


# Recidivism of Sex Offenders

## Research Paper

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January 2007  
Sentencing Advisory Council



Published by the Sentencing Advisory Council  
Melbourne Victoria Australia.

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ISBN-10: 1-921100-06-0

ISBN-13: 978-1-921100-06-2

Also published on [www.sentencingcouncil.vic.gov.au](http://www.sentencingcouncil.vic.gov.au)

Authorised by the Sentencing Advisory Council, 4/436 Lonsdale Street, Melbourne.

Printed by Bigprint, 50 Lonsdale Street, Melbourne.

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The author thanks the following people for their assistance in the preparation of this report:

Ms Julie Bransden, Ms Jenni Coady, Ms Alana Hodgins and Ms Sarah Walker.



# Executive Summary

For many in the community, sex offenders are seen as among the most dangerous kinds of offender in terms of both the impact that their offending has on victims' lives and because of concerns about their risk of reoffending. This research paper addresses the question of whether this perception of dangerousness is supported. It examines the evidence about the prevalence and nature of sexual offending, characteristics of sex offenders, recidivism rates among different kinds of sex offenders and the efficacy of treatment programs.

Research on sex offenders varies in its approach to measuring sexual offending. Victimisation studies ask people about the nature of their experiences and about the characteristics of the person who offended against them. Studies directly considering sex offenders take one of two approaches: most examine the official records of sex offenders to determine the nature of their offending and the prevalence of any subsequent reoffending; a smaller body of research draws on self-reports from the offenders themselves to understand the patterns and precursors of offending behaviour. Despite these variations, studies to date on sex offenders have reached a number of consistent conclusions:

- *Sexual offences that come to the attention of police represent only a small proportion of all sexual offences that occur in the community.*
- *Sex offenders who are imprisoned represent only a small proportion of all sex offenders who enter the criminal justice system.*
- *Most victims of sexual offences are victimised by someone known to them, most commonly a family member.*
- *The overwhelming majority of sex offenders are men.*
- *Sex offenders tend to be older than other offenders.*
- *Only a small minority of sex offenders report having been sexually abused in childhood.*
- *Most sex offenders are not mentally ill.*
- *The risk of reoffending is greatest for those offenders who started offending at an early age, have stable deviant sexual preferences, have multiple convictions for sexual offending, have committed diverse sexual offences and who target male child victims.*
- *Sex offenders tend to have versatile criminal careers, with their sexual offending embedded in more general offending behaviour.*
- *Sex offenders are not a homogeneous group, with different types of sex offender exhibiting different patterns and precursors of offending.*
- *Sex offender treatment programs, especially those delivered in the community, have a small but significant effect on reducing sexual offence recidivism.*

Despite the fact that there is now a large body of evidence on the nature of sexual offending and the characteristics of sex offenders, misconceptions still abound. Legal and policy interventions that focus on the few offenders who offend against strangers may deflect attention and resources away from the large number of sex offenders who offend against someone they know and whose offending is therefore mostly hidden, but is no less devastating.





# Background

## Scope of the paper

For many in the community, sex offenders are seen as among the most dangerous kinds of offender in terms of both the impact that their offending has on victims' lives and because of concerns about their risk of reoffending. As a result many countries around the world have introduced legislation over the past twenty years that aims to protect the community via mechanisms such as continued detention or on-going intensive supervision of these offenders.

This research paper examines the most recent evidence about whether sex offenders do indeed pose the danger to the community that they are often perceived as posing. Statistics are provided on the incidence and prevalence of sexual offences in Victoria, and on the nature and costs of sexual offending. The literature is reviewed to determine what we know about sex offenders and their crimes and to clarify the evidence on levels of recidivism among sex offenders. A brief overview of treatment programs and their efficacy is provided, with a final discussion of the implications of the research evidence for current policy and prevention programs.

The paper is not intended to be an exhaustive critical analysis of the research in this field but rather is designed to provide sound evidence on what is known about the nature of sexual offending and the risk posed to the community by sex offenders. As media reports of sex offenders continue to hold the public eye, it is hoped that this paper will illuminate some of the extensive research in this field and will uncover the variability in sexual offending and among sex offenders themselves.

## Community protection and managing 'dangerousness'

Research has shown that most serious crimes against the person are committed by offenders who have not previously been convicted of a violent offence, and who will not go on to be convicted for further violent offences (Walker, 1996, pp.7-8). At the same time, however, in any society there is likely to be a small group of convicted offenders who pose a real danger of inflicting serious harm on others, and from whom the community rightly expects protection.<sup>1</sup>

While their numbers may be few, this group of offenders presents one of the most significant challenges for our justice system. As a community we value the rule of law, the presumption of innocence and principles such as that punishment should only follow a finding of guilt. But we are also concerned about the need to protect ourselves and others from the risk of future harm – particularly from those whom we know to be, or believe to be, dangerous. At no time are these concerns brought more sharply into focus than when high-profile violent or sex offenders convicted of serious offences reach the end of their sentence and are due to resume their lives back in the community.

At the heart of the dilemma is a balancing exercise – between the community's right to safety and the right of potential victims to be protected from convicted offenders who are assessed as being at a high-risk of committing further serious crimes, and the rights of offenders who have served their sentence to be free from further confinement based on predictions, which may be inaccurate, of possible future offending.

This tension between community protection and legal principles that protect the rights of offenders can result in an emotive approach to the management of dangerous offenders. In the current social climate, the debate about these offenders has revolved around the stereotypical view of a sex offender – as a sexually deviant and sick stranger who cannot help but repeatedly attack the children he has sought out. However this view of sex offenders does not capture the complexities of what the evidence suggests; in fact, the research presents a far more nuanced and varied view of sex offenders and of their risk of reoffending following punishment.



# The Nature and Prevalence of Sexual Offending

## Introduction

Sexual offending can vary along a broad spectrum of behaviours, from non-contact offences such as exhibitionism to rape. Much of the research on the nature of sexual offending has focused on one end of this spectrum, concentrating on understanding offences such as rape, incest and child molesting. The research has also varied in how it categorises sex offenders. Some crime victimisation surveys, where respondents are asked about their experiences of victimisation of different kinds of crime, focus specifically on sexual assault. Police statistics of recorded crime also tend to include incidents of sexual assault. Information obtained from court records allows a more nuanced examination of various sexual offences, with disaggregations by age of the victim and the precise nature of the offence. And information about sexual offences from prison records includes both actual sexual assault as well as related offences.

In the best of the studies on recidivism of sex offenders, the definition of 'sex offender' is divided into three categories:

- sex offenders who commit crimes of sexual violence against adults (commonly grouped together as 'rapists');
- sex offenders who commit crimes of sexual violence against children within their own families (usually known as 'intra-familial child molesters' or 'incest offenders'); and
- sex offenders who commit crimes of sexual violence against children who are not within their family group (usually known as 'extra-familial child molesters' and sometimes divided according to the gender of the victim).

As much as possible, the research reviewed in this paper will be presented in terms of these three categories of offender. This allows for the presentation of specific findings at the greatest level of detail, and shows that the three groups are in many ways qualitatively distinct.

## Context – the prevalence of sexual offending

Research shows that most sexual offences committed against both children and adults are perpetrated by family members and acquaintances, and the majority of these are never reported to police: only 18.9 per cent of those surveyed as part of the most recent Personal Safety Survey who had experienced sexual assault in the last 12 months had reported the incident to police (Australian Bureau of Statistics, 2006d, p.21).

According to the Personal Safety Survey, across Australia 1.6% of adult women (or 126,100 people) and 0.6% of adult men (or 46,700 people) were victims of sexual violence<sup>2</sup> in the 12 months prior to the survey, with most of these (143,900) involving actual sexual assault rather than sexual threats. Figures for victimisation since the age of 15 are much higher: 5.5% of men (or 408,100 people) and 19.1% of women (or 1,469,500 people) have been victims of sexual violence since the age of 15 (Australian Bureau of Statistics, 2006d, p.19).

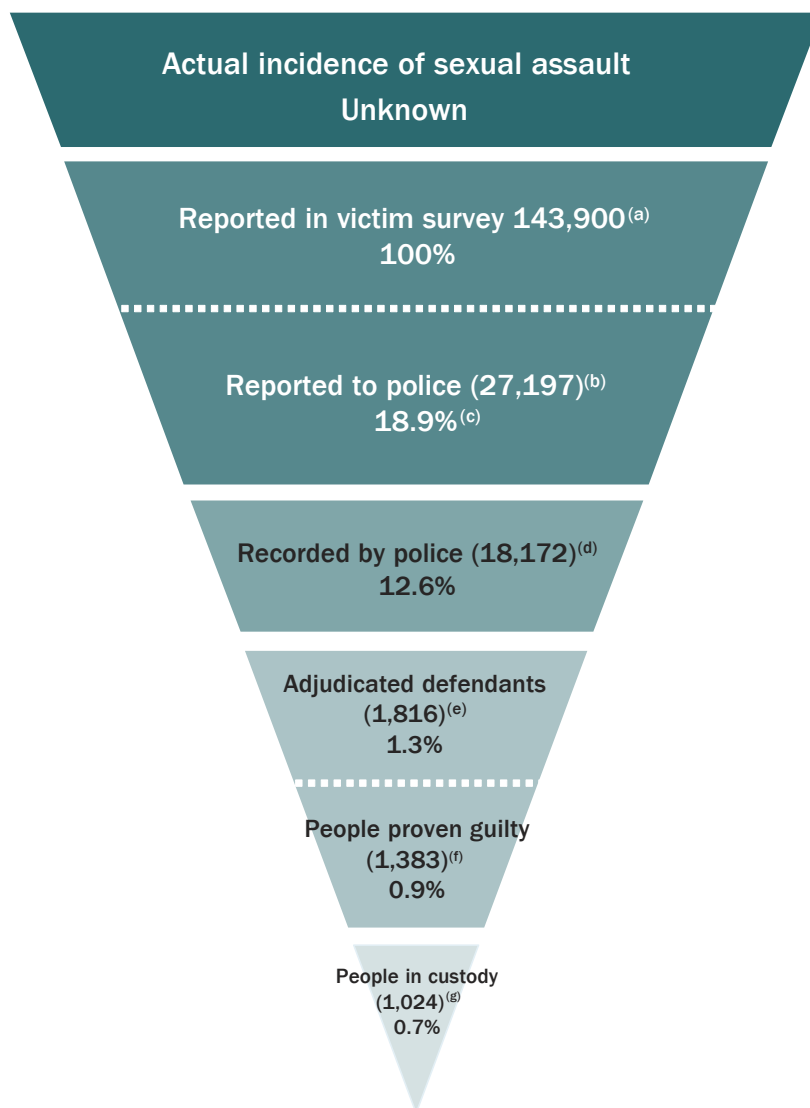
The most common age range of defendants adjudicated<sup>3</sup> for sexual assault (ranging from unwanted touching to rape) in the Australian higher courts in 2004-05 was 45 years and over (28% of all adjudicated defendants), while less than 7% were aged 20-24 years. Of the 1,816 defendants adjudicated for sexual assault, 1,789 were men and only 27 were women.

In Australia in 2005, there were 18,172 victims of sexual assault<sup>4</sup> recorded by police. This represents 1.7% of all victims recorded by police (1,087,404 people) in that year. Across Australia in 2004-05, of the 14,428 defendants with an adjudicated outcome in the higher courts, 1,816 (13%) had a principal offence<sup>5</sup> of sexual assault and related offences.<sup>6</sup> Of these, 433 (24%) were acquitted, 1,053 (58%)

pleaded guilty and 330 (18%) were found guilty. For the 1,383 who were proven guilty, 1,213 (88%) were given a custodial order while 169 (12%) were given a non-custodial order (such as community supervision or work orders) (Australian Bureau of Statistics, 2006a, p.32).

The figure below illustrates the flow of sexual assault incidents from offences that actually occur in the community, through those that are reported in victim surveys, and on to those that move through the criminal justice system from police to courts and on to prison. This classic ‘inverted pyramid’ of crime highlights two issues: that sexual assaults that are officially recorded by police represent only a small proportion (12.6%) of all the sexual assaults reported in victim surveys; and that the proportion of sex offenders who move all the way through the criminal justice system represents only the tip of the iceberg (0.7%). Any data on the prevalence of sexual offending must thus be considered to represent a conservative estimate of the realities of these crimes.

**Figure 1: The attrition of sexual assaults through the criminal justice system, Australia, 2005<sup>7</sup>**

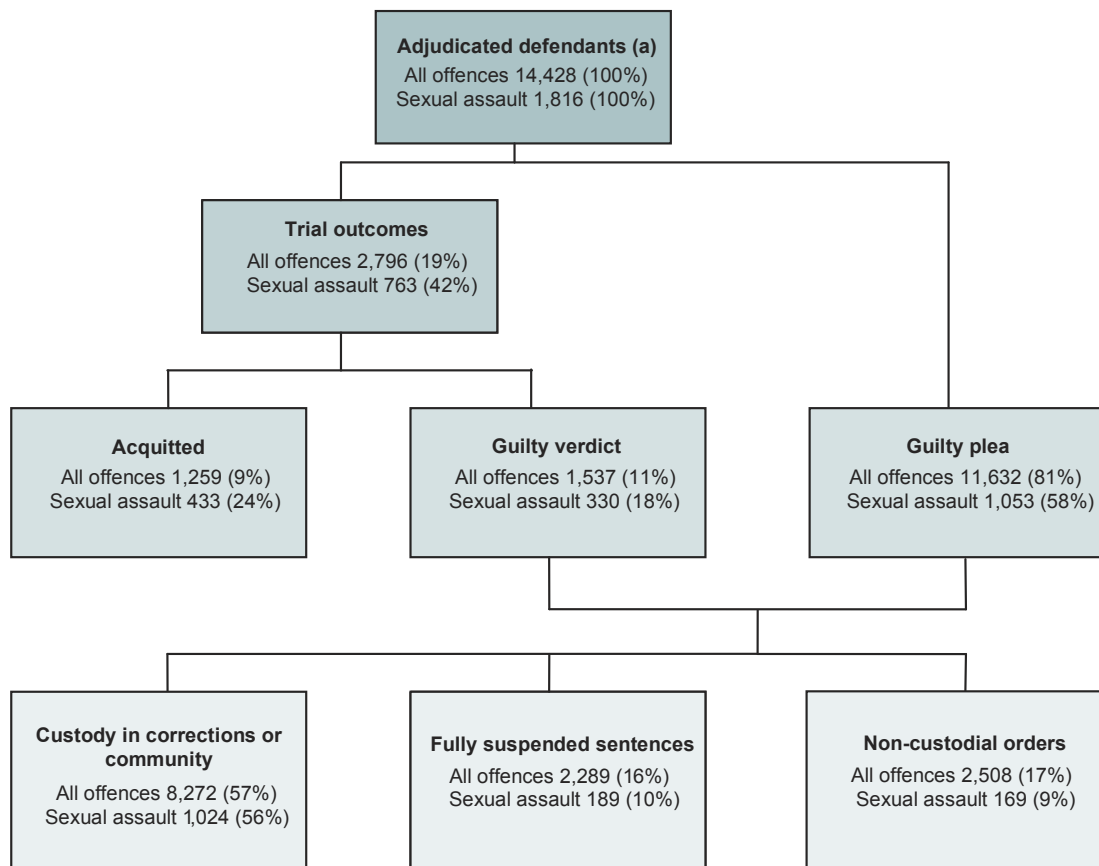


(a) Australian Bureau of Statistics, 2006d, *Personal Safety Australia, 2005*, Catalogue 4906.0  
 (b) Australian Bureau of Statistics, 2006d, *Personal Safety Australia, 2005*, Catalogue 4906.0  
 (c) All percentages calculated as a proportion of sexual assaults reported in the victim survey  
 (d) Australian Bureau of Statistics, 2006c, *Recorded Crime—Victims Australia, 2005*, Catalogue 4510.0  
 (e) Australian Bureau of Statistics, 2006a, *Criminal Courts Australia, 2004-05*, Catalogue 4513.0  
 (f) Australian Bureau of Statistics, 2006a, *Criminal Courts Australia, 2004-05*, Catalogue 4513.0  
 (g) Australian Bureau of Statistics, 2005, *Prisoners in Australia, 2005*, Catalogue 4517.0

The figure below focuses on the higher criminal courts and compares data for sexual assault defendants with data for all adjudicated defendants in Australia in 2004-05.

It is apparent that there is a substantial difference in the way that sexual assault and related offences move through the courts when compared with all offence types. In particular, many more sexual assault offences go to trial, as a result of much lower rates of guilty plea (58% versus 81% for all offences). Once at trial, a much higher proportion of sex offenders (24%) is acquitted than for all offenders (9%). These differences may be a function of the widely acknowledged difficulty of securing a conviction in a sexual offence case, as well as a possible reluctance of offenders to plead guilty due to the legal consequences that may follow conviction and classification as a sex offender. In addition, sexual offences are often subject to plea bargaining down to a lesser charge. Once proven guilty, however, a smaller proportion of sex offenders is given fully suspended sentences or non-custodial orders. Overall custody rates are very similar for sexual assault offences and for all offences: 56% of adjudicated defendants for sexual assault offences are given a custodial sentence, compared with 57% of adjudicated defendants for all offences.

**Figure 2: Adjudicated defendants in the Australian higher criminal courts – sexual assault and related offences versus all offences (2004-05)**



(a) All percentages are calculated as a proportion of adjudicated defendants and are subject to rounding. Source: Australian Bureau of Statistics, 2006a, *Criminal Courts Australia, 2004-05*, Catalogue 4513.0

In the Magistrates' Court, of the 493,297 defendants adjudicated in 2004-05 across Australia, 853 (0.2%) were adjudicated for a principal offence of sexual assault and related offences. Of these, 660 (77%) were proven guilty while 193 (23%) were acquitted. Of those proven guilty, 288 (44%) received a custodial order, 149 (23%) received a monetary order (such as a fine) and 213 (32%) received some other non-custodial order (such as community supervision or work order). Of the 853 offenders adjudicated for sexual assault, 841 were men (Australian Bureau of Statistics, 2006a, p.25).

As at 30 June 2005, there were 2,716 offenders in Australian prisons whose most serious offence<sup>8</sup> was sexual assault and related offences,<sup>9</sup> representing 10.7% of all 25,353 prisoners (Australian Bureau of Statistics, 2005, p.16).

A similar pattern is found in Victoria, where 1% of adult males (or 17,200 people) and 2.1% of adult females (or 40,900 people) experienced sexual violence in the 12 months prior to the Personal Safety Survey, resulting in a total of 58,100 people (1.5% of the adult population) experiencing sexual violence in Victoria in one year. Rates are higher for victimisation since the age of 15: 5.7% of Victorian men (or 102,200 people) and 18.6% of Victorian women (or 362,900 people) have been victims of sexual assault since the age of 15 (Australian Bureau of Statistics, 2006d, state tables - Victoria).

In 2005, Victoria Police recorded 2,686 victims of sexual assault. This represents 1.3% of all victims recorded by police (212,337 people) that year. In the Victorian higher courts (Supreme and County Courts) in 2004-05, 343 (15%) of the 2,307 defendants with an adjudicated outcome (either acquitted or proven guilty) had a principal offence of sexual assault and related offences. Of these 343, 337 were men and 6 were women, with the most common age range overall (23%) being 35-44 years. In the Victorian Magistrates' Court, of the 83,114 defendants adjudicated in 2004-05, 229 (0.3%) were adjudicated for a principal offence of sexual assault and related offences. All of these were men, most commonly (for 21% of the defendants) in the age range 20-24 (Australian Bureau of Statistics, 2006a, state tables - Victoria).

In Victorian prisons on 30 June 2005 there were 405 sentenced prisoners with a most serious offence of sexual assault, representing 13.3% of all 3,043 prisoners (Australian Bureau of Statistics, 2005, state tables - Victoria).

A study of the attrition of sexual offences from the NSW criminal justice system found similar results: only about one in ten incidents of sexual and indecent assault reported to police results in someone being found guilty in court, with most proceeding no further than the investigation stage. In particular, criminal proceedings are initiated in only 15% of incidents involving a child victim and 19% of those involving an adult, with about 8% of recorded incidents involving a child and 10% of those involving an adult resulting in a sexual offence being proven in court. The research suggests that criminal proceedings are less likely to proceed where the victim is a child, the incident is more than 10 years old, the offender is unknown to the victim and where there are no aggravating circumstances. The author concludes that factors such as these affect the quality of evidence and thus the strength of the case in terms of prospects of success, and suggests that cases be strengthened at the investigation stage to improve outcomes in court (Fitzgerald, 2006, p.4).

Substantial filtering of sexual offences has also been found in other countries. Examining the attrition of rape cases in the United Kingdom, Kelly *et al.* (2005) identified four key points at which rape cases are filtered out of the criminal justice system: the decision to report; the police investigation stage; the decision by prosecutors to discontinue; and the trial. While victim withdrawal can occur at each stage, it was most commonly found at the first two points. Rates of withdrawal were higher for rape than for cases involving child victims, and cases involving victims with some form of mental health problem or learning disability were rarely prosecuted (Kelly *et al.*, 2005, pp.30-31). The authors recommended that a shift occur within the criminal justice system from a focus on attempts to discredit the victim to enhanced evidence-gathering and case-building.

Given that so few sexual offences are ever reported to police, there is a substantial 'dark figure' of this kind of crime. That is, there is a large gap between official counts of the prevalence of sexual offending and the 'real' prevalence of sexual offending. While crime victimisation surveys help to identify some of the offences that do not come to the attention of the police (and thus help to shed light on the dark figure of sexual offending), undoubtedly additional incidents are not reported in such surveys either. It is thus impossible to determine precisely the exact prevalence of sexual offending in the community.

This problem is exacerbated by the hidden nature of much sexual offending. Research has shown that victims are less likely to report to the police if the offender is known to them. Some of the factors that have been found to contribute to this include fear of retribution, fear of giving evidence and being cross-examined, fear of not being believed, a belief that the incident was not a real crime, or lack of knowledge and access to help (VicHealth, 2006, p.60).

## Context – the nature of sexual offending

Current legal responses to dangerous offenders in Australia and overseas have attracted criticism for ignoring the realities of sexual and violent offending and focusing disproportionate attention on some offenders over others – typically those who have committed offences outside the family (see, for example, Simon and Zgoba, 2006, pp.86-87). While community concern and public fear are typically concentrated on the 'stranger danger' that lies at the heart of many legislative changes seen in various countries in recent years, the reality of sexual offending is very different.

The 2005 National Personal Safety Survey conducted by the Australian Bureau of Statistics (ABS) found that only 11% of those who experienced sexual abuse before the age of 15 years reported being abused by a stranger, compared to 45% reporting abuse by a relative, and 32% abuse by an acquaintance, neighbour or someone else known to them. The most common age at which the sexual abuse of females began was between the ages of eleven and fourteen (32%), although a further 22% reported abuse starting at age 7-8, 19% reported abuse starting at age 5-6 and 16% reported abuse starting at age 9-10. Alarming, 10% of female victims of childhood sexual abuse reported that their victimisation began at age 3-4. A similar pattern was found for males, with 33% of victims of childhood sexual abuse reporting that the abuse started at age 11-14 (Australian Bureau of Statistics, 2006d, p.42).

During the most recent incident in the previous 12 months, women who were victims of sexual violence tended to be young, with 30.7% being aged 18-24 and 29.8% being aged 25-34. Only 14.9% were aged 45 and over. A similar pattern was found for male victims, with almost 90% aged 18-44 years. Women were victimised by family or friends 39% of the time (representing 39,700 people) and by some other known person<sup>10</sup> 32% of the time (32,500 people). Strangers accounted for 21.8% (or 22,100 people) of most recent victimisations for adult women. Men were also more likely to be victimised by family or friends (43.7% or 18,500 people) or by some other known person (35.1% or 14,900 people). This pattern is even more pronounced for victimisation since the age of 15, with 45.5% of all victims (or 753,300 people) reporting violence at the hands of family or friends and 31.1% (or 518,000 people) at the hands of some other known person (Australian Bureau of Statistics, 2006d, p.33).

In a study of self-reported sexual offending by 182 men sentenced for sexual offences against children, 56.5% reported that they lived with the victim at the time of the offence, with a further 36.9% reporting that they had known the child at the time of the offence. Only 6.5% stated that the victim was a stranger (Wortley and Smallbone, 2006).

Official police figures from 2003 show that approximately 30% of male and female victims of sexual assault before the age of 14 had been assaulted by a parent figure,<sup>11</sup> with a further 11.4% being assaulted by a sibling or some other related family member. A non-family member known to the victim was the perpetrator in 20% of reported incidents. Girls were slightly more likely to have known the offender (63% of victims) than were boys (59% of victims). Overall, nearly 62% of victims of childhood sexual assault

who reported the incident(s) to police knew their offender(s). Only 6.3% of child sexual assault offenders in these data were unknown to the victim (7% for girls and 5% for boys) (Australian Bureau of Statistics, 2004, p.49). The table below further illustrates these data.

**Table 1: Victims of sexual assault aged 0-14 years, by gender and relationship of offender to victim**

Relationship	Males		Females		Total	
	No.	%	No.	%	No.	%
Parent	534	29.3	1,733	30.6	2,267	30.2
Sibling	75	4.1	188	3.3	263	3.5
Other related family	123	6.8	466	8.2	591	7.9
Non-family but known	333	18.3	1,163	20.5	1,497	20.0
<i>Total known</i>	<i>1,065</i>	<i>58.5</i>	<i>3,550</i>	<i>62.6</i>	<i>4,618</i>	<i>61.6</i>
<i>Unknown</i>	<i>90</i>	<i>4.9</i>	<i>378</i>	<i>6.7</i>	<i>469</i>	<i>6.3</i>
Not stated	666	36.6	1,741	30.7	2,415	32.2
<b>Total</b>	<b>1,821</b>	<b>100.0</b>	<b>5,669</b>	<b>100.0</b>	<b>7,502</b>	<b>100.0</b>

Source: Australian Bureau of Statistics, 2004, *Sexual Assault in Australia: A Statistical Overview, 2004*, Catalogue 4523.0, p.49

The Personal Safety Survey provides more detail on the gender of the offender for victims of childhood sexual abuse. Where gender is recorded, victims of sexual abuse before the age of 15 were far more likely to be abused by men: 30% were abused by a male relative and 14% by a father/step-father. Children were least likely to be abused by a mother/step-mother (0.8%) or a female relative (0.9%) (Australian Bureau of Statistics, 2006d, p.42).

Clearly, public perceptions of sexual offending as a crime perpetrated by strangers are inaccurate, as the greatest danger lies within the home from someone known to the victim. The often hidden nature of such crimes makes it especially difficult to understand the costs of sexual offending, in terms of emotional and financial costs to the victim, the victim's family and to society more generally.

## Context – the cost of sexual offending

It is extremely difficult to estimate the costs of any crime as the empirical basis for such assessments is often weak – it is difficult to know the true prevalence of various crimes, and for some components, such as impact on quality of life due to fear of crime, it is impossible to assign a cost. These difficulties are compounded when it comes to crimes such as sexual offences that are substantially under-reported and that claim such a heavy and ongoing personal and social toll.<sup>12</sup>

Most estimates of crime have focused on spending associated with criminal justice systems and other such direct financial costs of crime. However, the Australian Institute of Criminology recently attempted to identify costs of various crimes in terms of both direct costs such as medical costs associated with deaths and injuries, as well as indirect costs such as lost output of victims and intangible costs of pain, suffering and lost quality of life.



Based on Australian figures from 2001, the estimate for the total cost of sexual assault per year was \$230 million. This costing includes medical costs, lost output costs and intangible costs (Mayhew, 2003, p.3). The cost to victims' quality of life and feelings of safety – and those of their families – are, of course, impossible to measure adequately.

According to the 1996 Women's Safety Survey, of the women who worked at the time of the most recent incident, 12% took time off work in the 12 months following the incident. Overall 40% of women who experienced sexual assault since the age of 15 had made some changes to their daily activities as a result of the most recent sexual assault, and 17% of women who had experienced sexual assault reported living in fear for their personal safety. These figures illustrate some of the intangible but lingering costs of sexual assault and other sexual offences.

Although the officially recorded number of sexual offences is low compared with other kinds of offences, such crimes are far more important in terms of both financial and intangible costs than is suggested by their official prevalence – the impact of these offences is actually 'substantial and oppressive' (Broadhurst and Maller, 1992, p.54). Persistent sex offenders in particular are thought to comprise only a tiny proportion of the total sex offender population but have a substantial impact on women's feelings of safety, as these offenders are often associated with more severe and highly publicised sexual assaults (Lievore, 2004, p.9). Overall, violent crimes such as homicide and sexual assault account for a small proportion of recorded crime but a large proportion of the costs of crime in Australia. The significant impact on the health and well-being of victims of violence, especially for such an intimate crime as sexual assault, suggests that substantial resources are needed for prevention of these crimes and intervention with offenders.

## Public perceptions of sexual offending

In general terms, research has shown that there are substantial myths and misconceptions in the public mind about crime and justice issues (Gelb, 2006). While these exist in relation to all types of crime, they tend to be more pronounced for violent and sex offenders.

Large-scale surveys of public opinion about crime and punishment in the United States, United Kingdom, Canada, Australia and New Zealand have found that the public has very little accurate knowledge about the criminal justice system. In particular, people have extensive misunderstandings about the nature and extent of crime, about court outcomes and about the use of imprisonment and parole. Consistent results from many of the studies in this field<sup>13</sup> show that people tend to:

- perceive crime to be constantly increasing, particularly crimes of violence;
- over-estimate the proportion of recorded crime that involves violence; and
- over-estimate the percentage of offenders who re-offend.

It is evident from the research that this lack of knowledge about crime and the criminal justice system is a significant factor in perpetuating public misunderstanding. This is partly due to the fact that the mass media is the primary source of information on crime and justice issues, playing an integral role in the construction of both public opinion and the public 'reality' of crime.

However, newspaper portrayals of crime stories do not provide a complete and accurate picture of the issue. Papers report selectively and focus on unusual, dramatic and violent crime stories, in the process painting for the community a picture of crime that over-estimates the prevalence of crime in general and of violent crime in particular. Different media provide significantly different views of the world. Broadsheet papers tend to focus on government, quoting experts, elites and interest group representatives. Tabloids focus instead on crime victims and their families, offering dramatic and personal testimonials as counterpoint to the more professionalised discourse of the broadsheets. Public concerns about crime

thus typically reflect crime as depicted in the media, rather than trends in the actual crime rate, resulting in complex public policy debates that are 'mediatized' in increasingly constricted and emotive terms.<sup>14</sup>

The effect of these misconceptions is especially insidious in the case of sex offenders. Despite the fact that much more is now known about sex offenders, the nature of their offending, their risk of reoffending and their amenability to treatment, public perceptions remain focussed on the notion of 'sick', incurable offenders and the primary threat of 'stranger danger' from offenders who inevitably reoffend. But as the following chapters will show, sex offenders are not a homogeneous group, tend not to perpetrate crimes against strangers, have lower rates of officially recorded reoffending than other types of offender and are able to be treated with relative success.

While sex offenders are commonly classified as 'deviant predators', in reality most sexual offending is perpetrated by men connected to their victims as family or friends, operating under a façade of 'normal' relationships. Such views have serious implications, as they 'limit the focus, conceptualisation and approach to social policies and programs aimed at stopping sexual violence and the treatment of sex offenders' (Chung *et al.*, 2006, p.2). As Miethe *et al.* (2006, p.205) note:

Many of these images reflect basic myths and misconceptions surrounding sexual offending that derive from assertions by claim makers and media stereotypes of sensationalized and exceptional cases. Whatever their source or accuracy, these social constructions and images of sex offenders often form the basis of criminal law and public policy to control these offenders. In fact, these stereotypical images have been shown by several researchers to have serious negative consequences for the effective detection, treatment, and control of sex offenders [footnotes omitted].

The 'stereotypical' image of a sex offender has been further illuminated in a recent large-scale Victorian survey on community attitudes to violence against women. The Victorian Health Promotion Foundation (VicHealth) conducted a state-wide random survey of 2000 adults (including a booster sample of 800 people from selected culturally and linguistically diverse backgrounds) to measure their attitudes to domestic violence, sexual harassment, sexual assault (including rape) and stalking. The survey was based largely on a national one conducted in 1995 by the Federal Office of the Status of Women, allowing comparisons of results between the two. Qualitative focus groups were also conducted with both the general community and Indigenous communities.

The survey found that, while attitudes to violence against women have improved since 1995, there are still some major areas for concern. In particular, the findings illustrated the extent to which violence-supportive attitudes are found in the Victorian community. Nearly two in five respondents (38%) agreed that rape results from men not being able to control their need for sex, with a further 5% being unsure. Rates of agreement with this notion were statistically significantly higher for men (44%) than for women (32%) (VicHealth, 2006, p.56).

While the vast majority of respondents did not agree with attributing blame to the victim in cases of rape, there was still a small proportion who agreed with this idea: 8% agreed or were unsure in response to the statement 'women who are raped often ask for it' and 23% agreed or were unsure in response to the statement 'women often say no to sex when they mean yes' (VicHealth, 2006, p.58). Men in the culturally and linguistically diverse sample were significantly more likely to agree than were men in the main sample and all women. While these figures have dropped since the 1995 survey, the results reflect the fact that violence-supportive attitudes are still found in the Victorian community.

A large number of respondents believed that women falsify claims of rape: 23% disagreed with the statement that 'women rarely make false claims of being raped' with another 11% being unsure (VicHealth, 2006, p.59). Again, while this is an improvement since the 1995 survey (when 34% disagreed and 7% were unsure), the proportion believing that women falsely claim to have been raped is still of substantial concern.

Many Victorians also had a poor understanding of the context in which women are most likely to be at risk of sexual violence – nearly one in four (24%) either disagreed or were unsure in response to the statement that ‘women are more likely to be raped by someone they know than a stranger’ (VicHealth, 2006, p.51). The myth of ‘stranger danger’ thus still exists in the public mind.

The disparity between the large body of evidence and public perceptions of danger is thought to arise for two reasons: first, it may be due to confusion between the severity and frequency of reoffending; and second, because some identifiable sub-groups of sex offenders do in fact seem to be at higher risk of reoffending (Lievore, 2004, p.10). The reoffending of a small minority of sex offenders is more frequent than for others, attracting both policy and media attention and therefore driving public misunderstanding.

Zimring (2004; cited in Miethe *et al.*, 2006, pp.205-206) identified four elements of both these misconceptions about sex offenders and of the assumptions that underlie current sex offender policies. He noted that the stereotypical sex offender is characterised as exhibiting:

- pathological sexual orientation;
- sexual specialisation;
- fixed sexual proclivities; and
- a high level of future sexual dangerousness.

The validity of these assumptions is a question of great practical and political import: effective public policy for sexual offending is only as good as the accuracy of the basic assumptions being made (Miethe *et al.*, 2006, p.206).



# Characteristics of Sex Offenders

## Introduction

Research about the characteristics of sex offenders is primarily based either on reports from victims in crime victimisation surveys (such as the Personal Safety Survey and the International Violence Against Women Survey) or on studies of incarcerated offenders. The two sources of data provide complementary information about sex offenders: victimisation surveys are able to capture information on those offenders who do not necessarily come to the attention of police and who may not end up proceeding through to sentence; studies of incarcerated populations are able to provide information on people deemed by the courts to be among the most serious of sex offenders. Together these two sources of information are able to provide a broad understanding of some of the key characteristics of sex offender populations.

However there are methodological difficulties associated with both kinds of research. Victimisation surveys rely on victims' memories and perceptions of their experiences. Victims may not have full knowledge about the particular characteristics of the offender (this is particularly the case for incidents involving strangers, but may also be the case for those where the offender is known to some degree). Studies of offenders in prison are constrained by the possibility that those offenders who come to the attention of police and who proceed all the way through to prison may be qualitatively different to those who are not identified by police and who do not end up in prison. In particular, it is possible that the more visible sex offenders (such as perpetrators of crimes against unknown children) are more likely to be incarcerated than are those who commit much less visible crimes (such as incest offenders).

Despite these limitations, it is useful to examine research on the characteristics of sex offenders in order to understand the nature of sexual offending and to target prevention and intervention strategies appropriately.

## Gender

The overwhelming majority of sex offenders are men. Respondents to the 2005 Personal Safety Survey reported so few incidents of female sexual offending that the data were considered unreliable for publication.<sup>15</sup> Results from the National Crime and Safety Survey in 2002 indicate that 93% of female victims reported the perpetrator of the most recent incident of sexual assault to be male, while only 2% reported the offender to be female (Australian Bureau of Statistics, 2002, Table 17). A study in 2000 by the National Association of Services Against Sexual Violence found that 96% of offenders reported by victims of sexual assault were male (cited in Australian Bureau of Statistics, 2004, p.44).

Data from the courts confirm the gendered nature of sexual offending: in the higher courts across Australia in 2004-05, of the 1,816 defendants adjudicated for sexual assault, 1,789 were men and only 27 were women. Of the 853 defendants adjudicated for sexual assault in the Magistrates' Court across Australia in 2004-05, 841 were men (Australian Bureau of Statistics, 2006a, p.25). In the Victorian higher courts over the five years from 2001-02 to 2005-06, all but one of the people sentenced for each of indecent assault, incest and rape were men. For indecent act with a child, 98% of people sentenced were men, while for sexual penetration of a child, 97% were men.<sup>16</sup> And of the 2,716 sex offenders in Australian prisons on 30 June 2005, only 0.7% (20 people) were women (Australian Bureau of Statistics, 2005, p.11).

## Age

The association between age and general criminal behaviour is probably the most well-established finding in criminology: most crimes are committed by youths aged 16 to 18 years (with violent offenders being slightly older), and the rate of offending decreases gradually with age. This decline is thought to be a function of both opportunity and general maturation, in particular increases in levels of self-control (Gottfredson and Hirschi, 1990).

When considering sexual offending in particular, much less is known about the relationship between age and offending. While the age profile of specific sub-groups of sex offenders has been found to vary, on average accused sex offenders are substantially older than other offenders and slightly older than the general population.

In a meta-analysis of ten studies from Canada, the United States and England and Wales, with a combined sample of 4,673 adult male sex offenders released from prison or community sentences, offenders were divided into those who sexually victimised women (1,133 rapists), those who victimised unrelated children (1,411 extra-familial child molesters) and those whose victims were related children (1,207 incest offenders). The rapists tended to be younger (average age 32.1 years) than the extra-familial child molesters (average age 37.1 years) and the incest offenders (average age 38.9 years) (Hanson, 2001, p.8).

In Australia, data from the courts show that defendants who have been adjudicated for sexual assault offences tend to be older than defendants for all offence categories. The average age of all defendants sentenced in the Australian higher courts (the Supreme and County Courts) in 2004-05 was 33.4 years, compared to an average age of 39.6 years for those sentenced for a principal offence of sexual assault. The highest proportion of defendants adjudicated in the higher courts for sexual assault were aged 45 years and over (28%), followed by those aged 35-44 years (15%) and those aged 30-34 years (11%). This compares with the highest proportion of defendants adjudicated for all offences (22%) being found in the 20-24 age group (Australian Bureau of Statistics, 2006a, p.21). The same pattern is found in the Magistrates' Court. Data from prison populations corroborate the court figures, showing that the median age of those imprisoned across Australia as at 30 June 2005 for a most serious offence of sexual assault was 42 years (Australian Bureau of Statistics, 2005, p.11).

In Victoria, data from the higher courts over the years 2001-02 to 2005-06<sup>17</sup> also show that sex offenders tend to be older, although this varies by the type of sexual offence:

- For indecent assault, the average age of offenders sentenced was 48 years, with the greatest number falling into the 60 and over group (27%, or 42 of 155 people). The other age groups were fairly evenly represented, and there were 13 offenders (8%) aged less than 25.
- For incest, the average age of offenders sentenced was 47 years and 4 months, with the greatest number falling into the 40-44 year group (20%, or 26 of 130 people). There were 21 offenders (16%) aged 60 and over and no-one aged less than 25.<sup>18</sup>
- For indecent act with a child, the average age of offenders sentenced was 39 years and 11 months, with the greatest number falling into the 35-39 year group (17%, or 21 of 122 people). There were 13 offenders (11%) aged 60 and over and 17 offenders (14%) aged less than 25.
- For sexual penetration of a child, the average age of offenders sentenced was 35 years and 5 months, with the greatest number falling into the 20-24 year group (21%, or 67 of 318 people). There were 26 offenders (8%) aged 60 and over and 30 offenders (9%) aged less than 20.
- For rape, the average age of offenders sentenced was 34 years and 6 months, with the greatest number falling into the 30-34 year group (22%, or 40 of 181 people). There were 7 offenders (4%) aged 60 and over, 29 offenders (16%) aged 20-24 and 15 offenders (8%) aged less than 20.

Taken together, these findings may be partly explained by differential delays in reporting these offences. A report by the Victorian Law Reform Commission found that 33% of rape offences were reported to police on the same day as the offence, with 51% being reported within a week. Reflecting offences occurring years in the past, 12% of rape offences were reported to police more than five years after they occurred. In contrast, delays in reporting penetrative offences other than rape (such as childhood victimisation) were substantial. Only 7% of these were reported on the same day, with 16% being reported within the week. Almost 42% of reports were made at least two years after the offence, with

31% of reports relating to events that occurred more than five years previously. As many as 70% of these greatly delayed reports (more than five years after the event) involved allegations against family members; the disclosure of familial sexual assault victimisation during childhood tends to be particularly difficult (Victorian Law Reform Commission, 2003, pp.71-74).

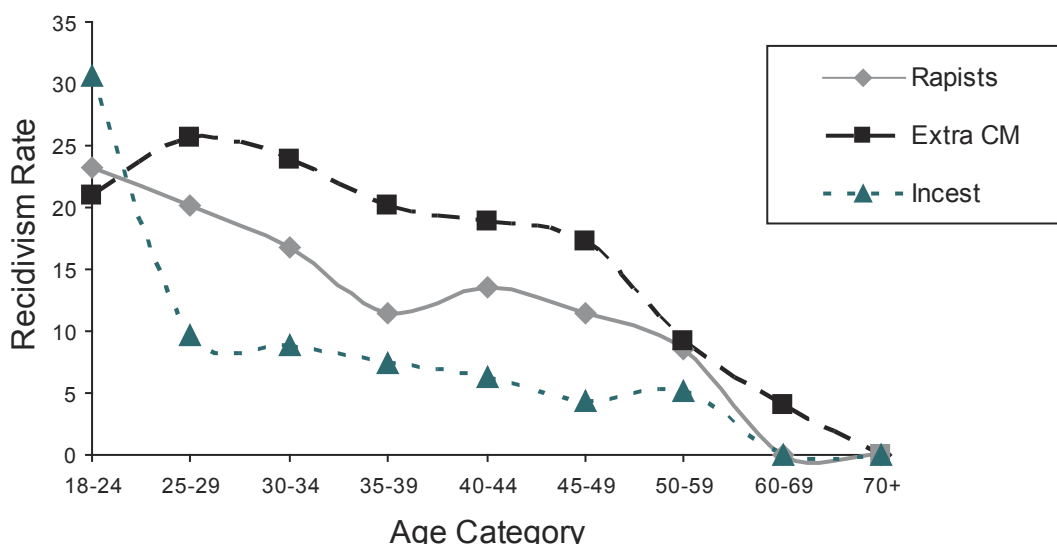
A study by the Judicial Commission of New South Wales confirmed the extent of delay in cases of child sexual assault in particular. In examining the delay between the offence and the sentence date, the authors found that (Hazlitt *et al.*, 2004, p.23):

- 37.9% of offenders were sentenced more than 10 years after the offence occurred;
- 28.9% of offenders were sentenced more than 15 years after the offence occurred;
- 18.2% of offenders were sentenced more than 20 years after the offence occurred; and
- 9.4% of offenders were sentenced more than 25 years after the offence occurred.

The shortest period from the offence to the sentence was 94 days and the longest was 38.5 years. Sexual offences thus represent a unique circumstance in terms of the much higher average age of detected offenders.

Hanson (2001) examined the relationship between age and recidivism for different types of sex offender. For the overall sample of 4,673 adult male sex offenders released from prison or community sentences, the recidivism rate declined steadily with age. However the relationship with age was different for the different groups. The recidivism rate for rapists declined steadily with age, peaking in the 18 to 24 age group. In contrast, the recidivism rate for extra-familial child molesters peaked between the ages of 25 and 35 and showed relatively little decline until after age 50. For incest offenders a different pattern emerged: the recidivism rate peaked in the 18 to 24 age group, dropped markedly after that and then continued to decline steadily. There were very few recidivists among the sex offenders released after age 60 (Hanson, 2001, p.10).

**Figure 3: Recidivism rates by age category**



Source: Hanson, 2001, p.10

This figure illustrates the differential age-related declines in rates of recidivism for the three types of offender. It highlights the importance of examining separately the patterns of offending for different kinds of sex offender.

## Age at first offending

The evidence on age at first offending is mixed. Some studies of adult sex offenders find that they report initial offending behaviour quite late – usually in their 30s. However other studies find that adolescents account for a large proportion of all sexual offences.

In a study that distinguishes itself from other research in Australia by its use of self-report data (rather than officially recorded data) from offenders sentenced for sexual offences against children, Smallbone and Wortley examined the offending and offender characteristics of 182 male offenders in Queensland. They classified offenders, who were either in prison or on community corrections orders, into four groups (Smallbone and Wortley, 2000, p.13):

- those who admitted having offended exclusively against children who were residing with them or who were related to them (47%, or 79 people, of the 169 who admitted sexual offending) – known as ‘intra-familial’ offenders;
- those who admitted having offended exclusively against children who were not residing with them or who were not related to them (36%, or 60 people, of the 169 who admitted sexual offending) – known as ‘extra-familial’ offenders;
- those who admitted having offended against both children who were residing with them or who were related to them, and against children who were not residing with them or who were not related to them (18%, or 30 people, of the 169 who admitted sexual offending) – known as ‘mixed-type’ offenders; and
- those who overtly denied ever having committed a sexual offence or who provided no information about sexual offending (7%, or 13 people, of the 182 who participated in the study) – known as ‘deniers’.

According to the Smallbone and Wortley study, the average age of first sexual contact with children was 32.4 years, with 37% of the sample reporting an age of first contact between 31 and 40 years. Only 10.6% of the sample reported an age of first contact between 17 and 20 years, and 6% reported an age at first contact of over 50 years (Wortley and Smallbone, 2006).

At the time that they were first sentenced for any offence, the average age of intra-familial offenders was 31 years, for extra-familial offenders it was 30 years, for mixed-type offenders it was slightly lower at 28.4 years and for deniers the average age was lower still, at 26.4 years. At the time of their first sexual contact with a child, the average age of intra-familial offenders was 33.1 years, for extra-familial offenders it was 29.4 years and for mixed-type offenders the average age was 31.1 years (Smallbone and Wortley, 2000, p.15). It is interesting to note that extra-familial offenders, on average, report having begun their sexual offending against children *before* they had first been sentenced for any offence; both intra-familial and mixed-type offenders, on average, report having initiated their child sexual offending only *after* they had been sentenced for another offence. This suggests that intra-familial and mixed-type offenders already had a history of contact with the criminal justice system before their disclosed sexual offending began, while extra-familial offenders did not. It is possible that extra-familial child sex offenders represent a qualitatively different type of offender. This will be further discussed below.

Other studies have found that adolescent sex offenders commit a large number of sexual offences. One study in the United States found that a large proportion of adult sex offenders report that their sexual offending started during adolescence: more than half (58%) of the 411 adult sex offenders in the community who were surveyed reported that they had started sexually offending during adolescence (Abel *et al.*, 1985; cited in McCarthy and Lambie, 1995, p.1). In a New Zealand study that interviewed 497 women, of those who had been sexually abused as children, nearly 50% reported that the perpetrator was under 25 and nearly 50% of these were under 18. Thus teenage offenders had been responsible for one quarter of the sexual offences (Mullen *et al.*, 1991; cited in McCarthy and Lambie, 1995, p.1). Studies of adolescent sexual offending have also suggested that there is a link between adolescent and



adult offending. This conclusion is consistent with studies of the characteristics of repeat sex offenders that have found that recidivism is more likely among those who began offending in their youth. These findings have implications for the identification of sex offenders when they first enter adulthood – some have suggested that juvenile records of sex offenders be made available to identify those at risk of sexual offence recidivism into their adult years.

The research is thus not entirely clear about the ‘typical’ age at which sexual offending begins. The studies that examine the question of age at first offending tend to have small sample sizes, so none stands out as methodologically more robust than others. The dual findings – that juveniles account for far more sexual offending than has previously been recognised, but that imprisoned adult sex offenders report older age of onset – may result from the differential treatment of juveniles by the criminal and juvenile justice systems. For example, many juveniles are informally cautioned by police rather than being formally charged. Such differences in legal treatment and philosophy may become manifest in the somewhat contradictory findings of the research on this issue. As Denise Lievore has stated about both the Australian and international literature, these ‘divergent research findings point to the need for additional research on juvenile sex offenders’ (Lievore, 2004, p.55).

It is also possible that there are two distinct types of sex offender – those who initiate offending early in life and those whose offending does not begin until later. In the general criminological literature, developmental theorists have suggested that criminals in general may be differentiated into two groups: life-course persistent and adolescent-limited offenders (Moffitt, 1993). The life-course persistent offenders begin their offending behaviour in early childhood and show evidence of substantial childhood difficulties in multiple domains (such as family, school and peers). These offenders do not show the age-related maturation out of criminal behaviour that characterises most offenders. On the other hand, adolescent-limited offenders begin and end their offending behaviour in adolescence, do not offend as frequently or severely and do not exhibit substantial lifestyle dysfunction. Studies that find two peaks of sexual offending – one around age 17 and one around age 30 – may thus be identifying two distinct populations, rather than a single group of sex offenders who continue their offending from adolescence into adulthood.

## Prior victimisation

Extensive data from both correctional and clinical populations has shown that sex offenders tend disproportionately to report having experienced sexual and physical abuse as children. However rates of childhood victimisation have been found to differ depending on the type of sex offender: studies in the United States have shown that 6% of incarcerated violent and sex offenders against adults report having experienced childhood sexual abuse, compared to 22% of incarcerated offenders against children. Clinical research has supported this finding, showing that child molesters are about twice as likely as rapists to report having experienced childhood sexual abuse (Bureau of Justice Statistics, 1996; cited in Smallbone and Wortley, 2000, p.26).

Data from the Smallbone and Wortley study are consistent with the international literature, with more than half (55.2%) of all offenders reporting childhood sexual abuse. Victimization rates were highest for mixed-type offenders (73.3%) and lowest for deniers (7.7%). Rates for intra-familial offenders (57.7%) and extra-familial offenders (53.3) were fairly similar (Smallbone and Wortley, 2000, pp.26-27).

Reporting childhood victimisation rates lower than those found in the Queensland study, an analysis of 2,165 convicted male sex offenders who had been referred to the Western Australian Sex Offender Treatment Unit (SOTU) between 1987 and 2000 found that 35.4% of sex offenders claimed to have been physically abused as children, and 31.6% reported childhood sexual abuse (Greenberg *et al.*, 2002, p.24). Examining rates of prior victimisation by type of sex offender, the research showed that:

- among rapists, 30.8% reported physical abuse as children and 17.1% reported childhood sexual abuse;

- among child molesters, 35.9% reported physical abuse as children and 34.5% reported childhood sexual abuse; and
- among intra-familial child molesters (incest offenders), 45.6% reported physical abuse as children and 44.6% reported childhood sexual abuse.

Even taking into account the high rates of reported childhood abuse among incest offenders, overall only about one-third of all offenders claimed to have been physically or sexually abused as a child.

Although many sex offenders claim to have been victimised as children, overall most do not. It is possible that those who do claim to have been abused may be over-stating their experiences of childhood victimisation as a way of gaining sympathy and perhaps minimising their offending. Regardless of the reliability of these claims, childhood victimisation should not be seen as an excuse for (or a cause of) adult offending behaviour. Nonetheless, these findings highlight the importance of early detection of, and intervention with, children who have experienced sexual and physical abuse.

## Number of victims

One common image of violent and sex offenders is that of the serial offender who has multiple victims. Looking at self-reported sexual contact with children, Smallbone and Wortley found that relatively few offenders admit to serial offending. When looking at the overall sample of offenders, the data showed that almost half (48.8%) of all offenders reported sexual contact with only one child, 34.4% reported sexual contact with 2-5 children and 17% reported contact with 6 or more children. Only 3% reported sexual contact with more than 20 children (Smallbone and Wortley, 2000, p.37). Despite the low prevalence of those who admit to being serial offenders, the impact that these few people can have is potentially widespread and substantial.

The Western Australian study of SOTU sex offenders found an even higher proportion of offenders with single victims, with 83.9% reporting a single victim. A further 10.9% reported two victims. The greatest number of victims for a single offender was 27 (Greenberg *et al.*, 2002, p.25).

In contrast, an earlier study with a small sample of 99 sex offenders institutionalised in a hospital for treatment found that the median number of victims for each rapist was six (meaning that half of the offenders reported fewer than six victims and half reported more than six victims) while for each child molester the median was seven (Weinrott and Saylor, 1991, p.291). However it is unclear what effect the specialised nature of the sample had on offenders' self-reports, and how comparable this sample is to samples of offenders in prison.

It is possible that offenders are under-stating the number of victims they have had in order to minimise their offending.<sup>19</sup> However studies of the self-report methodology both in general and for sex offenders in particular have found that this approach yields estimates of offending that are similar to estimates drawn from officially recorded data – the criticism that large numbers of offenders will either under- or over-report criminal behaviour thus appears to be unwarranted (Weinrott and Saylor, 1991, p.287).

## Prevalence of sexual disorder

In the United States the approach to sex offenders has oscillated over the years between a criminal justice framework and a medical framework. The criminal justice model sees sexual offending as analogous to other types of crime, and sex offenders as responsible for their actions and thus amenable to programs that attempt to modify their behaviour. In contrast, the medical model conceives of sex offenders as mentally ill, with diagnosable sexual disorders. The 'sexual predator' laws in the United States are based on this medical model. These laws allow for the civil commitment of sex offenders

who have completed their sentence but who are deemed to pose a continued and serious risk to the community due to the presence of a mental abnormality or personality disorder that makes the person likely to commit predatory acts of sexual violence. Such offenders are usually committed to a hospital or a mental health facility (McSherry, 2006, p.33).

The implications of such an approach are significant. Classifying sex offenders as mentally ill may limit the availability of resources for the treatment of non-criminal mentally ill people. In addition, the medical model assumes that sex offenders are ill and are therefore not responsible for their actions.

A belief that the majority of child sex offenders are mentally ill is likely due to a confusion of terminology. The term 'paedophile' is now commonly used as a generic term to refer to all sex offenders who molest children. However 'paedophilia' is used in the American Psychiatric Association's Fourth Diagnostic and Statistical Manual of Mental Disorders (DSM-IV) as a specific, restrictive definition of a particular subset of individuals who display particular child molesting characteristics. The interchangeable use of 'paedophile' and 'sex offender' has led to the incorrect assumption that 'sex offender' is a diagnostic term and that sex offenders are thus mentally ill. But as research has shown, this is typically not the case (Greenberg *et al.*, 2002, p.1).

In Australia a criminal justice model is in place. This is supported by recent Australian research which shows that, while a large proportion of prisoners have a history of mental health problems, most (including sex offenders) are not clinically mentally ill. Smallbone and Wortley's study found that the vast majority of sex offenders against children do not have a diagnosable psychosexual disorder, although many have been treated for depression (23%), drug and alcohol abuse (18%) and anger problems (13%) (Smallbone and Wortley, 2000, p.34).

The following chapter examines one of the most ingrained of all the myths about sex offenders: that they invariably reoffend.



# Recidivism of Sex Offenders

## Introduction

Until recently, predictions of recidivism amongst offenders were based on the concept of 'dangerousness' – using predictions to determine what level of danger the individual presented to society. But in more recent years the terminology has changed. 'Dangerousness' was criticised for its lack of precision and for its implication that offenders who were deemed 'dangerous' were not treatable. Prediction of recidivism turned instead to the prediction of risk, suggesting a more balanced assessment of factors that either increase or decrease the chance that an individual will reoffend in the future.

## Definition of recidivism

When reviewing the research on risk of recidivism, a critical methodological issue that has substantial implications for interpreting results is how recidivism is defined. The most common definition used in the research is rates of reconviction, measured as return to prison. While this is perhaps the most convenient and verifiable measure, it is also the most conservative. Given that the rates of reporting, detection, arrest and successful prosecution of sexual offences are all very low, the proportion of all sex offenders who end up in prison represents only a small minority of all sex offenders.

Rates of recidivism that are based on rearrest may provide more reliable estimates. Studies using data from police and child protection files have estimated that actual recidivism rates are more than twice those indicated by reconviction data (Loucks, 2002, p.2). However, these data are constrained by the possible inclusion of people against whom charges are subsequently dropped. That is, the alleged offending behaviour may not actually have occurred, or the evidence is not sufficiently strong to proceed. Some research has also shown that arrest data consistently overestimate the magnitude of age, sex and race differentials in the prevalence of serious violent offending, due to differential policing practices with regard to offender profiles (Elliott *et al.*, 1986; cited in Loucks, 2002, p.2).

Although self-report data are especially difficult to collect – requiring interviews with individual offenders – the ability of this approach to measure undetected offending makes it a valuable complement to research based on official sources of data. While studies of the self-report methodology have found this approach to elicit reliable information, it is certainly possible that offenders are still under-reporting their offending behaviour. Despite this constraint, self-reports should uncover a greater proportion of the 'true' prevalence of offending than do official reports. Indeed, recidivism rates from this kind of research tend to be higher than those found in research based on reconviction or rearrest data.

As the definition of recidivism has a substantial effect on the research findings, it is critical to keep in mind the definitions used in the various studies.

## Recidivism rates of sex offenders

Although sexual offences have very low rates of reporting to police (and thus any studies of recidivism of sexual offences will necessarily represent an under-count of offending behaviour), research based on both official reports of offending and self-reports of offenders shows that sex offenders typically have lower rates of recidivism than do other kinds of offender and that these rates vary for different sub-groups of sex offender. Lievore (2004) has noted that it is 'not clear whether low rates of sexual recidivism point to a lack of opportunity to reoffend, to rehabilitation, or to non-detection of subsequent sex crimes'. She suggests, however, that the accumulation of evidence provides a 'reasonable, if conservative' estimate of recidivism (Lievore, 2004, p.37).

There are many studies in the international literature that examine the recidivism rates of sex offenders, but only a few such studies exist in Australia. The findings from this large body of research are clear: most serious violent and sexual criminals do not have previous convictions for violent or sexual offences

and are not reconvicted for violent and sexual offending (Walker, 1996, pp.7-8). The rates of homologous violent and sexual reoffending (reoffending with the same specific offence as the index offence) have thus consistently been found to be lower than they are for other kinds of criminal behaviour. However, as most sexual offences are never reported to the police, the recidivism rates found in the literature are likely to represent conservative estimates.

## Australian and New Zealand research

Since the early 1990s, a handful of recidivism studies have been conducted in Australia. As these studies often have small sample sizes, their results should be approached with caution. Nonetheless, the results are consistent with the body of research literature, which lends some strength to the studies' conclusions.

As part of the National Initiative to Combat Sexual Assault, the Commonwealth Office of the Status of Women commissioned the Australian Institute of Criminology to provide an overview of Australian and international research on sexual, violent and general recidivism among sex offenders. The study examined the rates of recidivism and the key characteristics of male offenders who sexually assault adult women.<sup>20</sup>

Examining the findings of 17 studies both in Australia and internationally, Lievore concluded that the studies clearly indicate a low base rate for sexual recidivism: a number of studies reported rates below 10%, with few studies reporting rates higher than 20% (Lievore, 2004, p.29).

In an early Australian study considering recidivism of sex offenders, Broadhurst and Maller (1992) examined the recidivism<sup>21</sup> of 560 sex offenders released from Western Australian prisons over the period 1975-87, following them for up to twelve years. Overall, 8.4% had returned to prison for a further sexual offence, with higher rates found for Indigenous offenders (11.6%) than for non-Indigenous offenders (5.5%) (Broadhurst and Maller, 1992, p.61).

In a later study, Broadhurst and Loh (1997) used apprehension data from 1984 to 1994 from the Western Australian Police Service to report on recidivism. Of the 2,425 non-Indigenous offenders arrested for a sex offence, 883 (36.4%) had been rearrested for any criminal offence, 391 (16.1%) for an offence against the person (including a sex offence) and 228 (9.4%) for another sex offence (Broadhurst and Loh, 1997, p.6). The use of arrest data in this study, rather than conviction data, in conjunction with the relatively large sample size, lends strength to the conclusions of this study.

The most recent study from Western Australia (2002) examined a large sample of 2,165 convicted male sex offenders who had been referred to the Sex Offender Treatment Unit between 1987 and 2000. By the end of the seventh year of follow-up, 10.7% of sex offenders had been arrested for a sexual offence on their first arrest after release, 16.8% had been arrested for a violent offence and 49.7% had been arrested for any criminal offence (Greenberg *et al.*, 2002, p.113). While most offenders reoffend within the first two years of release from prison, the longer follow-up period used in this study allows for a more accurate measure of reoffending behaviour.

A 1995 study by the New South Wales Department of Corrective Services examined data for all inmates discharged from prison in 1990 or 1991 over a follow-up period of two years.<sup>22</sup> Those men who were initially imprisoned for a sexual offence had the lowest recidivism rate for any offence of all offender types (11%), with homicide offenders following with a recidivism rate of 13%. For both groups, the most serious offence for the subsequent offence was breach of parole for at least half of the offenders. The highest recidivism rates were found for property offenders (47%) and those initially imprisoned for assault (35%) (Thompson, 1995, p.17).

For all offence types, offenders with previous prison sentences had substantially higher rates of recidivism for any offence than those without: for sex offenders, those with no previous imprisonments had a recidivism rate for any offence of 6%, while those with at least one prior imprisonment had a recidivism rate of 26%. And sex offenders whose victims were adults had higher rates of recidivism for any offence: for those with no prior imprisonment, the recidivism rate for sex offenders against adults was 9% compared with 4% for offenders against children; for those with at least one prior imprisonment, the recidivism rate for those committing sexual offences against adults was 33% compared to 19% for those offending against children. Overall, the recidivism rate for any offence for sex offenders against adults was 16%, compared with 7% for those whose victims were children (Thompson, 1995, p.17). This finding is consistent with more recent research from around the world that shows that rapists tend to have higher rates of recidivism than do child molesters (see discussion below).

A more recent study in New South Wales examined recidivism<sup>23</sup> risk among parolees. A total of 2,747 offenders whose parole orders had been registered in 2001-02 were included in the study. Overall, 68% of all offenders had a finalised court appearance for committing at least one further offence. Offenders whose most serious index (initial) offence was a sex offence were less likely than average (than the group as a whole) to reoffend at any point – of all offence types, sex offenders were the least likely to reoffend while breach and property offenders were the most likely to reoffend (Jones *et al.*, 2006, p.3).<sup>24</sup>

In a comprehensive Australian study of child sex offenders, Smallbone and Wortley recruited a small sample of 182 adult males in prison in Queensland to complete a 386 item self-report questionnaire about offender characteristics and modus operandi of this type of sex offender.

In response to questions about previous convictions, overall 61.6% of offenders report having at least one prior conviction for some kind of offence, with 21.3% having had a prior conviction for a sexual offence, 22.8% with a prior conviction for a violent offence and 39% for a property offence. For violent offences, 16.4% of intra-familial offenders, 18.6% of extra-familial offenders, 27.6% of mixed-type offenders and 41.7% of deniers reported having at least one prior conviction (Smallbone and Wortley, 2000, p.18). For sexual offences, 10.8% of intra-familial offenders, 30.5% of extra-familial offenders, 41.1% of mixed-type offenders and 25% of deniers reported having at least one prior conviction. These differences were statistically significant. Of those offenders with previous convictions, their first conviction was four times more likely to be non-sexual (82%) than sexual (18%). The table below summarises these different reported conviction histories for the various types of offender.

**Table 2: Offenders with previous property, violent, sexual and any offence (%)**

Previous convictions	Intra-familial	Extra-familial	Mixed-type	Denier
Property	36.5	30.5	44.8	41.7
Violent	16.4	18.6	27.6	41.7
Sexual	10.8	30.5	41.1	25.0
Any offences	61.6	61.0	69.0	58.3

Source: Smallbone and Wortley, 2000, p.19

The authors concluded from these analyses that child sex offenders are not specialist offenders – instead, there appears to be ‘considerable versatility’ in their criminal careers (Smallbone and Wortley, 2000, p.20). Thus developmental and early intervention programs that are known to reduce rates of general criminal offending may well be equally effective in reducing sexual offending. This finding is consistent with a recent body of research that suggests that sex offenders should not be considered as a homogeneous,

specialist group, but instead as a group similar to general criminal offenders, with a diversity of pathways to offending. Sex offenders should thus not be seen as sexual deviants, but as opportunity takers who have generalised difficulties with self-control, especially within their interpersonal domain (Wortley and Smallbone, 2006, p.12). The question of specialisation is further discussed below.

An early series of studies in Victoria (Burgoyne, 1979a-d) examined rates of recidivism among robbers, rapists, murderers and assaulters. The second of the studies examined 115 men released from prison or a youth training centre between 1969 and 1974, after being incarcerated for rape or attempted rape.<sup>25</sup> During the follow-up period of four to nine years, more than half of the sample (58%) was convicted of at least one new offence, usually in the two years immediately following release. The reconviction rate for a non-violent offence was 53%, while for a violent offence the rate was 31%. The most frequent convictions overall were for driving offences (with 26% being reconvicted for these offences) and burglary and theft (20% reconviction rate). The most common violent offence leading to reconviction within five years (20%) was assault. Only 1.7% of the men (2 people) were convicted of a further rape or attempted rape, and 5% were convicted of other sexual offences (Burgoyne, 1979b, pp.5-6). While legislative changes and revised, broader definitions of rape render this study somewhat dated, these results are nonetheless consistent with the current literature.

The third of the studies examined 105 men who had been convicted of homicide (murder, attempted murder and manslaughter). During the follow-up period less than one-third of the sample (30%) was convicted of a new offence. The reconviction rate for a non-violent offence was 27%, while for a violent offence the rate was 11%. The most frequent convictions overall were for property offences (with 13% being reconvicted for these offences) and driving offences (11% reconviction rate). The most common violent offence leading to reconviction (7%) was assault. Only one person was convicted of a further homicide offence, one was convicted of rape and two were convicted of other sexual offences (Burgoyne, 1979c, pp.7-8). These studies thus provide evidence of the low rate of officially recorded homologous reoffending for rape and homicide, and for the versatility of these violent offenders.

A more recent Victorian study (1996) examined the rates of recidivism<sup>26</sup> of 838 offenders released from prison between 1985 and 1986, with a follow-up period of more than seven years. Using official rearrest and reconviction data, the authors found that 74% of offenders were reconvicted of at least one offence of any kind and 54% were reimprisoned. Recidivism rates were higher for those who were younger at the time of their first offence and for those with multiple prior offences. Offenders with an index (initial) offence of assault had a reconviction rate (77.4%) higher than the average for the whole sample (74%), while homicide (45.9%) and sexual assault (51.2%) offenders had reconviction rates for any offence that were substantially below the sample average. A similar pattern was found for reimprisonment, with property offenders having much higher reimprisonment rates (64.2%) than average for the whole sample (54%), while homicide (18.9%) and sexual assault (34.1%) offenders had reimprisonment rates that were substantially lower than the average (Ross and Guarnieri, 1996, pp.33-34).

A 2002 study of reconviction and reimprisonment rates for prisoners released between 1995 and 1998 in New Zealand found similar results to the Australian studies: violent offenders released from a prison sentence for homicide or sex offences had lower violent offence reconviction rates than inmates released from prison for all other violent offences. Sex offenders released from prison were far less likely (30%) to be reconvicted for any offence within two years than was the sample as a whole (73%). For the minority of sex offenders who were reconvicted within two years, the most common offence for which they were convicted was a traffic offence (17% were reconvicted for a traffic offence within two years, compared to 9.4% reconvicted for a violent offence). Only 3.5% of all sex offenders were reconvicted for a sex offence within two years, rising to 6.7% within five years (Spier, 2002, p.13). Although these recidivism rates are somewhat lower than those reported from other studies, the central tenet of the finding is consistent with a large body of research: that sex offenders, much less likely to be reconvicted for a subsequent sexual offence than for a non-violent offence, tend not to specialise in their offending behaviour.



## International research

Research on recidivism of sex offenders is far more prevalent in the international literature. In particular, a number of insightful meta-analyses have shed light on consistent findings over decades of research using various methodologies and in different countries.

In their 1998 meta-analysis of 61 studies and 28,972 sex offenders, Hanson and Bussière found that the overall recidivism rate for sexual offences, with an average follow-up period of 4-5 years, was 13.4% (based on 23,393 offenders). However this rate varied according to the type of offender:

- for child molesters, the sexual offence recidivism rate was 12.7% (based on 9,603 offenders); and
- for rapists, the sexual offence recidivism rate was 18.9% (based on 1,839 offenders).

For non-sexual violence, the overall recidivism rate was 12.2% (based on 7,155 offenders). However this rate too varied according to the type of offender:

- for child molesters, the non-sexual violence recidivism rate was 9.9% (based on 1,774 offenders); and
- for rapists, the non-sexual violence recidivism rate was 22.1% (based on 782 offenders).

When recidivism was defined as a reconviction for any kind of offence, the rates were predictably higher and also varied by offender type:

- overall, the recidivism rate for any offence was 36.3% (based on 19,374 offenders);
- for child molesters, the recidivism rate for any offence was 36.9% (based on 3,363 offenders); and
- for rapists, the recidivism rate for any offence was 46.2% (based on 4,017 offenders).

While acknowledging the problems of relying solely on reconviction rates and the limited follow-up periods of some studies, the authors noted the importance of separating sexual from non-sexual recidivism.

Despite the strengths of this study in terms of its methodological approach, its sample size and the coverage of findings from a number of countries, Hanson and Bussière did not differentiate between different types of child sex offender: as Smallbone and Wortley (2000) so clearly demonstrate, intra-familial, extra-familial and mixed-type child sex offenders report both different recidivism rates and different patterns and precursors of their offending. Treating child molesters as a single, homogeneous group may thus mask some of these important differences. In the same way, grouping rapists together into a homogeneous group may also mask relevant differences, resulting in an overly broad sub-group of sex offenders (Wortley, 17 October 2006, personal communication).

In another, larger review that was specifically designed to update the Hanson and Bussière research, Hanson and Morton-Bourgon conducted a meta-analysis of 95 studies examining recidivism rates of more than 31,000 sex offenders. Recidivism over 5-6 years varied according to the type of offence measured (Hanson and Morton-Bourgon, 2004, p.8):

- the recidivism rate for sexual offences was 13.7% (based on 20,440 offenders across 84 studies);
- the recidivism rate for non-sexual violent offences was 14% (based on 7,444 offenders across 27 studies);
- the recidivism rate for all violent offences (including both sexual and non-sexual violence) was 25% (based on 12,542 offenders across 34 studies); and
- the general recidivism rate for any offence was 36.9% (based on 13,196 offenders across 56 studies).

Hanson and Morton-Bourgon concluded that, while the observed sexual recidivism rate among typical groups of sex offenders is in the range of 10-15% after 5 years, interventions aimed at the highest risk offenders – those identifiable sub-groups whose observed recidivism rates are much higher – are the most likely to contribute to public safety.

Other research has examined how recidivism rates differ when based on varying measures of recidivism. The largest study to date involved following 272,111 former state prison inmates in 15 states in the United States for three years after their release in 1994. This group represented two-thirds of all prisoners released that year. Recidivism was defined in four different ways: as rearrest, reconviction, return to prison without a new sentence and return to prison with a new sentence.

Overall, 67.5% of prisoners were rearrested for a new offence, 46.9% were reconvicted for a new crime and 25.4% were resentenced to prison for a new crime. These figures clearly illustrate how different definitions of recidivism can affect research results.

Examining recidivism rates for different kinds of offender, the research found that released prisoners with the lowest rearrest rates for any offence were those who had been in prison for homicide (40.7%), sexual assault (41.4%) and rape (46%).<sup>27</sup> When examining homologous recidivism, 1.2% of those who had been imprisoned for homicide had been arrested for another homicide within three years of release, while 2.5% of released rapists were arrested for another rape (Langan and Levin, 2002, p.1). For both homicide offenders and rapists, those rearrested were most likely to be rearrested for public-order offences (17.7% for homicide offenders and 20.5% for rapists) (Langan and Levin, 2002, p.9). These findings are consistent with other studies that show higher rates of general recidivism but low rates of homologous recidivism. Arrests for violent and sexual offences are thus embedded within extensive criminal records for non-violent crimes (Simon, 2000, p.277).

An early study from New Zealand of 273 rapists found that 6% were reconvicted of rape within five years of release (Southey *et al.*, 1994, p.42). In a Canadian study of 86 men convicted of rape who had been referred by the court to a sexual behaviours clinic for assessment between 1982 and 1992, the recidivism rate<sup>28</sup> over a 12-year follow-up period for sexual offences was 16%, for violent offences (sexual and non-sexual) it was 26% and for any criminal recidivism the rate was 53% (Firestone *et al.*, 1998, p.194). It is likely that the higher sexual recidivism rate reported in this study than in the New Zealand study was due both to the longer follow-up period used in the Canadian study and to the broader definition of recidivism (sexual offences in general, compared with rape offences only). As most of the Canadian sample was assessed pre-sentence, the group is much more representative of the wide array of men processed through the courts than are the imprisoned offenders usually found in studies of this type.

In a subsequent study using the same methodological approach, the authors examined the risk of recidivism amongst 251 men convicted of incest. In order to achieve a homogenous group relative to their offending, incest offenders who had ever been charged with or convicted of extra-familial child molestation or sexual offences against adults were excluded from the analysis. Over a 12-year follow-up period, 6.4% of the offenders had committed a sexual offence, 12.4% had committed a violent offence and 26.7% had committed any criminal offence. Most of the recidivism occurred within the first five years (Firestone *et al.*, 1999, p.517). These recidivism rates are less than half those found in the earlier study for men convicted of rape.

In the third study of the series, the authors turned their attention to the study of recidivism amongst 192 extra-familial child molesters. Again, a homogeneous group was sought by excluding those who had been convicted of another kind of sexual offence. Over the 12-year follow-up, recidivism rates were 15.1% for sexual offences, 20.3% for violent offences and 41.6% for any criminal offence (Firestone *et al.*, 2000, p.210). These recidivism rates fall somewhere in between those for incest offenders and those for rapists.

To facilitate comparison across these studies, the table below presents the recidivism rates for each kind of offence for rapists, incest offenders and extra-familial child molesters.

**Table 3: Recidivism rates (%) for sub-groups of sex offender, by type of offending**

Type of offending	Rapists	Incest offenders	Extra-familial child molesters
Sexual	16	6	15
Violent	26	12	20
Any offending	53	27	42

Source: Firestone *et al.*, 1998; Firestone *et al.*, 1999; Firestone *et al.*, 2000

As can be seen from the comparison, the lowest rates of sexual recidivism (6%) were found among offenders who had only ever been convicted of incest, or intra-familial child molesting. Extra-familial child molesters had a recidivism rate for sexual offending of 15%, while rapists had a recidivism rate for sexual offending of 16%. The low rate of recidivism for incest offenders in particular is consistently supported in the literature, while the similarity of recidivism rates for the extra-familial child molesters and the rapists is reflected in the lack of consensus in existing research about the relative recidivism rates of these two groups. However, the lower rates for incest may be a function of differential reporting for the various kinds of offences – while studies have not examined reporting rates for different kinds of sex offences, it is possible that offences committed by family members are particularly under-reported.

In order to determine if the differences in recidivism rates found in these studies are reliable, given the small sample sizes in each, it is useful to consider a meta-analysis based on the same research question. Harris and Hanson (2004) examined ten individual sub-samples from studies in Canada, the United States and England and Wales, with a total of 4,724 adult male offenders released from prison or from community sentences. Recidivism rates were based on both charges and convictions, with definitions varying across the studies.

Examining rates of sexual recidivism over five, ten and fifteen years, the analysis found the highest rates of recidivism for the extra-familial child molesters whose victims were boys, and the lowest rates for the incest offenders. The table below presents a summary of the findings.

**Table 4: Sexual recidivism (%) across time and samples**

Sub-group	5 years	10 years	15 years
All sex offenders	14	20	24
Rapists	14	21	24
Extended incest child molesters	6	9	13
'Girl victim' child molesters	9	13	16
'Boy victim' child molesters	23	28	35
Offenders without prior sexual conviction	10	15	19
Offenders with prior sexual conviction	25	32	37
Offenders over age 50 at release	7	11	12
Offenders less than age 50 at release	15	21	26

Source: Harris and Hanson, 2004, p.8

Rates of sexual recidivism were much higher for offenders with a prior sexual conviction (about double the rate for first-time sex offenders) and for those who were younger at the time of release. Recidivism was also substantially higher for offenders with male victims than for those with female victims. These differences are unlikely to be due to differential reporting rates, as there should be no systematic difference in reporting for the different types of offender or for the two types of child molesting offences. This meta-analysis is consistent with other research and suggests that younger offenders, offenders who have a prior sexual conviction, and extra-familial offenders who target boys, represent more 'high-risk' types than other kinds of sex offender. The research also illustrates the importance of length of follow-up period for measuring recidivism, as rates continued to increase up to 15 years after release.

General criminological theory and research show that criminal offenders tend not to specialise in the types of crimes they commit. Most criminals are versatile – they commit a variety of offences depending on the opportunities that present themselves. Rather than the stereotypical image of the dangerous violent offender, research indicates that violent arrests are embedded within extensive criminal records for non-violent crimes (Simon, 2000, p.277). However this substantial body of criminological literature has not been incorporated into the legal and mental health approach to sex offenders.

While sex offenders have some tendency to specialise within sexual offending (that is, they are often more likely to commit the same kind of sexual offence when they do commit a sexual offence) (Soothill *et al.*, 2000, p.62), overall they are generalists – they are less likely to commit a further sexual offence than they are to commit some other kind of offence, and they exhibit a heterogeneous range of offending pathways (Soothill *et al.*, 2002, p.26). In one study of specialisation, the criminal histories of convicted sex offenders were compared to those of convicted non-sex offenders to determine whether sex offenders are more specialised. Offenders were divided into three groups: 142 child molesters, 290 violent offenders and 51 rapists were measured on a versatility scale that reflected the different types of crime in each offender's criminal record. The results indicated that both rapists and violent offenders have comparable adult and juvenile records for non-violent crimes such as theft, burglary and drug use – both types of offender show substantial versatility in offending. Rapists were more similar in their offending to violent offenders than they were to child molesters, who tended to have more specialised but less extensive criminal records (Simon, 2000, pp.286-288).

In a very large study of more than 38,000 people who were released from prison in 15 states in the United States in 1994 and were followed-up for three years, Miethe *et al.* found that 26% of sex offenders were arrested for another sex offence at the next arrest, compared with 33% of violent offenders whose next arrest was for a violent offence, 56% of property offenders next being arrested for a property offence and 61% of public-order offenders repeating their offence. Thus sex offenders showed substantially lower specialisation than other types of offender. This same pattern was found even when examining offenders with extensive criminal records of 20 or more separate arrests (Miethe *et al.*, 2006, p.214). The results also showed that serial rapists and child molesters were rare in the sample, comprising only 7% of all rapists and 8% of all child molesters. Despite this rarity, the authors note, these sex offenders are the most visible targets of community notification programs and other crime-control efforts. They conclude that 'it seems somewhat unlikely that registration and notification policies will decrease sexual victimisation' (Miethe *et al.*, 2006, p.225). Indeed, the focus on sex offenders may lull the community into a false sense of security: the burglar, robber or drug addict is no less likely to commit a sexual offence than is the convicted sex offender (Simon, 2000, p.280).

Given the versatility of sex offenders' criminal careers, continued (preventive) detention in particular may have a limited impact on violent or sexual recidivism. In a 1996 Canadian study that followed 424 violent and sex offenders who had been detained preventively (with a follow-up period of at least a year after their eventual release, and an average follow-up period of more than four years), about one-fifth (83 people) were readmitted to federal custody within a year of release. Fifty of these people were returned for technical violations, and the remaining 33 were readmitted for new offences, representing only 8% of the initial sample. This compared to a readmission rate of 46.6% for prisoners who had been released automatically at the end of their sentence. The researchers concluded that (Motiuk *et al.*, 1996; cited in Loucks, 2002, p.11):

Perhaps the most striking finding was the relatively low rate of post-detention *serious* reoffending (such as murder, sexual assault, robbery). Considering this population was seen as one of the highest risk groups of offenders within the system, a much higher percentage was expected [emphasis in original].

The use of specialised interventions such as registries, community notification and continued detention may thus not represent an optimal allocation of crime prevention resources. These specialised interventions aim to protect potential victims from attacks by strangers, which constitute only a small minority of cases, and do not protect people from family members and acquaintances. Some researchers have suggested that this protection might instead be achieved by creating mandatory arrest policies in cases where a family member or acquaintance is suspected, as is the case with domestic violence (see, for example, Simon and Zgoba, 2006, p.87). When resources are limited, such measures may be better able to protect against the most common form of sexual offending – offending that occurs within the family unit.

Across all these studies, one consistent result has emerged: substantially different recidivism rates and patterns and precursors of offending are found for different kinds of sex offender. This variation has implications for risk assessment and treatment, and also highlights the theoretical and policy dangers of seeing sex offenders as a homogeneous and coherent group, when in fact the evidence suggests that this is not the case (Soothill *et al.*, 2000, p.56).

## The characteristics of 'high-risk' offenders – predictors of sexual recidivism

While research shows that not all sex offenders are equally likely to reoffend, there are identifiable characteristics of offenders that increase their likelihood of repeating their offences. While the prediction of risk of reoffending is notoriously difficult and is often inaccurate,<sup>29</sup> these characteristics are more commonly found among a 'critical few' or 'high-risk' offenders.

There is now general consensus among researchers and practitioners that sexual recidivism is associated with at least two broad factors: deviant sexual interests and antisocial behaviour/lifestyle instability (Hanson and Morton-Bourgon, 2004, p.1). As with other kinds of offenders, sex offenders often have multiple life problems, not all of which are related directly to their offending behaviour. In order to reduce the risk of recidivism, treatment programs need to address enduring characteristics that are associated with risk. These characteristics have been referred to as 'criminogenic needs', 'stable dynamic risk factors' or 'causal psychological risk factors' (Hanson and Morton-Bourgon, 2004, p.1).

While the factors that are associated with becoming a sex offender (initiation factors) need not be the same as those that predict recidivism, research has found that a number of factors are consistently associated with sexual offending.

Sexual offending has consistently been associated with both static and dynamic risk factors (Perkins *et al.*, 1998, p.7):

- static predictors within the criminal history – number and type of offences and victims;
- stable dynamic predictors – most powerfully psychopathic personality and deviant sexual preferences; and
- acute dynamic predictors – notably negative emotional states, poor interpersonal/self management and poor social support.

Hanson and Bussière examined 61 different studies involving a total of 28,972 sex offenders in 1998. Their research uncovered a number of factors that had strong empirical support for a relationship with risk of recidivism.

Previous convictions for sexual offending were found to be positively related to the risk of future sexual offending (with a correlation between prior and future sex offences of  $r=.19$ ; 95% confidence interval of  $.17 - .21$ ).<sup>30</sup>

Recidivism rates for sexual offences were also found to be higher for the following groups (Hanson and Bussière, 1998):

- offenders with stable deviant sexual preferences;
- offenders with identifiable antisocial personality;
- offenders who have committed diverse sexual offences;
- offenders who committed non-contact sexual offences;
- offenders who have targeted extra-familial child victims;
- offenders who have targeted male child victims;
- offenders who have targeted strangers;
- offenders who began offending sexually at an early age;
- offenders who have never been married; and
- offenders who have failed to complete (who have dropped out of) a treatment program.

Predictors of non-sexual violent recidivism were found to be the same as those for the general criminal population. In particular, non-sexual violent recidivists were young and unmarried, engaging in diverse criminal behaviour and exhibiting antisocial or psychopathic personality disorders. Rapists were more likely to recidivate with non-sexual violence than were child molesters; overall, sex offenders were more likely to recidivate with a non-sexual offence than with a sexual offence (Hanson and Bussière, 1998, p.353). The authors conclude that, while the correctional literature tends to minimise differences between types of offenders, the meta-analysis suggests that sex offenders may differ from other offenders – separate risk factors and processes seem to be associated with sexual offending.

In contrast with this conclusion, studies that examine the assumption of specialisation in sex offenders have noted instead the similarities between sex offenders and general offenders, and have criticised the ‘dangerous tendency for sexual offending to be set apart from other types of offending, creating a kind of criminal apartheid’ (Soothill *et al.*, 2000, p.56). Historically, these offenders have been singled out for differential treatment by the criminal justice and mental health systems, based upon the assumption that sex offenders are distinguishable from other offenders (Simon, 2000, p.276). There has been an associated assumption about the specialisation of sex offenders; this assumption that they commit only sexual offences has reinforced the perception of sex offenders as especially dangerous. As the evidence from specialisation research shows that, for many sex offenders, their offending represents one type within a broad criminal repertoire, some researchers have suggested that legal policy decisions that single out sex offenders for registration, community notification and continued detention are based on false assumptions (Simon, 2000, pp.276-277).

In a more recent study, Hanson and Morton-Bourgon (2004) analysed 95 studies examining recidivism rates of more than 31,000 sex offenders. Their findings were largely consistent with those of the earlier study, in particular that deviant sexual interests and antisocial orientation were important predictors of recidivism. They also found that a number of dynamic risk factors – those amenable to change over time and therefore able to respond to treatment – were related to recidivism, such as conflict in intimate relationships, hostility, emotional identification with children and attitudes tolerant of sexual assault. The same major predictors were found for adolescent sex offenders as for adult sex offenders. Of note, though, was their additional finding that being sexually abused as a child was not significantly related to sexual recidivism (Hanson and Morton-Bourgon, 2004, p.10).

While the research shows that there are certain factors that characterise repeat sex offenders, there is not sufficient definitive evidence to determine whether these offenders are qualitatively different from other types of repeat offender and thus whether they require the attention of separate, specific legal provisions.<sup>31</sup>





# Treatment of Sex Offenders

## Introduction

Sexual offending is sometimes seen as an intractable, incurable illness, such that sex offenders cannot be effectively cured; they will always present an immediate danger to the community. While early sex offender treatment programs did indeed struggle to have any lasting effect, more recent programs of the last twenty years or so have shown considerable impacts on the frequency and severity of sexual offending.

The primary focus of sex offender treatment programs is the reduction of recidivism. While treatment programs have been available for many years now, there has been a clear shift in the literature on treatment efficacy that corresponds to a concomitant shift in the nature of the programs themselves.

Prior to 1980, evaluations of psychological treatments for sex offenders showed that they had no or little effect on reducing recidivism. Treatment programs were psychotherapeutic in style and were aimed at offenders gaining insight into why they perpetrate sexual offences (Perkins *et al.*, 1998, p.8). Such programs would no longer meet current standards of practice.

Since the early 1980s treatment programs have been refocussed, based partly on theoretical developments and partly on research showing 'what works' for offenders in general. The result is that there is now a greater emphasis on cognitive-behavioural therapy and relapse prevention. Cognitive-behavioural therapy targets a range of criminogenic needs and teaches relevant skills in a manner appropriate for the learning style and receptivity of the individual offender. Relapse prevention teaches offenders to recognise situations that present specific risks for reoffending, and provides them with coping, avoidance and escape strategies that are formulated specifically for each individual offender.

Current interventions are often held in group contexts, and address a variety of criminogenic needs, including (Perkins *et al.*, 1998, p.9):

- denial and minimisation of offences, sexual motivation, harm to victims and need for treatment;
- cognitive distortions about victims and offending behaviour;
- lack of empathy for the victim or understanding about the effects of sexual offending on victims; and
- poor anger management, lack of social skills and self esteem, and deficits in intimate relationships.

Such programs are now in widespread use in the management of sex offenders and have undergone extensive review by researchers. But reliable evaluation of the effect of sex offender treatment programs on the recidivism rates of sex offenders is difficult to achieve in a statistically sound fashion. As reported and recorded recidivism rates for sex offenders are low even among untreated offenders, and the typical program provides services to only a handful of offenders, researchers who implement new programs may have to wait many years before treatment effects can be detected with sufficient statistical power (Hanson *et al.*, 2002, p.170).<sup>32</sup> For those wishing to evaluate existing programs, often only post hoc comparison groups<sup>33</sup> are available, and these may well be of questionable comparability.

As a recent review recognised, few systematic evaluations of treatment programs have been carried out and where such evaluations exist, the results have not been definitive (Lievore, 2004, p.89). In order to address difficulties in assessing treatment programs, a number of researchers have aggregated previous studies through meta-analysis – combining the findings of numerous studies to create a sufficiently large sample size to detect even small treatment effects.

## Reducing recidivism through treatment – the efficacy of treatment programs

The question of the efficacy of treatment for sex offenders is still under debate. The apparently simple question, ‘Does sex offender treatment work?’ is not really so simple (Marques, 1999, p.449). Part of the difficulty of evaluating treatment effects for sex offenders is the apparently low base rates of sex offender recidivism – low recorded rates even among untreated offenders make it difficult to find a statistically significant treatment effect. Meta-analyses of treatment outcome evaluation studies are able to address this difficulty to some extent.

To date there have been only a handful of meta-analytic studies of the treatment outcome literature for sex offenders. A recent meta-analysis published in 2002 combined the findings from 43 studies of psychological treatment for adult male sex offenders that had been conducted in the United States, Canada, the United Kingdom and New Zealand. Across the studies, recidivism was variously defined as rearrest, reconviction, parole violation or unofficial community reports, and was reported for both treatment and comparison groups (Hanson *et al.*, 2002, p.175).

The 43 studies examined 5,078 treated sex offenders and 4,376 untreated sex offenders over an average follow-up period of 46 months. Averaged across all types of treatment and all research designs, there was a small but statistically significant effect of treatment on recorded recidivism rates of sex offenders. The sexual offence recidivism rate was lower for the treatment groups (12.3%) than for the comparison groups (16.8%). A similar pattern was found when comparing recidivism rates for general offending, although the respective rates were higher: 27.9% of the treatment groups reoffended, compared with 39.2% of the comparison groups (Hanson *et al.*, 2002, p.181). An earlier meta-analysis had found a similar treatment effect, albeit with higher recidivism rates: treated sex offenders had a sexual recidivism rate of 19%, whereas untreated offenders had a sexual recidivism rate of 27% (Hall, 1995, p.806).

Offenders who dropped out of treatment had consistently higher rates of both sexual and general recidivism than those who completed treatment. For offenders who refused to participate in treatment at all, there was no difference in risk for sexual recidivism compared to those who attended treatment for any period, although the refusers were more likely to be involved in general recidivism (Hanson *et al.*, 2002, p.185).

In an earlier meta-analysis of studies designed to examine the effect of sex offender treatment programs on recidivism, the researchers concluded that broad generalizations about the efficacy of treatment programs should be avoided due to the heterogeneity of offenders. Despite this caution, they suggested that programs based in the community using cognitive-behavioural principles seemed to be the most effective in reducing recidivism. There was also some evidence that prison-based programs were also promising (Polizzi *et al.*, 1999, p.371). Finally, the authors suggest that there are too few studies of the treatment outcomes for specific types of sex offender to be able to draw conclusions about the effectiveness of programs that target specific offender typologies (Polizzi *et al.*, 1999, p.361).

A recent evaluation of an individual sex offender treatment program in New Zealand found similar results. The Kia Marama program, established in 1989 and founded on principles of relapse prevention and cognitive behavioural theory, is a group-based treatment program in prisons for sex offenders against children. The structure of the program includes a number of aspects to treatment, teaching offenders to:

- understand their offending;
- improve empathy with the victim;
- manage negative moods;
- build relationship skills; and
- manage both internal and external factors that put the person at risk of reoffending.

A 2002 evaluation of the Kia Marama treatment program examined the recidivism rates of offenders who had lived for up to six years in the community after completion of the program. Comparing 238 men from the treatment program with a matched control group selected from all child sex offenders convicted between 1983 and 1987, the researchers concluded that the program had a significant treatment effect. In particular, the treatment group had less than half the number of recidivists than did the control group. The treatment group had a recorded recidivism (reconviction) rate of 8% compared to 21% for the controls. Consistent with previous research, officially recorded recidivism rates were higher among offenders with male victims and those with victims under 12 years of age, among those whose offending began before adulthood, and among offenders with several previous convictions and prison sentences (Bakker *et al.*, 2002, p.18).

Evaluations of treatment programs that are conducted within the community have found even stronger evidence of treatment efficacy. A meta-analysis of 79 sex offender treatment studies that included almost 11,000 sex offenders found an overall recorded recidivism rate of 14.4% for treated child molesters compared to 25.8% for untreated controls. However, analysis by treatment setting revealed that child molesters treated in an outpatient setting had a recidivism rate of 13.9% compared with 21.4% for child molesters treated in prison (Alexander, 1999; cited in Lambie and Stewart, 2003, p.4). At the three-year follow-up, the most marked treatment effects were found for child molesters with male victims (18.2% recorded recidivism rate overall for treated offenders versus 34.1% for untreated offenders) and/or child molesters who offended outside the family (1.7% recorded recidivism rate overall for treated non-incest offenders versus 32% for untreated non-incest offenders) (Alexander, 1999; cited in Craissati, 2004, p.154).

A recent outcome evaluation of three community child sex offender treatment programs in New Zealand examined differences in recidivism between 175 treated offenders and 28 controls who also had a history of child sexual offending and had been assessed by the programs, but who had not actually participated in the treatment program. This was known as the assessment group. A second comparison group, comprising 186 child sex offenders who had been convicted of sexual offending during 1995 and who did not receive treatment, was also included in the study design. The majority of this group was sentenced to a community-based sentence including probation, so this was known as the probation group.

Recidivism was defined as a further recorded conviction for a sexual offence. The evaluation found that the recorded sexual offence recidivism rate for offenders who had completed a program was 5.2%, with an overall rate of 8.1% for offenders who had participated in at least some of the program. Recidivism rates were thus higher for those who had dropped out of the program. The sex offence recidivism rate was 21% for those who were assessed only and 16% among the probation group (Lambie and Stewart, 2003, p.14). Recidivism occurred less and later in the treatment group. When looking at reconviction for non-sexual violent offences, the recidivism rate for the treatment group was 10%, compared with 25% for the assessment group and 12% for the probation group. The authors conclude that these community based programs are having a substantial effect on reducing recidivism rates amongst treated offenders.

Similar results were found in an evaluation of community-based treatment for child sex offenders in the United Kingdom. Comparing rates of recidivism for those who had undergone treatment to rates for those who had only received probation supervision, analysis showed that 6 out of 133 (4.5%) of the treatment group had been reconvicted for a sexual offence after two years, compared with 17 out of 191 offenders (8.9%) who had been placed on probation (Hedderman and Sugg, 1996; cited in Beech *et al.*, 2001, p.1).

One Canadian study compared recidivism rates (defined as criminal charges) over six years for adolescent sex offenders for sexual, violent non-sexual and non-violent offences separately. Worling and Curwen (2000) report on recidivism data for all 148 adolescent sex offenders who were assessed as part of the community-based SAFE-T Program in Toronto between 1987 and 1995. There were 58 adolescents in the treatment group who received at least ten months of treatment, and 90 adolescents in the comparison group.<sup>34</sup>

Recorded recidivism rates for treated adolescents were 5% for sexual offending, 19% for violent non-sexual offending and 21% for non-violent offending. For the comparison group, the corresponding recidivism rates were 18%, 32% and 50% respectively. Recidivism rates of adolescents who dropped out of treatment were similar to those of the comparison group, with 26% recidivism for sexual recidivism, 33% for violent non-sexual offending and 48% for non-violent offending (Worling and Curwen, 2000, p.973).

Part of the success of community-based programs may be the diverse nature of some of these treatment programs. As well as including the cognitive-behavioural and relapse prevention aspects of treatment that are found in prison programs, community-based programs often last several years and help offenders develop a network of family and friends to help with rehabilitation and with finding essentials such as stable employment. Such treatment may also include classes for offenders' families so that they can learn to recognise the offenders' external risks and triggers, and to reduce the opportunities for recidivism.

The recognition of the importance of social support has resulted in the development of the 'Circles of Support and Accountability' (COSA) initiative in Canada, which has subsequently been imported into the United States, Scotland and England. This initiative was designed to target those at highest risk of reoffending who were being detained in prison until the end of their sentences and then released into the community with no formal process of aftercare or management. It recognises that many sex offenders are socially isolated, and so provides a support network to which the offender can turn once released from prison or a treatment centre. Support personnel include volunteers who are trained to provide relapse prevention and to identify warning signals for risky behaviour (Kemshall, 2002, p.40).

The original COSA initiative in Ontario, Canada was evaluated in a two-stage study. The first stage examined the experiences of various COSA stakeholders, including the offenders, COSA volunteers, professionals and agencies associated with the program and community members. The second stage compared the recidivism rates of a group of former offenders who had participated in a Circle with a matched group who had not.

The results from the first stage of the evaluation showed that the COSA initiative had a profound effect on all stakeholders. Almost all (90%) offenders participating in a Circle stated that they would have experienced difficulties in adjusting to the community without the help of the program, and two-thirds thought they likely would have returned to crime without COSA support. Responses from COSA volunteers were similar, with 89% reporting that they felt the community was safer due to the program, and 78% believing that the program represented a rational approach to integrating offenders back into the community. Professional respondents also felt that the program increased offenders' responsibility and accountability (70%) and another 70% felt that the community would be safer in knowing that a high-risk sex offender is part of the COSA program. 63% also felt that community fears of reoffending would be reduced. Importantly, 68% of community respondents reported that they would feel safer if they found out that a high-risk sex offender in their neighbourhood belonged to a Circle, as he would be receiving additional support and supervision and would therefore be motivated not to reoffend (Wilson *et al.*, 2005, pp.13-18).

The results from the second stage of the evaluation showed similarly impressive results. Comparing 60 offenders who participated in the COSA program after release with a matched group of 60 offenders who did not participate, the analysis examined rates of recidivism for the two groups (defined as either being charged for a new sexual offence or for having breached a condition imposed by the Court). Results showed that, despite having a higher risk profile as measured by two actuarial risk assessment tools (the STATIC-99 and the RRASOR), the COSA group reoffended at a lower rate than the comparison group.

For sexual recidivism, the comparison group had more than three times as many instances of recidivism as the COSA group (ten instances versus three, or 17% recidivism rate versus 5%). In each of the three instances of sexual recidivism reported in the COSA group, the offence was qualitatively less severe or invasive than the offence for which the offender had most recently been sentenced. For example, the new offence for one COSA member was making an obscene telephone call, while his previous offence was a rape. For the comparison group, their new offences were just as violent and invasive as their most recent offences (Wilson *et al.*, 2005, p.24).

For violent recidivism, the results were similar. While 35% (21 people) from the comparison group reoffended with a violent offence, 15% (9 people) from the COSA group reoffended violently. Overall, the recidivism rate of the comparison group was 43% while for the COSA group the recidivism rate was 28%. The results showed that sexual recidivism by COSA offenders was 70% lower than that of the comparison group, and was less than one-quarter of the recidivism rates predicted by the STATIC-99 assessment tool.<sup>35</sup> In addition, where COSA members did reoffend, the authors suggested that the harm reduction effect that was observed was also encouraging (Wilson *et al.*, 2005, p.26).

In addition, treatment providers have found that sex offenders in community treatment tend to be more compliant than other offenders: as sex offenders are often vilified in prisons, they are especially motivated to avoid further incarceration.

One of the criticisms of the research on treatment efficacy for sex offenders is that it tends to focus on men who sexually offend against children – child molesters are conceptualised as the ‘prototypical sex offender’ (Polaschek and King, 2002, p.215). However child sex offenders are not necessarily representative of all sex offenders. For example, rapists are known to share many more characteristics with general offender groups such as non-sexual violent offenders, rather than with sex offenders; it has therefore been argued that different specialist rehabilitation programs should be designed for this group, and that more treatment outcome studies be conducted for rapists in particular.

While the absolute recidivism rates reported in the treatment literature are subject to the same issues of under-reporting as in the general recidivism literature, the focus of these studies is not on the rates *per se* but on the relative rates of the treated offenders compared to the untreated ones. It is therefore apparent that this research provides evidence for some efficacy of treatment in the reduction of recidivism among sex offenders. Indeed, one Australian researcher has suggested that the answer to the question, ‘Does sex offender treatment work?’ is ‘a cautious “Yes”’ (Lievore, 2004, p.102) – the evidence overall does show small but significant reductions in sexual recidivism and improvements in offenders’ attitudes following cognitive-behavioural treatments. Given the extremely high impact of sexual offending on victims and their families, even these small reductions in recidivism are of great value.

## Sex offender treatment programs in Victoria

Most Australian jurisdictions have some form of prison-based sex offender treatment programs. Consistent with the research literature and with international best practice, many programs reflect a cognitive-behavioural treatment approach delivered predominantly by group therapy. Participation is open to all eligible offenders and while treatment is voluntary, many offenders' motivation for participation may be with the aim of obtaining parole (Lievore, 2004, p.80).

In 1996, Corrections Victoria implemented the Statewide Sex Offender Strategy Framework with the aim of providing a coordinated and integrated system of assessment, management and intervention for sex offenders across both Prison Services and Community Correctional Services. The primary objectives of Corrections Victoria Sex Offender Programs are community protection and reducing the likelihood of sexual reoffending.

The Sex Offender Strategy is aimed at convicted male and female adult sex offenders, including rapists, child sex offenders and offenders whose offences contain a sexual element, such as child internet pornographers. Prison programs are available primarily through Marngoneet Prison, while offenders on community-based depositions are treated centrally, in Carlton.

Both prison and community programs are divided according to types of sex offender (Eccleston, 14 September 2006, personal communication):

- Two mainstream programs include a mix of offender sub-types, such as child sex offenders and exhibitionists.
- One special needs program provides treatment for low functioning offenders (with or without a formal diagnosis of intellectual disability), who have lower than average intelligence. These offenders tend to have difficulties with the concepts employed in the mainstream program so instead participate in a program tailored to their intellectual abilities. Intervention is also available for offenders with language or health difficulties.
- One program that is based on a relatively new concept for Australia that involves the separation of rapists into a separate treatment stream. Research has shown that rapists are qualitatively different from other sex offenders and are instead more similar to violent (non-sexual) offenders: they exhibit the same impulsivity, hostility and anger commonly found among violent offenders (Simon, 2000, pp.286-288).

Both prison programs and community programs are offered in a modular format, allowing flexibility of service delivery by targeting treatment to individual risks and needs, by allowing offenders with shorter sentences to participate in modules that are most related to reducing the risks of reoffending, and by allowing for a mix of prison and community treatment. Core modules include: commencement (an introductory module); offence cycle (identifying and restructuring cognitive distortions); victim empathy (understanding offending from the victim's perspective); and self-management (developing a relapse prevention plan). There are also five tailored modules that are available, including: motivation/denial; fantasy reconditioning; affect management; intimacy and social competence; and maintaining change (Corrections Victoria, 27 November 2006, advice to Sentencing Advisory Council).

On average treatment takes about ten months, although participants in the special needs group often require longer treatment periods: based on experiences working with intellectually disabled offenders at facilities such as Statewide Forensic Services, and supported by the international literature, offenders with an intellectual disability have been found to require 3-5 years of treatment for the concepts to be assimilated and for the treatment to have any effect (Eccleston, 14 September 2006, personal communication).

Assessment of offenders is based on standard actuarial tools (principally the STATIC-99, although others, such as SONAR and RRASOR,<sup>36</sup> may be used in combination with this) as well as clinical judgment. Assessments are made on offending history, static and dynamic risk and protective factors, response to treatment and level of support in the community.

Victoria also has a number of programs<sup>37</sup> that target adolescent sex offenders, whose correlates and patterns of offending tend to mirror those of adult sex offenders. One of these, the Male Adolescent Program for Positive Sexuality (MAPPS) was established by the Department of Human Services in 1993 as a community based intervention program for young males (aged 10-21) convicted for sexual offences. It was also intended that the program serve a secondary function: to provide consultation, education and information on the assessment and treatment of adolescents who sexually offend. The program is based on a model of behaviour change through responsibility taking, awareness and empathy, and is designed as an alternative to incarceration.

Adolescents referred to the program have all been found guilty of committing a sexual offence. Most are aged 14 to 17 years, and all of the adolescents are required to participate as a condition of their court orders. The program usually consists of weekly group sessions that last about 11 months.

In 1998 an evaluation of the MAPPS program found that sexual recidivism rates in convicted adolescent sex offenders had declined following participation. Of the 138 offenders who completed the treatment between 1993 and 1998, only 5% committed further recorded sexual offences. Those who completed treatment were eight times less likely to reoffend than were adolescents who did not complete the program (Chung *et al.*, 2006, p.29).

Adolescent and youth treatment programs in Victoria will soon expand, as new programs are under development. In May 2006 the Attorney-General announced funding for the development of an early intervention program for 15-18 year old alleged sex offenders, as well as additional funding for the development of programs for 10-14 year old youths and children under 10 who are exhibiting concerning sexualised behaviour (Office of the Attorney-General, 30 May 2006).

## Challenges facing sex offender treatment programs

Imprisonment can provide the impetus to encourage sex offenders to participate in treatment while delivering punishment for wrongdoing. Treatment programs that are available either in prison or in the community may aid in rehabilitation and may mitigate the effects of prolonged imprisonment. Although costly, successful treatment programs can reduce recidivism and help offenders return to the community.

However some questions have been raised about the accessibility of sex offender treatment programs. Most jurisdictions across Australia deny access to offenders who do not take responsibility for their offences, yet they do not provide alternative treatment options to this group. In addition, some types of offender (such as sexual murderers) are excluded from the program, but are also not referred to violence treatment programs due to the sexual nature of their offending – such offenders fall through the cracks between treatment for sex offenders and treatment for violent offenders. In addition, many offenders, especially the more serious, long-term and predatory offenders, have a history of childhood victimisation that can complicate their treatment prognosis. As sex offenders are not able to access services such as mental health and victim support agencies, their offending behaviour must be treated in isolation of their victimisation experiences. Without individualised treatment for their own traumatic childhood experiences, offenders' chances of rehabilitation may be reduced (Eccleston, 14 September 2006, personal communication).

Concerns have also arisen about the practice in many jurisdictions of combining those with offences against adults in the same treatment group as those with offences against children (Howells *et al.*, 2004). In particular, recent research has shown that rapists comprise a qualitatively different group to those who offend solely against children. Correlates of offending, offender background and risk factors for recidivism vary between the two kinds of offender, so combining treatment programs may not be optimal.

The timing of the provision of programs is another challenge facing sex offender treatment programs in Australia. Many offenders only participate in treatment programs towards the end of their sentence as parole approaches or even after parole has commenced. Starting therapy as early as possible after incarceration is crucial as offenders often fail to realise the severity of their crimes, and this aspect of treatment may be hampered by an antagonistic prison environment. Consistent with the principles of therapeutic jurisprudence, early assessment by a sex offender treatment team would help to ensure that an appropriate treatment regime is put in place as soon as possible during an offender's prison sentence (McSherry, 2006, p.22).

Even with early assessment, the difficulties associated with identifying risk are such that determining which offenders would benefit most from treatment is not a simple task. As participation in treatment programs tends to be voluntary, ensuring participation of those offenders identified as suitable candidates presents yet another challenge to the successful provision of effective treatment programs. Sex offender treatment that is mandated by the Adult Parole Board or undertaken purely for the purpose of parole may not lead to any real behavioural change (McSherry, 2006, p.22). In order to minimise this difficulty, a large part of the early stages of treatment focuses on motivating offenders towards the treatment process itself, even for hostile and resistant offenders (Eccleston, 25 October 2006, personal communication).

A persistent challenge to treatment programs provided in the community is the issue of accommodation. In the United States, sex offender registers, community notification of the locations of sex offenders, and the co-location of multiple sex offenders within group housing, have led to vigilantism on the part of neighbouring communities that are concerned not only about the safety of their children with such offenders living among them, but also about the economic stability of the neighbourhood once it has developed a reputation for housing such residents (Minnesota Department of Corrections, 2003, p.8). Within this potentially volatile environment, community-based treatment programs may face severe challenges in achieving successful outcomes of reducing recidivism and reintegrating offenders back into the community.



## Conclusion

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Despite the fact that there is now a large body of evidence on the nature of sexual offending and the characteristics of sex offenders, misconceptions still abound. The 'folk-myths' about 'sick' offenders and 'stranger danger' have yet to be replaced by the 'reality that normal males perpetrate most sexual violence and that most offenders are known to their victims' (Glaser, 1991, p.1).<sup>38</sup> That is, most sexual offences are committed by ordinary men in the context of everyday relationships.

Although they are the least common form of sexual assault, sexual offences committed by strangers have been the priority for policy-makers over the years. Denise Lievore suggests that there are a number of reasons for this (Lievore, 2004, pp.109-110):

- stranger violence is viewed by the community as more serious than violence between people known to each other;
- sexual assaults perpetrated by strangers may be more likely to result in injury;
- some of the more persistent visible sex offenders are found in this group and it is assumed that they offend against many more victims than men who sexually assault partners or other family members;
- stranger attacks are more likely to be reported to police and proceed to trial and convictions; and
- these cases are more likely to attract sensationalist media attention.

These factors obscure a better understanding of both the risks of sexual offending and the optimal ways in which to prevent sexual offending in the first instance and to reduce subsequent sexual recidivism. Focusing on the few offenders who offend against strangers may deflect attention and resources away from the large number of sex offenders who offend against someone they know and whose offending is therefore mostly hidden, but is no less devastating.

Although sex offenders are not a homogeneous group – different types of sex offender exhibit different patterns and precursors of offending – overall sex offenders have versatile criminal careers, with their sexual offending being embedded in more general criminal behaviour. There are thus theoretical and policy dangers of seeing sex offenders as a coherent group, when in fact the evidence suggests that this is not the case.

Sex offenders who are rearrested or reconvicted represent only a small minority of all offenders. Nonetheless, the level of harm that they can potentially cause is immense. Although the accurate and reliable identification of these offenders is clearly of utmost importance, the difficulties inherent in assessments of future risk make this an extremely difficult, if not impossible, task.



## Endnotes

- 1 This section is drawn largely from a paper on high-risk offenders written for the Sentencing Advisory Council (McSherry, 2006).
- 2 The Personal Safety Survey defines sexual violence as sexual assault and sexual threat. Sexual assault is defined as 'an act of a sexual nature carried out against a person's will, through the use of physical force, intimidation or coercion'. This definition includes attempts to force a person into sexual activity. Offences included are: rape, attempted rape, aggravated sexual assault (sexual assault with a weapon), indecent assault, penetration by objects and forced sexual activity that did not end in penetration. The definition excludes unwanted sexual touching and incidents occurring before the victim was aged 15 (these events are categorised separately, as sexual abuse). Threats of sexual assault include threats that the person believed were able and likely to be carried out. This includes only threats made in person, such as verbal threats, threats with a weapon and threats to harm children. Threats made before the victim was aged 15 are excluded, as are threats that were followed by an actual sexual assault (Australian Bureau of Statistics, 2006d, *Personal Safety Australia, 2005*, Catalogue 4906.0, p.61).
- 3 Adjudicated defendants are those who have either been either acquitted by the court or who have been proven guilty (by a guilty plea or by being found guilty at trial).
- 4 Sexual assault is defined as 'physical contact of a sexual nature directed toward another person where that person does not give consent, gives consent as a result of intimidation or fraud, or consent is proscribed (i.e. the person is legally deemed incapable of giving consent because of youth, temporary/permanent (mental) incapacity or there is a familial relationship' (Australian Bureau of Statistics, 2006c, *Recorded Crime-Victims Australia, 2005*, Catalogue 4510.0, p.42).
- 5 Principal offence is defined as the offence category associated with the main charge that has an adjudicated finalisation (i.e. an outcome of acquitted or proven guilty) (Australian Bureau of Statistics, 2006a, *Criminal Courts Australia, 2004-05*, Catalogue 4513.0, p.79).
- 6 Sexual assault and related offences are defined as acts of a sexual nature against another person that are non-consensual or consent is proscribed (Australian Bureau of Statistics, 2006a, *Criminal Courts Australia, 2004-05*, Catalogue 4513.0, p.80).
- 7 For further discussion on the sources and limitations of data on attrition, see Fitzgerald, 2006.
- 8 Most serious offence is defined as 'the offence for which the prisoner has received the longest sentence in the current episode for a single count of the offence' (Australian Bureau of Statistics, 2005, *Prisoners in Australia, 2005*, Catalogue 4517.0, p.55).
- 9 Sexual assault and related offences is defined as 'acts of a sexual nature against another person which are non-consensual or consent is proscribed' (Ibid p.56).
- 10 'Other known person' includes acquaintance, neighbour, counsellor or psychologist or psychiatrist, ex-boyfriend or girlfriend, doctor, teacher, minister, priest or clergy and prison officer (Australian Bureau of Statistics, 2006d, *Personal Safety Australia, 2005*, Catalogue 4906.0, p.33).
- 11 Data from the Personal Safety Survey suggest that this 30% is likely to be almost entirely fathers or step-fathers, rather than mothers or step-mothers (Australian Bureau of Statistics, 2006d, *Personal Safety Australia, 2005*, Catalogue 4906.0, p.42).
- 12 For a detailed discussion of the various costs associated with sexual offences in the context of domestic relationships, see Access Economics, 2004.
- 13 See, for example, Hough and Roberts, 2004; Roberts, 2003; Mattinson and Mirrlees-Black, 2000; Hough and Roberts, 1998; Roberts and Stalans, 1997; Sprott, 1996; Doob and Roberts, 1988; and Indermaur, 1987.
- 14 For a discussion of the role of the media in shaping public opinion, see Gelb, 2006.
- 15 In the publication's tables, the cells for female perpetrators of sexual abuse contain so few offenders that most of the results are considered unavailable for publication; where they are published, results have extremely high relative standard errors and are therefore unreliable for general use (Australian Bureau of Statistics, 2006d, *Personal Safety Australia, 2005*, Catalogue 4906.0, p.21).
- 16 Data are presented for offenders for whom the principal proven offence was one of these sexual offences. The principal proven offence is the offence that attracted the most serious sentence according to the sentencing hierarchy. Data are unpublished and are provided by Court Services, Department of Justice (Victoria).
- 17 Court Services, Department of Justice (Victoria), unpublished data.
- 18 It has been suggested that the average age of incest offenders is older simply by virtue of the fact that the offender has to have aged sufficiently to allow him to have children of his own. When incest offenders are younger, the incest tends to involve siblings or other younger relatives such as cousins.
- 19 Some people may question whether the self-reports of offending behaviour used in such studies are in fact reliable, or whether offenders are simply attempting to minimise their offending and gain sympathy. Given the low rates of reporting sexual offences to police, it would not be difficult for offenders themselves to understate their offending behaviours.
- 20 Sexual assault was defined as a range of acts of a sexual nature, from aggravated sexual assault and indecent assault to rape, penetration with an object and other forced activities that did not end in penetration, including attempts to force a person into sexual activity. Non-assaultive or non-hands-on sexual offences such as indecent exposure or voyeurism were excluded. Sexual violence has a somewhat broader meaning but it is used interchangeably with sexual assault in the report. Violent offences were defined as a range of non-sexual offences against the person, from homicide, manslaughter and abduction to robbery, assault and threatening to do grievous bodily harm (Lievore, 2004, p.13).

- 21 In this study recidivism was defined as return to prison for any offence (Broadhurst and Maller, 1992, p.59).
- 22 Recidivism in this study was defined as the proportion of people with a conviction leading to a sentence of imprisonment within two years of discharge from prison (Thompson, 1995, p.8).
- 23 Recidivism in this study was defined as re-appearance in court for an offence that was allegedly committed subsequent to release on parole (Jones *et al.*, 2006, p.3).
- 24 The difference between the likelihood of recidivism for sex offenders and the likelihood of recidivism for all offenders on average was statistically significant.
- 25 This research was reported in 1979, when definitions of rape were far more restrictive than they are today.
- 26 Recidivism in this study was defined as reconviction, reimprisonment, time to fail and reoffending (Ross and Guarnieri, 1996, p.8).
- 27 Homicide included murder, negligent and non-negligent manslaughter and kidnapping. Sexual assault included forcible or violent acts not involving intercourse with an adult or minor, non-forcible sexual acts with a minor such as incest or statutory rape, and non-forcible sexual acts with someone unable to give consent due to mental or physical defect or intoxication. Rape was defined as forcible intercourse with a male or female, including forcible sodomy or penetration with a foreign object.
- 28 Recidivism was defined in this study as any charge or conviction (Firestone *et al.*, 1998, p.187).
- 29 For a more detailed discussion of the difficulties and issues associated with accurate assessment of risk of future offending, see the Sentencing Advisory Council's Discussion Paper entitled 'High-Risk Offenders: Continued Detention and Supervision Options'.
- 30 Professor James Ogloff of Victoria's forensic psychiatric service, Forensicare, has noted the importance of including information on confidence intervals when reporting such results. In this case, the statistics mean that the estimated association between prior and future sex offences is .19, and the true association can be said, with 95% confidence of accuracy, to lie between .17 and .21. Hanson and Bussière (1998) note that correlations greater than .30 should be considered large for the prediction of sexual offence recidivism, those greater than .20 as moderate and those between .10 and .20 as small. Thus while a correlation of this magnitude should be considered as small to moderate, it does nonetheless indicate an increased likelihood of sexual offence recidivism for people with previous convictions for sexual offences. It is also important to note that correlation does not imply causation: although prior convictions are *associated with* recidivism, they do not *cause* recidivism.
- 31 For a more detailed discussion of the possible options for managing 'high-risk' offenders, see the Sentencing Advisory Council's Discussion Paper entitled 'High-Risk Offenders: Continued Detention and Supervision Options'.
- 32 Sufficient statistical power is reached only when there are sufficient numbers of offenders who have participated in treatment and sufficient numbers of offenders in a comparison group who have not participated in treatment.
- 33 Ideally, comparison groups are matched with treatment groups at the outset of the study and are followed prospectively. In post hoc comparisons, groups are created after the fact and are examined retrospectively.
- 34 These offenders did not differ significantly from the treatment group offenders on variables thought to be related to both sexual and non-sexual recidivism, such as sexual deviance, history of previous offending, victim preferences, anti-social personality, aggression and family environment.
- 35 This finding illustrates the extent of the problem of 'false positives', whereby assessments of risk incorrectly predict that the offender will reoffend.
- 36 The STATIC-99 is the most widely used risk assessment tool. It is designed to estimate the probability of sexual and violent recidivism among adult men who have already been convicted of at least one sexual offence against a child or a non-consenting adult. It is not recommended for adolescents (under 18 years of age at time of release) or female offenders. It consists of ten items that are based on research findings about the predictors that are commonly found in the histories of recidivist offenders. These include: number of prior sexual offences; number of prior sentencing dates; presence of convictions for non-contact sexual offences; whether the index offence involved non-sexual violence; presence of prior non-sexual violence; having unrelated victims; having stranger victims; having male victims; whether the offender is young; and whether the offender is single. Based on these items, the offender is classified as being low risk, medium-low risk, medium-high risk or high risk. The SONAR measures dynamic risk factors and is best used to assess risk for an offender living in the community (for example, an offender on parole). It is therefore not widely used to assess offenders still in prison. The RRASOR is the only tool that has been well validated for use with an intellectually disabled population.
- 37 Other programs for adolescent sex offenders include the Sexual Abuse Counselling and Prevention Program (formerly the Adolescent Sex Offender Treatment Program), run by the Children's Protection Society and taking primarily voluntary clients; the Southern Sexual Abuse Counselling and Prevention Program, run by the South Eastern Centre Against Sexual Assault and taking both voluntary and court-mandated clients; the Sexual Abuse Prevention Program, run by the Salvation Army, Brayton Youth and Family Services and Berry Street Goulbourn as the only rural sexual violence prevention program and taking both voluntary and court-mandated clients; and programs or treatment offered by various private practitioners.
- 38 Glaser wrote in 1991 that there had been a 'huge expansion' in society's knowledge about sexual offending that had hopefully dispelled some of the myths. This hope, however, seems not to have been fully realised as yet.

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