



New South Wales Law Reform Commission

Consent in relation to sexual offences

Statement about data in Report 148

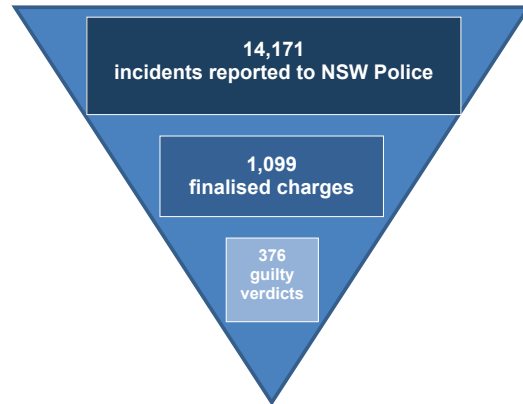
November 2021
www.lawreform.justice.nsw.gov.au

Statement about data in Report 148, *Consent in Relation to Sexual Offences*

- 1.1 The NSW Law Reform Commission Report 148, *Consent in Relation to Sexual Offences*, was tabled in NSW Parliament on 18 November 2020.
- 1.2 In chapter 2 of the report, *Sexual offences: trends and themes*, we quoted data about sexual offences provided to us by the NSW Bureau of Crime Statistics and Research (BOCSAR). Since the report was tabled, BOCSAR has notified us that some of the data set out in the report was incorrect.
- 1.3 This statement sets out the original version of the data in chapter 2, alongside the correct data, based on new datasets provided by BOCSAR (see footnotes). The accompanying text has also been modified accordingly. We have published these corrections in order to draw them to general attention.
- 1.4 The NSW Law Reform Commission apologises for the inaccuracies in the data quoted in the report. We relied in good faith on the data provided to us by BOCSAR and at the time it was received, we understood the data to be correct.
- 1.5 The NSW Law Reform Commission considers that, although there have been changes to the figures and percentages, these do not affect our conclusions in the report, which remain supported by the correct data.

2. Sexual offences, trends and themes

Figure 2.1: Alleged sexual assaults and aggravated sexual assaults in NSW, July 2018 – June 2019

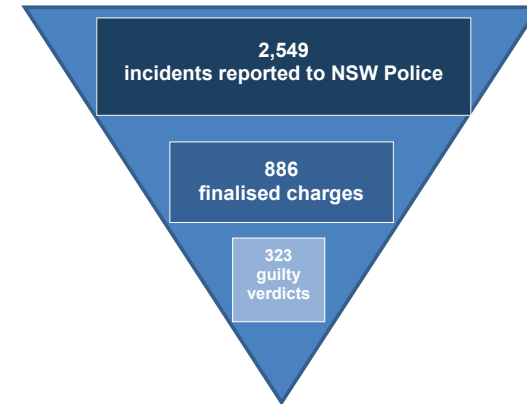


Source: NSW Bureau of Crime Statistics and Research¹

1. NSW Bureau of Crime Statistics and Research, *NSW Criminal Court Statistics 2018–2019: Number of Finalised and Proven Charges for Selected Law Parts Relating to Sexual Assault* (ap20-18680); NSW Bureau of Crime Statistics and Research, *NSW Criminal Courts Statistics July 2018 to June 2019: Number of Persons of Interest for Selected Offences under the Crimes Act 1900* (20-18679).

2. Sexual offences: trends and themes

Figure 2.1: Alleged sexual assaults and aggravated sexual assaults in NSW, July 2018 – June 2019



Source: NSW Bureau of Crime Statistics and Research¹

1. NSW Bureau of Crime Statistics and Research, *Number of incidents of sexual assault recorded by the NSW Police* (ac21-20793); NSW Bureau of Crime Statistics and Research, *Number of finalised sexual assault, indecent assault and act of indecency charges finalised in NSW Criminal Courts* (ac21-20773).

2. Sexual offences: trends and themes

- 2.15 As the table below shows, between July 2018 and June 2019, the NSW Police Force (“NSW Police”) recorded 14,994 incidents of alleged sexual assault, aggravated sexual assault, sexual touching or sexual act. However, in the same year, only 1207 charges for these offences were finalised. This represents 8% of the number of reported incidents.
- 2.16 Similarly, in 2018–2019, NSW Police identified 15,654 persons of interest for these offences. In the same year, only 511 people faced a finalised charge. This represents 3% of the number of persons of interest.¹

Table 2.1: Charging rates for sexual offences in NSW, July 2018 – June 2019

Offence	Number of incidents recorded by NSW Police	Number of finalised charges	Number of persons of interest recorded by NSW Police	Number of defendants with a finalised charge
Total	14,994	1,207	15,654	511
Sexual assault	5,294	539	5,395	201
Aggravated sexual assault	8,877	560	9,434	222
Sexual touching and aggravated sexual touching	629	74	631	62
Sexual act and aggravated sexual act	194	34	194	26

Source: NSW Bureau of Crime Statistics and Research²

1. NSW Bureau of Crime Statistics and Research, *NSW Recorded Crime Statistics July 2018 to June 2019: Number of Persons of Interest for Selected Offences under the Crimes Act 1900* (20-18679); NSW Bureau of Crime Statistics and Research, *NSW Criminal Court Statistics 2018–2019: Number of Finalised and Proven Charges for Selected Law Parts Relating to Sexual Assault* (ap20-18680); NSW Bureau of Crime Statistics and Research, *NSW Criminal Courts Statistics July 2018 to June 2019: Number of Defendants with a Finalised Charge and a Proven Charge* (20-18706).
2. NSW Bureau of Crime Statistics and Research, *NSW Recorded Crime Statistics July 2018 to June 2019: Number of Persons of Interest for Selected Offences under the Crimes Act 1900* (20-18679); NSW Bureau of Crime Statistics and Research, *NSW Criminal Court Statistics 2018–2019: Number of Finalised and Proven Charges for Selected Law Parts Relating to Sexual Assault* (ap20-18680); NSW Bureau of Crime Statistics and Research, *NSW Criminal Courts Statistics July 2018 to June 2019: Number of Defendants with a Finalised Charge and a Proven Charge* (20-18706).

2. Sexual offences: trends and themes

- 2.15 As the table below shows, between July 2018 and June 2019, the NSW Police Force (“NSW Police”) recorded 4,883 incidents of alleged sexual assault, aggravated sexual assault, sexual touching, or sexual act. In the same year, 2,658 charges for these offences were finalised. This represents 54% of the number of reported incidents.
- 2.16 Similarly, in 2018–2019, NSW Police identified 3,570 persons of interest for these offences. In the same year, 1,064 people faced a finalised charge. This represents 30% of the number of persons of interest.¹

Table 2.1: Charging rates for sexual offences in NSW, July 2018 – June 2019

Offence	Number of incidents recorded by NSW Police	Number of finalised charges	Number of persons of interest recorded by NSW Police	Number of defendants with a finalised charge
Total	4,883	2,658	3,570	1,064
Sexual assault	2,549	886	2,105	328
Sexual touching	1,905	1453	1,479	694
Sexual act	429	319	279	210

Source: NSW Bureau of Crime Statistics and Research²

1. NSW Bureau of Crime Statistics and Research, Number of POIs (unique POIs per incident whether proceeded or not) on sexual offence incidents (adult victims only) (21-20885); NSW Bureau of Crime Statistics and Research, NSW Bureau of Crime Statistics and Research, *Number of finalised sexual assault, indecent assault and act of indecency charges finalised in NSW Criminal Courts* (ac21-20773).
2. NSW Bureau of Crime Statistics and Research, *Number of incidents of sexual assault recorded by the NSW Police* (ac21-20793); NSW Bureau of Crime Statistics and Research, Number of POIs (unique POIs per incident whether proceeded or not) on sexual offence incidents (adult victims only) (21-20885); NSW Bureau of Crime Statistics and Research, *Number of finalised sexual assault, indecent assault and act of indecency charges finalised in NSW Criminal Courts* (ac21-20773); NSW Bureau of Crime Statistics and Research, NSW Bureau of Crime Statistics and Research, *Number of persons in finalised court appearances with one or more charges of a sexual offence against an adult victim* (21-20883).

2. Sexual offences: trends and themes

- 2.28 Data is available in NSW on charges that are withdrawn during the prosecution stage. Between July 2018 and June 2019, 1099 individual charges of sexual assault or aggravated sexual assault were finalised.¹ Of these charges, 21% (230 out of 1099 charges) were withdrawn by the prosecution.
- 2.29 This rate was similar for sexual touching and sexual act offences, with 16% (12 out of 74) and 18% (6 out of 34) of charges withdrawn, respectively.²

1. NSW Bureau of Crime Statistics and Research, *NSW Criminal Court Statistics 2018–2019: Number of Finalised and Proven Charges for Selected Law Parts Relating to Sexual Assault* (ap20-18680). This includes offences against *Crimes Act 1900* (NSW) s 61I, s 61J, s 61JA.

2. NSW Bureau of Crime Statistics and Research, *NSW Criminal Court Statistics 2018–2019: Number of Finalised and Proven Charges for Selected Law Parts Relating to Sexual Assault* (ap20-18680).

2. Sexual offences: trends and themes

- 2.28 Data is available in NSW on charges that are withdrawn during the prosecution stage. Between July 2018 and June 2019, 886 individual charges of sexual assault or aggravated sexual assault were finalised. Of these charges, 18% (160 out of 886 charges) were withdrawn by the prosecution.¹
- 2.29 This rate was slightly higher for sexual touching (26% or 385 out of 1,453 charges) and sexual act charges (23% or 72 out of 319 charges).²

1. NSW Bureau of Crime Statistics and Research, *Number of finalised sexual assault, indecent assault and act of indecency charges finalised in NSW Criminal Courts* (ac21-20773).

2. NSW Bureau of Crime Statistics and Research, *Number of finalised sexual assault, indecent assault and act of indecency charges finalised in NSW Criminal Courts* (ac21-20773).

2. Sexual offences: trends and themes

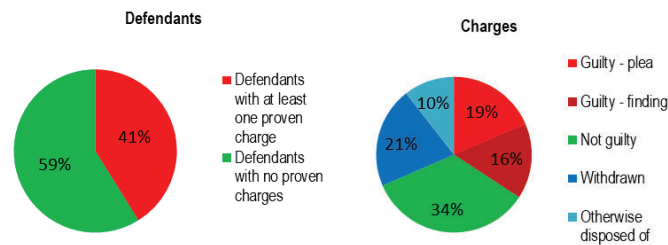
2.33 Between July 2018 and June 2019 in NSW, 423 defendants were charged with 1099 individual charges of sexual assault or aggravated sexual assault.¹ Of these 423 defendants, 174 (41%) were found guilty of at least one offence (this is called having a “proven charge”).

2.34 Further, of these 1099 charges:

- 376 (34%) had a “guilty” verdict (this is called being “proven”)
- 377 (35%) had a “not guilty” verdict, and
- 346 (31%) were otherwise disposed of or withdrawn.²

2.35 These statistics are demonstrated in the charts below:

Figure 2.2: Sexual assault and aggravated sexual assault charges before NSW courts, July 2018 – June 2019



Source: NSW Bureau of Crime Statistics and Research³

1. NSW Bureau of Crime Statistics and Research, *NSW Criminal Courts Statistics July 2018 to June 2019: Number of Defendants with a Finalised Charge and a Proven Charge* (20-18706); NSW Bureau of Crime Statistics and Research, *NSW Criminal Court Statistics 2018–2019: Number of Finalised and Proven Charges for Selected Law Parts Relating to Sexual Assault* (ap20-18680). This includes offences against *Crimes Act 1900* (NSW) s 61I, s 61J, s 61JA.
2. NSW Bureau of Crime Statistics and Research, *NSW Criminal Court Statistics 2018–2019: Number of Finalised and Proven Charges for Selected Law Parts Relating to Sexual Assault* (ap20-18680).
3. NSW Bureau of Crime Statistics and Research, *NSW Criminal Courts Statistics July 2018 to June 2019: Number of Defendants with a Finalised Charge and a Proven Charge* (20-18706); NSW Bureau of Crime Statistics and Research, *NSW Criminal Court Statistics 2018–2019: Number of Finalised and Proven Charges for Selected Law Parts Relating to Sexual Assault* (ap20-18680).

2. Sexual offences: trends and themes

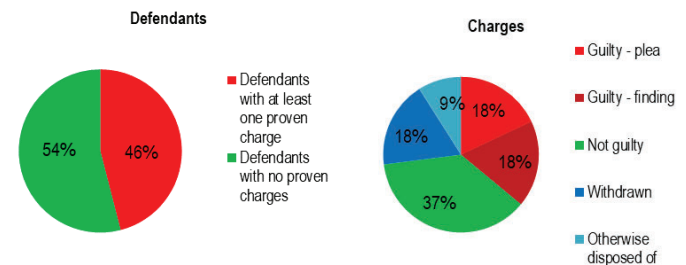
2.33 Between July 2018 and June 2019 in NSW, 328 defendants were charged with 886 individual charges of sexual assault or aggravated sexual assault.¹ Of these 328 defendants, 152 (46%) were found guilty of at least one offence (this is called having a “proven charge”).

2.34 Further, of these 886 charges:

- 323 (36%) had a “guilty” verdict (this is called being “proven”)
- 327 (37%) had a “not guilty” verdict, and
- 236 (27%) were otherwise disposed of or withdrawn.²

2.35 These statistics are demonstrated in the charts below:

Figure 2.2: Sexual assault and aggravated sexual assault charges before NSW courts, July 2018 – June 2019



Source: NSW Bureau of Crime Statistics and Research³

1. NSW Bureau of Crime Statistics and Research, NSW Bureau of Crime Statistics and Research, *Number of persons in finalised court appearances with one or more charges of a sexual offence against an adult victim* (21-20883).
2. NSW Bureau of Crime Statistics and Research, *Number of finalised sexual assault, indecent assault and act of indecency charges finalised in NSW Criminal Courts* (ac21-20773).
3. NSW Bureau of Crime Statistics and Research, *Number of finalised sexual assault, indecent assault and act of indecency charges finalised in NSW Criminal Courts* (ac21-20773); NSW Bureau of Crime Statistics and Research, NSW Bureau of Crime Statistics and Research, *Number of persons in finalised court appearances with one or more charges of a sexual offence against an adult victim* (21-20883).

2. Sexual offences: trends and themes

Table 2.2: “Proven” rates for sexual offence charges, July 2018 — June 2019

Offence	Percentage of charges that were proven	Percentage of defendants with at least one proven charge
Sexual assault and aggravated sexual assault	44%	56%
Murder	51%	47%
Manslaughter	78%	77%
Assault	62%	72%
Robbery	62%	68%

Source: NSW Bureau of Crime Statistics and Research¹

- 2.37 The percentage of charges of sexual touching and sexual act offences that were proven between July 2018 and June 2019 was higher than for sexual assault offences (58% and 68%, respectively).² The number of defendants with at least one proven charge for these offences was also higher (61% for sexual touching and 73% for a sexual act).³

1. NSW Bureau of Crime Statistics and Research, *NSW Criminal Court Statistics July 2014 to June 2019* (2020).
2. NSW Bureau of Crime Statistics and Research, *NSW Criminal Court Statistics 2018–2019: Number of Finalised and Proven Charges for Selected Law Parts Relating to Sexual Assault* (ap20-18680).
3. NSW Bureau of Crime Statistics and Research, *NSW Criminal Courts Statistics July 2018 to June 2019: Number of Defendants with a Finalised Charge and a Proven Charge* (20-18706).

2. Sexual offences: trends and themes

Table 2.2: “Proven” rates for sexual offence charges, July 2018 — June 2019

Offence	Percentage of charges that were proven	Percentage of defendants with at least one proven charge
Sexual assault and aggravated sexual assault	36%	46%
Murder	51%	47%
Manslaughter	78%	77%
Assault	62%	72%
Robbery	62%	68%

Source: NSW Bureau of Crime Statistics and Research¹

- 2.37 The percentage of charges of sexual touching and sexual act offences that were proven between July 2018 and June 2019 was higher than for sexual assault offences (44% and 51%, respectively).² The number of defendants with at least one proven charge for these offences was also higher (51% for sexual touching and 64% for a sexual act).³

1. NSW Bureau of Crime Statistics and Research, *NSW Criminal Court Statistics July 2014 to June 2019* (2020).
2. NSW Bureau of Crime Statistics and Research, *Number of finalised sexual assault, indecent assault and act of indecency charges finalised in NSW Criminal Courts* (ac21-20773).
3. NSW Bureau of Crime Statistics and Research, *Number of persons in finalised court appearances with one or more charges of a sexual offence against an adult victim* (21-20883).

2. Sexual offences: trends and themes

2.68 Between July 2018 and June 2019, the number of sexual assaults proven in a NSW court represented less than 3% of all those reported to the police. Assuming that only 28% of alleged sexual assaults are reported – which is a generous estimate¹ – the number of those proven drops to less than 1% of all alleged sexual assaults. This demonstrates the size of the problem of attrition.

1. See [2.11].

2. Sexual offences: trends and themes

2.68 Between July 2018 and June 2019, the number of sexual assaults proven in a NSW court represented 13% of all those reported to the police. Assuming that only 28% of alleged sexual assaults are reported – which is a generous estimate¹ – the number of those proven drops to less than 4% of all alleged sexual assaults. This demonstrates the size of the problem of attrition.

1. Australian Bureau of Statistics, *Crime Victimisation*, Australia, 2018–2019, Summary (catalogue no 4530.0, 18 February 2020).

Sources

NSW Bureau of Crime Statistics and Research, *Number of incidents of sexual assault recorded by the NSW Police* (ac21-20793)

NSW Bureau of Crime Statistics and Research, *Number of finalised sexual assault, indecent assault and act of indecency charges finalised in NSW Criminal Courts* (ac21-20773)

NSW Bureau of Crime Statistics and Research, *Number of POIs (unique POIs per incident whether proceeded or not) on sexual offence incidents (adult victims only)* (21-20885)

NSW Bureau of Crime Statistics and Research, *Number of persons in finalised court appearances with one or more charges of a sexual offence against an adult victim* (21-20883)