

SEXUAL ASSAULT CASE PROCESSING IN VERMONT DISTRICT COURT CASE PROCESSING AND SENTENCING 2004-2010

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EXECUTIVE SUMMARY

This report examined the Vermont District Court processing and sentencing of Aggravated Sexual Assault and Sexual Assault offenses where the victim was an adult during the period of 2004-2010. Whether sexual assault offenders were arrested or simply received a citation to appear in court, and what factors might influence that decision, was also studied. Finally, the report discussed the effects of the Sexual Violence Prevention Act which was passed by Vermont State Legislators in 2006.

Key Findings:

- Between the years 2003-2010, over 1,200 sex offenses (forcible rapes by an adult offender) were reported to law enforcement.
- Regardless of the circumstances of the crime, the proportion of defendants arrested vs. cited remains relatively equal.
- Over half (approximately 63 percent) of sexual assault and aggravated sexual assault convictions are for the same category of offense as the defendant was originally charged.
- The most common sentences for sexual assault and aggravated sexual assault convictions are incarceration, split sentence, and probation.
- A dismissal by the state was the largest category of dispositions for all charges.
- There appears to be some variation in sentencing for sexual assault, while there is little sentencing variation for aggravated sexual assault. The county variable was not statistically related to the sentence an offender received.
- According to bivariate analysis of criminal history data from the Vermont Criminal Information Center (VCIC), the original charge level and whether the defendant was a recidivist are influential in sentencing, while the defendant's race, criminal history, age, and county do not seem to have any impact.
- In 2006, the Vermont Legislature passed the Sexual Violence Prevention Act (SVPA). A pre- and post-comparison revealed similar final charges, disposal numbers, and sentencing.

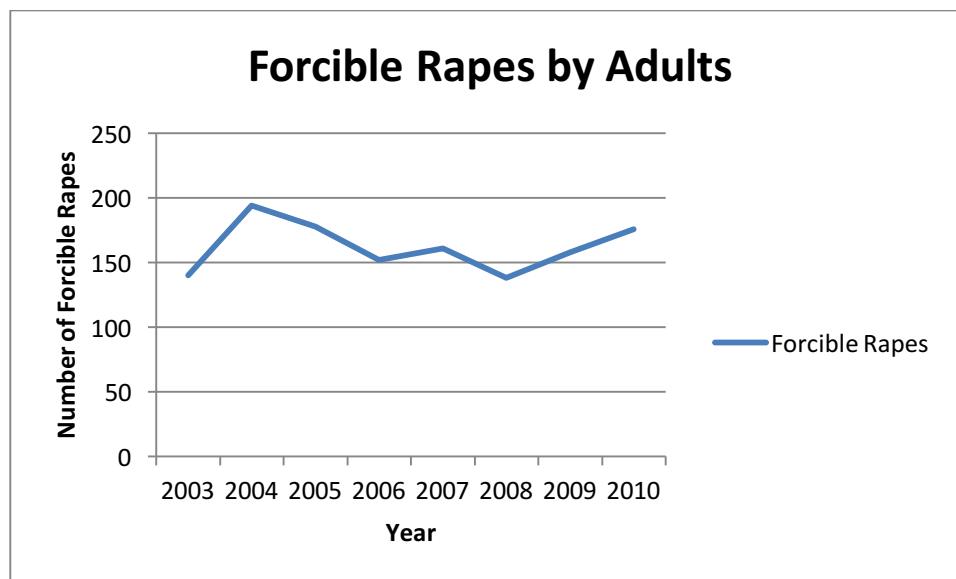
INTRODUCTION

In Vermont, sexual assault charges can fall under several statutes. This report includes information on Aggravated Sexual Assault and Sexual Assault offenses where the victim was an adult¹. This report examines the district court processing and sentencing of these sexual assault offenses during the study period of 2004-2010².

NATIONAL INCIDENT BASED REPORT SYSTEM OVERVIEW (NIBRS)

Between the years 2003-2010, over 1,200 sex offenses (forcible rapes by an adult offender) were reported to law enforcement³. Figure 1 provides the forcible rapes by an adult per year. Municipal police departments were responsible for responding to and investigating most of the forcible rapes. The Vermont State Police were the next most frequent law enforcement agency responsible for investigating these offenses. The majority of the offenders were male; however typically at least four of the offenders each year were female.

Figure 1: Forcible Rapes by Year



¹Aggravated Sexual Assault (13V3253, 13V3253A1-A7) and Sexual Assault (13V3252, 13V3252A1A, 13V3252A1B, 13V3252A1C, 13V1379A, B, B1, B2)

² Data for this study included original sexual assault and aggravated sexual assault charges from 2004-2009. Due to the lengthy process for the average case to reach a conclusion, dispositions and sentencing information were included from 2004-2010.

³ Vermont Crime Online (VCON) <http://vcic.vermont.gov/crime+statistics/Vermont+Crime+On-Line>

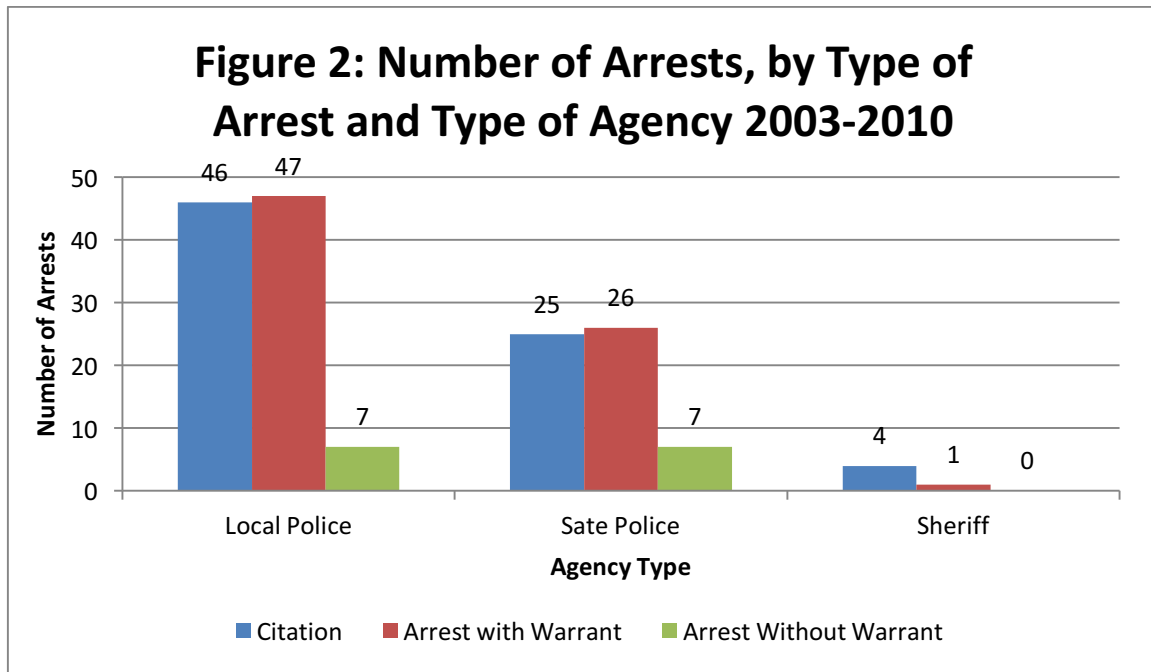
ARRESTS VS. CITATIONS

In Vermont, there are three types of arrests: arrest with a warrant, arrest without a warrant, and a citation to appear in court. All three must be based on probable cause and each initiates a criminal court prosecution. However, a citation does not initiate a booking process. Therefore, no fingerprints are taken and the defendant does not have an official arrest record on file at the Vermont Criminal Information Center until the case is arraigned in a Vermont District Court. It has been argued that law enforcement uses citations for cases that they deem less strong and uses traditional arrest procedures for stronger cases.⁴ Stakeholders have also suggested that lack of holding facilities for defendants in local police departments leads to citations over arrests that require processing. This section explores the arrest vs. citation distinction using NIBRS data from 2003-2010.⁵

During the time period, 771 victimizations were reported to the police, representing 752 incidents. One hundred and sixty-three incidents (21.7%) were cleared by arrest. One hundred and thirty-six arrests were for forcible rape, 14 for forcible fondling, 10 for forcible sodomy and 3 for sexual assault with an object. Arrests were almost evenly split between arrests with a warrant (45.4%) and citations (46%), arrests without a warrant accounted for 8.6% of the arrests. Figure 2 below illustrates the number of arrests by type of arrests and type of agency.

⁴ Shernock, S. "Police Categorization and Disposition of Non-Lethal Partner Violence Incidents Involving Women Offenders in a Statewide Rural Jurisdiction With a Presumptive Arrest Policy" Family Violence & Sexual Assault Bulletin Volume:21 Issue:2/3 . Summer/Fall 2005

⁵ Victimizations from 2003-2010 on adult victims of forcible sexual assault were matched by incident number, incident date and victim sequence number to the arrestee segment for the same time period.



Circumstances of the crimes were analyzed to explore the relationship between the type of arrest and characteristics of the crime. A regression analysis was performed, however, none of the circumstances proved to be statistically significant in predicting the type of arrest⁶. This may indicate that officers are basing their decision on factors such as the demeanor of witnesses, strength of the case, holding facility availability, or other factors not captured by the data. The following charts illustrate that regardless of the circumstances of the crime, the proportion of arrests vs. citation remains relatively constant.

Figure 3 below illustrates the victim offender relationship and the type of arrests. NIBRS values were combined to make the analysis more meaningful.⁷

⁶ The following variables were used in the regression analysis: victim/offender relation, weapons, injuries, agency (local, sheriff, state), agency (rural, suburban, urban), age difference between offender & victims, multiple victims, and location (public, private, school/prison).

⁷ Acquaintance included the following categories: Acquaintance, employee, neighbor, friend, and otherwise known. Intimate included: spouse, common law spouse, boyfriend/girlfriend, ex-spouse. Family included: child, step-child, in-law, sibling, step-sibling and other family member. Stranger included only the stranger value in NIBRS.

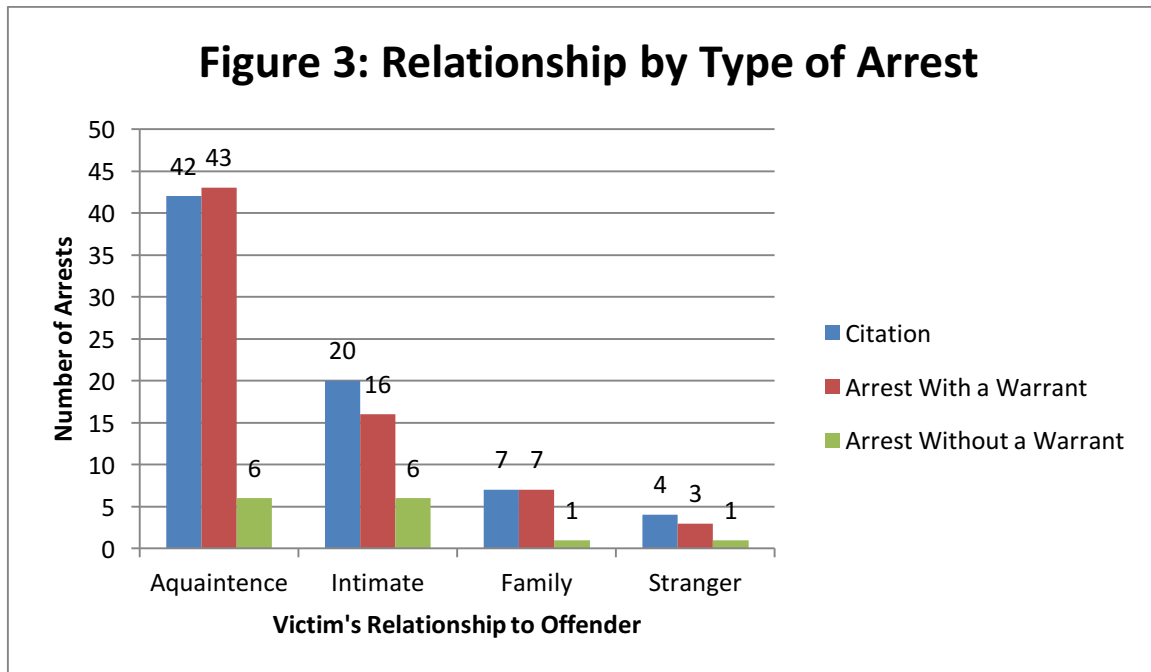


Figure 4 illustrates the type of arrests by location of the offense. Most offenses occurred in a private space. Arrest with a warrant was slightly more likely to occur in a public space or at a school/university. Again, NIBRS data was combined to make the analysis more meaningful.

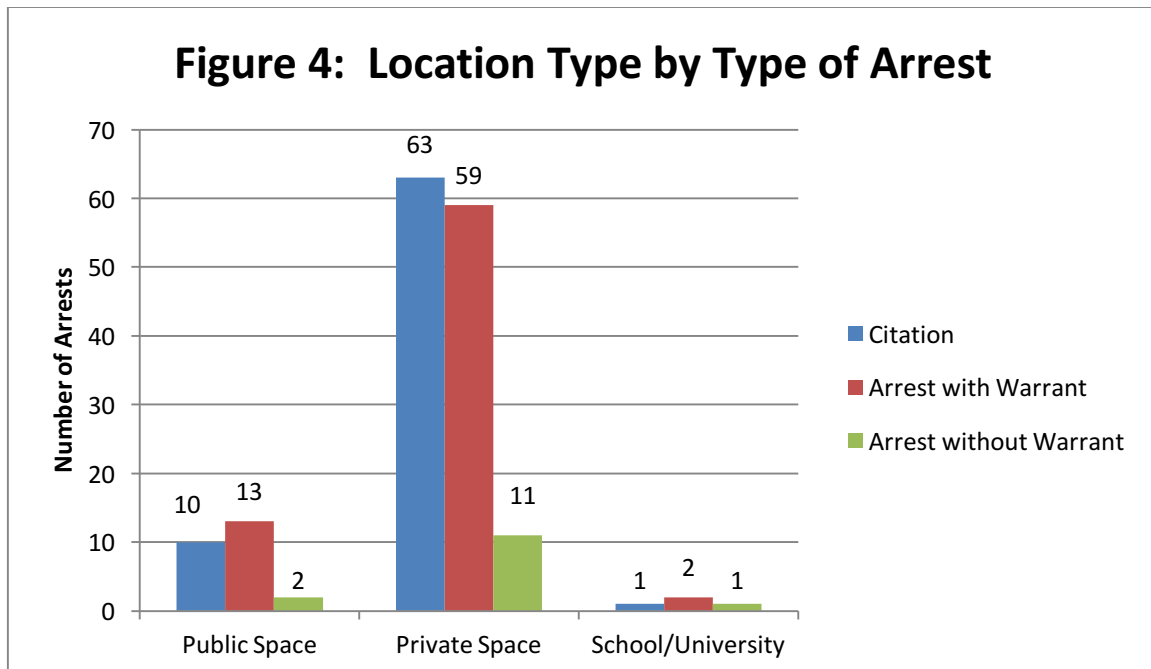
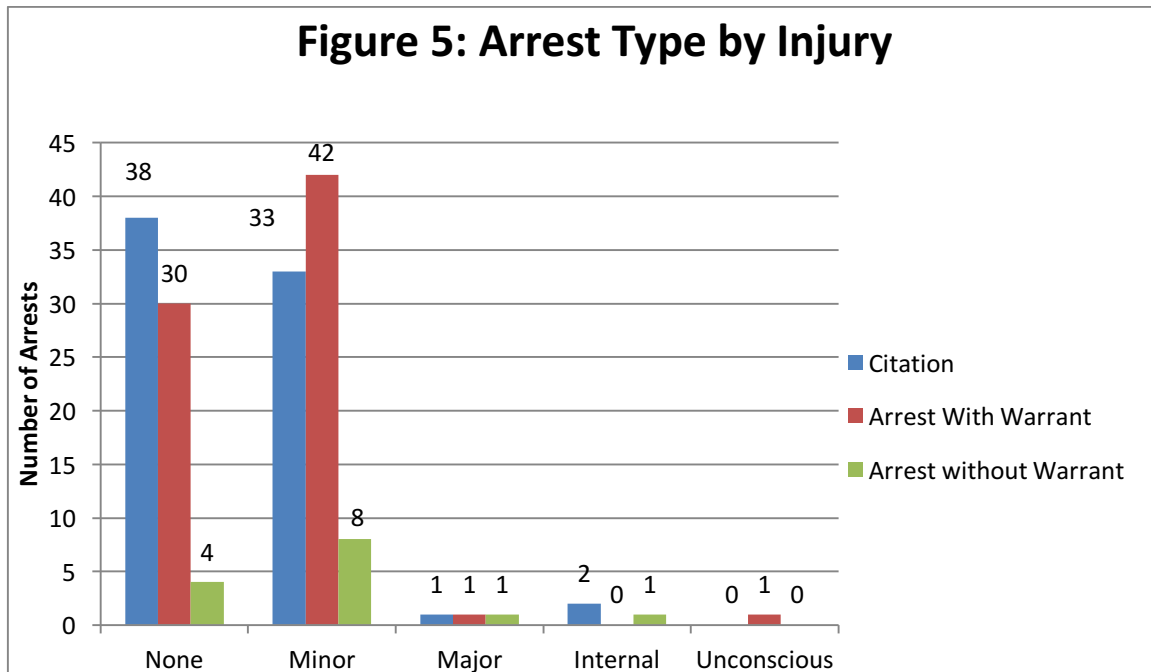
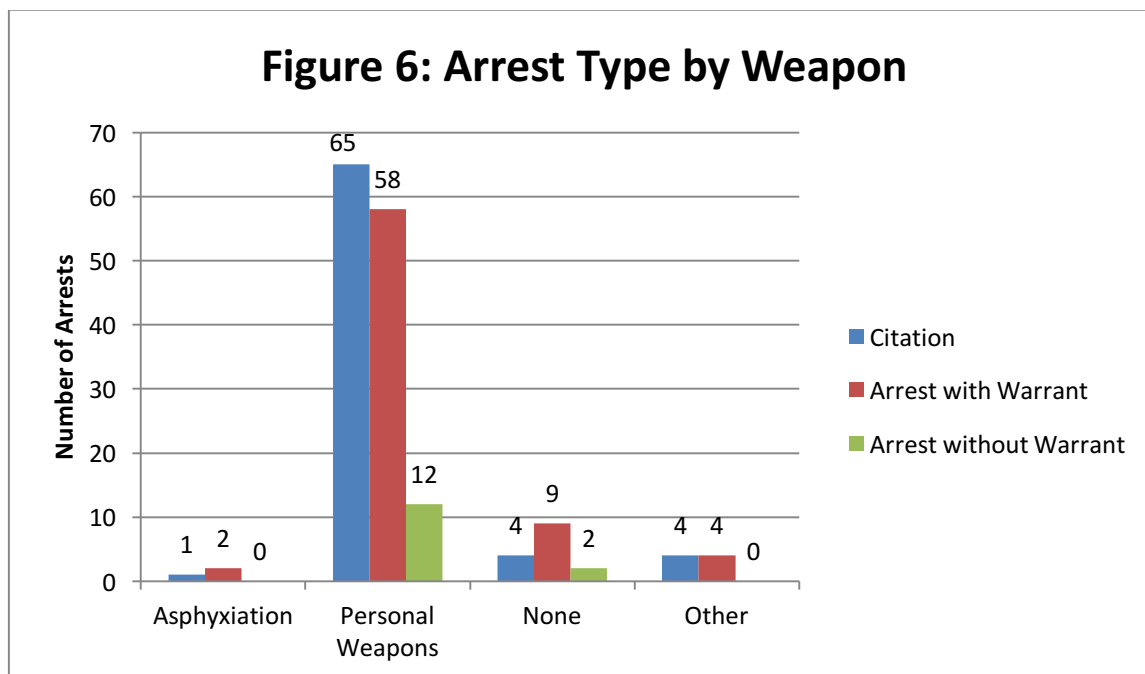


Figure 5 shows the type of arrest by the type of injury sustained by the victim. An offender was generally more likely to receive a citation when there was no injury and was more likely to be arrested with a warrant when minor injuries occurred.



Only two specific weapon types appeared in the data: asphyxiation and personal weapons. Figure 6 illustrates the arrest type by recorded weapon. Personal weapons were most likely used; and those using a personal weapon, were slightly more likely to be arrested (with and without a warrant combined) than cited.



SEXUAL ASSAULT AND AGGRAVATED SEXUAL ASSAULT

There are over a dozen statutes in Vermont that deal with sexual assault. Sexual Assault is defined in Vermont as, “No person shall engage in a sexual act with another person and compel the other person to participate in a sexual act: (1) without the consent of the other person; or (2) by threatening or coercing the other person; or (3) by placing the other person in fear that any person will suffer imminent bodily injury.⁸” Aggravated Sexual Assault is defined as:

“A person commits the crime of aggravated sexual assault if the person commits sexual assault under any of the following circumstances:

- (1) At the time of the sexual assault, the actor causes serious bodily injury to the victim or to another
- (2) The actor is joined or assisted by one or more persons in physically restraining, assaulting or sexually assaulting the victim
- (3) The actor commits the sexual act under circumstances which constitute the crime of kidnapping
- (4) The actor has previously been convicted in this state of sexual assault under subsection 3252(a) or (b) of this title or aggravated sexual assault or has been convicted in any jurisdiction in the United States and territories of an offense which would constitute sexual assault under subsection 3252(a) or (b) of this title or aggravated sexual assault if committed in this state
- (5) At the time of the sexual assault, the actor is armed with a deadly weapon and uses, or threatens to use, the deadly weapon on the victim or on another
- (6) At the time of the sexual assault, the actor threatens to cause imminent serious bodily injury to the victim or to another and the victim reasonably believes that the actor has the present ability to carry out the threat
- (7) At the time of the sexual assault, the actor applies deadly force to the victim
- (8) The victim is subjected by the actor to repeated nonconsensual sexual acts as part of the same occurrence or the victim is subjected to repeated nonconsensual sexual acts as part of the actor’s common scheme and plan.⁹”

Sexual Assault Case Processing and Outcomes

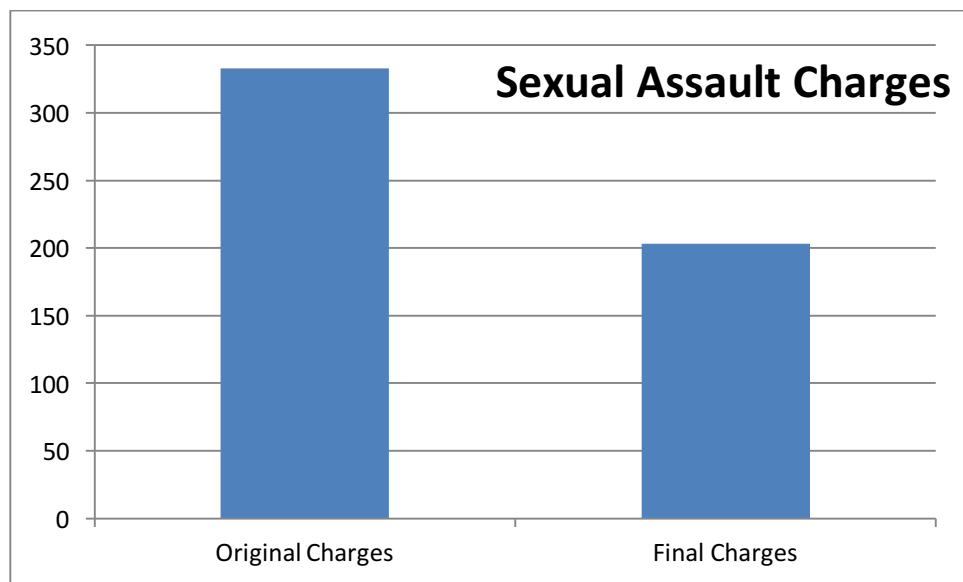
The court data contained final charge and disposition information for 203 sexual assault charges. Figure 7 shows the number of original vs. final charges for sexual assaults¹⁰. Twenty percent (41) of the sexual assault charges were disposed of by guilty plea. Two percent (5) of sexual assault charges was dismissed by the court, and 68 percent (139) was dismissed by the state. Nine percent (18) of sexual assault charges went to trial. At trial, nine defendants (50%) were found not guilty.

⁸ 13 VSA 3252

⁹ 13 VSA 3253

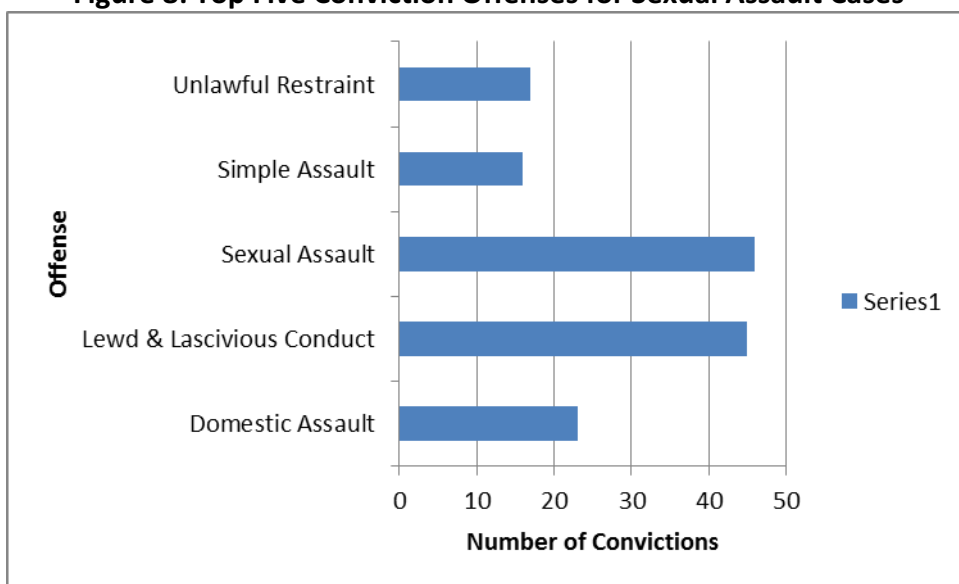
¹⁰ The case processing information and outcome analysis covers the 61 percent (203 charges) of charges that moved forward.

Figure 7: Original vs. Final Sexual Assault Charges, Offense Date FY2004-2009, Disposition Date FY2004-2010



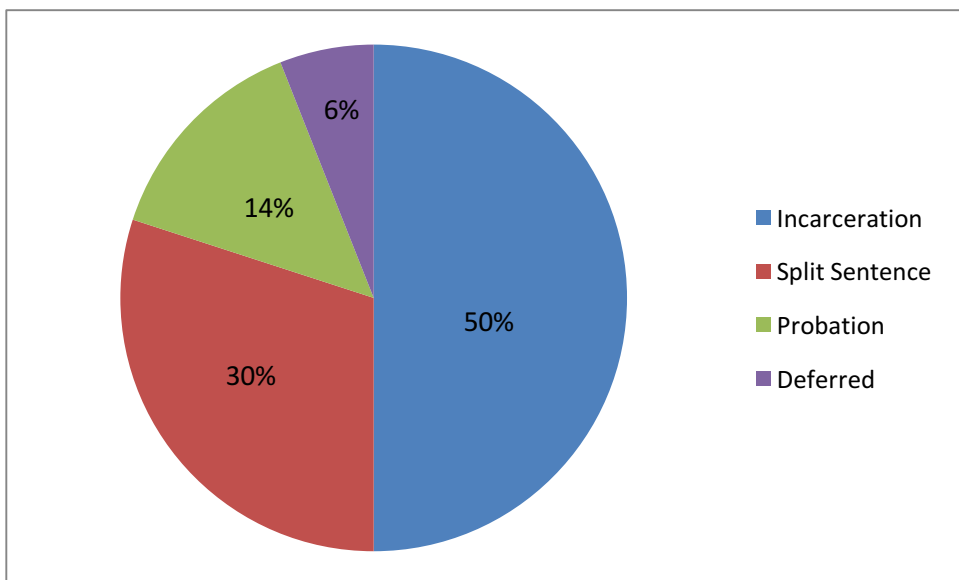
With charges dismissed by the state being high, additional analysis was performed to try and determine if some of those dismissed cases were actually being convicted of another offense. First it needs to be mentioned that up to this point the analysis has focused on charges. For a brief moment, the analysis will shift to cases; a case being the total number of charges scheduled to be arraigned at the same time. With regard to sexual assault from 2004-2009 in Vermont, there were 257 cases resulting in 333 charges. Of those 257 cases, 193 cases ended with some type of conviction (75% conviction rate). Figure 8 shows the top five conviction offenses.

Figure 8: Top Five Conviction Offenses for Sexual Assault Cases



On average, sexual assault charges resulting in a plea were disposed of in 273.13 days; those being dismissed by the court, in 167.75 days; and those dismissed by the state in 257.04 days. For those sexual assault charges going to trial, the average disposition time was 389.44 days. Of the 50 sexual assault charges that ended in convictions the most common sentence was incarceration (25), split sentence (15) and probation (7).

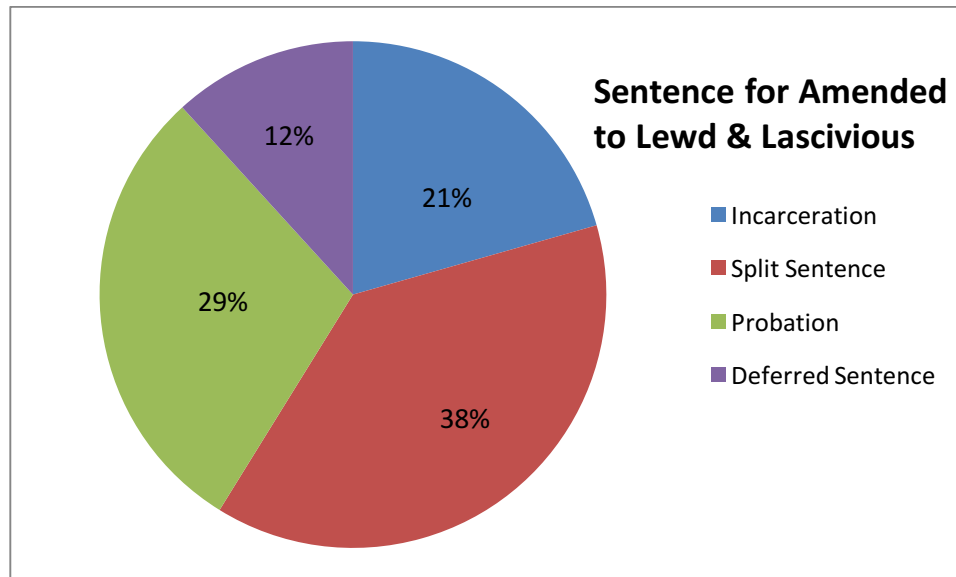
Figure 9: Sexual Assault Sentence Types



Information was available for 108 original sexual assault charges that were amended to a lesser charge, convicted, and sentenced. The two most common amended charges were

Lewd/Prohibited Act¹¹ with 38 percent (41) and Lewd & Lascivious Conduct¹² with 33 percent (36). The most common sentences given to an individual originally charged with sexual assault but amended to lewd/prohibited acts was probation (16) and incarceration (15). Figure 10 illustrates the sentences for someone originally charged with sexual assault but amended to lewd & lascivious conduct. The most common sentence was split sentence (13) and probation (10).

Figure 10: Sentence for Sexual Assault Charge Amended to Lewd & Lascivious Conduct



Attempting to determine if there were any county level differences with regard to sentencing was challenging due to the low number of charges (several counties with just one to three charges). There appeared, however, to be some differences in sentencing by county. Some counties sentenced more to incarceration (Addison, Bennington, Orleans, Rutland), while others sentenced more to a split sentence (Caledonia, Essex). Other counties had a fairly equal distribution between those receiving a sentence of incarceration, a split sentence, or probation (Chittenden, Franklin, Orange, Washington).

¹¹ 13V2632A8

¹² 13V2601

Figure 11: Sexual Assault Sentencing by County, Disposition FY2004-2010

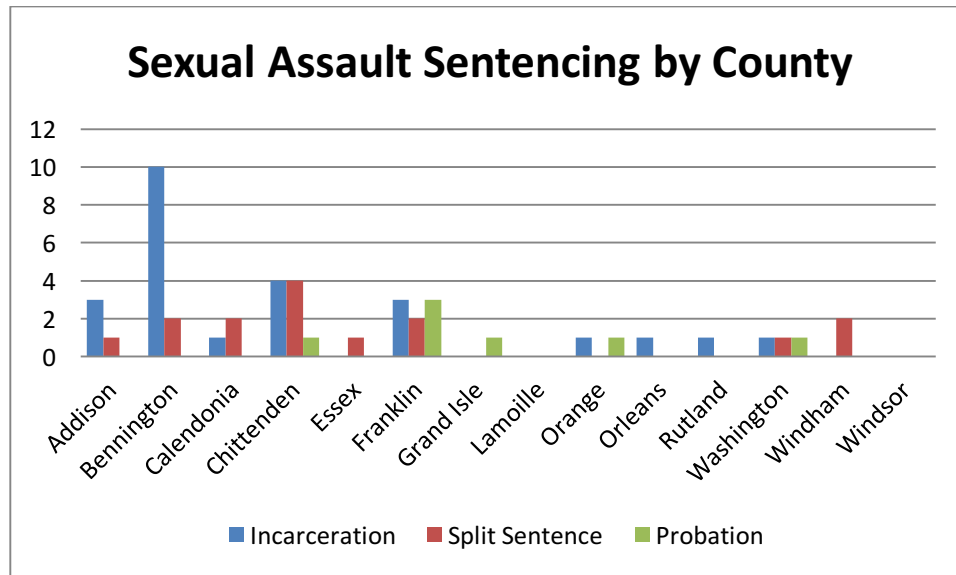


Table one (at the end of this report) provides the average length of sentence as well as the minimum and maximum for counties that had at least one sexual assault charge during the research period. Table two (also at end) provides the average number of days to disposition by county for both convictions and pled cases.

The statewide average for the minimum sentence for an incarceration sentence (convictions & pled cases) was 10.7 years while the average maximum was 54.3 years. The average time for split sentences was 3.9 years (min) to 15.4 years (max). The average days to serve was 747 days. The average probation sentence was 2.9 years to 13.2 years.

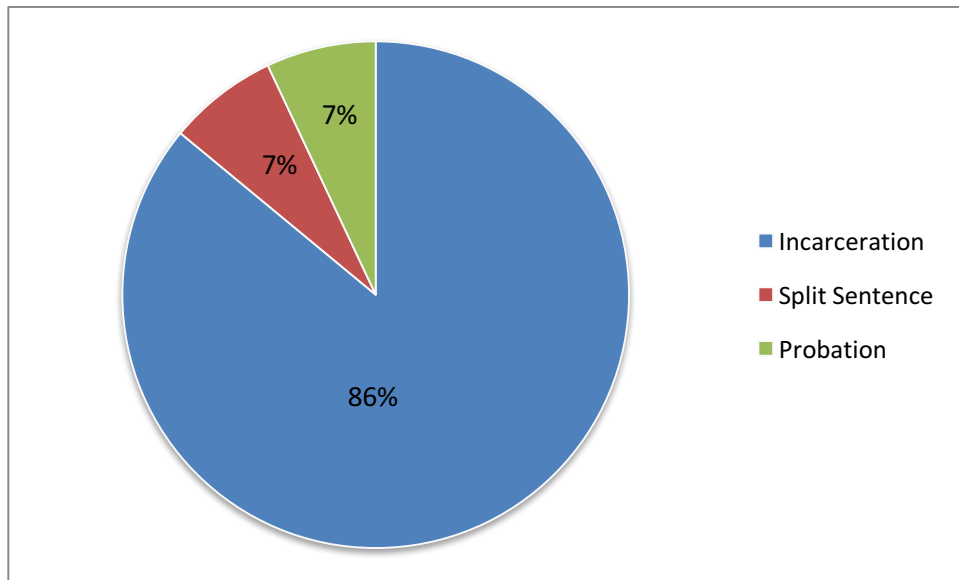
Aggravated Sexual Assault Case Processing and Outcomes

The court data contained final charge and disposition information for 45 aggravated sexual assault charges. Twenty-four percent (11) of final charges were disposed of by guilty plea. Four percent (2) were dismissed by the court and 64 percent (29) were dismissed by the state. For aggravated sexual assault charges, six percent (3) went to trial; all three were found guilty.

On average, aggravated sexual assault charges resulting in a plea were disposed of in 454.42 days; those being dismissed by the court, in 130.0 days; and those dismissed by the state in 405.0 days. For those aggravated sexual assault charges going to trial, the average disposition time was 509.33 days.

Of the 14 aggravated sexual assault charges that ended in conviction, the most common sentence was incarceration with 86 percent (12) receiving that sentence. Split sentence (1) and probation (1) were the next most common sentence. Figure 12 illustrates this information.

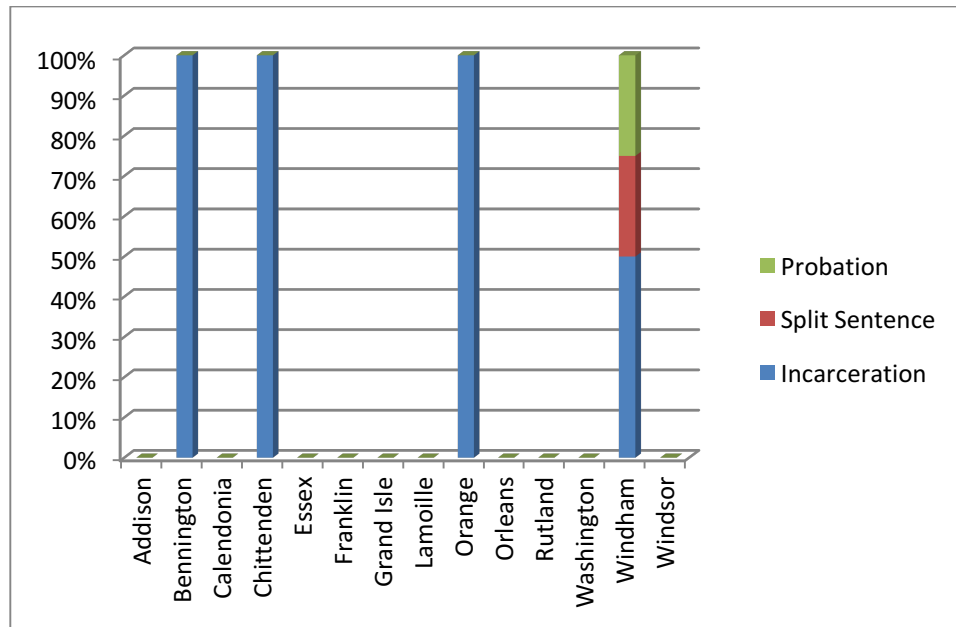
Figure 12: Aggravated Sexual Assault Sentence Types



Information was available for 27 aggravated sexual assault charges that were amended, convicted, and sentenced. Lewd/Prohibited Acts (8), Lewd & Lascivious Conduct (5), and Sexual Assault-No Consent (4) were the most common amended charges. Of those convicted of the amended charge of lewd/prohibited acts, the most common sentence was incarceration (6). Of those convicted of the amended charge of lewd & lascivious conduct the most common sentences were incarceration (2) and split sentence (2). Of those convicted of the amended charge of sexual assault-no consent the most common sentences were incarceration (2) and split sentence (2).

Three out of the four counties with aggravated sexual assault charges sentenced all of their charges to incarceration (Bennington, Chittenden, Orange). The one exception was Windham County where only 50 percent (2) of their convictions were sentenced to incarceration. The other half was sentenced to either a split sentence or probation. Unfortunately with sentencing data for only 14 aggravated sexual assault convictions during the research period more comparisons between counties could not be made.

Figure 13: Aggravated Sexual Assault Sentencing by County, Disposition FY2004-2010



The statewide average for the minimum of an incarceration sentence was 25.1 years while the average maximum was 66.7 years. The statewide median for the minimum of an incarceration sentence was 27.5 years while the median maximum was life. The average time to serve for split sentences was 10 years (min) and 20 years (max). The average days to serve was 366. The average probation sentence was 15 to 20 years.

SENTENCING ANALYSIS

A dismissal by the state was the largest category of dispositions for all charges; guilty pleas were second. Figure 14 illustrates that point. Four offenses had a 100 percent dismissal rate (Sexual Assault-Agg. Serious Injury, Sexual Assault-Agg. Kidnap, Sexual Assault-Agg. Weapon, and Sexual Assault-Agg. Threaten Injury). Sexual Assault-No Consent¹³ and Sexual Assault-Aggravated More than One¹⁴ had the next highest dismissal rates (73% and 70% respectively). Vulnerable Adult Sexual Abuse¹⁵ and Sexual Assault¹⁶ had the largest percentage of cases disposed of by guilty plea (approximately 40% each).

¹³ 13V3252A1A

¹⁴ 13V3253A2

¹⁵ 13V1379A, B, B1, B2

¹⁶ 13V3252

Figure 14: Percentages of All Cases by Methods of Case Disposal

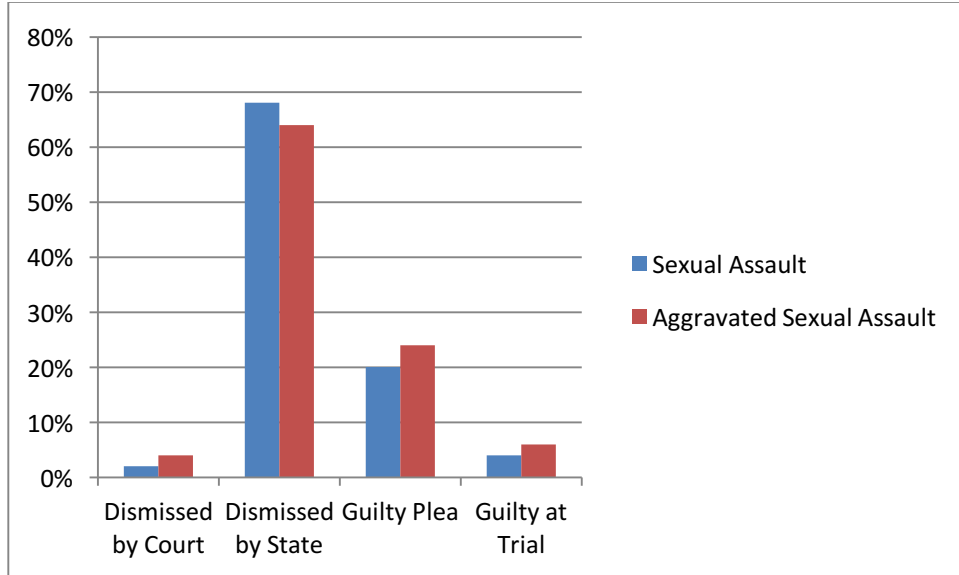
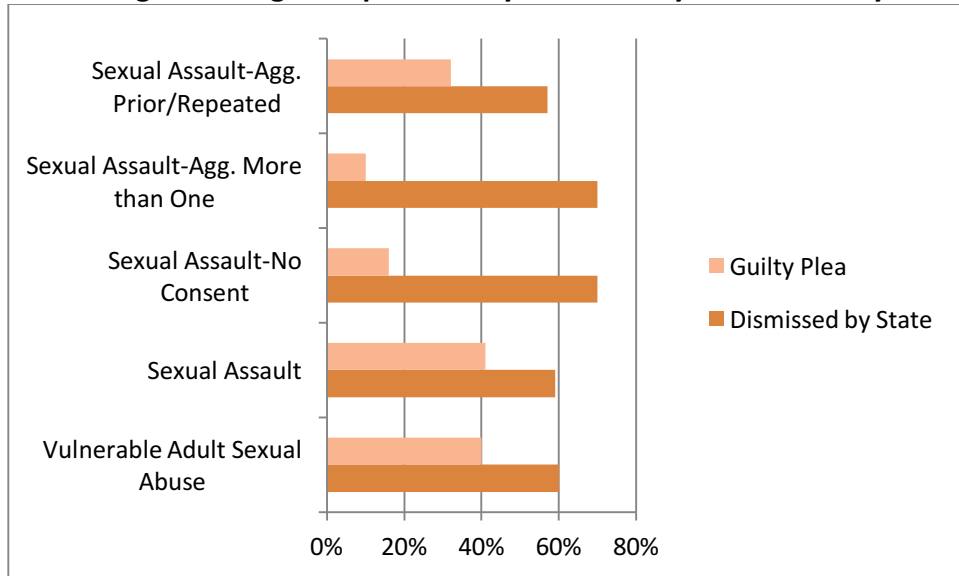


Figure 15 illustrates the percentage of charges disposed by state dismissal vs. guilty plea.

Figure 15: Percentage of Charges Disposed of by Dismissal by State or Guilty Plea by Offense



For both sexual assault and aggravated sexual assault charges, a majority of convictions 63% were for the same offense category as the defendant was originally charged. Of the 318 original sexual assault charges during the study period, 258 (81.1%) were convicted of a felony. For cases where an individual was charged with sexual assault, 199 (62.6%) were convicted of sexual assault.

The percentages are similar for aggravated sexual assault. Of the 75 original aggravated sexual assault charges, 66 (88%) were convicted of a felony. Forty-seven (62.7%) of the aggravated sexual assault charges were convicted of aggravated sexual assault. Six (8%) were convicted of sexual assault.

Sentence distribution appears to flow logically; the more serious offenses/charges were more likely to be sentenced to incarceration. The bulk of aggravated sexual assault charges were sentenced to incarceration while there was more variation among sexual assault charges.

PREDICTORS OF SENTENCING

The information in the above sections was gathered from Vermont court data. VCIC data was used for the following analysis. Because of the use of two different datasets, the number of charges varies. Below are the specific demographics of the VCIC data that were utilized for the analysis of the predictors of sentencing.

Demographics of Cohort

During the study period, 94 charges of sexual assault on adults were filed and disposed of in Vermont District Courts. Of the sexual assault charges, 93 (98.9%) were felony charges and one was a misdemeanor charge. All 94 charges were filed against males. Race of the defendant was available for approximately 75 percent of the data. There were 61 Caucasian males (64.9%) and nine African American males (9.6%) charged with sexual assault. Twenty-five percent of the defendants' race was either unknown or missing. The average age at time of disposition was 35.96 years. The median age was 34.77 years. The youngest offender was 17.28 at time of disposition while the oldest was 67.30.

Thirty-seven (39.4%) of the charges were for Sexual Assault-No Consent¹⁷. Eighteen (19.1%) were for Sexual Assault-Aggravated-Repeated and 17 (18.1%) were for Sexual Assault¹⁸. Of the offenses analyzed in this report, those were the most common. Figure 16 provides the filing rates for the counties. After taking into account the size of the adult population in those counties, Bennington County had the highest filing rate and Lamoille County had the lowest.

¹⁷ 13V3252A1A

¹⁸ 13V3252

Figure 16: Filing Rates by County

County	Filing Rate
Addison	0.10
Bennington	0.47
Caledonia	0.20
Chittenden	0.14
Essex	0.39
Franklin	0.39
Grand Isle	0.18
Lamoille	0.05
Orange	0.22
Orleans	0.33
Rutland	0.08
Washington	0.15
Windham	0.28
Windsor	0.07

The original plan was to conduct multivariate analysis of the data to determine factors that predict sentencing; however, with a sample of fewer than 100 cases (N=94) it was impossible to provide reliable regression (multivariate) analysis for the data. Therefore bivariate analysis was completed. Cross-tabulations, which show a relationship/association between two variables, were utilized.

The following variables were cross-tabulated with the “Sentence” variable¹⁹: Criminal History, Age, Defendant’s Race, County, Original Charge Offense Level (felony vs. misdemeanor), and Recidivist. Pearson’s *r* was employed to determine if the cross-tabulations were statistically significant²⁰. Figure 17 presents the results of the correlational analysis.

¹⁹ The sentence variable is from the disposition codes and is the type of disposition. It was formatted to match the sentences in the court data.

²⁰ Statistical significance illustrates that the findings most likely did not occur by chance. The .05 level of significance was used for this research. This means that we are 95% confident that the relationship or association found did not happen by chance.

Figure 17: Cross Tabulation Results

Variables	Pearson Chi-Square Value	df	Significance
Criminal History & Sentence	26.137	51	0.999
Defendant Race & Sentence	3.851	6	0.697
Age & Sentence	282	279	0.439
County & Sentence	46.825	39	0.182
Original Charge Level & Sentence	7.627	3	0.05
Recidivist	9.255	3	0.026

The relationship between criminal history and sentence was not statistically significant. Defendant's race and sentence did not have a statistically significant relationship. The relationship between age and sentence was not statistically significant. The county the defendant was processed in was not statistically related to the sentence variable. The original charge offense level was statistically related to the sentence. Whether the defendant was a recidivist was statistically related to the sentence variable. In sum, it appears from bivariate analysis that the original charge level and whether the defendant was a recidivist are related to and potentially influence/predict sentencing.

BEFORE AND AFTER THE 2006 SEXUAL VIOLENCE PREVENTION ACT

In 2006, Vermont State Legislators passed the Sexual Violence Prevention Act (SVPA). This act created Special Investigation Units across the state; however, several special investigation units already existed prior to 2006. Bennington County had such a unit in 1989 and Chittenden County created one in 1992. Other communities though did not create special investigation units until much later. Figure 18 provides the year in which special investigation units were created throughout Vermont²¹. Legislators also increased penalties for forcible sexual assault. This report also examined sexual assault case processing keeping in mind this legislation. Unfortunately, the data available for this analysis and report did not provide enough information to adequately determine if the SVPA impacted sexual violence prosecutions. The following information is preliminary and a more thorough analysis of the SVPA should be conducted.

²¹ State of Vermont – FY12 1st Quarter Statistics by SIU

Figure 18: Year of Creation of Special Investigation Units

County	Year
Addison	2010
Bennington	1989
Calendonia	2008
Chittenden	1992
Essex	2009
Franklin	1995
Grand Isle	1995
Lamoille	2007
Orange	2008
Orleans	2008
Rutland	2007
Washington	2008
Windham	2007
Windsor	2008

Sexual Assault: Pre and Post 2006 Sexual Violence Prevention Act

Figure 19 presents a comparison of sexual assault filings and sentencing patterns before and after the passage of the 2006 Sexual Violence Prevention Act.

Statewide during the study period of 2004-2009, there were 363 sexual assault original charges filed in District Courts. Prior to the Sexual Violence Prevention Act (2004-2006), there were 149 (41%) sexual assault charges filed. After the SVPA (2007-2010), 214 (59%) sexual assault charges were filed. The average number of charges filed prior to the SVPA was 49.6 while the average number of charges filed after the SVPA was 53.5. The averages are the more comparable numbers since the pre and post eras differ in length.

According to NIBRS data, the number of forcible rapes was declining prior to SVPA. After the passage of SVPA, the number of forcible rapes fluctuated from year to year (see Figure 1 earlier in this report). The increase in filings could be because of this fluctuation or it could be due to the fact that four years of data was included in the post-SVPA analysis while only three years were included in the pre-SVPA period.

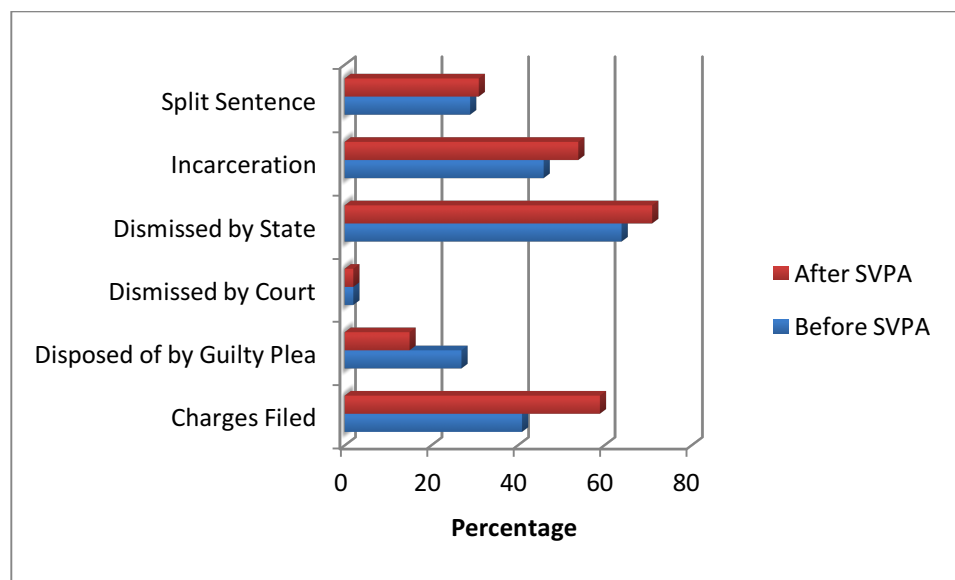
Of the 81 sexual assault charges that ended in conviction prior to SVPA, 27 percent (22) were disposed of by guilty plea, while two percent (2) were dismissed by the court. The bulk of sexual assault charges (64%, 52) were dismissed by the state. Six percent (5) went to trial. At trial, two (40%) were found guilty.

After SVPA, there was final charges and sentencing information for 122 sexual assault charges. Sixteen percent (19) of the sexual assault charges were disposed by guilty plea while two percent (3) were dismissed by the court. Similar to the pre-SVPA, over half of the disposals

(71%, 87) were by dismissals by the state. Eleven percent (13) went to trial. At trial, seven (54%) were found guilty.

Prior to SVPA, sentencing information was available for 24 sexual assault charges. Forty-five percent (11) received incarceration while 29 percent (7) received a split sentence. Three received probation and three received deferred sentences. After SVPA, sentencing information was available for 26 sexual assault charges. Of those 14 (54%) received incarceration, 8 (31%) received a split sentence, and 4 (15%) received probation. There were no deferred sentences.

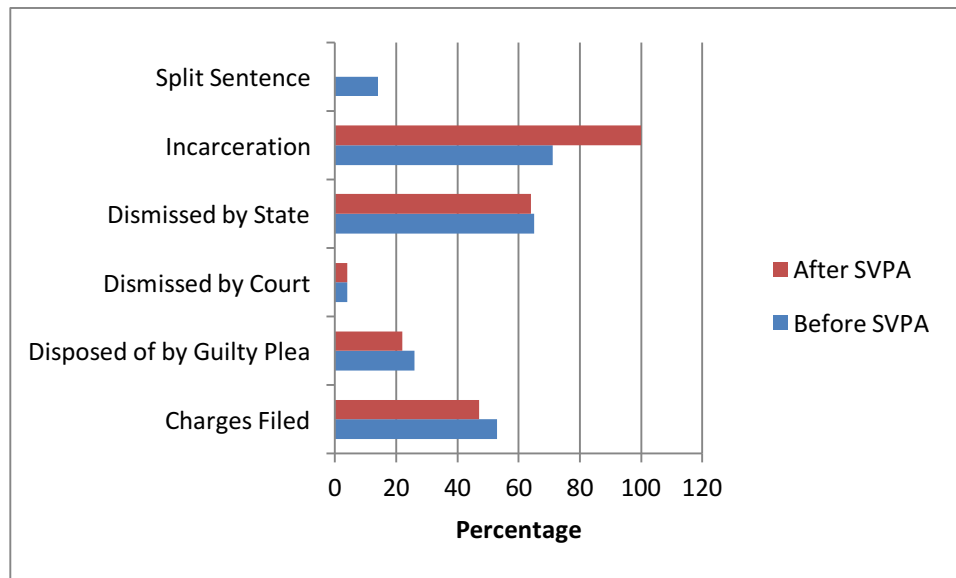
Figure 19: Percentages of Sexual Assault Filings and Sentencing Before and After Sexual Violence Prevention Act



Aggravated Sexual Assault: Pre and Post

Statewide during the study period of 2004-2009, there were 90 aggravated sexual assault original charges filed in District Court. Figure 20 presents a comparison of aggravated sexual assault filings and sentencing patterns before and after the passage of the 2006 Sexual Violence Prevention Act.

Figure 20: Percentages of Aggravated Sexual Assault Filings and Sentences Before and After Sexual Violence Prevention Act



Prior to SVPA, there were final charges and disposal information for 23 aggravated sexual assault charges. Of those 26 percent (6) were disposed of by guilty plea while one was dismissed by the court. Sixty-five percent (15) were dismissed by the state. Only one aggravated sexual assault charge went to trial (found guilty at trial).

After SVPA, there were final charges and disposal information for 22 aggravated sexual assaults. Of those 22 percent (5) were disposed of by guilty plea while one was dismissed by the court. Sixty-four percent (14) were dismissed by the state. Two aggravated sexual assault charges went to trial. At trial, both were found guilty.

Prior to SVPA, sentencing information was available for 7 aggravated sexual assault charges. The majority (5) were sentenced to incarceration. One received a split sentence and another received probation. After SVPA, sentencing information was available for 7 aggravated sexual assault charges. All of those (100%) received a sentence of incarceration.

Case Study: Chittenden County

To better determine the potential effects of the SVPA, it was decided to examine the law from the perspective of one county. As evidenced by the data provided earlier in this report, Chittenden County had the most charges for sexual assault and aggravated sexual assault during the study time period. Data on a variety of parameters were available for Chittenden County. Additionally Chittenden County already had a special investigation unit prior to the SVPA becoming law. Therefore Chittenden County was selected for the case study as it would provide an opportunity to see the law's impact on a community already doing what the law intended.

In line with the parameters of the Sexual Violence Prevention Act, Chittenden County has the Chittenden Unit for Special Investigations (C.U.S.I.) which “is a multi-agency task force dedicated to providing criminal investigations in response to reports of sexual assaults and serious child abuse.”²² As mentioned previously, Chittenden County had its special investigation unit for over 10 years prior to the SVPA becoming law. The SVPA did not impact the functionality of the CUSI²³; its procedures, policies, etc. were well formed by the time the SVPA went into effect.

Sexual Assault

Final charges and disposal information was available for 38 sexual assault charges in Chittenden County during the study period, 2004-2009. Of those, 17 (45%) occurred before the passage of SVPA and 21 (55%) occurred after its passage.

Prior to SVPA in Chittenden County, six charges (35%) were disposed of by guilty plea while none were dismissed by the court. Similar to the statewide data trends, most of the disposals were because the state dismissed the charges. In Chittenden County, ten (59%) were dismissed by the state. Only one went to trial (found guilty at trial).

After the passage of SVPA, three (14%) of charges were disposed of by a guilty plea while none were dismissed by the court. Again most cases were disposed of by being dismissed by the state. Eighteen (85%) of sexual assault charges after the passage of SVPA were dismissed by the state. None went to trial.

Of the 10 charges that ended in convictions (7-Prior SVPA and 3-Post SVPA), three (43%) charges prior to SVPA resulted in incarceration sentences, two (29%) received split sentences, one (14%) received probation, and one (14%) received a deferred sentence. After SVPA one (33%) charge resulted in incarceration and two (67%) resulted in split sentences. Case processing patterns were similar before and after the SVPA in Chittenden County. Overall both before and after SVPA, the highest category of case disposal method was being dismissed by the state. If a case made it beyond that stage, it ended with a guilty plea or conviction.

Aggravated Sexual Assault

Final charges and disposal information was available for 9 aggravated sexual assault charges in Chittenden County during the study period, 2004-2009. Of those 4 (44%) occurred prior to SVPA and 5 (55%) occurred after its passage.

Prior to SVPA in Chittenden County, two (50%) of charges were disposed of by guilty plea and the remaining two charges were dismissed by the state. After SVPA, there were no guilty pleas. Three charges (60%) were dismissed by the state while the remaining two (40%) charges went

²² <http://www.cusi-vermont.org/>

²³ This information came from the current Director of CUSI, an individual with over 8 years working for that unit.

to trial. At trial, both were found guilty. Of the four charges (two pre and two post) that ended in convictions, all four charges resulted in incarceration sentences.

As with sexual assault case processing, aggravated sexual assault case processing in Chittenden County was similar before and after SVPA. If a case wasn't dismissed by the state, it would end with a guilty plea or verdict and a sentence of incarceration.

CONCLUSION

Key Findings:

- Between the years 2003-2010, over 1,200 sex offenses (forcible rapes by an adult offender) were reported to law enforcement.
- Regardless of the circumstances of the crime, the proportion of defendants arrested vs. cited remains relatively equal.
- Over half (approximately 63 percent) of sexual assault and aggravated sexual assault convictions are for the same category of offense as the defendant was originally charged.
- The most common sentences for sexual assault and aggravated sexual assault convictions are incarceration, split sentence, and probation.
- A dismissal by the state was the largest category of dispositions for all charges.
- There appears to be some variation in sentencing for sexual assault, while there is little variation for aggravated sexual assault sentencing. The county variable was not statistically related to the sentence an offender received.
- According to bivariate analysis of criminal history data from the Vermont Criminal Information Center (VCIC), the original charge level and whether the defendant was a recidivist are influential in sentencing, while the defendant's race, criminal history, age, and county do not seem to have any impact.
- In 2006, the Vermont Legislature passed the Sexual Violence Prevention Act (SVPA). A pre- and post-comparison revealed similar final charges, disposal numbers, and sentencing.

A dismissal by the state was the largest category of dispositions for all charges. Of the sexual assault and aggravated sexual assault charges that ended in conviction the majority were for the same offense category and received a sentence of incarceration. The original charge level and whether the defendant was a recidivist appear to be influential in sentencing.

Unfortunately, the data available for this analysis and report did not provide enough information to adequately determine if the SVPA impacted sexual violence prosecutions. Several factors might have impacted why it appeared that the SVPA has had little effect on sexual violence charges, convictions, etc. First, it might have been the fact that only a few years had passed since the legislation became law and practitioners might not have had adequate time to make changes. This is especially evidenced by the fact that several communities did not establish the special investigation unit until years after the legislation passed. Second, several counties had special investigation units long before the SVPA; therefore the law's effect might have been limited. Third, factors other than criminal justice practitioners might be the reason for similar numbers before and after the law. Since situational and/or environmental factors

were unavailable, there is no way to determine if the charges filed, cases dismissed by the state, etc. before and after the law are similar. For example, there could have been an impact on the way evidence was collected in certain types of cases and that might have made a difference on the charges filed, cases dismissed, and convictions, but without more details it is hard to determine the law's effect. Further research is needed to determine the effectiveness of SVPA²⁴.

Finally, the fact that most sexual assault and aggravated sexual assault charges were disposed of by a dismissal by the state should be examined further. A greater understanding of why specifically this occurs could better inform current policies, procedures, and future legislation.

²⁴ Additionally it was hoped that this report could provide analysis of factors that led to prosecution. Unfortunately, the data available to researchers did not include the necessary information to conduct such analysis.

Table 1: Sexual Assault County Summary Sentencing Statistics

Offense Date = FY2004-2009, Disposition Date = FY2004-FY2010					
<i>Addison County</i>	Min	Max	Mean	S.D.	N
Incarceration Total					
Minimum Sentence Length (years)	3.591	3.591	3.591	0.000	3
Maximum Sentence Length (years)	99.000	99.000	99.000	0.000	3
Split Total					
Minimum Sentence Length (years)	5.000	5.000	5.000	-	1
Maximum Sentence Length (years)	15.000	15.000	15.000	-	1
Days to Serve	1,096	1,096	1,096	-	1
<i>Bennington County</i>					
Incarceration Total					
Minimum Sentence Length (years)	1.169	40.000	17.930	19.069	10
Maximum Sentence Length (years)	1.253	99.000	46.055	45.854	10
Split Total					
Minimum Sentence Length (years)	4.000	5.000	4.500	0.707	2
Maximum Sentence Length (years)	10.000	10.000	10.000	0.000	2
Days to Serve	765	1,279	1,022	364	2
<i>Caledonia County</i>					
Incarceration Total					
Minimum Sentence Length (years)	3.000	3.000	3.000	-	1
Maximum Sentence Length (years)	6.000	6.000	6.000	-	1
Split Total					
Minimum Sentence Length (years)	3.000	3.000	3.000	0.000	2
Maximum Sentence Length (years)	7.000	10.000	8.500	2.121	2
Days to Serve	60	549	305	346	2
<i>Chittenden County</i>					
Incarceration Total					
Minimum Sentence Length (years)	2.505	8.000	4.376	2.495	4
Maximum Sentence Length (years)	12.000	99.000	37.750	41.007	4
Split Total					
Minimum Sentence Length (years)	1.000	3.000	2.001	0.817	4
Maximum Sentence Length (years)	5.000	8.000	6.500	1.291	4
Days to Serve	30	732	289	318	4
Probation Total					
Minimum Sentence Length (years)	2.000	2.000	2.000	-	1

Maximum Sentence Length (years)	5.000	5.000	5.000	-	1
<i>Essex County</i>					
Split Total					
Minimum Sentence Length (years)	3.000	3.000	3.000	-	1
Maximum Sentence Length (years)	4.000	4.000	4.000	-	1
Days to Serve	731	731	731	-	1
<i>Franklin County</i>					
Incarceration Total					
Minimum Sentence Length (years)	10.000	20.000	14.000	5.292	3
Maximum Sentence Length (years)	99.000	99.000	99.000	0.000	3
Split Total					
Minimum Sentence Length (years)	3.000	6.000	4.500	2.121	2
Maximum Sentence Length (years)	12.000	99.000	55.500	61.518	2
Days to Serve	90	2,192	1,141	1,486	2
Probation Total					
Minimum Sentence Length (years)	0.000	10.000	3.333	5.774	3
Maximum Sentence Length (years)	20.000	20.000	20.000	0.000	3
<i>Grand Isle County</i>					
Probation Total					
Minimum Sentence Length (years)	4.000	4.000	4.000	-	1
Maximum Sentence Length (years)	8.000	8.000	8.000	-	1
<i>Orange County</i>					
Incarceration Total					
Minimum Sentence Length (years)	3.000	3.000	3.000	-	1
Maximum Sentence Length (years)	15.000	15.000	15.000	-	1
Probation Total					
Minimum Sentence Length (years)	1.000	1.000	1.000	-	1
Maximum Sentence Length (years)	5.000	5.000	5.000	-	1
<i>Orleans County</i>					
Incarceration Total					
Minimum Sentence Length (years)	4.000	4.000	4.000	-	1
Maximum Sentence Length (years)	20.000	20.000	20.000	-	1
<i>Rutland County</i>					
Incarceration Total					
Minimum Sentence Length (years)	2.000	2.000	2.000	-	1
Maximum Sentence Length (years)	12.000	12.000	12.000	-	1

Washington County

Incarceration Total

Minimum Sentence Length (years)	6.000	6.000	6.000	-	1
Maximum Sentence Length (years)	99.000	99.000	99.000	-	1

Split Total

Minimum Sentence Length (years)	4.000	4.000	4.000	-	1
Maximum Sentence Length (years)	15.000	15.000	15.000	-	1
Days to Serve	365	365	365		

Probation Total

Minimum Sentence Length (years)	3.000	3.000	3.000	-	1
Maximum Sentence Length (years)	15.000	15.000	15.000	-	1

Windham County

Split Total

Minimum Sentence Length (years)	3.000	12.000	7.500	6.364	2
Maximum Sentence Length (years)	7.000	17.000	12.000	7.071	2
Days to Serve	1,096	1,826	1,461	517	2

Table 2: Sexual Assault Disposition Time By County**Offense Date = FY2004-
FY2009**

	N	Mean # of Days to Disposition
<i>Addison County</i>		
Total Dismissed by Court	0	-
Total Dismissed by Prosecutor	6	142.33
Total Disposed by Plea	10	254.70
Total Disposed by Trial	4	286.25
Overall	20	227.30
<i>Bennington County</i>		
Total Dismissed by Court	2	90.00
Total Dismissed by Prosecutor	29	203.86
Total Disposed by Plea	25	287.91
Total Disposed by Trial	3	315.00
Overall	59	242.19
<i>Caledonia County</i>		
Total Dismissed by Court	1	161.00
Total Dismissed by Prosecutor	8	253.87
Total Disposed by Plea	8	276.50
Total Disposed by Trial	0	-
Overall	17	259.06
<i>Chittenden County</i>		
Total Dismissed by Court	0	-
Total Dismissed by Prosecutor	31	306.77
Total Disposed by Plea	43	257.60
Total Disposed by Trial	1	258.00
Overall	75	277.93
<i>Essex County</i>		
Total Dismissed by Court	0	-
Total Dismissed by Prosecutor	0	-
Total Disposed by Plea	1	671.00
Total Disposed by Trial	0	-

Overall	1	671.00
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Franklin County

Total Dismissed by Court	0	-
Total Dismissed by		
Prosecutor	24	208.96
Total Disposed by Plea	20	253.95
Total Disposed by Trial	2	504.50
Overall	46	241.37

Grand Isle County

Total Dismissed by Court	0	-
Total Dismissed by		
Prosecutor	1	157.00
Total Disposed by Plea	3	140.00
Total Disposed by Trial	0	-
Overall	4	144.25

Lamoille County

Total Dismissed by Court	0	-
Total Dismissed by		
Prosecutor	4	448.25
Total Disposed by Plea	5	222.60
Total Disposed by Trial	1	716.00
Overall	10	362.20

Orange County

Total Dismissed by Court	0	-
Total Dismissed by		
Prosecutor	5	315.60
Total Disposed by Plea	4	336.25
Total Disposed by Trial	0	-
Overall	9	324.78

Orleans County

Total Dismissed by Court	0	-
Total Dismissed by		
Prosecutor	6	348.83
Total Disposed by Plea	4	385.25
Total Disposed by Trial	1	365.00
Overall	11	363.55

Rutland County

Total Dismissed by Court	0	-
Total Dismissed by		
Prosecutor	3	351.33
Total Disposed by Plea	2	331.00
Total Disposed by Trial	0	-
Overall	5	343.20

Washington County

Total Dismissed by Court	0	-
Total Dismissed by		
Prosecutor	7	227.43
Total Disposed by Plea	6	329.83
Total Disposed by Trial	2	643.00
Overall	15	323.80

Windham County

Total Dismissed by Court	1	330.00
Total Dismissed by		
Prosecutor	18	308.72
Total Disposed by Plea	8	356.25
Total Disposed by Trial	2	328.00
Overall	29	323.90

Windsor County

Total Dismissed by Court	0	-
Total Dismissed by		
Prosecutor	8	176.25
Total Disposed by Plea	11	209.55
Total Disposed by Trial	0	-
Overall	19	195.53