



What caused the decrease in sexual assault clear-up rates?

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The proportion of sexual assault incidents recorded by the NSW Police Force as 'cleared' or 'partially cleared' fell from 63 per cent in 1995 to 28 per cent in 2006. This study assesses three possible reasons for the decrease: (1) changes in the time taken by police to clear sexual assault incidents; (2) changes to the definition of what constitutes a 'cleared' sexual assault incident; and (3) changes in the number (and proportion) of cases where police are able to lay criminal charges. There is no evidence to support the first of these possibilities, very little evidence for the second, but considerable evidence for the third. While it is not possible to give any definitive explanation for the fall in the number (and proportion) of cases where police are able to lay charges, the most plausible reason is that the profile of sexual assault cases coming to police attention has shifted in a way that makes victims less willing or less likely to give evidence against suspected offenders. The changes in offence profile that are consistent with this interpretation include statistically significant decreases in the proportion of incidents involving physical injury, weapon use and co-occurring offences and a significant increase in the proportion of incidents where the victim and offender were known to one another.

KEYWORDS: *sexual assault, clear-up rates, injury, weapon use, co-occurring offences, domestic violence.*

INTRODUCTION

The percentage of sexual assault offences that are reported to police, proceed to court and ultimately result in a conviction has always been low when compared with non-sexual offences.¹ Evidence for this can be derived from crime victim surveys, which have estimated that only 15 to 20 per cent of female sexual assault victims report the incident to the police (Australian Bureau of Statistics 2003, 2007). The clear-up rate for those sexual assault matters that are reported to police is also very low. The accepted definition of a cleared criminal incident is one:

which, in the view of police, has been satisfactorily cleared by the commencement of legal proceedings or otherwise... A criminal incident is

cleared other than by commencement of legal proceedings when, under normal circumstances, a charge or information would have been laid against at least one person but, for a variety of reasons, police have been unable to make an arrest... (Goh & Moffatt 2008).

Fitzgerald (2006) found that, of all sexual assault, indecent assault and act of indecency incidents reported to the NSW Police Force in 2004, less than one-third were recorded as being cleared within 180 days of reporting.

These low clear-up rates are consistent with those found in other parts of the world. In the United Kingdom, for example, Kelly, Lovett and Regan (2005) found that between half and three-quarters of reported sexual assault incidents did not proceed beyond the police investigative stage. The low clear-up rate for sexual

assault is troubling but perhaps not unexpected, given the evidentiary difficulties involved with the prosecution of sexual assault matters. Over the last decade or so, however, there has been a marked decline in the proportion of sexual assault incidents cleared by the NSW Police Force. Figure 1 shows that the proportion of sexual assault incidents recorded as 'cleared' or 'partially cleared'² within 360 days of being reported to police fell from 63 percent in 1995 to just 28 per cent in 2006. The decrease in the proportion of incidents recorded as cleared is due partly to a fall in the numbers recorded as cleared (which fell from 1496 in 1995, to 1121 in 2006) and partly to an increase in the number of incidents reported to police over this time period (from 2391 in 1995, to 4035 in 2006).

With the exception of St George-Sutherland, there were statistically significant decreases in clear-up rates in each NSW statistical division or subdivision between 1995 and 2006. The observed fall in clearance rates at St George-Sutherland also approached the conventional level for statistical significance (Kendall's tau = -0.42, p = 0.055). The only other personal offence category that displayed a similar fall in clear-up rates was indecent assault and acts of indecency. The decrease in clear-up rates is uniquely associated with offences of a sexual nature.

At face value, there would appear to be three possible explanations for this trend:

- (1) Police may be taking longer to initiate criminal proceedings. The most common way in which police clear a criminal incident is through the laying of criminal charges. This requires the gathering of evidence, which in some cases (e.g. those involving DNA evidence) may require a significant amount of time. One possible explanation for the decline in the sexual assault clear-up rate, therefore, is that police might be taking longer to initiate criminal proceedings.
- (2) The way in which police define 'cleared incidents' may have changed. Police normally treat a case as cleared if they are able to initiate criminal proceedings against a suspected offender. In some circumstances, however, they record a case as having been cleared even if no proceedings are initiated (e.g. when the victim requests no action on the part of police). It is possible that the circumstances in which police are willing to record an incident as 'cleared' have changed in a way that reduces the proportion cleared.
- (3) The rate at which police lay criminal charges may have changed. As just noted, the clear-up rate for sexual assault is strongly influenced by the rate at which police actually lay criminal charges. The rate at which charges are laid is, in turn, affected by a host of factors, including the level of police resources, the willingness of victims to give evidence and the profile

Figure 1: Proportion of sexual assault incidents recorded by NSW Police as being cleared or partially cleared within 360 days, 1995-2006

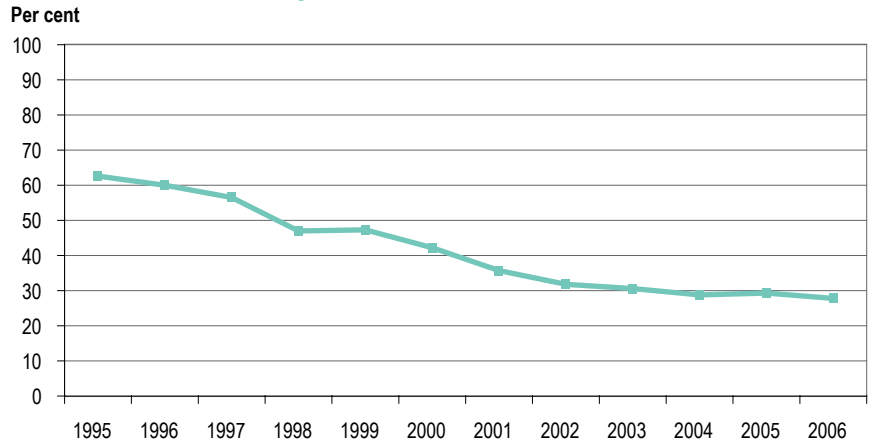
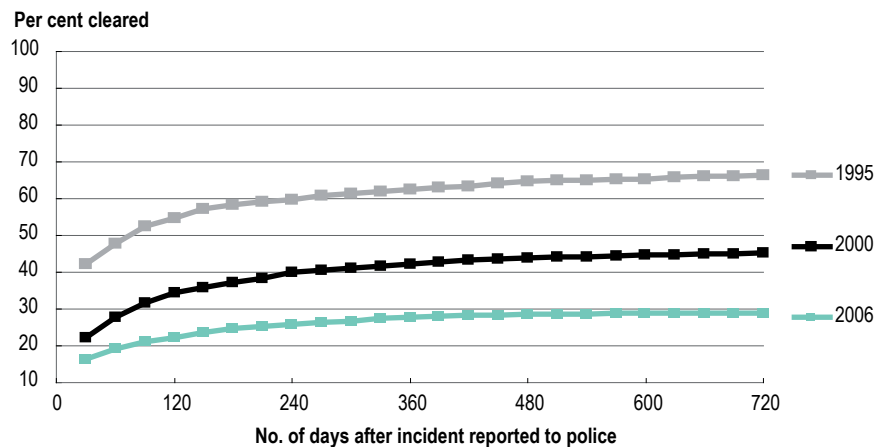


Figure 2: Clear-up rate for sexual assault incidents reported to police in 30 day intervals, 1995-2006



of sexual assault matters coming to the attention of police. Cases involving young or male victims, for example, are less likely to result in criminal charges being laid (Fitzgerald 2006). It is possible that police are now finding it more difficult to charge offenders and that this has reduced the clear-up rate for sexual assault.

The purpose of this bulletin is to explore the available evidence held by the Bureau bearing on these three possibilities. The data described below were drawn from three main sources. The first of these was the Computerised Operational

Policing System (COPS) database, which is the primary NSW Police Force crime recording system. This system contains coded information on certain standard characteristics of each criminal incident recorded by police (e.g. time, date, nature of offence, whether weapons were present during the commission of the offence etc.). It also contains narrative (i.e. free-text) information on the circumstances surrounding each recorded incident. The Bureau has direct access to both standard COPS fields and free-text narrative information. The second data source was the NSW Police

Case Management System, which is used by police to track the details of an investigation and prosecution. The Case Management System operates alongside the main COPS database and details are sometimes recorded in one system but not the other. The Bureau does not have direct access to this system but was granted access to limited information for a small number of cases for the purposes of this research. The third source was the Bureau's record of criminal charges prosecuted in the courts. The nature of the information used and its source will be explained where relevant.

HAS THERE BEEN A GROWTH IN THE TIME TAKEN TO CLEAR SEXUAL ASSAULT MATTERS?

Figure 1 describes the fall in the percentage of sexual assault incidents cleared within 360 days of reporting. The likelihood that any offence will be cleared tends to increase for a period immediately after the offence has been committed but then tends to level off (i.e. reach an asymptote). If the decline in the 360-day clear-up rate for sexual assault incidents were attributable to a growth in the time taken to clear such cases, we should expect the proportion being cleared at asymptote to be constant over time. Figure 2 shows that this is not the case. The proportion of sexual assaults cleared at asymptote was significantly higher in 1995 than it was in 2000, which was in turn higher again than the proportion cleared at asymptote in 2006. In 1995, 66 per cent of sexual assault incidents were cleared within 720 days. This is compared to just 45 per cent in 2000 and 29 per cent in 2006. As can be seen from Figure 2, there is very little improvement in the clear-up rate beyond 360 days. Therefore 360-day clear-up rates are observed for the remainder of the analyses reported in this bulletin.

HAS THERE BEEN A CHANGE IN THE DEFINITION OF A 'CLEARED' INCIDENT?

The apparent clear-up rate would also decline if police became less willing to regard certain kinds of incidents as

Table 1: Outcome of case by whether police recorded one or more incidents as cleared, coded from the 318 randomly selected event narratives and supplemented with information from the Case Management System

Case outcome	Number cleared	Total number	% cleared
Legal proceedings commenced	55	66	83.3
No action at victim's request	15	65	23.1
No complaint	3	11	27.3
Complaint withdrawn	2	10	20.0
Further investigation not possible	2	68	2.9
Police doubtful of offence	0	3	0.0
No further police action	12	74	16.2
Further investigation unknown	2	21	9.5
Total	91	318	28.6

Table 2: Case outcome by whether police recorded one or more incidents as cleared across the two observation years, 2000 and 2006

Case outcome/year	Police clear-up status			Chi-sq p-value
	Not cleared ^a (%)	Cleared (%)	Total (n)	
Legal proceedings commenced				
Event year = 2000	14.3	85.7	42	0.568
Event year = 2006	20.8	79.2	24	
Victim chose not to proceed				
Event year = 2000	73.5	26.5	34	0.654
Event year = 2006	78.8	21.2	52	
Other outcome				
Event year = 2000	89.0	11.0	82	0.492
Event year = 2006	91.7	8.3	84	

^a Cases were deemed to be 'not cleared' if police coded the cleared status as 'no further investigation', 'under investigation' or 'unknown'. Most commonly, cases that are not cleared are categorised as 'no further investigation'.

'cleared'. To assess this possibility, a sample of 318 sexual assault event narratives were extracted from the COPS system (158 records from 2000 and 160 records from 2006). These free-text narratives were coded to determine which case outcomes were most likely to be recorded as cleared, irrespective of the year in which the alleged offence was reported to police. This narrative information was also supplemented with information bearing on the case outcome derived from the Case Management System for a limited number of the 318

sexual assault cases. It was necessary to access information from the Case Management System because some event narratives contained little detail relating to the outcome of the matter. Table A1 in the Appendix describes how outcomes were coded.

As can be seen from Table 1, there is a substantial amount of variation in the case outcomes that lead police to record an incident as cleared. Cases are most likely to be classified as cleared if legal proceedings are commenced against at

least one offender, although it is worth noting that 17 per cent of such outcomes were still not recorded as being cleared or partially cleared. On the other hand, a proportion of cases were also regarded as cleared when other outcomes were observed, such as when no action was taken at the victim's request (23%), where it was deemed that no complaint had in fact been laid (27%) or a complaint was withdrawn after it had been made (20%). Similarly, a sizeable proportion (16%) of cases coded as 'no further police action' were also regarded as cleared. The other case outcomes were very unlikely to be regarded as cleared.

Irrespective of whether it is appropriate to regard a case as cleared when no legal action has been taken, if there has been a change in the way police define cleared cases, a change would be expected between 2000 and 2006 in the outcomes that lead to a case being regarded as cleared. The number of cases in some of the outcome categories shown in Table 1 is too small to test this possibility for each category. These categories were therefore collapsed into three categories: (1) matters where legal proceedings were commenced; (2) matters where the victim chose not to proceed, no complaint was made or the complaint was withdrawn; and (3) matters with some other outcome. Chi-square tests were then carried out to see whether the percentage cleared within each of these three categories differed between 2000 and 2006.

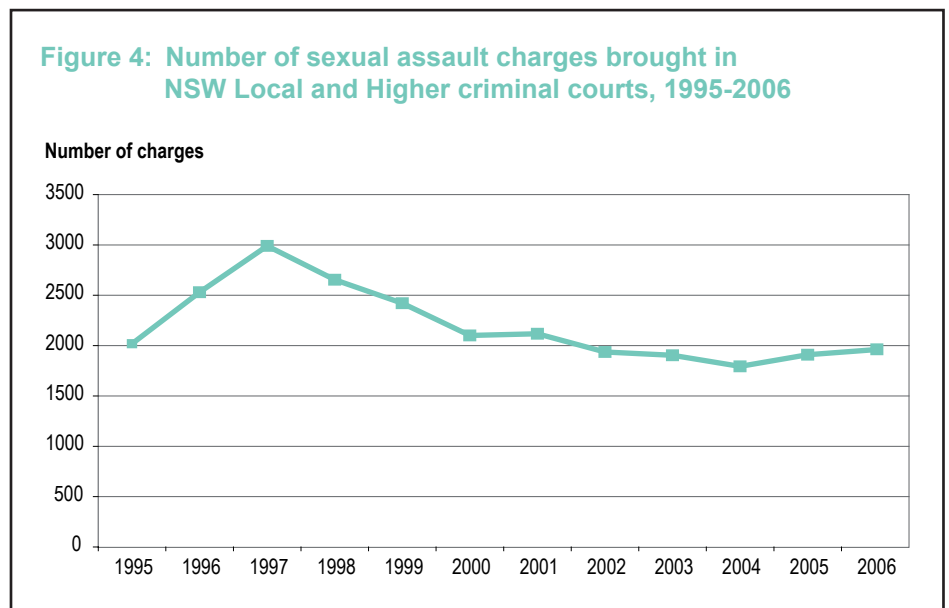
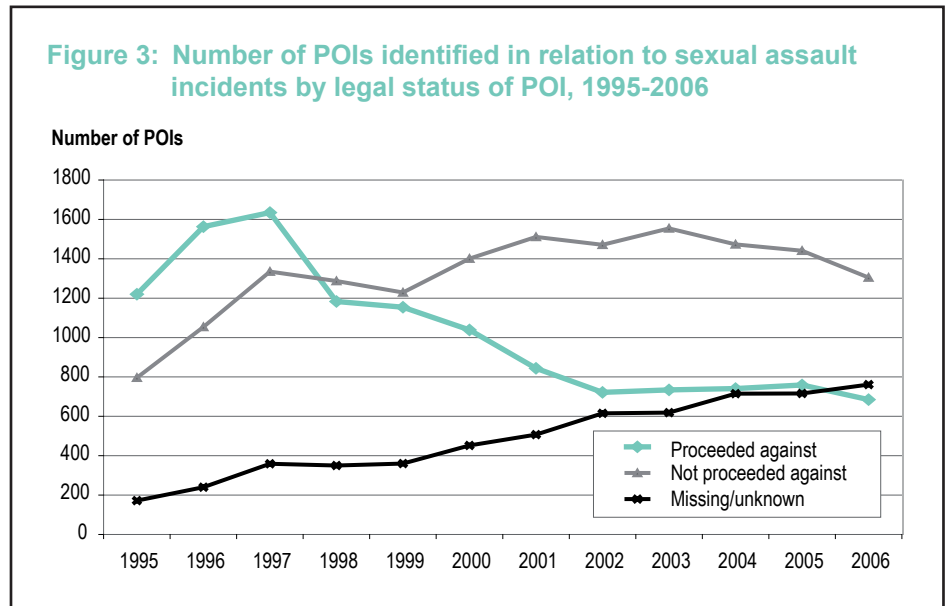
The outcome of this analysis is shown in Table 2. While the proportion regarded as cleared fell within each of these outcome categories, none of these differences were statistically significant. In 2000, 86 per cent of incidents where an alleged offender was proceeded against were recorded as cleared, compared with 79 per cent in 2006 ($p=0.568$). In 2000, 27 per cent of incidents where a victim chose not to proceed with a complaint were recorded as cleared, compared with 21 per cent in 2006 ($p=0.654$). In 2000, 11 per cent of incidents that resulted in some other outcome were recorded as cleared, compared with eight per cent in 2006 ($p=0.492$). Evidence for a change in the way cleared incidents are defined is

therefore not strong. It should be noted, however, that the numbers in some of these categories are relatively small and these small numbers afforded little statistical power to detect any definitional changes over time.

HAS THE RATE AT WHICH POLICE HAVE LAID CRIMINAL CHARGES IN SEXUAL ASSAULT CASES DECREASED?

When police record an incident on the COPS system, they record information about the person(s) of interest (POIs), or those persons who they suspect

committed the offence. They also record and update the legal status of those POIs, according to whether or not they have been proceeded against for the offence. Figure 3 shows that, after an initial rise between 1995 and 1997, there was a substantial decline in the number of POIs proceeded against for sexual assault incidents and a corresponding increase in the number of POIs who were not proceeded against. This suggests that the decline in clear-up rates has been driven by a decrease in the rate at which alleged offenders have been charged in relation to sexual assault matters.



It should be noted from Figure 3, however, that the decrease in the number of POIs who were charged has been matched by a rise in the number of incidents where no information was available about whether or not legal proceedings were initiated. The legal status was missing for 172 POIs (8%) in 1995. By 2006, this had increased to 761 (or 28%). It is possible that the reduction in cases where criminal proceedings were initiated is due to the growth in incidents where no information is recorded about whether or not criminal proceedings were initiated. To investigate this possibility, the number of sexual assault charges brought before the courts over this time period were examined. While this information comes from a completely different data source and the time periods are not directly comparable,³ Figure 4 shows that the trend in charges from the court data collection follows the same pattern as the trend in criminal proceedings from the police data collection (shown in Figure 3).

On the basis of this evidence, it appears that the decline in the sexual assault clear-up rate is due to a decline in the rate at which police have laid criminal charges. The following sections explore possible reasons for this decrease.

HAVE VICTIMS BECOME LESS WILLING TO PRESS CRIMINAL CHARGES?

As noted earlier, the likelihood that police will lay criminal charges is affected by a host of factors. One of the most important of these is the willingness of the victim to give evidence against the accused – if the victim is unwilling to proceed further with a matter, there is little prospect of a prosecution. We used the 318 event narratives described earlier to examine whether victims have become more or less willing to proceed with matters over time. Table 3 compares case outcomes in 2000 with case outcomes in 2006. For ease of comparison, case outcomes have again been grouped into ‘legal proceedings commenced’, ‘victim chose not to proceed’ and ‘other outcome’. A more detailed breakdown of the case outcomes is presented in Table A2 in the

Appendix. As can be seen from Table 3, the proportion of matters where the victim did not want to proceed to court increased from 22 per cent in 2000 to 33 per cent in 2006. This difference was statistically significant ($\chi^2=8.69$, $p=0.013$). Therefore, part of the reason for the decline in the rate at which police initiated prosecution of a sexual assault offence is the corresponding increase in the proportion of cases where the victim declined to proceed.

HAS THERE BEEN A CHANGE IN THE PROFILE OF SEXUAL ASSAULT INCIDENTS REPORTED TO POLICE?

Earlier research by the Bureau (Fitzgerald 2006) and others (Addington & Rennison 2008; Criminal Justice Sexual Offences Taskforce 2006; Morrison 2008) has shown that criminal proceedings are more likely to be initiated where the victim is physically injured, the victim is female

or the offence is serious (e.g. it involved co-occurring offences, multiple offenders or weapon use). Criminal proceedings are less likely to be initiated, on the other hand, where the suspect has not been identified, where the victim is a child, where there has been a long delay in reporting the offence or where the victim has a personal relationship with the suspected offender. This section of the bulletin examines trends in the proportion of sexual assault incidents involving characteristics that might increase or decrease the likelihood of charges being laid against an offender. We begin by analysing offence characteristics that are routinely recorded on the COPS database (see Table A4 in the Appendix for a detailed definition of these fields). These characteristics are derived from fields that police are required to update on the COPS database. Because there are many offence characteristics that police do not routinely record in standardised

Table 3: Case outcomes for a sample of 318 sexual assault matters

Case outcome	2000		2006	
	N	%	N	%
Legal proceedings commenced	42	26.6	24	15.0
Victim chose not to proceed	34	21.5	52	32.5
Other outcome	82	51.9	84	52.5
Total	158	100.0	160	100.0

Figure 5: Proportion of sexual assault incidents reported to police involving presence of a weapon, victim injury and co-occurring offences, 1995-2006

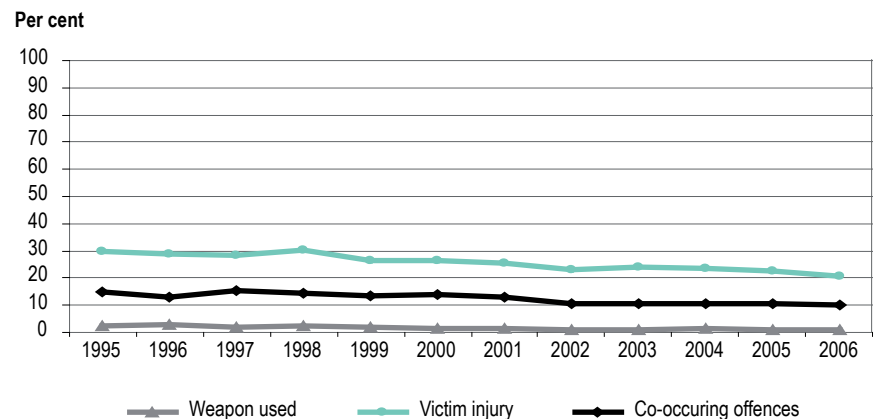
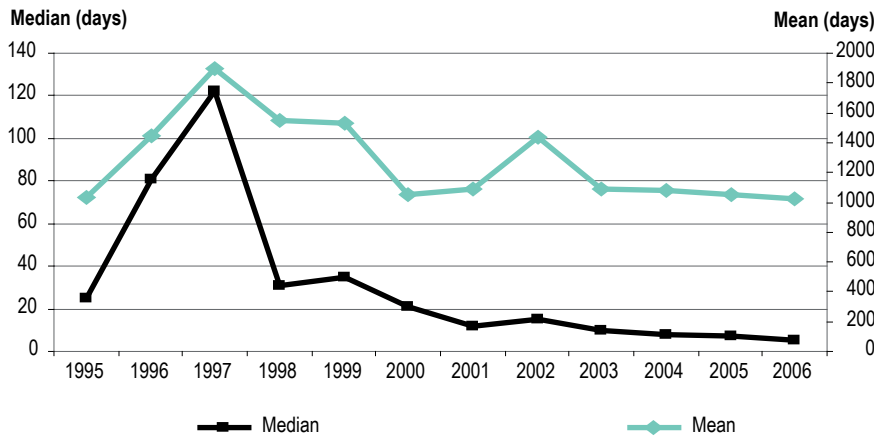


Figure 6: Mean and median delay between incident and report dates for sexual assault incidents, 1995-2006



matter was reported to police. Both the mean and median delay between incident and report date increased between 1995 and 1997 before steadily declining over the rest of the follow-up period. Over the entire time period, there were statistically significant decreases in both the mean ($p=0.040$) and median ($p<0.001$) delay between incident and report date. In 1995, half of all recorded sexual assaults were reported to police within 25 days of the alleged incident. In 2006, half of all recorded sexual assaults were reported to police within five days of the incident. Figure 6 therefore suggests that delay in reporting sexual assault offences has changed over time but in the opposite direction than would be expected if it were causally related to the decrease in clear-up rates. Fitzgerald's (2006) work suggests that, all else being equal, a decrease in reporting delay should have resulted in an increase in the clear-up rate rather than the observed decrease.

Figure 7: Proportion of sexual assault incidents reported to police where no suspected offender was identified, 1995-2006

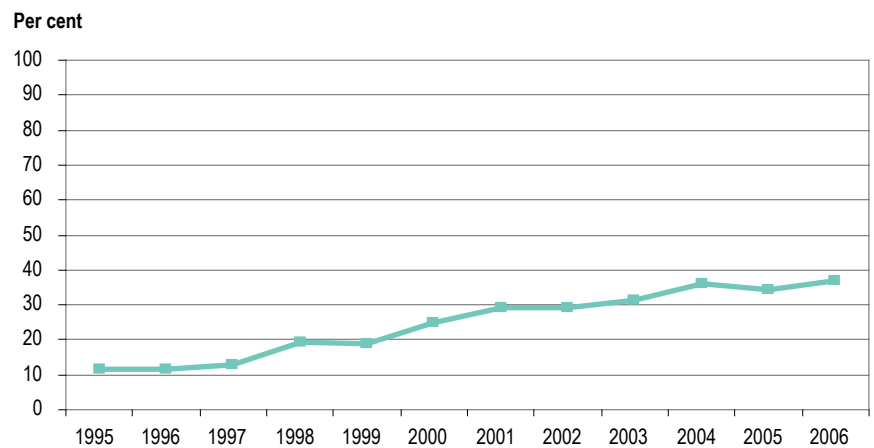


Figure 7 shows temporal trends in the proportion of incidents where no suspected offender was recorded. Over time, there was a statistically significant increase in the proportion of incidents where no suspected offender was identified ($p<0.001$). At face value, Figure 7 might suggest that there has been an increase in reporting of matters where no suspect has been identified and where police would have no capacity to prosecute. However, given the growth in cases where key details about the person of interest have not been recorded on COPS (see Figure 3), an alternative, and perhaps more plausible, explanation is that police have become less inclined to record POI details on the COPS system over time, even where a POI has been identified in relation to the incident. It is possible, for example, that police have become less inclined to record POI details on the COPS system and more inclined to record them on the Case Management System. This possibility could not be tested because we had access to only a limited amount of information from the Case Management System.

fields but which might relate to whether a suspect is apprehended, this analysis is supplemented by coding offence characteristics from the 318 free-text event narratives (see Table A3 in the Appendix for a detailed definition of these fields).

Figure 5 shows that there was a significant decrease in the proportion of incidents involving physical injury to the victim, co-occurring offences and presence of a weapon. The proportion of sexual assault incidents involving physical injury gradually declined from 30 per cent in 1995 to 21 per cent in 2006 ($p<0.001$).⁴ The proportion of sexual assault

incidents involving co-occurring offences significantly decreased from 15 per cent in 1995 to 10 per cent in 2006 ($p=0.002$). While weapons were only present in a very small proportion of all incidents, the decrease from approximately three per cent in 1995 to one per cent of incidents in 2006 was statistically significant ($p<0.001$). Figure 5 therefore provides evidence that there has been a decrease in the severity of sexual assault incidents reported to police over time.

Figure 6 shows the delay between the date on which the offence was alleged to have occurred and the date on which the

Figure 8: Gender of sexual assault victims, 1995-2006

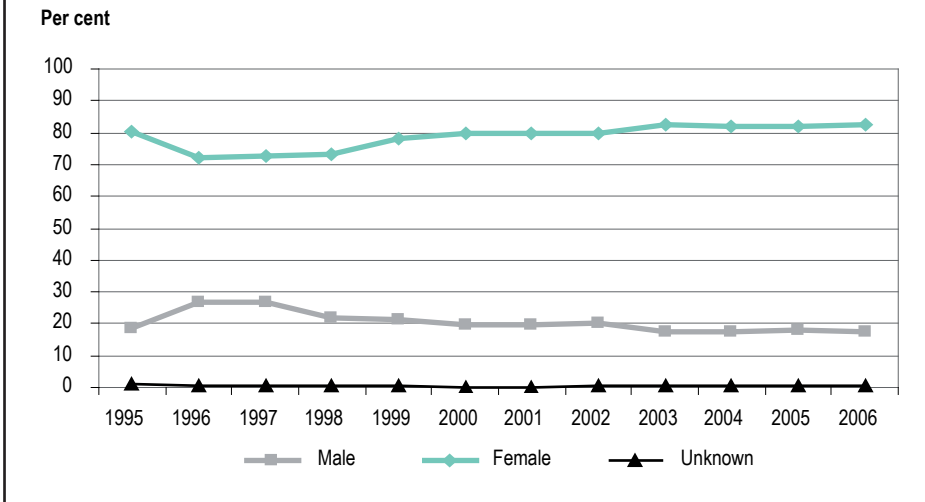


Figure 8 shows the trend in the proportion of incidents involving male victims. The proportion of incidents involving a male victim significantly decreased between 1995 and 2006 ($p=0.006$), although this was mainly due to the high proportion of incidents involving male victims in the years 1996 and 1997. Even if we accept this trend at face value, Fitzgerald (2006) found that sexual assault incidents were less likely to result in criminal proceedings when male victims were involved. As with the trend for delays in reporting, therefore, the trend in male victimisation is in the opposite direction than would be expected if it were contributing to the decline in initiation of criminal proceedings.

Trends were also examined for a range of other factors that may have been related to the likelihood that police will charge suspected offenders. No statistically significant changes were observed between 1995 and 2006 for any of the following characteristics:

- the proportion of incidents recorded as 'aggravated' (approximately 50% per year);
- the types of premises upon which sexual assault incidents were reported to have occurred (approximately 70% occurred in a residential location per year);
- the proportion of incidents reported as occurring on weekends (approximately 30% per year);
- the proportion of incidents involving multiple victims (approximately 10% per year);
- the proportion of incidents involving multiple suspected offenders (approximately 6% per year);
- the proportion of incidents involving victims aged 10 years or younger (approximately 25% per year);
- the proportion of incidents involving male suspected offenders (approximately 96% per year).

The characteristics of the offences described in the 318 sexual assault narratives were also investigated because police may record information in free-text that is not captured in the standard COPS field codes. These characteristics are summarised in Table 4 and the way in

Table 4: Case characteristics for a sample of 318 sexual assault matters

	2000		2006		Chi-sq p-value
	N	%	N	%	
Reporting person/agency					
Victim	86	54.4	76	47.5	0.383
Government agency	41	25.9	52	32.5	
Other (parent, witness, friend)	31	19.6	32	20.0	
Witness supporting victim's account	62	39.2	56	35.0	0.434
Physical and/or other evidence	41	25.9	31	19.4	0.161
Forensic medical examination	37	23.4	33	20.6	0.548
Victim provided a written statement and/or a formal interview	74	46.8	66	41.3	0.316
Suspected offender identified or described	125	79.1	120	75.0	0.383
Suspected offender interviewed by police	30	19.0	20	12.5	0.112
Victim consumed alcohol and/or drugs prior to or during the incident	37	23.4	29	18.1	0.245
Victim actively expressed non-consent (i.e. verbally and/or physically resisted the assault)	46	29.1	36	22.5	0.178
Relationship between victim and suspected offender					
Known to victim	112	70.9	128	80.0	0.042
Not known to victim	33	20.9	17	10.6	
Unknown	13	8.2	15	9.4	
Nature of the relationship					
Partner/ex-partner	12	7.6	23	14.4	0.065
Family member	45	28.5	46	28.8	
Other known person	55	34.8	59	36.9	
Not known to victim	33	20.9	17	10.6	
Unknown	13	8.2	15	9.4	
Total	158	100.0	160	100.0	

which these characteristics were coded is described in more detail in Table A3 of the Appendix. Table 4 shows that the only statistically significant change across the two observation years was in the relationship between the victim and the offender. Victims were significantly more likely to know the suspected offender for offences reported in 2006 than for offences reported in 2000. Closer inspection of the nature of the relationship between the victim and suspected offender revealed that, in 2006, nearly twice as many cases were reported where the suspected offender was a current or former partner than were recorded in 2000 (14.4% and 7.6% of incidents, respectively). The proportion of cases where the suspected offender was a family member (including parent/guardian) or known to the victim in another way remained relatively stable between 2000 and 2006.

SUMMARY AND DISCUSSION

The key findings to emerge from the current study are as follows:

1. There was no evidence that the decline in the sexual assault clear-up rate is due to an increase in time taken by police to identify, arrest and prosecute offenders.
2. There was little evidence that the decline in sexual assault clear-up rates is due to a change in the way police define 'cleared' status.
3. The decline in the clear-up rate appears to be largely attributable to a decrease in the number and proportion of cases where police laid charges against an offender.

It is impossible to give a definitive explanation for this third conclusion. The most likely explanation, however, is that the profile of sexual assault cases coming to police attention has shifted in ways that make victims less likely to give evidence against suspected offenders and police less likely to have the evidence required to mount an effective prosecution. The changes in offence profile that are consistent with this interpretation include

statistically significant decreases in the proportion of incidents involving physical injury, the presence of a weapon and co-occurring offences. They also include statistically significant increases in the proportion of matters where the victim is a partner or ex-partner. Although it was not possible to test this hypothesis in the current study, intimate partners may be less willing to proceed with matters if they wish to reconcile the relationship or to shield children from court proceedings.⁵ Indeed, Lievore (2005) analysed prosecutorial decisions made by Departments of Public Prosecution in five Australian jurisdictions and found that cases involving strangers were more likely to proceed to prosecution.

The decrease in victim willingness to give evidence against the offender is probably partly attributable to the factors mentioned above. However, media reports also suggest that victims may have become less willing to face the accused person in court in light of the traumatic and highly publicised courtroom experiences of a number of sexual assault victims (e.g. Fife-Yeomans 2007; Markson 2007). Future research is necessary to determine the degree to which these factors might be responsible for the decreasing clear-up rate. While legislation has been passed in recent years to make the courtroom experience less arduous for victims,⁶ it remains to be seen whether these amendments will translate into increased willingness to give evidence against alleged offenders and subsequent improvements in police clear-up rates.

Any study of this nature is, of necessity, limited in what it can achieve. Our understanding of what happens in sexual assault cases is limited by the information we could retrieve from police and court record computer systems. There is no guarantee that the information recorded on these systems gives a complete or fully accurate picture of the criminal prosecution process for sexual assault or any other offence. We could not account for other factors that might significantly influence whether an offence is cleared, such as police resources or the exercise of prosecutorial discretion to proceed in

sexual assault matters. The conclusions we have reached should therefore be regarded as tentative until additional research using alternative methodologies (e.g. interviews with police or sexual assault victims) is carried out.

These findings do, however, serve to highlight several deficiencies in the way police record information bearing on the outcome of their investigations. The current findings suggest that in approximately 17 per cent of cases where police proceed against one or more offenders, they fail to record that incident as cleared. Indeed, in a number of cases where police have not initiated criminal proceedings (because victims have withdrawn the complaint or otherwise), the incident has been recorded as cleared. It would be useful for police to provide a clear definition of what constitutes a cleared offence and to put in place systems to ensure adherence to this definition. Our results also suggest that there is a clear need for one integrated system for recording the details of persons suspected of committing criminal offences, rather than the current dual process of updating information on both the event record and on the Case Management System. The fact that legal status was missing for one in four POIs identified on COPS in relation to sexual assault incidents in 2006 represents a serious quality issue that needs to be addressed. Finally, and perhaps most importantly, there is a clear need for police to implement a system whereby they clearly record their reasons for suspending or ceasing an investigation. This information is currently only accessible via in-depth analysis of free-text event narratives such as that reported here.

NOTES

- 1 The term 'sexual assault' in this bulletin refers exclusively to those offences recorded by police as sexual assault, aggravated sexual assault or assault with intent to have sexual intercourse. Indecent assault, acts of indecency and other sexual offences were not included in any analyses reported in this bulletin.

- 2 Incidents where there are multiple suspects are regarded as partially cleared when criminal proceedings are initiated against one of the suspected offenders but not against others.
- 3 In addition to non-comparable time periods, the data drawn from the COPS database relates to the number of persons charged with sexual assault while data drawn from the criminal courts data collection relates to the number of charges. One person can be charged with multiple counts of the same offence.
- 4 Non-parametric Kendall's tests were used for all trend analyses.
- 5 We thank one of our anonymous reviewers for this suggestion.
- 6 For example, section 294A of the *Criminal Procedure Act 1986* proscribes complainants in sexual assault matters from being examined, cross-examined or re-examined by an accused person unrepresented by counsel. Section 294B of the Act makes provision for complainants in "prescribed sexual offence" proceedings to give evidence by alternative arrangements in a place other than the courtroom. We thank one of our anonymous reviewers for pointing this out.
- 7 Doli incapax refers to the presumption that children under a certain age cannot be deemed criminally responsible.

REFERENCES

- Addington, LA & Rennison, CM 2008, 'Rape co-occurrence: Do additional crimes affect victim reporting and police clearance of rape?' *Journal of Quantitative Criminology*, vol. 24, no. 2, pp 205-226.
- Australian Bureau of Statistics 2003, *Crime and Safety, Australia*, Australian Bureau of Statistics, cat. no. 4509, Canberra.
- Australian Bureau of Statistics 2007, *Crime and Safety, New South Wales*, Australian Bureau of Statistics, cat. no. 4509.1, Canberra.

Criminal Justice Sexual Offences Taskforce 2006, *Responding to sexual assault: The way forward*, Attorney General's Department of NSW, Sydney.

Fife-Yeomans, J 2007, 'Sex victims protected from aggressive questioning in court', *The Daily Telegraph*, December 17, Sydney.

Goh, D & Moffatt, S 2008, *New South Wales recorded crime statistics 2007*, NSW Bureau of Crime Statistics and Research, Sydney.

Fitzgerald, J 2006, 'The attrition of sexual offences from the New South Wales criminal justice system', *Crime and Justice Bulletin*, no. 92, NSW Bureau of Crime Statistics and Research, Sydney.

Kelly, L, Lovett, J & Regan, L 2005, *A gap or a chasm? Attrition in reported rape cases*, Home Office Research Study no. 293, Home Office, London.

Lievore, D (2005), 'Prosecutorial decisions in adult sexual assault cases', *Trends and Issues in Crime and Criminal Justice*, no. 291, Australian Institute of Criminology, Canberra.

Markson, S 2007, 'Rape victims told to avoid court', *The Daily Telegraph*, July 29, Sydney.

Morrison, Z 2008, *What is the outcome of reporting rape to the police? Study of reported rates in Victoria 2000-2003: Summary Research Report*, Australian Institute of Family Studies, Canberra.

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APPENDIX

Table A1 gives a detailed breakdown of the way in which case outcomes were coded from the free-text event narratives. These outcomes were also

supplemented with information bearing on the outcomes of cases derived from the Case Management System.

Table A2 gives a more complete breakdown of case outcomes across the two observation years. It is clear from Table A2 that the biggest change in outcomes across the two years was a decrease in the proportion of matters that resulted in legal proceedings and an increase in offences where the victim requested that police take no further action, where there was no complaint and (to a lesser degree) where the complaint was withdrawn. There was also a small increase in the proportion of matters that were coded 'no further police action' by virtue of non-disclosure, insufficient evidence, non-competent witnesses, inability to provide offence details, a deceased suspect, doli incapax⁷ or some other reason for suspending the case.

Table A3 gives a detailed description of the characteristics coded from the 318 free-text event narratives. Each offence characteristic was coded as being present, not present, or unknown (i.e. where there was insufficient information in the police narrative to code the information). To simplify the analysis of these characteristics and to assess whether there were any changes in sexual assault offence characteristics over time, the 'not present' and 'unknown' categories were collapsed. Thus, the results reported in Table 4 in the main body of this report reflect the proportion of sexual assaults including each offence characteristic based on whether the information was reported in the police narrative. It is possible that some offences had the characteristics of interest but were not recorded by police. This would only be problematic for monitoring trends if police systematically changed their recording practices over the study period.

Table A4 summarises the offence characteristics derived from fields routinely recorded on the COPS database.

Table A1: Explanation of case outcomes for a sample of 318 sexual assault matters

Case outcome	Explanation
Legal proceedings commenced	<ul style="list-style-type: none"> • POI charged or given Court Attendance Notice/summons
No action at victim's request	<ul style="list-style-type: none"> • Arrest not desired • Victim only wanted to report the incident • Victim requested the police not to proceed • Victim signed statement of discontinuance
No complaint	<ul style="list-style-type: none"> • Reported incident but no complaint from victim
Complaint withdrawn	<ul style="list-style-type: none"> • Report initiator withdrew the complaint • Victim signed retraction statement
Further investigation not possible	<ul style="list-style-type: none"> • No official statement of complaint from the victim • Victim could not be located and/or contacted • Victim refused to assist police with their investigation • POI unknown or unidentified
Police doubtful of offence	<ul style="list-style-type: none"> • Police clearly doubtful that an offence had been committed
No further police action	<ul style="list-style-type: none"> • Non-disclosure by child victim • Insufficient evidence to prosecute/proceed • Victim judged not a competent witness • Victim unable to establish clear timeframe for offence and/or unable to provide offence details • Suspect deceased • No criminal action, doli incapax • Suspend investigation pending further information and/or evidence
Further investigation unknown	<ul style="list-style-type: none"> • Case forwarded to another state or Local Area Command (LAC) • POI identified, but researcher unable to identify the investigation status and/or outcome • Case referred to Joint Investigation Response Team (JIRT) for investigation, but researcher unable to identify investigation status • Detectives to follow-up, but no further information • Report received, but no further information in the narrative to explain investigation status

Table A2: Case outcomes for a sample of 318 sexual assault matters

Case outcome	2000		2006	
	N	%	N	%
Legal proceedings commenced	42	26.6	24	15.0
No action at victim's request	27	17.1	38	23.8
No complaint	3	1.9	8	5.0
Complaint withdrawn	4	2.5	6	3.8
No further police action	34	21.5	40	25.0
Further investigation not possible	35	22.2	33	20.6
Further investigation unknown	12	7.6	9	5.6
Police doubtful of offence	1	0.6	2	1.3
Total	158	100.0	160	100.0

Table A3: Sexual assault offence characteristics coded from the COPS free-text narratives

<i>Characteristic</i>	<i>Definition</i>
Reporting person/ agency	The person or agency that reported the sexual assault incident to police. Three categories were distinguished: the victim, a government agency, or someone other than the victim. Government agencies included the Department of Community Services (DOCS), the Joint Investigative Response Team (JIRT), hospitals and community service centres. Other people reporting the incident included parents, friends, witnesses to the incident, the person of interest, or the victim's carer or counsellor. There were no 'unknown' values for this variable.
Witness supporting victim's account	There was a witness to the actual sexual assault in only two of the 318 cases. In both of these cases, the witnesses reported the assault to police. Witnesses as described by police in the event narratives referred to people to whom the victim had previously disclosed the incident (before reporting to police) or someone who provided additional information that supported or refuted the victim's account (e.g. they witnessed the victim's behaviour and activities surrounding the assault). Witness information was 'unknown' in eight per cent of cases.
Physical and/or other evidence	Physical evidence included photographs of, or objects found at, the crime scene (such as bed sheets, fingerprints), the clothes the victim was wearing at the time of the assault (if they did not undergo a forensic medical examination) and other evidence collected to corroborate the victim's account, such as, semen, bloodstains, hair and evidence of physical injury to the victim (e.g. photographs of victim injuries). This information was 'unknown' in eight per cent of cases.
Forensic medical examination	A forensic medical examination is only conducted with the victim's consent. The purpose of the medical examination is to assess the victim for trauma and/or physical injuries and to obtain forensic evidence. During the examination, a doctor will take a history of the assault, photograph evidence of injuries, collect semen and foreign hair and/or fibre samples and collect the victim's clothing. This information was 'unknown' in eight per cent of the event narratives.
Victim provided a written statement and/or a formal interview	Victims and/or their families (in the case of child complainants) may decline to provide a formal statement of complaint. The provision of written statements refers to instances where detectives have interviewed adult victims and a typewritten statement detailing the victim's account is produced. The provision of a formal interview refers to instances where the Joint Investigative Response Team (JIRT) detectives interview child victims of sexual assault and an audio-recorded statement is produced. This electronic statement constitutes a written statement for court purposes. This information was 'unknown' for 15 per cent of cases.
Suspected offender identified or described	Includes incidents where information was provided to police from a person or agency other than the victim, that could be used by the police to identify the POI (e.g. the POI was the victim's uncle), cases where the victim provided the police with the POI's name/identity (in cases where the POI was known to the victim), or provided police with a description of the POI (in cases where the POI was a stranger to the victim). This information was 'unknown' in two per cent of cases.
Suspected offender interviewed by police	The POI was interviewed by police. This information was unknown in 12 per cent of the event narratives.
Victim consumed alcohol and/or drugs prior to, or during, the incident	Indicates whether the victim had consumed alcohol and/or drugs prior to, or during, the assault. If the victim mentioned the possibility of their drink being spiked, drugs were coded as being present during the assault. This information was 'unknown' in 18 per cent of the event narratives.
Victim actively expressed non-consent (i.e. verbally and/or physically resisted the assault)	Non-consent could be expressed verbally by saying "no", pleading with the attacker to stop, by crying or screaming for help and/or through physical resistance, including struggling or trying to escape. This information was 'unknown' in 40 per cent of the event narratives.
Relationship between victim and suspected offender	Indicates whether the POI was a person who was known to the victim (i.e. had a pre-existing relationship with the victim) or was a stranger to the victim. The relationship between the victim and suspected offender was 'unknown' in nine per cent of cases.
Nature of the relationship between victim and POI	'Partner/ex-partner' included current and former spouses, partners (de facto relationships) and boyfriends. 'Family member' included parents and their partners, step-parents, siblings and other family members. 'Other known person' included friends, acquaintances and household members. 'Not known to victim' included a POI who was a stranger to the victim. The relationship between the victim and suspected offender was 'unknown' in nine per cent of cases.

Table A4: Sexual assault offence characteristics derived from routinely recorded COPS fields

Characteristic	Definition
Physical injury	Whether the alleged victim sustained physical injuries in the commission of the offence as well as the type of injury sustained.
Co-occurring offences	Co-occurring offences were defined as any report of a sexual assault where police also recorded one or more offences of a non-sexual nature relating to the same matter. More specifically, a sexual assault incident was described as involving a co-occurring offence, if one or more incidents of a non-sexual nature were recorded within the same 'event' on the COPS system.
Weapon presence	Weapon use is derived from the 'modus operandi' field in the COPS system, or the offender's method of operation. Sexual assault incidents were deemed not to have involved a weapon if weapon use was not mentioned as a modus operandi on COPS.
Delay between incident and report dates	Mean and median delay between the date of reporting an incident and the date on which an incident was alleged to have occurred was calculated from these two dates on the COPS system. Fewer than two per cent of incidents in any observation year were missing one or both of these dates. Missing values were excluded when calculating mean and median delay.
Proportion of incidents with no POI recorded	The number and proportion of incidents where no POI was identified was calculated by counting the number of POIs associated with each incident in each observation year. In each year, the number of incidents where no POI details were recorded acted as the numerator and the total number of recorded incidents acted as the denominator.
Victim gender	Police routinely record victim gender within the victim details field on COPS. Less than one per cent of all recorded victims have missing gender information and these victims were excluded from calculations.
Aggravation	Police record sexual assault incidents as aggravated or non-aggravated. 'Aggravation', as defined under s61J of the <i>Crimes Act 1900</i> , involves: offences where the offender threatens or inflicts actual bodily harm, sexual assault in company, offences against children, offences where the victim is under the authority of the perpetrator, or the victim has a serious physical or intellectual disability. While the police categorisation should concord closely with those offences as defined in legislation, it is possible that some offences have been misclassified. There were no missing data in any observation year.
Premises types	Police record several levels of the location on which offences were alleged to have occurred. For the current study, trends were observed for offences occurring on 'residential premises', 'outdoor/public locations' or 'other premises' types. There were no missing data in any observation year.
Weekend assaults	Sexual assaults were recorded as occurring on weekends if the incident date fell on a Saturday or Sunday. There were no missing data in any of the observation years.
Multiple victims	The proportion of offences involving multiple victims was calculated by dividing the number of incidents with more than one victim record attached by the total number of incidents recorded. There were no missing data in any of the observation years.
Multiple suspected offenders (POIs)	The proportion of incidents involving multiple POIs was calculated by dividing the number of incidents with more than one POI record by the total number of incidents where one or more POIs were recorded. Incidents with missing POI information were not included in this calculation.
Victims aged 10 years or younger	The proportion of victims who were aged 10 years or younger was calculated by dividing the number aged 10 years or younger by the total number for whom age was recorded. Age was missing for six to 14 per cent of victims. Missing values were assumed to be unrelated to victim age and ignored for the purposes of this calculation.
Gender of suspected offenders (POIs)	Police routinely record POI gender under the POI details on COPS. Approximately one per cent of all recorded victims had missing gender information. Missing data were excluded from these calculations.