

Sexual Violence in Australia

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Foreword

Sexual violence, a term that covers a wide range of criminal behaviours, occurs with alarming frequency within the Australian population. Recent research suggests that 1.2 million adult women in Australia have experienced an incident of sexual violence since the age of 15. While there is presently no measure of the true incidence of sexual violence amongst the male population, recorded crime statistics indicate that males in the 10–14 year age group experience a rate of victimisation of 86 per 100,000 population. It is likely that the real figures are much higher. The impact of these crimes on the individuals concerned, their friends and families, and the community generally, cannot be overstated.

This report will summarise what we know, and what we do not know, about sexual violence in Australia. It is well documented that sexual violence is a crime overwhelmingly perpetrated by males against females but within these two groups there is room for considerable variation. Factors such as age, race, physical or mental impairment, drug and alcohol use, occupation and prior experiences of victimisation are also relevant. As a result, sexual violence disproportionately affects certain groups within the Australian community.

The effects of sexual violence on the individual (and their immediate social and family network) can be devastating and long-lasting. Victim/survivors may experience a combination of effects, including emotional, social, interpersonal, educational, vocational and financial repercussions. The Australian criminal justice system and governments have developed a range of programs and services to address the issue of sexual violence—both from the perspective of offending and victimisation. These responses will be considered in this report.

Adam Graycar
Director, Australian Institute of Criminology
January 2001

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Terminology and Abbreviations

Terminology

For the purposes of this report, “sexual violence” will be defined as “unwanted touching, sexual harassment and intimidation, coerced sexual activity, sexual assault and rape”.

Abbreviations

NASASV	National Association of Services Against Sexual Violence
OSW	Office of the Status of Women, Department of Prime Minister and Cabinet
ABS	Australian Bureau of Statistics
AIC	Australian Institute of Criminology
HREOC	Human Rights and Equal Opportunities Commission
ALRC	Australian Law Reform Commission
DPP	Director of Public Prosecutions
CWS	Child Witness Service

Executive Summary

Part 1: The Issue in Overview

This section explores what sexual violence is—that is, how it is defined, the place it occupies in society, and how it was placed on the policy agenda. This examination sets the scene for the following discussion which investigates who experiences sexual violence in Australia. This section examines the characteristics of victims, the location of sexual assaults and non-reporting trends amongst certain groups.

Part 2: Consequences of Sexual Violence

The consequences of sexual violence can be far-reaching and very damaging to the victims. This part of the report looks at the effects of sexual violence including physical, social, economic and psychological effects. It also considers the long-term and special effects the experience of sexual violence can have on victims such as children, males, Indigenous Australians, people from non-English-speaking backgrounds (NESB) and the intellectually disabled. This part of the report also examines the role of the Australian criminal justice system in either hindering or assisting the recovery of victims of sexual violence.

Part 3: Sexual Offenders

This is a brief section which examines the existing data collection and statistics within Australia on the issue of sexual offenders. It also examines the literature on reoffending and identifies the need for knowledge on the methods and motivation of such offenders in order to correctly address such offending behaviour.

Part 4: Responses to Sexual Violence

This section examines some of the programs and policies which address the issue of preventing sexual violence or the treatment of sexual violence victims. It looks at the recent formulation of a National Standards Manual by the National Association of Services Against Sexual Violence (NASASV). It briefly describes some of the educational programs which are considered best practice. This section also addresses the need for treatment of and intervention with sexual offenders in order to protect the community.

Finally, the need for reform within the criminal justice system is considered, with a look at some recent responses in this area.

Part 5: Conclusion

In the final part of the report, opportunities in programs and policies are identified. Some identified areas requiring change include data collection, services for victims and offenders, education and training for service providers and, finally, service evaluation.

Part 1: The Issue in Overview

What is “Sexual Violence”?

While the crimes of “rape” and “incest” have been on the statute books for hundreds of years, it was not until the 1970s that “sexual violence” was more fully explored and developed as a concept. Feminists such as Susan Brownmiller drew attention to the fact that rape (then conceptualised as sexual intercourse without consent) was a crime committed by men against women, not only in dark back-alleys but in homes, workplaces, and in the context of intimate and family relationships (see Brownmiller 1975; Millett 1977). The feminist movement rejected the notion that adult “stranger” rape was the most serious or prevalent form of rape, and drew attention to the incidence and seriousness of a broad variety of sexual assault experiences (Lieb, Quinsey & Berliner 1998, p. 54).

Feminism was also responsible for debunking some of the myths about rape and other forms of sexual violence. Examples of these myths include that:

- women “ask for it” and enjoy rape;
- children are seductive;
- only “bad” women are raped;
- women and children generally lie about having been raped;
- children are most likely to be sexually assaulted by strangers;
- men who rape are mentally ill and/or under stress; and
- men have uncontrollable sexual urges.

Today, it is acknowledged that sexual violence covers a wide range of criminal behaviour against both adults and children, and people of all backgrounds. It is also acknowledged that sexual violence is not always “cut and dried”—the legal acceptance of the phenomenon of “date rape” is an example of this. In a recent report of the National Association of Services Against Sexual Violence, sexual violence was defined in the following terms:

Sexual violence includes a range of violent behaviours. It can include unwanted touching, sexual harassment and

intimidation, coerced sexual activity, sexual assault and rape and can include other physical violence and threat to life.
(Dean, Hardiman & Draper 1998, p. iii)

This definition will be used for the purposes of the present report.

It is clear that there are no simple explanations for sexual violence—such explanations involve consideration of complex and dynamic social structures, as well as individual circumstances of both the victim and the offender. NASASV captures the complexity of the problem in their service philosophy, which states that:

Sexual violence is both a consequence of, and reinforcement of, power disparities between individuals and in society. Attitudes, beliefs, laws and other social structures which allow or support the power of one group over another, or which allow or support violence, contribute to the problem of sexual violence in society. The NASASV is committed to addressing inequalities in society based on gender, race, culture, age, ability, religion, sexuality and class, which perpetuate sexual violence. (Dean, Hardiman & Draper 1998, p. iii)

Who Experiences Sexual Violence?

What we know about sexual violence in Australia is informed by several data sources, each of which has considerable limitations. These sources include recorded crime, Crime and Safety Surveys and the Women's Safety Survey.

A major source of information on the incidence of sexual assault comes from police statistics. These statistics only represent the level of reporting of sexual offences to the police, and will always underestimate the true extent of sexual assault.

The Crime And Safety Surveys and the Women's Safety Survey are a result of efforts to overcome the limitations of police statistics.

The Australian Bureau of Statistics (ABS) periodically conducts Crime and Safety Surveys which provide information on both reported and unreported crimes as well as socioeconomic characteristics of the victims. Responses obtained in these surveys are based on the respondents' perception of their

having been a victim of a crime. The most recent survey was conducted in April 1998 with the results published in late 1999 (ABS 1999).

Questions relating to sexual assault are only asked of females aged 18 years and over, and include such things as whether they have been a victim of sexual assault in the last 12 months, how many times they were sexually assaulted, whether the police were told about the incident, reasons why the incident was not reported to police, the place where the incident occurred, whether a weapon was used, whether they were physically injured and whether or not the offender was known to them.

A survey conducted by the ABS in 1996 collected information on women's safety from a random sample of 6,300 women across Australia aged 18 and over. The survey was the first of its kind in Australia, and measured the nature and extent of physical and sexual violence against women, the actions women took after experiencing violence, and the effect of this violence on their life. It also provides information on abuse, stalking, harassment, and women's feelings of safety within the home and the community.

The Women's Safety Survey has helped develop national estimates on the nature and extent of sexual violence experienced by women in both the previous 12-month period and also from the age of 15 (ABS 1996b). The survey, however, only measured responses from women aged 18 and over, and so a large number of sexual assault offences against women under 18 were unrecorded, along with the assaults of men and young boys.

The survey defined "sexual violence" to include both sexual assault and sexual threat. "Sexual assault" includes acts of a sexual nature carried out against a woman's will through the use of physical force, intimidation or coercion, or any attempt to do this. It includes rape, attempted rape, aggravated sexual assault (that is, with a weapon), indecent assault, penetration by objects and forced sexual activity that did not end in penetration. "Sexual threat" involves the threat of an act of a sexual nature which the woman believes is able and likely to be carried out—this includes verbal threats, threats with a weapon and threats to harm children (ABS 1996b, p. 82)

Although crime victim surveys produce more accurate estimates of incidence and prevalence rates than police statistics, and confirm that many offences are not reported to police, they too are acknowledged to

underestimate violent crimes of an intimate nature, particularly sexual assault, domestic violence and child abuse (Grabosky 1989; National Committee on Violence 1990). Several limitations of crime victim surveys as a means of measuring the extent of sexual violence have been identified:

- Information gained by these surveys is limited by the questions asked, and the composition of the database. Both the Women's Safety Survey and the questions on sexual assault from the Crime and Safety Surveys were limited to women over 18 years of age, leaving out children, adolescents and men. The Crime and Safety Surveys only asked female respondents questions about actual sexual assaults—thereby leaving out threats of sexual violence. While we have some indication of the actual prevalence of sexual assault among adult females, we have no idea of the prevalence among males and children.
- The changing social values regarding the acceptability of some forms of violent behaviour renders them less amenable to measurement by victim survey (National Committee on Violence 1990, p. 9). Victims may not feel a crime has actually been committed or that sexual violence is acceptable when the offender is an intimate partner. They may blame themselves for what happened or believe they could have prevented it in some way.
- These surveys are infrequent—the Crime and Safety Surveys were conducted in 1998, 1993, 1983 and 1975, and the ABS is yet to commit itself to a program of regular and comparable surveys.
- The Women's Safety Survey was a once-only undertaking—it is uncertain whether it will be repeated, particularly given its cost. The relatively small sample size means the results cannot be disaggregated on a State-by-State basis or provide estimates on small population groups such as Indigenous women or women born in particular countries.

Accepting these limitations, what do the national statistics tell us?

Sexual Assaults Reported to Police

Since 1993, the Australian Bureau of Statistics has produced a series of publications providing nationally comparable statistics on selected crimes recorded by State and Territory police services in Australia. *Recorded Crime Australia 1997* (ABS 1998b, p. 136) defines sexual assault as “a physical

assault of a sexual nature, directed toward another person where that person:

- does not give consent; or
- gives consent as a result of intimidation or fraud; or
- is legally deemed incapable of giving consent because of youth or temporary/permanent incapacity.”

Sexual assault includes offences such as rape, sodomy, buggery, oral sex, incest, carnal knowledge, unlawful sexual intercourse, indecent assault, and assault with intent to rape or commit unnatural offence. It excludes pornography and prostitution.

In 1997, sexual assault represented one per cent of seven major recorded offences (homicide, assault, sexual assault, robbery, unlawful entry with intent, motor vehicle theft and other theft) and nine per cent of the recorded violent offences (ABS 1998b). This is similar to figures from England and Wales, which reveal that sexual offences account for less than one per cent of all notifiable offences (violence against the person, burglary, robbery, theft, motor vehicle theft and criminal damage) (Home Office 1998, p. 29).

Table 1 shows the number and rate per 100,000 population of sexual assaults recorded by State and Territory police services from 1993 to 1997.

Table 1: Sexual assault recorded by police by State and Territory, 1993 to 1997, number and rate per 100,000 population

	Number (rate per 100,000 population)				
	1993	1994	1995	1996	1997
New South Wales	3,797 (63.2)	4,608 (76.0)	4,156 (67.8)	4,957 (79.9)	4,663 (74.3)
Victoria	2,829 (63.3)	2,833 (63.1)	2,799 (62.0)	2,774 (60.8)	2,832 (61.5)
Queensland	2,322 (74.7)	2,009 (63.0)	2,504 (76.7)	3,019 (90.4)	3,285 (96.6)
South Australia	1,573 (107.7)	1,481 (101.0)	1,358 (92.4)	1,355 (91.9)	1,218 (82.3)
Western Australia	1,263 (75.3)	1,372 (80.6)	1,781 (102.7)	1,757 (99.5)	1,600 (89.0)
Tasmania	126 (26.7)	140 (29.6)	162 (34.2)	160 (33.7)	193 (40.8)
Northern Territory	195 (114.2)	180 (103.8)	127 (71.5)	271 (149.0)	249 (133.1)
Australian Capital Territory	81 (27.1)	99 (32.8)	75 (24.6)	108 (35.0)	98 (31.6)
Australia	12,186 (69.0)	12,722 (71.3)	12,962 (71.7)	14,401 (78.6)	14,138 (76.3)

Source: Adapted from ABS *National Crime Statistics* and *Recorded Crime Australia* publications, 1993 to 1997

Police recorded 14,138 victims of sexual assault in Australia during 1997 (ABS 1998b, p. 51). This translates to a rate of 76 victims of sexual assault per 100,000 persons in Australia. The number and rate of sexual assaults recorded by police has remained fairly consistent from 1993 to 1997, increasing slightly. In 1997, the highest number of sexual assaults recorded by the police was in New South Wales (4,663). However, the Northern Territory had the highest rate of recorded sexual assault per 100,000 population (133.1). The Australian Capital Territory had both the lowest number of sexual assaults and the lowest rate per 100,000 population of sexual assaults recorded by the police in 1997.

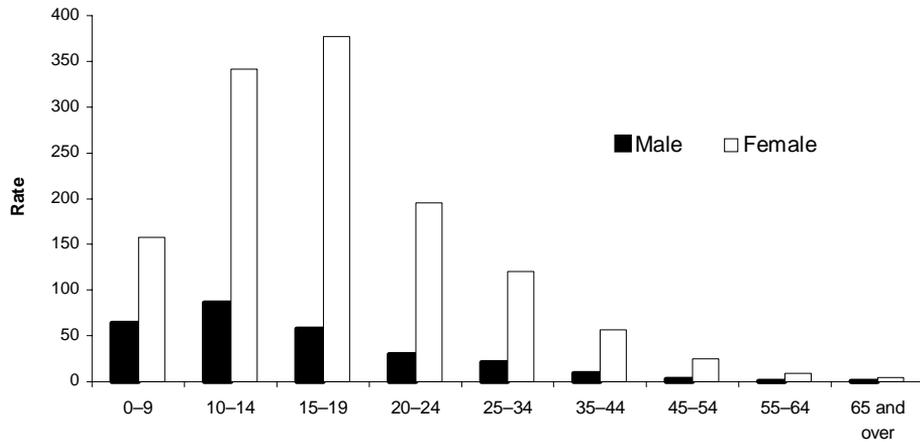
Figures are available from the United States on the number of “rapes”, Canada on the number of “sexual assaults” and from England and Wales on the number of “sexual offences”. Although these data are not directly comparable with Australian data for “sexual assault”, they give us some indication of the extent of sexual violence recorded by police in the United States, Canada, England and Wales.

Statistics from Canada on the number of sexual assaults, and from England and Wales on the number of sexual offences recorded by police in 1997, reveal a similar rate to that for sexual assaults recorded by police in Australia. There were 27,063 sexual assaults recorded by police in Canada in 1997, with a rate of 89 per 100,000 population. In England and Wales the number of sexual offences recorded by police in 1997 was 33,165, and the rate was 65 per 100,000 population. The rate of sexual assault in Australia was 76 per 100,000 population.

Statistics on the number of “rapes” reported to the police in the United States are available from the Uniform Crime Reports (FBI 1997). These reports define “forcible rape” as the carnal knowledge of a *female* forcibly and against her will, as well as assaults or attempts to commit rape by force or threat of force. In 1996, police in the United States recorded 95,770 rapes, with a rate of 22 per 100,000 female population. When comparing these figures to those for Australia, one must remember that rape is only one small part of the whole sexual assault offence, and that the figures from the United States are only for female victims of rape.

The trend in reported sexual assaults in Australia and reported sexual offences in England and Wales has remained relatively consistent from 1993 to 1997. On the other hand, the rates of sexual assault in Canada and rape in the United States have been falling since 1992 (Langan & Farrington 1998, p. 5; Statistics Canada 1998, pp. 6–7).

Figure 1: Sexual assault victimisation rates, by sex and age group of victim, Australia, 1997



Source: Adapted from *Recorded Crime Australia 1997*, Australian Bureau of Statistics

Victim Characteristics

As well as trends in sexual assault, police statistics are able to provide some information on other aspects of sexual assault, including who the victims are, the relationship between the victim and offender, and the location in which the assault occurred. Police statistics do not, however, tell us whether the victim was intellectually impaired, under the influence of alcohol or from a certain ethnic group.

Figure 1 provides a chart for the rates of sexual assault victimisation by the sex and age group of the victim.

- ***Female victims***

Women comprise the overwhelming majority of adult victims of sexual assault reported to the police. Females represented 79 per cent of sexual assault victims recorded by police, and almost half (46%) the number of victims were females under the age of 20. Females aged 15–19 comprised 17 per cent of total victims, with females in the 10–14 and 0–9 year age groups representing 15 per cent and 14 per cent of total victims respectively. Females in the 15–19 year age group recorded the highest victimisation rate (377 victims per 100,000 females) followed by the 10–14 year age group with a victimisation rate of 342 victims per 100,000 females (ABS 1998b, p. 51).

- Male victims*

Male children aged 0–9 represented the highest proportion of male victims of sexual assault, accounting for 6.1 per cent of total victims recorded by police, with a victimisation rate of 64 victims per 100,000 male population. Males in the 10–14 year age group did, however, have a higher victimisation rate (86 victims per 100,000 male population) (ABS 1998b, p. 51).
- Child victims*

There were 2,858 victims of sexual assault under the age of 10 recorded by the police in 1997. A further 2,767 victims were under the age of 14. Therefore, 40 per cent of identified victims of sexual assault were under the age of 14. In fact, the highest percentage of all victims were under the age of 10 (20%). Male children aged 0–9 represented the highest proportion of male victims of sexual assault. The rate of sexual assault among children aged 0–9 was 110 per 100,000 population, while for children aged 10–14 the rate was 211 per 100,000 population (ABS 1998b, p. 51).

Relationship Between Victim and Offender

When sexual assaults are reported to the police, the police record the relationship between the victim and offender. Table 2 presents data for the relationship between the victim and offender of sexual assaults recorded in 1997.

In more than one-third of the incidents, the relationship between the victim and offender was not stated or inadequately described. Interestingly, the victim–offender relationship was similar for both males and females. Close to half the victims, males and females, were sexually assaulted by offenders

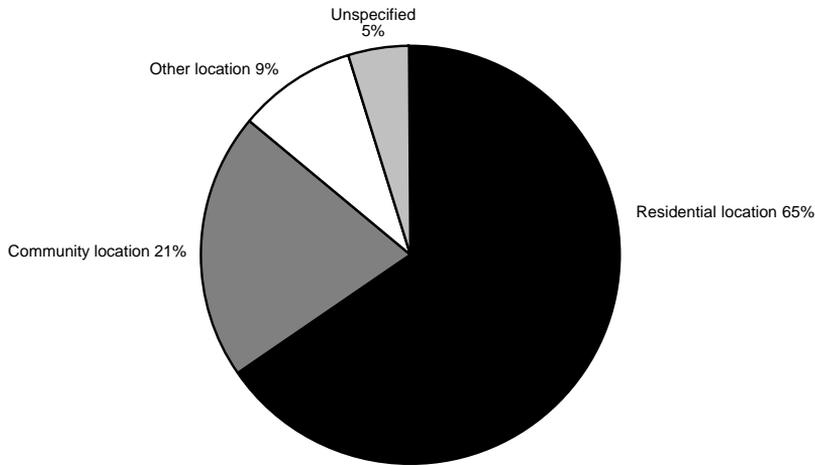
Table 2: Relationship between victim and offender of sexual assaults recorded by police, 1997

Relationship	Sex of victim		Total
	Male	Female	
Number (per cent)			
Family member	397 (15.3)	1,969 (17.6)	2,366 (17.2)
Known/non-family member	811 (31.3)	3,292 (29.5)	4,103 (29.8)
Stranger	377 (14.5)	1,928 (17.3)	2,305 (16.8)
Not stated	1,008 (38.9)	3,968 (35.6)	4,976 (36.2)
Total	2,593 (100.0)	11,157 (100.0)	13,750* (100.0)

* Excludes 388 cases where sex of victim was unknown

Source: Adapted from *Recorded Crime Australia 1997*, Australian Bureau of Statistics

Figure 2: Location of occurrence of sexual assaults recorded by police, 1997



Source: Adapted from *Recorded Crime Australia 1997*, Australian Bureau of Statistics

known to them. Where known, the offender was most likely to be a non-family member. However, an offender was more likely to be a member of the victim's own family than a stranger.

Location of Occurrence

In every State and Territory, sexual assaults are more likely to occur in residential locations—a fact which has been consistent over the five years from 1993 to 1997.

As defined by the Australian Bureau of Statistics (1998b, pp. 114–6), “residential locations” are any dwellings used for private or commercial residential purposes, for example houses, units, apartments and hotels. “Community locations” are any locations where the primary function is provision of services for public use, for example public transport, car parks, streets and footpaths. “Other locations” refers to retail, commercial or recreational premises.

Figure 2 presents the percentage of sexual assaults occurring in various locations in Australia during 1997. Of all recorded sexual assaults in Australia in 1997, 65 per cent occurred in residential locations, most of these in private dwellings. Twenty-one per cent of sexual assaults occurred in

community locations, with sexual assaults on streets or footpaths accounting for eight per cent of all recorded sexual assaults. Only nine per cent of recorded sexual assaults took place in other locations, including recreational facilities (5%). The private nature of residential locations and the relationship between the victim and offender are the major contributing factors to the high level of offending within residential locations.

Crime and Safety Survey, Australia

As noted previously, the Australian Bureau of Statistics conducts Crime and Safety Surveys which provide information on both reported and unreported crimes. The latest available results come from a survey conducted throughout Australia in 1998. Questions relating to sexual assault were only asked of females aged 18 years and over.

- In 1998, 0.4 per cent of females aged 18 years and over were victims of at least one sexual assault in the 12 months prior to the survey. This compares with a victimisation rate of 0.6 per cent recorded in 1993.
- An estimated 30,100 women aged 18 and over were victims of a sexual assault in the 12 months prior to the survey in 1998.
- Seventy-three per cent of these victims experienced just one sexual assault, while only 9.9 per cent were repeat victims, with 17.1 per cent of victims sexually assaulted three or more times.
- In the 1998 survey, only 33 per cent of victims indicated they had reported their last sexual assault to the police (ABS 1999).

These findings are similar to those from the International Crime Victims Survey (conducted in 1996), the New Zealand National Crime Victims Survey (conducted in 1996) and the United States National Crime Victimization Survey (conducted in 1997). One advantage of the crime victims surveys conducted in New Zealand and the United States is that they measure the extent of sexual violence for both men and women. The results of these surveys are presented in the Appendix.

Women's Safety Survey, Australia

The Women's Safety Survey conducted by the Australian Bureau of Statistics (1996b) measured the experience of sexual violence of women in both the previous 12-month period and also from the age of 15. It was estimated that 133,100 women (or 1.9% of the female population) aged 18 and over had

Table 3: Australian women who experienced an incident of sexual violence in the previous 12 months and since the age of 15

Type of violence	Previous 12 months (%)	Since age 15 (%)
Sexual assault	1.5	15.5
Sexual threat	0.7	4.9
Total sexual violence	1.9	17.9
No experience of sexual violence	98.1	82.1

Source: Adapted from *Women's Safety Australia 1996*, Australian Bureau of Statistics

experienced an incident of sexual violence during the previous 12-month period; 100,000 (1.5%) were actual sexual assaults. About 22 per cent of women who were sexually assaulted were also physically injured in the attack, with bruising the most common injury. Women in the 18–24 year age range were the most at risk of sexual violence, with an estimated 43,600 women in this age range being victims.

Sexual violence was almost exclusively perpetrated by men (99%). In 13 per cent of sexual violence incidents there was more than one perpetrator. In the majority of cases the perpetrator was someone known to the victim, including their current partner, a boyfriend or date, a previous partner or another known man. An estimated 43,900 women (1%) have experienced an incident of sexual violence by a current partner, and 260,100 women (10%) by a previous partner. Sexual assaults by a perpetrator other than the woman's partner most commonly occurred in a home (56%). Information on the location of sexual assaults perpetrated by the woman's partner was not collected.

An estimated 1.2 million Australian women (18%) have experienced an incident of sexual violence in their lifetime (since the age of 15); 45 per cent of these had experienced more than one incident. Again, sexual assaults most commonly occurred in a home and were perpetrated by a man known to the victim. The most recent sexual assault incident for women who had experienced sexual assault since the age of 15 was most commonly perpetrated by a current boyfriend (28%).

Almost 40 per cent (38.1%) of women who had been sexually assaulted in the previous 12 months and 45 per cent who had been sexually assaulted since the age of 15 indicated that alcohol was involved. That is, either the woman or the perpetrator had been drinking at the time of the incident, or the woman believed that alcohol contributed to the incident.

According to the survey, only 15 per cent of women who had experienced sexual violence in the 12 months prior to the survey had reported the incident to police, and only 10 per cent of women who had experienced sexual violence since the age of 15 reported the most recent incident to police.

In 72 per cent of sexual assault cases which occurred in the previous 12 months and were reported to police, the perpetrator was not charged. The figure is even higher for sexual assaults occurring since the age of 15 (78%) (ABS 1996b).

The survey also revealed that 82 per cent of women who had been sexually assaulted in the previous 12 months did not seek any kind of professional help from doctors, counsellors or ministers/priests; 91 per cent did not use any services, such as crisis, legal or financial services offered to women who have been victims of sexual assault; and 28 per cent kept the assault secret, not even mentioning it to family or friends. The majority of women (61%) did not use crisis, legal or financial services because they felt they had dealt with the assault themselves or because they did not think it was serious enough to seek help (28%).

Surveys of violence against women have also been conducted in Canada, New Zealand and the United States. Like the Australian Women's Safety Survey, these surveys found that:

- women were more likely to be sexually assaulted by someone known to them than by a stranger;
- a large number of women are victimised more than once;
- young women are victimised more than older women;
- physical injury and the use of weapons is not common in sexual assault incidents;
- few women report the incident to police; and
- many women do not tell anyone about the incident.

The United States' National Violence Against Women Survey is unique as it samples both men and women, and so provides comparable data on women's and men's experiences of sexual violence. The results of this survey are presented in detail in the Appendix.

Localised Studies

Statistics on the incidence of sexual assault within many sociodemographic groupings are not available on a national basis. There are indicators of the incidence of sexual violence within these groupings from smaller, localised studies and in the available literature.

Male Victims

There is no measure of the true incidence of sexual violence among men. Crime victim surveys have traditionally only asked questions on sexual assault of females aged 18 years and over. Therefore, the only indication of the level of sexual violence among men in the community comes from police reports. It is generally accepted that the under-reporting of sexual assaults is likely to be higher for males than for females (Salmelainen & Coumarelos 1993, p. 2).

As sexual violence is considered a predominantly “female” crime, and the myths that men cannot be victims of sexual assault are enduring, it is very difficult for men to come forward and report the crime to police. Victims also have fears about being labelled homosexual (New South Wales Sexual Assault Committee 1993, p. 51). A male victim of sexual assault has written:

The rape of a man or a woman is a horrible thing. I know what a woman feels when she is raped. I know the feeling of helplessness, the shame, guilt, self-doubt, self-blame and fear. The greatest fear for me was that someone I knew would find out. Other men do not understand, will not try to understand, and will ostracise a man who has been raped... It could be worse for men in this respect because they have no-one to talk to and are afraid of rejection. You keep it a secret and let no-one know. (Heilpern 1998, p. 4)

There is probably not enough incentive for male victims to come forward. There is the fear of not being believed by the police, and there is a lack of services for men which can help them deal with the impact of the sexual assault. Conceptions of masculinity suggest that men should be able to deal with problems on their own, and cannot be seen to show “weakness”. Society conditions us to believe that males are always to be in control of their emotions, of other people and of their environment (Wildwood 1993, p. 23). However, male victims feel that information and counselling services are not adequate for male victims of sexual assault (Edwards 1996, p. 25).

Anecdotal evidence from the Victims Referral and Assistance Service, a help-line and referral service for victims of crime in Victoria, suggests that males do represent a larger proportion of victims of sexual violence than is reported. Between 30 and 40 per cent of sexual assault victims calling the service were men; however, only about six per cent had reported the crime to the police (Victims Referral and Assistance Service 1999, pers. comm.). The New South Wales Sexual Assault Committee (1993) found that 27 per cent of male respondents to a phone-in had actually not told anybody about the sexual assault. Sixteen per cent of males had reported the sexual assault to the police, compared with 33 per cent of females (New South Wales Sexual Assault Committee 1993, p. 51).

People from Indigenous Backgrounds

The National Aboriginal and Torres Strait Islander Survey conducted by the ABS in 1994 found that assault was five times more prevalent amongst Indigenous Australians than non-Indigenous Australians (ABS 1995c). A study of the rates of victimisation of Indigenous Australians found that Aboriginal women were 10.7 times more likely to be victims of violent crime than non-Aboriginal women (Harding et al. 1995, pp. 20–3). It is likely, therefore, that rates of sexual violence against Indigenous women are disproportionately high, when compared to non-Indigenous women.

The National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families (1997, pp. 194–5) found that 17.5 per cent of witnesses to the inquiry reported sexual exploitation and abuse. The report notes a study by the Western Australia Aboriginal Legal Service which found that 14.5 per cent of Aboriginal children placed in foster care and 10.9 per cent of those placed on missions reported sexual abuse.

A survey of Aboriginal people conducted in South Australia in the mid-1980s revealed a high level of rape and child abuse in the metropolitan Aboriginal community. The report, *Aboriginal Women Speak Out* (Carter 1987) found that, according to incidents reported by 120 survey respondents:

- 59 cases of rape and 61 cases of child sexual abuse were recorded;
- 90 per cent of rape survivors and abused children were female;
- 50 per cent of rape survivors were between the ages of 21 and 28 at the time of the rape, and 48 per cent of abused children were between the ages of six and eight when the abuse started;
- 17 per cent of rape survivors were pack-raped;

- 41 per cent of rapists were Aboriginal, 42 per cent were white and 17 per cent were Aboriginal and white rapists acting together;
- the offender was most often known to the victim and in 29 per cent of rape cases was an intimate partner;
- in 40 per cent of rape incidents the offender had been drinking alcohol or using drugs;
- 51 per cent of rapes occurred either in the victim's or offender's home;
- 87 per cent of child sexual abuse was continuous, over 50 per cent continuing for more than five years;
- in 51 per cent of child abuse cases the offender was white, 42 per cent of offenders were de facto husbands of the child's mother, and 23 per cent were the child's foster father;
- where the child abuse offender was Aboriginal, 17 per cent were the child's biological father;
- 88 per cent of rape survivors and 64 per cent of child sexual abuse survivors did not formally report the assault; and
- reasons for not reporting rape or child sexual abuse included fear of not being believed, fear of the abuser, and shame or worry about repercussions in the community.

People from Non-English-Speaking Backgrounds (NESB)

There is generally a lack of data on the incidence of sexual violence amongst NESB women. It is also difficult to obtain data through self-report surveys such as the Sexual Assault Phone-In, due to the time and money required to encourage such women to participate (New South Wales Standing Committee on Social Issues 1993, pp. 226–7).

The size and scope of the Women's Safety Survey affects the estimates relating to small population groups. The survey collected information about the country in which a woman was born and some estimates are published for women according to whether they were born in Australia or other English-speaking countries, or whether they were born in non-English-speaking countries. However, the ABS indicates it is not possible to analyse the experiences of women born in particular countries due to the small sample of respondents from these particular groups (ABS 1996b, p. 3).

The survey estimated that:

- 113,500 women born in Australia (2.2%) experienced an incident of sexual violence in the 12 months prior to the survey;
- 19,600 women who experienced an incident of sexual violence (1.2%) were born outside Australia; and
- 10,100 (1.0%) were from a non-English-speaking country.

These findings suggest that women born in Australia are more than twice as likely as women from a non-English-speaking background to be victims of sexual violence. However, the estimates for those women born outside Australia are less reliable (they have a relative standard error of 25–50 per cent) than those for women born in Australia.

NESB women who are victims of sexual assault are less likely to use both government and community-based services. The Sydney Rape Crisis Centre reports that in 1993–94 only 3.3 per cent of victims using the service were from a non-English-speaking background (cited in New South Wales Standing Committee on Social Issues 1993, p. 226). The infrequent use of services by immigrants is unlikely to be due to a lack of need, but rather the structure of services and the fears of immigrants. According to Garrett (1992), confidentiality is also of concern to many victims of sexual assault. In some small ethnic communities, the bilingual workers or interpreters will be known to many community members, and immigrants may fear that their secret will be known throughout their community or that the information will be used against them (Garrett 1992, p. 201).

People with an Intellectual Disability

It is difficult to quantify the incidence of crime against intellectually disabled persons. As noted in Johnson, Andrew and Topp (1988, p. 25), there is a paucity of obtainable data in relation to the nature and extent of crimes against people with intellectual disabilities. The authors suggest some reasons for the dearth of information, including:

- confusion about the nature of crimes committed against people with intellectual disabilities;
- ethical dilemmas in reporting for staff;
- difficulties in detection; and
- the fact that crime is the norm in some environments (Johnson, Andrew & Topp 1988, pp. 25–7).

Carmody (1990) notes that it is rare for service providers, government departments and police to collect statistics on the incidence of sexual violence which indicate whether the victim has an intellectual disability. For example, the Bureau of Crime Statistics and Research, which monitors sexual assault matters before the courts, does not collect data that identifies whether the victim has an intellectual disability (Carmody 1990, p. 11).

A limited number of studies suggest that there is a high incidence of sexual assault amongst people with an intellectual disability. In 1988, Johnson, Andrew and Topp conducted a three-month study of alleged crimes against persons with intellectual disabilities in Victoria. Of the 144 alleged crimes reported to agencies during this period, 130 (90%) involved sexual offences. Johnson, Andrew and Topp (1998, Appendix 4, p. 14) concluded:

The data suggests strongly that sexual offences and physical assault are the most frequently recorded crimes against people with an intellectual disability. The recording of these figures is particularly significant in view of the low reporting rates for these crimes in the general population.

A study of 855 adults referred to the sexual assault services of the New South Wales Department of Health in the first six months of 1989 revealed that 6.4 per cent of victims had an intellectual disability.

Johnson, Andrew and Topp (1988) suggest that crimes against intellectually disabled persons are likely to go unreported. Those cases that are referred to police or other agencies are likely to be referred by support workers and not the victims themselves. Very few incidents were reported to the police directly by people with intellectual disabilities (Johnson, Andrew & Topp 1988, p. 14).

People with a Mental Illness

According to Davidson (1997), sexual abuse of psychiatric patients is widely acknowledged to be a problem. However, Davidson suggests that it is completely unsatisfactory to determine the extent of the problem by relying on statistics based on formal reports (to police or hospital authorities).

People in Correctional Institutions

A recent study of young male prisoners in New South Wales has confirmed the high incidence of sexual assault in prisons (Heilpern 1998). Heilpern conducted the first study aimed at estimating the incidence of sexual assault

in correctional institutions in Australia. The study was based around a questionnaire that was administered to 300 prisoners aged 18 to 25 in New South Wales prisons in 1994 and 1995. Heilpern's key findings include that:

- one-quarter of males aged 18–25 incarcerated in New South Wales prisons report they have been sexually assaulted while they are in prison, and almost half said they have been threatened with sexual assault;
- more than two-thirds were in fear of sexual assault;
- younger prisoners, particularly those aged 18 and 19, are at greater risk of sexual assault in prisons;
- the perpetrators of these assaults are almost always other male prisoners;
- sexual assaults in prisons are rarely reported; and
- there is sufficient evidence of assault within women's prisons to justify further research.

Heilpern (1998) notes that the existing literature from the United States and Australia is consistent with his findings. Similarly, a survey of persons who have worked in Queensland Correctional Centres identified:

- 68 instances of sexual assault reported to workers (either by the victim, another inmate or other staff) of nine Queensland correctional facilities from 1982 to 1996;
- 86 per cent of reported victims were aged between 17 and 25 years;
- 34 per cent of incidents were documented as having not been reported to correctional authorities;
- the sexual assault often led to increased drug-taking and self-abusive behaviour;
- perpetrators and victims were simply removed or transferred away from each other as a way of dealing with the incident, rather than any legal response (The Advocacy Network for Male Survivors of Sexual Assault 1996).

These figures would surely underestimate the incidence of sexual assault in prisons, as they only refer to offences that come to the attention of some correctional staff.

Sexual Minorities

A review of the literature revealed there has been little research conducted with the aim of quantifying the incidence of sexual assault and violence against sexual minorities, such as gay men, lesbians or transgender persons.

Surveys conducted in Australia on violence against gay men and lesbians have tended to focus on violence of a physical nature, or verbal abuse and harassment, rather than sexual violence (GLAD 1994; Cox 1990). The *Off Our Backs Report* (Lesbian and Gay Anti-Violence Project 1992) asked a sample of lesbians about their experience of sexual assault, however the statistics are too small to make any conclusion about the level of sexual violence experienced by lesbians in the community. According to Mason (1997), the Gay Men and Lesbians Against Discrimination (GLAD) study is the only Australian study to provide some indication of the prevalence of violence among both gay men and lesbians, however it does not discriminate between physical and sexual violence. In the absence of further studies we cannot be certain whether gay men and lesbians experience higher levels of sexual violence than other men and women.

In 1993, a national survey funded by the Commonwealth Department of Human Services and Health examined transgender lifestyles and AIDS/HIV risk (CDHSH 1994). The survey provided information on health issues, sexual issues and practices, and demographic characteristics of people who identify as transgendered. The study indicated the existence of a major area of previously unrecognised sexual abuse and violence. A total of 157 incidents were reported by 71 members of the sample group (n=146). Almost one-third reported rape by a lone assailant while approximately one in eight reported pack rape. About one-fifth reported some other kind of sexual assault. Similar to other studies, about 40 per cent of victims knew their assailant (CDHSH 1994, pp. 37–8).

Transgender victims appeared to be at risk from a very young age. Almost one-quarter had been sexually assaulted before the age of 11 (22%). One in six had been sexually assaulted in the 11–13 age range. A further 42 per cent had been sexually assaulted between the ages of 14 and 25 (CDHSH 1994, p. 38).

The study also found that those who had been victimised were more likely to enter into prostitution, attempt suicide, inject drugs and receive various welfare benefits (sickness benefit and invalid benefit) (CDHSH 1994, p. 41).

Sex Workers

The sex industry operates at many different levels, ranging from workers in private residences to workers on the street. The levels of violence experienced by sex workers is directly influenced by their working conditions (Wade 1991, pp. 141–2). Workers in private situations are likely to have a relatively high degree of control over their working conditions. This is particularly true in those jurisdictions where the sex industry is decriminalised or regulated. Sexual violence against these workers is statistically low.

This stands in direct contrast to workers who solicit from the street. It is widely acknowledged that these workers are most at danger of violence, including sexual violence (see Perkins et al. 1994). This is due in part to their illegal status—soliciting is illegal in all States and Territories—but may also be due to other characteristics. For example, some street sex workers might also be transgender, an injecting drug user, underage and/or homeless (McCloskey & Lazarus 1991, pp. 234–5). It is difficult to quantify levels of violence against these workers but anecdotal evidence suggests that it is extremely high. Indeed, several sex workers working the streets in Australia have been murdered in the past decade.

Gilbert (1993, p. 189) indicates that the Prostitutes' Collective of Victoria receives an average of 20 reports of violence against sex workers (women, men and transsexuals) each week, and believes this is an under-representation of the level and incidence of violence against sex workers. It is also likely that NESB sex workers, particularly those who are working illegally, experience high levels of sexual violence (Robinson 1998, p. 7; Brockett & Murray 1994).

According to the Commonwealth Department of Human Services and Health (1994, p. 39), transgendered sex workers are far more likely to have been sexually assaulted than transgendered non-sex workers and, among the transgendered sex workers, street workers are far more likely to have been assaulted than non-street workers.

Non-Reporting of Sexual Assault

Our empirical knowledge about who experiences sexual violence is greatly affected by high levels of non-reporting of sexual violence, either to the police or other community facilities. All the studies and literature mentioned previously confirm that many victims of sexual violence, male or female, do not report their experiences to the police.

According to the Women's Safety Survey, reasons for non-reporting include:

- shame and embarrassment;
- fear of not being believed;
- fear of the legal process;
- fear of the perpetrator of the crime;
- victims may feel they have dealt with the assault themselves;
- victims may not consider the assault to be a "real" crime, or serious enough to report to the police; and
- victims may feel police would not be able to do anything about it (ABS 1996b).

According to Merlino and Dee (1999, p. 11), those victims of rape or sexual assault who do decide to make a police report may do so for the following reasons:

- to ensure their personal safety and future protection from the offender;
- because they believe that the offender should be made responsible for his or her actions;
- reporting the offence may allow the victim to regain some sense of power and control; and
- they do not want the offender to harm other people.

Women are more likely to report incidents that were perpetrated by a stranger (25%), than by somebody they knew, and women who experienced a sexual assault by a current partner are the least likely to report the incident to police (ABS 1996b). If the offender is known to the victim and/or knows where she lives or works, she will be faced with the fear that once he discovers that a police report has been made, he may seek to find her and subject her to further violence (CASA House 1993, p. 9). Women are also more likely to report incidents in which they were physically injured.

In addition to reporting practices among women, we know that reporting practices vary considerably across sociodemographic groups (Young et al. 1997, p. 59). While it is not recorded (or the information is limited) in ABS data, smaller studies confirm that levels of non-reporting differ between certain groups of victims. The reasons for non-reporting are varied and complicated, and differ between the groups. For this reason, it is necessary to consider each group in turn.

Non-Reporting by Children

Children lack independent access to resources, such as transportation, money and accommodation. It is very difficult for child victims of sexual assault to report the matter without the cooperation of one or other of their parents. Parents, however, may not always believe children when they allege sexual violence or may, in fact, be the perpetrator.

Some children do not perceive sexual abuse as anything out of the ordinary, and other children may be afraid of the repercussions of telling their story (see the joint report by the Human Rights and Equal Opportunity Commission [HREOC] and the Australian Law Reform Commission [ALRC] 1997).

A child may be too young to understand the impropriety of the abuse. This can be perpetuated by an offender who successfully persuades their victims that what is occurring is natural or normal. When the child does have sufficient knowledge and understanding to realise the impropriety of the sexual abuse, they are often reluctant to complain because the offender is a person they love, respect, know, or have reason to fear (Director of Public Prosecutions Victoria 1999, p. 12).

A report by the Judicial Commission of New South Wales (Gallagher, Hickey & Ash 1997, p. 3) identifies many reasons why children do not report:

- the sensitive and intrusive nature of the offence;
- coercion by the offender;
- lack of witnesses to support allegations;
- fear of retribution by the perpetrator (who is often known to the victim);
- victims' doubts that they will be believed; and
- victims' fear of the consequences for themselves, their family and perhaps even the perpetrator.

According to Summit (1983), where disclosure of the sexual abuse is made, the catalyst is often either family conflict, incidental discovery by a third party, or awareness instilled by child protection agencies or education programs.

Non-Reporting by Men

Male victims of sexual assault are unlikely to report incidents of sexual assault to the authorities or to their friends for fear of ridicule, of not being believed, or denial (Crome 1996, p. 15). As Bailey (1998, p. 4) has noted, when confronted with a story of a male having been raped by a woman, adult men react with comments such as “half his luck” and “yeah, that happens to me all the time”. Crome (1996, p. 15) has noted that:

Men find it formidable to accept they were raped. It takes a long time in counselling to convince them that everyone is vulnerable to rape and that men, women and children can and are raped in our culture, and in other cultures around the world.

When a man discloses that he has been sexually abused he may be punished further when his “manhood” or sexual orientation are called into question (Wildwood 1993, p. 23). Furthermore, some men do not regard themselves as “victims” if they enjoyed any aspect of the sexual contact, or the relationship around the acts, or if they accepted inducements used in a process of seduction (Hawkins & Briggs 1995, p. 18).

Non-Reporting by People from Indigenous Backgrounds

Indigenous victims of sexual assault might be intensely distrustful of police and the courts as a result of a long history of poor relations with the criminal justice system generally (Moss 1991; Office of the Director of Public Prosecutions Queensland 1996, p. 9; Department for Women 1996, p. 95). It was noted in a report on Indigenous women within the criminal justice system that:

...it is easier [for Indigenous women] not to report incidents of rape and/or sexual assault than subject themselves to a system that basically displays no genuine empathy for Indigenous people and the disempowering impact that they have had to endure by being forced to assimilate. (Office of the Director of Public Prosecutions Queensland 1996, p. 26)

Indigenous women victims of sexual assault report encountering racist attitudes from police, lawyers and other parties to the criminal justice system (Department for Women 1996, p. 95; Paxman & Corbett 1994, p. 4). According to the New South Wales Sexual Assault Phone-In, Indigenous

victims who did report the incident felt there was insufficient communication, respect and support by the police and from the legal process generally. Indigenous victims also identified a lack of culturally sensitive counselling services and trained Indigenous women counsellors (New South Wales Sexual Assault Committee 1993, pp. 47–8).

Non-Reporting by People from Non-English-Speaking Backgrounds

NESB victims of sexual assault might encounter language and cultural barriers at key points, such as police stations and crisis services (Gubbay 1996, p. 137). In fact, the Women’s Safety Survey revealed that women born outside Australia were less likely to report the incident to police than women born in Australia (96% versus 83%). Factors which may impede reporting include:

- a limited understanding of the concept of sexual assault;
- a lack of familiarity with the infrastructure of services;
- a lack of information about the law;
- a fear of alienation and stigmatisation from within their ethnic community;
- fear and shame generally; and
- fears about lack of confidentiality (New South Wales Standing Committee on Social Issues 1993, pp. 228–9).

Non-Reporting by People with a Mental Impairment

Victims who suffer a mental impairment are likely to face problems telling their story and establishing their credibility. As noted by Johnson, Andrew and Topp (1988, p. 48):

It appeared from the evidence presented during this research that many of the offences experienced by intellectually disabled people involved physical and sexual abuse; crimes in which the evidence of the victim and/or witnesses was of key importance in a successful prosecution.

The authors noted that police may suffer the same misconceptions about people with intellectual disabilities as other members of the community, in particular that people with intellectual disabilities are prone to fabrication or

fantasy. Police also reported that intellectually disabled victims were poor witnesses and unlikely to pass as competent witnesses in court (Johnson, Andrew & Topp 1988, p. 50). For these reasons, police may not record the allegation as a crime.

Non-Reporting by Sexual Minorities

According to a study funded by the Commonwealth Department of Human Services and Health (1994), most transgender victims of sexual assault do not report assaults to the police due to the discrimination they often encounter from police. Those assaults that were reported were dealt with in a manner that the victims found almost universally unsatisfactory. Discrimination from doctors and medical service providers was also commonly reported. There are also no transgender-specific rape, sexual assault and incest recovery services in Australia. Transgender victims reported varying welcomes at existing female-oriented services (CDHSH 1994, p. 42).

Sex workers are unlikely to report incidents of sexual assault due to a distrust of the police and the legal system, and the possible illegality of their activities (Perkins 1991).

Non-Reporting by Inmates in Correctional Institutions

Apart from concern with repercussions from inmates and officers, prisoners may be embarrassed or ashamed to admit their victimisation in an environment abhorrent to the expression of personal weakness. Admitting or reporting sexual assault also goes against the dominant prison code that deters informants (Heilpern 1998, pp. 22–3).

Sexual Violence in Relationships

The research literature and statistics suggest that the victims' willingness to report offences to the police depends quite heavily on their knowledge of and relationship with the offender (ABS 1996b; Young et al. 1997, p. 56). In general, victims are more likely to report the incident to the police where the offender is unidentified or a stranger, and less likely to do so where the offender is an acquaintance or, more significantly, a relative or partner (CASA House 1993, p. 48; ABS 1996b). Bargen and Fishwick (1995) suggest that women's perceptions of not being believed are a large part of why they do not report.

Conclusion

These patterns of reporting (or non-reporting) are significant, as they can correlate with risk factors. For example, children are unlikely to report sexual violence, but are also a high-risk group in terms of victimisation. There are no simple explanations for this but we do know that some offenders prey on groups with low reporting rates. These offenders perceive that they will be protected from the criminal justice system. Therefore, groups which consistently under-report may well be more vulnerable to repeat victimisation.

Police Practices

The level of crime recorded in police statistics depends not only on how often victims report crimes to police, but also on how often police record the incidents that are reported to them as crimes. When recording details of violence within a home, police might, for example, record a domestic assault but not a sexual assault, either because they were unaware of the sexual assault, or perhaps because the physical assault is more unambiguous, and less difficult to prosecute, given the existence of a relationship between the parties. Furthermore, police do not always record as a crime every allegation that comes to them. Sometimes police find insufficient evidence that a crime has occurred, and alleged crimes can go unrecorded because of poor record-keeping. Police may also “weed out” behaviour they do not consider serious (Langan & Farrington 1998, p. 11).

Part 2: Consequences of Sexual Violence

Effects of Sexual Violence

Regardless of the age, sex, occupation or marital status of the victim, the consequences of sexual assault can include massive and potentially long-lasting trauma, both for the victim and their immediate family or social network.

For the victim, the immediate physical impact may or may not include physical injury, including the threat of unwanted pregnancy and sexually transmitted diseases. The immediate emotional consequences of sexual assault might include terror, anguish, disgust, personal vulnerability, shock, numbness or denial. The long-term emotional impact can be experienced in many ways including disturbed sleep, frequent nightmares, flashbacks to the attack, embarrassment, shame, eroded self-esteem, depression, anxiety, hostility, anger, loss of sexual confidence, feelings of isolation and perhaps guilt or self-blame (Giuliano 1998, pp. 197–201; CASA House 1990, pp. 7–8). The fact that victims of sexual assault are over-represented among those women who are managing a drug dependence, eating disorders and/or chronic depression, provides an indicator of the longer-term consequences of sexual assault (CASA House 1990, p. 8).

Sexual violence only occasionally results in physical injury. In a study conducted by doctors working with victims of sexual assault in Perth, Western Australia, data were analysed to ascertain the level of physical and genital injury sustained by victims of sexual assault seen by the hospital staff during a 12-month period. The study found that 83 per cent of these victims had minor or no physical injuries at all (Lincoln 1996). Although many of these cases were seen in the emergency department, only one person had injuries severe enough to require hospital admission. The authors noted that their findings supported what they so often had to explain in the witness box: “the overall incidence of physical and genital injuries in people who have been sexually assaulted is actually quite low” (Lincoln 1996).

These findings are consistent with the findings of other studies of victims of sexual assault (VCCAV 1991, p. v; Bargen & Fishwick 1995, p. 31). Self-report studies show that although severe physical injuries are not usually received in the majority of sexual assault offences, the reported psychological and emotional injuries are long lasting and serious (Bargen & Fishwick 1995, p. 31).

A phone-in conducted by the New South Wales Sexual Assault Committee in 1993 revealed the multitude of difficulties that victims of sexual assault go through as a consequence of the assault:

- 97 per cent of victims of sexual assault reported ongoing emotional harm, including low self-esteem and poor self-confidence, feelings of worthlessness, guilt and shame;
- 90 per cent of victims of sexual assault reported ongoing problems in their interpersonal relationships and difficulty forming relationships due to an ongoing fear of men, a loss of trust, and problems in relating to men—sexual and family relationships were often adversely affected and, in some cases, broke down completely;
- 85 per cent of victims said their ability to relate socially had been affected due to fears of going out and a desire to keep a distance from people;
- 78 per cent of victims reported disruption to their normal daily life, including having to move house to feel safe—the disruption was more pronounced (84%) for victims of stranger assaults due to the unexpected nature of the assault;
- 54 per cent of victims said that their education and/or employment had suffered as a result of the assault, including time off work/school, or leaving work altogether;
- 48 per cent reported ongoing physical harm or repercussions, including long stays in hospital, surgical procedures, broken bones, pregnancy or sexually transmitted diseases, eating disorders and changes to body image and physical presentation;
- 38 per cent said they had suffered financially as a result of the sexual assault—this was more pronounced among those who had been sexually assaulted by a husband, partner or ex-partner (54%);
- enduring feelings of anxiety, depression and worthlessness led some victims to attempt suicide, self-mutilate, abuse substances or engage in other self-destructive behaviour (New South Wales Sexual Assault Committee 1993, pp. 21–3).

Victims may face immense disruption to their lives which affects their employment and their housing—depending on where the attack took place, who the attacker was, and the emotional impact of the attack. Victims are affected financially if they leave work or have time off work to find somewhere else to live, or if they move out of a relationship in which they are economically dependent wholly or partially (Bargen & Fishwick 1995, p. 33). The Women’s Safety Survey (ABS 1996b) revealed that eight per cent of women who have been sexually assaulted since the age of 15 took time off work after the most recent incident, 18.5 per cent if they were physically injured in the assault. Thirty-seven per cent of women changed their social activities as a response to the assault.

Victims of sexual assault may also live in fear of their safety. The Women’s Safety Survey (ABS 1996b) revealed that 17 per cent of women who have been sexually assaulted since the age of 15 live in fear of their personal safety. The Sexual Assault Phone-In also indicated that sexual assault victims experienced extensive and debilitating fears, including feelings of never being safe, fears of being alone or going out at night and nightmares (New South Wales Sexual Assault Committee 1993, p. 21).

Experience of Sexual Assault

While all victims of sexual violence can potentially experience serious consequences, certain victims might experience sexual violence in particular ways due to their age, gender or other factors.

Children

A 1993 Sexual Assault Phone-In revealed many consequences of sexual violence on children:

- Women sexually assaulted as children were the most likely to experience problems in their interpersonal relationships (94%). This is likely to be a reflection of the enduring and extensive impact of intra-familial abuse, which often occurs over a long period of time and represents a significant betrayal of trust.
- Some women sexually assaulted as children said they had difficulties relating to peers, which is likely to be the result of the secrecy that surrounds child abuse and the feelings of being damaged that many child victims of sexual assault experience.

- Child victims of sexual assault had also suffered disruptions to their normal daily life, including leaving home to escape the abuse.
- Those sexually assaulted as children also suffered disruption to school attendance and their school results were severely affected (New South Wales Sexual Assault Committee 1993, pp. 21–2).

According to Mullen and Flemming (1998), child sexual abuse has come to be widely regarded as a cause of mental health problems in adult life. While there is a wide range of potential adverse adult outcomes associated with child sexual abuse, there is no unique pattern to these effects and no discernible specific post-abuse syndrome. Mullen and Flemming suggest that child sexual abuse is best viewed as a risk factor for a wide range of subsequent problems, including lower self-esteem, problems with relationships and intimacy, especially sexual intimacy, alcohol abuse and lower socioeconomic status.

In most cases, the fundamental damage inflicted by child sexual abuse is to the child's developing capacities for trust, intimacy, agency and sexuality. Many of the mental health problems of adult life associated with histories of child sexual abuse are second-order effects (Mullen & Flemming 1998, p. 9).

Male Victim/Survivors

There is limited material available on the consequences of sexual violence for male victims. Crome (1996) has noted that the outcomes of sexual violence, and ways of coping, may differ between men and women. She notes that sexual violence has a significant impact on how men view their role as male:

Men tended to feel they were confused in their role as a man and almost felt androgynous. Being violated and "beaten" in a situation they felt they could control is very difficult for them to come to terms with. (Crome 1996, p. 15)

Crome notes that men experience symptoms of sexual trauma, such as depression, anxiety disorders, sexual problems and sleep disorders. She notes that issues such as unemployment, masculinity, homophobia and intimacy are primary issues for some males, while some men struggle with their relationships and with substance abuse (Crome 1996, p. 15; see also Hawkins & Briggs 1995, p. 21).

According to Wildwood, most male victims, as a consequence of the assault, have some concerns about their own sexuality, whether it be related to their male identity, their status among men, the masculinity of their behaviour, their sexual preferences, the frequency and satisfaction of their sexual activity or their capacity for sexual intimacy. These problems affect the everyday lives of men who have been sexually assaulted, often for years after the abuse has ended (Wildwood 1993, p. 24).

Indigenous Victim/Survivors

Clearly, victims of sexual violence who are Indigenous may experience many of the same consequences of sexual violence as non-Indigenous Australians. There may be, however, some consequences of sexual violence that are experienced differently by Indigenous victims. For example, the literature suggests that Indigenous victims of sexual violence may experience shame and fear that is associated with cultural and community ties (Office of the Director of Public Prosecutions Queensland 1996, p. 28). That is, Indigenous women believe that if they speak out about sexual violence it will bring shame on their whole family even though only they have been victimised, or there will be payback, bullying or intimidation from the perpetrator's family (Office of the Director of Public Prosecutions Queensland 1996, pp. 36–7).

A report on the incidence of rape and child sexual abuse in the Aboriginal community, *Aboriginal Women Speak Out* (Carter 1987), identified a number of consequences for the women and children who had been abused. The adults who had been raped as adults or as children felt guilty, dirty and ashamed, were drinking and taking pills to ease the pain, and experienced fear which inhibited their daily lives and relationships. The abused children were running away or leaving home to bring an end to the abuse; they were fearful and exhibited signs of stress which affected their daily lives and relationships. They also felt guilty, dirty and ashamed, and were drinking as they got older. Some indicated they had never coped with their feelings.

Victim/Survivors with a Mental Impairment

There is little published material regarding the effects of sexual assault on people with a mental impairment (Carmody 1990). Carmody cites Varley (1984) who reported on three “mentally retarded” adolescent women who were diagnosed with schizophreniform psychoses. According to Varley, once the psychoses had been treated, the three women disclosed that they

had been sexually assaulted. Varley suggests inadequate preparation for their adolescent sexuality resulted in their inability to defend themselves emotionally from these sexual assaults. He suggests that severe psychological trauma is more likely with people with an intellectual disability (Varley 1984, as cited in Carmody 1990, p. 14).

Women in the Community

As noted earlier, victims of sexual assault may live in fear for their safety. However, the prevalence of sexual violence in Australia can also affect the behaviour of many people who have been victims of sexual violence previously—they may modify their behaviour based on a fear of sexual violence.

The familiar image presented by the media of circumstances surrounding a sexual offence is of a man who is a stranger to the victim who attacks seemingly at random, in dark and public places—alley-ways, parks or outside nightclubs. This image bears little relationship to reality, and is dangerous because it allows us to wrongly believe that sexual assault is a rare and random phenomenon (MacDonald 1993, p. 3). It promotes feelings of fear of public places and of safety in private places, whereas the reverse is true. Some rapes which are perpetrated by offenders known to the victim may not even be recognised as rape because they do not fit the popular conceptualisation of rape as “stranger danger”.

According to MacDonald (1993), through the operation of these myths, women are taught to fear some kinds of men (strangers, men who look or act oddly), in some places (isolated places), at some times (after dark). Surveys and focus groups on fear of crime tend to support this notion.

A study commissioned by the National Campaign Against Violence and Crime (1998) examined fear of crime among people in cities and in rural areas using a combination of focus groups and interviews. The study revealed that a primary focus of people’s fear is the “unpredictable stranger” in the uncontrollable environment. A principal factor underlying this fear is uncertainty about how a stranger may behave. Women learn from an early age about the “risks” of sexual assault and harassment and are most afraid of these crimes. The study revealed that women see the home as a greater place of safety and control and they are more fearful of public spaces, feel less safe walking alone at night and do so less frequently. Underlying women’s fear of attack is their perception that they are at greater risk of sexual assault (NCAVAC 1998).

The study found that female teenagers in particular were fearful of sexual and physical assault. All ages of men are suspect because teenage girls are subject to continuous sexual harassment (especially on trains) ranging from looks, through accidental touching to actual assault—a spectrum that the authors suggest is often unrecognised as a serious and significant source of fear of crime.

In 1995 the Office of the Status of Women conducted a survey on community attitudes to violence against women. The responses from women indicated that they fear violence more than men do. Eighty per cent of women were worried by violence, compared to 73 per cent of men. Sexual violence was mentioned by one in 10 respondents as an issue of concern. Women mentioned several types of violence more frequently than men, indicating the particular relevance of these forms of violence to women. Significantly, more women than men made reference to women being vulnerable to violence (23% : 9%); domestic violence (22% : 11%); violence against children (18% : 7%); and sexual violence (15% : 4%). To a lesser extent, attacks on the street (23% : 15%) were also referred to more frequently by women than by men (Office of the Status of Women 1995, pp. 18–24).

These findings indicate that sexual violence not only has an impact on its immediate victims, but can affect the way that women in general live their everyday lives. For those who are the immediate victims of sexual violence and child sexual abuse, the impact can be devastating and long-lasting, while those who have not been victims may live in fear of one day becoming a victim, and consequently change their behaviour accordingly.

The Role of the Criminal Justice System

Some victims of sexual violence choose to proceed through the criminal justice system, so the effects of this are significant to their recovery. In some instances, victims of sexual violence might have no choice but to proceed through the system, for example, where they have been the subject of mandatory reporting of sexual offences.

Considerable attention has been given to the impact of the criminal justice system on victims of sexual violence (see Part 3 of this report). This system incorporates police, the courts (including judges and other court staff), and members of the legal profession (such as barristers and solicitors). A wide variety of impediments to access to justice for victims of sexual violence has

been documented. It has also been noted that the victim's experience within the criminal justice system may be so traumatic as to constitute revictimisation at the hands of the State (see, for example, Law Reform Commission of Victoria 1991, pp. 125–32).

Police Processes and Procedures

In relation to the police, some of the issues raised include:

- police insensitivity to the needs of victims of sexual assault;
- inappropriate questioning;
- unnecessary focus on medical examinations and the collection of physical “evidence”;
- the influence of myths about sexual assault and stereotypes about certain groups in society;
- delay in organising a medical examination and in referring victims to hospital and counselling services; and
- the inadequate provision of information to victims is often noted as further cause for dissatisfaction (see Freckelton 1988, cited in Edwards 1996; CASA House 1993; New South Wales Sexual Assault Committee 1993).

The police are often the first formal agency with which a victim has contact following an incident of sexual assault. The response a victim receives by the first people they tell about the assault can be very important in their long-term recovery.

A survey conducted by the New South Wales Bureau of Crime Statistics and Research between September 1994 and June 1995 of adult complainants in sexual assault matters finalised in the New South Wales District Court provides valuable insights into the quality of sexual assault services experienced by sexual assault victims, and into the operation of protocols developed by agencies involved in service provision to these victims (Edwards 1996).

Respondents were generally favourable in their overall assessment of services provided by the police. However a number of departures from police guidelines were revealed:

- a number of respondents were not taken directly or not taken at all to the Sexual Assault Service;

- almost one-third of the respondents were not given the option of being interviewed by an officer of the same gender;
- some felt that there were inadequate facilities for interviews at the police stations, and felt uncomfortable or were interrupted when providing their statement;
- more than half of the respondents did not have a support person with them while making their statement, some being unaware or not informed by police that they could have a support person with them; and
- almost half of the respondents had not been informed about how long it would take to make a written statement.

Another issue of concern related to the provision of information by police. Almost one-third of the respondents felt they were not given sufficient information regarding the process of taking the complaint to court, and over half felt they were not given sufficient information in relation to the progress of the case.

Studies from overseas (Kerstetter 1990; LaFree 1981) reveal that the most important determinants in police decision-making regarding whether to arrest a suspect were evidentiary factors (for example, whether the victim was willing to prosecute and whether a suspect was identified and apprehended) and assault severity (for example, use of weapon, injuries sustained). Nonetheless, various credibility factors also had an influence.

For example, cases were less likely to be classified as rape if the victim had a history of drug or alcohol abuse, if the victim did not report the assault promptly or engaged in some sort of “misconduct” (for example, hitchhiking, being at a bar alone).

According to the New South Wales Bureau of Crime Statistics and Research (1998a, p. vii), a “cleared” criminal incident is one which, in the view of the police, has been satisfactorily cleared by charge or otherwise. An incident is cleared by charge when police have laid a charge or an information against at least one person. A criminal incident is cleared other than by charge when police have been unable to make an arrest, despite knowing the identity of the offender and having sufficient evidence to support the charge. The crime may also be cleared because:

- either the witness or the offender has died;
- the offender is a juvenile and has been cautioned;

- there is an obstacle to charging, such as diplomatic immunity;
- the offender has been committed to a psychiatric institution or is currently serving a sentence.

Heenan and McKelvie (1997), in an evaluation of the *Crimes (Rape) Act 1991*, note that in relation to rape, Victorian police statistics show that a person is charged in only around 40 per cent of instances where a rape has been reported. In 70–80 per cent of cases the accused is “filtered” out of the system between charging and prosecution stages. They concluded that only a very small proportion of reported rape offences make their way into the prosecution process.

Courts and the Legal Profession

From the initial report to police, the matter is handed over to the public prosecutor, who then decides whether it has any chance of success in a court. The prosecutor will only proceed if there is a reasonable prospect of conviction or if it is in the public interest. The prosecutor must be convinced of the sufficiency of the evidence, including the credibility of any witnesses (Gregory & Lees 1996). Unfortunately, according to Gregory and Lees, defence lawyers are often able to destroy the credibility of the chief prosecution witness (the victim) in rape and sexual assault trials.

According to Rofe (1997), “reasonable prospect of conviction” is the test in place around Australia for whether or not a prosecution should be launched and is, in many cases, a value judgment by the prosecutor. Sexual assault is normally a crime committed in secret, which does not usually have witnesses. Often it is just the word of the victim against the offender. With advances to forensic science, such as DNA testing and trace material collection, the prosecution has developed significantly, however these tests are irrelevant when the defendant claims that the victim consented.

Having assessed the strength of the evidence, the prosecutor also has to weigh the likely penalty with the estimated length and cost of the proceedings in order to determine whether a prosecution is in the public interest. One possible method of cutting costs is to engage in “plea-bargaining”. This involves the defendant pleading guilty to a lesser charge.

If the Director of Public Prosecutions (DPP) chooses to prosecute, the next stage is the court system, which is fraught with well-documented difficulties for victims of sexual assault. There is difficulty in proving consent, and

difficulty with corroboration due to the private nature of the offence. Myths about sexual violence may also be used by the defence to influence the jury.

Sexual offences can either go straight to the Higher Criminal Courts, the District/County and Supreme Court, or go through the Magistrates Court as a preliminary (committal) hearing. Sexual offences may be dismissed at this stage; however, there are no available statistics on case attrition.

Heenan (1997) has identified several factors that can influence jury decision-making and sexual assault trial outcomes. They include:

- location;
- level of physical injury sustained by the victim;
- admissions of guilt by the accused;
- whether a medical examination was conducted; and
- community attitudes towards sexual violence.

Heenan found that in Victoria there has been a tendency for higher acquittal rates for accused persons being tried for rape and other sexual assaults in some county regions as compared with city cases. Trials where victims are hospitalised or receive medical treatment are more likely to result in a conviction, while if the victim does not suffer any additional physical injury, trials are more likely to result in an acquittal. This has implications for most sexual assault trials because, as noted earlier, additional physical injuries are rarely sustained during a sexual assault, particularly if the offender is well known to the victim. Where an accused makes admissions to the police, or admits at least some of what the victim has alleged, then a jury is more likely to convict (Heenan 1997, pp. 91–3).

According to Heenan, jurors are more likely to acquit the accused if no forensic medical examination was conducted. This has implications for cases where sexual assaults are reported some considerable time after the assault(s) has ceased. There is little point or necessity for having an examination in most of these cases. When these cases go to trial, the fact that a medical examination was not conducted, and that there is no forensic medical officer giving evidence about the findings of their examination, appears to influence the jury's assessment of the likelihood of an assault having occurred (Heenan 1997, pp. 93–4).

The attitudes that potential jurors may have with respect to sexual violence can also influence their decision-making. In 1995, the survey on community

attitudes to violence against women conducted by the Office of the Status of Women found that 45 per cent of respondents either disagreed or disagreed strongly with the statement that “women rarely make false claims of being raped”. These are people who may one day be on a jury involving sexual offences (Heenan 1997, p. 94).

In relation to courts and the legal profession, some of the other issues raised include:

- the nature of the adversarial system itself, particularly the combative nature of proceedings;
- the difficulties faced by child witnesses;
- the difficulties faced by witnesses generally;
- the influence of myths about sexual violence and stereotypes about certain groups in society;
- delays in proceedings;
- lack of information;
- lack of separate waiting rooms for victims and offenders;
- lack of contact with the DPP;
- aggressive tactics of defence lawyers; and
- low prosecution and conviction rates (see further Gardner 1990; New South Wales Sexual Assault Committee 1993; VCCAV 1996).

In 1995, the New South Wales Department for Women commissioned a study of the experiences of victims of sexual violence as witnesses in criminal proceedings. The resulting report, *Heroines of Fortitude*, highlights the continuing power of myths surrounding sexual assault in the courts. The report notes that:

- complainants in the study were discredited and attacked during cross-examination by questions and themes which are biased in their nature and relied on stereotyped views of appropriate behaviour of women complainants of sexual assault; and
- half the complainants were accused of making false reports based on ulterior motives such as vengeance, applications in Family Court proceedings and excuses for adultery (Department for Women 1996, p. 13).

The report further notes that complainants were treated as if they were on trial for being “loose” or immoral women. For example:

- over half the women were questioned about whether they had been drinking prior to the offence; and
- in over half of the trials, the complainant was questioned about having behaved in a sexually provocative way—42 per cent were questioned about the way they were dressed at the time of the offence, and 22 per cent were cross-examined about their responsibility for the offence (Department for Women 1996, pp. 13–14).

The significance of the use of myths by defence counsel should not be overlooked. There is ample evidence to suggest that reliance on these myths can and does influence juries in favour of the defence. Cossins (1998, p. 100) has noted that the myths associated with lying, immoral women work to the disadvantage of the complainant and to the advantage of the defendant. She cites an empirical study of jurors in America which found that they were “less likely to believe in a defendant’s guilt when the victim had reportedly engaged in sex outside of marriage, drank or used drugs, or had been acquainted with the defendant—however briefly—prior to the alleged assault” (see further Cossins 1998, p. 100, footnote 22).

Heroines of Fortitude notes that Indigenous victims of sexual assault face compound discrimination and bias in the courtroom, that is, because they are Indigenous and because they are women. This study found that:

- Aboriginal women have particular needs in the courtroom and trial processes compared with non-Aboriginal women;
- questions about alcohol, victim’s compensation and myths about promiscuity are regularly used to undermine the credibility of Aboriginal women;
- myths and stereotypes of Aboriginal women as unsophisticated, vengeful and morally corrupt are used in the courtroom;
- language barriers and the use of jargon present particular difficulties for Aboriginal women;
- Aboriginal women experience greater distress during the court process than non-Aboriginal women; and
- there were instances in which a cultural defence argument was raised by defence counsel in cross-examining complainants from Aboriginal

communities about the perceived prevalence of casual sex and personal violence in Aboriginal communities (Department for Women 1996, p. 112).

A recent Queensland report notes that Indigenous victims of sexual assault endure the trauma of court processes without adequate information and support. It was noted that:

Many of the women interviewed who had been involved in the court process spoke of very limited time spent with lawyers prior to what they considered a very important event: "I only got to see my lawyer for about 10 minutes out on the verandah where everyone could hear what he was saying. I didn't feel very good about that". (Office of the Director of Public Prosecutions Queensland 1996, p. 14)

Non-Indigenous victims of sexual assault have also complained about a lack of contact with the DPP. A survey of adult complainants in sexual assault matters in the New South Wales District Court identified several problems in relation to the DPP. Some of the respondents' criticisms were that they:

- had not met with the DPP solicitor before the court case (13.8%);
- had not been informed by the DPP that they could have a support person with them during the trial (13.8%);
- had not received adequate information about the roles of the people in the courtroom (37.9%) or what would happen in court (34.5%);
- had not been informed that they could stop the case at some stage before going to court (42.9%); and
- felt they had not been adequately consulted by the DPP (42.9%) (Edwards 1996).

These criticisms are, in part, a criticism of the criminal justice system itself, in which victims do not have their own legal representatives. In criminal matters, victims of sexual assault are witnesses for the prosecution, not parties to the proceedings. Unlike civil proceedings where the plaintiff has their own lawyer(s), victims do not have legal representation of their own—the prosecutor is not the victim's representative but the representative of the State, and his or her responsibility is first and foremost to the State, not to the victim. It has been noted that the victim is "simply one of a number of people or bits of evidence" called upon to present information before the court (New South Wales Standing Committee on Social Issues 1996, p. 124).

There are particular difficulties with the use of children as witnesses in sexual offence proceedings. It has been noted that child witnesses who have been sexually abused are likely to retract their allegations for a number of reasons, including fear of retribution, intimidation or the desire for privacy. It has also been noted that child witnesses who have been sexually abused may give inconsistent accounts of the abuse. Again, the reasons for this are complex and varied and could include confusion or loss of memory (Freckelton 1997, pp. 247–83). Inconsistency can prevent the admission of the evidence of these children, on the basis that it is unreliable.

These difficulties are compounded by the combative nature of the Australian legal system, which is insensitive to the needs of children. It was noted in a joint report of the Human Rights and Equal Opportunity Commission (HREOC) and the Australian Law Reform Commission (ALRC) that children, and indeed some adult witnesses, often cannot cope with the pressures of multiple interviews, highly leading questions, misleading and intimidating cross-examination and lengthy delays between the incident and the trial (HREOC & ALRC 1997, p. 38). That report also notes that children are traditionally perceived to be unreliable witnesses, prone to fantasy and exaggeration, and that their evidence is often inaccurate (p. 37).

To date, no comprehensive studies have been undertaken of the experiences of male survivors of sexual assault and their experiences in the courtroom. Indeed, most studies of sexual offences focus exclusively on female victims. It is likely, however, that male victims of sexual assault will suffer similar amounts of trauma at being subjected to invasive and inappropriate questioning. Anecdotal evidence suggests that male victims are subjected to questioning premised on myths about men and sexual assault, and stereotypes about male sexuality and masculinity. Given the social pressure on men to be emotionally and physically strong, and to control sexual relations, it is likely that any experience of sexual assault, and the resulting courtroom experience, will be harmful to their self-esteem.

Use of Confidential Counselling Records

In addition to the harrowing experiences of being a witness, attempts have been made by defence lawyers to access confidential counselling records by issuing subpoenas against the notes of sexual assault counsellors in sexual assault trials. In December 1995, the Coordinator of the Canberra Rape Crisis Centre was imprisoned for refusing to comply with a court order to provide access to a complainant's counselling notes. The case received national

media attention and the New South Wales Government introduced legislation, the *Evidence Amendment (Confidential Communications) Act 1997*, that was designed to restrict access to counsellor's notes (New South Wales Working Party Concerning the Confidentiality of Counsellor's Notes 1998, p. 4).

Low Conviction Rates

There is a dramatic rate of attrition in the processing of sexual assault cases between reporting and sentencing. Attrition refers to the rate at which cases are lost or dropped within the criminal justice system (Gregory & Lees 1996, p. 1).

Studies on attrition in rape and sexual assault cases in England and Wales (Gregory & Lees 1996; Grace, Lloyd & Smith 1992) have found that a high proportion of rape and sexual assault cases are categorised by the police as "no-crimes", and so are not recorded as offences, and cases are frequently dropped between report and committal. Of the cases that do proceed to court, several result in a conviction for a less serious offence and many more result in acquittals. These studies also demonstrate that the attrition rate is substantially higher for cases in which the suspect and the complainant had some prior acquaintance or intimacy than in cases of attacks by strangers. Detection rates were lowest in cases in which the assailant was a stranger. However, once a suspect had been identified, this group were the most likely to have a conviction secured. There are no statistics which would allow us to make this statement for Australia.

One factor that affects prosecution of sexual violence is the willingness of the victim to participate in the process and, in fact, many victims choose not to participate. Once a report has been made to police there are four major points in the criminal justice system in which cases are excluded or filtered out, depending on whether:

1. the sexual assault is recorded as a crime and cleared by police;
2. the police refer a case to the DPP;
3. the DPP decides whether or not to proceed with a charge or to reduce the charge; and
4. in court the jury finds the defendant "guilty" or "not guilty".

New South Wales is the only jurisdiction to publish statistics on the number of charges brought before the higher criminal courts by the type of offence

with which an alleged offender is charged. The New South Wales Criminal Courts Statistics, published by the New South Wales Bureau of Crime Statistics and Research, also provide information on:

- the number of persons found guilty for each offence;
- the type of sentence offenders receive by the type of offence they were charged with; and
- the offender's age and sex.

Since 1996, the Australian Bureau of Statistics has been producing national statistics on cases progressing through the higher criminal courts. However, these statistics do not specify the type of offence the alleged offender was charged with so it is impossible to provide a national picture on the level of attrition of sexual assault cases. The New South Wales court statistics, together with statistics from crime victims surveys and offences recorded and cleared by New South Wales police, allow us to establish some information on the level of attrition of sexual assault cases through the criminal justice system.

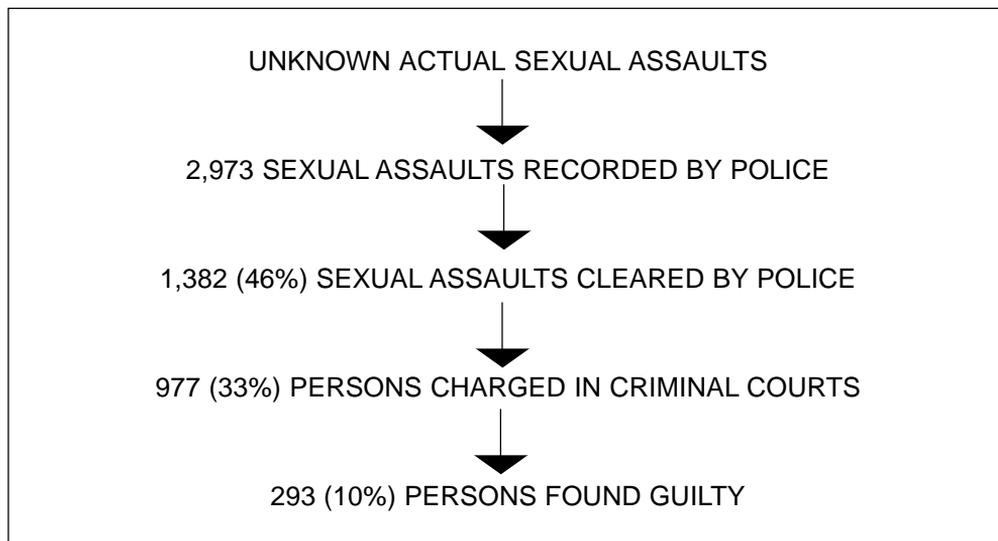
Statistics on Attrition—New South Wales

Figure 3 presents a flow chart for the process of attrition of sexual assault cases recorded by police in New South Wales in 1996 and prosecuted in the Higher Criminal Courts in 1997.

Of those sexual assaults that were recorded in 1996, less than half (46%) were cleared by the police, and two-thirds did not result in any charges being laid. Of those that went to court, 70 per cent resulted in an acquittal for the accused. So, of the 2,973 incidents of sexual assault recorded by police in New South Wales in 1996, only 293 persons were found guilty by the courts. This means that only one in 10 victims who chose to report a sexual assault to the police succeeded in achieving some kind of punishment or redress for the alleged offender.

Moreover, in only five per cent of sexual assault cases recorded by police was an offender sentenced to a term of imprisonment. The ABS prison census reveals that in New South Wales the average sentence a person receives for committing a sex offence is 6.5 years (ABS 1998a, p. 31). The reality for the majority of sexual assault victims is that going to the police or seeking official redress is not likely to amount to much. On top of this, the remedies they seek can be experienced as harmful to themselves (Carrington 1998, p. 172).

Figure 3: Attrition of sexual assault cases reported to the police, New South Wales, 1996 to 1997



Findings are similar for cases of sexual abuse against children. In New South Wales alone, the Department of Community Services received 6,949 notifications of child sexual abuse which warranted investigation, of which 3,351 (48%) were substantiated. In 1995, 2,143 alleged victims of child sexual assault in New South Wales reported incidents to police; from there the offender was charged in 630 cases, and in 404 cases at least one offence was proven (Gallagher, Hickey & Ash 1997, p. 3). Therefore, in only 12 per cent of substantiated cases of child sexual assault is the offence proven. Similar levels of attrition of child sexual abuse cases have been found in South Australia and Victoria (NAPCAN 1995; Goddard 1996).

These findings on levels of attrition for sexual assault cases have led researchers to ask whether the victims of sexual assault should be encouraged to use a legal process in which as many as nine out of 10 defendants will be acquitted of the charge—inflicting a great deal of additional pain upon the victim in the process (Carrington 1998, p. 173). Victims of sexual violence are being subjected to the considerable ordeal of an intensive interrogation and an arduous medical examination, denied adequate legal and counselling support, only to see the case against the assailant abandoned or, worse still, to undergo the humiliation of the court appearance culminating in an acquittal (Gregory & Lees 1996).

Part 3: Sex Offenders

Data and Statistics

The basic data available on sex offenders is derived from police and court records and the ABS prison census. Although these data are representative of sexual assault offenders who are apprehended by police and subsequently convicted, they are not necessarily representative of persons who are guilty of sexual assault but not apprehended by the police (Salmelainen & Coumarelos 1993, p. 7).

Statistics on the age and sex of offenders apprehended by police are available from five jurisdictions: Victoria, Queensland, South Australia, Western Australia and Tasmania. However, because definitions of what constitutes a sex offence differ across jurisdictions, they are not comparable. Despite this, some interesting and similar patterns emerge.

Across these jurisdictions, about 98 per cent of sex offenders apprehended by police are male. Males between the ages of 20 and 39 are the most likely to be arrested for sex offences. The following pattern emerged for the five jurisdictions:

- in Victoria, males in the 30–34 year age range had the highest rate of arrest for sex offences at 269.5 per 100,000 population—the rate for males between 30 and 39 was 596.3 per 100,000 male population;
- in Queensland, males in the 30–39 year age range again had the highest rate of arrest for sex offences, with 169.3 offenders per 100,000 male population;
- in South Australia, males between the ages of 20 and 34 had a rate of arrest for sex offences of 193.6 per 100,000 male population;
- in Western Australia, the highest rate of arrest for sex offending was for males between the ages of 25 and 34—237.8 per 100,000 male population;
- in Tasmania, the highest rate of arrest for sex offending was for males between the ages of 20 and 24—44.5 per 100,000 male population.

An examination of *New South Wales Criminal Court Statistics 1997* reveals a similar pattern. Ninety-eight per cent of persons found guilty of sex

Table 4: Persons imprisoned for sexual offences by State and Territory, 30 June 1997

	NSW	VIC	QLD	SA	WA	TAS	NT	ACT*	AUST
Sentenced	658	406	549	117	374	29	38	10	2,171
Remand	49	25	35	15	30	2	10	1	167
Total	707	431	584	132	404	31	48	11	2,338
Total rate per 100,000 population	11.3	9.4	17.2	8.9	22.5	6.5	25.7	3.6	12.6

* Prisoners sentenced in the Australian Capital Territory are held in New South Wales prisons. Figures for sentenced ACT prisoners are a subset of the New South Wales figures and are not separately counted in the Australian total. Prisoners on remand are held at Belconnen Remand Centre in the ACT.

Source: Adapted from Unit Record Files, 1997, Australian Bureau of Statistics.

offences in New South Wales Higher and Lower Courts were male (n=621). Only 10 women were found guilty of sex offences; seven of these were for sex offences against children. The highest percentage of males convicted of sex offences were in the 30–39 age range (26%). However, the highest rate per 100,000 male population was for males aged 19 (New South Wales Bureau of Crime Statistics and Research 1998b, pp. 28–32, 76–80).

The Australian Bureau of Statistics conducts a national prison census on 30 June each year, which provides information on prisoners' sex and age, most serious offence, aggregate sentence and expected time to serve. Table 4 presents data for the number of sentenced and remand prisoners in prison in 1997 for committing sex offences. In 1997 there were 2,171 sentenced prisoners and 167 remandees in prison for sex offences in Australia. There was a total imprisonment rate of 12.6 per 100,000 population for sex offences. New South Wales had the largest number of persons in prison for sex offences, however the highest rate was in the Northern Territory (25.7 per 100,000 population) followed by Western Australia (22.5 per 100,000 population).

Figure 4 presents a chart for the number of persons in prison in Australia in 1997 for sex offences by age. An overwhelming 99 per cent of persons in prison for sex offences are male. The highest rate of imprisonment for sex offences is for those between the ages of 40 and 44 (25.6 per 100,000 population). A little over three-quarters of all prisoners fell in the 25–55 age range.

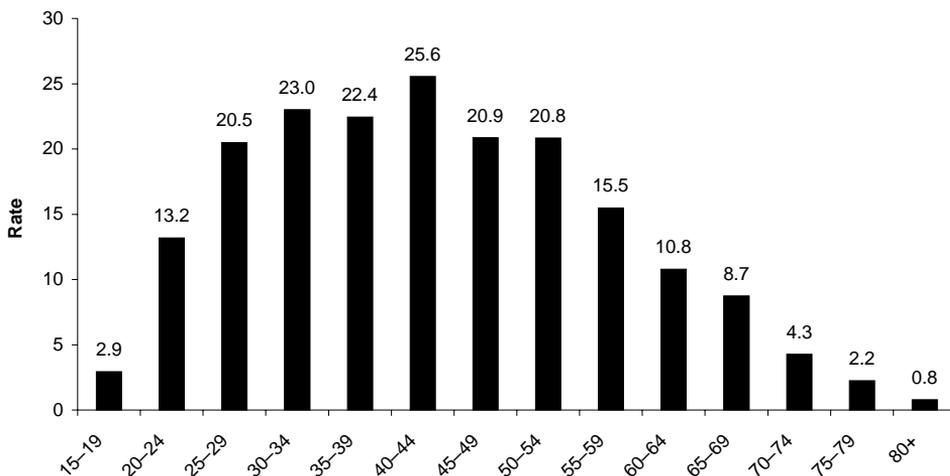
It is possible to supplement these statistics with information from the existing literature about offenders. Again, the literature tends to focus on convicted sex offenders.

Literature Review

It has been well documented that there is great variation amongst sex offenders in terms of the characteristics of the victim, the degree of force used and method of offending, and their arousal profiles and motivation. Intelligence, social competence, cultural values, attachment bonds, personal victimisation, substance abuse, presence of conduct disorder, observation of sexual violence and use of pornography are considered to be significant factors affecting the likelihood of sexual offending (Weinrott 1996). Events such as being angry, drunk or sexually aroused have been identified; other factors have included poor parenting, lack of parental protection and distorted acquisition of the necessary competencies for normal sexual development (Hoghughi 1997). Isolation from extended kin, financial and psychological problems were also identified (Hiller & Goddard 1990). One risk factor which has gained particular attention in recent times is the link between prior victimisation (either sexual or otherwise) and subsequent offending.

However, the research is not conclusive on many of the identified factors. Many of these factors can work in different ways for different offenders and different types of sexual offending (that is, the differences between rape and child sexual assault and the people that offend in these ways). Considering

Figure 4: Persons imprisoned for sex offences by age, 30 June 1997, rate per 100,000 population



Source: Adapted from Unit Record Files, 1997, Australian Bureau of Statistics

the number of factors above, there is potential for endless variation and this has serious implications in the areas of prevention, intervention and treatment. Due to the lack of empirical research examining these contributing factors, the causal links between these factors and the subsequent offending behaviour remains unclear (Oliver, Nagayama Hall & Neuhaus 1993).

An estimate of the reoffending rates for persons convicted of sexual assault is available from a study conducted in Western Australia. Broadhurst and Maller (1991) followed up sex offenders released from prison between July 1985 and June 1987. During the study period, 238 “rape” and “sexual assault” offenders were released from prison. By the end of the period, 40 per cent of released sexual assault offenders had returned to prison, four per cent returned for the same type of sexual assault offence, and another four per cent returned for a different type of sex offence (Broadhurst & Maller 1991, pp. 46–7).

While adult males are the largest group of sex offenders, it is also important to acknowledge that both women and adolescents are capable of sexual offending. The information about women who offend sexually is extremely limited. However, recent research appears to confirm that sexual abuse by women is more common than previously understood (Koonin 1995). Research into adult offenders has shown consistently high levels of sex offenders who disclose that their offending behaviour began in adolescence. Until recently there was a general belief that sexual offending was committed by older men. Whilst recent research has begun to refute this idea, there is still a considerable amount that remains unknown about adolescent sex offenders.

Another important group which is often unrecognised is that of intellectually disabled sex offenders. Behaviour modification of intellectually disabled sex offenders is time-consuming, labour-intensive and challenging. Research has shown that effective treatment of intellectually disabled sex offenders is reliant on a comprehensive assessment of the individual offender’s skills and deficits, and the nature of their offending behaviour. Also of importance to the effectiveness of treatment is their ability to maintain any positive treatment effects (Sargeant 1990).

Conclusion

It is often considered convenient to use stereotypes when formulating policy responses to the problem of sexual offending. Research has, in the past, contributed to such bias by focusing upon convicted sex offenders. The composition of this population has been affected by reporting, sentencing and court practices associated with sexual offences and, as such, may be unrepresentative. As can be seen from the current research into female and adolescent sexual offending, stereotyping of sexual offenders should be avoided if possible on the basis that it is potentially misleading. As the knowledge base regarding sexual offending grows, it is becoming obvious that this type of offending does not easily lend itself to generalisations.

Part 4: Responses to Sexual Violence

There have been various responses to sexual violence around Australia. These responses include:

- therapeutic interventions for victims of sexual violence;
- education programs;
- reform of the criminal justice system;
- law reform; and
- therapeutic interventions for sex offenders.

Therapeutic Interventions for Victims of Sexual Violence

In 1991, the Office of the Status of Women (which is a division set up within the Commonwealth Department of Prime Minister and Cabinet) funded an audit of services against sexual violence. Since this time, no similar study has been undertaken. As a result, it is presently difficult to obtain a reliable overview of the situation with regard to provision of services around Australia.

However, there are comprehensive standards of practice for services against sexual violence that employ a “feminist” model of service delivery. In 1997, the Office of the Status of Women funded the creation of the National Association of Services Against Sexual Violence (NASASV) and the development of a *National Standards of Practice Manual for Services Against Sexual Violence*. This undertaking was in recognition of the need for a consistent approach to sexual violence across Australia. According to NASASV, the manual represents the first Australian effort to document the nature of the professional response to which women, children and men are entitled following sexual violence. In initiating the project, NASASV enlisted the collaboration of 80 services throughout Australia. The standards articulate the knowledge and practices which have flowed directly from working with victim/survivors of sexual violence (Dean, Hardiman & Draper 1998, p. i).

The *National Standards of Practice Manual for Services Against Sexual Violence* not only provides services with a tool to assist them to provide high-quality services, but also guides service development, planning and quality assurance. The manual provides a framework for developing a consistent quality of service for victims of sexual violence, and it can educate and inform government, other relevant agencies and the wider community of the policies and practices of services against sexual violence (Dean, Hardiman & Draper 1998, p. v).

Due to the hard work of NASASV in establishing standards of practice, it is possible to understand the philosophy and principles underpinning the “feminist” model of service delivery. According to NASASV, the “feminist analysis” of sexual violence describes:

...the predominance of sexual violence, perpetrated in the main by men over women and children, as an abuse of power which occurs as a result of unequal status between the perpetrator and the victim, and reinforces that unequal power. The analysis considers that the disadvantages experienced by women, children and other marginalised groups result from systemic and structural discrimination.

Sexual violence is located in hierarchical social and political structures which reinforce such discrimination and oppression through laws and education and social systems, and where further systemic disadvantage is experienced by victim/survivors of sexual violence in their interaction with health, legal and other social systems. Included in this analysis is an understanding of the power relationships between dominant political, cultural, religious, racial and class groups, and other groups or individuals. (Dean, Hardiman & Draper 1998, p. 49)

According to NASASV, “feminist practice” is informed by this analysis, to ensure that services, community action and organisational practices are integrally linked with active advocacy aimed at challenging and changing social, legal and political structures which cause or condone violence, particularly violence against women and children.

There is, however, little information available about services that use a “community” model of service delivery and that specifically reject the feminist model as inappropriate for their needs. For example, it has been argued that Indigenous people view the issue of violence as a community issue:

the problem is not a woman's or a man's problem and the whole community is to be involved to make changes and find solutions. Aboriginal men's issues must be addressed. (Bennett 1997, p. 14)

The researchers were not able to access information about such programs in the various States and Territories.

NASASV have noted the importance of achieving access to, and quality of service for, diverse communities and individuals with specific needs. NASASV has identified priority groups; namely, Indigenous women, women from culturally and ethnically diverse backgrounds, and women with a range of abilities or disabilities. For example, Standard 1 in the Standards of Practice Manual states that:

The service against sexual violence works to ensure the accessibility and appropriateness of its service delivery to all those victim/survivors in its community, whether these are women, children or men.

Access implies recognising cultural diversity, and identifying and addressing barriers and structural disadvantages experienced by members of the community.

Equity implies the fair treatment of all service users, a just allocation of resources and positive discrimination towards those facing additional barriers to services.

Service provision respects the cultural context of victim/survivors such as their race, ethnicity and language, and factors such as geographical location, socioeconomic background, gender, age, sexuality and level of ability. (Dean, Hardiman & Draper 1998, p. 1)

According to the manual, services should be promoted which are culturally appropriate to all members of the diverse populations of the community. Indicators that this is being achieved include:

- that staff have been provided with training on racism and culturally appropriate and accessible service provision;
- the service has consulted with appropriate community representatives on culturally relevant service delivery;

- staff use a variety of strategies in direct service provision to ensure relevance to people of diverse backgrounds and needs;
- where feasible, women of diverse cultural and social backgrounds are actively involved in the work and management of the centre;
- the service has committed resources to address specific barriers which may face people of diverse backgrounds;
- the physical environment is appropriate to culturally diverse service users;
- the service makes provision for flexibility in the way its services are delivered, such as location, availability of groups and other alternatives to counselling and advocacy styles and approaches; and
- the service evaluates its access and equity strategies (Dean, Hardiman & Draper 1998, pp. 2–3).

NASASV acknowledges in the manual that these standards (and indicators) provide a benchmark toward which services can aspire. There is no suggestion in the manual that service provision in Australia presently meets these standards, particularly with regard to access and equity. The clear limitation for most services is scarce resources—it is difficult for services to allocate staff time and resources to undertake the necessary research, analysis, development of new services and evaluation of existing services, in the face of ever-growing waiting lists for crisis and counselling services. In these circumstances, there is a need for funding bodies to recognise the importance of these activities for services against sexual violence, and to provide services with sufficient financial support to undertake these further roles.

Very little information is available about the provision of services for male victims of sexual violence. While the researchers were able to identify one service specifically developed for male victims in the Australian Capital Territory, it appears that in most cases existing services are being required to expand so as to provide services for male victim/survivors.

There are strong arguments in favour of separate services for different groups in the community. Bavington (1998) has noted that in recent times, some sexual assault centres have been required to start seeing male victim/survivors (by governments eager to rationalise resources). Bavington notes that in the process, little consideration has been given to:

- the impact on existing clients of men entering a previously women-only or women-focused service;

- whether male victim/survivors have the same or similar needs as female victim/survivors; and
- whether requiring men to go to female-oriented services further undermines their sense of masculinity, which has already been damaged by the experience of sexual violence.

Bavington argues that male victim/survivors do have different needs to female victim/survivors and these should be met in ways that are not at the expense of services for women. He notes the Service Against Male Sexual Assault (SAMSA) under the auspices of the Canberra Rape Crisis Centre, which benefits from the considerable body of knowledge and experience of the Centre, but is in a geographically distinct location. Bavington argues that this has allowed the creation of a safe and appropriate space for men that is not at the expense of women's services (Bavington 1998).

Similarly, NASASV have noted that more detailed standards for working with male victim/survivors need to be developed. The *National Standards of Practice Manual for Services Against Sexual Violence* notes that:

Such standards would need to address some of the unique issues faced by male victims and the implications for practice. Male workers and male victim/survivors are invited to investigate and develop standards consistent with the philosophical framework of this Manual. (Dean, Hardiman & Draper 1998, p. vii)

There is a lack of services for victims of sexual violence in rural communities. While there are services in rural locations, these are generally responsible for covering expansive geographic locations. For example, in Western Australia there is a sexual assault service operating in Geraldton but there are no services further north, despite the presence of numerous mining, farming, tourist and Indigenous communities in this area. Clearly there are resource implications of providing services in rural areas but, nonetheless, there is a need for access to these services throughout Australia, and not just in the capital cities.

While the NASASV manual provides a model for evaluating services, such evaluation is yet to be undertaken at the national level. Again, the limits of scarce resources in an environment of shrinking government funding provide the explanation for this.

Some information is available about the provision of services in New South Wales. In 1994–95, the New South Wales Bureau of Crime Statistics and Research conducted a survey of adult complainants in sexual assault matters finalised in the New South Wales District Court (Edwards 1996). This study provides valuable insights into the quality of sexual assault services experienced by sexual assault victims, and into the operation of protocols developed by agencies involved in service provision to these victims.

Respondents who attended a sexual assault service were very positive about their experience with the services provided. Most respondents found the counselling services helpful; all respondents who used the court preparation service found it helpful; and all but one respondent who used the court support service found it helpful. The majority of those who had undergone a medical examination felt that the doctor had treated them with sensitivity.

Criticisms of the medical service by some respondents were that:

- there were delays in providing a medical examination; and
- information and explanations about the purpose of each medical procedure conducted, and the significance of each test carried out, was sometimes not provided.

Nearly one-third of those who underwent a medical examination reported interruptions to the examination and a few indicated that the room where the medical examination took place was not comfortable. Despite the fact that the sexual assault service is obliged to inform the client that they may be accompanied by a support person of their choice, one-third of respondents said they were not informed that they could have a support person with them.

Lack of information provision was one of the main complaints for sexual assault victims. Respondents felt they were not given adequate information about test results, sexually transmitted diseases and pregnancy issues. Another complaint related to the availability of sexual assault services. Three respondents were unable to obtain counselling when they wanted it, due to the length of waiting lists.

Preventing Sexual Violence through Education Programs

The research on sexual violence indicates the importance of educating children and adolescents, of both sexes, about relationships, and communication and conflict-resolution skills. A number of school-based and

other educational programs have been introduced to deal with these issues. The focus of government agencies is predominantly on the prevention of sexual violence. Education departments report that their educational systems incorporate preventative education components in their curriculum structures to raise awareness of gender relationships issues, and child abuse and neglect. Such initiatives include inclusive curriculum policies, human relationships education and health education programs that provide students with opportunities to examine current laws and discuss moral and social issues regarding sexual violence (National Youth Affairs Research Scheme 1995, p. 53).

Specific preventative education strategies implemented by State and Territory education departments include courses for students which address awareness-raising, behaviour management and protective behaviours, assertiveness, self-esteem building, safety issues, networking for protection and using community support groups (National Youth Affairs Research Scheme 1995, p. 53).

Many non-government agencies state that community awareness-raising is a preventative strategy they employ to address sexual violence. However, the resources of these agencies are primarily centred on the counselling and support of victims. The education and training that is being undertaken by non-government agencies is focused on raising awareness about what constitutes sexual violence and implementing educational processes within the context of a counselling setting (National Youth Affairs Research Scheme 1995, p. 54).

Below are some examples of government and non-government education programs which have been developed in response to the issues of gendered violence, including sexual violence and harassment. They are by no means all-inclusive.

Protective Behaviours

Protective Behaviours is an anti-victimisation and empowerment training program which encourages the use of strategies to prevent and interrupt violence and abuse. It assists in the development of strategies for personal safety and promotes the use of non-violent interventions by safely interrupting violent or abusive situations. Although the original concept was focused on child abuse prevention, the program has developed over the years to be used in a range of situations, including school bullying and

sexual harassment (Queensland Police Service 1997). The program is currently adapted to most educational curricula (Grabosky et al. 1999, p. 68).

The program is based on two themes:

- “We all have the right to feel safe all the time”; and
- “Nothing is so awful that we can’t talk with someone about it” (Queensland Police Service 1997).

The Protective Behaviours program develops problem-solving and communication skills that assist individuals firstly to identify situations that are dangerous, threatening or unsafe, and then to take action in order to restore the feeling of safety (Queensland Police Service 1997).

Schools Work Towards Gender Equity

Schools Work Towards Gender Equity is a project funded by the Commonwealth Department of Education, Training and Youth Affairs (DETYA) and provides a comprehensive guide to gender reform undertaken in schools across Australia. The project draws heavily on the experiences and insights of school practitioners. The study provides a theoretical framework and a practical guide for Australian schools (Butorac & Lymon 1998).

According to Butorac and Lymon (1998), the aim of the project was to provide materials which would assist schools in undertaking a gender equity needs analysis as a basis for planning their gender equity programs. Schools Work Towards Gender Equity provides a practical guide which can be used to assist schools to get started in working on gender issues or to build on work already begun.

This national framework is built around the five strategic directions for action:

- understanding the process of the construction of gender;
- curriculum, teaching and learning;
- violence and school culture;
- post-school pathways; and
- supporting change (Butorac & Lymon 1998).

Key areas that emerged in this study included work on the interface between gender and violence, and harassment and bullying. In many

schools there is a recognition of the part that gender construction plays in the violent behaviours of many boys. This was often identified as an underlying issue to be dealt with within curricula and incorporated into policy and procedures to eliminate harassment and bullying. Programs to provide alternative ways of conflict resolution and to show that violent behaviour was unacceptable were often introduced in schools (Butorac & Lymon 1998).

Tell a Friend...It's Never Too Late

The New South Wales Child Protection Council has developed the Tell a Friend...It's Never Too Late package as a strategy for the prevention of child sexual abuse. The package includes a video and resource book (containing minimum essential knowledge for presenters). The video can be used with groups of children (aged 8–13 years) or adults, and is suitable for use with children in schools, counselling services and other community groups; with parents, survivors of child sexual abuse or adults who work with children (New South Wales Child Protection Council 1997, p. 6).

The package is designed to complement and be used with other child sexual abuse prevention education programs, such as the New South Wales Department of Education's Child Protection Education Program and the Protective Behaviours Program.

The package aims to:

- raise awareness and understanding of child sexual abuse;
- promote recognition of sexual abuse;
- promote early disclosure of child sexual abuse; and
- encourage a positive response to the needs of abused children (New South Wales Child Protection Council 1997, p. 6).

The Child Sexual Abuse Prevention Program

The Child Sexual Abuse Prevention Program (CSAPP) is a school-based program introduced in 1995 and run by Australians Against Child Abuse in Victoria. The program aims to reduce both the incidence and impact of child sexual abuse by providing children, young people and adults with information and skills relevant to the prevention of sexual abuse. It also encourages them to disclose if they have been or are being exposed to sexual abuse, thereby creating the opportunity for them to receive effective protection and support.

The program is based on an integrative approach to child abuse prevention and has been designed to involve the expertise and support of a range of services relevant to child sexual abuse prevention, intervention and treatment (Australians Against Child Abuse 1997).

The Children's Sexual Behaviour Program

The Children's Sexual Behaviour Program is an early intervention treatment and prevention model for children between the ages of five and 11 who have displayed sexual behaviours which are interfering with their normal development or who are considered abusive towards other children or adults. Examples of such behaviour include inappropriate sexual touching, threats to carry out sexual behaviour to others, forcing others into sexual activity, sexual penetration of other children, masturbating in public, and talking sexually to others with aggression or intimidation (The Birrell Centre for Children, undated).

The program has been developed and implemented by Australians Against Child Abuse and is run from The Birrell Centre for Children in Victoria. The premise of the project was that 25 per cent of incarcerated sexual offenders describe having commenced their sexually aggressive behaviour between the ages of seven and 10 years, and many children who have been victims of sexual abuse show aggressive sexual behaviours associated with their experience of victimisation.

The program aims to diminish the risk that children in the target group may pose to themselves and/or others, to prevent children in the target group from repeating the behaviour, to reduce the possibility of children in the target group developing sexually aggressive behaviour into their adolescence and adulthood, and to decrease the number of victims of sexual assault through early intervention with children who represent the highest risk of becoming adolescent and adult sex offenders. Children are provided with a structured intervention which promotes the possibility of them changing their behaviour and developing more respectful ways of interacting with others.

Hands Off! The Anti-Violence Guide to Developing Positive Relationships

Hands Off! is an educational resource funded by DETYA for use with upper-primary and lower to middle post-primary students. Hands Off! aims to address the problem of violence in schools by developing students' ability

to conduct relationships in the personal and social sphere, based on a sense of equality and consideration for others. It encourages students to recognise and take responsibility for their own violent behaviour and offers non-violent alternatives for dealing with problems and resolving conflicts. The resource aims to prevent family and community violence as well as violence in schools (Forsey 1994, p. 10).

The resource makes particular reference to the distinctions between violence and power, the gender biases of violence, and the socialising factors that condone and perpetuate violence in our society. The processes used in each unit emphasise student-centred learning as a means of engendering negotiation and communication skills, enhancing self-image, and facilitating a sense of equality between students regardless of gender, class or race (Forsey 1994, p. 7).

Hands Off! comprises four sections of work which contain classroom activities, research topics and handouts. The sections cover group-building, violence, developing positive relationships and popular culture (Forsey 1994, p. 7).

Sexual Assault: A Resource Book for Students

Sexual Assault: A Resource Book for Students (MacDonald 1993) was developed on behalf of the Victorian Centre Against Sexual Assault as a resource primarily for secondary students but which would also be relevant for tertiary students.

The book provides basic information about sexual assaults, such as:

- known incidence rates;
- the myths which surround sexual assault;
- theoretical understandings relevant to the issue; and
- legal and cultural aspects of sexual assault.

The book also presents a discussion on issues directed to those who have themselves been sexually assaulted which sets out actions they might take, feelings experienced by people who have been sexually assaulted, and protective actions that can be adopted (National Youth Affairs Research Scheme 1995, pp. 54–5).

Enough's Enough!

Enough's Enough! is a resource kit for primary schools for dealing with issues of sexual harassment and gendered violence, produced by the Queensland Department of Education. It contains a series of booklets on how to implement the program, how to research gender issues in schools, and offering suggestions for teaching strategies and resources. It also includes posters and a video (National Youth Affairs Research Scheme 1995, p. 54). The resource kit was distributed free of charge to all State schools and special schools in Queensland, and is aimed at teachers, educators and parents. As a result of the project, many schools are developing a more proactive and informed approach to behaviour management, and the issues of gendered violence and sexual harassment (Mugford & Nelson 1996, p. 32).

Boys Talk: A Program for Young Men about Masculinity, Non-Violence and Relationships

Boys Talk is a 10-week program developed by Men Against Sexual Assault (MASA) in South Australia. It includes a program manual designed for conducting young men's groups, in which the development of personal interaction through the respectful sharing of ideas and experiences are encouraged. The program strategies have been trialed, developed and implemented by a range of schools, youth custodial institutions and youth health and welfare agencies.

The program, through using professional development and peer education frameworks, encourages young men aged 13 to 26 to resist aspects of gender identity that hurt themselves and disrespect the rights of others. It encourages young men to take responsibility for ending their participation in violence towards women, children and other men (Mugford & Nelson 1996, p. 39).

Reform of the Criminal Justice System

Police Services

Police services in most States and Territories have, over the last decade, implemented education and training programs to address the difficulties that have been noted above. For example, most police services now have specialist units to deal with sexual offences and child sexual offences. Police services in Victoria, Queensland, South Australia, Western Australia, the Northern Territory and the Australian Capital Territory (the Australian

Federal Police, ACT Community Policing Branch) have all developed specialised units for adults and children who are victims of sexual assault. The New South Wales Police Service does not have a specialised unit for adult sexual assault victims but has the Child Protection Enforcement Agency, which is a specialised unit dealing with child sexual abuse. In these jurisdictions, once an incident of sexual violence is reported, the informing officer will put the victim in contact with the staff in the specialist unit who are appropriately trained in how to deal with such matters.

A further initiative, by the Victoria Police Service, was the development of a Code of Practice for Sexual Assault in 1992, which describes the way that police members should respond to reports of rape, indecent assault and other forms of sexual assault. The Code contains a comprehensive set of guidelines detailing the procedures to be followed by different sections of the police when dealing with victims of sexual assault, and makes clear the respective roles of the police and counsellors or advocates, so that there is a more efficient and coordinated approach from the period of initial report through to the giving of a statement. The guidelines prioritise the victim's physical and emotional needs (Heenan & McKelvie 1993, p. 362).

The result of these initiatives is that many sexual assault services around Australia now enjoy a vastly improved, if not always perfect, relationship with the police in their area. While formal evaluations of these services appear to be lacking, anecdotal evidence suggests that victims of sexual assault are now much more likely to receive sensitive and appropriate treatment from the police, particularly once the specialist units are activated.

Court Processes and Prosecution

There have been various legislative amendments over the past three decades aimed at improving the situation of victims of sexual offences who are witnesses to the prosecution. Examples of some of these reforms include:

- limitations on the cross-examination of the complainant and the admission of evidence relating to the complainant's prior sexual history—these legislative changes were enacted in all States and Territories in recognition of the fact that the admission of such evidence was:

[N]ot only inimical to the fair trial of the essential issues but...may also result in the complainant suffering humiliation and distress...[and] that, unless there are some restrictions, questioning

can take place which does not advance the cause of justice but in effect puts the woman on trial [and] often serves only to cloud the real issues (The Heilbron Committee 1975, as quoted in Henning & Bronitt 1998, p. 81);

- the introduction of closed-circuit television or video/audio-taped evidence (VATE), either in the case of child witnesses or where the court considers the witness to be particularly vulnerable;
- changes to jury warnings in relation to sexual offence proceedings, about the danger of accepting a woman's allegations of sexual assault in the absence of corroborating evidence;
- allowing the closing of courtrooms in certain limited circumstances;
- allowing a screen to be placed that obscures the witness's view of the accused person;
- allowing the witness to be accompanied by a court companion, friend or family member for the purpose of providing emotional support;
- restricted access to confidential counselling records (New South Wales);
- victim impact statements; and
- criminal injuries compensation.

While these reforms are important, there is evidence to suggest that they are being underutilised by courts, circumvented by defence counsel, or misused to the disadvantage of victims of sexual violence.

In 1995, the New South Wales Department for Women commissioned a study of the experiences of victims of sexual violence as witnesses in criminal proceedings. The resulting report, *Heroines of Fortitude*, considered all sound-recorded sexual assault hearings in the District Court over a one-year period where the accused was charged with sexual assault and where the victim was an adult female. The findings clearly show that legislative reforms have not been entirely successful in changing the behaviour of court staff and defence lawyers. For example, the study showed that:

- more than half of all trials were heard in an open court;
- the court rarely provided an alternative mechanism for the complainant to give evidence even when it was clear that she could not give meaningful evidence because of her disability or language difficulty; and

- evidence of the complainant's sexual reputation was raised in 12 per cent of proceedings; the evidence related to the complainant's general promiscuity, allegations of lesbianism, or the complainant's virginity (Department for Women 1996, pp. 9–11, 20; see also Henning & Bronitt 1998).

These findings suggest that legislative reforms have not had the anticipated effect. As noted by Bronitt, counterproductive regulation is not an uncommon phenomenon. The effectiveness of legal regulation can be resisted and subverted by individuals in many ways (Bronitt 1998, p. 42; Grabosky 1995). Henning and Bronitt have noted that the vagueness of certain key concepts, such as the “substantial relevance” of sexual reputation evidence, subjects legislative schemes to judicial interpretation (Henning & Bronitt 1998, p. 86; see also Scutt 1990, pp. 475–8):

This definitional void permits the “commonsense” assumptions which previously guided determinations of relevance under the common law to re-emerge. (Henning & Bronitt 1998, p. 86)

“Commonsense” judgments are frequently informed by stereotype and myth; for example, that children are not reliable witnesses, or that women frequently lie about sexual violence in order to win a family court dispute (Henning & Bronitt 1998, p. 86).

Similar limitations plague the use of vulnerable witness facilities, such as video-link evidence and even screens in front of the witness box. The prosecutor can request special arrangements for vulnerable witness facilities from the court, however any request can be made, revoked, varied or denied at the judge's discretion. The judge may simply interpret these provisions on the basis of his or her “commonsense” and decide that the witness (who at least in the initial stages) may not be displaying overt signs of trauma, does not need such protection. A witness will not have knowledge of the special arrangements allowed by the judge until the day of court.

As a result, key reforms, such as the rules against evidence on sexual reputation and the use of remote-witness facilities, have been misused or underutilised. According to the South Australia Victim Support Service (Merlino & Hood 1998), many of the clients of the Service are refused remote-witness facilities by the prosecutor, or these facilities are made available and then withdrawn. Similarly, many witnesses are not informed about the facilities in the first place. Prosecutors seem reluctant to advise witnesses of the availability of facilities or to advocate strongly for their use,

due to a belief that remote-witness facilities reduce the impact of a witness's testimony on the jury and/or judge. Judges and/or prosecutors also seem reluctant to tolerate the minor disruption the facilities may cause in their courtroom. However, better analysis of reasons for refusals and withdrawals of requests are required before being able to draw legitimate conclusions.

Improvements in the area of supervision to witnesses have been made by the DPP. Most notably, Witness Assistance Services have been established in most States. These services not only provide some support services to witnesses during court proceedings, but prepare witnesses for the process and provide information about the criminal justice system. Witness Assistance Services also act as a liaison between the witness and DPP staff.

Witness Assistance Services within the DPP have been developed in New South Wales, Victoria, Queensland, South Australia and the Northern Territory (Western Australia has a Witness Assistance Service within the Ministry of Justice itself). These services are mainly based in the capital cities and they suffer from a lack of resources. They are, however, recognised as a valuable source of information and support for victims who are able to access them. A large proportion of the cases that these services deal with are adult and child sexual assault cases. In the 1997–98 financial year, 61 per cent of the cases dealt with by the Victorian DPP Witness Assistance Service were for adult and child sexual assaults (Director of Public Prosecutions Victoria 1999, p. 89). Western Australia also has a Child Witness Service, based in the courts and funded by the Department of Justice and the Courts Administration Authority. The Child Witness Service is a free service providing emotional support and practical preparation for children 18 and under, and other witnesses with special needs who are to give evidence to a court.

Children as Witnesses

The HREOC and ALRC have recommended a number of significant changes to make the entire court process more sensitive to the needs of children. These include:

- the use of specialised teams to interview child witnesses, including health care workers and counsellors, alongside lawyers and police;
- a presumption in favour of closed-circuit television for child witnesses and a presumption against children appearing live in court;
- the giving of priority, when setting court dates, to matters involving child witnesses;

- the presumption that children are competent witnesses and the prohibition on judges warning juries that children are an unreliable class of witness;
- the use of age-appropriate language, and the provision of age-appropriate literature for child witnesses;
- waiting rooms for child witnesses;
- giving courts the power to use child interpreters to facilitate the giving of evidence by a child where the court is satisfied that the child is unable to understand the questions, or where it is difficult to understand the child's speech;
- the development of guidelines to prevent harassment and intimidation of child witnesses by counsel (HREOC & ALRC 1997, pp. 38–43).

Many of these recommendations have been successfully implemented in Western Australia in relation to criminal matters, including criminal injuries compensation. The Child Witness Service in Western Australia has been held up as an example of best practice in this area (Victim Support Working Party 1998, p. 43). These recommendations are yet to be adopted by other Australian jurisdictions.

As noted earlier in this report, legislation was introduced in New South Wales in 1997 to restrict access to counsellors' records in sexual assault proceedings (*Evidence Amendment (Confidential Communications) Act 1997*). The new law creates a privilege for communications made between a counsellor and a person who has been sexually assaulted. The privilege is not absolute—in order to circumvent the privilege, defence counsel must satisfy the court that the records have a probative value that substantially outweighs the public interest in preserving the protected confidence (New South Wales Working Party Concerning the Confidentiality of Counsellor's Notes 1998, p. 17; Cossins 1998, pp. 105–6). To date, similar legislation has been enacted in Victoria; other jurisdictions are yet to follow suit. Counsellors continue to struggle to protect their confidential records, using arguments based on common law principles.

In every State, a victim of sexual assault has the right to make a victim impact statement outlining how the crime has affected them. A victim impact statement is a written statement of the personal harm suffered as a direct result of a crime of violence (Giuliano 1998, p. 210). A crime of violence involves an act of actual or threatened violence, including sexual

assault. According to Giuliano, the personal harm suffered relates only to actual bodily harm, mental illness or nervous shock. Such a statement may be given in the Supreme Court or in the District Court after a person has been convicted and before the person is sentenced.

Victims' Rights

Five jurisdictions have enacted a charter of rights for victims of crime. These charters establish a set of guidelines for the treatment of victims of crime by public officers within the criminal justice system. For example, the charter of rights requires that public officers treat victims of crime with courtesy and compassion, and with respect for their dignity and need for privacy.

The various charters of rights have had an effect in certain areas. Police services in particular have taken the charters very seriously, and have introduced training and reforms in line with the guidelines.

The major criticism of these charters is that they do not create legally enforceable rights. Breach of these guidelines can render a public officer liable to a disciplinary proceeding within his or her own department. There is, for example, no central organisation that can monitor the progress of complaints about breaches, or that can reassign an alternative officer in the face of a breach.

Criminal Injuries Compensation

Every State has some form of compensation for victims of crime, including victims of sexual violence. Criminal injuries compensation is paid from public funds to victims of crime. Typically, victims of crime may apply for compensation to reimburse their out-of-pocket expenses, such as medical costs, and/or a lump sum payment that can be used for any purpose. However, financial assistance, where it is available, is typically limited to victims of violent crime (as defined in the legislation).

In Australia there is considerable variation between jurisdictions as to the amount of compensation that a victim might receive. The maximum entitlement in Tasmania, for example, is \$10,000, while the maximum entitlement in Queensland is \$75,000. One result is that victims of crime might receive significantly different amounts of compensation depending on where the compensation application is being considered.

The differing maximum amounts of compensation must be considered alongside the eligibility criteria. In Victoria, for example, to be eligible for

compensation the applicant must have been a victim of an “act of violence”, defined to mean a criminal act or series of acts that has occurred in Victoria, with the direct result of “injury” or death to one or more persons, irrespective of where the injury or death occurs. An “injury” is defined to include:

- actual physical bodily harm;
- mental illness or disorder, whether or not flowing from nervous shock;
- pregnancy; or
- any combination of the above.

Victims of sexual violence who do not suffer physical injury or mental illness or disorder are not eligible for compensation. This is a change from the previous model in Victoria, under which victims were entitled to compensation for “pain and suffering”. This change is significant for victims of sexual violence, given that statistics indicate most do not suffer physical injury, and many of the “natural” reactions to sexual violence are outside of the medical definition of mental illness or disorder.

In Queensland the eligibility criteria are much broader. To be eligible for compensation, an applicant must have suffered injury, death or expense as a result of an indictable offence. “Injury” is defined to include bodily injury, mental or nervous shock, and pregnancy. In relation to victims of sexual offences, “injury” is also taken to include the totality of “adverse impacts” suffered by the victim, including:

- a sense of violation;
- reduced feelings of self-worth;
- trauma;
- post-traumatic stress disorder;
- increased fear;
- feelings of insecurity;
- adverse effect of the reaction of others;
- adverse impact on lawful sexual relations;
- adverse impact on feelings; and
- anything else the court considers is an adverse impact from a sexual offence.

There is considerable debate as to whether compensation is an appropriate community response to victimisation, including sexual violence. In Victoria, monetary compensation schemes have been considerably cut back, with resources redirected into service delivery. It is argued that, given limited resources, it is more appropriate to use funds for service delivery that can be accessed by a large number of victims of crime, as opposed to compensation funds that are accessed by a smaller number of recipients. One counterargument is that criminal injuries compensation is not just about money—it is about the State acknowledging that a person has been victimised—and the money provides some reparation for the trauma and stress that victims have been through (see further Cook, David & Grant 1999, p. 66). Another argument is that for some victims, criminal injuries compensation gives them the resources necessary to feel safe, for example, improved household security, a change of location, or even the purchase of a car in situations where the victim has previously been using public transport.

There appears to have been no empirical research undertaken into the relative benefits of compensation as opposed to counselling for victims of crime. The Victim Support Working Party in the Australian Capital Territory recently noted that, although they had contact with colleagues in the United Kingdom, United States, New Zealand and interstate, they were unable to find any research into the rehabilitative effect or otherwise of victims of crime receiving or not receiving financial compensation. The Working Party cited the report of an independent working party convened by Victim Support (UK) which asserted “for some victims, personal support and practical help may be far more important and appropriate than financial compensation” (cited in Cook, David & Grant 1999, p. 68).

Community Notification Legislation

To date, much of the community response to sexual violence in the Australian States and Territories has focused on “sexual predators”, or those people who prey on strangers, and particularly those who prey on children (Lieb, Quinsey & Berliner 1998, p. 46). While sexual violence perpetrated by strangers and against children is undoubtedly a serious problem, the focus on these isolated occurrences may be to the detriment of any consideration of other forms of sexual violence that occur with alarming regularity, in particular, sexual violence in the home committed by someone known to the victim.

In 1999, New South Wales passed a package of legislation to implement some of the recommendations made by the Wood Royal Commission relating to the protection of children. The package included three Acts:

- the *Commission for Children and Young People Act 1998*;
- the *Child Protection (Prohibited Employment) Act 1998 (No. 2)*; and
- the *Ombudsman Amendment (Child Protection and Community Services) Act 1998 (No. 2)*.

For the present purposes, the *Child Protection (Prohibited Employment) Act 1998 (No. 2)* is the most relevant. The Act aims to prevent people who pose a risk to children from being provided access to them through their employment, and targets people who have a conviction for a serious sex offence, making it an offence for them to apply, undertake or remain in child-related employment. It places obligations on employers to ascertain whether employees are prohibited persons and creates offences for employers who fail to require disclosure or who employ or continue to employ a prohibited person in child-related employment.

Prohibited persons can undertake child-related employment only if they have been granted an exemption by the Industrial Relations Commission or the Administrative Decisions Tribunal. For an exemption to be granted, the Tribunal must believe that the person does not pose a risk to the safety of children.

However, the Act only covers convicted sex offenders and so does not have an impact on the majority of sex offenders who are in the community. The legislation still allows convicted sex offenders to work with children who are related to them or who are related to their employers.

Therapeutic Interventions for Sex Offenders

Treatment for sex offenders and the management of such offenders is a relatively new development. Traditionally, incapacitation and/or incarceration have been seen as the most appropriate methods of preventing sex offenders from reoffending. Treatment for sex offenders remains a somewhat unaccepted course of action in the criminal justice response to such offending behaviour (Department of Human Services 1998).

There are two main obstacles to the introduction and implementation of sex offender treatment programs. These relate to societal and community objections, and difficulties within the criminal justice system.

In Australian society, most offenders are held to be responsible for their own actions or inaction. Many community members do not accept that treatment is effective or appropriate. There is little acknowledgment within the general community that assisting offenders is a first step towards helping victims, both potential and actual (Glaser 1993).

There are a number of obstacles within the criminal justice system itself to the implementation of treatment programs. There is a lack of resources within the correctional sector for treatment programs in general, as overcrowding within correctional institutions continues to increase. Treatment programs take time and ongoing funding. The more effective programs take a minimum of one year and usually 18 months or longer to treat such behaviour with any degree of effectiveness (Freeman-Longo 1990). In an environment of scarce resources and political pressure to “get tough” on law and order, treatment programs are rarely politically palatable. The harsh treatment of sexual offenders is often seen as a political necessity, as politicians reflect what they believe to be the sentiment of the community. Treatment programs are generally considered “soft options” by politicians, and the potential long-term benefits of these programs are rarely addressed, with victims and offenders being seen as mutually exclusive groups.

The harassment and physical assault which most sex offenders are likely to suffer in custody leads to many sex offenders being segregated for their own protection. Such segregation and attitudes within correctional centres creates a negative treatment environment and provides little incentive for offenders to deal with their offending behaviour (Glaser 1993).

Despite these hurdles, some sex offender programs have been implemented both in the correctional system and within the community. The high cost of imprisonment and the nature of sentencing as a definite and finite time period means that most sexual offenders will at some point be released back into the community (Glaser 1993). For this reason, programs that run within institutions must provide skills that are applicable in the general community. Similarly, there must be programs available to offenders who are either never incarcerated, or who are released.

Sex offender treatment programs in Australia vary in approach, style, theory and therapeutic endeavour. Many of these differences are, however, a product of the development of the individual programs; most programs are more similar than not. Most use a combination of:

- psychotherapy or counselling, involving both individual and group work;
- educational aspects including, amongst other things, basic sex education, communication skills, and stress and anger management; and
- cognitive/behavioural aspects which investigate and challenge the thinking patterns, beliefs, cognitive distortions and deviant sexual arousal of offenders.

A few programs in Australia have used medication such as Depo-Provera in conjunction with the above methods. Such medication has been found to work only with a small minority of offenders and so has had limited application as an effective overall intervention in sexually offending behaviour. There are also serious legal, ethical and health issues regarding the use of such medication, particularly on adolescent sex offenders.

A popular method of treatment, especially within more recent times in Australia, is the idea of “relapse prevention”. This idea has been used in drug and alcohol programs for many years now. The theory behind relapse prevention is that offenders can learn through treatment to control (not cure) their offending behaviour (National Institute of Corrections 1998).

Given that there is no known cure for sex offenders and that each sex offender has many potential and unforeseeable routes to reoffence, the single most important change sex offenders can make is to truly accept the permanence of their condition. When recognising change, there is only one change that counts—that offenders accept they will always be sex offenders and orient their lives accordingly. (National Organization on Male Sexual Victimization 1998)

Physical, psychoanalytic, behavioural and cognitive therapy models are used to address a range of treatment goals (Barker and Morgan 1993).

Techniques such as recognition of the “offending cycle” and subsequent control of behaviour provides the offender with an understanding of their offending behaviour, an examination of high-risk situations and

identification of their own triggers, management of these triggers, factors which may precede or contribute to the offending, awareness of vulnerability to relapses and ongoing support and supervision of such offenders (Wood 1997, p. 1254).

Evidence of the effectiveness of sex offender treatment programs has been the subject of a number of research studies. However there remain certain questions about such research and its reliability and validity, particularly in terms of methodology.

There are two distinct types of evaluative research in this area. Some research evaluates specific programs, whilst others evaluate therapeutic approaches (Department of Human Services 1998). Four methods of measuring effectiveness have been particularly popular:

- self reporting;
- testing knowledge and attitudes before, during and after treatment;
- physiological tests, such as penile plethysmography (which measures male sexual arousal); and
- reoffending rates (recidivism).

Most research recommends using a combination of the four methods rather than relying on any single method. Recidivism rates have been the favoured method, particularly in recent times. This may be due to the way in which treatment programs are developed; that is, many programs have the prevention of further offending as a primary goal. Reduced reoffending rates and enhanced community safety are also the criteria most likely to be sought or used by funding bodies and the general community.

However, serious doubts regarding the validity of using recidivism rates have been the subject of recent research. This research suggests that recidivism rates underestimate the true picture, as many sexual offences are not reported to police. Also, sex offences have a much lower successful conviction rate, even when taken to court due to factors discussed previously. Recidivism statistics reflect conviction rates only (Department of Human Services 1998). The other identified problem with using recidivism rates is the definition and follow-up time periods which are used. Two identical programs could appear to have very different recidivism rates depending upon the definition of recidivism chosen and the length of the follow-up period.

Another identified difficulty is the lack of reliable prediction and assessment instruments which can be used for assessing the likelihood of sexual reoffending, although a number appear to be either in use or under development. Some of the indirect achievements of treatment (including victim empathy, and challenging and changing of sexist attitudes) have been worthy of inclusion in a consideration of program effectiveness. Treatment evaluations or assessment of effectiveness should be sufficiently broad to incorporate a range of outcomes, rather than a focus upon reoffending rates (Department of Human Services 1998).

Despite the problems with existing evaluations, it is possible to identify a number of factors that will improve the likelihood of success of the program. These include:

- the type of offender on the program—for example, sexual offenders against children appear to have better treatment results with the current cognitive behavioural treatment than do sexual offenders against adults (the exact reasons for such differences remain an issue);
- the length of the program—long-term programs (that is, over a year) seem to be more effective than short-term programs;
- techniques to assist offenders to identify and interrupt their own offence cycle, and relapse prevention techniques; and
- good management and implementation of interventions—offenders are unlikely to benefit from treatment that is not implemented fully or is poorly delivered (Barker & Morgan 1993).

While many questions remain, there are indications that well designed, adequately resourced assessment and treatment services can be successful with some offenders. Such success can provide protection for the community and for future victims (Glaser 1993). The “nothing works” conclusions of correctional treatment during the late 1970s and early 1980s may have been premature. However, funding bodies, administrators and the community must recognise that there are no guarantees, and that the effectiveness of treatments will be affected by many factors, with recidivism being only one measure of the success of a program (Broadhurst & Maller 1990). Research about, and treatment for, sexual offenders must be seen as a vital stage in the management of such offenders, and for providing for the safety and protection of the Australian community.

Part 5: Conclusion

This report has identified a number of research and policy opportunities. These are principally the result of gaps in our knowledge, gaps in service provision, and a lack of monitoring and evaluation of innovations in the legal system.

Data Collection

While sexual violence potentially affects all members of the community, there are certain subgroups that are more likely to be targeted than others. The statistics indicate that:

- sexual violence is predominantly committed by males against females;
- young women in particular are most at risk of experiencing sexual violence;
- within the male population, the most at-risk group is boys under the age of 14;
- offenders are more likely than not to be known to the victim;
- sexual assaults are more likely to occur in a residential location than any other;
- most sexual assaults do not result in physical injury;
- sexual violence is rarely a single event—prior experience of sexual victimisation is a risk factor for further victimisation;
- a majority of women who have been sexually assaulted do not seek professional assistance (counselling, medical intervention); and
- a significant number of women (around one-quarter, according to the Women's Safety Survey) do not tell anyone about the assault.

There are indications of a high incidence of sexual violence amongst particular sociodemographic groups. Relatively small studies and anecdotal

evidence suggest that the following groups are more at risk of sexual violence than the rest of the community:

- Indigenous women;
- men and women with a mental impairment;
- men in correctional institutions;
- sex workers; and
- gay, lesbian and transgender men and women.

These indications are yet to be backed up by empirical research at the national level. At present, data collection about sexual violence against these groups is outside of the mainstream. The major national sources of data do not collect information on variables that would indicate levels of victimisation amongst these subgroups. Until data collection seeks to address these gaps, the available information about sexual violence will remain incomplete.

The need to improve and coordinate national data collection in relation to sexual violence was identified by the National Committee on Violence against Women in 1993. Following a recommendation by that committee, the Office of the Status of Women funded the development of a standardised minimum data set for collection of information by members of the National Association of Services Against Sexual Violence. Variables include (amongst other things) the culture or ethnicity of the victim, ability/disability, information about the offender, and whether the victim is homeless, a visitor or a tourist. The data collection system was piloted in 1998. The full implementation of this data collection system could have significant benefits for the expansion of knowledge about sexual violence in Australia.

This report has also identified that while information about victims of sexual violence is limited, even less is known about offenders. This, in part, reflects the difficulties of obtaining information about offenders, most of whom remain outside of the criminal justice system and unidentified. Offenders within the criminal justice system, for example in prisons, represent only those who have been “caught”. Greater use could be made, however, of the information that is available about known offenders. For example, many prisons collect extensive information about their clients, generally through participation in sex-offender treatment programs. In some cases,

information is collected on many variables, such as physical or intellectual disability, indications of psychiatric disturbance, substance abuse, how compliance was achieved, premeditation, and information about past sexual crimes not known to the authorities (Survey Document, Ministry of Justice, Western Australia). This information is rarely collected and analysed in any systematic manner. Again, without this data, the information about sexual violence in Australia is only partially complete.

Early Intervention

While there are limitations with the available statistics, it is nonetheless clear that:

- offenders are overwhelmingly adult males, known to the victim; and
- males and females under the age of 19 are most at risk of victimisation, with adolescent girls and very young boys particularly at risk.

The literature on early intervention speaks of the need to intervene at an early stage to influence the later behaviour of boys and men, and to educate girls about the risks of sexual violence. As noted by the House of Representatives Standing Committee on Employment, Education and Training (1994, p. 14):

...the link between masculinity and violence must be addressed and alternatives to aggressive and threatening behaviour learned. It is essential to deal with the issues of power and control in any attempt to eliminate violence based on gender.

The Committee also noted the value of early intervention programs:

...sufficient evidence exists to suggest that the task of changing a child's behaviour patterns after the age of eight requires significantly more resourcing, with reduced chances of success, than if the problem was tackled in the earliest schooling years. The Committee strongly supports the notion of prevention, to the extent that it can be achieved, rather than piecemeal solutions to school violence when childhood behaviours are difficult to change. (p. 44)

This approach is extensively documented in *Pathways to Prevention*, a report documenting the theory and practice of early intervention programs in Australia (National Crime Prevention 1999). It is noted in *Pathways* that:

...it is likely to be strategically effective to attempt to divert people from harmful pathways before maladaptive patterns of behaviour are well entrenched. Protective and anticipatory action is more powerful and less painful than clinical or punitive interventions after a history of offending. Indeed, some sequences of offending are manifest in the pre-school years through aggressive and hostile behaviour. In these cases, early interventions have more immediate as well as long-term goals. (National Crime Prevention 1999, p. 10)

From a very young age, public education could address issues such as conceptions of masculinity and gender, appropriate sexual behaviour, relationships, communication and conflict resolution skills.

There are already a number of programs that are being run in schools that have demonstrated their success. For example, the Canberra Rape Crisis Centre runs a semi-structured group for school-aged girls who have been victims of sexual violence. Knowledge of the group is spread largely by word of mouth, and parental consent is not required for participation. A recent evaluation showed that the girls were experiencing fewer feelings of self-blame and shame since joining the group, and that they placed great importance on the support networks provided by the other members of the group, and workers from the Rape Crisis Centre (Canberra Rape Crisis Centre 1999, pers. comm.).

Another example is the Child Sexual Abuse Prevention Program, run by Australians Against Child Abuse, in a number of Victorian schools. This program aims to equip primary school students with information and skills to avoid potential situations of sexual abuse. Recent evaluations reveal positive outcomes—children who had attended the course had greater increments of knowledge about child sexual abuse than children in a comparative school where the course was not offered. The children who attended the course did not report any increase in anxiety as a result of the course. Teachers who participated in the course reported having increased knowledge and skills with respect to their roles as mandated reporters of child abuse (Staiger, Wallace & Higgins 1997).

School-based programs allow children and adolescents to attend programs that may otherwise have been inaccessible to them, either because of the location of after-hours courses or because children can participate in school courses without telling their parents. It is also likely that children benefit from forming support networks with peers, as well as counsellors.

Community Education

This report noted that some 28 per cent of victims of sexual violence do not tell anyone about their experience. The other side to this statistic is that 72 per cent of victims of sexual violence do tell a relative, friend or partner. It has been noted in the context of sexual violence that the point of disclosure is critical, along with whom the victim tells, and how the person responds:

At worst, a poor or negative response deterred or delayed the woman from seeking help elsewhere. At best, a positive response assisted them to gain the information, awareness and support necessary to enable them to deal with the abuse in their own way, and in their own time. (Office of the Status of Women 1998)

While extensive research is yet to be undertaken in relation to disclosures of sexual violence, it is likely that victims of sexual violence would experience similar difficulties if their disclosures were not received in a supportive manner. If this is accepted, it may be appropriate to adopt similar strategies to those recommended in relation to disclosures of domestic violence, for example, to:

- develop strategies targeting family members, friends and neighbours to better equip them to support and assist people who have experienced, or who are experiencing, sexual violence; and
- continue, and further develop, sexual violence community education programs.

Given the enduring power of myths surrounding sexual violence, strategies could seek to challenge those myths, for example, challenging those who seek to blame the victim, or who question the truthfulness of claims about sexual violence.

As with the wider community, there also appears to be a need for continuing education of legal professionals in relation to sexual violence.

The continuing negative experiences of victims of sexual violence as witnesses in court suggests that continuing legal education and amending legislation are simply not enough to keep legal professionals informed about sexual violence. At present, magistrates, judges and lawyers can choose from a wide variety of courses in order to fulfil the requirement of continuing legal education. It is up to individuals to find out about recent developments in the law.

One possibility may be for legal professionals to go down a similar path as medical professionals; that is, having identified specialities. For example, it would be beneficial for a legal professional who works with children to have an understanding of the developmental needs of children, and possibly an understanding of the issues surrounding child witnesses who have been sexually abused. Another possibility could be for law schools to include information in their curricula about sexual violence, including the possible impact of certain practices on witnesses. It may be that education of this nature would have beneficial flow-on effects for victim/witnesses of sexual violence.

Evaluation

Evidence-based responses to sexual violence should be preferred over “knee-jerk” or politically motivated responses. As noted by the National Committee on Violence (1990, p. 122):

Good intentions, warm feelings and trendy ideas, laudable though they may be, are simply not a sufficient basis for the expenditure of public funds. Measures which are heralded as successful in one jurisdiction, whether in Australia or overseas, should not be blindly embraced without careful provision for their evaluation and their eventual dismantling in the event of unsatisfactory performance.

There is a need to evaluate the success or otherwise of the various innovations in relation to sexual violence. For example, there has been little evaluation of the use of screens, closed-circuit televisions or video facilities in courts, or the impact of changes to criminal injuries compensation on victims of sexual violence. There is anecdotal evidence to suggest that there are problems with these innovations. For example, the Victim Support Service in South Australia has noted that judges and prosecutors seem

reluctant to use screens and closed-circuit televisions in relation to victim/witnesses but, claims the Service, “we need a better analysis of reasons for refusals and withdrawals of requests before being able to draw legitimate conclusions” (Dawson 1998, p. 9; see also Merlino & Hood 1998, pp. 94–5).

Similarly, in the absence of evaluation of services, it is difficult to identify gaps in service provision, opportunities to improve services, and examples of best practice. Without this information, services may continue to “reinvent the wheel”, or unknowingly exclude certain groups from the community who are in need of assistance. The National Association of Services Against Sexual Violence has noted the importance of service evaluation, and is a vehicle for disseminating information about best practice. In an environment of scarce resources, however, services are limited in their ability to conduct evaluations. Services need funding for evaluation, over and above funding for service delivery, if they are going to be able to conduct evaluations and disseminate the information.

Appendix

Results from Overseas Crime Victims Surveys

As in Australia, some overseas countries conduct both general crime victims surveys (in which questions on sexual offences are asked) and more specific crime victims surveys (aimed at understanding the incidence of violence against women). There is also an International Crime Victims Survey.

International Crime Victims Survey

The International Crime Victims Survey (Mayhew & van Dijk 1997) is a standardised sample survey that looks at the experience of crime in different countries. The latest survey from which results were available at the time of writing was conducted in 1996. Eleven industrialised countries participated (Austria, Canada, England and Wales, Finland, France, the Netherlands, Northern Ireland, Sweden, Switzerland and the United States).

The survey asks representative samples about selected offences they have experienced over a given time, including sexual assault. It is interested in incidents whether or not reported to police, and the reasons why people do and do not choose to notify police. By collecting social and demographic information about the respondents, the crime survey also allows analysis of how risks of crime vary for different groups in terms of age, sex, income level and so on.

In relation to sexual violence, the 1996 survey asked females aged 16 and over whether they had been the victim of a sexual incident during the previous five years. Table 5 presents statistics on the percentage of women who had been victimised in the past year, the rate of sexual victimisation per 100,000 female population in each country, and the percentage of sexual incidents reported to police.

- Sexual victimisation was highest in Switzerland, Austria, the Netherlands and Sweden.
- Those countries with higher levels of victimisation generally had lower levels of reporting the incident to police.

Table 5: Results of the International Crime Victims Survey, 1996—sexual violence incidents

Country	Victimisation over the past year (percentage of women victimised once or more)	Victimisation rates, number of sexual incidents per 100,000 female population	Percentage of sexual incidents reported to police
Austria	3.8	9.5	7
Canada	2.7	4.8	17
England and Wales	2.0	3.1	20
Finland	2.6	4.7	8
France	0.9	1.7	30
Netherlands	3.6	6.0	14
Northern Ireland	1.2	3.8	43
Sweden	2.9	6.0	12
Switzerland	4.6	9.6	16
United States	2.5	4.9	28

- Looking at what women said about the “last incident” that had occurred, and taking all countries together (due to small numbers), offenders were known to women in about half the sexual violence incidents. Partners, ex-partners, boyfriends, relatives and friends were involved in one in five incidents of sexual assault, but in a smaller proportion of incidents of offensive behaviour (about one in 10 incidents).

General Crime Victims Surveys

Many countries conduct general crime victims surveys—too many to discuss in this report. However, the results of surveys conducted in New Zealand and the United States are discussed below.

New Zealand National Survey of Crime Victims 1996 (Young et al. 1997)

The survey was commissioned by the Victimisation Survey Committee and measures the extent of crime victimisation among persons aged 15 and over.

In relation to sexual violence, the survey found:

- an estimated 171,592 women and 869 men had been sexually violated (includes not only rape, but also other forms of penetration) in 1995;
- there was an average victimisation rate of 6.1 per 100,000 women;
- on average, one woman in 16 will be sexually violated each year;
- sexual offending comprised 10 per cent of all offences;

- women in the 15–24 age range were the most likely to be victims of sexual violation;
- the extent of sexual victimisation for women was considerably higher than for men—overall, only 6.6 per cent of men stated they had experienced sexual violence in their lifetime compared with more than one-quarter (29.5%) of women;
- women in the 25–39 age range had the highest lifetime prevalence of sexual violence;
- 4.1 per cent of women and 0.7 per cent of men indicated that a partner had made them carry out sexual activity against their will by holding them down or hurting them in some way;
- 3.5 per cent of women and 0.4 per cent of men indicated that a partner had made them carry out sexual activity against their will by threatening them in some way;
- persons in the 15–24 age range were the most likely to have been forced by a partner to have sexual activity by being held down or hurt in some way, while persons in the 25–39 age range were the most likely to have been forced by a partner to have sexual activity by being threatened in some way.

National Crime Victimization Survey, United States, 1997 (Rand 1999)

The survey is conducted by the Bureau of Justice Statistics (United States Department of Justice) and measures the extent of crime victimisation among persons aged 12 and over. In relation to sexual violence, the survey found:

- an estimated 311,000 people were victims of rape/sexual assault in 1997, 194,000 were victims of rape/attempted rape and 117,000 were victims of sexual assault;
- the rate of victimisation for rape/sexual assault was 1.4 per 1,000 persons aged 12 and over;
- females were victimised more often than males;
- the victimisation rate for rape/sexual assault for females was 2.5 per 1,000 females and for males was 0.3 per 1,000 males;
- persons in the 16–19 age range had the highest rate of victimisation, with 5.6 victimisations per 1,000 persons in that age range;

- there was not much difference in the rates between black and white victims of rape/sexual assault (1.6 versus 1.4);
- similarly, there was not much difference in the rates between victims of rape/sexual assault of Hispanic origin and non-Hispanic origin (1.5 versus 1.4);
- the rape/sexual assault victimisation rate was highest for those persons with a household income of less than US\$7,500, with a rate of 5.2 per 1,000 persons in that income range;
- the rape/sexual assault victimisation rate was highest for those persons who were single—3.0 per 1,000 persons who were never married and 2.8 per 1,000 persons who were divorced or separated;
- the victimisation rate for rape/sexual assault was highest for those living in urban areas, with a rate of 2.0 per 1,000 persons living in those areas;
- rape/sexual assault was most commonly committed by someone known to the victim, with 68.3 per cent of victimisations involving a “non-stranger”.

Violence Against Women Surveys

Four countries conduct surveys specifically aimed at measuring the incidence of violence against women. They are Australia, New Zealand, the United States and Canada.

Women’s Safety Survey, New Zealand (Morris 1997)

Like the Australian Women’s Safety Survey, the New Zealand Women’s Safety Survey measures the extent of sexual violence experienced by women both in the previous 12 months and in the woman’s lifetime. However, the New Zealand Women’s Safety Survey only measures sexual violence experienced at the hands of either a current or recent male partner. A total of 500 New Zealand women aged 17 and over participated in the survey.

The survey found that:

- women were more likely to have been assaulted by a recent partner than by a current partner;
- in both the previous 12-month period and in their lifetime, an estimated one per cent of women were forced to carry out sexual activity by their current partner, by being held down or hurt in some way, and one per cent were forced to carry out sexual activity by being threatened;

- in the previous 12-month period, an estimated 16 per cent of women were forced to carry out sexual activity by a recent partner, by being held down or hurt in some way, and 13 per cent of women were forced to carry out sexual activity by being threatened.

National Violence Against Women Survey, United States, 1996 (Tjaden & Thoennes 1998)

A national telephone survey on violence against women was conducted from November 1995 to May 1996. The survey sampled both women and men (aged 18 and older), and so provides comparable data on women's and men's experiences with violent victimisation in the United States.

The survey queried respondents about both physical assaults and forcible rape and stalking. For the purposes of the survey, rape was defined as "forced vaginal, oral or anal sex".

The survey found that:

- one in six (18%) women and one in 33 (3%) men have experienced an attempted or completed rape at some time in their life;
- 0.3 per cent of surveyed women and 0.1 per cent of surveyed men said they experienced a completed or attempted rape in the previous 12 months, equating to approximately 302,100 women and 92,700 men who are forcibly raped each year in the United States;
- the average number of rapes in the previous 12 months averaged 2.9 rapes for women and 1.2 rapes for men;
- the majority of rapes were against children and adolescents;
- more than half (54%) of the female rape victims were under 18 years of age when they experienced their first rape;
- 22 per cent of rape victims were under 12 years old when they experienced their first rape, while 32 per cent were 12 to 17 years old;
- 18 per cent of the women who reported being raped before age 18 said they were also raped after age 18, compared with nine per cent of the women who did not report being raped before the age of 18;
- 76 per cent of the women who were raped and/or physically assaulted since the age of 18 were assaulted by a current or former husband, cohabiting partner, or date; 17 per cent were victimised by an acquaintance, such as a friend, neighbour or co-worker; 14 per cent were

victimised by a stranger; and nine per cent were victimised by a relative other than a husband;

- men were primarily raped and physically assaulted by strangers and acquaintances, not intimate partners;
- 7.7 per cent of surveyed women, compared with 0.3 per cent of surveyed men, said they were raped by a current or former spouse, a cohabiting partner, or a date at some time in their life;
- 0.2 per cent of all surveyed women said they were raped and/or physically assaulted by such a partner in the previous 12 months; and
- the perpetrators were more commonly males than females.

Violence Against Women Survey, Canada, 1993 (Statistics Canada 1993)

The Violence Against Women Survey is a national telephone survey which was conducted by Statistics Canada in 1993. A total of 12,300 women aged 18 years and over were surveyed about their experiences (since the age of 16) of physical and sexual violence by males, and about their perceptions of personal safety.

The survey defined sexual assault as including unwanted sexual touching (grabbing, kissing or fondling) up to sexual violence resulting in wounding, maiming or endangering the life of the victim.

The survey found that:

- an estimated 108,000 women (2%) were victims of sexual assault by their current marital partner, while 629,000 (17%) were victims of sexual assault by a previous marital partner;
- an estimated 3,841,000 women (37%) had been a victim of sexual assault in their lifetime by a perpetrator other than a spouse (including assaults by strangers, dates, boyfriends, and other known men);
- 57 per cent of women had been victimised two or more times by a perpetrator other than a spouse;
- three per cent of non-spousal sexual assault incidents involved a weapon;
- 11 per cent of women were physically injured in the sexual assault incident;
- 19 per cent of women who received an injury received medical attention;

- 11 per cent of women who were sexually assaulted took time off from everyday activities;
- only six per cent of women reported the sexual assault incident to police;
- in 34 per cent of cases which were reported to the police, the perpetrator was arrested or charges were laid;
- 25 per cent of women did not tell anyone about the sexual assault incident;
- family and friends were the most common people that women told about the sexual assault incident.

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