

AN OUTCOME EVALUATION OF THE SPECIAL INVESTIGATION UNITS ESTABLISHED UNDER THE SEXUAL VIOLENCE PREVENTION ACT OF 2006

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Introduction

In 1992 Chittenden County opened Vermont's first Special Investigation Unit (CUSI). The CUSI took an innovative multidisciplinary approach to the investigation and prosecution of sexual abuse and serious child abuse cases. The core of the CUSI is its multi-disciplinary team of investigators, social workers, prosecutors and victim advocates. The team works in coordination to investigate allegations of crime and provide services to victims and their families.¹ In 2006, citing the success of CUSI and Franklin County's SIU (NUSI), the Vermont State Legislation passed the Sexual Violence Prevention Act (SVPA).² This act expanded Special Investigation Units (SIU) to all regions of Vermont. This report evaluates the case processing outcomes of the SIUs established after the SVPA in the following counties: Caledonia, Essex/Orleans, Lamoille, Orange, Rutland, Washington, Windham and Windsor.³

The SIUs became fully operational at different times. For the purposes of this analysis, the "SIU period" starts with the date of the first incident report recorded for that SIU in the Vermont Incident-Based Reporting System (VIBRS) that ended with a case disposition in a Vermont District Court. The first incident report for all but two counties was in 2009. Rutland's first report was in 2007 and Essex/Orleans in 2008. The "pre-SIU period" were cases that were disposed of in a Vermont District Court no more than three years prior to the first report date.

Generally a program evaluation is based on an analysis of the program's stated objectives. In the case of the SIUs this proved difficult because each SIU differs in its goals and composition. Windham and Windsor County SIUs are currently piloting a dedicated interviewer model. Lamoille SIU has a broader focus on all domestic violence cases, while the other SIUs focus on child victims of domestic violence and all victims of sexual assault. Children make up 79% of all SIU victims.⁴ In light of these differences between the SIUs this evaluation focuses on identifying changes in the processing of sexual crime cases before and after the creation of an SIU in each county.

Though this evaluation was confined to an analysis of case processing, it is important to note that criminal case processing evaluation captures only one small part of the services an SIU provides to the community. The following areas are not evaluated in this report: investigation of unsubstantiated claims, victim satisfaction with services of the SIU, referrals for social services made or provided by the SIU, and educational outreach provided by the SIU. Although the purpose this study was to identify

¹ http://www.cusi-vermont.org/index.php?option=com_content&view=article&id=46&Itemid=60

² <http://www.leg.state.vt.us/docs/2006/Bills/passed/H-856.htm>

³ Addison County is just becoming operational at the writing of this report. The established SIUs: Chittenden, Franklin and Bennington were excluded from the study because the court data for the pre-period was not sufficient to conduct a meaningful analysis. In some cases the SIU was established before the Vermont Center for Justice Research's adjudication database, and in other various changes in the law and/or data collection made the pre-period for the established SIUs unsuitable for comparison.

⁴ <http://www.leg.state.vt.us/reports/2013ExternalReports/284947.pdf>

possible changes in case processing after the creation of an SIU, the study is perhaps best used as a baseline for evaluating SIUs going forward. During the first few years of their startup, which is the “SIU period” captured in this report, many of the SIUs experienced organizational struggles that were well documented.⁵ These organizational growing pains might account for some of the disappointing case processing results that are reported herein. Now that the SIUs are more fully developed the case processing statistics contained in this report during the “SIU Period” might well serve as a benchmark for future evaluations.

Methodology

The Vermont Criminal Information Center (VCIC) provided incident numbers for SIU criminal investigations cleared by arrest from the Vermont Incident-Based Reporting System (VIBRS). There were 423 incidents identified as SIU cases by VCIC.⁶ Those incidents were matched to Vermont District Court cases using the District Court Adjudication Database maintained by the Vermont Center for Justice Research (VCJR). Those incidents (N=155) for which a disposition had been reported by 12/31/2011⁷ were included in the analysis. The 155 incidents involved 163 court cases and 339 charges disposed. Table 1 illustrates SIU cases arraigned in a Vermont District Court by the most serious charge filed. As Table 1 illustrates, approximately 26% (43) of SIU cases did not involve a sex crime. Those cases were not analyzed in this report.

⁵ <http://www.leg.state.vt.us/reports/2013ExternalReports/284947.pdf> and <http://www.leg.state.vt.us/reports/2011ExternalReports/274000.pdf>

⁶ Since the completion of the report, the Vermont State's Attorneys have indicated that the SIU investigators may not be logging all cases using an SIU incident number. Therefore, the number of cases reported here may be lower than the actual number of cases investigated by the SIUs. The SIUs are taking steps to insure that all SIU investigations are logged with the appropriate SIU identifiers.

⁷ This Court Adjudication Database was updated through 12/31/2011.

Table 1: SIU Cases by Most Serious Charge Filed⁸ (Post SVPA)

SIU Office	Sexual Assault on a Minor ⁹	L&L W/Child ¹⁰	Sexual Assault ¹¹	L&L ¹²	Registry ¹³	Pornography ¹⁴	Domestic Assault ¹⁵	Other ¹⁶	TOTAL CASES
Caledonia	2	9	3	2	8	2	0	3	29
Essex/Orleans	2	4	2	0	2	1	2	6	19
Lamoille	5	7	2	1	6	3	1	6	31
Orange	3	2	5	0	2	0	2	1	15
Rutland	4	5	2	2	3	0	0	2	18
Washington	2	0	1	1	1	0	2	5	12
Windham	2	2	1	1	1	1	0	3	11
Windsor	6	4	2	3	2	1	1	9	28
Total	26	33	18	10	25	8	8	35	163

After recording the type of cases handled by the SIUs, cases for the “pre-SIU period” were selected for comparison. The pre-SIU period included disposed sex offense charges where the offense date was no more than three years prior to the first offense investigated by the SIU. All charges filed for arraignment on the same day were designated as a case. There were 820 total charges, representing 439 court cases. Table 2 illustrates the number and type of charges filed.

⁸ Charges were ranked by seriousness. The general category for sex crimes includes sexual assault, pornography and registration crimes. For this report, sex crimes involving a victim were ranked more serious (with child victims being the most serious) than sex offender registry crimes. The table above presents the crimes in the order of seriousness.

⁹ Includes: 13 VSA 3252(c) [Victim under 16], 13 VSA 3252(e) (2) [Offender is in Parental Role], 13 VSA 3253(a) (8) [Victim under 13].

¹⁰ 13 VSA 2062.

¹¹ Includes: 13 VSA 3253 (a)(9) [Repeated Sexual Assault], 13 VSA 3252(a)(1) [No Consent].

¹² 13 VSA 2061.

¹³ Includes: 13 VSA 5409(1) [First offense], 13 VSA 5409(2) [Second Offense] 13 VSA 5409(b) [failure to comply for more than 5 days].

¹⁴ Includes: 13 VSA 2827a [Possession, 13 VSA 2802(a)(1) [Disseminating to a Minor-Electronic] 13 VSA 2802(a)(2) [Disseminating to a Minor] and 13 VSA 2802(b)(1) [Disseminating to a Minor-Exhibit]

¹⁵ Includes: 13 VSA 1042 [Domestic Assault, N=5], 13 VSA 1043(a)(1) [First Degree Aggravated Domestic Assault], and 13 VSA 1044(a)(2)(B)[Second Degree Aggravated Domestic Assault- Prior Conviction]

¹⁶ Includes (but is not limited to): 13 VSA 7559(e) [Violations of Conditions of Release] , 13 VSA 1023 [Simple Assault] and 13 VSA 2632 [Prohibited Acts].

Table 2: Pre-SIU Period Cases by Most Serious Charge Filed¹⁷ (Pre-SVPA)

County	Sexual Assault on a Minor	L&L W/Child	Sexual Assault	L&L	Registry	Pornography	TOTAL CASES
Caledonia	11	9	5	3	5	3	36
Essex/Orleans ¹⁸	3	7	6	5	7	0	28
Lamoille	6	6	6	6	1	1	26
Orange	2	5	7	5	8	2	37
Rutland	11	12	3	14	24	0	66
Washington	9	13	10	13	27	2	76
Windham	6	23	8	23	12	18	100
Windsor	12	19	10	11	16	2	70
Total	54	94	55	80	100	28	439

There is no statewide Mission Statement or Statement of Purpose for the SIUs. Each SIU aims for a multi-disciplinary approach to the investigation and prosecution of the cases they handle; therefore, evaluating the SIUs based on an agreed upon statement of goals is difficult. This analysis used the findings of the Vermont House of Representatives in the Sexual Violence Prevention Act (SVPA), statements on the websites of those SIUs¹⁹ where available, and published literature²⁰ of evaluations of other jurisdictions to develop evaluative criteria. Because of the focus on child victims, and the number and type of offenses in Vermont, the report emphasizes sex crimes perpetrated against children. Because the SIUs aim to use specialized forensic interviewing of victims in order to strengthen substantiated cases for prosecution, this report focuses on conviction rates for those cases and types of offenses.

The general unit of analysis is a criminal court case; defined as all charges filed for arraignment on the same day, where the most serious crime was a sex offense. However, charge-based analysis is presented when relevant. For this analysis the following crime categories were considered sex offenses: Sexual Assault on a Minor, Sexual Assault (including Aggravated Sexual Assault), Lewd and Lascivious

¹⁷ The Included offenses are as in Table 1.

¹⁸ Essex County had only one pre-SIU case disposed of. It is analyzed with Orleans County for the purposes of this study.

¹⁹ Rutland : http://childfirstvermont.org/index.php?option=com_content&view=article&id=107&Itemid=179 ; Washington: <http://www.ourhouse-vt.org/what-we-do.html>; Windsor: <http://www.familyplacevt.org/child-advocacy-center/>; Lamoille: http://lamoillesiu.org/victims_advocacy.html

²⁰ <https://www.ncjrs.gov/pdffiles1/ojdp/218530.pdf>

Conduct with a Child, Lewd and Lascivious Conduct, Possession of Child Pornography, Disseminating Pornography to a Minor, and Sex Offender Registry Violations.

Analysis

Case Processing

This analysis focuses on how the cases were processed in the court both during the pre-SIU period and the SIU period. SIUs hope to reduce jury trials, increase conviction rates, decrease investigation time, and decrease the time from filing charges until conviction. Primarily, this is done by obtaining confessions from offenders and through the forensic interviewing of victims. Further, the team approach is meant to reduce the investigation time by reducing the number of interviews required for substantiation and coordinating investigative services for prosecution.

Investigation Time

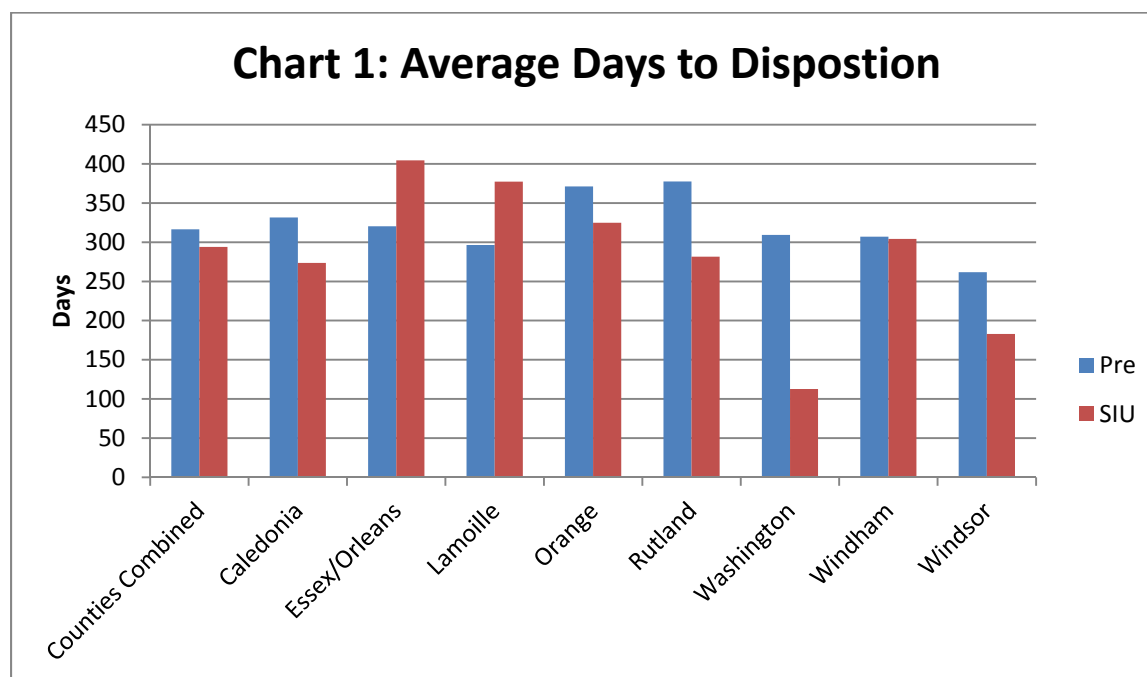
The information on SIU incidents provided by VCIC included the date the SIU initiated an incident report. A variable was then created to estimate the length of time between the SIU officially starting an investigation to the date charges were filed. For sex crimes involving child victims, the average length of time it took for SIUs to complete the initial investigation was 78.3 days; the median was 27.5 days. Fifty percent of the charges (53) involving child victims were filed within one month of the report. There is no police report filing date available for the pre-SIU period, therefore a comparison cannot be completed to determine if investigation times have decreased. This information is being reported to provide a baseline for future measurements. Table 3 presents the median and mean for investigation times by SIUs.

Table 3: SIU Investigation Times for Child Sex Offenses, in Days

	Mean	Median
Caledonia	101.3	43
Essex/Orleans	254.3	277
Lamoille	19	3
Orange	41	3
Rutland	98.6	8
Washington	62.5	62.5
Windham	44.3	16
Windsor	42	39.5
Counties Combined	78.3	27.5

Case Disposition Time

After the implementation of SIUs the average time from arraignment to disposition decreased by about 22 days statewide, although some counties saw a slight increase in time to disposition. Chart 1 illustrates the average days to disposition for SIU cases arraigned during the study period. During the pre-period, only 70% of the charges that were nolle prosqui or dismissed were disposed of within one year. During the SIU period, 80% of the charges that were nolle prosqui or dismissed, were disposed of within one year. There was less of a difference in the disposition times of convicted charges. During the pre-period, 65% of the convicted charges were disposed of within one year, while 62% of the convicted SIU charges were disposed of in one year.

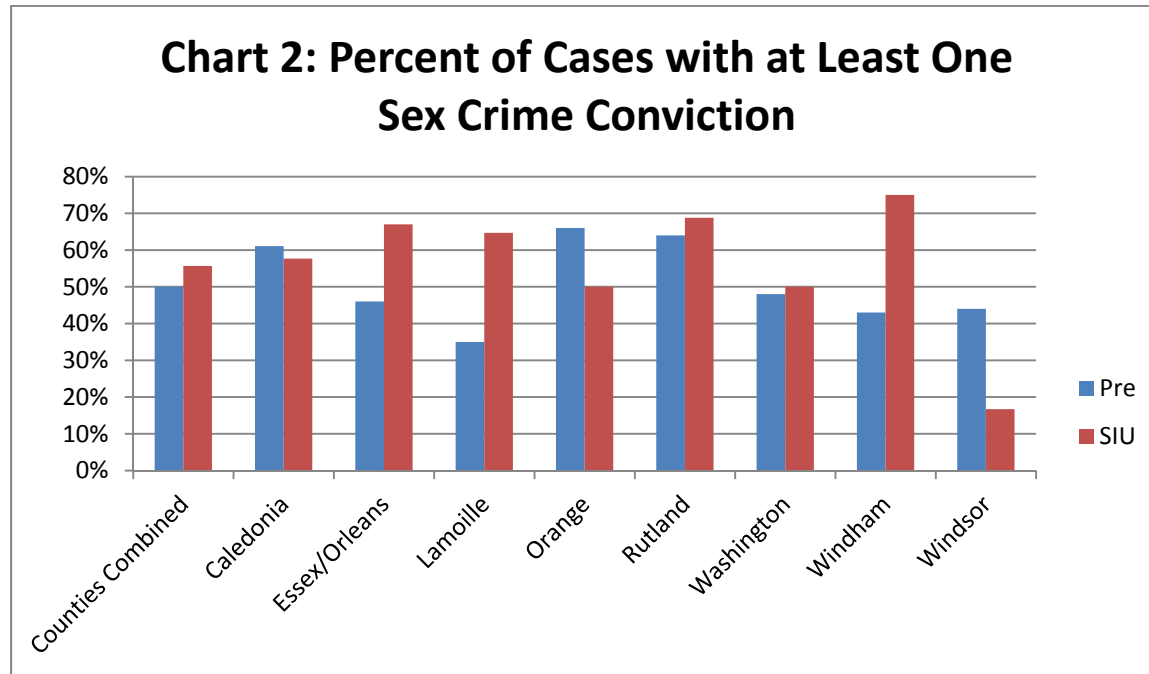


Case Dispositions

During the SIU period only three cases (0.2%) went to a jury trial; and the verdict was not guilty for all three trials. In the period before the SIUs there were eight jury trials (.02%), and the verdicts were all not guilty. Therefore, 100% of the convictions during both pre-SIU period and the SIU period came from a plea of guilty.

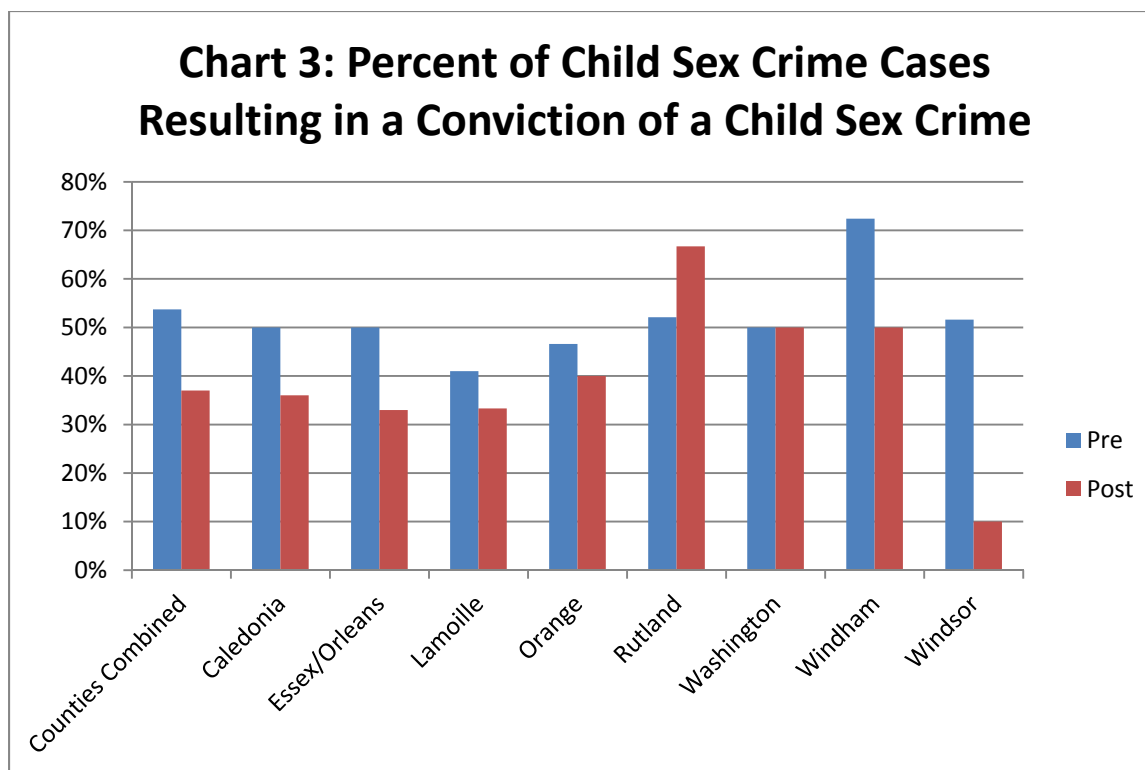
One purpose of the SIU is to increase the quality of the investigation and therefore increase the conviction rates. In the pre-period, 80% of sex crime cases in the counties were disposed of with at least one conviction for any crime. During the SIU period 82% of the SIU cases resulted in at least one conviction for any crime. Looking at the county level, five of the nine counties saw an increase in the percentage of cases being disposed with at least one sex crime conviction, the other three counties saw a decline in the percentage of cases disposed with at least one sex crime conviction. The conviction

rate for sex crimes increased from 50.3% in the pre-period to 55.7% after the SIUs were established.²¹ Chart 2 illustrates the percent of cases disposed with at least one sex crime conviction.



As part of their routine activities SIUs conduct Sex Offender Registry compliance checks. Because of this, 25% of the cases studied had violations of registry requirements as the most serious charge. Because the number of SIU period sex crimes involving adult victims was relatively low, only child sex crimes are analyzed in detail. Chart 3 illustrates the percent of all child sex crime cases where at least one charge ended in a conviction for a sex crime against a child. Only Rutland County saw an increase in conviction rates for child sex crimes in the SIU period. Overall, the conviction rates decreased from 54% in the pre-period to 37% in the SIU period. This difference was statistically significant.

²¹ The differences were not statistically significant.



Sexual Assault on a Minor

The studied counties filed 101 Sexual Assault on a Minor charges²² during the pre-SIU period. Of those, 65 (64%) resulted in a conviction for some crime, with 50 (77%) of those convictions being for Sexual Assault on a Minor and four (.06%) for misdemeanor Prohibited Acts. The remaining convictions were for other felony sex crimes against a person. During the SIU period, 56 charges were filed. Of those, 30 (54%) resulted in a conviction for some crime, with 20 (66%) of those convictions for Sexual Assault on a Minor and seven (23%) for misdemeanor Prohibited Acts. The remaining convictions were for other felony sex crimes against a person. Table 4 illustrates the percent of convicted charges, where the original charge was Sexual Assault on a Minor, which ended in a felony sex offense conviction. Overall, the percentage of cases which ended in a felony sex offense conviction declined by 6% between the pre-SIU period and the SIU period.

²² Includes: 13 VSA 3252(c) [Victim under 16], 13 VSA 3252(e)(2)[Offender is in Parental Role], 13 VSA 3253(a)(8) [Victim under 13].

Table 4: Sexual Assault on a Minor Percent Convicted of a Felony Sex Offense

	Pre-SIU Period	SIU Period
Caledonia	100%	100%
Essex/Orleans	100%	100%
Lamoille	100%	70%
Orange	80%	NA
Rutland	100%	75%
Washington	100%	100%
Windham	91.7%	100%
Windsor	83.3%	100%
Counties Combined	92.3%	86%

Lewd and Lascivious Conduct with a Child

The counties in the study filed 139 Lewd and Lascivious Conduct with a Child²³ charges during the pre-SIU period. Of those, 92 (66%) resulted in a conviction for some crime, with 56 (61%) of those convictions being for Lewd and Lascivious Conduct with a Child. During the SIU period 50 charges were filed by the SIUs, of those 37 (74%) resulted in a conviction of some crime. Nineteen (51%) of the 37 convictions were for Lewd and Lascivious Conduct with a Child. Although the conviction was not always for a sex crime against a child, 70% of the convictions were for a felony sex offense against a person in both periods of study. The most common final felony conviction was for Lewd and Lascivious Conduct.²⁴ When the charge was reduced to a misdemeanor, Prohibited Acts was the most common conviction charge. Table 5 illustrates the percent of convicted charges, where the original charge was Lewd and Lascivious Conduct with a Child, which stayed as a felony sex offense conviction.

²³ 13 VSA 2602

²⁴ 13 VSA 2061

Table 5: Lewd and Lascivious w/Child Percent Convicted of a Felony Sex Offense

	Pre- SIU Period	SIU Period
Caledonia	42%	55.6%
Essex/Orleans	100%	75%
Lamoille	77.8%	83.3%
Orange	83%	NA
Rutland	75%	100%
Washington	42.9%	NA
Windham	76%	50%
Windsor	76.9%	0%
Counties Combined	70%	70%

Sentencing

The Sexual Violence Prevention Act (SVPA) also increased penalties for sex crimes; in some cases setting mandatory minimum sentences and increasing maximum penalties. The SVPA increased the minimum sentence for Lewd and Lascivious Conduct with a Child First Offense from one year to two years of incarceration. A second or third conviction for Lewd and Lascivious Conduct with a Child increased to a mandatory minimum of 5 years (from 2) for a second offense, to 10 years (from 3) for a third offense. The maximum penalty for repeat offenders was raised to life in prison. For those convicted of Sexual Assault Against an Adult, a new minimum sentence of 3 years was added, and Aggravated Sexual Assault set a mandatory minimum of 10 years.²⁵

Sentence Types

In both the pre-SIU period and the SIU period, about 80% of the cases resulted in a conviction for at least one crime. Table 6 illustrates the percentage of cases with at least one conviction for any crime, and the type of sentence imposed.

Table 6: Percentage of Convicted Cases Receiving Particular Sentence

Sentence Type	Pre-SVPA	Post- SVPA
Incarceration	33%	32%
Split	34%	22%
Probation	30%	30%
Deferred	13%	19%

²⁵ In 2009, the Legislature added 13 VSA 3253a which set the mandatory minimum for Aggravated Sexual Assault of a Child to 25 years.

Sentence Type and Length by Offense Type

The two most frequently prosecuted sex crimes against children are Sexual Assault on a Minor and Lewd and Lascivious Conduct with a Child. The following sections present information on sentencing patterns before and after the Sexual Violence Prevention Act (SVPA).

Sexual Assault on a Minor:²⁶ Average Sentence Lengths²⁷

Prior to the passage of the SVPA, the courts imposed a life sentence for Sexual Assault on a Minor in only two charges. After passage of the SVPA, the number of charges where a life sentence was imposed increased to four. Before the SVPA, courts sentenced 10 defendants to a deferred sentence. The courts sentenced six defendants in the post-SVPA period to a deferred sentence, representing seven charges convicted. Table 7 illustrates the mean sentence lengths pre and post- SVPA. As there were so few (N=10) cases disposed what appears to be discrepancies in sentencing pre and post- SVPA perhaps reflect the circumstances of the individual cases not changes in sentencing practices.

Table 7: Average Sentences for Sexual Assault on a Minor Pre- and Post-SVPA

	Pre-SVPA			Post-SVPA		
	Minimum (In Years)	Maximum (In Years)	Days to Serve	Minimum (In Years)	Maximum (In Years)	Day To Serve
Straight ²⁸	3.63	11.08		2.5	6.25	
Split ²⁹	7.2	12.8	729	15	20	4,383
Probation ³⁰	2.75	10.25		None	None	None
Deferred ³¹	3.6			5.14		

²⁶ Includes: 13 VSA 3252(c) [Victim under 16], 13 VSA 3252(e)(2)[Offender is in Parental Role], 13 VSA 3253(a)(8) [Victim under 13].

²⁷ Sentences with a Maximum of Life in Prison were excluded (Pre-SVPA N=2 , Post-SVPA N=4)

²⁸ Pre-SVPA N=12, Post-SVPA N=2

²⁹ Pre -SVPA N=25 , Post-SVPA N=1

³⁰ Pre- SVPA N=4

³¹ Pre -SVPA N=10, Post-SVPA N=7

Lewd and Lascivious Conduct with Child: Average Sentence Lengths³²

The court data does not accurately reflect if the convicted charge was a first or subsequent offense. However, there was no life sentence imposed for Lewd and Lascivious Conduct with a Child after the SVPA. The courts sentenced two defendants to a deferred sentence during the pre-SVPA period. Both sentences were revoked, with one defendant receiving a subsequent sentence of probation, the other a split incarceration. Table 8 illustrates the mean sentence lengths pre and post-SVPA. Again, as there were so few cases sentenced (N=32), discrepancies in sentencing pre and post-SVPA perhaps reflect the circumstances of the individual cases not changes in sentencing practices.

Table 8: Average Sentences for Lewd and Lascivious Conduct with a Minor Pre and Post-SVPA

	Pre-SVPA			Post-SVPA		
	Minimum (In Years)	Maximum (In Years)	Days to Serve	Minimum (In Years)	Maximum (In Years)	Day To Serve
Straight ³³	3.2	8.9		3.6	10.6	
Split ³⁴	4.8	10.7	708.5	2	10.7	571
Probation ³⁵	4	7.8		1	5	
Deferred ³⁶	3.5			None	None	None

Conclusion

Case processing and outcomes are only one measure of an SIU's effectiveness. As there are no agreed upon measures for case processing, perhaps this report will generate a discussion that will advise future studies. It is encouraging that 50% of substantiated claims are filed within a month of an investigation being opened, and that disposition times for court cases have slightly decreased with the implementation of the SIUs.

Overall, the rate of cases convicted of at least one sex crime increased in the SIU period. Lamoille and Windham Counties showed the greatest gains in conviction rates. On the measure of a child sex crime charge ending in a conviction for a child sex crime, the results are less encouraging. Only Rutland County saw an increase in those convictions. On measuring whether sex crimes against a child remained a felony sex crime at all, there was no statistically significant change. The enhanced available penalties (and in some cases mandatory minimum penalties) allowed for under the SVPA had little effect on the type of sentences received or the length of sentences imposed.

³² Sentences with a Maximum of Life in Prison were excluded. (Pre-SVPA =1, Post-SVPA =0)

³³ Pre- SVPA N=12, Post-SVPA N=6

³⁴ Pre -SVPA N=23 , Post-SVPA N=11

³⁵ Pre -SVPA N=17, Post-SVPA N=5

³⁶ Pre -SVPA N=2, Post-SVPA N=7

This report, however, should be read in conjunction with the Legislative Reports filed by the Vermont Department of State's Attorneys.³⁷ In these reports, the Department catalogs the difficulties each of the SIUs evaluated in this report have had. These difficulties included jurisdictional issues, inability to get appropriate training (which is being addressed), location difficulties and other issues that would influence the ability of the SIU to operate effectively. A process evaluation comparison of a longer established SIU and a newer one might shed light on other issues that influence the case processing outcomes. Finally, it cannot be stressed enough that this report captures the SIUs in their infancy, and therefore the number of overall sex cases is small. When results are statistically significant, they have been noted in the report. However, results reported in percentages should be read with caution. This report captures a baseline from which future evaluations can be conducted. With the increased and standardized reporting of the SIUs to the Department of State's Attorneys combined with the future evaluations, a more complete picture of the SIUs effectiveness should emerge.

³⁷For 2011-2012 see: <http://www.leg.state.vt.us/reports/2011ExternalReports/274000.pdf> for 2012-2013 see: <http://www.leg.state.vt.us/reports/2013ExternalReports/284947.pdf>