

TRANSFORMING THE TREND

*Working Together to Disrupt
the Pattern of Child Sex Abuse*

Overview of Statistics and the Legal Environment



Contents

Designed for Symposium Participants

- The scope of the SAM problem
 - CDC statistics and consequences
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 - More than 90 changes to civil and criminal statutes of limitation since 2016
- A sampling of claims and settlements
 - Excerpts from a conference presentation to public risk managers
 - AP Report on Student-v-Student Abuse

The Scope of the SAM Problem

Information from the CDC, Office of Justice Programs, National Council on Aging, NPR, Associated Press, Atlanta Journal Constitution, Federation of State Medical Boards

- The CDC estimates 1 in 4 girls and 1 in 13 boys experience sexual abuse during childhood
- Youth-to-youth sexual misconduct occurs at higher prevalence rate than adult-to-youth
- Adults with intellectual disabilities are sexually assaulted at a rate seven times higher than those without disabilities
- Experts suggest it is near impossible to ascertain the breadth of sexual violations in medicine
- Reported sexual assaults in US Military increased 13% in 2021
- Elders are three times more often to experience abuse

Stats from the CDC

Centers for Disease Control and Prevention

Child sexual abuse refers to the involvement of a child (person less than 18 years old) in sexual activity that violates the laws or social taboos of society and that he/she:

- does not fully comprehend
- does not consent to or is unable to give informed consent to, or
- is not developmentally prepared for and cannot give consent to

Many cases are not reported, but research indicates:

- 1 in 4 girls experience sexual abuse
- 1 in 13 boys
- 91% of perpetrators are known and trusted by the child/family
- The total lifetime economic burden is \$9.3 billion (estimated in 2015)

Consequences – from the CDC

Experiencing child sexual abuse can affect how a person thinks, acts, and feels over a lifetime. This can result in short- and long-term physical, mental, and behavioral health consequences. Some examples are listed below.

Examples of physical health consequences:

- sexually transmitted infections (STIs)
- physical injuries
- chronic conditions later in life, such as heart disease, obesity, and cancer

Examples of mental health consequences:

- depression
- posttraumatic stress disorder (PTSD) symptoms

Examples of behavioral consequences:

- substance use/misuse, including opioid misuse
- risky sexual behaviors, meaning sex with multiple partners or behaviors that could result in pregnancy or STIs
- increased risk for perpetration of sexual violence
- increased risk for suicide or suicide attempts

Consequences – from the CDC

[Fast Facts: Preventing Child Sexual Abuse |Violence Prevention|Injury Center|CDC](#)

Experiencing child sexual abuse can also increase a person's risk for future victimization. For example, recent studies have found:

- Females exposed to child sexual abuse are at **2-13 times increased risk of sexual violence victimization in adulthood**
- People who experienced child sexual abuse are at **twice the risk for non-sexual intimate partner violence**

AP

“Schools are required to keep students safe. It is part of their mission. It is part of their legal responsibility. It isn’t happening. Why don’t we know more about it, and why isn’t it being stopped?”

CHAROL SHAKESHAFT

Virginia Commonwealth University professor

AP News Report

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This 2017 Report is based on data from 2013-14

As part of its project tracking student-on-student sexual assaults, The Associated Press analyzed a national database of crime information collected by the FBI, which has started including codes that identify if an offense was reported on elementary or secondary school grounds. The data also contains demographic details not available from state education agencies.

Nearly a third of the nation's law enforcement agencies participate in the National Incident-Based Reporting System, though some of the largest cities do not. Because of that, the data is considered indicative but incomplete. Among the major findings:

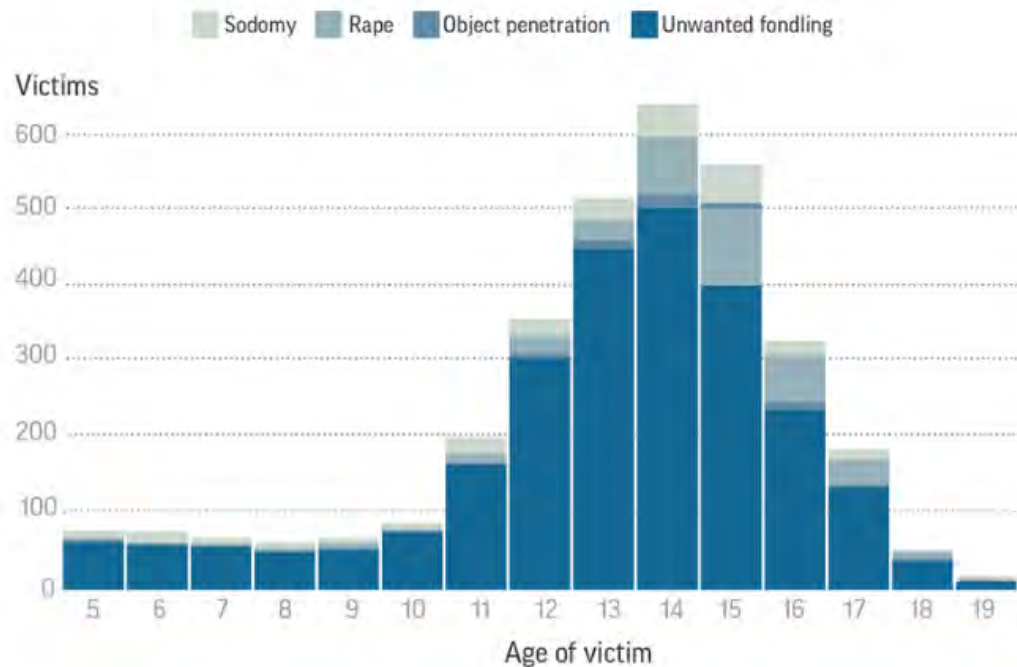
[Stats revealed by AP investigation of student sex assaults | Schoolhouse sex assault | AP Explore | Associated Press](#)



REPORTS OF SEXUAL ASSAULT

Types of peer sexual assault at school

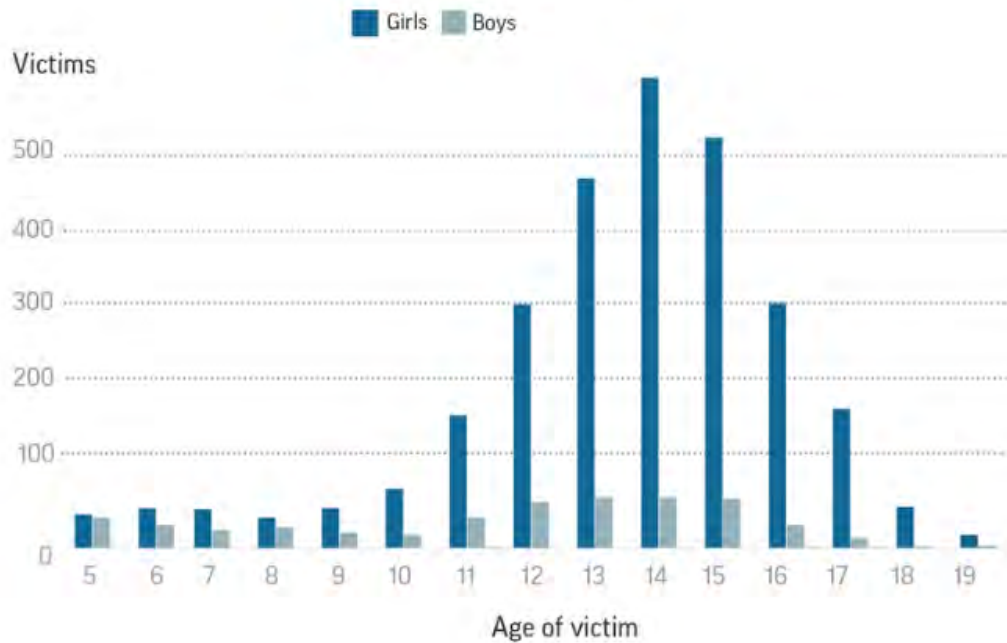
SOURCE: AP analysis of FBI's National Incident-Based Reporting System 2013-2014 data



SEXUAL ASSAULT VICTIMS

Peer sex assaults at school by age, gender

SOURCE: AP analysis of FBI's
National Incident-Based Reporting
System 2013-2014 data



No type of school was immune, whether it be in an upper-class suburb, an inner-city neighborhood or a blue-collar farm town.

Schools frequently were unwilling or ill-equipped to address the problem, AP found, despite having long been warned by the U.S. Supreme Court that they could be liable for monetary damages. Some administrators and educators even engaged in cover-ups to hide evidence of a possible crime and protect their schools' image.

40%

of the 5- and 6-year-old victims were boys

Boys were more apt to be victimized by peers at a young age; they accounted for about 40 percent of the 5- and 6-year-old victims. By contrast, they made up just 14 percent of victims of all ages.

14

peak age of reported female victims

Girls were most likely to be victims in their pre-teen and early teen years; reported incidents with female victims increased dramatically starting around 11 and peaked at 14. Girls accounted for more than 85 percent of all victims.

7-to-1 ratio

Though cases involving teachers sexually assaulting children make the news, for every adult-on-child sexual assault on school grounds reported to police, there were seven such assaults among students.

Youth-to-Youth Sexual Abuse Statistics

[Youth To Youth Sexual Abuse | Praesidium \(praesidiuminc.com\)](#)

- More than 33% of sexual offenses against children are committed by other children [\[5\]](#)
- The most common age range for peer sexual abuse is 12 to 14
- Youth-to-youth sexual abuse cases have a lower reporting rate than abuse that includes an adult perpetrator

See the full report for references

[\[5\]](#) Finkelhor, Ormrod, & Chaffin, 2009

Youth-to-Youth Sexual Abuse Resource

Hackett Continuum of Harmful Behavior

A continuum of behaviours

It is vital for professionals to distinguish normal from abnormal sexual behaviours. Chaffin, Letourneau and Silovsky (2002, p208) suggest a child's sexual behaviour should be considered abnormal if it:

- occurs at a frequency greater than would be developmentally expected
- interferes with the child's development
- occurs with coercion, intimidation, or force
- is associated with emotional distress
- occurs between children of divergent ages or developmental abilities
- repeatedly recurs in secrecy after intervention by caregivers.

Hackett (2010) has proposed a continuum model to demonstrate the range of sexual behaviours presented by children and young people, from those that are normal, to those that are highly deviant:

Normal

- Developmentally expected
- Socially acceptable
- Consensual, mutual, reciprocal
- Shared decision making

Inappropriate

- Single instances of inappropriate sexual behaviour
- Socially acceptable behaviour within peer group
- Context for behaviour may be inappropriate
- Generally consensual and reciprocal

Problematic

- Problematic and concerning behaviours
- Developmentally unusual and socially unexpected
- No overt elements of victimisation
- Consent issues may be unclear
- May lack reciprocity or equal power
- May include levels of compulsivity

Abusive

- Victimising intent or outcome
- Includes misuse of power
- Coercion and force to ensure victim compliance
- Intrusive
- Informed consent lacking, or not able to be freely given by victim
- May include elements of expressive violence

Violent

- Physically violent sexual abuse
- Highly intrusive
- Instrumental violence which is physiologically and/or sexually arousing to the perpetrator
- Sadism

Facts from Child USA

www.childusa.org

- 1 in 4 girls and 1 in 6 boys will be sexually abused
- 90% of perpetrators are known to the child
- 78% of sex abuse happens in the home
- 70% of rapes happen against children
- Only 7% of perpetrators are strangers
- The average lifetime cost of child maltreatment is \$830,928 per victim
- Maltreatment includes physical abuse, sexual abuse, emotional abuse and neglect
- The economic burden of abuse is estimated at \$2 trillion annually – and nearly 1/3 of cases are never reported

Recent Law Changes – ChildUSA.org

California

Exempts CSA claims against all government entities from the 60-day claim presentment requirement. ([AB 2959](#)) (*Governor Signed into Law, Sept. 19, 2022*).

Florida

Eliminates the criminal SOL for an adult using or promoting a child in a sexual performance. (~~[SB 1244](#)~~) (*Governor Signed into Law, June 7, 2022*).

Louisiana

Amends Louisiana's 3-year **window** to clarify claims are revived against institutional defendants and also for pre-1993 abuse. ([HB 402](#)) (*Governor Signed into Law, June 10, 2022*).

New York

Extends the civil SOL to age 27 for minors and Opens a 2-year revival **window** in New York City for gender-motivated violence, which includes sexual assault of children and adults. ([Int 2372-2021](#)) (*Enacted Jan. 9, 2022*).

Oklahoma

Extends the criminal SOL for sex trafficking of minors and adults from 3-years after the offense to 3-years after reporting to law enforcement. ([SB 974](#)) (*Governor Signed into Law, May 3, 2022*).

Federal

Eliminates the civil SOL for offenses against minors, including child sex abuse, sex trafficking, exploitation, and CSAM. (~~[S-3103](#)~~ [Eliminating Limits to Justice for Child Sex Abuse Victims Act of 2022](#)) (*S 3103 President Signed into Law, Sept. 16, 2022*).

THE BEST U.S. CHILD SEX ABUSE STATUTES OF LIMITATION BY JURISDICTION

50

U.S. Jurisdictions

NO CRIMINAL SOL FOR SOME OR ALL CSA CRIMES

44 States, 5 Territories, and the Federal Government eliminated criminal SOLs
No SOL in all *except* NV, NH, ND, OH, OK, OR & Puerto Rico

18

U.S. Jurisdictions

NO CIVIL SOL FOR SOME OR ALL CSA CLAIMS

15 States, 2 Territories, and the Federal Government eliminated civil SOLs
No SOL in AK, AZ, CO, CT, DE, FL, IL, LA, ME, MN, NE, NV, NH, UT, VT, Fed Gov, NMI, & Guam

27

U.S. Jurisdictions

REVIVAL OR WINDOW LAW FOR EXPIRED CIVIL CLAIMS

24 States and 3 Territories revived claims: AZ, AR, CA, CO, CT, DE, GA, HI, KY, LA, ME, MA, MI, MN, MT, NV, NJ, NY, NC, OR, RI, UT*, VT, WV, DC, NMI, & Guam

Summary of Claims

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Source: Public Risk Management Association Conference, 2022

Topic: Public Sector Sexual Abuse Claims

Presenters:

Sarah H. Dearing, Esq., Genesis

Gary P. Seligman, Equ., Wiley Rein LLP





Penn State/Jerry Sandusky

- Illustrates potential long-term impact of claims
 - Sandusky arrested 2011
 - Penn State resolving claims and incurring costs at least through 2019
- \$118 million paid to resolve claims by 33+ victims
- Additional costs for legal and internal investigative costs total more than \$250 million



Michigan State/Larry Nassar

- Former doctor of osteopathic medicine affiliated with MSU July 1996 to September 2016
- Victims included student athletes, students and members of public treated at Sports Medicine Clinic, U.S. gymnasts (USAG), and minors at private gymnastics facility (Twistars)
- Police report in August 2016 spawned wave of civil litigation and state and federal criminal investigations



Michigan State/Larry Nassar

- Global settlement announced May 2018
- \$500 million
 - \$425 million allocated among 333 plaintiffs with then-pending claims (\$1.27 million per plaintiff average)
 - \$75 million reserved for settlement of additional future claims (small portion available to MSU for defense costs)
 - Approximately 184 “second wave” claimants asserted claims post-settlement



USC/George Tyndall

- Gynecologist in student health center 1989-2016
- Plaintiffs emphasized allegations that student health center administrators were aware of patient complaints going back to 1990s
 - Excluding chaperones from privacy curtain
 - Photographing patients during examinations
 - Inappropriate comments during exams
- Multiple settlements exceeding \$1.1 billion

PRIMA

22

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USC/Dennis Kelly

- Men's health physician at student health center 1997-2018
- Allegedly targeted LGBTQ patients
- Statute of limitations amendment designed for Tyndall claims also encompassed Kelly patients
- April 28, 2022: USC announced global settlement of state court claims by 80 former patients for undisclosed amount





Ohio State/Robert Strauss

- To date, OSU has settled 289 claims for nearly \$60M
 - 2020: mediation of federal lawsuits resolved 185 claims for \$46.7 million (\$252,000 average)
 - 2021: “Strauss Individual Settlement Program” initiated by OSU resolves another 45 claims (\$252,000 average)
 - 4/15/22: Two additional settlements with 57 plaintiffs for \$1.995 million (\$35,000 average)
- More than 100 claims remain pending



Los Angeles Unified School District

- Rene Tenas (4th grade teacher at Hart E.S.)
 - Jan. 2022: \$14.7M settlement with seven victims (\$2.1M average); female students abused Aug. 2016-Jan. 2017
 - Claim by an eighth student filed Feb. 2021 alleging abuse Aug. 2013 to June 2014 remains pending
- All perpetrators criminally convicted
- LAUSD alleged to have knowledge of prior misconduct or dangers as to each perpetrator to varying degrees



Los Angeles Unified School District

- \$200M+ paid to victims of Mark Brendt of Miramonte Elementary
- Paul Chapel (3rd grade teacher at Telfair E.S.) and Robert Pimentel (teacher at De La Torre E.S.)
 - May 2016: \$88M settlement with 12 Chapel victims and 18 Pimentel victims (average \$3M per family); includes \$6M awarded to two Chapel victims by juries in 2015
 - Jan. 2020: \$18.4M settlement with 4 Chapel victims and 5 Pimentel victims (roughly \$2M average)



Redlands Unified School District

- Settlements totaling \$41.3 million paid between 2016 and 2021
 - August 2018: \$15.7M paid for eight victims of three different teachers, including \$7M to one victim
 - August 2021: \$11M paid for seven victims of a fourth teacher re abuse occurring more than 15 years ago
 - Middle school teacher Sean Ramiro Lopez had been convicted in 2006 of molesting three students 1999-2001
 - Suit brought after January 2020 enactment of state law extending s.o.l. for victims of childhood sex abuse to age 40

Settlements Noted in the 2017 AP News Report

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DES PLAINES, ILLINOIS

\$1 million in settlements

Five former students alleged that soccer coaches at Maine West High School allowed rampant inappropriate hazing by team members. Their lawsuit said they were sexually assaulted. Two coaches were fired, and one was charged with misdemeanor hazing and battery but not convicted. While it settled with the students for \$200,000 each in November 2016, the school board denied that the district had committed wrongdoing.

HUDSON, MICHIGAN

\$800,000 jury verdict

later settled for an undisclosed sum

A boy said he was sexually harassed and bullied for years by multiple other students beginning in middle school. During the ninth grade at Hudson High School, according to evidence presented at trial, he was assaulted in a locker room when another student rubbed his penis and scrotum against his neck and face. A jury in 2010 awarded the boy \$800,000. Both sides later reached a confidential settlement. A judge overturned the verdict, but the settlement stands.

HONOLULU

\$5.75 million settlement

This settlement with the state of Hawaii over alleged abuse at the Hawaii School for the Deaf and Blind is the highest known in a student-on-student school sex abuse case, according to Public Justice, a Washington, D.C., nonprofit law firm that tracks such cases. The class-action lawsuit, settled in 2013, contended officials at the only public school in the state for deaf and blind students knew about rapes and sexual abuse among students, failed to do enough to stop them and orchestrated a cover-up. The state denied the allegations. It said when it settled that it was instituting new procedures at the school.

MIAMI

\$5.25 million jury verdict

later settled for an undisclosed sum

The lawsuit brought against Downtown Miami Charter School alleged that an 11-year-old boy forced a 7-year-old boy to perform oral sex on him in the back seat of a transport van and that school officials failed to stop it from happening again. In testimony shown at the 2014 trial, the little boy said he was assaulted twice more in a bathroom after reporting what happened in the van. The second-grader later tried to commit suicide by walking into traffic with his eyes closed. The school said it took prompt, reasonable measures to prevent the children from interacting and argued it was not liable because it could not have foreseen what happened.

***Thank you for reviewing this material in preparation
for our meeting on November 1 and 2.***

We look forward to seeing you soon.