



Ms Madeleine Foley  
Principal Council Officer  
Standing Committee on Law and Justice  
Parliament House  
Macquarie Street  
Sydney NSW 2000

14 MAY 2010

Dear Ms Foley

### **Inquiry into spent convictions for juvenile offenders**

I refer to correspondence sent to you on 27 April 2010 forwarding copies of the corrected transcript of the evidence given by the representatives of the Legislation, Policy and Criminal Law Review Division (LPCLR) of the Department, and the responses to the questions taken on notice by these representatives.

As outlined in that correspondence, there remained outstanding material which I am pleased to now be able to provide to you. This includes:

- A revised version of "Attachment D" which formed part of the original Government submission.
- A revised table titled "JIRS Statistics: Sexual Offenders who received sentences of 6, 12 or 24 months imprisonment or less" which was originally tabled by the Department on 29 March 2010.
- A revised comparative table which was originally tabled by the Department on 29 March 2010.

As you are aware, the statistical tables mentioned above are based on statistics obtained from the Judicial Commission of New South Wales and compiled by the Department. A copy of the Judicial Commission of New South Wales' Explanation Sheet to the Statistics is attached.

The Judicial Commission of New South Wales does not include in their database the sentences received by children who are committed to the District Court or Supreme Court but are not dealt with at law, pursuant to section 18 of the *Children (Criminal Proceedings) Act 1987* (CCP Act), but instead are dealt with using the options provided in the CCP Act. However, the Judicial Commission of New South Wales has provided to the Department details of the number of children who fall into this category and this information is included in the tables. You will see that the information provided does not include details of the sentence received i.e. the tables do not indicate whether the young person received a non-conviction order under section 33(1)(a)(1) or 33(1)(a)(ii) of the CCP Act, or the length or type of sentence imposed, but will give the Committee an idea of the number of people dealt with this way.

The statistics from the Judicial Commission of New South Wales do also not provide details of the length of suspended sentences imposed by the Courts. Therefore, in relation to the table providing details of offenders who received 6, 12 or 24 months imprisonment,

offenders who were sentenced to a suspended sentence for a sexual offence are included in the total column, but are excluded in the subsequent columns which provide details of the number of persons who received a sentence of 6, 12 or 24 months imprisonment. However, it is quite possible that some of these offenders would have been sentenced to a suspended sentence of 6, 12, or 24 months duration.

In relation to the statistics of young people sentenced by the Children's Court, details of the length of sentence received have not been included, but rather only totals. This is because a "control order" for the purposes of the *Criminal Records Act 1991* is not defined as a prison sentence. As the Committee would now be aware, all convictions received by young people from the Children's Court, other than sexual offences, are capable of being spent provided the relevant crime-free period has been complied with according to the *Criminal Records Act 1991*.

I note that there also remained the Department's response to one outstanding question taken on notice being:

*Is there any data that deals with the different types of sexual offences, and are there different types of recidivism rates? (Transcript p.8)*

As previously advised, the Department sought data from the NSW Bureau of Crime Statistics and Research (BOCSAR) to assist with this response. A search was devised which provides the following information:

- Adult offenders who were convicted in 2000 for selected sexual offences under the Crimes Act 1900 who were later reconvicted of specific offences under the Crimes Act 1900 within 2 to 8 years
- Juvenile offenders who were convicted in 2000 for selected sexual offences under the Crimes Act 1900 who were later reconvicted of specific offences under the Crimes Act 1900 within 2 to 8 years.

Two documents providing the results of these search are attached to this document and form the Departments response to this question. The data provides a "snapshot" of reoffending rates for offenders convicted in NSW for certain sexual offences based on a particular year. The Committee should be aware of the following limitations of the data: it only captures offenders convicted in 2000, and only a selected number of sexual offences were included in the search.

Should you wish to discuss any of these matters further, please do not hesitate to contact the following officer: Ms Kiersten Perini on 8061 9286.

Yours faithfully

*Katharina de*  
for **Director General**

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NSW Reoffending Database to September 2009

Juvenile offenders\* who were convicted in 2000 for selected sexual offences under the Crimes Act 1900 who were later re-convicted\*\* of specific offences under the Crimes Act 1900 within 2 to 8 years

Sexual offence convicted of in 2000: section of the Crimes Act 1900 with short description	No. juvenile offenders convicted in 2000	Sexual offence reconvicted of: section of the Crimes Act 1900 with short description	No. juvenile offenders reconvicted within							
			2years	3years	4years	5years	6years	7years	8years	
611 - sexual intercourse without consent	4	Not reconvicted for any specific offences	0	0	0	0	0	0	0	
61J - aggravated sexual assault	8	Not reconvicted for any specific offences	0	0	0	0	0	0	0	
61L - indecent assault	3	Not reconvicted for any specific offences	0	0	0	0	0	0	0	
61M - aggravated indecent assault	21	Not reconvicted for any specific offences	0	0	0	0	0	0	0	
	1	66C - sexual intercourse with a child 10 - 16	0	0	1	1	1	1	0	
	3	Not reconvicted for any specific offences	0	0	0	0	0	0	0	
61N - act of indecency	4	Not reconvicted for any specific offences	0	0	0	0	0	0	0	
66A - sexual intercourse - child under 10	1	66C - sexual intercourse with a child 10 - 16	0	0	0	0	0	0	1	
66C - sexual intercourse with a child 10 - 16	5	Not reconvicted for any specific offences	0	0	0	0	0	0	0	

\* If a person was convicted more than once, the earliest conviction with the most serious penalty was selected.

\*\* If a person was reconvicted more than once, the earliest conviction with the most serious penalty was selected.  
Excludes reconvictions for offences committed before the reference date conviction

Note: Data sourced from the NSW Bureau of Crime Statistics and Research must be acknowledged in any document (electronic or otherwise) containing that data. The acknowledgement should take the form of Source: NSW Bureau of Crime Statistics and Research

Source: NSW Bureau of Crime Statistics and Research, rod108880  
Please retain this reference number for future correspondence

NSW Reoffending Database to September 2009  
 Adult offenders\* who were convicted in 2000 for selected sexual offences under the Crimes Act 1900  
 who were later re-convicted\*\* of specific offences under the Crimes Act 1900 within 2 to 8 years

Sexual offence convicted of in 2000: section of the Crimes Act 1900 with short description	No. adult offenders convicted in 2000	Sexual offence reconvicted of: section of the Crimes Act 1900 with short description	No. adult offenders reconvicted within							
			2years	3years	4years	5years	6years	7years	8years	
578B - possess child pornography	9	Not reconvicted for any specific offences	0	0	0	0	0	0	0	
61I - sexual intercourse without consent	18	Not reconvicted for any specific offences	0	0	0	0	0	0	0	
	1	61M - aggravated indecent assault	0	0	0	1	1	1	1	
	1	91H - possess child pornography	0	0	0	0	0	0	0	
61J - aggravated sexual assault	37	Not reconvicted for any specific offences	0	0	0	0	0	0	0	
61L - indecent assault	83	Not reconvicted for any specific offences	0	0	0	0	0	0	0	
	1	61I - sexual intercourse without consent	0	0	0	0	0	1	1	
	1	61L - indecent assault	0	0	0	0	0	1	1	
	1	61M - aggravated indecent assault	0	0	0	0	0	0	1	
61M - aggravated indecent assault	123	Not reconvicted for any specific offences	0	0	0	0	0	0	0	
	2	61L - indecent assault	0	1	1	1	2	2	2	
	2	61M - aggravated indecent assault	0	0	0	1	2	2	2	
	2	61N - act of indecency	0	0	0	0	0	0	0	
61N - act of indecency	35	Not reconvicted for any specific offences	0	0	0	0	0	0	0	
61O - aggravated act of indecency	22	Not reconvicted for any specific offences	0	0	0	1	1	1	1	
	1	578B - possess child pornography	0	0	0	0	0	0	0	
66A - sexual intercourse - child under 10	15	Not reconvicted for any specific offences	0	0	0	0	0	0	0	
66C - sexual intercourse with a child 10 - 16	34	Not reconvicted for any specific offences	0	0	0	0	0	0	0	

\* If a person was convicted more than once, the earliest conviction with the most serious penalty was selected.

\*\* If a person was reconvicted more than once, the earliest conviction with the most serious penalty was selected.

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