

3.7 CRIMINAL PROSECUTIONS AND PENALTIES

Despite the gravity of the crime of child sexual abuse and the public policy interest in dealing effectively with it, very little systematic data has been collected that would provide a clear profile of those who are prosecuted, convicted or incarcerated for child sexual abuse.¹ As a U.S. Department of Justice publication explains, despite a few highly publicized cases of sexual assaults of young children, "there is little empirically-based information on these crimes."² The National Crime Victimization Survey, for example, collects data on victims over the age of 12. There is reason to believe, however, that sexual assault crimes against juvenile victims comprise a large proportion of sexual assaults handled by law enforcement agencies.³

In the last ten years or so, a new reporting system has been in place, the National Incident-Based Reporting Systems (NIBRS), which has the potential to provide much more detailed information about those who are arrested for sexual assaults against children and the methods of arrest clearance.⁴ However, it is limited in representativeness because law enforcement agencies are not mandated to participate; for example, data from a July 2000 report draws from only 12 states.⁵ Nevertheless, it does provide relevant contextual information. It reports that, in general, sexual assaults of juvenile victims were more likely to result in an arrest (29%) than were adult victimizations (22%) although rates were lower for victims under 6 (19%) versus approximately 32.5% for victims ages 6 to 17.⁶ Overall, these results indicate that juvenile victims of sexual assault who were reported to law enforcement agencies were more likely to be male (18%) than were adult victims (4%); nearly one-fourth of the victims under 12 were male. Sexual assaults of children under the age of 6 were "the least likely of all such crimes to result in arrest or be otherwise cleared."⁷ Law enforcement was able to identify the offender in just a third of the sexual assaults of children under age 6 and 45% of those for victims between 6 and 11.⁸

The following tables summarize whether each particular incident or allegation of abuse against a priest led to follow-up in the criminal justice system. Of course, the range of behaviors described in the allegations varied substantially (see Table 4.4.1), which might have affected whether law enforcement contact was initiated or resulted in any follow-up. Overall, fifteen percent of priests were reported to the police by a victim. A much smaller number were reported by a diocese or religious community.

A report to the police resulted in an investigation in almost all cases (see *Tables 3.7.1 and 3.7.2*). Only 217 of the more than 4,000 priests and deacons were criminally charged (see *Table 3.6.3*). The comparative percentages for diocesan, religious and extern priests investigated by the police and subsequently charged are equivalent.

Table 3.7.1 ABUSE REPORTED TO THE POLICE, BY CLERICAL STATUS

	Diocesan	Religious	Extern	Total
Police Report	427	138	48	613
	13.8%	13.8%	20.8%	14.1%
No police report	2676	865	183	3724
	86.2%	86.2%	79.2%	85.9%

According to the information in the Church's files, approximately 14% of priests accused of abuse were reported to the police, and some were independently detected.

Table 3.7.2 ABUSE INVESTIGATED BY POLICE

	Diocesan	Religious	Extern	Total
Police investigation	435	129	51	615
	14%	12.9%	22.1%	14.2%
No police Investigation	2668	874	180	3722
	86%	87.1%	77.9%	85.8%

Table 3.7.3 PRIEST CHARGED WITH A CRIME

	Diocesan	Religious	Extern	Total
Priest charged	141	51	25	217
	4.5%	5.1%	10.8%	5.4%
Priest not charged	2962	954	206	4020
	95.5%	94.9%	89.2%	94.6%

Overall, 5.4% percent of priests were charged with a criminal offense (see Table 3.7.3). Although this is 35% of those cases in which a police investigation was carried out, it also means that only 3.1% of all priests were convicted of some type of criminal offense (Table 3.7.4).

Of the 217 priests who were charged with a crime, a majority (138) were convicted.

Table 3.7.4 PRIESTS CONVICTED OF A CRIME

	Diocesan	Religious	Extern	Total
Priests convicted	95	33	10	138
	2.5%	.9%	.26%	3.6%
Not convicted	56	18	15	3724
	1.5%	.47%	.39%	2.3%

Table 3.7.4 is based on a total number of 3,862 priests.

Of those who were convicted (128 priests), the following table summarizes the type of sentence the priest was given for the offense. Criminal penalties are specific to localities or jurisdictions, and the charges against the priests varied widely.

Table 3.7.5 CRIMINAL PENALTIES

Penalty	Number of Priests	Percent
Prison	100	73%
Jail	61	44%
House arrest or electronic monitoring	7	5%
Probation	122	88%
Fine	25	18%
Community service	18	13%
Other	28	20.5%

This is a multiple response table. The categories are not mutually exclusive, since an individual may have been sentenced to several different penalties by the court.

Three men were sentenced to spend the rest of their lives in prison, and two others were required to register as sex offenders.

Table 3.7.6 PRIESTS, BY NUMBER OF INCIDENTS CHARGED

Incidents	Count s	Percent	Cum. Percent
1	157	69.5%	69.5%
2	33	14.6%	84.1%
3	13	5.8%	89.8%
4	9	4.0%	93.8%
5	4	1.8%	95.6%
6	1	.4%	96.0%
8	2	.9%	96.9%
9	2	.9%	97.8%
11	1	.4%	98.2%
13	1	.4%	98.7%
26	1	.4%	99.1%
55	1	.4%	99.6%
131	1	.4%	100.0%
Total	226	100%	

In trying to better understand the types of incidents that led to criminal justice system involvement, the allegations made against priests have been divided into two categories: those involving direct sexual contact either by mouth or genitals (e.g., oral sex or penetration) and those without such direct sexual contact (e.g., fondling or sex talk). The type of incident did not seem to influence whether the alleged victim contacted the police or whether the priest was ultimately charged or convicted (see Tables 3.7.7, 3.7.8 and 3.7.9).

Table 3.7.7 POLICE REPORT BY SEVERITY OF ALLEGATION

	<i>Severity of Offense</i>		
	<i>Acts Involving Sexual Contact</i>	<i>Acts Not Involving Sex</i>	<i>Row Total</i>
Police Contacted	188	451	639
	13.7%	14.3%	14.1%
Police Not Contacted	1185	2695	3880
	86.3%	85.7%	85.9%
Total	1373	3146	4519
	100.0%	100.0%	100.0%

Table 3.7.8 CRIMINAL CHARGE BY SEVERITY OF ALLEGATION

	<i>Severity of Offense</i>		
	<i>Acts Involving Sex</i>	<i>Acts Not Involving Sex</i>	<i>Row Total</i>
Priest Charged	70	155	225
	5.1%	4.9%	5.0%
Priest Not Charged	1303	2991	4294
	94.9%	95.1%	95.0%
Total	1373 100.0%	3146 100.0%	4519 100.0%

Table 3.7.9 CRIMINAL CONVICTION BY SEVERITY OF ALLEGATION

	<i>Severity of Offense</i>		
	<i>Acts Involving Sex</i>	<i>Acts Not Involving Sex</i>	<i>Row Total</i>
Priest Convicted	44	97	141
	3.2%	3.1%	3.1%
Priest Not Convicted	1329	3049	4378
	96.8%	96.9%	96.9%
Total	1373 100.0%	3146 100.0%	4519 100.0%

If the accused priests are grouped not just by the number of formal allegations, but by the number of actual and potential allegations, i.e., to include potential victims, the results are very similar.

are Table 3.7.10 POLICE INVESTIGATION–ALLEGATIONS PLUS POTENTIAL VICTIMS

	<i>Allegations and Potential Victims per Priest</i>			
	<i>1</i>	<i>2-3</i>	<i>4-9</i>	<i>10+</i>
Police Investigation	362	173	81	22
	16.1	14.6%	10.4%	8.9%
No Police Investigation	1881	1010	701	226
	83.9%	85.4%	89.6%	91.1%
Total	2243 100.0%	1183 100.0%	782 100.0%	248 100.0%

The term "potential victims" refers to question 24 on the Cleric Survey, which asks for any third-party allegations noted in the records. Tables 3.7.10 and 3.7.11 include both actual and "potential" allegations.

Table 3.7.11 PRIEST CHARGED - ALLEGATIONS AND POTENTIAL VICTIMS

	<i>Allegations and Potential Victims per Priest</i>			
	<i>1</i>	<i>2-3</i>	<i>4-9</i>	<i>10+</i>
Priest Charged	123	64	29	8
	5.5%	5.4%	3.7%	3.2%
Priest Not Charged	2120	1119	753	240
	94.5%	94.6%	96.3%	96.8%
Total	2243 100.0%	1183 100.0%	782 100.0%	248 100.0%

Table 3.7.12 PRIEST CONVICTED—ALLEGATIONS PLUS POTENTIAL VICTIMS

	<i>Allegations and Potential Victims per Priest</i>			
	<i>1</i>	<i>2-3</i>	<i>4-9</i>	<i>10+</i>
Priest Convicted	76	38	21	5
	3.4%	3.2%	2.7%	2.0%
Priest Not Convicted	2167	1145	761	243
	96.6%	96.8%	97.3%	98.0%
Total	2243 100.0%	1183 100.0%	782 100.0%	248 100.0%

¹ David Finkelhor and Lisa M. Jones. "Explanations For The Decline In Child Sexual Abuse Cases," *Juvenile Justice Bulletin*, (Washington, DC: OJJDP, 2004): 11.

² Howard N. Snyder. *Sexual Assault of Young Children As Reported To Law Enforcement: Victim, Incident, and Offender Characteristics* (Washington, DC: U.S Department of Justice, Office of Justice Programs, 2000), 1.

³ Snyder, 12.

⁴ Snyder, 1.

⁵ Snyder, 1.

⁶ Snyder, 11.

⁷ Snyder, 13.

⁸ Snyder.