In tracking from apprehension report to court, a number of complexities were encountered. The main problem which, at present, is inherent in any exercise that involves linking apprehensions and court data in South Australia, is the fact that specific offences on the court files cannot be linked with specific offences on the apprehension report. In those situations where our ‘selected’ apprehension report contained only offences derived from our ‘selected’ incidents, this does not pose a problem. However, in those situations where our ‘selected’ apprehension report contained charges arising from more than one incident (eg a ‘selected’ incident and an extraneous incident), it was not always possible to determine whether subsequent findings of guilt related specifically to our ‘selected’ incident or not. The best we could do in those circumstances was to record that there was a guilty outcome for offences on our ‘selected’ apprehension report, but not necessarily for offences relating specifically to one of our child victimization incidents.

Overall, we were able to categorise the apprehension reports containing a child sexual offence incident into:

- those which resulted in at least one guilty outcome for offences which could be directly linked to our child sexual offence victimization; and

<sup>4</sup> These options are only available for juvenile offenders who admit the allegations

- those which resulted in at least one guilty outcome, but where the offence(s) found guilty may have been for other offences on our AP rather than for a child victimization incident.

In addition, we were able to determine how many defendants were not found guilty of any offences relating to our apprehension reports but who were found guilty of offences stemming from other incidents which were added to the case as it proceeded through court. This meant that we could tell which defendants at least left court with some penalty, even though it was the result of another criminal event. This may be small comfort to the young victim of a personal crime but at least it means that the offender did not exit the system without some punishment, albeit for another, unrelated crime.

Finally, for those apprehension reports where none of the charges had resulted in a finding of guilt, we were able to determine which still had unfinalised charges that could potentially lead to a guilty outcome at some point in the future.

### *Tracking to guilty status in the Youth Court*

Only 39 incident\*apprehensions stemming from a child sexual offence victimisation were tracked through to the Youth Court. Given the small numbers involved, care must be taken in interpreting and using the following results.

Of these 39, only one quarter were part of a court case which resulted in at least one finding of guilt, although most of these (23.1% of the total) unequivocally involved offences stemming directly from one of our 'selected' child victimizations. For almost three quarters of the incident\*apprehensions (74.4%), no findings of guilt had yet been recorded. Only a small number of these (9 of the 39) still had unfinalised charges which could potentially result in a guilty outcome. In contrast, in just over one half (51.3%) there were no guilty outcomes even though all matters had been finalized. Hence, this group of child sexual offence defendants exited the system without being found guilty of any of the charges arising from either the child victimization or any extraneous charges from other, unrelated incidents.

Table 4 Guilty status for incident*apprehensions arising from sexual offence incident reports, Youth court		
Guilty status	Sexual offences	
	No	%
<b>At least one guilty outcome</b>		
For our incident (with or without guilty outcome for other charges)	9	23.1
For our AP but not necessarily our incident (with or without guilty outcomes for other charges)	1	2.6
No guilty outcomes for our AP but guilty outcome for other charges	0	0
<b>Total found guilty of at least one offence</b>	<b>10</b>	<b>25.6</b>
<b>No findings of guilt</b>		
All charges finalised	20	51.3
Some/all unfinalised	9	23.1
<b>Total with no findings of guilt</b>	<b>29</b>	<b>74.4</b>
<b>Total</b>	<b>39</b>	<b>100.0</b>

*Tracking to guilty status in the adult court*

Of the 200 incident\*apprehensions involving a child sexual offence which resulted in the matter being dealt with by an adult court, less than one half (43.0%) had at least one guilty finding, with 32.5% indisputably linked back to one of our ‘selected’ child victimisation incidents. Conversely, over half (57.0%) had no findings of guilt, although 22.5% still had unfinalised matters which could potentially result in such an outcome. In total, then, if all sexual offence incident\*apprehensions with a guilty outcome are combined with those that could potentially still result in a finding of guilt, then in 65.5% of these situations there was still the possibility that the defendant could leave court with at least one offence proved.

Table 5 Guilty status for incident*apprehensions stemming from a child sexual offence incident, adult court		
Guilty status	Sexual offences	
	No	%
<b>At least one guilty outcome</b>		
For our incident (with or without guilty outcome for other charges)	65	32.5
For our AP but not necessarily our incident (with or without guilty outcomes for other charges)	19	9.5
No conviction our AP but guilty for other charges	2	1.0
<b>Total found guilty of at least one offence</b>	<b>86</b>	<b>43.0</b>
<b>No findings of guilt</b>		
All charges finalised	69	34.5
Some/all unfinalised	45	22.5
<b>Total with no finding of guilt</b>	<b>114</b>	<b>57.0</b>
<b>Total</b>	<b>200</b>	<b>100.0</b>

**Stage 4 Court penalties imposed for cases containing incident\*apprehensions associated with a child victimisation where at least one charge was proved**

There were only 10 incident\*apprehensions involving a child sexual offence finalised in the Youth Court which resulted in at least one finding of guilt. Of these, four received a suspended sentence and four an obligation. Two of the ten received no penalty. Because of the small numbers involved, no further analysis is undertaken here.

In the case of adult defendants, of the 86 incident\*apprehensions linked to a child sexual offence incident report where at least one finding of guilty was recorded in the court cases in which they were listed, suspended imprisonment was the penalty imposed for almost 40%, followed by direct imprisonment. At the other end of the scale, 15.1% received no penalty, despite a finding of guilt to at least one charge.

Table 6 Penalties imposed in these cases containing our ‘selected’ incident\* apprehensions where there was at least one finding of guilt

Penalty**	Sexual offences	
	No	%
Imprisonment	21	24.4
Suspended imprisonment	34	39.5
Community Service Order	0	0
Good behaviour bond	12	14.0
Drivers licence suspension	0	0
Fine	5	5.8
Other order***	1	1.2
No penalty	13	15.1
<b>Total</b>	<b>86</b>	<b>100.0</b>

\*\*\* Includes restraining order, estreatment of bond

### Section 5 Tracking from incident to court outcome and penalty – an overview across the whole criminal justice system

In this final section, the information presented in the previous four parts are combined into a composite picture of the ‘flow’ of child sexual offence victimisation incidents from the point of recording by police through to finalisation in court. The aim is to:

- provide some indication of the number of incidents which ultimately result in the ‘punishment’ of a perpetrator, expressed as a percentage of the total number of incidents entering the system at the beginning; and
- identify the key points at which matters ‘drop out’ of the system.

If the imposition of a penalty is taken as the final or end point of the system, then of the 952 incidents involving child sexual offence victimisations recorded by police during the 2000/01 financial year, by 30 June 2002 an estimated 10.6% had moved from initial report through to some form of sanctioning (whether a police caution, family conference, or court penalty). A further 5.5% were linked to court cases that still had unfinalised matters at the time the study was completed and so could potentially still receive a penalty. This gives a total of 16.1% that reached the end point of processing while conversely, 83.9% had ‘dropped out’ along the way.

However, several points need to be stressed.

- First, the 16.1% includes some cases where the guilty outcome or penalty may not have been applied specifically to our ‘selected’ incident but to another incident committed by that same person and which became ‘attached’ to our incident during its progress through the system.
- Second, it is possible that at least some of the unfinalised incidents (5.5% of the total) would not result in a guilty outcome or the imposition of a penalty.

From this perspective, the figure of 16.1% represents the upper estimate.

However, as a counter to this, it could be argued that:

- Some incidents currently listed as uncleared by police could, in subsequent months and years, be ‘solved’ by the apprehension of a suspect and so progress further into the system, and
- Some incidents for which a corresponding court or diversion file could not be found (9.5%) may still be undergoing assessment and processing by prosecutions and so may not yet have had an initial court appearance; ie the matter may have been referred to prosecutions but a complaint or information may not yet have been filed.

Overall, though, it is probable that all of these factors would impact only marginally on the final figures.

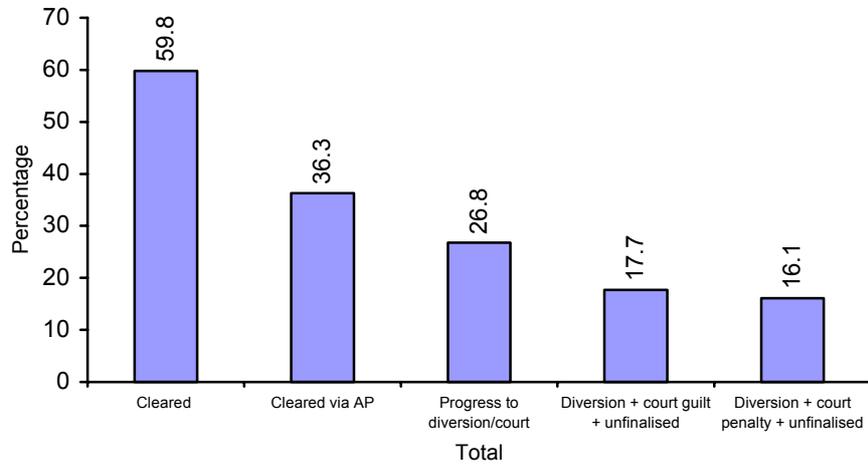
### *Key drop out points*

- Stage 1: As indicated in Table 7, the key drop out points occurred early in the system. In particular, 40.2% of child sexual offence incidents were listed as uncleared. A further 23.4% were cleared but not through the apprehension of an alleged suspect. The majority in this latter category were dropped because the victim requested no further action.
- Stage 2 At the next level of the process, following the apprehension of a suspect, 9.5% did not proceed to court or juvenile diversion. This means that just over one quarter (26.8%) progressed through Stage 2. This comprised 2.3% that were diverted to a formal caution or a family conference, 4.0% that went to the Youth Court and 20.5% that were part of a prosecution in the adult court.
- Stage 3 At Stage 3 – ie determination of outcomes in the youth or adult court – at the time of analysis 9.9% were linked to a court case where there had been a finding of guilt to at least one offence (1.1% in the Youth Court and 8.8% in the adult court) and so progressed on to Stage 4 – ie the court sentencing process. In addition, 5.5% were associated with a case that still had some unfinalised matters (0.9% in the Youth Court and 4.6% in the adult court), which could subsequently result in a guilty outcome and so progress to sentencing. In contrast, 9.0% were part of a court cases which did not return a guilty finding, even though all offences associated with that case had been finalised. This group exited the system at this point.
- Stage 4 Of those incidents which were part of a court case involving at least one guilty outcome, most received some form of penalty although a very small proportion (1.6% of all incidents) were in a case that had no penalty imposed, even though there had been a finding of guilt. Very few (none in the Youth Court and 2.1% in the adult court) had an outcome of detention/imprisonment.

Table 7 Percentages flowing through to finalisation: total child sex victimisation incidents		
Estimates at each point in system	% proceeding	% exiting at this point
<b>Total number of incidents</b>	<b>100.0</b>	
	<b>n=952</b>	
<b>Stage 1 Starting point = 100%</b>		
▪ % cleared	59.8	
▪ % not cleared		40.2
▪ % cleared by the apprehension of a suspect	36.3	
▪ % cleared by other means		23.4
<b>Stage 2 Starting point = 36.3%</b>		
▪ % diverted to caution/family conference	2.3	
▪ % sent to Court		
- Youth Court	4.0	
- Adult Court	20.5	
% withdrawn, not proceeded further		9.5
<b>Stage 3 Starting point = 24.5%</b>		
▪ % found guilty of at least one offence (ours or 'extraneous'):		
- Youth Court	1.1	
- Adult Court	8.8	
▪ % with no findings of guilt but some matters still unfinalised		
- Youth Court	0.9	
- Adult Court	4.6	
% with no finding of guilt and all matters finalised		
- Youth Court		2.0
- Adult Court		7.0
<b>Stage 4 Starting point = 9.9%</b>		
▪ Penalties imposed on juveniles		
% sentenced to detention	0	
% given other penalty	0.9	
% receiving no penalty		0.2
▪ Penalties imposed on adults		
% sentenced to imprisonment	2.1	
% given other penalty	5.4	
% receiving no penalty		1.4
<b>Total progressing from incident report to the imposition of a penalty (including matters resolved by way of a juvenile police caution or family conference and matters which are still not completely finished).</b>	<b>16.1</b>	
<b>Total that had dropped out by end stage</b>		<b>83.9</b>

The progression of cases from one stage to another is illustrated more clearly in Figure 1.

Figure 1 Percentages flowing through to finalisation: total child sexual offence victimisation incidents by overall outcome for perpetrator



## CONCLUSION

This paper has attempted to track child victimisation incidents involving a sexual offence from the point of recording by police through to a juvenile diversion or the imposition of a court penalty. While tracking poses a number of methodological difficulties, the results are the best approximation that can be made at this time. While improvements to the data collection processes may be of some benefit, the main problems stem from the complexity of the criminal justice process itself and the fact that there is usually no simple one-to-one relationship between an incident, an apprehension and a court case.

Despite these difficulties, the study indicates that overall, a relatively small proportion of child sexual offence victimisation incidents ultimately make it through to the end point of the system, with the most significant drop-out points being recorded in the early stages, particularly in terms of the level of clearance and the numbers cleared via the apprehension of a suspect. This is despite the fact that the majority of victims reported that they were related to or knew the alleged perpetrator.

As noted in the Introduction, this report is just the first of a series on this topic which the Office of Crime Statistics and Research will be preparing. Issues such as the extent to which victim/offender relationship impacts on flows through the system will be examined; more detailed analysis of victim and offender characteristics will be undertaken; and how offence types change from the initial incident report through to finalisation in court will also be identified. Finally, reasons for the observed drop-outs at each level of the system will be explored.