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Research article

The characteristics of reports to the police of child sexual abuse and the likelihood of cases proceeding to prosecution after delays in reporting[☆]

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ABSTRACT

Delays in disclosing and reporting child sexual abuse to the police are common, particularly among males and those who have been abused by clergy and others in a position of trust. This study, commissioned by the Royal Commission into Institutional Responses to Child Sexual Abuse, examined the patterns of timely and delayed reporting of sexual offences against children, and the likelihood of legal action commencing. De-identified unit record data for all sexual offences against children reported to the police over 20 years were obtained from official crime statistics agencies in two Australian states. While there were similarities between the two states in terms of the influence of public inquiries on reporting numbers over this period, and in the factors associated with delayed reporting, there were substantial differences in the likelihood of legal action being taken in cases reported by a child or adult complainants. In one state, legal action was more likely with increasing delay, until the delays extended to 10–20 years, after which the likelihood of legal action decreased. In the other state, the pattern was quite different – reports of sexual assault were somewhat more likely to result in legal action with immediate reporting. The least likely to proceed were cases involving young children in more recent years; long delays into adulthood were not necessarily adverse for prosecution.

1. Introduction

Child sexual abuse is widely recognised by prosecutors and legal commentators as one of the most difficult crimes to investigate and prosecute, primarily because there is often little physical or corroborative evidence, and there are a number of difficult legal and evidentiary barriers (Hamer, 2010; Shead, 2014; Walsh, Jones, Cross, & Lippert, 2010). Child sexual abuse is typically committed in secrecy by someone known and trusted by the child and their family. Delayed reporting is common. Many children do not tell anyone about the abuse at the time, or during their childhood or adolescence; an unknown number never tell anyone (London, Bruck, Ceci, & Schuman, 2005; Priebe & Svedin, 2008). Some report the abuse as adults, and for some, reports are not made until many years after the abuse (Cashmore & Shackel, 2014; Connolly & Read, 2006, 2007; Connolly and Read, 2007; Parkinson, Oates, & Jayakody, 2010).

A number of studies have found that delayed disclosure is associated with various characteristics of the child and perpetrator, and the relationship between them. The most consistent findings concern gender of the complainant, with males much more likely than

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females to delay disclosure and reporting if they disclose or report at all (Bunting, 2008, 2014; Cashmore & Shackel, 2014; Collin-Vézina, De La Sablonnière-Griffin, Palmer, & Milne, 2015; Goodman-Brown, Edelstein, Goodman, Jones, & Gordon, 2003; London et al., 2005). Children have also been found to be less likely to disclose and more likely to delay if the perpetrator is a parent or parent figure, or a person in a position of trust and authority than an unknown or unrelated person (Goodman-Brown et al., 2003; London et al., 2005; Paine & Hansen, 2001; Smith et al., 2000). Older children and adolescents have been found to be more reluctant to disclose than younger children in some studies (Goodman-Brown et al., 2003), and the opposite in other studies and reviews (London et al., 2005). The research evidence in relation to differences in disclosure and reporting associated with the type and frequency of the abuse is mixed (Hershkowitz, Lanes, & Lamb, 2007; Paine & Hansen, 2002; Schaeffer, Leventhal, & Asnes, 2011; Smith et al., 2000).

It is important, however, to separate disclosure to a parent, counsellor or other person from official reporting of the abuse to the police or a child protection agency. Disclosing the abuse is only the first step for those who may become involved in criminal proceedings. A disclosure, outside the requirements of mandatory reporting, may not result in an official report, and the vast majority of reports do not result in a prosecution and conviction (Daly & Bouhours, 2010; Fitzgerald, 2006).

Prior to the relaxation, in the Australian jurisdictions, of corroboration and competence requirements in the late 1980s, few cases proceeded because there was very little prospect of a conviction (Cashmore & Horsky, 1988; Connolly, Coburn, & Chong, 2017). Despite improved interviewing processes, the pre-recording of children's evidence, and courtroom modifications, there are a number of evidentiary challenges for the investigation and prosecution of sexual offences against children (Cashmore, 2017; Connolly et al., 2017; McWilliams et al., 2014). When a report is made some months, years or decades after the abuse occurred, there are other challenges relating to the availability and reliability of evidence (Connolly & Read, 2007; Newbury, 2014; Shead, 2014). As Newbury (2014) pointed out: "With time, offenders have the opportunity to escape, dispose of evidence and construct alibis; victim and witness memories fade or are distorted; witnesses become hard to locate or identify, and in some cases die; and crime scenes and exhibits are obliterated or contaminated" (p. 44).

If there is no statute of limitations on criminal prosecutions of such matters and a case proceeds to court, admissibility, credibility, and reliability issues are common, and exacerbated by warnings and directions to the jury about the impact of delay on the capacity of the accused to mount a defence (for example, see Connolly, Price, & Gordon, 2010; Donnelly, 2007; Flatman & Bagaric, 1997–98; Hamer, 2010). Witnesses who might have corroborated or contradicted the evidence of the complainant may have died or may be untraceable.

On the other hand, a possible advantage in historical matters is that complainants who report child sexual abuse as adults are often committed to seeing the investigation and prosecution through. They may also be seen as more credible and as having little incentive to go through what can be a very painful process after a number of years without good cause. Adult complainants may also have less difficulty than children in understanding and answering questions in cross-examination, and be perceived by judges as more cognitively competent than complainants who are children at the time of the trial (Cashmore & Bussey, 1996; Connolly et al., 2010).

Although reluctant and delayed disclosure and reporting are now well recognised, few empirical studies have focused on the impact of delayed reporting on the prosecution of child sexual abuse. Bunting (2008, 2014) analysed the characteristics, including delayed reporting, of nearly 5000 child sexual abuse reports to the police in Northern Ireland over the period 2001–2006 and 2079 reports from 2008 to 2010 and the likelihood of formal and other sanctions in "detected" reports. Detected reports are those in which police are satisfied there is sufficient evidence to charge an offender and a reasonable chance of securing a conviction. In a series of articles, Connolly and her colleagues have analysed three sets of Canadian court judgements involving over 3000 historic child sexual abuse matters spanning 1986–2012 (Connolly & Read, 2007; Connolly, Chong, Coburn, & Lutgens, 2015; Connolly et al., 2017).

These two sets of studies differed both in their focus – delayed reports to police and "historic" court matters – and also in their definition of "delay". Bunting compared reports to police relating to offences when the complainant was under 18, with different measures of delayed reporting within 48 h, within a year, more than a year later, and when the complainant was an adult (18 years and older). Connolly and her colleagues focused on "historic" cases, defined as those that were decided at court two or more years from the last alleged offence, though most had delays considerably longer than two years. Connolly and Read (2007) compared the profile of such cases with over 3000 "timely" official complaints extracted from a Canadian government report involving children under 16 when the alleged abuse began. In another study, Connolly et al. (2015) compared "historic" cases with timely child sexual abuse cases in which the delay was less than two years.

The two sets of studies showed similar patterns in relation to delay, patterns that were in line with those seen in the disclosure studies. The majority of reports and court matters, around 80%, involved female complainants, though there was a higher proportion of males among delayed reports to police and in historic court matters. Delayed reports and historic court matters were more likely to involve a close relationship between the child and the alleged perpetrator (parent, other family member or person in a position of trust) than more timely reports to the police or court matters (which were more likely to involve another known person or stranger). The pattern in relation to the child's age was more complex. In Bunting's (2014) study, child complainants were more likely to have been older at the time of the offence (13–17 years) and reporting rape/attempted rape than adult complainants who were more likely to have been younger and reporting less intrusive sexual offences. Similarly, in Connolly and Read's court study, female adolescents aged 14 and older at the time of the offence were also more likely to be involved in timely court matters than younger females aged 7–11 years who were more likely to be in historic matters; there was no significant difference for male complainants. In Connolly et al.'s (2015) study, the longest delays, of 25 years on average, were for adolescent boys when the accused had been in a position of trust in the community whereas neither adolescent nor younger female complainants delayed longer than they did for allegations involving family members.

The impact of delayed reporting in these studies on the likelihood of the matter proceeding was also complex and not necessarily as expected. Bunting's (2008) study involved a series of bivariate chi-square analyses which indicated a curvilinear association, with

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