

108738

Child Sexual Abuse: An Analysis of Case Processing

NIJ Grant 84-IJ-CX-0074

Criminal Justice Section
American Bar Association
1800 M Street, N.W.
Washington, D.C. 20036

Project Staff

Jane Roberts Chapman, Project Director
Barbara Smith, Senior Researcher
Noel Brennan, Project Attorney

March 27, 1987

108738

NCJRS

JAN 20 1988

ACQUISITIONS

CONTENTS

| | Page |
|--|------|
| I. Introduction | 1 |
| II. Statement of the Problem | 5 |
| <u>Phase One</u> | |
| III. Overview of Phase One | 13 |
| Purpose of Research | 13 |
| Methods | 14 |
| IV. Sentencing Disparities in Child Sexual Abuse Cases | 16 |
| Sexual Assault Sentencing Codes | 16 |
| Policies and Practices Affecting Sentencing | 20 |
| <u>Phase Two</u> | |
| V. Overview of Phase Two | 31 |
| Purpose | 31 |
| Project Methodology | 32 |
| Demographics of the Study | 34 |
| VI. Child Sexual Abuse Complaints | 39 |
| Sources of Complaints | 39 |
| Investigation of Complaints | 42 |
| VII. Social Services Case Processing | 45 |
| Duration of Cases | 45 |
| Actions on Founded Cases | 47 |
| VIII. Criminal Justice Case Processing | 58 |
| Criminal Justice Outcomes | 58 |
| Outcome by Site | 60 |
| IX. Criminal Penalties | 63 |
| X. Factors Affecting Case Attrition | 71 |

XI. Discussion and Conclusions

80

Appendices

A. Additional Attrition Data: Preliminary Analysis

B. Code Books

| Tables | | Page |
|---------|---|------|
| IV-1 | Statutory Provisions: Sex Offense Case Sentencing | 19 |
| IV-2 | Sex Offender Characteristics, All Sites and By Site | 23 |
| IV-3 | Sex Offense Victim Characteristics, All Sites and By Site | 24 |
| IV-4 | Child/Adult Victim Comparison of Sentencing, All Sites | 26 |
| IV-5 | Child/Adult Victim Comparison of Sentencing, Controlling for Relationship, All Sites | 28 |
| V-1 | Child Sexual Abuser Characteristics | 36 |
| V-2 | Victim Characteristics in Child Sexual Abuse Cases | 38 |
| VI-1 | Sources of Child Sexual Abuse Complaints | 40 |
| VII-1 | Number of Months Child Sexual Abuse Cases Remain Open in Child Welfare Agencies | 46 |
| VII-2-A | Incidence of Child Welfare Agency Action in Child Sexual Abuse Cases | 50 |
| VII-2-B | Type of Protection/Treatment Used by Child Welfare Agency in Child Sexual Abuse Cases When Protection/Treatment was Ordered | 51 |
| VII-3-A | Child Welfare Agency Action in Child Sexual Abuse Cases, Comparison of Fairfax and Santa Cruz Counties | 55 |
| VII-3-B | Type of Action Used by Child Welfare Agencies, Comparison of Fairfax and Santa Cruz Counties | 56 |
| VIII-1 | Criminal Justice Outcomes for Child Sexual Abusers | 59 |
| VIII-2 | Criminal Justice Outcomes for Child Sexual Abusers, Comparison of Fairfax and Santa Cruz Counties | 62 |
| IX-1 | Incarceration of Child Sexual Abusers | 64 |
| IX-2 | Incarceration of Child Sexual Abusers, Comparison of Fairfax and Santa Cruz Counties | 65 |
| IX-3 | Use of Probation in Child Sexual Abuse Cases | 66 |
| IX-4 | Use of Probation in Child Sexual Abuse Cases, Comparison of Fairfax and Santa Cruz Counties | 68 |
| IX-5 | Court-Mandated Therapy in Child Sexual Abuse Cases, All Cases and by Site | 69 |
| IX-6 | Sentences for Child Sexual Abusers | 70 |
| X-1 | Factors Influencing Incidence of Arrest for Child Sexual Abuse | 76 |
| X-2 | Factors Influencing Incidence of Prosecution for Child Sexual Abuse | 77 |
| X-3 | Reasons for Criminal Justice Outcomes | 79 |
| A-1 | Factors Influencing Child Sexual Abuse Case Disposition | |
| A-2 | Factors Influencing Incarceration in Child Sexual Abuse Cases | |
| A-3 | Use of Probation in Child Sexual Abuse Cases, by Relationship | |

ABSTRACT

Child Sexual Abuse: An Analysis of Case Processing NIJ Grant 84-1J-CX-0074

A two phase study of the processing and outcomes of child sexual abuse cases was conducted by the Criminal Justice Section of the American Bar Association. Each phase is summarized below.

Phase One

The purposes of phase one were to determine a) whether statutory penalties for sex offenses are different for case with child victims, compared with cases for adult victims and b) whether actual dispositions and sentences in sexual abuse cases with child victims differed from those of sex offenses with adult victims. Three methods of data collection were used in phase one: 1. a survey of sentencing provisions for sexual offenses in state law, 2. a random sample of case files in three study sites (Mercer County, New Jersey; Fairfax County, Virginia; and Santa Cruz County, California), and 3. interviews with practitioners in the study sites.

The statutory survey found little or no differences between sentencing provisions applicable to cases with child victims compared with similar cases involving adult victims. But analysis of case files found several differences. Incarceration was imposed in 69 percent of child sexual abuse cases compared with 89 percent in comparable cases involving adult victims. The majority of sentences in child victim cases were for less than one year, with one third for less than six months. In comparable cases involving adult victims, 77 percent were for more than one year, 40 percent for over 10 years. Probation was used more than twice as often in cases involving children than in those involving adults. The abuser knew or was related to the child victim in 71 percent of cases.

Phase Two

The purpose of phase two was to examine the civil and criminal process from reporting through sentencing -- through which child sexual abuse complaints pass. Two methods of data collection were used in phase two: 1) a random sample of social service agency and police files in two study sites (Fairfax County, Virginia and Santa Cruz County, California) was drawn and analyzed and 2) interviews were conducted with practitioners in the study sites. The roles of social service agencies and police in processing sexual abuse cases were examined, as were the nature and frequency of the various civil and criminal actions taken.

Phase two of the study found that 97 percent of the abusers knew or were related to their victims. Parents were abusers in 43 percent of the cases. Fifty-nine percent of the founded cases of

child sexual abuse received neither juvenile court action nor service agreements between agency and client. Removal of the child from the home through civil order was the action most often taken by child welfare agencies. Almost half the cases (all of which were founded) did not result in an arrest, and 63 percent of those arrested were prosecuted. Most child sexual abusers were charged with felonies initially; 70 percent pled guilty, but often to a misdemeanor. Therapy was mandated by criminal court for about one half of the convicted abusers.

Chapter I

Introduction

Public attention has focused with increasing urgency on a problem which in the not-too-distant past was cloaked in secrecy--child sexual abuse. Part of the scrutiny is directed to the proper roles of the criminal justice and social services systems which have primary responsibility for the cases.

The scope of the problem of child sexual abuse is enormous. According to the American Humane Association 1/, 1,975 cases were reported in 1976 compared with 4,327 in 1977 and 22,918 in 1982. The National Center on Child Abuse and Neglect (NCCAN) also collected data on incidents of child mistreatment. Their figures show that child protection agencies received reports of maltreatment for 1.5 million children, 71,961 involving sexual mistreatment.2/ As alarming as these figures are, the actual number of sexually abused children is probably much higher. There is strong evidence that sexual abuse of children is a highly underreported event, thus

1/ P. Schene, as quoted in David Finkelhor, Child Sexual Abuse: New Theory and Research (New York: Free Press, 1984a).

2/ David Finkelhor, Sexually Victimized Children (New York: Free Press, 1979).

even the increasing rate of reports of child sexual abuse may seriously underrepresent the scope of the problem.^{3/}

Both practitioners and victim advocates have expressed concern over the performance of the criminal justice system with child victims. Special difficulties are experienced with child sexual abuse cases at every stage: reporting, investigation, prosecution, disposition, sentencing, and corrections. These difficulties result primarily from the facts that (a) the complaining witness is a child, and (b) the offender is often a relative or in a position of trust or authority with respect to the child.

More cases are entering the justice system now, but the traditional child welfare agencies have assumed responsibility for handling child abuse cases. These agencies also experience difficulties in processing sexual abuse cases. Child protective services have been described as being "uncomfortable" with sexual abuse and unable to manage the cases effectively. ^{4/} The scope of the problem has grown rapidly, and child welfare agencies are faced with complex and urgent child welfare needs on a scale they may be unable to meet.

^{3/} Finkelhor (1984a), op. cit.; Diana Russell, "Incidence and Prevalence of Intrafamilial and Extrafamilial Sexual Abuse of Female Children." Child Abuse and Neglect, 1983; G. Kercher, "Responding to Child Sexual Abuse" (Huntsville, TX: Sam Houston State University, Criminal Justice Center; and Finkelhor "How Widespread is Child Sexual Abuse?" Children Today 13 (1984b); Lois Timnick, "22% in Survey Were Child Abuse Victims," Los Angeles Times (results of national poll, July 20-25, 1985).

^{4/} Suzanne M. Sgroi, Handbook of Clinical Intervention in Child Abuse (Lexington, MA: Lexington Books, 1985), 81; David Finkelhor, Child Sexual Abuse (New York: Free Press, 1984) 201.

Some child advocates have charged that cases involving child victims of sexual offenses are treated less seriously by the criminal justice system than comparable sex offense cases with adult victims. Low prosecution rates and short prison sentences are cited as evidence of criminal justice lack of commitment to the child victim. Others have argued that the criminal justice system in fact, should not be involved with the child victim, because it does more harm than good, and that the cases should be left to child welfare agencies on the grounds that more can be done for the victim through a social services approach. 5/

In fact, sexual abuse cases are the responsibility of several systems--criminal justice and child welfare as well as health and mental health services. Each system may have different opinions about what should be done in the case. It is exceptional when these systems engage in interagency cooperative efforts to manage sexual abuse cases. Finkelhor has noted this in discussing professionals' responses to such cases: "In fact, many of these agencies and professionals have little experience cooperating with each other and often a great deal of distrust." 6/ A survey of 790 professionals who worked on child sexual abuse "found a marked tendency for agencies to operate on cases in an isolated way within their own restricted professional network." 7/

5/ Eli Newberger, as quoted in "Point/Counterpoint," The Prosecutor 19 (4, Spring 1986): 11.

6/ David Finkelhor, Child Sexual Abuse: New Theory and Research (New York: Free Press, 1985) 201.

7/ Finkelhor (1985), op. cit., 205.

The study which follows was an outgrowth of the preceeding concerns regarding the processing of child sexual abuse cases. It is an examination of the practices of the criminal justice and child welfare agencies in the processing of child sexual abuse cases over a period of several years. It draws upon the records of actual, closed cases in selected communities. The cases include victims and abusers with a wide range of characteristics, offenses, and relationships. It is hoped that by examining case management, from reporting the abusive activity through sentencing of the abuser, we can point toward improvements in the treatment of victimized children which will ultimately offer them better protection and appropriate redress for the tremendous injury which has been inflicted.

Chapter II

Statement of the Problem

When a case of child sexual abuse is disclosed to authorities, it enters the realm of public responsibility and action. The abusive activity is reported to one or more agencies, and a chain of events directed toward treatment, prevention, and justice is set in motion. The authority of the community's child welfare, criminal justice, mental health, and health agencies may be brought to bear on the abused and abuser.

The criminal justice system has been confronted with large numbers of cases of child sexual abuse, and child welfare agencies find an increasing proportion of their cases involve sexual rather than physical abuse. How should these cases be handled? The answers are far from obvious. While some advocate a strong prosecutorial response and stiff punitive sentences, others suggest alternatives to prosecution and treatment-oriented sentences. ^{8/} Rationales for responses rest on theoretical and philosophical arguments, largely without benefit of empirical research about what is best for the child, the abuser, the family, and society. As the editor of The Sexual Victimology of Youth so poignantly stated: "Sexuality and children, by themselves, have not gained their share of research or policy resources, but when combined have produced a

^{8/} K. MacFarlane and J. Bulkley 1982, Treating Child Sexual Abuse: An Overview of Current Program Models. In J. Conte and D. Share (eds) Social Work and Child Sexual Abuse. New York: Haworth.

national avoidance-reaction." 9/

An ongoing dialogue between practitioners and victim advocates has pointed to the prosecutorial problems in child sexual abuse cases. Traditionally, sex offense cases have been considered difficult to prove, and even more difficult when the victim is a child. Children are often pressured not to testify or are protected from testifying. When they do testify, they are often not considered competent or credible witnesses. Furthermore, punishment of the offender may not be considered paramount in the processing of child sex offense cases. The likelihood of the child's experiencing additional trauma through trial participation, coupled with the limitations of the cases, such as lack of physical evidence, may encourage the prosecutor to dismiss charges or accept a plea of guilty to a reduced charge.

In the 1970's, a great deal of attention was given to the low conviction rates in sex offense cases generally. By 1980, virtually every state had revised its rape laws to some degree, and most states had implemented comprehensive law reform. Rape shield laws were passed to protect the victim from inappropriate challenges by the defense with regard to her past sexual history. Corroboration requirements exceeding those for other assaults were eliminated, and sex assaults were made gender neutral. Penalties for sexual assault were reevaluated, and a number of states adopted "tiered" sentences with several degrees of offense severity, each with different penalties.

9/ L. Schultz, Ed., The Sexual Victimology of Youth. Charles C. Thomas (1980).

In recent years, sex crimes against children have been the focus of similar attention. For instance, all states now have laws mandating the reporting of child abuse, including sexual abuse. Most general offense statutes provide special penalties if the victim of the offense is under a specified age. Moreover, every state has statutes that may be used in addition to or in lieu of the general statutes when the victim is a child.

There remains a great deal of controversy about the appropriate penalties for sex offenders who abuse children. Many child advocates are particularly critical of judges who, they assert, sentence such offenders more leniently than sex offenders of adults. Whether or not judges are more "lenient" it is clear that many cases are complicated by the fact that the child has been abused by a family member. In these cases the judge or prosecutor may believe that harsh punishment for the offender would result in further injury to the child, including break-up of the family and severe economic problems. If the offender is sentenced to probation, there is greater likelihood that he will receive court-mandated treatment.

The project which is reported here began with a limited, exploratory effort to determine what penalties were being imposed in child sexual abuse cases, and to compare them with sentences in comparable cases where the victim was an adult. The results of that inquiry are reported in Chapter IV. Long before that portion of the project was completed, it was apparent that most reported cases of child sexual abuse are unprosecuted. That is, they are reported to child welfare agencies and/or the police but, for whatever reasons, are not accepted for prosecution. A second phase of the project was

developed to study the social service and law enforcement agencies in order to provide a more comprehensive picture of the range of interventions during the active life of child sexual abuse cases.

Sexual abuse cases are handled by a number of systems of which criminal justice is only one. The progress of the cases within the justice system is affected by what is happening (or not happening) in the other agencies. Child welfare agencies, in particular, have a clear mandate to aid the child victim and her family. These agencies work through the authority of civil courts and can impose some limited controls over the abuser. They conduct investigations to document allegations of sexual abuse which in some respects parallel the investigations of the police. Thus a full understanding of child sexual abuse case processing cannot be reached without evaluating the role of child welfare agencies and studying in particular the points at which child welfare case processing does or could intersect criminal justice case processing. It is at these points that the greatest potential exists for conflict or cooperation. But there has been little analysis of the component actions of case processing from start to finish.

Are prosecutors and social workers communicating with one another? Do they exchange findings? If a case is unprosecuted, does this mean that the victim will be protected from her abuser through civil orders? How likely is an abuser who is never charged to comply with (juvenile) court-mandated treatment for his problem? These kinds of questions led to development of the "start to finish" study of case processing reported in Chapters VI through X of the report which follows.

Six case examples have been selected to illustrate the type of sexual abuse cases handled by child welfare agencies and the police. Six examples cannot begin to represent the range and breadth of cases confronted by police officers and social service workers, but they will provide the reader with an impression of the severity and complexity of cases presented to these agencies. We deliberately selected cases with varying outcomes, some in which action was taken by both agencies, some in which action was taken by one but not by the other agency, and some with no action taken by either agency. All, however, were founded cases of child sexual abuse; that is, an investigation has concluded that the child was sexually abused.

Cases 1 and 2 illustrate situations in which neither child welfare agencies nor the police initiated formal legal action.

Case 1

The case involved a 13-year-old female victim whose psychologist reported the case to social services. The victim's natural father began sexually abusing his daughter when she was 10 years old; the abuse ceased six months ago but began recurring recently (within the last two months). The abuse involved fondling and digital penetration of the victim's vagina and occurred one to three times weekly.

The case was jointly investigated by the child welfare agency and the police. Civil action could not be taken by the child welfare agency because the mother (against the advice of child welfare agency) sent the child to live with relatives in New Mexico. The prosecutor refused to file charges due to lack of evidence and because the child was no longer in the jurisdiction to testify in court.

When the mother sent the victim to live with her uncle and aunt in New Mexico, she told her daughter that she hated her and never wished to see her again. The mother further stated that the sexual abuse was all her daughter's fault, and she wished her daughter would die as that would resolve all the family problems. When the daughter arrived in New Mexico, she admitted to her aunt that she is an alcoholic and began drinking at age 10, because the sexual abuse hurt her so badly. After the victim attempted suicide, she was released to the custody of her mother, due to an admitted error on

the part of the New Mexico child protective services. The mother and father then took the victim to Providence, Rhode Island, to live with her grandparents. A referral was made to the Providence child welfare agency, but no further action could be taken by the local child welfare agency as the child was now living out of the jurisdiction.

Case 2

The case involved a 4-year-old boy victimized by his natural father. The boy's mother called the child welfare agency to report the abuse. A joint investigation between the child welfare agency and the police produced allegations that the boy was fondled by his father on the penis and buttocks, but the boy was unclear about the details on how often or when the abuse actually occurred. The father does not (and has never) lived with the family, and the mother agreed to keep her son away from the father. Therefore, the child welfare agency decided a dependency action was not necessary. The child welfare agency then closed the case. The police questioned the father, who denied the allegations, and the police decided there was insufficient evidence to proceed.

Case 3 exemplifies cases in which child welfare agencies undertook informal action (via a service agreement) while no criminal prosecution was initiated.

Case 3

A 47-year-old man sexually abused his natural daughter from the age of 3 until she was 5; the victim is now 7 years old. The abuse involved fondling and two incidents of oral copulation. The victim has no memory of the abuse. The father called the child welfare agency to confess at the urgency of his Alcoholics Anonymous group. After a joint investigation by the police and the child welfare agency, the prosecutor declined the case because there was insufficient evidence of the events which ended 2 years ago. Unless the victim could recall the abuse, the case would not be filed. Therefore, no criminal action was taken.

The child welfare agency declined civil action, instead they developed a service agreement specifying counseling for all family members. The father remained in the home, counseling sessions proceeded effectively, and the case was closed after 4 months.

In case 4 civil action was not taken, but the abuser was arrested and prosecuted.

Case 4

A crisis worker at a mental health clinic called the child welfare agency to report that a 15-year-old female was seeking counseling because of sexual abuse by her 61-year-old grandfather. The victim stated that her grandfather had fondled her and performed oral copulation 5 to 10 times since moving in with the family 8 weeks ago. He had also asked her to have sexual intercourse with him, but she had refused.

A joint investigation was conducted by the child welfare agency and the police. The grandfather admitted the abuse, expressed remorse, and the family was supportive of the victim and interested in getting help for the grandfather. Both the victim and grandfather (who moved out of the home) began counseling sessions. The child welfare agency decided no formal intervention was necessary after talking with the therapist who agreed to contact the child welfare agency if any problems arose. The police arrested the suspect on two counts of oral sodomy, but recommended diversion based on the suspect's obvious remorse, clear admission, and the considerable family support available. The prosecutor agreed to two misdemeanor pleas with 3 years' formal probation with counseling, 30 days in county jail, a fine of \$150, and the registration of the defendant as a sex offender.

Case 5

The following case also terminated with no civil action (because the case was not appropriate under the agency's mandate), but again criminal prosecution resulted.

A parent of a 7-year-old female called the child welfare agency to report a case of sexual abuse by a 74-year-old neighbor. A joint child welfare agency and police investigation revealed that the suspect's pattern was to befriend neighborhood girls between the ages of 7 and 9. Five girls reported that he had touched their vaginal region and also that he requested that they touch his penis. The child welfare agency made counseling referrals and closed the case since it involved out-of-home abuse. The police arrested the suspect on three counts of oral sodomy to which he pled guilty. He received 1 year in jail and 5 years' formal probation with counseling and alcohol treatment.

Case 6

The last example illustrates both formal civil action and criminal prosecution of the child sexual abuser.

The case involved two sisters, ages 14 and 15 years, sexually abused by their natural father. The victims' aunt called the child welfare agency who notified the police to arrange a joint investigation. It was alleged that the father had been abusing his 14-year-old daughter since she was 11 and his 15-year-old daughter since she was 12. He fondled both girls with his penis and attempted vaginal penetration with both girls and succeeded with the 15-year-old (the 14-year-old resisted). The abuse occurred 20-30 times, often accompanied with physical abuse and threats to kill the victims if they reported it.

The victim's mother appeared initially supportive, therefore the child welfare agency placed the children with her. The father was arrested and removed from the home. When the mother failed to follow through with an informal service agreement to send her daughters to counseling and failed to stop family members from

pressuring the girls to recant on their allegations, the child welfare agency decided to take civil action and remove the daughters from the home. They were placed in foster care for 3 months, received counseling, and wanted to return to their mother who appeared supportive of them. They were sent home, and the child welfare agency determined that no further intervention was required. The father was prosecuted, pled guilty to one count of oral sodomy, and received a prison term of 10 years.

Chapter III

Overview of Phase One

Purpose of Research

As the volume of reports of child sexual abuse has increased, concern over the treatment of victims and offenders has become a significant issue. Some have questioned whether legislators, prosecutors, and judges accord sex offenses against children the same seriousness they accord sex offense against adults. Phase one of this project collected data on key aspects of sex offense statutes and the processing of sex offense cases in order to determine whether this is the case. Specifically, phase one of the project explored the extent to which the age of a sex offense victim influences statutory penalties and the justice system's processing and disposition of sex offense cases.

Considerable effort has been expended in recent years to amend inappropriate sex offense laws as well as to add new laws specifically tailored for the protection of children. Statutory change has been important, and necessary, but few would argue that statutes alone will prevent child sexual abuse or bring cases to an appropriate disposition. New legislation is not a guaranteed remedy for problems which are rooted in case processing, and the research conducted in phase one was intended to explore influences on criminal penalties in sexual abuse cases.

Methods

Three methods of data collection were used in phase one: (a) a survey of state sexual assault and sentencing statutes, (b) a random sample of case files in three study sites, and (c) interviews with practitioners in three study sites.

Statutory Survey. The decisions of prosecutors and judges with respect to case processing and disposition are circumscribed by state laws which define, classify, and provide penalties for sex offenses. For this reason, the project surveyed sex offense statutes including rape, sexual battery, incest, child sexual abuse statutes of the 50 states and the District of Columbia.

The primary research question for the statutory survey was: "Do state criminal statutes provide for lower penalties when the victim of sex offenses is a child versus an adult?" The research task was complicated by the diversity in state sexual assault and sentencing statutes. They vary considerably by types of conduct proscribed, the definitions of various offenses, and in a number of other ways. Thus a simple comparison of like factors was precluded.

To help standardize and focus the survey, six hypothetical cases were developed and applied to both penetration and touching offenses. (See Table IV-1 for hypotheticals). In each instance, it was taken as a given that elements of the hypothetical case could be proven. The intent was to screen out those aspects of an actual case which are idiosyncratic and to include those elements which are important to determining the charge(s) and the potential penalty(ies).

Case file sample. In order to understand how the sex offense laws are used, the project studied case processing and dispositions in three jurisdictions. Budget limitations made it necessary to limit onsite study to three locations. Within this general limitation, an attempt was made to select sites with some geographical dispersion as well as demographic differences. It was necessary to select sites with enough closed cases to complete the sample.

In each of three study sites (Fairfax County, Virginia; Mercer County, New Jersey; and Santa Cruz County, California) we attempted to sample 50 disposed sex offense cases involving child victims and 50 involving adult victims. The final sample consisted of 296 cases--55 child and 48 adult cases in Fairfax, 52 child and 45 adult cases in Mercer, and 52 child and 44 adult cases in Santa Cruz.

Cases were randomly selected from closed cases in prosecutor or court files from 1980-1985. Included were felony cases involving sexual assaults against children (persons under 18 years of age) and adults.

The range of offenses varied considerably both within and across sites. Every closed case selected had at least one initial count of felony sexual abuse filed in criminal court. But charges ranged from a single count to numerous counts of felony and misdemeanor sexual abuse as well as supplemental charges such as robbery, aggravated assault, and so on.

Background discussions. Discussions were conducted in the three study sites with judges, prosecutors, victim advocates, social workers, police, and probation officials. These discussions were intended to provide a framework for interpreting information extracted from case files.

Chapter IV

Sentencing Disparities in Child Sexual Abuse Cases

Sexual Assault Sentencing Codes

The past decade has seen a great deal of reform in sentencing systems, most of it resulting in changes to determinate systems with the court specifying a fixed term of incarceration. Presumptive or mandatory provisions are frequently included and parole discretion eliminated or substantially curtailed. Substantial differences from state to state in sentencing systems render sentences which appear to be the same, different when implemented. 10/

Not only has criminal sentencing been in a state of flux over the past decade, but also sexual assault legislation has been through an extensive reform process. Virtually every state has passed some form of rape reform legislation. The majority of states have extensively reformed their sex offense laws. A common pattern in rape law reform has been to replace the crime of rape (or the two crimes of rape and statutory rape) with a series of graded offenses, with correspondingly less severe penalties for the lesser offenses. A similar outcome was achieved in some states by defining aggravating circumstances. 11/

10/ In some states a 10-year term means the offender will serve all or nearly all the time; in other states, there is a possibility of release after serving only a fraction. Herbert Koppel, "Sentencing Practices in 13 States (Washington, DC: Bureau of Justice Statistics, U.S. Department of Justice, October 1984).

11/ Hubert S. Field and Leigh B. Bienen, Jurors and Rape (Lexington, MA: Lexington Books, 1980) 154.

Other recent legal developments have introduced new options for prosecutors and judges in child victim sex offense cases. The legislatures of many states passed separate sex offense legislation proscribing sexual activity of any sort with children. Statutory rape provisions were reformed in ways which generally provided harsher penalties for penetration offenses with very young children and narrowed the range of prohibited offenses among consenting teenagers.

Statutory Penalties for Sex Offenses. There are three major types of sexual offense laws. Most states have at least two of the types and some states have all three.

1. Some statutes proscribe specified sexual activity with children. An example of this type of statute is the section of the California Penal Code that forbids lewd or lascivious acts with children under age 14.

2. Some states have sexual assault codes which apply to crimes against the general population (including children implicitly, but not explicitly). An example is the Maryland code which prohibits first degree rape: vaginal intercourse with another person by force or threat of force against the will and without the consent of the other person.

3. The third type of statute is a "hybrid" of the other two. These laws apply to the general population but contain child-specific provisions which explicitly exempt the lack of consent requirement for children. Tennessee Criminal Code provides an example of the "hybrid" law in its specification that aggravated rape is "unlawful

sexual penetration of another person" if any of four circumstances are met. One of the circumstances is "the victim is less than 13 years of age." 12/

The state law survey revealed little or no differences between sentencing provisions for offenses with child victims compared with adult victims. (Differences were small and not statistically significant.) The penalties, on average, were slightly higher in child victim cases (Table 1V-1). This was true for minimum and maximum sentences for all three hypothetical cases in the touching offenses. For the penetration offenses, minimum and maximum sentences were slightly higher for child victim cases with one exception. For case A (11-year-old victim, 30-year-old offender) the minimum average sentence required by law--7.5 years--is lower than that required in either the child victim case with caretaker offender--8.5 years--or adult victim cases--8.2 years.

The survey determined the prevalence of statutorily imposed minimum or maximum sentences in sex offense cases. Minimum or maximum sentences are by no means universally required in all states. Some states have one or the other; some have neither. For sex offense cases involving a child victim and an adult abuser who has committed a penetration offense (Case A), 55 percent of the states have minimum and 49 percent have maximum sentences. The pattern is similar when the abuser is a caretaker or family member (Case B). Adult victim penetration offense cases (Case C) are somewhat more likely than child victim cases to fall under minimum

12/ Tenn. Code Ann. § 39-2-603.

Table IV-1

Statutory Provisions: Sex Offense Case Sentencing
[Mean Years]

| | <u>Child Victim/ Adult Offender</u> | <u>Child Victim/ Adult Caretaker Offender</u> | <u>Adult Victim/ Adult Offender</u> |
|----------------------|---|---|---|
| | Case A <u>a/</u> | Case B <u>b/</u> , <u>d/</u> | Case C <u>c/</u> |
| Penetration Offenses | | | |
| Minimum Years | (n=28) 8 | (n=28) 9 | (n=33) 8 |
| Maximum Years | (n=31) 25 | (n=34) 22 | (n=35) 19 |
| Touching Offenses | | | |
| | Case D <u>a/</u> | Case E <u>b/</u> | Case F <u>c/</u> |
| Minimum Years | (n=23) 4 | (n=21) 4 | (n=10) 3 |
| Maximum Years | (n=40) 10 | (n=39) 10 | (n=22) 9 |

- a/ Case A and Case D: Vaginal intercourse/touching, absent a weapon, where the female victim is 11 years old and the male perpetrator is 30 years old; no other serious bodily injury or grave fear of death or injury.
- b/ Case B and Case E: Vaginal intercourse/touching, absent a weapon, where the female victim is 11 years old and the male perpetrator is 30 years old and in a position of authority or a member of the victim's family or household; no other serious bodily injury or grave fear of death or injury.
- c/ Case C and Case F: Nonconsensual vaginal intercourse/touching, absent a weapon, where the female victim and the male perpetrator are both 30 years old; no other serious bodily injury or grave fear of death.
- d/ In 11 states life imprisonment would apply.

sentence requirements and do so in 65 percent of the states. Maximum sentence requirements apply to adult victim and abuser cases in 70 percent of the states. Child sexual abuse cases involving touching offenses are somewhat less likely than penetration cases to be covered by statutory minimums or maximums.

Child-oriented statutes (and child-oriented provisions of general statutes) almost without exception preclude the necessity of proving that the victim did not consent. Thus, even if the statutory sentence for offenses against adults is the same as that for offenses against children, theoretically, at least, the elements of proof are less demanding in child offense cases. Therefore, the advantage of child-oriented legislation should perhaps not be viewed as authorizing longer sentences (which by and large it does not) but rather as providing that proof of the victim's lack of consent is not required.

Policies and Practices Affecting Sentencing

Adjudication policies and procedures have a major influence on how the sentencing laws are implemented for sex offenses. To identify and assess the influence of prosecutorial and judicial procedures, actual sex offense case dispositions were studied in three jurisdictions. The research provides a picture of how three counties in different parts of the country, and with differing demographic and legal characteristics, have disposed of sex offense cases, and compares case outcomes in child versus adult cases. The survey of sex offense case files was supplemented by interviews with practitioners.

The state laws under which the three jurisdictions operated varied substantially. 13/ California and New Jersey have reformed their statutes, adding degree structures and rape shield provisions and eliminating the corroboration requirement. California has added several child-specific offenses to its code. Virginia, on the other hand, has more "traditional" statutes with no rape shield provision and requires corroboration in addition to the victim's testimony. Various provisions of sexual assault statutes can affect the outcomes in child sexual abuse cases. The law can influence the decision to prosecute, a defendant's decision to plead guilty to a charge, and a range of other factors along the continuum of the criminal justice process. A recent study of the effect of rape law reforms found that practitioners believe that a greater number of "marginal" cases (such as acquaintance rape situations), which under the old laws would have been considered "unwinnable" and thus rejected for prosecution, are now accepted for prosecution. 14/

13/ The current California sexual assault statutes include several provisions for child victims of sexual offenses. The age of consent is 18 years. In New Jersey there is no age of consent, but sexual penetration and sexual contact are prohibited when the victim is between 13 and 16 years and the actor is 4 or more years older. Aggravated sexual assault (the most severe charge) occurs when there is sexual penetration and the victim is under 13 years, or when the victim is between 13 and 16 and the actor is related to the victim, in a position of authority, or in the position of a parent. Virginia has more traditional rape statutes than the other two states studied. Prohibited is carnal knowledge of a child under 13; carnal knowledge of a female over 13 against her will or by force; and carnal knowledge of a female child between 13 and 15 (including without force and with consent).

14/ Center for Women Policy Studies, "Rape Law Reform: An Implementation Study," NIJ grant 85-1J-CX-0006 (Washington, DC, 1986).

The current project did not evaluate the impact of state statutes on the outcomes in child sexual abuse cases in the three jurisdictions studied. But it is important to acknowledge that the statutes can have an impact.

All cases studied were closed, and at least one felony had been charged in each. Defendants ranged from 16-75 years of age, but most (57 percent) were under 30 (Table IV-2). Fully 99 percent of the sex abusers were male. A large majority of the child victims were female (83 percent), and almost all the adult victims (97 percent) were female (Table IV-3).

Analysis of case files showed that 73 percent of the child victim cases prosecuted resulted in guilty verdicts (Table IV-4). In 66 percent of the child victim cases sampled, the defendant pled guilty. Seven percent were found guilty at trial, and another three percent were found not guilty. Guilty pleas were less common in the adult victim cases (50 percent), and dispositions of guilt were slightly less likely overall. Although it is clear from these figures that relatively few child victims actually testify at trial, prosecutors in the three jurisdictions studied said their assessment of a child's potential strength as a witness is an important factor in their decision to prosecute. Furthermore, it is reasonable to assume, a defendant faced with a trial involving a credible child witness may plead guilty.

Penalties. Child advocates in the study sites and elsewhere have expressed great concern that sex offenders who have pled or been found guilty are treated less severely by the criminal justice

Table IV-2

Sex Offender Characteristics, All Sites and By Site

All Sites a/ Mercer Co. NJ b/ Santa Cruz Co. CA c/ Fairfax Co. VA d/

Defendant

| | | | | |
|------------------------|---------|--------|--------|---------|
| Age | (n=258) | (n=96) | (n=94) | (n=102) |
| 16-29 years | 57% | 55% | 47% | 63% |
| 30-49 years | 35% | 33% | 44% | 34% |
| 50-75 years | 8% | 12% | 9% | 3% |
| Sex | (n=294) | (n=97) | (n=93) | (n=102) |
| Male | 99% | 99% | 98% | 99% |
| Female | 1% | 1% | 2% | 1% |
| Race | (n=293) | (n=97) | (n=94) | (n=103) |
| White | 56% | 36% | 71% | 60% |
| Black | 35% | 58% | 7% | 39% |
| Hispanic | 8% | 4% | 20% | 1% |
| Other | 1% | 2% | 2% | - |
| Relationship to Victim | (n=284) | (n=97) | (n=94) | (n=91) |
| Stranger | 29% | 22% | 24% | 43% |
| Parent/Stepparent | 12% | 10% | 12% | 14% |
| Other Relationship | 59% | 68% | 64% | 43% |

a/ The sample included 296 cases; numbers vary within categories due to missing data in case files.

b/ The Mercer sample included 97 cases; numbers vary due to missing data in case files.

c/ The Santa Cruz sample included 96 cases; numbers vary due to missing data in case files.

d/ The Fairfax sample included 103 cases; numbers vary due to missing data in case files.

TABLE IV-3
Sex Offense Victim Characteristics, All Sites and by Site

| | <u>All sites a/</u> | | <u>Mercer Co., NJ b/</u> | | <u>Santa Cruz Co., CA c/</u> | | <u>Fairfax Co., VA d/</u> | |
|----------|---------------------|------------------|--------------------------|-----------------|------------------------------|-----------------|---------------------------|-----------------|
| | Child (n=135) | Adult (n=113) | Child (n=51) | Adult (n=45) | Child (n=50) | Adult (n=44) | Child (n=34) | Adult (n=24) |
| Race | | | | | | | | |
| White | 69% | 64% | 55% | 36% | 86% | 86% | 64.7% | 75% |
| Black | 25% | 29% | 43% | 60% | 2% | 0% | 32.0% | 25% |
| Hispanic | 6% | 7% | 2% | 4% | 12% | 14% | 3.0% | 0% |
| Sex | (n=159) | (n=137) | (n=52) | (n=45) | (n=52) | (n=44) | (n=55) | (n=48) |
| Male | 17% | 3% | 14% | 4% | 25% | 5% | 13% | 0% |
| Female | 83% | 97% | 87% | 96% | 75% | 95% | 87% | 100% |

a/ The sample included 296 cases; numbers vary within categories due to missing data in case files.

b/ The Mercer sample included 97 cases; numbers vary due to missing data in case files.

c/ The Santa Cruz sample included 96 cases were; numbers vary due to missing data in case files.

d/ The Fairfax sample included 103 cases; numbers vary due to missing data in case files.

system if their victims are children. This concern seems well founded with regard to three factors: incarceration rate, length of sentence, and likelihood of probation.

Offenders who sexually abused children were less likely to be incarcerated than those who committed comparable offenses against adults. Child sexual abusers were sentenced to some active jail or prison time in 69 percent of the cases. They also received shorter sentences. The majority (55 percent) were sentenced to one year or less. Substantial proportions of the child sexual abusers received very short sentences; slightly over a third were sentenced to 6 months or less, and 10 percent to less than one month. A substantially higher percentage of offenders guilty of sex offenses against adults served jail time (89 percent), and their sentences were usually longer than those of offenders who victimized children (Table IV-4). In sharp contrast to the child sexual abusers, only 23 percent received sentences as short as one year or less, while almost 40 percent served more than 10 years.

Probation is more than twice as probable for those convicted of sexually abusing or assaulting children (68 percent) than those convicted of sex crimes against adults (29 percent). Some child sex abusers were incarcerated for a short time, then given probation for a longer period.

Intrafamily and Nonstranger Abuse. A significant difference between adult and child victims is the degree of likelihood that the abuser is a stranger. Child victims are relatively seldom assaulted by strangers, adult victims frequently are. Abusers were strangers in only 12 percent of child victim cases, but in almost half of the

Table IV-4

Child/Adult Victim Comparison of Sentencing, All Sites

| | <u>Child</u> <u>Victim a/</u> | <u>Adult</u> <u>Victim b/</u> |
|-----------------------------|----------------------------------|----------------------------------|
| Case Outcome | (n=154) | (n=123) |
| Not Guilty or Dismissed | 27% | 33% |
| Guilty | 73% | 67% |
| Incarceration | (n=108) | (n=80) |
| Imposed | 69% | 89% |
| Not Imposed | 32% | 10% |
| Length of Incarceration | (n=83) | (n=77) |
| 12 months or less | 55% | 23% |
| 13-36 (1-3 years) | 8% | 10% |
| 37-60 (3-5 years) | 10% | 9% |
| 61-120 (5-10 years) | 8% | 18% |
| 121 or more (over 10 years) | 18% | 39% |
| Probation | (n=112) | (n=83) |
| Imposed | 68% | 29% |
| Not Imposed | 32% | 70% |
| Attend Counseling | (n=114) | (n=83) |
| Yes | 48% | 13% |
| No | 52% | 87% |

a/ The sample included 159 cases with child victims; numbers vary due to missing information in case files.

b/ The sample included 137 cases with adult victim; numbers vary due to missing information in case files.

adult cases. Furthermore, in the adult cases where the abuser was known to the victim, the offender was not a parent or stepparent (a relationship of great significance to the victim) but was a more distant relative, a boyfriend, or an acquaintance. Some of the differences in penalties are linked to the relationships between child victims and their abusers.

Outcomes in intrafamily cases of child sex abuse differ from those in stranger molestations or adult rape cases in several important respects. Strangers who molested children were incarcerated in 86 percent of cases, while parents molesting their children were incarcerated less frequently--in 65 percent of cases (Table 1V-5). Offenders with other relationships--uncle, family friend, acquaintance, or other--were about as likely as parents to be incarcerated.

It is in length of sentence that the greatest differences are apparent. The most common incarceration period for parent offenders, or those with other relationships to the victim, was a year or less. Strangers who abuse children are most likely (58 percent) to be sentenced to 10 years or more in prison. This is similar to the percentage of adult victim offenders, who, when strangers, are sentenced to ten years or more. Practitioners at the study sites were somewhat divided on the question of whether father/stepfather abusers should be sentenced differently from other sex offenders. There was agreement, however, that abuse by a parent was likely to be punished differently.

Despite the fact that most convicted child sex abusers were known to the victim or family members and potentially might have frequent contact with the child, relatively few (19 percent) of the

Table IV-5

Child/Adult Victim Comparisons of Sentencing, Controlling for Relationship, All Sites

| | <u>Child Victim a/</u> | | | <u>Adult Victim b/</u> | | |
|-----------------------------|------------------------|--------------------------------|--------------|------------------------|--------------------------------|--------------|
| | <u>None</u> | <u>RELATIONSHIP Parent</u> | <u>Other</u> | <u>None</u> | <u>RELATIONSHIP Parent</u> | <u>Other</u> |
| Case Outcome | (n=17) | (n=34) | (n=96) | (n=62) | ** | (n=52) |
| Not Guilty or Dismissed | 18% | 21% | 32% | 27% | NA | 37% |
| Guilty | 82% | 79% | 68% | 73% | NA | 63% |
| Incarceration | (n=14) | (n=26) | (n=61) | (n=43) | | (n=35) |
| Imposed | 86% | 65% | 64% | 98% | NA | 80% |
| Not Imposed | 14% | 35% | 36% | 2% | NA | 20% |
| Length of Incarceration | (n=12) | (n=19) | (n=46) | (n=44) | | (n=31) |
| 12 months or less | 25% | 68% | 59% | 14% | NA | 39% |
| 13-36 (1-3 years) | 8% | 11% | 7% | 5% | NA | 16% |
| 37-60 (3-5 years) | 8% | 11% | 11% | 5% | NA | 16% |
| 61-120 (5-10 years) | -0- | 5% | 8% | 23% | NA | 13% |
| 121 or more (over 10 years) | 58% | 5% | 15% | 55% | NA | 16% |
| Probation | (n=14) | (n=27) | (n=64) | (n=45) | | (n=36) |
| Imposed | 57% | 74% | 69% | 18% | NA | 42% |
| Not Imposed | 43% | 26% | 31% | 82% | NA | 58% |

a/ The sample included 159 child victims and 137 adult victims; numbers vary due to missing information in the case files.

b/ There were no cases in the sample with adult defendants abusing parents.

nonstrangers received "no contact with children" orders as part of their sentences. No contact orders were slightly more likely for intrafamily cases.

The sentences of almost half the convicted child sex abusers (48 percent) included mandated therapy. This is relatively uncommon for adult sex abusers; only 13 percent were ordered to counseling. Somewhat surprisingly, therapy was used slightly more frequently for stranger-child molesters than in intrafamily cases. Overall, however, the sentences of child abusers tended to be more complex than sentences for adult abusers--consisting sometimes of a combination of incarceration, fines, restricted contact, and treatment.

When child victim (12 years and under) cases were compared with teen victim (13-18 years) cases, many outcomes were similar. Among them were the percentage of defendants found guilty, likelihood of offender receiving some jail time, and likelihood of probation, offender counseling, and no contact orders. Teenagers and children were similarly at risk for intrafamily sexual abuse. However, two case processing factors showed marked differences. Teen victim cases are far more likely to be dismissed or undergo nolle pros (34 percent compared with 11 percent). Furthermore, defendants in 83 percent of the child victim cases pled guilty compared with 52 percent of those in teen cases. Techniques are being developed to protect very young witnesses and improve the interviewing of these children. The findings seem to indicate that special considerations regarding the adolescent complainant may deserve attention if their cases are to be properly prosecuted. This finding with respect to

adolescents gives rise to further questions about the effect of the age of the child victim on case disposition. This is further discussed in the Phase Two findings covered in Chapter IX of this report.

Chapter V

Overview of Phase Two

Purpose

The first phase of the project examined sentencing disparities in child sexual abuse cases, compared with adult victim sexual abuse cases. It found that while statutory provisions for sentencing provide similar penalties for child victim and adult victim cases, there were large differences among the study sites with respect to the actual penalties imposed on offenders who plead or are found guilty.

Phase two was designed to build on the original project's findings on the adjudication process. Phase two focused on the role of the social service agencies and the police in the ultimate outcome of prosecuted and unprosecuted child sexual abuse cases.

The purpose of phase two was to examine the entire civil and criminal process through which child sexual abuse complaints can pass--from reporting through sentencing. It sought to shed light on the reasons why cases are not prosecuted, to examine the frequency and nature of the civil and criminal actions taken on the cases, and to identify types and appropriate forms of interagency cooperation on case processing. (Initially, it was hoped to compare the processing of child sexual abuse cases with processing of similarly serious cases of physical abuse. However, there was an insufficient number of cases in the files of the agencies studied. This was especially so for police files. Because it was our goal to study both police and social services, it was decided not to include the physical abuse component.)

Project Methodology

In phase two of the research, a random sample of child welfare agency and police files was conducted in two study sites. The survey was augmented by discussions with practitioners. The two jurisdictions studied were Fairfax County, Virginia, and Santa Cruz County, California. Although we attempted to include Mercer County, New Jersey, in phase two, it was not possible, because the county's social service agencies were not available for study at the appropriate time.

In both counties the objective was to obtain as large a sample as possible of recently closed police and child welfare agency cases. Sampling procedures necessarily varied in the two sites and within each site for both sources of cases because record maintenance policies differed from agency to agency. To the extent possible, cases were sampled from the same time period, but the time frame did vary slightly from site to site and within the police and child welfare cases. The total sample was 393 cases--all these closed in the jurisdiction in that period.

In Santa Cruz County, 84 social services cases and 106 police cases were sampled. The child welfare cases included all closed cases of founded (validated) child sexual abuse from January 1984 through August 1985. The police sample consisted of all closed felony cases from September 1984 through September 1985. In Fairfax County, 99 child welfare agency (social services) cases and 99 police cases were sampled. For this agency, closed founded cases were randomly selected by a computerized program from among 1984 and 1985 cases, while police cases included all felony cases closed in 1984 and 1985, plus 24 additional cases closed in 1983 (included to increase our sample size).

A common data form was used in Santa Cruz and Fairfax for both social services and police cases. Included on the data form were the following items:

- o Source of complaint
- o Joint investigation conducted between the police and child welfare agencies
- o Whether civil action was taken
- o Type of civil action taken (i.e. counseling for the abuser/victim/other family members)
- o Whether an arrest was made; if so, what charges were made at the time of arrest
- o Whether the case was prosecuted; if so, what charges were filed
- o Outcome of prosecution
- o Any reasons noted for lack of criminal action
- o Abuser's age, sex, race, prior criminal record
- o Abuser's relationship to the victim
- o Victim's age, race, sex
- o Use of weapon; injuries to victims
- o Number of victims and relationship to each other
- o Length, frequency, and type of sexual abuse
- o Child welfare agency cases only--amount of time case remained active

It is important to note that a common data form was prepared for child welfare agency and police cases to obtain as complete a picture as possible of all of the actions taken by officials in a case. However, in many cases all the information sought was not available in the file. A particularly common problem was that police files did not contain much (if any) information about actions taken by social services and vice versa.

For example, police files seldom indicated whether child protective services took civil action, while child welfare agency files seldom indicated whether criminal action had been taken. In some cases, the gaps could be eliminated because the same case appeared in both the social service file and the police file, but, due to varying sampling time frames some cases did not appear in

both samples (and, of course, some police cases did not involve the child welfare agencies and vice versa). While every attempt was made to complete each data item on the form, the sparsity of many of the files in both sites frustrated these attempts. As a result, missing data items are sometimes considerable, as the reader will note from table presentations. This is a problem shared by others conducting similar research.

Discussions were held in the two study sites with selected judges, prosecutors, police, defense attorneys, caseworkers, social services administrators, and therapists.

Demographics of the Study

Nature of Sexual Abuse. In most instances (68 percent of 376 cases) abuse occurred more than once; sometimes it was of several years' duration. 15/ But it is of great interest from the point of view of case management and prosecution that almost a third of the cases were brought on the basis of the claims of a single incident of sexual abuse. It should be borne in mind however, that other abuse may have occurred in these cases but that for one reason or another it was not disclosed. Sgroi reports that sexual abuse tends to begin with touching or fondling sexual behavior and progresses ultimately to some sort of penetration behavior. She notes that it is "unlikely that an incestuous perpetrator would have intercourse with his own child in a single incident." 16/

15/ Numbers of cases referred to in this section may vary because of missing information in child welfare agency or police files.

16/ S. Sgroi, op. cit. p. 78.

Case files reflected a wide range of sexual activity with child victims. Penetration offenses--intercourse, sodomy, or other penetration--accounted for 55 percent of the 376 cases of abuse. Sexually touching the child accounted for 43 percent of the cases, and 2 percent of the incidents were attempted rape.

Abuser Characteristics. Two thirds of the abusers studied were under 50 years of age (Table V-1.) The highest concentration of abusers was in the 25-35 age group (29 percent). Almost all the abusers were men (98 percent). (For this reason abusers are referred to as "he" throughout the report.) Most were white (72 percent) with 14 percent black and 13 percent Hispanic.

An extremely high proportion of the abusers (97 percent) had some relationship with their victims. Of this group, 43 percent were parents or stepparents, and 54 percent were outside the parental relationship but knew the victim in another capacity. These other relationships included uncle, grandfather, friend of family, babysitter, and others. Social services and criminal justice agencies believe that the fact that victims and abusers are known to each other greatly affects the processing of cases from initial reporting through disposition and sentencing. Special provisions of law in many states, including the two states studied, are intended to protect children from abuse by family members or others in a position of authority over the child. The abuser's relationship with the child is in some cases a basis for determining the degree of criminality of the abuse.

TABLE V-1
Child Sexual Abuser Characteristics

| <u>Characteristic</u> | <u>Percent</u> |
|------------------------|----------------|
| Years of age | (n=305) |
| 18-24 | 11% |
| 25-35 | 29% |
| 36-50 | 26% |
| 51-65 | 9% |
| 66-76 | 3% |
| Gender | (n=391) |
| Male | 98% |
| Female | 2% |
| Race | (n=377) |
| White | 72% |
| Black | 14% |
| Hispanic | 13% |
| Other | 2% |
| Relationship to victim | (n=387) |
| None | 3% |
| Parent/stepparent | 43% |
| Other | 54% |
| Prior Criminal Record | (n=82) |
| Yes | 26% |
| No | 74% |

Note: The sample consisted of 393 cases. N's vary due to missing information in either the child welfare agency or police files. Percentage may not add to 100 due to rounding.

About a quarter of the abusers had a prior criminal record. Of those with a record a fifth had been convicted of sexual abuse in the past.

Victim Characteristics

The victims in the study ranged in age from newborn to 17 years old (Table V-2). Slightly over a third of the victims (37 percent) were 10 years old or younger. About a quarter of them were 14-15 years old, and 16 percent were under the age of six.

The racial distribution of the victims was similar to that of the abusers. The victims were predominantly female--86 percent. (For this reason, child victims are referred to as "she" through the report.) David Finkelhor has reported in Chapter 10 of Child Sexual Abuse, New Theory and Research (The Free Press: New York, 1984) that two to three girls are victimized for every boy. He also cites studies which indicate a growing number of cases involving boy victims.

In discussing the characteristics of child sexual abuse cases, child welfare agency workers noted that they found the intrafamily abuse cases in their caseloads were primarily "disenfranchised people" with multiple problems. They believed that there was a high degree of alcohol abuse in the families, though this was not necessarily the original nor the primary reason that the family entered child welfare agency supervision. On the other hand, some social workers noted that their case loads and those of the prosecutors included families in higher socioeconomic levels who were able to purchase the services of private therapists.

TABLE V-2

Victim Characteristics in Child Sexual Abuse Cases

| <u>Characteristic</u> | <u>Percent</u> At onset of abuse | <u>Percent</u> At time of case |
|-------------------------|-------------------------------------|-----------------------------------|
| Victim's age (in years) | (n=383) | (n=390) |
| 1 or less | 1% | 1% |
| 2 | 1% | 1% |
| 3 | 7% | 6% |
| 4 | 7% | 6% |
| 5 | 5% | 3% |
| 6 | 4% | 2% |
| 7 | 8% | 5% |
| 8 | 5% | 3% |
| 9 | 7% | 4% |
| 10 | 9% | 7% |
| 11 | 7% | 6% |
| 12 | 7% | 7% |
| 13 | 8% | 8% |
| 14 | 10% | 15% |
| 15 | 8% | 10% |
| 16 | 3% | 7% |
| 17 | 5% | 8% |
| Victim's race | (n=386) | |
| White | 75% | |
| Black | 13% | |
| Hispanic | 11% | |
| Other | 1% | |
| Victim's gender | (n=392) | |
| Female | 86% | |
| Male | 14% | |

Note: The sample consisted of 393 cases. N's vary due to missing information in either the child welfare agency or police files. Percentage may not add to 100 due to rounding.

VI. Child Sexual Abuse Complaints

Sources of Complaints

A complainant in a child sexual abuse case is the person who makes the original report. This person is not necessarily involved in the case. Complaints of child sexual abuse are reported to the police or to child protective services (child welfare agencies) by a number of sources. Any individual who has reason to suspect that a child (under 18 years old) is being abused may of course make a complaint to the local welfare agency or the police. However, some persons are required by state law to report suspected abuse or neglect which comes to their attention in their official capacity. These parties include, but are not limited to, doctors, nurses, interns, social workers, teachers, police, and mental health professionals. The study found seven major sources of complaints and several occasional sources which were combined in the category, "other."

The largest single source of complaints in the cases studied was the parent or parents of the abused child; 28 percent of the complaints came from this source (Table VI-1). Parents are somewhat more likely to report to police than to child welfare agencies. Child protective services agencies were the source of a fifth of the complaints, with the next largest share of complaints coming from doctors.

Sexually abused children themselves were the source of four percent or 15 of the 393 complaints studied. Complaints by victims were most likely to be from adolescent children.

TABLE VI-1

Sources of Child Sexual Abuse Complaints

| <u>Source</u> | <u>Percent</u> (n=375) |
|------------------------|---------------------------|
| Police | 7% |
| Parent | 28% |
| Friend | 2% |
| Doctor | 16% |
| School | 11% |
| Abuser | 1% |
| Victim | 4% |
| Child welfare agencies | 20% |
| Other | 11% |

The proportion of complaints originating from various sources was very similar when the two study sites were compared, with two exceptions. A far higher proportion of complaints was filed by parents in Santa Cruz (39 percent) than in Fairfax (18 percent). The child welfare agency in Fairfax was the source of almost a third of that county's complaints, while in Santa Cruz the agency originated only 8 percent of the cases.

Thus, sexual abuse was reported by a variety of sources, with parent(s) of the child victim being the most common.

The volume of sexual abuse complaints has greatly increased in the jurisdictions studied, as it has nationally, in recent years. The Fairfax County police department's Child Services Unit reported a 1985 increase of 341 percent over 1984. Of the 313 cases investigated by this unit in 1985, all but 16 were for complaints of child sexual abuse.

Most cases which the police and child welfare agencies investigate have been reported to them by an outside source. The above mentioned special police unit "self-initiates" only a few investigations. These tend to be for individuals who are put under surveillance as suspected pedophiles, particularly if they are suspected of approaching children in a public setting, such as a shopping center. The vast majority of abusers know their victims and have access to them in private settings, where police surveillance is impossible. Thus the outside sources of complaints are critical if the child welfare agencies and police are to carry out their missions of protecting the victim and apprehending the abuser.

The performance of the public agencies may in itself have an effect on reporting. One caseworker reported that she felt that a recent increase in complaints from doctors and teachers was due to increased confidence in the child welfare agencies--the agency now has more credibility in the community.

Investigation of Complaints

The current study analyzed the child welfare agency process as it applies to founded complaints. If a case is founded, a review of all the facts shows "clear and convincing evidence that child abuse or neglect exists." Founding is one of three possible dispositions of a complaint. Some complaints prove to be unfounded, when a review of the facts shows no reason to believe that abuse or neglect occurred. Others are classified as unfounded/reason to suspect. Investigation of these cases does not yield clear and convincing evidence of abuse, but nevertheless the caseworker has reason to believe that abuse may have taken place or that the child is currently at risk.

To determine whether a report is founded, each complaint to the child welfare agencies is investigated. The child welfare agency approach to an investigation involves assessment of objective, observable evidence coupled with a more subjective evaluation of the explanations given for the objective data. Both aspects require a thorough knowledge of the dynamic of child sexual abuse that can be applied to current circumstances.

Child sexual abuse complaints to the police are investigated to determine whether further criminal justice action is warranted. The

rapid rise in the number of police complaints coupled with a growing public concern about the desirability of criminal prosecution of abusers has highlighted the importance of law enforcement investigation of sexual abuse cases.

In the past, it was more common for the child welfare agencies and the police to investigate allegations of sexual abuse separately. This meant that the victim might be interviewed a number of times in the investigation stage alone. Further, the child welfare agency interviews were not focused on the collection of information in a form that could later be used as evidence in criminal proceedings; the findings might not contain key elements essential to prosecution. If a child welfare agency interviewed the victim first, the best opportunity for evidence collection might be lost. Joint investigations can alleviate some of these problems, and the practice has been becoming more prevalent nationally.

In both jurisdictions studied, the joint investigation is the more common approach. Since 1985, the police and social services of the Santa Cruz study site have been required by amendments to the Child Abuse Reporting Law (PC11166.1) to "develop and implement cooperative arrangements in connection with the investigation of suspected child abuse cases." Seventy-nine percent of the cases studied had had a joint child welfare agency/police investigation. In many of these cases, the investigation included a jointly conducted initial interview with the victim. Officials in both study sites believed that this approach reduced the strain on victim and family and ultimately produced better documentation on which to base "founding" or prosecutorial decisions.

In California (Santa Cruz) the joint investigation is a matter of law, in Virginia (Fairfax) it is a matter of policy. In both jurisdictions, however, there were some cases that were investigated separately by the two agencies. A few involved police in another state, so that joint investigation was impossible. Others included situations where the child welfare agency was asked to monitor ongoing cases of stranger abuse.

Joint investigation of complaints provides an opportunity "for police and prosecutors to work cooperatively with professionals from health, mental health, and social work to assist child victims of sexual abuse to make complaints against offenders that will be upheld in court." ^{17/} Other forms of interagency cooperation were also expanding in the two jurisdictions during the study period. For example, interagency training was undertaken periodically to prepare staff for interdisciplinary approaches to case management.

Fairfax has developed an operations protocol which is now in effect between the police Child Services Unit and the Department of Social Services. The protocol outlines the steps of a joint investigation and assigns predominant authority to one agency or the other at certain points in the investigation. For example, decisions on whether to offer polygraph exams to abusers or victims are assigned to the police. The police special unit is responsible for coordinating "cases which are likely to result in criminal prosecution." An additional protocol has been established for the local hospital with a view to better coordinating the hospital examination with the goals of the police and child welfare agencies.

^{17/} Sgroi, op. cit., p. 10.

Chapter VII

Social Services Case Processing

Duration of Cases

Most sexual abuse cases studied remained under the jurisdiction of child protective services for relatively short periods. Of the 393 cases studied, a fifth (21 percent) were closed in less than a month (Table VII-1). Slightly over 80 percent of the cases were closed after 12 months or less. According to interviews with selected social workers, it appears that the cases which involve some juvenile court action (such as is required to place a child in foster care) tended to be open longer. Juvenile court actions typically include a judicial review after 6 months to a year, and the case remains open during the entire period.

A sexual abuse case is closed when the child welfare agency has met its service requirements. A case with short duration may indicate that the family doesn't want or already has the range of services which child welfare agencies might offer. In other situations, a criminal action may have been undertaken in the case with the result that the abuser is receiving treatment and supervision through the justice system. In view of this, social services may be able to close the case. In Santa Cruz, the rapid closing of cases was related in part to caseload problems. The agency is required by state law to close in 30 days unless the case proves exceptional. Additional paperwork is required to explain how and why the case must be kept open. In any event, there are several types of situations in which child welfare agencies may terminate

TABLE VII-1

Number of Months Child Sexual Abuse Cases Remain Open in
Child Welfare Agencies, Fairfax and Santa Cruz Counties

| <u>Months</u> | <u>Percent</u> (n=170) |
|---------------|---------------------------|
| less than one | 21% |
| 1 | 18% |
| 2 | 15% |
| 3 | 10% |
| 4-12 | 35% |
| 13-15 | 0 |
| 16 | 1% |

its intervention in sexual abuse cases. Regardless of the circumstances, most cases tend to terminate in less than a year after intake.

Actions on Founded Cases

There is a range of actions which may be undertaken by child welfare agencies on child sexual abuse cases. Some are undertaken through juvenile court, others through service agreements between child welfare agencies and the family. The current study examined seven major actions: removal of the child from home; protective supervision of the child; placement of the child in foster care; placement of the child with family, friends, or other parties; removal of the abuser from the home; counseling ordered for the child or the abuser. Each case might include a number of these actions during its active life. The actions may be brief, and not in effect for the entire duration of the case. For example, the removal of a child from her home may last only a few hours. Furthermore, criminal action might proceed simultaneously, while the case is still active in social services.

The responsibility of the child welfare agency to protect a sexually abused child is generally accepted by society and by the law. Therefore, authoritative intervention by child welfare agencies in child sexual abuse cases is deemed essential by many experts. There is continuing debate about the scope of that intervention and the child welfare agency's relationship with the justice system. ^{18/} Few cases in fact are prosecuted, and most

^{18/} Scott Harshbarger, "Point/Counterpoint," "Prosecution Is an Appropriate Response in Child Sexual Abuse Cases," The Prosecutor 19 (4, Spring 1986): 11.

sexual abuse complaints are processed through child welfare agencies only. For the majority of cases sampled, the child welfare agency is likely to be the only source of protection, prevention, or supervision of the abuser. The child welfare agencies studied decided to take action, however, in only 41 percent of the founded cases. This means that 59 percent of the founded cases of child sexual abuse received neither juvenile court action nor service agreements through social services. The majority of these cases were also unprosecuted.

The actions analyzed here are the more visible and documented dispositions in child welfare agency cases. A case may have many steps and interventions which cannot be characterized as actions. For example, Fairfax County social services have identified 14 steps that are undertaken in processing a child sexual abuse case from the receipt of a complaint via the hotline to the possible appeal of the findings letter by the abuser or the family of the victim. 19/ The case management steps, some of which are coordinated with criminal justice proceedings, are as follows:

1. Report received via Hotline.
2. Report accepted or rejected as appropriate.
3. Report assigned to worker.
4. Complainant contacted by worker as necessary.
5. Child interviewed by worker as first step in assessment of case.
6. Determination made as to whether child can safely be left in home or if child must be taken into protective custody.
7. Case referred to Criminal Investigation Bureau for determination of need for joint investigation.
8. If accepted by Criminal Investigation Bureau, joint interviews of child, parents, and alleged abuser by Criminal Investigation Bureau and Child Protective Services.
9. Review by team made up of representatives from the agencies interfacing with Child Protective Services such as Mental

19/ Child Protective Services Steps in Management of Child Sexual Abuse Cases (Fairfax County, VA: 1986).

- Health, the Schools, Juvenile Court, etc., for suggestions and/or recommendations as appropriate.
10. Case review by worker and supervisor on an ongoing weekly basis.
 11. Joint decision by worker and supervisor on Agency's disposition within 45 days if not delayed by difficulty of access to victim or alleged abuser.
 12. Determination of need for Juvenile Court intervention to assure appropriate treatment for the victim and/or other family members.
 13. Dispositional letters sent to the abuser as well as to the family of the victim.
 14. Persons wishing to appeal must do so within 45 days of the receipt of the finding letter.

The child welfare agencies have legal responsibility for the welfare of sexually abused children and carry out interventions of two general types: protection and treatment. Juvenile court is the official source of sanctions for the actions which are described below.

Protection. The protection-related functions carried out by the child welfare agencies studied included temporary removal of the child from her home; placement of the abused child in foster care; placing the child outside the home with family, friends, or other persons (not fosterparents); and assuming protective supervision of the child.

Removal of the child from the home was undertaken more frequently than any other child welfare agency action (Table VII-2-A). Eighty-nine percent of the removals were done through juvenile court. It is interesting to note, however, that 11 percent were achieved through service agreements between the family and the child welfare agency (Table VII-2-B). These informal, nonjudicial agreements were used in a minority of cases. But they do indicate an alternative approach to intervention when the family is cooperative. Juvenile court judges and caseworkers noted that they

TABLE VII-2-A

Incidence of Child Welfare Agency Action in Child
Sexual Abuse Cases

| <u>Action Taken</u> | <u>Percent</u> % |
|---|---------------------|
| <u>Protection</u> | (n=106) |
| Temporary removal of child from home | 71% |
| No removal of child | 29% |
| Child placed in foster care <u>a/</u> | (n=95) 41% |
| No foster placement | 59% |
| Child placed with family, friends, others | (n=64) 44% |
| No placement with others | 56% |
| CPS given protective supervision of child | (n=98) 60% |
| No protective supervision | 40% |
| Abuser removed from home | (n=89) 62% |
| Abuser not removed | 38% |
| <u>Treatment</u> | |
| Counseling ordered for child | (n=92) 87% |
| Counseling not ordered | 13% |
| Counseling ordered for abuser | (n=90) 55% |
| Counseling not ordered | 45% |
| Counseling orderd for other family | (n=86) 69% |
| Counseling not ordered | 31% |

Note: Total number of cases in each category is based on the data available. Missing data were excluded from the N's and are the result of child welfare agency or police files being incomplete. Percentages may not add to 100 due to rounding.

a/ These are cases known to have resulted in foster care rulings. Some files did not contain information on formal disposition.

TABLE VII-2-B

Type of Protection/Treatment Used by Child
Welfare Agency in Child Sexual Abuse Cases
When Protection/Treatment was Ordered

| <u>Type of Action</u> | Percent |
|--|---------|
| <u>Protection</u> | |
| Temporary removal of child from home | (n=75) |
| Civil action | 89% |
| Service agreement | 11% |
| Child placed with family, friends, others | (n=28) |
| Civil action | 79% |
| Service agreement | 21% |
| Abuser removed from home | (n=55) |
| Civil action | 69% |
| Service agreement | 31% |
| <u>Treatment</u> | |
| Counseling ordered for child | (n=80) |
| Civil action | 64% |
| Service agreement | 36% |
| Counseling ordered for abuser | (n=49) |
| Civil action | 65% |
| Service agreement | 35% |
| Counseling ordered for other family | (n=59) |
| Civil action | 63% |
| Service agreement | 37% |

Note: Total number of cases in each category is based on the data available. Missing data were excluded from the N's and are the result of child welfare agency or police files being incomplete.

prefer to keep the case out of court if the family demonstrates sincere efforts to cooperate with the child welfare agency's plan of action in the case.

Several possible arrangements existed for removing the child from her home. Foster care, resulting from a court order, is the most authoritative option. This legally removes the child from the care of her family and places her with court-appointed foster parents. Forty-one percent of the removals were for foster care placements. 20/

A child may also be removed from home and placed with other family members, friends, or other persons acceptable to the agency. Most frequently this is done through formal, or court-ordered, agreement. But a substantial share, 21 percent, of these placements were through informal agreements. Some actions, such as foster care placement or removal of the abuser from home, can be done only through court action.

In a number of cases, child welfare agencies sought and were given protective supervision of the child. In this situation the agency has access to the child in the home and school on a regular basis, perhaps weekly. Through this arrangement, the caseworker can also speak with the child's therapist or others assisting on the case. The family is usually considered to be "somewhat" cooperative when protective supervision is employed. In some cases, the child may have been put in foster care, and the foster care social worker

20/ These are cases known to have resulted in foster care rulings. Some files did not contain information on formal dispositions.

will supervise the entire family. Protective supervision can result in substantial oversight of the abused child and her family.

Treatment. Therapy for abuser and abused is generally considered by social workers to be appropriate in child sexual abuse cases. The social workers interviewed approved the use of therapy for child victims. However, the numbers of founded cases in which treatment was ordered, whether informally or formally, were rather small in the current study. Counseling was ordered for 80 children out of an original sample of 183 child welfare agency founded complaints. Sixty-four percent of these were through formal agreements and 36 percent through informal agreements. Counseling was ordered for 49 abusers, 65 percent through court mandate and 35 percent through informal agreement. Some other victims and abusers may have been receiving treatment obtained by their families or other sources and not recorded in the case files. This could, for example, occur if the child were already receiving therapy at the time that the service plan was developed. It is also possible that some abusers were receiving therapy as a result of a criminal justice disposition which was not noted in the child welfare agency files.

A change in policy in Fairfax County has resulted in greater use of informal approaches in the past year. Judges have suggested that the child welfare agency not bring "cooperative cases" to juvenile court, feeling that it was more appropriate and effective to reserve this option for cases where the family was resistant to carrying out the proposed plan, or when the abuser or family members ceased cooperating. Thus, a judge might not be asked to order treatment

for an abuser who has already demonstrated willingness to enter a therapy program.

The child welfare agencies in both sites studied used abuser participation in therapy as an alternative to recommending prosecution or juvenile court action. Caseworkers might present therapy as an incentive to the abuser, stressing the greater likelihood of avoiding either criminal action or the removal of his child from the home.

The brief duration of most cases, noted in the preceeding section, and the limited use of juvenile court action may be in part due to the caseworkers' preference to maintain control over the cases. The informal use of the possibility of criminal action or removal of the child from home may encourage cooperation by the abuser, and some caseworkers interviewed felt this approach could be useful for achieving some immediate goals.

The case file research showed that child welfare agencies in the two study sites employed the various actions at their disposal somewhat differently (Tables VII-3-A and B). The following interpretations should be used cautiously, however, because of the small numbers of cases involved. Santa Cruz used informal means to remove a child from her home in 19 percent of the sexual abuse cases studied. Fairfax used juvenile court orders exclusively to remove the child from home in the cases studied. The two locations used child welfare agency supervision of the child as well as foster care with similar frequency.

TABLE VII-3-A

Child Welfare Agency Action in Child Sexual Abuse Cases,
Comparison of Fairfax and Santa Cruz Counties

| <u>Action Taken</u> | <u>Percent</u> | |
|--|----------------|------------|
| <u>Protection</u> | Fairfax | Santa Cruz |
| | (n=45) | (n=61) |
| Temporary removal of child from home | 76% | 67% |
| No removal of child | 24% | 33% |
| | (n=41) | (n=54) |
| Child placed in foster care | 34% | 46% |
| No foster placement | 66% | 54% |
| | (n=32) | (n=32) |
| Child placed with family, friends, others | 53% | 34% |
| No placement with others | 47% | 66% |
| | (n=43) | (n=55) |
| CPS given protective supervision of child | 70% | 53% |
| No protective supervision | 30% | 47% |
| <u>Treatment</u> | (n=38) | (n=54) |
| Counseling ordered for child | 87% | 87% |
| Counseling not ordered | 13% | 13% |
| | (n=36) | (n=53) |
| Counseling ordered for abuser | 62% | 49% |
| Counselign not ordered | 38% | 51% |
| | (n=36) | (n=50) |
| Counseling ordered for other family | 86% | 56% |
| Counseling not ordered | 14% | 44% |

Note: Total number of cases in each category is based on the data available. Missing data were excluded from the N's and are the result of child welfare agency or police files being incomplete.

TABLE VII-3-B

Type of Action Used by Child Welfare Agencies,
Comparison of Fairfax and Santa Cruz Counties

| Type of Action | Fairfax | Santa Cruz |
|--|---------|------------|
| <u>Protection</u> | | |
| Temporary removal of child from home | (n=26) | (n=21) |
| Civil action | 100% | 81% |
| Service agreement | 0% | 19% |
| CPS placed child with family, friends, others | (n=14) | (n= 5) |
| Civil action | 93% | 60% |
| Service agreement | 7% | 40% |
| Abuser removed from home | (n=16) | (n=21) |
| Civil action | 100% | 52% |
| Service agreement | 0% | 48% |
| <u>Treatment</u> | | |
| Counseling ordered for child | (n=31) | (n=28) |
| Civil action | 81% | 50% |
| Service agreement | 19% | 50% |
| Counseling ordered for abuser | (n=22) | (n=14) |
| Civil action | 73% | 55% |
| Service agreement | 27% | 45% |

Note: Total number of cases in each category is based on the data available. Missing data were excluded from the N's and are the result of child welfare agency or police files being incomplete.

A major difference in child welfare agency case management between sites was the placement of children with family, friends, or others. Fairfax used this approach more frequently, and, when the agency did, a court order was almost always the means. Santa Cruz used court orders in 60 percent of cases and informal agreement in 40 percent (but the number of cases, five, was so small as to discourage reliance on this finding). Santa Cruz, also used informal agreements more readily in removing the abuser from the home (48 percent) while Fairfax used formal action exclusively.

Counseling was more often ordered for the child than for the abuser in both sites. And the case file research shows that therapy for the abuser is not as commonly used as the practitioners in both sites seem to believe. In both locations, social service and criminal justice practitioners also emphasized the heavy use of a therapeutic model in intrafamily cases. The low incidence of abuser therapy suggests that in practice there has not been a strong reliance on treatment of the abuser in sexual abuse cases.

Both sites used an informal agreement as an alternative to a court mandate in arranging treatment. Fairfax arranged treatment through agreement more frequently than by civil action. Santa Cruz, which in general used informal agreements more readily than Fairfax, employed service agreements for half the victim treatment and 45 percent of the abuser treatment. Santa Cruz is a smaller jurisdiction than Fairfax; its Child Welfare Agency staff was correspondingly smaller, and the staff believed that this made informal approaches to case management more feasible.

Chapter VIII

Criminal Justice Case Processing

The sample was analyzed to determine the degree and nature of involvement in child sexual abuse cases in the criminal justice system. Four steps in the justice process were analyzed: arrest, filing of charges, prosecution of cases, and criminal court disposition. It should be noted that many of the cases were under supervision of social services at the same time that criminal justice actions were under consideration or underway.

Criminal Justice Outcomes

The abuser was arrested in 51 percent of the cases studied (Table VIII-1). Almost half the cases in the sample (all of which were founded, most through joint child welfare agencies/police investigation) never resulted in an arrest. This might be due to any of a number of reasons. In some cases, for example, there is insufficient evidence to proceed; the victim's parents refuse to cooperate with the police; the victim is too young to be a credible witness; the abuser is not known and thus cannot be arrested. It was previously noted that child welfare agencies took action (through civil court or service agreement) in 41 percent of the cases sampled. While the processes of the two agencies cannot be directly compared, the two figures are of interest in view of the common belief that cases are more likely to receive child welfare agency attention and often do not make it into the criminal justice system. In fact, the incidence of involvement is slightly higher for police than for child welfare agencies.

TABLE VIII-1

Criminal Justice Outcomes for Child Sexual Abusers

| <u>Outcomes</u> | <u>Percent</u> |
|------------------------------------|----------------|
| Abuser arrested | (n=378) |
| Yes | 51% |
| No | 49% |
| Abuser charged with felony(s) | (n=178) |
| Abuser charged with misdemeanor(s) | 91% |
| | 9% |
| Prosecuted | (n=249) |
| Not prosecuted | 63% |
| | 37% |
| Criminal court disposition | (n=150) |
| Dismissed | 12% |
| Not guilty | 5% |
| Pled guilty | 70% |
| Found guilty | 5% |
| Deferred prosecution | 6% |
| Bench warrant issued | 2% |
| Abuser convicted of felony(s) | (n=114) |
| Abuser convicted of misdemeanor(s) | 58% |
| | 42% |

Note: Total number of cases in each category is based on the data available. Missing data were excluded from the N's and are the result of child welfare agency or police files being incomplete.

When abusers were arrested, the overwhelming majority (91 percent) were charged with felonies. Sixty-three percent of these abusers were prosecuted. Slightly over a third of those arrested were never prosecuted. Thus, 193 abusers were arrested, 158 were prosecuted, and dispositions were reached for 150 cases.

The most common criminal court disposition of the child sexual abuse cases was a guilty plea. This occurred in 70 percent of the disposed cases. The second most frequent, though far less common than pleas, was a dismissal. Twelve percent of the cases were dismissed. Five percent of the abusers were found guilty as a result of a court trial, confirming other research which shows few sexual abuse cases going to trial. 21/ An equal percentage were found not guilty. The six percent receiving deferred prosecution represent a small, but possibly growing minority.

Although over 90 percent of the charges on sexual abuse cases were for felony offenses, a substantial number of these cases ultimately resulted in misdemeanor convictions. A majority (58 percent of the abusers were convicted of felonies but a substantial minority of 42 percent were convicted of misdemeanors.

Outcome by Site

Comparison of criminal justice outcomes between the two sites studied showed in general more criminal justice system involvement for child sexual abuse cases in Santa Cruz County. This was somewhat surprising as practitioners interviewed at this site

21/ Debra Whitcomb, "When the Victim Is a Child: Issues for Judges and Prosecutors," (Washington, DC: U.S. Department of Justice, 1985), p. 5; and Gene Abel, "Who Would Sexually Abuse a Child?" Washington Post, June 1986.

stressed that the overriding approach was supportive of a therapeutic model. Practitioner perceptions notwithstanding, 59 percent of the abusers were arrested in Santa Cruz compared with 45 percent in Fairfax (Table VIII-2).

Almost all abusers in cases studied were charged with a felony (or felonies) in Santa Cruz. Ninety-six percent were so charged, compared with 85 percent in Fairfax. However, at the next stage of the process, prosecution, Fairfax County showed a substantially higher proportion of activity. Ninety-seven percent of those charged with felonies were prosecuted in Fairfax, compared with 77 percent in Santa Cruz.

Of those cases prosecuted, 16 percent were dismissed in Fairfax compared with 7 percent in Santa Cruz. There were no not guilty outcomes in Santa Cruz, while 12 percent resulted in not guilty outcomes in Fairfax. Deferred prosecution was largely a phenomenon of Santa Cruz County where 11 percent of cases received this option.

The disparity between the number of felonies charged and the number of felony convictions was most pronounced in Fairfax County. Eighty-five percent of abusers were charged with felonies, but only 45 percent were convicted of felonies. Santa Cruz maintained a high proportion of both felony charges and convictions (96 percent and 79 percent, respectively).

TABLE VIII-2

Criminal Justice Outcomes for Child Sexual Abusers,
Comparison of Fairfax and Santa Cruz Counties

| <u>Outcome</u> | <u>Percent</u> | |
|------------------------------------|----------------|------------|
| | Fairfax | Santa Cruz |
| Abuser arrested | (n=196) | (n=182) |
| Yes | 45% | 57% |
| No | 55% | 43% |
| Abuser charged with felony(s) | (n=79) | (n=99) |
| Abuser charged with misdemeanor(s) | 85% | 96% |
| | 15% | 4% |
| Prosecuted | (n=78) | (n=104) |
| Not prosecuted | 97% | 77% |
| | 3% | 23% |
| Criminal court disposition | (n=80) | (n=70) |
| Dismissed | 16% | 7% |
| Not guilty | 10% | 0 |
| Pled guilty | 66% | 74% |
| Found guilty | 6% | 3% |
| Deferred prosecution | 1% | 11% |
| Bench warrant issued | 0 | 4% |
| Abuser convicted of felony(s) | (n=59) | (n=55) |
| Abuser convicted of misdemeanor(s) | 48% | 69% |
| | 53% | 31% |

Note: Total number of cases in each category is based on the data available. Missing data were excluded from the N's and are the result of child welfare agency or police files being incomplete. Percentages may not add to 100 due to rounding.

Chapter IX

Criminal Penalties

Incarceration was imposed in the majority of child sexual abuse cases studied, but there remained a substantial minority (40 percent) of cases in which no incarceration of any sort was required. The length of incarceration tended to be short with 59 percent of the sentences involving a year or less (Table IX-1). Half of the offenders, in fact, were sentenced to 6 months or less.

There were marked differences between the two sites with respect to the incidence of incarceration of child sexual abusers. Eighty-two percent were incarcerated for some period of time in Santa Cruz compared with the much smaller proportion of 37 percent in Fairfax (Table IX-2). Jail time in Santa Cruz was likely to be short, however, with more than three-quarters of the abusers incarcerated for 1 year or less. Fairfax abusers were concentrated in sentences of 5 years and under (two-thirds) or 10 years or more (one-third).

Probation was widely used in sexual abuse sentencing. It was ordered for 68 percent of the cases in the sample (Table IX-3). A surprising proportion of cases (24 percent) had a short probationary period of only one year. The most common term of probation, however, was 5 years. Four percent of the cases had probationary terms of 28 years or more. Such lengthy probation usually involved offenders who had repeatedly molested strangers and was a means of keeping them under court supervision. Probation tended to be short-term in Fairfax; 46 percent of the terms were for one year

TABLE IX-1

Incarceration of Child Sexual Abusers

| <u>Outcome</u> | <u>Percent</u> |
|---|----------------|
| Abuser incarcerated | (n=100) |
| Yes | 60% |
| No | 40% |
| Length of incarceration imposed, in years | (n=63) |
| 1 year or less | 59% |
| 2 | 2% |
| 3 | 3% |
| 4 | 3% |
| 5 | 8% |
| 6 | 2% |
| 7 | 0 |
| 8 | 3% |
| 9 | 0 |
| 10 | 5% |
| 11 | 0 |
| 12 | 3% |
| 13 | 3% |
| 14-19 | 0 |
| 20 and above | 3% |
| 21-29 | 2% |
| Life | 2% |

Note: Total number of cases in each category is based on the data available. Missing data were excluded from the N's and are the result of child welfare agency or police files being incomplete. Percentages may not add to 100 due to rounding.

TABLE IX-2

Incarceration of Child Sexual Abusers
Comparison of Fairfax and Santa Cruz Counties

| <u>Outcome</u> | <u>Percent</u> | |
|---|-------------------|----------------------|
| Abuser incarcerated | Fairfax (n=54) | Santa Cruz (n=49) |
| Yes | 37% | 82% |
| No | 63% | 18% |
| Length of incarceration imposed in years | (n=23) | (n=40) |
| 1 year or less | 35% | 78% |
| 2 | 4% | 0 |
| 3 | 4% | 3% |
| 4 | 9% | 0 |
| 5 | 13% | 5% |
| 6 | 0 | 3% |
| 7 | 0 | 0 |
| 8 | 0 | 5% |
| 9 | 0 | 0 |
| 10 | 4% | 5% |
| 11 | 0 | 0 |
| 12 | 4% | 3% |
| 13 | 9% | 0 |
| 14-19 | 0 | 0 |
| 20 | 4% | 0 |
| 21-29 | 0 | 0 |
| 30 | 4% | 0 |
| Life | 4% | 0 |

Note: Total number of cases in each category is based on the data available. Missing data were excluded from the N's and are the result of child welfare agency or police files being incomplete. Percentages may not add to 100 due to rounding.

TABLE IX-3

Use of Probation in Child Sexual Abuse Cases

| | |
|-------------------------------|--------|
| Probation Ordered | (n=99) |
| Yes | 68% |
| No | 32% |
| Length of Probation, in years | (n=71) |
| 1 | 24% |
| 2 | 1% |
| 3 | 27% |
| 4 | 1% |
| 5 | 31% |
| 6-7 | 0 |
| 8 | 1% |
| 9 | 0 |
| 10 | 6% |
| 11 | 1% |
| 12 | 1% |
| 13-27 | 0 |
| 28 | 1% |
| 29 | 1% |
| 30 | 2% |

Note: Total number of cases in each category is based on the data available. Missing data were excluded from the N's and are the result of child welfare agency or police files being incomplete. Percentages may not add to 100 due to rounding.

(Table IX-4). Santa Cruz judges used probation more frequently and for longer periods.

Practitioners surveyed generally approved of the use of therapy for child sexual abusers, particularly if the case involved an intrafamily abuser. However, the use of therapy was not universal and was actually ordered by the court in slightly over half (53 percent) of the cases which received criminal sentences (Table IX-5). Criminal justice and social service personnel alike expressed reservations regarding the limitations of the therapy programs available locally. They tended to agree with Finkelhor and others who have cited the "desperate need for development of specialized child sex offender treatment programs and training of clinicians with expertise in this area." 22/ Almost three-quarters of the sentences in Fairfax included court-mandated therapy for the offender. In Santa Cruz, only a third of the offenders received therapy as part of a sentence.

A variety of sentencing arrangements was used by judges for the child sexual abusers. The majority of sentences included more than one penalty (Table IX-6). A period of incarceration followed by a period of probation was the most common combination (26 percent). Others included probation with court-mandated treatment (25 percent), and incarceration followed by probation with treatment (12 percent). About a quarter of the offenders received jail only. When jail time is brief, as it frequently is, this can mean offenders are quickly free of any form of supervision or therapeutic influence.

22/ Finkelhor, 1985, op. cit., p. 236.

TABLE IX-4

Use of Probation in Child Sexual Abuse Cases,
Comparison of Fairfax and Santa Cruz Counties

| | Site | |
|----------------------------------|---------|------------|
| | Fairfax | Santa Cruz |
| Probation Ordered | (n=51) | (n=48) |
| Yes | 65% | 71% |
| No | 35% | 29% |
| Length of Probation, in years | (n=37) | (n=34) |
| 1 | 46% | 0 |
| 2 | 3% | 0 |
| 3 | 16% | 38% |
| 4 | 0 | 3% |
| 5 | 5% | 59% |
| 6-7 | 0 | 0 |
| 8 | 3% | 0 |
| 9 | 0 | 0 |
| 10 | 1% | 0 |
| 11 | 3% | 0 |
| 12 | 3% | 0 |
| 13-27 | 0 | 0 |
| 28 | 3% | 0 |
| 29 | 3% | 0 |
| 30 | 6% | 0 |

Note: Total number of cases in each category is based on the data available. Missing data were excluded from the N's and are the result of child welfare agency or police files being incomplete. Percentages may not add to 100 due to rounding.

TABLE IX-5

Court-Mandated Therapy in Child Sexual Abuse Cases,
All Cases and by Site

| Therapy Ordered for Abuser | All Cases (n=78) | Fairfax (n=38) | Santa Cruz (n=40) |
|----------------------------|---------------------|-------------------|----------------------|
| Yes | 53% | 74% | 33% |
| No | 47% | 26% | 67% |

TABLE IX-6

Sentences for Child Sexual Abusers

| <u>Sentence</u> | <u>Percent</u> |
|--------------------------------|----------------|
| | (n=93) |
| Jail only | 26% |
| Jail and probation | 26% |
| Probation and treatment | 25% |
| Jail, treatment, and probation | 12% |
| Probation only | 6% |
| Treatment only | 5% |
| Jail and treatment | 0 |

Chapter X

Factors Influencing Case Attrition

Intrafamilial sexual abuse has increasingly been viewed as a crime, rather than a social disorder or family dysfunction. There continue to be proponents of the view that such sexual abuse cases should be handled solely by social services, but there has been substantial support in recent years for more aggressive and more frequent prosecution of these cases. 23/ The current project and other studies 24/ have found that relatively few cases of sexual abuse are actually prosecuted, compared with the numbers of cases initially reported to police or social services. In studying the processing of sexual abuse cases from time of reporting through imposition of sentences, the project has attempted to identify at which points, and for what reasons, cases tend to "fall out" of the justice system.

Certainly one recurring influence on case attrition cited by practitioners is the reluctance to bring children into the criminal process because they believe it will have a harmful effect. The victim's family members may also decide not to cooperate with prosecution if they perceive that the child will be less traumatized if the abuser is not arrested.

Many practitioners prefer to keep child abuse and neglect cases in their traditional forum, the juvenile or family court. The juvenile justice system can protect the child from further abuse by ordering support services and treat-

23/ Ibid.

24/ Whitcomb, op. cit., pp 5-6.

ment for the family, by monitoring the child's situation and by removing the child from home when necessary. 25/

Juvenile court has limits, however, when it comes to sanctioning the abuser. The trend to criminalize violence within the home has extended to spouse abuse, marital rape, physical child abuse, and now child sexual abuse. For all these crimes, countervailing arguments against prosecution as an intrusion in the family have been made from time to time. With sexual abuse, the arguments against prosecution are frequently focused on the welfare of the child.

Given the stressful nature of children's participation in the criminal justice process, many social service practitioners, and some criminal justice personnel feel that juvenile court offers the victim more and punishes her less. Child welfare scholar Eli Newberger, speaking at the Seventh National Conference on Child Abuse and Neglect held in November 1985, in Chicago, made the point that criminal prosecution may not be the best approach to ending child abuse. In fact, he argued that prosecution itself is an increasingly prevalent form of child abuse, even though it has been "trumpeted as a solution by national leaders and aspiring litigators." 26/ He concluded that "the social welfare approach to child abuse, by which I mean giving help and support to families, placing emphasis on understanding rather than blame, and fostering approaches to prevention has never been adequately displayed." 27/

The social service approach can accomplish many things when it functions properly. It can protect a child victim from further

25/ Whitcomb, op. cit., p. 17.

26/ The Prosecutor, op. cit., p. 11.

27/ Ibid.

abuse by removing the abuser or the child from home. It can order treatment and other services as well as supervision of the child by a child welfare agency. But juvenile court is limited in the controls it can place on the abuser, and proponents of prosecution argue that the problem will not be solved, nor will the children ultimately be protected, until those controls are not only imposed, but authoritatively imposed. While the arguments continue, criminal courts are currently grappling with cases of child sexual abuse. How is the criminal justice system responding? We turn to data from the two sites studied.

We have explored the effect of each of four factors on two major stages in the criminal justice process--arrest and prosecution. The factors are those on which information was available from the data base and which theoretically may influence case attrition. The four factors examined with respect to case attrition were the relationship between the victim and her abuser, the nature of the abuse, the frequency of the abuse, and the age of the victim(s). Insights into these and other influences on case attrition were also gathered from interviews with practitioners.

In both phases of the study, practitioners reflected upon the effect of the abuser's relationship with the victim on the processing of the cases. Those who abuse their own children (or others known to them) may be treated differently than stranger molesters. Also, it was conjectured that the nature of the abuse might reasonably affect criminal justice decisions at every critical point in case processing. Regarding frequency of abuse, if a pattern of recurring and progressively serious abuse were established, this could influence decisions to arrest and prosecute,

as well as to convict and sentence. The age of the victim was thought to be relevant in several respects. The extremely young child may not articulate clearly what has happened (and when it happened) with the detail necessary for criminal justice or social service intervention. Children under six may have limited potential as witnesses, thus reducing the likelihood of prosecution success. On the other hand, a teenage victim may affect prosecutorial decisions, because the defense is more likely to use consent arguments.

These considerations led to the examination of each of these four factors. Due to the small number of cases in the sample which ultimately were prosecuted and sentenced, we limit our analysis to the arrest and prosecution stages in this chapter (court dispositions and sentences are presented in Appendix A, but the number of cases is very small). Even for arrest and prosecuted cases, the sample size prohibited multivariate and other analysis necessary to probe the attrition issue in depth. It was not possible to go beyond simple crosstabulations. Thus we were not able to control for other intervening variables which may affect case outcomes. Further, limitations were imposed by the data available in case files; data on other important variables (such as strength of the evidence; child's ability to testify; physical evidence, etc.) which may affect outcomes was not available. With these caveats firmly in mind, we present our preliminary analysis. It would be inappropriate to consider these results as reflecting a national pattern. Nevertheless, we felt it was important to begin to examine this important issue, if only in a preliminary way.

A final source of information on criminal justice case attrition was data collected from case files regarding why the case outcome was reached.

Arrest. Parents are less likely to be arrested for sexually abusing their child than those who know their victim but have such non-parental relationships as friend, babysitter, or uncle (Table X-1). (There were too few stranger abusers in the sample to allow valid statistical analysis of case attrition.) Intercourse was the offense most likely to result in arrest, with sodomy second, "other" offenses third and touching least likely (Table X-1). The victim's age affected attrition at the arrest stage in the following manner: cases involving 11- to 14-year-old victims had the highest incidence of abuser arrest (61 percent) followed by those 7-10 years old. The smallest children (infant to 6 years) and the older teenagers (15-17) had the least likelihood of having their abusers arrested. Surprisingly, cases showing that the abuse occurred only once had a higher arrest rate (47 percent) than those listing abuse occurring more than once (38 percent).

Thus, the factors indicating a positive influence on arrest rate were nonparental relationship with victim, abuse including penetration, 11- to 14-year-old victim, and abuse occurring once.

Prosecution. Again, as with arrest, an abuser's nonparental relationship to the victim more likely resulted in prosecution (Table X-2). Intercourse was the offense leading to prosecution in the highest number of cases (78 percent). Seventy percent of the sodomy cases were prosecuted. When case files listed that abuse occurred more than once, the prosecution rate was substantially higher (72 percent) than for single incidents (51 percent). Again,

TABLE X-1

Factors Influencing Incidence of Arrest for Child Sexual Abuse

| | <u>Relationship</u> | | |
|-----------|---------------------|-------------------|--------------------|
| | None (n=10) | Parent (n=164) | Other** (n=198) |
| Arrest | 50% | 40% | 62% |
| No arrest | 50% | 60% | 38% |

| | <u>Offense</u> | | | |
|-----------|------------------|-----------------------|---------------------|-----------------|
| | Sodomy (n=91) | Intercourse (n=73) | Touching (n=154) | Other (n=45) |
| Arrest | 62% | 66% | 43% | 47% |
| No Arrest | 38% | 34% | 57% | 53% |

| | <u>Frequency of Abuse</u> | |
|-----------|---------------------------|---------------------------|
| | Once (n=16) | More than once (n=363) |
| Arrest | 47% | 38% |
| No arrest | 53% | 62% |

| | <u>Victim's Age</u> | | | | |
|-----------|---------------------|----------------|-----------------|-------------------|------------------|
| | 0-3 (n=28)* | 4-6 (n=44)* | 7-10 (n=76)* | 11-14 (n=132)* | 15-17 (n=95)* |
| Arrest | 36% | 36% | 59% | 61% | 44% |
| No Arrest | 64% | 64% | 41% | 39% | 56% |

Note: Total number of cases in each category is based on the data available. Missing data were excluded from the N's and are the result of child welfare agency or police files being incomplete. Percentages may not add to 100 due to rounding.

TABLE X-2

Factors Influencing Incidence of Prosecution for Child Sexual Abuse

| | | <u>Relationship</u> | | | |
|----------------|--|---------------------|-------------------|------------------|--|
| | | None (n=8) | Parent (n=104) | Other (n=137) | |
| Prosecuted | | 63% | 52% | 71% | |
| Not prosecuted | | 38% | 48% | 29% | |

| | | <u>Offense</u> | | | |
|----------------|--|------------------|-----------------------|--------------------|-----------------|
| | | Sodomy (n=60) | Intercourse (n=55) | Touching (n=96) | Other (n=30) |
| Prosecuted | | 72% | 78% | 55% | 50% |
| Not Prosecuted | | 28% | 22% | 46% | 50% |

| | | <u>Frequency of Abuse</u> | |
|----------------|--|---------------------------|---------------------------|
| | | Once (n=86) | More than once (n=155) |
| Prosecuted | | 51% | 72% |
| Not Prosecuted | | 49% | 28% |

| | | <u>Victim's Age (in years)</u> | | | | |
|----------------|--|--------------------------------|---------------|----------------|-----------------|-----------------|
| | | 0-3 (n=18) | 4-6 (n=30) | 7-10 (n=53) | 11-14 (n=89) | 15-17 (n=57) |
| Prosecuted | | 33% | 43% | 58% | 74% | 70% |
| Not Prosecuted | | 67% | 57% | 42% | 26% | 30% |

Note: Total number of cases in each category is based on the data available. Missing data were excluded from the N's and are the result of child welfare agency or police files being incomplete. Percentages may not add to 100 due to rounding.

as with arrest, the 11- to 14-year-old age group was associated with the highest prosecution rate. The 15- to 17-year old group was next with a 70 percent rate. The two youngest groups were least likely to be prosecuted (0-3, 33 percent; and 4-6, 43 percent.)

Thus, the factors indicating a positive influence on prosecution rates were nonparental relationship with victim, penetration offense, 11- to 14-year-old group, and abuse occurring more than once.

In sum, the cases most likely to result in arrest and prosecution of the abuser had 11- to 14-year-old victims, abusers who knew their victims but were not parents, and involved penetration offenses. The factor on which they differed was frequency of abuse with arrests more likely for single incidents, but prosecution more likely for recurrent abuse.

Further insight on case attrition was gained from reviewing the reasons cited in case files for the outcome in that case. A maximum of three reasons was recorded for each case, but many files did not include reasons for the various criminal justice outcomes. The most frequent reasons given (in 20 percent of the cases which contained reasons) was that the victim or victim's family refused to cooperate (Table X-3). This could have referred to a great range of behavior, including a family's perception that continued participation in the criminal justice process would be damaging to the child. The next most likely reasons (10 percent each) were that a service agreement had been reached by the child welfare agency and the family, or that the suspect had fled and/or his whereabouts were unknown.

TABLE X-3

Reasons for Criminal Justice Outcomes

(n=182)

| | |
|---|-----|
| Victim/victim's family refused to cooperate | 20% |
| Service agreement reached by child welfare agency | 10% |
| Suspect fled/suspect's whereabouts unknown | 10% |
| Child too young to be a credible witness | 8% |
| Prosecutor declined to prosecute | 8% |
| Insufficient evidence | 6% |
| Referred to jurisdiction where abuse occurred | 6% |
| Statutory rape ("consensual" teenage victim) | 5% |
| Victim recanted | 4% |
| Suspect convicted on an unrelated case | 4% |
| Case too old | 4% |
| Suspect passed a polygraph | 3% |
| Suspect unknown | 3% |
| Victim incompetent/retarded | 2% |
| Other reasons | 7% |

Note: Reasons were taken from case records; a maximum of three reasons was recorded for each case. Many case files did not include reasons for various criminal justice outcomes.

CHAPTER XI

Discussion and Conclusions

Major Findings: Phase One (Statutory Review and Examination of Prosecutors' Case Files)

- o Little or no differences exist between sentencing provisions applicable to cases with child victims compared with similar cases with adult victims.
- o Most child sexual abusers (71 percent) knew or were related to their victims.
- o Some amount of incarceration was imposed for 69 percent of sexual abusers of children, compared with 89 percent of sexual abusers of adults (in comparable cases).
- o Terms of incarceration were short for sexual abusers of children. The majority received a year or less; over a third were sentenced to 6 months or less.
- o In sharp contrast to sexual abusers of children, only 23 percent of those convicted of sexual offenses against adults received sentences of one year or less; almost 40 percent served over 10 years.
- o Probation was more than twice as probable for those convicted of sexually abusing or assaulting children than for those convicted of sex crimes against adults.

Major Findings: Phase Two (Examination of Child Welfare Agency and Police Case Files)

- o In most instances (68 percent), the sexual abuse of children occurred more than once, but almost a third of the cases involved the claim of a single incident. Penetration offenses

(intercourse, sodomy, or other penetration) accounted for 55 percent of the cases, and sexually touching the child accounted for 43 percent. Two percent of the incidents were attempted rape.

- o The majority of sexual abusers of children studied were under the age of 50. Ninety-eight percent were male. Ninety-seven percent knew their victims, and parents were abusers in 43 percent of cases.
- o Victims were mostly female (86 percent) and ranged in age from infancy to 17 years. Over 60 percent were 10 years old and under. About a fifth were under the age of 6.
- o A joint social services/police investigation was conducted in 79 percent of the cases.
- o Only 41 percent of the founded cases resulted in civil actions or informal service agreements. Thus, 59 percent of the founded cases of child sexual abuse received neither juvenile court action nor service agreements between agency and client.
- o Removal of the child victim from the home was undertaken more frequently than any other protective action by social services (71 percent). In some cases, the removal was for short periods of time, even a few hours. The next most common protective action taken was the removal of the abuser from the home (62 percent). Other actions undertaken through civil court or service agreements included placement of the child in foster care (41 percent); placement of the child with family, friends, and others (44 percent); and child welfare agency given protective supervision of the child (60 percent).
- o Child welfare agencies ordered counseling for child victims more frequently than for their adult abusers (87 percent/55 percent).

- o Most sexual abuse cases remained under the jurisdiction of social services for short periods; over 80 percent for 12 months or less, a fifth for less than a month.
- o Almost half the cases (all of which were founded) never resulted in an arrest.
- o Sixty-three percent of those arrested were prosecuted. Thus, slightly over a third of those arrested were never prosecuted.
- o Seventy percent of the defendants who were prosecuted pled guilty. Although over 90 percent of the charges were for felony offenses, 42 percent of those convicted were convicted of misdemeanors.
- o Since 10 percent of the cases went to trial, most children were not subjected to the rigors of testifying. Of those going to trial, half the abusers were found not guilty, and half were found guilty.
- o Incarceration was imposed in the majority of child sexual abuse cases involving a plea or finding of guilt, but 59 percent of the sentences were for a year or less.
- o Probation was widely used in sexual abuse sentencing (68 percent), but a quarter of the abusers received probation of only one year.
- o Therapy was ordered by the criminal court in a little over half the convicted cases.
- o Parents who sexually abused their children were less often arrested and prosecuted and received shorter sentences than abusers with other relationships to their victims.
- o About half the cases resulted in an arrest, but almost half of these (two-fifths) were dropped after arrest and went no further in the criminal justice system.

Most abusers were charged with felonies initially; 70 percent of them pled guilty, but often to a lesser charge. Forty-two percent of cases resulted in misdemeanor convictions.

Discussion

The reporting of child sexual abuse cases has clearly escalated. But this form of abuse may be a problem of even larger dimensions than suggested by increased reporting. A national poll which randomly sampled the adult population found that "at least 22 percent of Americans have been victims of child sexual abuse, although one-third of them told no one at the time." 28/ It is also clear that society considers sexual abuse to be a grave concern. Over 60 percent of respondents to a national survey rated the problem as "very serious." 29/ In fact, Americans regardless of sex, age, race, occupation, or income rated child abuse (including sexual abuse) as a more serious problem than either spousal or elder abuse.

Discussion of Phase One

The findings of phase one of the project showed that sexual abuse of children resulted in less incarceration and more probation for the abuser than cases which involved sexual offenses against adults. Child advocates have charged that the adjudication process deals less severely with abusers of children than it does with abusers of adults. This is consistent with phase one findings.

28/ Timnick, op. cit.

29/ Sourcebook of Criminal Justice Statistics, 1983. (Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics, 1984) p. 291.

Also consistent with other studies, it was found that over 70 percent of the child sexual abusers were related to their victims, or knew their victims. When a parent or other adult in a position of trust abuses a child, it is argued that the child will be affected not only by the abuse, but also by the nature of the intervention and punishment of the abuser. Arguments as to the appropriate approach to intrafamily abuse range from exclusive handling by social services to vigorous criminal prosecution and imprisonment comparable to that for adult sexual assault. Practitioners at the sites studied did not operate from a unified philosophy. Those involved in making decisions on cases reflected a wide range of opinions which resulted in inconsistent outcomes for similar types of cases.

Discussion of Phase Two

Child welfare agencies are often the first, sometimes the only, public institution to handle child sexual abuse cases. For the cases sampled, the duration of social services involvement tended to be brief. The agencies could take action in two ways: through the courts or by service agreement between social worker and client. Child protective action was initiated in only 41 percent of founded cases.

The relatively low percentage of cases in which court action or service agreements were imposed was surprising to the researchers. This seemed inconsistent with the level of activity observed during site visits as well as that which was implied during interviews and by the extensive and detailed procedures developed by the child welfare agencies. In some cases, the child welfare agency might, in fact, have had many contacts with the family and may have provided

referrals, or other responses, and yet closed the case without a service agreement or court order. This outcome may have seemed appropriate if the mother appeared cooperative to the child welfare agency and had taken steps to protect the child and had removed the abuser from the home. Nevertheless, in such situations no formal sanctions or constraints were on record against the abuser. If the family failed to continue to protect the child, she might again face further abuse. Many would argue that this does not sufficiently guarantee protection for the child victim. This may be argued particularly in view of the fact that in many instances the social service response will be the only official action taken, because relatively few cases will pass into the criminal justice system.

Treatment for abuser. Counseling was ordered by the juvenile courts in the sample in a minority of cases, and it was more likely to be for the abused child rather than the abuser. Requiring that a sexual abuser participate in a therapy program is one of a limited number of controls which the child welfare agencies can impose on an abuser. During interviews with practitioners in the child welfare agencies studied, they reported their general belief in the value of abuser therapy, but in actual practice there appeared to be less reliance on this sanction than was expected. Perhaps, in the sampled cases in which therapy was not ordered, the abuser was already receiving therapy before a service agreement was developed or the court order issued, and thus the need for mandated therapy was not clearly evident. In addition, some other offenders might have received court-mandated treatment as part of their criminal sentence, thus negating the need for civil orders requiring therapy. But, since relatively few abusers were ever sentenced,

clearly therapy from this source was limited. When cases did result in criminal sanctions, therapy was often mandated by the criminal courts: 53 percent of convicted abusers were ordered to receive therapy.

Furthermore, the availability of abuser therapy in the studied sites was problematic. Therapists and social workers interviewed cited the limited options for specialized sexual abuse therapy whether it was ordered through civil or criminal processes. Santa Cruz County had a single therapy program designed for the child sexual abuser. The Fairfax County child welfare agency directed abusers to a community mental health center. Some abusers (in both civil and criminal actions) had private therapists of their choice approved by the court. However, if the private therapist was not trained in the dynamics of child sexual abuse, the abuser may not have received treatment appropriate to his problem. At issue also was the independence of a private therapist who was retained and paid by the client. Such a therapist may lack the authoritative position necessary to treat sexual abusers. Sexual abuse has been described as power disorder in which adults misuse their authority over children. As explained by therapist Suzanne Sgroi,

...effective intervention into a disordered power system can only be accomplished in an authoritative fashion and from a position of power; other intervention methodologies invite the offender to misuse power further to suppress the allegation, to undermine the child's credibility and to ward off outside interference. 30/

Therapists at both sites echoed the concern of Sgroi, Finkelhor, and others about the shortage of trained therapists and specialized therapy programs for abusers.

Criminal justice response. The second phase of the project examined a sample of 393 founded cases of child sexual abuse. A founded case was one in which investigation had determined there was clear and convincing evidence that child sexual abuse occurred. Yet only 40 percent of these founded cases were eventually prosecuted. Case attrition occurred throughout case processing, but it was most pronounced at the arrest stage; arrests were made in about half the founded cases. The factors which influenced case attrition were many and complex, and clearly could not be fully examined given the small sample size.

Analysis of the data available through case records revealed that cases which involved parents were less likely to be prosecuted, and if prosecuted, often led to little or no incarceration and surprisingly short periods of probation.

Interviews with practitioners at the sites showed that those who make decisions on child sexual abuse cases in the child welfare and criminal justice agencies operated from a range of perspectives regarding the value of prosecution of intrafamilial cases. The interviews suggested that, while the sites were attempting to develop consistent policies and procedures among agencies, this has not yet occurred. Practitioners were not operating on the basis of an accepted, community-wide policy regarding criminal justice system involvement in intrafamilial abuse, and this may have resulted in inconsistent case outcomes.

Interagency coordination. Child sexual abuse cases involved a multitude of agencies. A single case may be processed by child protection agencies, juvenile or family courts, as well as by criminal justice, health, mental health and other social service agencies.

Cases in our sample revealed many instances in which the victim and abuser were involved with numerous public agencies. The data in the files suggest, however, that these agencies were not communicating with one another on a systematic basis, especially after the cases had proceeded beyond the investigation stage. For example, social workers were not regularly informed of criminal justice action on the cases which were also open in the social service agencies and vice versa.

Coordination was an issue at all stages of case processing, but investigation of the complaint was the stage at which interagency coordination had been most fully implemented in both study sites. Examples of coordinated approaches in the study sites follow.

In Fairfax, coordination of the initial stage of case processing was encouraged by an Operations Protocol between the Police Department and the Department of Social Services, signed in March 1985. (Closed cases only were used in the study sample, which was collected in early 1986, so few if any of the sampled cases would have been processed under the new protocol.) The protocol provided for joint investigation of cases. Some new personnel resources in police and social services in Fairfax had been assigned to respond to the rapid growth of sexual abuse cases. In addition, Fairfax County had a Child Sexual Abuse Multidisciplinary Team which met as needed to review specific cases and obtain recommendations and advice on dispositions. The team included representatives from law enforcement, child protective services, mental health services, juvenile court and the county attorney's office.

During the course of the study, agencies in Santa Cruz formed an Interagency Coordinating Council to develop coordinated procedures for handling child sexual abuse cases. Some interagency training was arranged to inform prosecutors, police, social workers and therapists about each others' role in the process. The study sites were clearly making efforts to develop interagency cooperation for case management, but practitioners who were interviewed were quick to point out that community services were far from completely coordinated.

Conclusion

The findings of the preceding study can be interpreted both positively and negatively. The jurisdictions studied are attempting to respond to the increased case load and to develop new methods to deal with child sexual abuse. Interagency programs have been created and some new resources have been added to the agencies responsible for processing cases of child sexual abuse. Many abusers are prosecuted and incarcerated and many are receiving treatment as part of criminal sentences or civil orders.

On the other hand, these efforts could be considered inadequate given the dimensions of the problem and the severity of the abuse. Over half the cases had no official sanctions through the child welfare agencies and juvenile courts. Only 40 percent of the total sample of complaints were ever prosecuted. The child welfare agencies had heavy caseloads and served more as gatekeepers for the increasing volume of complaints than a source of direct intervention. The agencies were understandably limited by legal

requirements, limitations on resources, and interagency friction. But the final result was that many child victims and their abusers did not receive services which they may have needed.

The controversy over whether or not to prosecute intrafamily sexual abuse remains alive. Practitioners in the jurisdictions studied were divided on this issue and the community's response was affected as a result. As in other communities around the country, this issue is unresolved. When prosecuted cases result in guilty pleas or decisions, prison sentences are short and probation with therapy is frequently imposed. Therapy programs are limited and heavy responsibility for supervision of child sexual abusers has been placed on probation agencies which may not be prepared to provide this degree of supervision. There is not yet agreement on just what is the best response in intrafamily abuse cases, either from the criminal justice system or from social services.

The study reported above covered only a few sites. It is not known whether this exploratory examination of case processing in fact represents a national picture. It does suggest a need for more research with a larger sample which could provide this picture. A broader perspective will be essential for the development of optimal approaches for handling child sexual abuse cases.

SELECTED BIBLIOGRAPHY

American Bar Association. Evidentiary and Procedural Trends in State Legislation and Other Emerging Legal Issues in Child Sexual Abuse Cases. Washington: American Bar Association, National Legal Resource Center for Child Advocacy and Protection, 1985.

Bienen, Leigh. "Rape I-IV." Women's Rights Law Reporter. Rutgers Law School 6(3, 1980).

Bienen, Leigh. "A Question of Credibility: John Henry Wigmore's Use of Scientific Authority in Section 924a of the Treatise on Evidence." California Western Law Review 19(2, 1983).

Bulkley, Josephine, ed. Innovations in the Prosecution of Child Sexual Abuse Cases. Washington: American Bar Association, National Legal Resource Center for Child Advocacy and Protection, 1982.

Bulkley, Josephine. Recommendations for Improving Legal Intervention in Intrafamily Child Sexual Abuse Cases. Washington: National Legal Resource Center for Child Advocacy and Protection, 1982.

Bulkley, Josephine. Evidentiary and Procedural Trends in State Legislation and Other Emerging Legal Issues in Child Sexual Abuse Cases. Washington: American Bar Association, National Legal Resource Center for Child Advocacy and Protection, 1985.

Bulkley, Josephine, ed. Papers from a National Policy Conference on Legal Reforms in Child Sexual Abuse Cases. Washington: American Bar Association, National Legal Resource Center on Child Advocacy and Protection, 1985.

Bureau of Justice Statistics. Tracking Offenders The Child Victim. Washington: U.S. Department of Justice, 1985.

---. The Crime of Rape. Washington: U.S. Department of Justice, 1985.

---. "Sentencing Practices in 13 States." Bureau of Justice Statistics Special Report. Washington: U.S. Department of Justice, 1984.

Burgess, Ann Wolbert. The Sexual Victimization of Adolescents. Rockville, MD: U.S. Department of Health and Human Services, National Institute of Mental Health, National Center for Prevention and Control of Rape, 1985.

Burgess, Ann Wolbert, ed. Rape and Sexual Assault, a Research Handbook. New York: Garland, 1985

Burgdorf, K., and Edmonds, J. National Study of the Incidence and Severity of Child Abuse and Neglect: Technical Report No. 1. (U.S. Department of Health and Human Services, Publication No. OHDS 81-30326). Washington: U.S. Government Printing Office, 1981.

Criminal Courts Technical Assistance Project. Judicial and Executive Discretion in the Sentencing Process: Analysis of Felony State Code Provisions. Washington: American University, 1982.

Feild, Hubert S., and Bienen, Leigh B. Jurors and Rape. Lexington, MA: Lexington Books, D.C. Heath, 1980.

Finkelhor, David. Sexually Victimized Children. New York: Free Press, 1979.

Finkelhor, David. Child Sexual Abuse: New Theory and Research. New York: Free Press, 1984.

Finkelhor, David. Child Sexual Abuse, New Theory and Research. New York: Free Press, MacMillan, 1985.

Forst, Brian. "Prosecution and Sentencing," in James Q. Wilson, ed. Contemporary Studies 1983.

Forst, Brian, and Rhodes, William. "Structuring the Exercise of Sentencing Discretion in the Federal Courts." Federal Probation 46 (March 1982).

Illinois Legislative Investigating Commission. Child Molestation: The Criminal Justice System (A Report to the Illinois General Assembly). Chicago: Illinois Legislative Investigating Commission, 1980.

Koppel, Herbert. The Prevalence of Guilty Pleas. Washington: U.S. Department of Justice, 1985.

Marsh, Jeanne C.; Geist, Alison; and Caplan, Nathan. Rape and the Limits of Law Reform. Boston: Auburn House, 1982.

National Institute of Justice. Determinate Sentencing and the Correctional Process: A Study of the Implementation and Impact of Sentencing Reform in Three States. Washington: U.S. Department of Justice, 1985.

Parker, Jacqueline Y. "The Rights of Child Witnesses: Is the Court a Protector or Perpetrator?" New England Law Review 17(3):643-717.

Parker, 'Jacqueline Y. "The Child Witness Versus the Press: A Proposed Legislative Response to Globe v. Superior Court." Albany Law Review 47(2, Winter 1983).

Robbins, Harold M. "Child Sexual Battery in St. Petersburg, Florida. A Ten Month Study," M.A. thesis, unpublished, April 1985.

Romero, Joseph I., and Williams, Linda Meyer. "A Comparative Study of Group Psychotherapy and Intensive Probation Supervision with Sex Offenders." Federal Probation 47(4, 1983):36-42.

Sgroi, Suzanne M. Handbook of Clinical Intervention in Child Sexual Abuse. Lexington, MA: Lexington Books, D.C. Heath, 1982.

Smith, Barbara. Non-Stranger Violence: The Criminal Court's Response. Washington: U.S. Department of Justice, National Institute of Justice, October 1981.

Stanko, Elizabeth Anne. "The Impact of Victim Assessment on Prosecutors' Screening Decisions: The Case of the New York County District Attorneys Office." Law and Society Review 16 (2, 1981-82).

Whitcomb, Debra, et al. "When the Victim Is a Child: Issues for Judges and Prosecutors." Washington, DC: National Institute of Justice, 1985.

Appendix A

ADDITIONAL ATTRITION DATA--PRELIMINARY ANALYSIS

Appendix A

Additional Attrition Data--Preliminary Analysis

We attempted to explore variables associated with attrition as fully as possible within the constraints of our data base. Because so few cases resulted in prosecution, and fewer yet in sentencing, sample size prohibited the in-depth multivariate analysis necessary to examine the attrition issue. Data presented here should be viewed with caution and are presented as suggestive, rather than definitive.

Disposition. Cases involving parent abusers had a higher incidence of pleading (or being found guilty) than cases involving abusers with other relationships with their victims (Table A-1). "Other" relationships led more often to dismissal. The highest degree of pled/found guilty cases existed in cases involving sodomy charges (79 percent) followed closely by touching offenses (76 percent). Touching cases were dismissed more than other offenses. The single incident cases were substantially more likely to be pled/found guilty. Cases with 7- to 10-year-old victims were most likely to be dismissed or found not guilty (23 percent), closely followed by those in which the victim was 15-17 years old (21 percent). Guilty outcomes were most likely for cases in which the victim was 4-6 years old (92 percent).

Thus, dismissal or not guilty outcomes are associated with nonparental relationships, touching offenses, and multiple incidents. Pled/found guilty outcomes are associated with parent abusers, sodomy offenses, single incident cases, and 4- to 6-year-old victims.

TABLE A-1
Factors Influencing Child Sexual Abuse Case Disposition

| <u>Relationship</u> | | | | |
|------------------------------------|----------------|-------------------|------------------|--|
| Criminal court disposition | None (n=5)* | Parent (n=50)* | Other (n=95)* | |
| Dismissed/not guilty <u>a/</u> | 0 | 12% | 21% | |
| Pled guilty/found guilty <u>b/</u> | 100% | 80% | 70% | |
| Other <u>c/</u> | 0 | 8% | 8% | |

| <u>Offense</u> | | | | |
|--------------------------------|------------------|-----------------------|--------------------|-----------------|
| | Sodomy (n=39) | Intercourse (n=40) | Touching (n=54) | Other (n=42) |
| Dismissed/Not Guilty <u>a/</u> | 10% | 20% | 24% | 10% |
| Pled/Found Guilty <u>b/</u> | 79% | 68% | 76% | 81% |
| Other <u>c/</u> | 11% | 12% | 0 | 9% |

| <u>Frequency of Abuse</u> | | |
|--------------------------------|----------------|---------------------------|
| | Once (n=42) | More than once (n=108) |
| Dismissed/Not Guilty <u>a/</u> | 10% | 20% |
| Pled/Found Guilty <u>b/</u> | 83% | 66% |
| Other <u>c/</u> | 7% | 14% |

| <u>Victim's Age (in years)</u> | | | | | |
|--------------------------------|--------------|---------------|----------------|-----------------|-----------------|
| | 0-3 (n=5) | 4-6 (n=13) | 7-10 (n=31) | 11-14 (n=67) | 15-17 (n=34) |
| Dismissed/Not Guilty <u>a/</u> | 0 | 8% | 23% | 16% | 21% |
| Pled/Found Guilty <u>b/</u> | 60% | 92% | 39% | 79% | 79% |
| Other <u>c/</u> | 40% | 0 | 23% | 5% | 0 |

Note: Total number of cases in each category is based on the data available. Missing data were excluded from the N's and are the result of child welfare agency or police files being incomplete. Percentages may not add to 100 due to rounding.

a/ Included in this category are 18 cases which resulted in dismissal and 8 cases which resulted in not guilty verdict.

b/ Included in this category are 105 cases in which the defendant pled guilty and 7 cases in which the defendant was found guilty.

c/ Included in this category are 9 cases which were deferred and 3 cases which resulted in the issuance of a bench warrant.

Incarceration. Abusers with nonparental relationships were more likely to be incarcerated than those who abused their own children (65 and 46 percents respectively) (Table A-2). Conviction for an intercourse offense resulted in incarceration in 92 percent of cases. Sodomy offenses were second with 70 percent. Recurring abuse led to incarceration slightly more often (61 percent) than reports of single incidents (57 percent). The victim age group most associated with incarceration was 4 to 6 years old (90 percent).

Abuse of infants to 3 year olds was the next most likely. Probation is a likely outcome in child sexual abuse cases, more likely for abusers with other relationships than for parents. (Table A-3)

Thus, incarceration is most associated with nonparental relationships, intercourse offenses, recurring abuse, and young victims (4 to 6 years old).

TABLE A-2

Factors Influencing Incarceration in Child Sexual Abuse Cases

| | | <u>Relationship</u> | | | | |
|------------------|--|--------------------------------|--------------------------|--------------------|-----------------|-----------------|
| | | None (n=4) | Parent (n=33) | Other (n=54) | | |
| Incarcerated | | 100% | 46% | 65% | | |
| No Incarceration | | 0 | 55% | 35% | | |
| | | <u>Offense</u> | | | | |
| | | Sodomy (n=28) | Intercourse (n=25) | Touching (n=34) | Other (n=11) | |
| Incarceration | | 79% | 92% | 15% | 73% | |
| No Incarceration | | 21% | 8% | 85% | 27% | |
| | | <u>Frequency of Abuse</u> | | | | |
| | | Once (n=28) | More than once (n=72) | | | |
| Incarceration | | 57% | 61% | | | |
| No Incarceration | | 43% | 39% | | | |
| | | <u>Victim's Age (in years)</u> | | | | |
| | | 0-3 (n=3) | 4-6 (n=10) | 7-10 (n=17) | 11-14 (n=46) | 15-17 (n=24) |
| Incarceration | | 67% | 90% | 59% | 54% | 58% |
| No Incarceration | | 33% | 10% | 41% | 46% | 42% |

Note: Total number of cases in each category is based on the data available. Missing data were excluded from the N's and are the result of child welfare agency or police files being incomplete. Percentages may not add to 100 due to rounding.

TABLE A-3

Use of Probation in Child Sexual Abuse Cases, by Relationship

| | None | Parent | Other |
|-------------------------------|-------|--------|--------|
| Probation ordered | (n=4) | (n=38) | (n=57) |
| Yes | 50% | 64% | 70% |
| No | 50% | 34% | 30% |
| Length of Probation, in years | (n=3) | (n=23) | (n=45) |
| 1 | 0 | 26% | 24% |
| 2 | 0 | 4% | 0 |
| 3 | 0 | 35% | 24% |
| 4 | 0 | 0 | 2% |
| 5 | 67% | 22% | 33% |
| 6 | 0 | 0 | 0 |
| 7 | 0 | 0 | 0 |
| 8 | 0 | 4% | 0 |
| 9 | 33% | 0 | 0 |
| 10 | 0 | 9% | 2% |
| 11 | 0 | 0 | 2% |
| 12 | 0 | 0 | 2% |
| 13-29 | 0 | 0 | 4% |
| 30 | 0 | 0 | 4% |

Note: Total number of cases in each category is based on the data available. Missing data were excluded from the N's and are the result of child welfare agency or police files being incomplete. Percentages may not add to 100 due to rounding.

Appendix B

CODE BOOKS

CODEBOOK

Phase I--Statutory Survey

| | <u>Column(s)</u> |
|-----------------------------------|------------------|
| V1. State | |
| 01. Alabama | 1-2 |
| 02. Alaska | |
| 03. 50 | |
| <u>Vaginal Offense--Case A</u> | |
| V2. Years Minimum | 3-4 |
| 00. less than 1 year | |
| 01. 1 year (1 year & 1 day: 1 1/2 | |
| 02. 99 | |
| 95. NA | |
| 96. - | |
| 97. death | |
| 98. life | |
| <u>Vaginal Offense -- A</u> | 5-6 |
| V3. Years maximum (as above) | |
| <u>Vaginal Offense--Case B</u> | 7-8 |
| V4. Years minimum | |
| <u>Vaginal Offense--Case B</u> | 9-10 |
| V5. Years maximum | |
| <u>Vaginal Offense--Case C</u> | 11-12 |
| V6. Years minimum | |
| <u>Vaginal Offense--Case C</u> | 13-14 |
| V7. Years maximum | |
| <u>Touching Offense--Case A</u> | 15-16 |
| V8. Years minimum | |
| <u>Touching Offense--Case A</u> | 17-18 |
| V9. Years maximum | |

Column(s)

Touching Offense--Case B

19-20

V10. Years minimum

Touching Offense--Case B

21-22

V11. Years maximum

Touching Offense--Case C

23-24

V12. Years minimum

Touching Offense--Case C

25-26

V13. Years maximum

Touching Offense--Case A

27

V14. Penetration-Difference for 1st, 2nd, 3rd
time offender

1. Yes
2. No
9. NA

Penetration Case B

28

V15. Difference for 1st, 2nd, 3rd time
offender

(as above)

Fairfax

41. Rape 18.2-61
42. Sodomy 18.2-67.1
43. Carnal knowledge without use of force-child under 15 18.2-63
44. Statutory rape 18.2-63
45. Contributing 18.2-371
46. incest 18.2-366
47. aggregate sex battery 18.2-67.3
48. exposure to child 18.2-370
49. Sex battery (misdemeanor) 18.2-67.4
50. Att rape
51. Att sex abuse 18.2-67.5
52. Malicious wound
53. Assault & battery
54. Indecent liberties w/child

CODEBOOK
PHASE I -- CASE FILE STUDY

| | <u>Columns</u> |
|---|----------------|
| 1. <u>Case I.D. Number</u> | 1-3 |
| 001. Fairfax County | |
| 301. Mercer County | |
| 501. Santa Cruz County | |
| 2. <u>Site</u> | 4 |
| 1. Fairfax | |
| 2. Mercer | |
| 3. Santa Cruz | |
| 3. <u>Number of Police Charges</u> | 5 |
| 1.-- 7. | |
| 8. D.K. | |
| 9. N.A. | |
| 14. <u>Police Charge - Ct. 1</u> | 6-7 |
| 01. oral cop/sodomy | |
| 02. rape | |
| 03. false imprison/abduction | |
| 04. att. rape | |
| 05. incest | |
| 06. touching offense 243.4 | |
| 07. 273.5 | |
| 08. att. murder | |
| 09. 245/agg. assault | |
| 10. kidnapping | |
| 11. burglary | |
| 12. sexual battery | |
| 13. robbery | |
| 14. theft | |
| 86. misdemeanor (647) | |
| 87. other felony | |
| 15. <u>Police Charge - Ct. 2</u> | 8-9 |
| As above | |
| 16. <u>Police Charge - Ct. 3</u> | 10-11 |
| As above | |
| 17. <u>Number of Filing Charges (G.J. in Trenton)</u> | 12 |
| 1.--7. | |
| 8. D.K. | |
| 9. N.A. | |
| 18. <u>Filing Charge - Ct. 1 (G.J. in Trenton)</u> | 13-14 |
| See 4. | |

| | |
|---|-------|
| 19. <u>Filing Charge - Ct. 2 (G.J. in Trenton)</u> As above | 15-16 |
| 110. <u>Filing Charge - Ct. 3 (G.J. in Trenton)</u> As above | 17-18 |
| 111. <u>G.J. Charge - Indictment (Fairfax)</u> 1. Yes 2. No 8. D.K. 9. N.A. | 19 |
| 112. <u>Reduction at G.J. (# or seriousness)</u> (Fairfax) 1. Yes 2. No | 20 |
| 115. <u>Number of Final Charges</u> 0. -- 7. 8. D.K. 9. N.A. | 21 |
| 116. <u>Negotiated Plea</u> 1. Yes 2. No 3. Dismissed-sent away on another case | 22 |
| 117. <u>Final Charge - Ct. 1</u> | 23-24 |
| 118. <u>Final Charge - Ct. 2</u> | 25-26 |
| 119. <u>Final Charge - Ct. 3</u> | 27-28 |
| 120. <u>Case Disposition</u> 1. Dismissed/Nolle Pros 2. No bill 3. Not guilty 4. Pled guilty/no contest 5. Found guilty 6. Deferred 7. Other 8. D.K. 9. N.A. | 29 |
| 121. <u>Stage Case Disposed</u> 1. Prior to prelim/G.J. 2. Trial 3. After prelim. 4. At prelim--no prob. cause 5. G.J. 6. Prosecutor 7. After G.J. | 30 |

| | | |
|----------|---------------------------------|-------|
| 122. | <u>Active Jail Sentence</u> | 31 |
| 1. | Yes | |
| 2. | No | |
| 3. | Mental hospital | |
| 4. | CYA | |
| 5. | Suspended only | |
| 6. | Weekends only | |
| 8. | D.K. | |
| 9. | N.A. | |
| 123. | <u>Active Length Jail</u> | 32-35 |
| 0000. | Less than 1 month | |
| 0001. | 1 month | |
| 0002. | 2 months | |
| 7777. | Life | |
| 124. | <u>Probation</u> | 36 |
| 1. | Yes | |
| 2. | No | |
| 3. | D.K. | |
| 4. | N.A. | |
| 125. | <u>Length of Probation</u> | 37-38 |
| 00. | Less than 1 year | |
| 01. | 1 - 1.11 years | |
| 02. | 2 - 3.11 years | |
| 126. | <u>Fine</u> | 39 |
| 1. | Yes | |
| 2. | No | |
| 8. | D.K. | |
| 9. | N.A. | |
| 127. | <u>Amount of Fine</u> | 40-43 |
| 0001... | 9999 | |
| 128. | <u>Victim Fund</u> | 44 |
| 1. | Yes | |
| 2. | No | |
| 8. | D.K. | |
| 9. | N.A. | |
| 129. | <u>Amount Victim Fund</u> | 45-48 |
| 0001. | | |
| 130. | <u>No Contact with Children</u> | 49 |
| 1. | Yes | |
| 2. | No | |
| 8. | D.K. | |
| 9. | N.A. | |
| 131. | <u>No Contact with Victim</u> | 50 |
| As above | | |

| | | |
|------|--|-------|
| 132. | <u>Supervised Contact with Victim</u> | 51 |
| 9 | (no contact) | |
| 133. | <u>Register as Sex Offender</u> | 52 |
| 134. | <u>Attend Counseling</u> | 53 |
| 135. | <u>Restitution to Victim</u> | 54 |
| 136. | <u>Defendant's Age</u> | 55-56 |
| 88. | D.K. | |
| 137. | <u>Defendant's Sex</u> | 57 |
| 1. | Male | |
| 2. | Female | |
| 138. | <u>Defendant's Race</u> | 58 |
| 1. | White | |
| 2. | Black | |
| 3. | Hispanic | |
| 4. | Other | |
| 8. | D.K. | |
| 9. | N.A. | |
| 139. | <u>Defendant's Relation to Victim</u> | 59-60 |
| 01. | None-stranger | |
| 02. | Parent-living with victim (Fairfax) | |
| 03. | Parent-not living with victim | |
| 04. | Step parent-living with victim (Fairfax) | |
| 05. | Step parent- not living with victim | |
| 06. | Neighbor | |
| 07. | Family friend | |
| 08. | Met that day/pick-up | |
| 09. | Friend | |
| 10. | Acquaintance | |
| 11. | Uncle | |
| 12. | Grandparent | |
| 13. | Homosexual | |
| 14. | Boyfriend of mother | |
| 15. | Cousin | |
| 16. | Spouse | |
| 17. | Lover/boyfriend | |
| 18. | Ex-husband | |
| 19. | Brother | |
| 20. | Guardian | |
| 21. | Ex-boyfriend | |
| 22. | Son-in-law | |
| 23. | Teacher | |
| 87. | Other | |
| 140. | <u>Defendant's Prior Arrests</u> | 61 |
| 1. | Yes | |
| 2. | No | |
| 3. | Juv. only | |
| 8. | D.K. | |

| | | |
|-------|---|-------|
| 141. | <u>Defendant's Prior Sex Offense Arrests</u> | 62 |
| 1. | Yes | |
| 2. | No | |
| 142. | <u>Defendant's Prior Other Violent Offense Arrests</u> | 63 |
| 1. | Yes | |
| 2. | No | |
| 143. | <u># Arrests</u> | 64-5 |
| 00... | | |
| 88. | D.K. | |
| 144. | <u>Defendant's Prior Convictions</u> | 66 |
| 1. | Yes | |
| 2. | No | |
| 3. | Juv. only | |
| 8. | D.K. | |
| 145. | <u>Defendant's Prior Sex Offense Conviction</u> | 67 |
| 1. | Yes | |
| 2. | No | |
| 146. | <u>Defendant's Prior Other Violent Offense Conviction</u> | 68 |
| 1. | Yes | |
| 2. | No | |
| 147. | <u># Convictions</u> | 69-70 |
| 148. | <u>Weapon Used</u> | 71 |
| 0. | None | |
| 1. | Physical force | |
| 2. | Knife | |
| 3. | Gun | |
| 4. | Other | |
| 149. | <u>Victim's Age</u> | 72-73 |
| 77 | Adult - D.K. age | |
| 150. | <u>Victim's Race</u> | 74 |
| 1. | White | |
| 2. | Black | |
| 3. | Hispanic | |
| 4. | Other | |
| 8. | D.K. | |
| 151. | <u>Victim's Sex</u> | 75 |
| 1. | Male | |
| 2. | Female | |
| 8. | D.K. | |
| 152. | <u>Victim's Physical Injury</u> | 76 |
| 0. | None/Minor | |

CODEBOOK
PHASE II -- SOCIAL SERVICES/POLICE

| <u>Variable</u> | <u>Column(s)</u> |
|--|------------------|
| 1. Case ID # _____ | 1/1-3 |
| 2. Site | 4 |
| 1. Fairfax | |
| 2. Santa Cruz | |
| 3. File sample form | 5 |
| 1. Social services | |
| 2. Police | |
| 3. Both social services and police | |
| 4. Source of complaint | 6-7 |
| 01. Police | |
| 02. Social services | |
| 03. Parent of victim | |
| 04. Family friend/neighbor | |
| 05. Hospital/doctor/therapist | |
| 06. School (teacher, school counselor, principal) | |
| 07. Self-report by abuser | |
| 08. Result of social service/ police investigation | |
| 09. Probation department | |
| 10. Victim | |
| 11. Anonymous | |
| 12. CPS | |
| 87. Other | |
| 88. NA | |
| 99. DK | |
| 5. Joint investigation, police/CPS | 8 |
| 6. Joint investigation with another organization (not police or social services within county) | 9 |
| 1. Yes | |
| 2. No | |
| 9. DK | |
| 7. Civil action taken by social service | 10 |
| 1. Yes | |
| 2. No | |
| 8. NA | |
| 9. DK | |

| <u>Variable</u> | <u>Column(s)</u> |
|--|------------------|
| 8. Informal arrangements made (service agreement) | 11 |
| 1. Yes | |
| 2. No | |
| 8. NA (Formal arrangements made) | |
| 9. Social services temporarily removed child (children) | 12 |
| 1. Yes (formal agreement) | |
| 2. Yes (informal agreement) | |
| 3. No | |
| 8. NA | |
| 9. DK | |
| 10. Social services given protective supervision of child (children) | 13 |
| 1. Yes | |
| 2. No | |
| 8. NA | |
| 9. DK | |
| 11. Social services placed child temporarily with foster care providers | 14 |
| 1. Yes | |
| 2. No | |
| 8. NA | |
| 9. DK | |
| 12. Social services placed child temporarily with relative/friend of victim's family | 15 |
| 1. Yes - (formal agreement) | |
| 2. Yes - (informal agreement) | |
| 3. No | |
| 8. NA (put in foster care) | |
| 9. DK | |
| 13. Abuser removed from the home or denied access to child (children) | 16 |
| 1. Yes - (formal agreement) | |
| 2. No - (informal agreement) | |
| 8. NA | |
| 9. DK | |

| <u>Variable</u> | <u>Column(s)</u> |
|---|------------------|
| 14. Abuser's interaction with child (children) allowed only with supervision | 17 |
| 1. Yes (formal agreement) | |
| 2. Yes (informal agreement). | |
| 3. No | |
| 8. NA | |
| 9. DK | |
| 15. Counseling ordered for child (children) | 18 |
| 1. Yes (formal agreement) | |
| 2. Yes (informal agreement) | |
| 3. No | |
| 8. NA | |
| 9. DK | |
| 16. Counseling ordered for abuser | 19 |
| 1. Yes (formal agreement) | |
| 2. Yes (informal agreement) | |
| 3. No | |
| 8. NA | |
| 9. DK | |
| 17. Counseling ordered for other family Members | 20 |
| 1. Yes (formal agreement) | |
| 2. Yes (informal agreement) | |
| 3. No | |
| 8. NA | |
| 9. DK | |
| 18. Blank variable | 21-23 |
| 19. Blank variable | 21-23 |
| 20. Blank variable | 21-23 |
| 21. Abuser arrested | 24 |
| 1. Yes | |
| 2. No | |
| 3. Citation issued | |
| 8. NA | |
| 9. DK | |

| <u>Variable</u> | <u>Column(s)</u> |
|---|------------------|
| 22. Felony (felonies) charged | 25 |
| 1. Yes | |
| 2. No (misdemeanor[s] charged only) | |
| 8. NA | |
| 9. DK | |
| 23. Felony charged - Count 1 | 26-27 |
| 01. Oral copulation/sodomy | |
| 02. Rape | |
| 03. Incest | |
| 04. Attempt rape | |
| 05. Aggregated sexual battery (Fairfax) | |
| 87. Other felony | |
| 24. Felony charged - Count 2 (as above) | 28-29 |
| 25. Felony charged - Count 3 (as above) | 30-31 |
| 26. Misdemeanor charged - Count 1 | 32-33 |
| 01. Santa Cruz 647 | |
| 02. Indecent liberties with a minor | |
| 03. Simple sex battery | |
| 27. Misdemeanor charged - Count 2 (as above) | 34-35 |
| 28. Misdemeanor charged - Count 3 | 36-37 |
| 29. Criminal action taken | 38 |
| 1. Yes | |
| 2. No | |
| 8. NA | |
| 9. DK | |
| 30. Criminal court disposition | 39 |
| 1. Dismissed/Nolle Pros | |
| 2. Not guilty | |
| 3. Pled guilty/no contest | |
| 4. Found guilty | |
| 5. Deferred | |
| 6. Other | |
| 7. Bench Warrant issued | |
| 8. NA | |
| 9. DK | |

| <u>Variable</u> | <u>Column(s)</u> |
|---|------------------|
| 31. Found/pled guilty to felony (felonies) | 40 |
| 1. Yes | |
| 2. No (misdemeanor[s] only) | |
| 8. NA | |
| 9. DK | |
| 32. Found/pled guilty to felony - Count 1 | 41-42 |
| 01. Oral copulation/sodomy | |
| 02. Rape | |
| 03. Incest | |
| 04. Attempt rape | |
| 05. Aggregated sexual battery | |
| 33. Found/pled guilty to felony - Count 2 (as above) | 43-44 |
| 34. Found/pled guilty to felony - Count 3 (as above) | 45-46 |
| 35. Found/pled guilty to misdemeanor Count 1 | 47-48 |
| 01. Santa Cruz - 647 | |
| 02. 261-5 Santa Cruz | |
| 03. Contributing to delinquency of minor | |
| 04. Indecent liberties with a minor | |
| 05. Simple sex battery | |
| 87. Other | |
| 36. Found/pled guilty to misdemeanor - Count 2 (as above) | 49-50 |
| 37. Found/pled guilty to misdemeanor - Count 3 (as above) | 51-52 |
| 38. Active jail sentence | 53 |
| 1. Yes | |
| 2. No | |
| 8. NA | |
| 9. DK | |

| <u>Variable</u> | <u>Column(s)</u> |
|--|------------------|
| 39. Length of active jail | 54-57 |
| 0000. Less than 1 month | |
| 0001. 1 month | |
| 0002. 2 months | |
| 0008. NA | |
| 0009. DK | |
| 40. Probation ordered | 58 |
| 1. Yes | |
| 2. No | |
| 8. NA | |
| 9. DK | |
| 41. Length of probation | 59-60 |
| 00. Less than 1 year | |
| 01. 1 - 1.11 years | |
| 02. 2 - 2.11 years | |
| 42. No contact with children ordered | 61 |
| 1. Yes | |
| 2. No | |
| 8. NA | |
| 9. DK | |
| 43. No contact with victim ordered | 62 |
| 1. Yes | |
| 2. No | |
| 8. NA | |
| 9. DK | |
| 44. Abuser ordered to counseling | 63 |
| 1. Yes | |
| 2. No | |
| 8. NA | |
| 9. DK | |
| 45. Reason for criminal disposition (reason 1) | 64-65 |
| 01. Not enough evidence | |
| 02. Suspect passed polygraph | |
| 03. Informal agreement reached with CPS/sent to CPS on state licensing | |

VariableColumn(s)

| | | |
|-----|--|-------|
| 04. | Referred to jurisdiction where abuse occurred | |
| 05. | Unknown suspect | |
| 06. | Victim recants | |
| 07. | Child too young to be a credible witness | |
| 08. | Suspect fled/suspect's whereabouts unknown | |
| 09. | Victim (victim's family) refuse to prosecute/cooperate | |
| 10. | Statutory rape | |
| 11. | Prosecutor declined to file charges | |
| 12. | Suspect convicted on unrelated case | |
| 13. | Victim incompetent/retarded | |
| 14. | Case too old | |
| 15. | Authorities did not believe the abuse actually occurred | |
| 16. | Suspect too old to prosecute | |
| 17. | Suspect dead | |
| 46. | Reason for criminal disposition (reason 2) (As above) | 66-67 |
| 47. | Reason for criminal disposition (reasons 3) (As above) | 68-69 |
| 48. | Suspect's age 18...98 99. DK | 70-71 |
| 49. | Suspect's sex 1. Male 2. Female 9. DK | 72 |
| 50. | Suspect's race 1. White 2. Black 3. Spanish 4. Other 8. NA 9. DK | 73 |

VariableColumn(s)

51. Suspect's relationship to victim 74-75
- 01. None -- strangers
 - 02. Parent
 - 03. Step-parent
 - 04. Neighbor
 - 05. Family friend
 - 06. Grandparent/step-grandparent
 - 07. Mother's boyfriend
 - 08. Boyfriend
 - 09. Guardian
 - 10. Teacher
 - 11. Other relative
 - 12. Ex Boyfriend
 - 13. Day care worker
 - 14. Step brother
 - 15. Foster parent
 - 87. Other
52. Suspect has criminal record 76
- 1. Yes
 - 2. No
 - 8. NA
 - 9. DK
53. Suspect has criminal arrest for child sexual abuse 77
- 1. Yes
 - 2. No
 - 8. NA
 - 9. DK
54. Suspect has criminal convictions for child sexual abuse 78
- 1. Yes
 - 2. No
 - 8. NA
 - 9. DK
55. Weapon (other than physical force/coercions) used 79-80
- 01. Yes
 - 02. No
 - 08. NA
 - 09. DK

VariableColumn(s)

| | |
|---|-------|
| 56. Victim's age when abuse began | 2/1-2 |
| 00. Under 1 year | |
| 01. 1 year | |
| 88. NA | |
| 99. DK | |
| 57. Victim's age when abuse stopped (as above) | 3-4 |
| 58. Victim's current age (as above) | 5-6 |
| 59. Victim's race | 7 |
| 1. White | |
| 2. Black | |
| 3. Hispanic | |
| 4. Other | |
| 9. DK | |
| 60. Victim's sex | 8 |
| 1. Male | |
| 2. Female | |
| 61. More than one victim | 9 |
| 1. Yes | |
| 2. No | |
| 62. Victim's physical injuries | 10 |
| 1. None/minor | |
| 2. Medical treatment required | |
| 3. Hospitalization required | |
| 9. DK | |
| 63. Length of sexual abuse | 11-12 |
| 00. Under 1 year | |
| 01. 1 year | |
| 02. 2 years | |
| 77. Once | |

VariableColumn(s)

64. Frequency of sexual abuse

13-14

- 00. Once
- 01. Daily
- 02. Weekly
- 03. Monthly
- 77. More than once but no details given

65. Type of sexual abuse (in priority order)

15

- 1. Vaginal intercourse
- 2. Oral copulation
- 3. Other penetration
- 4. Touching offenses
- 5. Attempt rape
- 9. DK

66. Social service only: Time between referral date and closing date

16-17

- 00. Less than 1 month
- 01. 1 month