

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 384 of the 4,392 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 generally equivalent.

Table 3.7.1 ABUSE REPORTED TO THE POLICE, BY CLERICAL STATUS

	Diocesan	Religious	Extern	Total
Police Report	778	191	54	1,021
	25.2%	20.6%	26%	24.2%
No police report	2298	738	174	3,190
	74.8%	79.4%	74%	75.8%

According to the information in the Church's files, approximately 24% of priests accused of abuse were reported to the police, and some were independently detected.

Tables 3.7.1 – 3.7.4 report information on 4,211 priests and deacons, the total number for whom data was available on both clerical status and police contact.

Table 3.7.2 ABUSE INVESTIGATED BY POLICE

	Diocesan	Religious	Extern	Total
Police investigation	709	174	56	939
	23.1%	18.7%	26.9%	22.3%
No police investigation	2,365	755	152	3,272
	76.9%	81.3%	73.1%	77.7%

Table 3.7.3 PRIEST CHARGED WITH A CRIME

	Diocesan	Religious	Extern	Total
Priest charged	285	70	29	384
	9.3%	7.5%	13.9%	9.1%
Priest not charged	2,789	859	179	3,827
	90.7%	92.5%	86.1%	90.9%

Overall, 9.1% percent of priests were charged with a criminal offense (see Table 3.7.3). Although this is 41% of those cases in which a police investigation was carried out, the percentage of charges that proceeded to adjudication would be smaller.

Of the 384 priests who were charged with a crime, a majority (252) were convicted.

Table 3.7.4 PRIESTS CONVICTED OF A CRIME

	Diocesan	Religious	Extern	Total
Priests convicted	193	48	11	252
	6.3%	5.2%	5.3%	6%
Not convicted	2,881	881	197	3,959
	93.7%	94.8%	94.7%	94%

Table 3.7.4 is based on a total number of 4,211 priests.

Of those who were convicted (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	166	62.2%	62.2%
2	49	18.4%	80.5%
3	12	4.5%	85%
4	16	6%	91%
5	8	3%	94%
6	2	.7%	94.8%
8	3	1.1%	95.9%
9	1	.4%	97.3%
10 - 19	5	1.9%	98.1%
20 - 33	3	1.1%	99.2%
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 to genitals (e.g., oral sex, penetration or masturbation) and those without such direct sexual contact (e.g., hugging, kissing 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</i>	<i>Acts Not Involving Sex</i>	<i>Row Total</i>
Police Contacted	437	620	1,057
	28.4%	21.7%	24.1%
Police Not Contacted	1,103	2,232	3,335
	71.6%	78.3%	75.9%
Total	1,540	2,852	4,392
	100.0%	100.0%	100.0%

Tables 3.7.7 – 3.7.9 show the comparative criminal justice system contact for priests accused of acts or attempts involving penetration or oral sex and those involving an act of masturbation. All other incidents, including those with allegations of unspecified “sex abuse” or “other” abusive behavior are counted in these tables as not involving sex.

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	173	223	396
	5.1%	4.9%	5.0%
Priest Not Charged	1,367	2,629	3,996
	94.9%	95.1%	95.0%
Total	1,540 100.0%	2,852 100.0%	4,392 100.0%

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	107	152	259
	6.9%	5.3%	5.9%
Priest Not Convicted	1,433	2,700	4,133
	93.1%	94.7%	94.1%
Total	1,540 100.0%	2,852 100.0%	4,392 100.0%

If the accused priests are grouped not just by the number of formal allegations, but by the number of actual and potential allegations (to include the number of potential victims) the results show that investigation, arrest, and conviction are more likely for priests with more allegations.

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	357	264	232	110
	16.5%	23.2%	30.3%	43.7%
No Police Investigation	1,807	874	534	142
	83.5%	76.8%	69.7%	56.3%
Total	2,164 100.0%	1,138 100.0%	766 100.0%	252 100.0%

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 - 3.7.2 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	117	113	105	59
	5.4%	9.9%	13.7%	23.4%
Priest Not Charged	2,047	1,025	661	193
	94.6%	90.1%	86.3%	76.6%
Total	2,164 100.0%	1,138 100.0%	766 100.0%	252 100.0%

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	69	72	72	44
	3.2%	6.3%	9.4%	17.5%
Priest Not Convicted	2,095	1,066	694	208
	96.8%	93.7%	90.6%	82.5%
Total	2,164 100.0%	1,138 100.0%	766 100.0%	252 100.0%

¹ David Finkelhor and Lisa M. Jones. "Explanations for the Decline In Child Sexual Abuse Cases," *ODJJP Bulletin*, (Washington, DC: OJJDP, January 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, 13.