

Project 113: Sexual Offences Statistical Analysis Report

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Independent analysis completed by

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Acknowledgements and Caveats

General disclaimers about the results and recommendations presented within this report: (1) this report cannot be considered as either endorsed by or an expression of the policies/views of the government departments whose data has been summarised within; and (2) any errors of omission or commission included within this report are not the responsibility of any other party.

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Project overview

At the request of the Law Reform Commission of Western Australia (LRC) the Office of the Director of Public Prosecutions of Western Australia (ODPP) provided a list containing the indictment number of every trial of a sexual offence that commenced before the District Court of Western Australia (District Court) between 1 January 2019 and 31 December 2019 (the 2019 sexual offence trials). After the Commission provided undertakings about confidentiality and restricted use, the District Court provided the LRC with access to the transcripts of all the 2019 sexual offence trials.

The LRC chose to examine the 2019 sexual offence trials as:

1. 2019 was prior to the COVID-19 pandemic that significantly disrupted the usual operation of trials before District Court;
2. It was anticipated that any appeals arising from trials heard in 2019 would have been heard and determined by the time the LRC analysed the data; and
3. Analysis of trials within a 12-month time period was consistent with the LRC's timeframe and resources.

The LRC drafted a spreadsheet which allowed the recording of quantitative data about the 2019 sexual offence trials. The data included information about:

1. The indictment number;
2. The number of accused persons, complainants and charges in each trial;
3. The section of the *Criminal Code Compilation Act 1913 (WA)* (Criminal Code) which the charges were laid under and any alleged circumstances of aggravation;
4. Whether each charge related to an adult or child complainant;
5. Whether the accused pleaded guilty or not guilty to each charge;
6. The outcome for each charge (guilty, not guilty, hung jury or mistrial);
7. Whether there was an appeal against conviction or sentence in relation to each charge and if so the outcome;
8. What defence(s) the accused raised at trial;
9. The relationship between the accused and complainant;
10. Whether there were any factors alleged that tended to negate consent, for example, force, threats, intimidation, deceit, coercive control or unconsciousness;
11. The accused's and complainant's ages at the time of the alleged offences and at the time of the trial;
12. The accused's and complainant's sex;
13. Whether it was alleged that the accused or the complainant were intoxicated ;
14. Whether it was alleged that the accused or complainant had a disability;
15. Whether there was any delay in a complaint being made;
16. Whether the judge gave the jury a direction as to the relevance of any delay in complaint¹;
17. Whether the judge gave the jury a direction in the terms specified by the High Court in *Longman v the Queen* (1989) 168 CLR 79 or similar to those terms;
18. The length of the trial from arraignment before the jury to return of the verdict;
19. The method by which the complainant gave evidence; and
20. The length of the judge's directions to the jury.

¹ A direction as to the relevance of any delay in complaint is a direction under the *Evidence Act 1906 (WA)* s 36BD.

The spreadsheet did not record the names of the accused, complainant, or any witnesses.

The methodology used for entering data in the spreadsheet is explained in *Annexure A. Detailed case coding methodology* (commencing p.33).

The LRC engaged Associate Professor Joe Clare from the University of Western Australia to analyse the data in the spreadsheet and provide a report answering a series of research questions. The full list of research questions is provided in *Annexure B. Research questions* (commencing p.43).

Number and types of charges

Table 1. Charges by Criminal Code section (number and percentage, as per Q.1)

Nature of charge	Criminal Code charge	# charges	% charges
Against adults	[1974] ² s 328: Unlawful and indecent assault of a girl or woman	1	0.8%
	[1978] s 327: Rape	1	0.8%
	[1978] s 328: Unlawful and indecent assault of a woman or girl	1	0.8%
	[1983] s 326: Rape	1	0.8%
	s 323: Indecent assault	9	7.4%
	s 324: Aggravated indecent assault	10	8.3%
	s 325, 522(1): Attempted sexual penetration without consent	2	1.7%
	s 325: Sexual penetration without consent	41	33.9%
	s 326, 522(1): Attempted aggravated sexual penetration without consent	5	4.1%
	s 326: Aggravated sexual penetration without consent	44	36.4%
	s 329(2): Sexually penetrates a child who the offender knows is his or her lineal relative or de facto child ³	3	2.5%
s 329(4): Indecently deals with a child who the offender knows is his or her lineal relative or de facto child	3	2.5%	
Total		121	100.0%
Against children	[1955] s 183: Unlawfully and indecently dealing with a boy under the age of 14 years	2	0.3%
	[1955] s 189: Unlawfully and indecently deals with a girl or woman	2	0.3%
	[1969] s 181(1): Having carnal knowledge against the order of nature	1	0.2%
	[1969] s 328: Unlawful and indecent assault of a girl	2	0.3%
	[1969] s 328: Unlawful and indecent assault of a girl or woman	8	1.3%
	[1974] s 328: Unlawful and indecent assault of a girl or woman	1	0.2%
	[1978] s 328: Unlawful and indecent assault of a woman or girl	3	0.5%
	[1983] s 183: Unlawfully and indecently dealt with a child under the age of 14 years, or who incites such a child to so deal with him or another	30	4.8%
	[1983] s 326: Rape	3	0.5%
[1983] s 328: Indecently assaults a woman or girl	7	1.1%	

² Years in square brackets refer to the date of the reprint of the Criminal Code under which the charges were laid.

³ Charges under s 329 which have been categorised as offences against adults relate to lineal relatives or de facto children who are over the age of consent (16 years).

Nature of charge	Criminal Code charge	# charges	% charges
	[1991] s 189(1): Unlawful and indecently deals with a person who is under the age of 16 years	7	1.1%
	s 320(2), 522(1): Attempted sexual penetration of a child under 13 years	8	1.3%
	s 320(2): Sexually penetrates a child under the age of 13	61	9.8%
	s 320(3): Procures, Incites or Encourages a child under the age of 13 to engage in sexual behaviour	6	1.0%
	s 320(4), 522(1): Attempted to indecently deal with a child under 13	4	0.6%
	s 320(4): Indecently deals with a child under 13 years	146	23.4%
	s 320(5): Procures, Incites or Encourages a child under the age of 13 to do an indecent act	3	0.5%
	s 320(6): Indecently records a child under the age of 13	5	0.8%
	s 321(2), 522(1): Attempted sexual penetration of a child of or over the age of 13 years and under the age of 16 years	1	0.2%
	s 321(2): Sexually penetrates a child of or over the age of 13 years and under the age of 16 years	62	9.9%
	s 321(2): Sexually penetrates a child of or over the age of 13 years and under the age of 16 years (s 321(2)).	1	0.2%
	s 321(3): Procures, incites or encourages a child of or over the age of 13 and under the age of 16 to engage in sexual behaviour	7	1.1%
	s 321(4): Indecently deals with a child of or over the age of 13 and under the age of 16	72	11.5%
	s 321(5): Procures, incites or encourages a child of or over the age of 13 and under the age of 16 to do an indecent act.	6	1.0%
	s 321A: Persistent sexual conduct with a child under the age of 16	5	0.8%
	s 325: Sexual penetration without consent	2	0.3%
	s 329(2), 522(1): Attempted sexual penetration of a child who the offender knows is his or her lineal or de facto relative	4	0.6%
	s 329(2): Sexually penetrates a child who the offender knows is his or her lineal relative or de facto child	63	10.1%
	s 329(4): Indecently deals with a child who the offender knows is his or her lineal relative or de facto child	90	14.4%
	s 329(5): Procures, incites or encourages a child who the offender knows is his or her lineal relative to do an indecent act	3	0.5%
	s 329(6): Indecently records a child who the offender knows is his or her lineal relative or de facto child	1	0.2%
	[1983] s 327: Attempted rape	2	0.3%
	[1991] s 324D: Sexual penetration without consent	4	0.6%
	[1991] s 195(2): Attempts to have unlawful carnal knowledge of a child under the age of 13 years	2	0.3%
	Total	624	100.0%

Trial and charge outcomes

Table 2. Charges by outcome, all charges, child complainants, and adult complainants (number and percentage, as per Q.2)

Charge group	Outcome	# charges	% charges
All charges	Guilty	348	46.7%
	Not guilty	331	44.4%
	Hung jury	21	2.8%
	Mistrial	34	4.6%
	Guilty (set aside on appeal)	11	1.5%
	Total	745	100.0%
Child complainants	Guilty	305	48.9%
	Not guilty	263	42.1%
	Hung jury	14	2.2%
	Mistrial	31	5.0%
	Guilty (set aside on appeal)	11	1.8%
	Total	624	100%
Adult complainants	Guilty	43	35.5%
	Not guilty	68	56.2%
	Hung jury	7	5.8%
	Mistrial	15	10%
	Guilty (set aside on appeal)	0	0.0%
	Total	121	100%

Table 3. Charge outcomes by nature of charge (all charges, with row percentages, as per Q.3)

Nature of charge	Criminal Code charge	# charges	Charge outcomes (row %)				
			Guilty	Not guilty	Hung jury	Mistrial	G(S) ⁴
Against adults	[1974] s 328: Unlawful and indecent assault of a girl or woman	1	100%	0%	0%	0%	0%
	[1978] s 327: Rape	1	100%	0%	0%	0%	0%
	[1978] s 328: Unlawful and indecent assault of a woman or girl	1	0%	100%	0%	0%	0%
	[1983] s 326: Rape	1	0%	100%	0%	0%	0%

⁴ Guilty (set aside on appeal).

Nature of charge	Criminal Code charge	# charges	Charge outcomes (row %)				G(S) ⁴
			Guilty	Not guilty	Hung jury	Mistrial	
	s 323: Indecent assault	9	11%	67%	0%	22%	0%
	s 324: Aggravated indecent assault	10	20%	80%	0%	0%	0%
	s 325, 522(1): Attempted sexual penetration without consent	2	50%	50%	0%	0%	0%
	s 325: Sexual penetration without consent	41	37%	59%	5%	0%	0%
	s 326, 522(1): Attempted aggravated sexual penetration without consent	5	20%	80%	0%	0%	0%
	s 326: Aggravated sexual penetration without consent	44	43%	50%	5%	2%	0%
	s 329(2): Sexually penetrates a child who the offender knows is his or her lineal relative or de facto child	3	33%	0%	67%	0%	0%
	s 329(4): Indecently deals with a child who the offender knows is his or her lineal relative or de facto child	3	33%	33%	33%	0%	0%
	Total	121	36%	56%	6%	2%	0%
Against children	[1955] s 183: Unlawfully and indecently dealing with a boy under the age of 14 years	2	0%	0%	0%	100%	0%
	[1955] s 189: Unlawfully and indecently deals with a girl or woman	2	0%	0%	0%	100%	0%
	[1969] s 181(1): Having carnal knowledge against the order of nature	1	100%	0%	0%	0%	0%
	[1969] s 328: Unlawful and indecent assault of a girl	2	100%	0%	0%	0%	0%
	[1969] s 328: Unlawful and indecent assault of a girl or woman	8	25%	0%	0%	75%	0%
	[1974] s 328: Unlawful and indecent assault of a girl or woman	1	100%	0%	0%	0%	0%
	[1978] s 328: Unlawful and indecent assault of a woman or girl	3	67%	0%	33%	0%	0%
	[1983] s 183: Unlawfully and indecently dealt with a child under the age of 14 years, or who incites such a child to so deal with him or another	30	20%	37%	0%	17%	27%
	[1983] s 326: Rape	3	33%	0%	33%	33%	0%
	[1983] s 328: Indecently assaults a woman or girl	7	29%	0%	0%	71%	0%
	[1991] s 189(1): Unlawful and indecently deals with a person who is under the age of 16 years	7	100%	0%	0%	0%	0%
	s 320(2), 522(1): Attempted to sexually penetrate a child under 13 years	8	50%	50%	0%	0%	0%
	s 320(2): Sexually penetrates a child under the age of 13	61	49%	49%	2%	0%	0%
	s 320(3): Procures, Incites or Encourages a child under the age of 13 to engage in sexual behaviour	6	67%	33%	0%	0%	0%
	s 320(4), 522(1): Attempted to indecently deal with a child under 13	4	50%	50%	0%	0%	0%
s 320(4): Indecently deals with a child under 13 years	146	44%	55%	1%	0%	0%	

Nature of charge	Criminal Code charge	# charges	Charge outcomes (row %)				G(S) ⁴
			Guilty	Not guilty	Hung jury	Mistrial	
	s 320(5): Procures, incites or Encourages a child under the age of 13 to do an indecent act	3	100%	0%	0%	0%	0%
	s 320(6): Indecently records a child under the age of 13	5	80%	20%	0%	0%	0%
	s 321(2), 522(1): Attempted sexual penetration of a child of or over the age of 13 years and under the age of 16 years	1	0%	100%	0%	0%	0%
	s 321(2): Sexually penetrates a child of or over the age of 13 years and under the age of 16 years	62	45%	50%	0%	5%	0%
	s 321(2): Sexually penetrates a child of or over the age of 13 years and under the age of 16 years (s 321(2)).	1	0%	100%	0%	0%	0%
	s 321(3): Procures, incites or encourages a child of or over the age of 13 and under the age of 16 to engage in sexual behaviour	7	100%	0%	0%	0%	0%
	s 321(4): Indecently deals with a child of or over the age of 13 and under the age of 16	72	40%	51%	3%	6%	0%
	s 321(5): Procures, incites or encourages a child of or over the age of 13 and under the age of 16 to do an indecent act.	6	50%	33%	0%	17%	0%
	s 321A: Persistent sexual conduct with a child under the age of 16	5	80%	20%	0%	0%	0%
	s 325: Sexual penetration without consent	2	100%	0%	0%	0%	0%
	s 329(2), 522(1): Attempted sexual penetration of a child who the offender knows is his or her lineal or de facto relative	4	75%	25%	0%	0%	0%
	s 329(2): Sexually penetrates a child who the offender knows is his or her lineal relative or de facto child	63	49%	40%	10%	0%	2%
	s 329(4): Indecently deals with a child who the offender knows is his or her lineal relative or de facto child	90	61%	34%	0%	2%	2%
	s 329(5): Procures, incites or encourages a child who the offender knows is his or her lineal relative to do an indecent act	3	100%	0%	0%	0%	0%
	s 329(6): Indecently records a child who the offender knows is his or her lineal relative or de facto child	1	100%	0%	0%	0%	0%
	[1983] s 327: Attempted rape	2	0%	50%	50%	0%	0%
	[1991] s 324D: Sexual penetration without consent	4	50%	50%	0%	0%	0%
	[1991] s 195(2): Attempts to have unlawful carnal knowledge of a child under the age of 13 years	2	100%	0%	0%	0%	0%
	Total	624	48.9%	42.1%	2.2%	5.0%	1.8%

Defences⁵

Table 4. Defences run by charge outcomes for offences against adults (number and percentage of charges, plus defences as row percentages within charge type, as per Q.4)

Criminal Code charge	# charges	% charges	Defences (row percentages)							
			No contact	Consent	HRMB ⁶ consent	HRMB other	Not indecent	Mistaken identity	Other	Put to proof
[1974] s 328: Unlawful and indecent assault of a girl or woman	1	0.8%	100%	0%	0%	0%	0%	0%	0%	0%
[1978] s 327: Rape	1	0.8%	100%	0%	0%	0%	0%	0%	0%	0%
[1978] s 328: Unlawful and indecent assault of a woman or girl	1	0.8%	0%	0%	0%	0%	0%	0%	0%	100%
[1983] s 326: Rape	1	0.8%	0%	0%	0%	0%	0%	0%	0%	100%
s 323: Indecent assault	9	7.4%	78%	33%	0%	0%	0%	0%	0%	0%
s 324: Aggravated indecent assault	10	8.3%	80%	0%	0%	0%	0%	20%	0%	0%
s 325, 522(1): Attempted sexual penetration without consent	2	1.7%	100%	50%	0%	0%	0%	0%	0%	0%
s 325: Sexual penetration without consent	41	33.9%	73%	24%	7%	0%	0%	5%	0%	0%
s 326, 522(1): Attempted aggravated sexual penetration without consent	5	4.1%	40%	0%	0%	0%	0%	0%	0%	60%
s 326: Aggravated sexual penetration without consent	44	36.4%	59%	30%	2%	0%	0%	9%	0%	2%
s 329(2): Sexually penetrates a child who the offender knows is his or her lineal relative or de facto child	3	2.5%	67%	0%	0%	33%	0%	0%	33%	0%
s 329(4): Indecently deals with a child who the offender knows is his or her lineal relative or de facto child	3	2.5%	100%	0%	0%	0%	0%	0%	0%	0%
Total	121	100.0%	68%	22%	3%	1%	0%	7%	1%	5%

With respect to Q.6 (For charges against adults in which the defence or a defence run by the accused was HRMB consent, in what percentage of charges was the defence of mistake left to the jury to consider?), the HRMB consent defence was run 4 times (3% of charges). For these charges, 1 resulted in a

⁵ Each of the defences is explained in Annexure A. An accused person may rely on more than one defence – this table shows the percentage of charges in relation to which each defence was used.

⁶ Honest and reasonable but mistaken belief. For a more detailed explanation see Annexure A under the heading ‘Honest and Reasonable but Mistaken Belief (HRMB)’.

guilty verdict, 2 resulted in a not guilty verdict, and 1 resulted in a mistrial. There was a single charge where the HRMB ‘other’ defence was run and this resulted in a guilty verdict.

Table 5. Defences run by charge outcomes for offences against children (number and percentage of charges, defences as row percentages within charge type, as per Q.5)

Criminal Code charge	# charges	% charges	Defences (row percentages)							
			No contact	HRMB other	Not indecent	Not incitement	Mistaken age	Mistaken identity	Other	Put to proof
[1955] s 183: Unlawfully and indecently dealing with a boy under the age of 14 years	2	0.3%	100%	0%	0%	0%	0%	0%	0%	0%
[1955] s 189: Unlawfully and indecently deals with a girl or woman	2	0.3%	100%	0%	0%	0%	0%	0%	0%	0%
[1969] s 181(1): Having carnal knowledge against the order of nature	1	0.2%	100%	0%	0%	0%	0%	0%	0%	0%
[1969] s 328: Unlawful and indecent assault of a girl	2	0.3%	100%	0%	0%	0%	0%	0%	0%	0%
[1969] s 328: Unlawful and indecent assault of a girl or woman	8	1.3%	100%	0%	0%	0%	0%	0%	0%	0%
[1974] s 328: Unlawful and indecent assault of a girl or woman	1	0.2%	100%	0%	0%	0%	0%	0%	0%	0%
[1978] s 328: Unlawful and indecent assault of a woman or girl	3	0.5%	100%	0%	0%	0%	0%	0%	0%	0%
[1983] s 183: Unlawfully and indecently dealt with a child under the age of 14 years, or who incites such a child to so deal with him or another	30	4.8%	87%	13%	13%	0%	0%	0%	0%	0%
[1983] s 326: Rape	3	0.5%	100%	0%	0%	0%	0%	0%	0%	0%
[1983] s 328: Indecently assaults a woman or girl	7	1.1%	100%	0%	0%	0%	0%	0%	0%	0%
[1991] s 189(1): Unlawful and indecently deals with a person who is under the age of 16 years	7	1.1%	100%	0%	0%	0%	0%	0%	0%	0%
s 320(2), 522(1): Attempted to sexually penetrate a child under 13 years	8	1.3%	88%	0%	0%	0%	0%	0%	0%	13%
s 320(2): Sexually penetrates a child under the age of 13	61	9.8%	84%	0%	0%	0%	0%	0%	0%	16%
s 320(3): Procures, Incites or Encourages a child under the age of 13 to engage in sexual behaviour	6	1.0%	33%	0%	0%	17%	0%	0%	0%	50%
s 320(4), 522(1): Attempted to indecently deal with a child under 13	4	0.6%	100%	0%	0%	0%	0%	0%	0%	0%
s 320(4): Indecently deals with a child under 13 years	146	23.4%	75%	0%	11%	0%	0%	0%	0%	19%
s 320(5): Procures, Incites or Encourages a child under the age of 13 to do an indecent act	3	0.5%	100%	0%	0%	0%	0%	0%	0%	0%

Criminal Code charge	# charges	% charges	Defences (row percentages)								
			No contact	HRMB other	Not indecent	Not incitement	Mistaken age	Mistaken identity	Other	Put to proof	
s 320(6): Indecently records a child under the age of 13	5	0.8%	0%	0%	0%	0%	0%	0%	0%	100%	0%
s 321(2), 522(1): Attempted sexual penetration of a child of or over the age of 13 years and under the age of 16 years	1	0.2%	100%	0%	0%	0%	0%	0%	0%	0%	0%
s 321(2): Sexually penetrates a child of or over the age of 13 years and under the age of 16 years	62	9.9%	84%	0%	0%	0%	0%	0%	0%	2%	10%
s 321(2): Sexually penetrates a child of or over the age of 13 years and under the age of 16 years (s 321(2)).	1	0.2%	0%	0%	0%	0%	0%	0%	0%	0%	100%
s 321(3): Procures, incites or encourages a child of or over the age of 13 and under the age of 16 to engage in sexual behaviour	7	1.1%	100%	0%	0%	0%	0%	0%	0%	0%	0%
s 321(4): Indecently deals with a child of or over the age of 13 and under the age of 16	72	11.5%	97%	0%	0%	0%	0%	0%	0%	0%	3%
s 321(5): Procures, incites or encourages a child of or over the age of 13 and under the age of 16 to do an indecent act.	6	1.0%	83%	0%	17%	0%	0%	0%	0%	17%	0%
s 321A: Persistent sexual conduct with a child under the age of 16	5	0.8%	20%	0%	60%	0%	0%	0%	0%	0%	20%
s 325: Sexual penetration without consent	2	0.3%	100%	0%	0%	0%	0%	0%	0%	0%	0%
s 329(2), 522(1): Attempted sexual penetration of a child who the offender knows is his or her lineal or de facto relative	4	0.6%	75%	0%	0%	0%	0%	0%	0%	0%	25%
s 329(2): Sexually penetrates a child who the offender knows is his or her lineal relative or de facto child	63	10.1%	87%	5%	0%	0%	0%	0%	0%	5%	8%
s 329(4): Indecently deals with a child who the offender knows is his or her lineal relative or de facto child	90	14.4%	73%	0%	3%	0%	0%	0%	0%	0%	23%
s 329(5): Procures, incites or encourages a child who the offender knows is his or her lineal relative to do an indecent act	3	0.5%	33%	0%	0%	0%	0%	0%	0%	0%	67%
s 329(6): Indecently records a child who the offender knows is his or her lineal relative or de facto child	1	0.2%	0%	0%	100%	0%	0%	0%	0%	0%	0%
[1983] s 327: Attempted rape	2	0.3%	100%	0%	0%	0%	0%	0%	0%	0%	0%
[1991] s 324D: Sexual penetration without consent	4	0.6%	100%	0%	0%	0%	0%	0%	0%	0%	0%
[1991] s 195(2): Attempted unlawful carnal knowledge of a child under the age of 13 years	2	0.3%	100%	0%	0%	0%	0%	0%	0%	0%	0%
Total	624	100.0%	82%	1%	4%	0%	0%	0%	0%	2%	13%

Table 6. Defence run by trial outcome for charges against adults and children (as per Q.7 and Q.8)

Nature of charge	Defence	Defence run	Trial outcome (count and row percentage)					X ²	p	
			Guilty	Not guilty	Hung jury	Mistrial	G(S)			
Against adults	No contact	Yes (n = 82)	(n = 43) 29 (35%)	(n = 68) 48 (59%)	(n = 7) 3 (4%)	(n = 3) 2 (2%)	(n = 0) 0 (0%)	2.24	0.52	
		No (n = 39)	14 (36%)	20 (51%)	4 (10%)	1 (3%)	0 (0%)			
	Consent	Yes (n = 27)	11 (41%)	13 (48%)	2 (7%)	1 (4%)	0 (0%)	1.03	0.79	
		No (n = 94)	32 (34%)	55 (59%)	5 (5%)	2 (2%)	0 (0%)			
	Against children	No contact	Yes (n = 509)	(n = 305) 238* (47%)	(n = 263) 215 (42%)	(n = 14) 14* (3%)	(n = 31) 31* (6%)	(n = 11) 11* (2%)	15.19	<0.01
			No (n = 115)	67* (58%)	48 (42%)	0* (0%)	0* (0%)	0* (0%)		
Not indecent		Yes (n = 28)	8* (29%)	20* (71%)	0* (0%)	0* (0%)	0* (0%)	11.07	0.03	
		No (n = 596)	297* (50%)	243* (49%)	14* (2%)	31* (5%)	11* (2%)			
Put to proof		Yes (n = 81)	50* (62%)	31 (38%)	0* (0%)	0* (0%)	0* (0%)	11.83	0.02	
		No (n = 543)	255* (47%)	232 (43%)	14* (3%)	31* (6%)	11* (2%)			

NB. Minimum 27 'yes' responses for a defence to have been run to be included in this analysis.

This table summarises whether there is any correlation between a particular trial outcome and the defence run. The data in the table was calculated using a chi-square test.⁷ The results of these tests can be seen in the X² column and the significance levels of these tests are shown in the p column (where p < 0.05 indicates a relationship that is non-random to an extent that is greater than expected by chance alone).

These tests produced two high-level patterns. First, there were no significant correlations between defences run and trial outcomes for the charges against adults. This means that knowing whether a no contact or consent defence was run did not indicate any of the trial outcomes was going to be more likely.

⁷ A chi-square test is a way of examining a special type of correlation: one of counts between two nominal variables. In order to be examined in this way, at least 27 'yes' responses were required for the defence being run in Table 4 and Table 5. This test was conducted on the frequencies within each defence type from Table 6.

Second, there were significant correlations between all three defences run in charges against children. Post-hoc Z-tests⁸ show that 47% of accused who ran a no contact defence were found guilty, compared to 58% of accused who did not run this defence. Accused who ran this defence were also more likely to have charges that resulted in a hung jury (3% vs. 0%), a mistrial (6% vs. 0%), or a guilty (set aside on appeal) outcome (2% vs. 0%). For ‘not indecent’ defences, accused were less likely to be found guilty (29% vs. 50%) and more likely to be found not guilty (71% vs. 49%), with this defence not associated with hung jury, mistrial, or guilty (set aside on appeal) outcomes. Accused who ran a ‘put to proof’ defence were more likely to be found guilty (62% vs. 47%).

The accused’s and complainant’s age, sex and relationship

Table 7. Accused-complainant relationship for charges against children (number and percentage of charges, as per Q.9)

Relationship between accused and complainant	# charges	% charges
Family/domestic	379	61%
Romantic	9	1%
Family friends	112	18%
Position of authority	71	11%
Social	37	6%
Strangers	16	3%
Total	624	100%

Table 8. Accused-complainant relationship for charges against adults (number and percentage of charges, as per Q.10)

Relationship between accused and complainant	# charges	% charges
Family/domestic	42	35%
Romantic	7	6%
Family friends	8	7%
Colleagues	0	0%
Position of authority	0	0%
Social	36	30%
Strangers	28	23%
Total	121	100%

⁸ Post-hoc-Z-tests for proportions indicate which pairs of values are significantly different, and these are represented in Table 6 with *.

Table 9. Defence run by relationship between accused and complainant for charges against adults and children (as per Q.11)

Nature of charge	Defence	Defence run	Relationship (count and row percent)					X ²	p	
			Family/domestic	Romantic	Family friends	Position of authority	Social			Strangers
Against adults			(n = 42)	(n = 7)	(n = 8)	(n = 0)	(n = 36)	(n = 28)		
No contact	Yes (n = 82)		29 (35%)	6 (7%)	8* (10%)	0 (0%)	29* (35%)	10* (12%)	20.73	<0.01
		No (n = 39)	13 (33%)	1 (3%)	0* (0%)	0 (0%)	7* (18%)	18* (46%)		
Consent	Yes (n = 27)		8 (30%)	1 (4%)	0 (0%)	0 (0%)	8 (30%)	10 (37%)	5.72	0.22
		No (n = 94)	34 (36%)	6 (6%)	8 (9%)	0 (0%)	28 (30%)	18 (19%)		
Against children			(n = 379)	(n = 9)	(n = 112)	(n = 71)	(n = 37)	(n = 16)		
No contact	Yes (n = 509)		292* (57%)	6 (1%)	98* (19%)	71* (14%)	29 (6%)	13 (3%)	25.41	<0.01
		No (n = 115)	87* (76%)	3 (3%)	14* (12%)	0 (0%)	8 (7%)	3 (3%)		
Not indecent	Yes (n = 28)		18 (64%)	0 (0%)	8 (29%)	0 (0%)	0 (0%)	2 (7%)	9.8	0.08
		No (n = 596)	361 (61%)	9 (2%)	104 (17%)	71 (12%)	37 (6%)	14 (2%)		
Put to proof	Yes (n = 81)		67* (83%)	0* (0%)	5* (6%)	0* (0%)	8 (10%)	1 (1%)	29.62	<0.01
		No (n = 543)	312* (57%)	9* (2%)	107* (20%)	71* (13%)	29 (5%)	15 (3%)		

NB. Minimum 27 'yes' responses for a defence to have been run to be included in this analysis.

This table summarises whether there is any correlation between the accused's and complainant's relationship and the defence run. The data in the table was calculated using a chi-square test.⁹ The results of these tests can be seen in the X² column and the significance levels of these tests are shown in the p column (where $p < 0.05$ indicates a relationship that is non-random to an extent that is greater than expected by chance alone).

Looking at charges for offences against adults, there was a significant correlation between running a 'no contact' defence and the accused-complainant relationship but no correlation when a consent defence was run. Post-hoc Z-tests¹⁰ show that 'no contact' defences were more likely to be run by family friends (10% of the use of this defence) and social contacts (35% of the use of this defence), and less likely to be run by strangers (46% of the charges where this defence was not run).

⁹ A chi-square test is a way of examining a special type of correlation: one of counts between two nominal variables. This test was conducted on the frequencies within each defence type from Table 9.

¹⁰ Post-hoc-Z-tests for proportions indicate which pairs of values are significantly different, and these are represented in Table 9 with *.

Next, looking at the charges for offences against children, there were significant correlations between running no contact defences and ‘put to proof’ defences, but not for running a ‘not indecent’ defence. Post- hoc Z-tests for proportions showed that within the ‘no contact’ defences, this defence was more likely to be run by family friends (19% of the use of this defence) and those in a position of authority (14% of the use of this defence), but less likely to be used by family/domestic relationships (accounting for 76% of the charges where this defence was not run). ‘Put to proof’ defences were more frequent for family/domestic relationships (83% of the use of this defence) and less likely for family/friends and those in positions of authority.

Table 10. Trial outcome by relationship between accused and complainant for charges against adults and children (as per Q.12)

Nature of charge	Trial outcome	Relationship (count and row percent)					X ²	p	
		Family/domestic	Romantic	Family friends	Position of authority	Social			Strangers
Against adults		(n = 42)	(n = 7)	(n = 8)	(n = 0)	(n = 36)	(n = 28)		
	Guilty (n = 43)	8* (19%)	3 (7%)	3 (7%)	0 (0%)	10 (23%)	19* (44%)	21.53	<0.001
	Not guilty (n = 68)	30* (44%)	4 (6%)	3 (4%)	0 (0%)	25 (37%)	6* (9%)		
	Hung jury (n = 7)	4 (57%)	0 (0%)	0 (0%)	0 (0%)	1 (14%)	2 (29%)		
	Mistrial (n = 3)	0 (0%)	0 (0%)	2 (67%)	0 (0%)	0 (0%)	1 (33%)		
Against children		(n = 379)	(n = 9)	(n = 112)	(n = 71)	(n = 37)	(n = 16)		
	Guilty (n = 305)	200 (66%)	7 (2%)	59 (19%)	24 (8%)	8 (3%)	7 (2%)	12.17	0.33
	Not guilty (n = 263)	165 (63%)	2 (1%)	39 (15%)	32 (12%)	18 (7%)	7 (3%)		
	Hung jury (n = 14)	9 (64%)	0 (0%)	3 (21%)	0 (0%)	0 (0%)	2 (14%)		
	Mistrial (n = 31)	2 (6%)	0 (0%)	11 (35%)	15 (48%)	3 (10%)	0 (0%)		
	G(S) (n = 11)	3 (27%)	0 (0%)	0 (0%)	0 (0%)	8 (73%)	0 (0%)		

NB. Chi-square comparisons only run for guilty/not guilty outcomes by relationship, due to small cell frequencies for other outcomes.

This table summarises whether there is any correlation between the accused’s and complainant’s relationship and the trial outcome. Data in this table was calculated using a chi-square test.¹¹A chi-square test was conducted on the frequencies within the guilty and not guilty outcomes from Table 10. The results of these tests can be seen in the X² column and the significance levels of these tests are shown in the p column (where p < 0.05 indicates a relationship that

¹¹ A chi-square test is a way of examining a special type of correlation: one of counts between two nominal variables.

is non-random to an extent that is greater than expected by chance alone). Looking at charges for offences against adults, there was a significant correlation between trial outcome (guilty/not guilty) and the victim-offender relationship. Post-hoc Z-tests¹² show that guilty outcomes were less frequent in cases involving family/domestic relationships (19% guilty vs. 44% of not guilty outcomes) and more frequent in cases involving strangers (44% guilty vs. 9% not guilty). There were no significant correlations between trial outcome (guilty/not guilty) and the victim-offender relationship for charges against children.

Table 11. Interaction of complainant age, complainant sex, and accused sex (numbers, as per Q.13, Q.14, Q.15, Q.16, Q.17, and Q18)

Nature of charge	Accused sex	Complainant sex			Total
		Male	Female	Not specified	
Against adults	Male	9	112	0	121
	Female	0	0	0	0
	Total	9	112	0	121
Against children	Male	98	517	1	616
	Female	0	8	0	8
	Total	98	525	1	624

Table 11 provides the frequencies that can respond to Questions 13 to 18, inclusive. The answers (in percentage) are as follows:

- The accused in charges against adults were 100% male (Q.13);
- The accused in charges against children were 99% males (Q.14);
- The complainants in charges against adults were 93% female (Q.15);
- The complainants in charges against children were 84% female (Q.16);
- The combination of accused:complainants in charges against adults were 93% male:female and 7% male:male (Q.17); and
- The combination of accused:complainant in charges against children were 83% male:female, 16% male:male, and 1% female:female (Q.18).

Table 12. Age gap at time of offence between complainant and accused for charges against adults and children (# and % charges, as per Q.19 and Q.20)

Nature of charge	Age gap (complainant-accused)	# charges	% charges
Against adults	Accused younger than complainant	9	7%
	0 years to less than 3 years	16	13%
	3 to 5 years	12	10%
	6 to 10 years	14	12%
	11 to 20 years	12	10%
	Over 20 years	14	12%
	Unclear	44	36%

¹² Post-hoc Z-tests for proportions indicate which pairs of values are significantly different, and these are represented in Table 10 with *.

Nature of charge	Age gap (complainant-accused)	# charges	% charges
	Total	121	100%
Against children	Accused younger than complainant	0	0%
	0 years to less than 3 years	4	1%
	3 to 5 years	23	4%
	6 to 10 years	33	5%
	11 to 20 years	96	15%
	Over 20 years	229	37%
	Unclear	239	38%
	Total	624	100%

Factors that tend to negate consent or that might contribute to an accused's mistaken belief in consent

Table 13. Charges against adults by factors tending to negate consent (combined) or contributing to mistaken belief in consent (number and percentage, as per Q.21)

Criminal code charge	# charges	% charges	Factors tending to negate consent or contribute to mistaken belief in consent (row percentages)					Factors negating consent (combined)
			Accused intoxicated	Complainant intoxicated	Accused had a disability	Complainant had a disability	Complainant unconscious	
[1974] s 328: Unlawful and indecent assault of a girl or woman	1	0.8%	0%	0%	0%	0%	0%	0%
[1978] s 327: Rape	1	0.8%	0%	0%	0%	0%	0%	0%
[1978] s 328: Unlawful and indecent assault of a woman or girl	1	0.8%	0%	0%	0%	0%	0%	200%
[1983] s 326: Rape	1	0.8%	0%	0%	0%	0%	0%	200%
s 323: Indecent assault	9	7.4%	22%	22%	11%	0%	0%	0%
s 324: Aggravated indecent assault	10	8.3%	10%	10%	0%	10%	0%	20%
s 325, 522(1): Attempted sexual penetration without consent	2	1.7%	50%	50%	0%	0%	0%	0%
s 325: Sexual penetration without consent	41	33.9%	61%	63%	29%	2%	0%	20%
s 326, 522(1): Attempted aggravated sexual penetration without consent	5	4.1%	20%	0%	0%	60%	0%	40%
s 326: Aggravated sexual penetration without consent	44	36.4%	50%	32%	5%	25%	9%	64%
s 329(2): Sexually penetrates a child who the offender knows is his or her lineal relative or de facto child	3	2.5%	0%	0%	0%	0%	0%	0%
s 329(4): Indecently deals with a child who the offender knows is his or her lineal relative or de facto child	3	2.5%	0%	100%	0%	0%	0%	0%
Total	121	100.0%	43%	39%	12%	13%	3%	36%

Table 14. Charges against children by factors tending to negate consent (combined) or contributing to mistaken belief in consent (number and percentage, as per Q.22)

Criminal code charge	# charges	% charges	Factors tending to negate consent or contribute to mistaken belief in consent (row percentages)						
			Accused intoxicated	Complainant intoxicated	Accused had a disability	Complainant had a disability	Complainant unconscious	Factors negating consent (combined)	
[1955] s 183: Unlawfully and indecently dealing with a boy under the age of 14 years	2	0.3%	0%	0%	0%	0%	0%	0%	0%
[1955] s 189: Unlawfully and indecently deals with a girl or woman	2	0.3%	0%	0%	0%	0%	0%	0%	0%
[1969] s 181(1): Having carnal knowledge against the order of nature	1	0.2%	0%	0%	0%	0%	0%	0%	0%
[1969] s 328: Unlawful and indecent assault of a girl	2	0.3%	0%	0%	0%	0%	0%	0%	0%
[1969] s 328: Unlawful and indecent assault of a girl or woman	8	1.3%	0%	0%	0%	0%	0%	0%	0%
[1974] s 328: Unlawful and indecent assault of a girl or woman	1	0.2%	0%	0%	0%	0%	0%	0%	0%
[1978] s 328: Unlawful and indecent assault of a woman or girl	3	0.5%	0%	0%	0%	0%	0%	0%	0%
[1983] s 183: Unlawfully and indecently dealt with a child under the age of 14 years, or who incites such a child to so deal with him or another	30	4.8%	0%	0%	13%	0%	0%	0%	0%
[1983] s 326: Rape	3	0.5%	0%	0%	0%	0%	0%	0%	0%
[1983] s 328: Indecently assaults a woman or girl	7	1.1%	0%	0%	0%	0%	0%	0%	0%
[1991] s 189(1): Unlawful and indecently deals with a person who is under the age of 16 years	7	1.1%	0%	0%	0%	0%	0%	0%	0%
s 320(2), 522(1): Attempted to sexually penetrate a child under 13 years	8	1.3%	0%	0%	0%	13%	0%	0%	0%
s 320(2): Sexually penetrates a child under the age of 13	61	9.8%	11%	2%	13%	13%	0%	0%	0%
s 320(3): Procures, Incites or Encourages a child under the age of 13 to engage in sexual behaviour	6	1.0%	17%	0%	0%	17%	0%	0%	0%
s 320(4), 522(1): Attempted to indecently deal with a child under 13	4	0.6%	0%	0%	0%	0%	0%	0%	0%
s 320(4): Indecently deals with a child under 13 years	146	23.4%	13%	1%	8%	7%	0%	0%	0%
s 320(5): Procures, Incites or Encourages a child under the age of 13 to do an indecent act	3	0.5%	0%	0%	0%	33%	0%	0%	0%
s 320(6): Indecently records a child under the age of 13	5	0.8%	0%	0%	100%	0%	0%	0%	0%
s 321(2), 522(1): Attempted sexual penetration of a child of or over the age of 13 years and under the age of 16 years	1	0.2%	0%	0%	0%	100%	0%	0%	0%
s 321(2): Sexually penetrates a child of or over the age of 13 years and under the age of 16 years	62	9.9%	3%	16%	6%	35%	0%	0%	0%
s 321(2): Sexually penetrates a child of or over the age of 13 years and under the age of 16 years (s 321(2)).	1	0.2%	100%	100%	0%	0%	0%	0%	0%

Criminal code charge	# charges	% charges	Factors tending to negate consent or contribute to mistaken belief in consent (row percentages)					
			Accused intoxicated	Complainant intoxicated	Accused had a disability	Complainant had a disability	Complainant unconscious	Factors negating consent (combined)
s 321(3): Procures, incites or encourages a child of or over the age of 13 and under the age of 16 to engage in sexual behaviour	7	1.1%	0%	43%	0%	43%	0%	0%
s 321(4): Indecently deals with a child of or over the age of 13 and under the age of 16	72	11.5%	13%	21%	4%	36%	0%	0%
s 321(5): Procures, incites or encourages a child of or over the age of 13 and under the age of 16 to do an indecent act.	6	1.0%	0%	17%	0%	17%	0%	0%
s 321A: Persistent sexual conduct with a child under the age of 16	5	0.8%	0%	0%	0%	40%	0%	0%
s 325: Sexual penetration without consent	2	0.3%	0%	0%	0%	100%	0%	0%
s 329(2), 522(1): Attempted sexual penetration of a child who the offender knows is his or her lineal or de facto relative	4	0.6%	0%	25%	0%	0%	0%	0%
s 329(2): Sexually penetrates a child who the offender knows is his or her lineal relative or de facto child	63	10.1%	21%	14%	5%	10%	0%	0%
s 329(4): Indecently deals with a child who the offender knows is his or her lineal relative or de facto child	90	14.4%	22%	10%	0%	7%	0%	0%
s 329(5): Procures, incites or encourages a child who the offender knows is his or her lineal relative to do an indecent act	3	0.5%	0%	0%	0%	0%	0%	0%
s 329(6): Indecently records a child who the offender knows is his or her lineal relative or de facto child	1	0.2%	0%	0%	0%	100%	0%	0%
[1983] s 327: Attempted rape	2	0.3%	0%	50%	0%	0%	0%	0%
[1991] s 324D: Sexual penetration without consent	4	0.6%	0%	0%	0%	0%	0%	0%
[1991] s 195(2): Attempts to have unlawful carnal knowledge of a child under the age of 13 years	2	0.3%	0%	0%	0%	0%	0%	0%
Total	624	100.0%	12%	8%	6%	15%	0%	0%

Table 15. Charges against adults by factors tending to negate consent (number and percentage, as per Q.23)

Criminal code charge	# charges	% charges	Factors tending to negate consent					
			Force	Threat	Intimidation	Deceit	Fraud	Coercive control
[1974] s 328: Unlawful and indecent assault of a girl or woman	1	0.8%	0%	0%	0%	0%	0%	0%
[1978] s 327: Rape	1	0.8%	0%	0%	0%	0%	0%	0%
[1978] s 328: Unlawful and indecent assault of a woman or girl	1	0.8%	100%	0%	100%	0%	0%	100%
[1983] s 326: Rape	1	0.8%	100%	0%	100%	0%	0%	100%
s 323: Indecent assault	9	7.4%	33%	0%	0%	0%	0%	0%
s 324: Aggravated indecent assault	10	8.3%	30%	10%	20%	0%	0%	0%
s 325, 522(1): Attempted sexual penetration without consent	2	1.7%	0%	0%	0%	0%	0%	0%
s 325: Sexual penetration without consent	41	33.9%	24%	2%	17%	2%	0%	0%
s 326, 522(1): Attempted aggravated sexual penetration without consent	5	4.1%	20%	0%	20%	0%	0%	20%
s 326: Aggravated sexual penetration without consent	44	36.4%	80%	32%	45%	0%	0%	9%
s 329(2): Sexually penetrates a child who the offender knows is his or her lineal relative or de facto child	3	2.5%	0%	0%	0%	0%	0%	0%
s 329(4): Indecently deals with a child who the offender knows is his or her lineal relative or de facto child	3	2.5%	0%	0%	0%	0%	0%	0%
Total	121	100.0%	45%	13%	26%	1%	0%	6%

There were also a series of questions (Q.24 to Q.31 inclusive) that asked about interactions across several variables relating to factors of the case, defences raised, and outcomes. A consequence of these interactions is very small numbers in some cases. When examining the influence of defences run the same inclusion criteria was used as for Table 6 and Table 9 (of a minimum 27 'yes' responses for a defence to have been run to be included in this analysis).

[Q.24] For charges against adults, there were 52/121 (43.0%) of charges where the accused was intoxicated. Of these, 28/52 (53.8%) resulted in a guilty outcome:

- 36/52 (69.2%) ran a 'no contact' defence and of those 22/36 (61.1%) were found guilty, compared to 6/16 (37.5%) who did not run this defence.
- 14/52 (26.9%) ran a 'consent' defence and of those 8/14 (57.1%) were found guilty, compared to 20/38 (52.6%) who did not run this defence.

For charges against children, there were 72/624 (11.5%) of charges where the accused was intoxicated. Of these, 35/72 (48.6%) resulted in a guilty outcome:

- 64/72 (88.9%) used a 'no contact' defence and of those 32/64 (50.0%) were found guilty compared to 3/8 (37.5%) of charges where the 'no contact' defence was not run.
- 3/72 (4.2%) used a 'not indecent' defence and of those 0/3 (0.0%) were found not guilty, compared to 35/69 (50.7%) of charges where the 'not indecent' defence was not run.
- 6/72 (8.3%) used a 'put to proof' defence of those 1/6 (16.7%) were found guilty compared to 34/66 (51.5%) of charges where this defence was not run.

[Q.25] For charges against adults, there were 54/121 (44.6%) of charges where the complainant was intoxicated. Of these, 29/54 (53.7%) resulted in a guilty outcome:

- 40/54 (74.1%) ran a 'no contact' defence and of those 23/40 (57.5%) were found guilty, compared to 6/14 (42.9%) who did not run this defence.
- 14/54 (25.9%) ran a 'consent' defence and of those 8/14 (57.1%) were found guilty, compared to 21/40 (52.5%) who did not run this defence.

For charges against children, there were 53/624 (8.5%) of charges where the complainant was intoxicated. Of these, 21/53 (39.6%) resulted in a guilty outcome:

- 45/53 (84.9%) used a 'no contact' defence and of those 17/45 (37.8%) were found guilty compared to 4/8 (50.0%) of charges where the 'no contact' defence was not run.
- None of the charges involved use of a 'not indecent' defence.
- 7/53 (13.2%) used a 'put to proof' defence of those 3/7 (42.9%) were found guilty compared to 18/46 (39.1%) of charges where this defence was not run.

[Q.26] For charges against adults, both the accused and complainant were intoxicated in 47 out of 121 (38.8%) charges. Of these, 28/47 (59.6%) resulted in a guilty outcome.

- 35/47 (74.5%) ran a 'no contact' defence and of those 22/35 (62.9%) were found guilty, compared to 6/12 (50.0%) who did not run this defence.
- 12/47 (25.5%) ran a 'consent' defence and of those 8/12 (66.6%) were found guilty, compared to 20/35 (27.4%) who did not run this defence.

For charges against children, both the accused and complainant were intoxicated in 20/624 (3.2%) of charges. Of these, 6/20 (30.0%) resulted in a guilty outcome.

- 15/20 (75.0%) used a 'no contact' defence and of those 5/15 (33.3%) were found guilty compared to 1/5 (20.0%) of charges where the 'no contact' defence was not run.
- None of the charges involved use of a 'not indecent' defence.
- 4/20 (20.0%) used a 'put to proof' defence and 0/4 (0.0%) were found guilty, compared to 6/16 (37.5%) of charges where this defence was not run.

[Q.27] For charges against adults, there were 20/121 (16.5%) of charges where the accused had a disability. Of these, 10/20 (50.0%) resulted in a guilty outcome.

- 14/20 (70.0%) ran a 'no contact' defence and of those 8/14 (57.1%) were found guilty, compared to 2/6 (33.3%) who did not run this defence.
- 7/20 (35.0%) ran a 'consent' defence and of those 2/7 (28.6%) were found guilty, compared to 8/13 (61.5%) who did not run this defence.

For charges against children, there were 38/624 (6.1%) of charges where the accused had a disability. Of these, 14/38 (36.8%) resulted in a guilty outcome.

- 29/38 (76.3%) used a 'no contact' defence and of those 10/29 (34.5%) were found guilty compared to 4/9 (44.4%) of charges where the 'no contact' defence was not run.
- None of the charges involves use of a 'not indecent' defence.
- 4/38 (10.5%) used a 'put to proof' defence and 0/4 (0.0%) were found guilty, compared to 14/34 (41.2%) of charges where this defence was not run.

[Q.28] For charges against adults, there were 16/121 (13.2%) of charges where the complainant had a disability. Of these, 8/16 (50.0%) resulted in a guilty outcome.

- 5/16 (31.2%) ran a 'no contact' defence and of those 3/5 (60.0%) were found guilty, compared to 5/11 (45.5%) who did not run this defence.
- 6/16 (37.5%) ran a 'consent' defence and of those 2/6 (33.3%) were found guilty, compared to 6/10 (60.0%) who did not run this defence.

For charges against children, there were 91/624 (14.6%) of charges where the complainant had a disability. Of these, 49/91 (53.8%) resulted in a guilty outcome.

- 72/91 (79.1%) used a 'no contact' defence and of those 33/72 (45.8%) were found guilty compared to 16/19 (84.2%) of charges where the 'no contact' defence was not run.
- 5/91 (5.5%) used a 'not indecent' defence and of those 3/5 (60.0%) were found guilty compared to 46/86 (53.5%) of charges where the 'not indecent' defence was not run.
- 14/91 (15.4%) used a 'put to proof' defence and 13/14 (92.9%) were found guilty, compared to 36/77 (46.8%) of charges where this defence was not run.

[Q.29] For charges against adults, both the accused and complainant had a disability in 2 out of 121 (1.7%) charges. Of these, 0/2 (0.0%) resulted in a guilty outcome.

- 1/2 (50.0%) ran a 'no contact' defence.
- 1/2 (50.0%) ran a 'consent' defence.

There were no charges against children where both the accused and complainant had a disability.

[Q.30] For charges against adults, 60 out of 121 (49.6%) charges involved at least one of force, threat, intimidation, deceit, or fraud. Of these, 19/60 (31.7%) resulted in a guilty outcome, 37/60 (61.7%) resulted in a not guilty outcome, and 4/60 (6.7%) resulted in a mistrial. Chi-square analysis showed there was no significant correlation between the presence of at least one of these factors and the outcome.¹³

[Q.31] For charges against adults, there were 4/121 (3.3%) of charges where the complainant was unconscious. Of these, 0/4 (0.0%) resulted in a guilty outcome.

- 3/4 (75.0%) ran a 'no contact' defence.
- 1/4 (25.0%) ran a 'consent' defence.

For charges for offences against children, there were 0/624 (0.0%) of charges where the complainant was unconscious.

¹³ $\chi^2 (2, N = 118) = 1.22, p > .54.$

Delay in complaints

Table 16. Delays in complaint (number and percentage charges), row percentage delay directions, and row percentage Longman directions for charges against adults and children (as per Q.32 to Q.39, and Q.42 to Q.43)

Nature of charge	Delay in complaint	# charges	% charges	% delay direction	% Longman direction	% delay & Longman direction	Full Longman direction
Against adults	No delay (1 week or less)	72	60%	8%	0%	0%	0%
	> 1 week and ≤ 6 months	16	13%	75%	0%	0%	0%
	> 6 months and ≤ 1 year	4	3%	75%	25%	25%	0%
	> 1 year and ≤ 5 years	8	7%	100%	38%	38%	25%
	> 5 years and ≤ 10 years	13	11%	100%	85%	85%	85%
	> 10 years	6	5%	100%	100%	100%	100%
	Other	2	2%	0%	0%	0%	0%
	Total		121	100%	40%	26%	17%
Against children	No delay (1 week or less)	75	12.0%	8%	3%	3%	3%
	> 1 week and ≤ 6 months	56	9.0%	88%	16%	16%	5%
	> 6 months and ≤ 1 year	34	5.4%	100%	38%	47%	41%
	> 1 year and ≤ 5 years	226	36.2%	91%	67%	67%	62%
	> 5 years and ≤ 10 years	90	14.4%	100%	99%	96%	99%
	> 10 years	113	18.1%	81%	81%	81%	81%
	Other	30	4.8%	23%	13%	13%	13%
	Total		624	100%	77%	58%	58%

Questions 32 to 37 asked about the number of cases in which there was a delay in complaint and the frequency with which directions about delayed complaint were given, taking into account different lengths of delay. Questions 38 to 43 asked about the number of cases in which a Longman direction focusing on forensic disadvantage was given compared to a Longman direction in which phrases such as ‘dangerous to convict’ or ‘scrutinise with care’ or ‘miscarriage of justice’ or similar phrases were used. Questions 44 to 49 asked about correlations between a delay direction being given and trial outcomes, and correlations between the different types of Longman direction being given and trial outcomes, and correlations between both a delay direction and a Longman direction being given and trial outcomes.

To respond to Q.36 and Q37 chi-square calculations¹⁴ were conducted on the frequencies comparing delay directions (yes/no) for all specified delay durations (Table 16). Looking at the relationship between delay and delay directions for charges against adults, the chi-square returned a significant result¹⁵ meaning there was a significant correlation between delay duration and delay directions. This relationship captures that only 8% of charges with no delay receive a delay direction, compared to 100% of charges where the delay was over 1 year. Similarly, for charges against children, there was a significant correlation between delay duration and delay direction¹⁶. As before, this captures the increase in delay directions following the shortest time period. With respect to Q.40 and Q.41, Table 16 also shows the frequency at which a delay direction and a Longman direction were given together.

Table 17. Relationship between delay direction and trial outcome for charges against children (as per Q.44)

Delay direction	Trial outcome					Row total / %
	Guilty	Not guilty	Hung jury	Mistrial	G(S)	
Yes (#)	258	203	11	0	11	483
No (#)	44	53	3	0	0	100
Mistrial (#)	0	0	0	31	0	31
N/A (#)	3	7	0	0	0	10
Column total (#)	305	263	14	31	11	624
Yes (%)	85%	77%	79%	0%	100%	77%
No (%)	14%	20%	21%	0%	0%	16%
Mistrial (%)	0%	0%	0%	100%	0%	5%
N/A (%)	1%	3%	0%	0%	0%	2%
Column (%)	100%	100%	100%	100%	100%	100%

A chi-square test¹⁷ was conducted on the yes/no vs. guilty/not guilty counts from

Table 17. This returned a result supportive of there being a correlation between these factors¹⁸, with the percentage patterns demonstrating there was a relationship between delay directions being issued and guilty verdicts on charges for offences against children.

¹⁴ Chi-square tests are calculations that examine a special type of correlation: one of counts between two nominal variables.

¹⁵ ($\chi^2 (5, N = 119) = 80.56, p < .001$)

¹⁶ ($\chi^2 (5, N = 594) = 293.80, p < .001$)

¹⁷ Chi-square tests are calculations that examine a special type of correlation: one of counts between two nominal variables.

¹⁸ ($\chi^2 (1, N = 558) = 3.63, p = .057$)

Table 18. Relationship between delay direction and trial outcome for charges against adults (as per Q.45)

Delay direction	Trial outcome				Row total / %
	Guilty	Not guilty	Hung jury	Mistrial	
Yes (#)	17	27	4	0	48
No (#)	26	36	3	0	65
Mistrial (#)	0	0	0	3	3
N/A (#)	0	5	0	0	5
Column total (#)	43	68	7	3	121
Yes (%)	40%	40%	57%	0%	40%
No (%)	60%	53%	43%	0%	54%
Mistrial (%)	0%	0%	0%	100%	2%
N/A (%)	0%	7%	0%	0%	4%
Column (%)	100%	100%	100%	100%	100%

A chi-square test¹⁹ was conducted on the yes/no vs. guilty/not guilty counts from Table 18. This returned a non-significant result²⁰ meaning there is no significant correlation between delay directions and trial outcomes on charges for offences against adults.

Table 19. Relationship between Longman direction and trial outcome for charges against children (as per Q.46)

Longman direction	Trial outcome					Row total / %
	Guilty	Not guilty	Hung jury	Mistrial	G(S)	
Yes (#)	212	129	11	0	8	360
No (#)	90	127	3	0	3	223
Mistrial (#)	0	0	0	31	0	31
N/A (#)	3	7	0	0	0	10
Column total (#)	305	263	14	31	11	624
Yes (%)	70%	49%	79%	0%	73%	58%
No (%)	30%	48%	21%	0%	27%	36%
Mistrial (%)	0%	0%	0%	100%	0%	5%
N/A (%)	1%	3%	0%	0%	0%	2%
Column (%)	100%	100%	100%	100%	100%	100%

A chi-square test was conducted on the yes/no vs. guilty/not guilty counts from Table 19. This returned a result supportive of there being a correlation between these factors²¹ meaning there is a significant correlation between these events. Post-hoc planned proportion Z-tests²² indicated there

¹⁹ Chi-square tests are calculations that examine a special type of correlation: one of counts between two nominal variables.

²⁰ ($\chi^2 (1, N = 106) = 0.12, p > .73$).

²¹ ($\chi^2 (1, N = 558) = 22.87, p < .001$).

²² Post-hoc Z-tests for proportions indicate which pairs of values are significantly different.

were significantly more guilty verdicts paired with Longman directions (70% vs. 49% not guilty) and more not guilty verdicts paired with no Longman directions (48% vs. 30% guilty).

Table 20. Relationship between a full Longman direction and trial outcome for charges against children (as per Q.47)

Full Longman direction	Trial outcome					Row total / %
	Guilty	Not guilty	Hung jury	Mistrial	G(S)	
Yes (#)	201	124	11	0	8	344
No (#)	101	132	3	0	3	239
Mistrial (#)	0	0	0	31	0	31
N/A (#)	3	7	0	0	0	10
Column total (#)	305	263	14	31	11	624
Yes (%)	66%	47%	79%	0%	73%	55%
No (%)	33%	50%	21%	0%	27%	38%
Mistrial (%)	0%	0%	0%	100%	0%	5%
N/A (%)	1%	3%	0%	0%	0%	2%
Column (%)	100%	100%	100%	100%	100%	100%

A chi-square test²³ was conducted on the yes/no vs. guilty/not guilty counts from Table 20. This returned a result supportive of there being a correlation between these factors²⁴ meaning there is a significant correlation between these events. As with the Longman analysis in Table 19, post-hoc planned proportion Z-tests²⁵ indicated there were significantly more guilty verdicts paired with Longman directions (66% vs. 47% not guilty) and more not guilty verdicts paired with no Longman directions (50% vs. 33% guilty).

Table 21. Relationship between Longman direction and trial outcome for charges against adults (as per Q.48)

Longman direction	Trial outcome				Row total / %
	Guilty	Not guilty	Hung jury	Mistrial	
Yes (#)	5	12	4	0	21
No (#)	38	51	3	0	92
Mistrial (#)	0	0	0	3	3
N/A (#)	0	5	0	0	5
Column total (#)	43	68	7	3	121
Yes (%)	12%	18%	57%	0%	17%
No (%)	88%	75%	43%	0%	76%
Mistrial (%)	0%	0%	0%	100%	2%
N/A (%)	0%	7%	0%	0%	4%
Column (%)	100%	100%	100%	100%	100%

²³ Chi-square tests are calculations that examine a special type of correlation: one of counts between two nominal variables.

²⁴ ($\chi^2 (1, N = 558) = 18.70, p < .001$).

²⁵ Post-hoc Z-tests for proportions indicate which pairs of values are significantly different.

A chi-square test was conducted on the yes/no vs. guilty/not guilty counts from Table 21. This returned a non-significant result²⁶ meaning there is no significant correlation between Longman directions and trial outcomes on charges for offences against adults.

Table 22. Relationship between a full Longman direction and trial outcome for charges against adults (as per Q.48)

Full Longman direction	Trial outcome				Row total / %
	Guilty	Not guilty	Hung jury	Mistrial	
Yes (#)	5	11	3	0	19
No (#)	38	52	4	0	94
Mistrial (#)	0	0	0	3	3
N/A (#)	0	5	0	0	5
Column total (#)	43	68	7	3	121
Yes (%)	12%	16%	43%	0%	16%
No (%)	88%	76%	57%	0%	78%
Mistrial (%)	0%	0%	0%	100%	2%
N/A (%)	0%	7%	0%	0%	4%
Column (%)	100%	100%	100%	100%	100%

A chi-square test²⁷ was conducted on the yes/no vs. guilty/not guilty counts from Table 22. This returned a non-significant result²⁸ meaning there is no significant correlation between full Longman directions and trial outcomes on charges for offences against adults.

Table 23. Relationship between combination of directions and trial outcome for charges against children (as per Q.50)

Type of direction	Trial outcome					Row total / %
	Guilty	Not guilty	Hung jury	Mistrial	G(S)	
No direction	44	53	3	0	0	100
Delay only	46	74	0	0	3	123
Longman and delay	212	129	11	0	8	360
Column total (#)	302	256	14	0	11	583
No direction (%)	15%	21%	21%	0%	0%	17%
Delay only (%)	15%	29%	0%	0%	27%	21%
Longman and delay (%)	70%	50%	79%	0%	73%	62%
Column (%)	100%	100%	100%	0%	100%	100%

²⁶ ($\chi^2 (1, N = 106) = 1.04, p > .30$).

²⁷ Chi-square tests are calculations that examine a special type of correlation: one of counts between two nominal variables.

²⁸ ($\chi^2 (1, N = 106) = 0.68, p > .41$)

A chi-square test was conducted on the type of direction (none, delay only, Longman and delay) vs. trial outcome (guilty, not guilty) counts from Table 23. This returned a significant result²⁹ meaning there is a significant correlation between these events. Post-hoc planned proportion Z-tests³⁰ indicated the combined Longman/delay direction is correlated with significantly more guilty verdicts than not guilty verdicts,³¹ whereas trials delay-only directions were given³² correlated with more not guilty verdicts.

Table 24. Relationship between combination of directions and trial outcome for charges against adults (as per Q.51)

Type of direction	Trial outcome				Row total
	Guilty	Not guilty	Hung jury	Mistrial	
No direction	26	36	3	0	65
Delay only	12	15	0	0	27
Longman and delay	5	12	4	0	21
Column total (#)	43	63	7	0	113
No direction (%)	60%	57%	43%	0%	58%
Delay only (%)	28%	24%	0%	0%	24%
Longman and delay (%)	12%	19%	57%	0%	19%
Column (%)	100%	100%	100%	0%	100%

A chi-square test³³ was conducted on the type of direction (none, delay only, Longman and delay) vs. trial outcome (guilty, not guilty) counts from Table 24. This returned a non-significant result³⁴ meaning there is no correlation between these variables.

²⁹ ($\chi^2 (2, N = 558) = 23.94, p < .001$).

³⁰ Post-hoc Z-tests for proportions indicate which pairs of values are significantly different.

³¹ ($Z = 4.85, p < .05$).

³² ($Z = -3.90, p < .05$).

³³ Chi-square tests are calculations that examine a special type of correlation: one of counts between two nominal variables.

³⁴ ($\chi^2 (2, N = 106) = 1.09, p > .57$).

Method by which the complainant gave evidence

Table 25. Relationship between method of giving evidence and trial outcome for charges against adults (as per Q.52 and Q.54)

Method of giving evidence	Trial outcome				Row total / %
	Guilty	Not guilty	Hung jury	Mistrial	
Did not Give Evidence	0	2	0	0	2
Written Statement	3	0	0	0	3
In Person	0	5	2	0	7
Video Link	26	54	4	0	84
Pre-Recording	14	7	1	1	23
N/A	0	0	0	2	2
Column total	43	68	7	3	121
Did not Give Evidence	0%	3%	0%	0%	2%
Written Statement	7%	0%	0%	0%	2%
In Person	0%	7%	29%	0%	6%
Video Link	60%	79%	57%	0%	69%
Pre-Recording	33%	10%	14%	33%	19%
N/A	0%	0%	0%	67%	2%
Column (%)	100%	100%	100%	100%	100%

A chi-square test³⁵ was conducted on the method of giving evidence (in person, video link, pre-recording) vs. trial outcome (guilty, not guilty) counts from Table 25. This returned a significant result³⁶ indicating there is a correlation between these variables. Post-hoc planned proportion Z-tests³⁷ indicated the video link method of giving evidence is correlated with more not guilty verdicts (79% vs. 60% of guilty) and the pre-recording method of giving evidence is correlated with more guilty verdicts (33% vs. 10% not guilty).

Table 26. Relationship between method of giving evidence and trial outcome for charges against children (as per Q.53 and Q.54)

Method of giving evidence	Trial outcome					Row total / %
	Guilty	Not guilty	Hung jury	Mistrial	G(S)	
Did not Give Evidence	5	1	0	0	0	6
Written Statement	0	0	0	0	0	0
In Person	9	17	6	4	4	40
Video Link	128	83	5	17	7	240
Pre-Recording	163	162	3	0	0	328
N/A	0	0	0	10	0	10
Column total	305	263	14	31	11	624
Did not Give Evidence	2%	0%	0%	0%	0%	1%

³⁵ Chi-square tests are calculations that examine a special type of correlation: one of counts between two nominal variables.

³⁶ ($\chi^2 (2, N = 106) = 11.44, p < .01$).

³⁷ Post-hoc Z-tests for proportions indicate which pairs of values are significantly different.

Method of giving evidence	Trial outcome					Row total / %
	Guilty	Not guilty	Hung jury	Mistrial	G(S)	
Written Statement	0%	0%	0%	0%	0%	0%
In Person	3%	6%	43%	13%	36%	6%
Video Link	42%	32%	36%	55%	64%	38%
Pre-Recording	53%	62%	21%	0%	0%	53%
N/A	0%	0%	0%	32%	0%	2%
Column (%)	100%	100%	100%	100%	100%	100%

A chi-square test³⁸ was conducted on the method of giving evidence (in person, video link, pre-recording) vs. trial outcome (guilty, not guilty) counts from Table 26. This returned a significant result³⁹ indicating there is a correlation between these variables. In this case, post-hoc planned proportion Z-tests⁴⁰ indicated the video link method of giving evidence is correlated with more guilty verdicts (42% vs. 32% of not guilty) and the pre-recording method of giving evidence is correlated with more not guilty verdicts (53% vs. 62% guilty).

Trial length⁴¹

With respect to Q.55, length of trials for charges against adults, there were 52 trials that resulted in the 121 charges analysed throughout this report. The statistics of interest are:

- Longest trial – 12 days;
- Shortest trial – 2 days; and
- Mean length – 4.2 days (standard deviation – 2.0 days), median length – 4 days, modal length – 4 days.

With respect to Q.56, length of trials for charges against children, there were 129 trials that resulted in the 624 charges analysed throughout this report. The statistics of interest are:

- Longest trial – 11 days;
- Shortest trial – 1 day; and
- Mean length – 5.00 days (standard deviation – 2.35 days), median length – 4 days, modal length – 3 days.

With respect to Q.57, length of trials involving both charges against adults and children, there were 7 trials that resulted in 64 charges analysed throughout this report. The statistics of interest are:

- Longest trial – 9 days;
- Shortest trial – 2 days; and

³⁸ Chi-square tests are calculations that examine a special type of correlation: one of counts between two nominal variables.

³⁹ $(\chi^2 (2, N = 562) = 9.54, p > .01)$.

⁴⁰ Post-hoc Z-tests for proportions indicate which pairs of values are significantly different.

⁴¹ The response to Q.55 and Q.56 relating to trial length have been aggregated up to the Trial ID value (as opposed to the charge level analysis). Trial ID value is explained in Annexure A.

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- Mean length – 5.76 days (standard deviation – 1.95 days), median length – 4.5 days, modal length – 4 days.

Length of judges' directions⁴²

With respect to Q.58, length of judges' directions for charges against adults, there were 52 trials that resulted in the 121 charges analysed throughout this report. The statistics of interest are:

- Longest judge's direction (minutes) – 179 minutes;
- Shortest judge's direction (minutes)– 29 minutes; and
- Mean length judges' directions (minutes)– 92.46 minutes (standard deviation – 33.71 minutes), median length judges' directions (minutes) – 76 minutes, modal length judges' directions (minutes) – 65 minutes.

With respect to Q.59, length of judges' directions for charges against children, there were 129 trials that resulted in the 624 charges analysed throughout this report. The statistics of interest are:

- Longest judge's direction (minutes) – 204 minutes;
- Shortest judge's direction (minutes)– 23 minutes; and
- Mean length judges' directions (minutes)– 100.48 minutes (standard deviation – 44.01 minutes), median length judges' directions (minutes) – 79 minutes, modal length judges' directions (minutes) – 43 minutes.

With respect to Q.60, length of trials involving both charges against adults and children, there were 7 trials that resulted in 64 charges analysed throughout this report. The statistics of interest are:

- Longest judge's direction (minutes) – 150 minutes;
- Shortest judge's direction (minutes)– 43 minutes; and
- Mean length judges' directions (minutes)– 113.57 minutes (standard deviation – 44.01 minutes), median length judges' directions (minutes) – 106 minutes, and there was no modal length judges' directions (minutes) as all lengths only appeared once.

⁴² The response to Q.58 and Q.59 relating to length of judges' directions have been aggregated up to the Trial ID value (as opposed to the charge level analysis). Trial ID value is explained in Annexure A.

Annexure A. Detailed case coding methodology

- **Trial ID # (column A)⁴³**

We allocated every trial of a sexual offence⁴⁴ that took place before the District Court of Western Australia in 2019 a separate trial identification number. Many trials involved multiple charges being tried together. We recorded data in relation to each charge in a separate row. Analysing data for trials in which multiple charges were tried together will involve analysing multiple rows of data.

- **Trial started (column B)**

This is the date the trial commenced.

- **Indictment no (column C)**

The indictment is the formal charge document the prosecution files in the District Court to commence a charge or charges against an accused person. Every indictment has an individual indictment number. We recorded the indictment number in column C. Some trials tried charges from multiple indictments. The indictment number contains no personal information.

- **Accused # (column D)**

Some trials involved charges against multiple accused persons being tried together. If that occurred we assigned each accused an individual number which is the number listed in column D.

- **Complainant # (column E)**

Some trials involved charges against multiple complainants being heard together. If that occurred we assigned each complainant an individual number which is the number listed in column E.

- **Charge # (column F)**

Some trials involved more than one charge being heard at once. If that occurred we assigned each charge an individual number which is the number listed in column F.

- **Historic Offence (column G)**

We categorised charges as historic (and entered Y(es) in column G) if they were laid pursuant to a version of the Criminal Code that existed before the 17 December 1993 Criminal Code reprint. We chose this date as the section numbers and wording of offences have been relatively consistent since then.

⁴³ References to columns are references to the columns in the spreadsheet provided to Associate Professor Clare.

⁴⁴ Sexual offences which fall within the terms of reference of Project 113, that is, offences contained within Chapter XXXI of the *Criminal Code* plus charges pursuant to ss 186, 191 and 192 of the *Criminal Code*.

- **Charges against adult and child complainants (columns H and I)**

We categorised charges by whether the complainant was an adult (A) or a child (C). Generally, we categorised a charge as against a child if the complainant was aged under 16 years at the time of the alleged offence, as 16 years is the age of consent in Western Australia.

Some trials involved charges against both adult and child complainants (either because there were multiple complainants or because the alleged offending against a single complainant allegedly began during the complainant's childhood but continued into their adulthood). Column I recorded as Y(es) charges in this category.

- **Charge and Aggravating Circumstances (columns J and K)**

Column J listed the section of the Criminal Code under which the charge was laid. In column J a year in square brackets referred to the most recent reprint of the Criminal Code as at the date the offence was alleged to have occurred (as opposed to the Criminal Code as it currently stands). Where the date on which an alleged offence occurred was expressed as a date range rather than an individual date and the date range spanned multiple reprints of the Criminal Code we selected the earliest relevant reprint unless the wording of the arraignment suggested otherwise.

We generally took the wording of the charge directly from the relevant Criminal Code. Column J does not distinguish between different forms of an offence laid pursuant to the same section. For example, a charge pursuant to section 320(3) of the Criminal Code alleging that an accused 'encouraged a child' and a charge pursuant to section 320(3) alleging that an accused 'incited a child' were both simply described as charges pursuant to section 320(3).

We listed aggravating circumstances in column K where they were read to the jury as part of the arraignment.

- **Plea and trial outcome (columns L and M)**

In column L we recorded the plea (guilty or not guilty) which the accused gave when arraigned at trial.

The trial outcome options in column M were guilty, not guilty, hung jury and mistrial. Mistrial means that the trial was aborted at any time before verdicts were delivered. Hung jury means that the jury could not agree upon a verdict of guilty or not guilty.

- **Appeal, grounds of appeal, appeal outcome (columns N – P)**

If the conviction or sentence was appealed we listed the appeal citation in column N, a summary of the grounds of appeal in column O and a summary of the outcome of the appeal in column P. Where there was more than one appeal for a given charge, these are listed in the same cell.

We included these columns in order to cover charges in which convictions were set aside on appeal. For charges where a conviction was set aside on appeal we still recorded the fact of the conviction in column M. However, charges where convictions were set aside on appeal were not treated as cases in which convictions occurred for the purposes of statistical analysis. This was only the case for the charges in trial ID #140 and trial ID #163. These charges were classified as 'Guilty (set aside on appeal)'.

- **Defences (column Q to Z)**

It is possible for an accused to run more than one defence in relation to a charge and if this occurred we recorded a Y(es) in more than one of columns Q to Z.

- **No Contact (column Q)**

This defence involves the accused denying the main conduct element of the offence. For example, in sexual penetration without consent charges, a no contact defence means the accused positively denied any sexual penetration occurred at all. In an incitement charge a no contact defence means the accused denied that they ever spoke to the complainant in the alleged way, or perhaps denied that they were even present in the time/place alleged.

- **Consent (column R)**

A consent defence means that the alleged asserted that the complainant consented to the relevant sexual activity. Consent is not an element of offences against children, incapable persons or lineal relatives and so the accused cannot rely on a consent defence in cases of this sort.

- **Honest and Reasonable but Mistaken Belief (HRMB) (columns S and T)**

This defence arises from section 24 of the Criminal Code. It states that a person is only as criminally liable as they would have been if their honest and reasonable but mistaken belief about any factual issue was true.

In column S we recorded a Y(es) for any charge where the defence was that accused argued they honestly and reasonably but mistakenly believed the complainant consented to the sexual activity.

In column T we recorded a Y(es) for any charge where the defence was that the accused argued they held an honest and reasonable but mistaken belief about an issue other than consent, for example, that the contact was for a medical purpose.

- **Conduct not Indecent (column U)**

This defence was raised in some cases where the offence contained an element of indecency, that is, which required the prosecution to prove that the accused indecently assaulted an adult, or indecently dealt with a child. In column U we recorded a Y(es) for charges in which the accused accepted that the contact or dealing in question occurred but argued that their (the accused's) actions did not meet the definition of 'indecent'.

- **Conduct not Incitement (column V)**

This defence was raised in some cases where the offence was against a child and contained an element of incitement, that is, which required the prosecution to prove that the accused incited the child to indecently deal with another person, or incited a child to do an indecent act, or incited a child to engage in sexual behaviour. In column V we recorded a Y(es) for charges in which the accused accepted that the conduct in question occurred but argued that their (the accused's) actions did not meet the definition of 'incited.'

- **Mistake of Age (column W)**

In column W, the criteria for recording a Y(es) were that the accused raised the statutory defence of honest but reasonable mistaken belief about the complainant's age in relation to a charge under section 321 of the Criminal Code. To rely on this defence, the accused must have reasonably believed that the complainant was over the age of 16, and the accused must not be more than three years older than the complainant.

This defence was not raised for any charge in our dataset.

- **Mistaken Identity (column X)**

In column X we recorded a Y(es) for charges in which accused argued that the offence in question had likely happened, but that they (the accused) were not the person who committed it.

- **Other Element Not Met (column Y)**

In column Y we recorded a Y(es) for charges in which the accused argued that the prosecution had not proved any other element of the offence (besides those dealt with by other columns in the spreadsheet). This includes cases in which the complainant's age at the time of offending is an element, but the accused argued that the complainant's age at the precise time of offending was unclear or unproven.

- **Put to Proof (column Z)**

In column Z we recorded cases in which the accused chose to attack or criticise the prosecution's evidence (in order to argue that the prosecution had not proved its case beyond reasonable doubt) rather than adducing evidence of their own. The necessary criteria for inclusion in this defence category were that:

1. the accused did not personally give evidence in court;
2. the defence case did not advance or raise any positive defences; and
3. any evidence adduced by the defence related only to the quality and reliability of the prosecution evidence.

- **Mistaken Belief in Consent Left (column AA)**

When the accused relies on a defence of honest but reasonable mistaken belief as to any fact the judge must determine whether there is sufficient evidence supporting the defence to justify the jury being allowed to consider the defence. Additionally, if the judge considers that there is evidence that the accused held an honest and reasonable but mistaken belief the judge may choose to instruct the jury to consider that defence even if the defence did not specifically ask the judge to do so. Therefore, we recorded a Y(es) in column AA for charges where:

1. The defence raised the defence, and the trial judge left the defence to the jury; and
2. The defence did not raise the defence, but the trial judge nonetheless left it to the jury.

Column AA should be read alongside columns S (honest and reasonable but mistaken belief in consent) and column T (honest and reasonable but mistaken belief in a fact or issue other than consent).

- **Relationship (column AB)**

In column AB we categorised the relationship between the accused and complainant at the time of the offence (not at the time of the trial) as either:

1. Family/Domestic;
2. Romantic;
3. Position of Authority;
4. Social;
5. Stranger; or
6. Family friend.

We originally anticipated including employment as an option in this list, however, there were not any employment cases in our dataset.

- Family/Domestic

We included cases in this category where there was any relationship between the accused and complainant of blood, marriage, adoption or *de facto*, including:

- Married but separated persons;
- Estranged family members;
- A close relative's long-term partner (a close relative was defined as a sibling, parent, aunt/uncle or grandparent);
- Guardianship relationships (for example foster parents); and
- Any cases in which family/domestic relationship was listed as a circumstance of aggravation.

If the parties were not related the relevant criterion was whether they lived together. The specific relationship was added in parentheses. Cases we did not include in this category were close family friends that the complainant would habitually (for example, out of respect) refer to as 'uncle,' etc.

- Romantic

We included cases in this category where there was any established non-family romantic relationship, including:

- Any established sexual relationship (that is, more than first dates or single sexual encounters);
- Those where people had established a romantic relationship online before meeting in person; and
- People who often or regularly had sex with each other but did not consider themselves to be dating or romantically committed to each other.

- Position of Authority

This category was only relevant to offences against children. We included cases in this category where there was any non-employment relationship involving a distinct and formalised power imbalance. For example, cases where the accused was a teacher or other school staff, sports coach, music teacher, babysitter, or religious leader.

- Social

We included cases in this category where the relationship was not covered by another category and where the complainant and accused would consider themselves good acquaintances or closer. Friends of individual family members were included when they would not be considered family friends.

- Stranger

We included cases in this category where the complainant and accused were:

- Total strangers;
- People who had met for the first time on the occasion of the offending; and
- People 'known to' the complainant (as opposed to 'known by'). For example, a friend of a friend whom the complainant met for the first time would be considered a stranger.

- Family Friend

We included cases in this category where the accused or complainant was a regular visitor at the other person's family or parental home. We included parents of a child complainant's friends.

- **Factors Tending to Negate Consent (columns AC – AJ)**

We recorded a Y(es) in the relevant columns if either the prosecution or defence suggested at trial that the relevant factor was present.

- N/A Child (column AC)

Children under 16 years cannot consent to sexual activity under Western Australian law. This column acted as a hard filter excluding charges against children from columns AD – AJ.

This means that threatening behaviour, for example, towards a child was not recorded.

- Force (column AD)

We recorded a Y(es) in this column if, during the alleged offence, the accused allegedly used physical force to perform or enable the relevant conduct. Examples include striking the complainant, holding the complainant down, and similar.

- Threats (column AE)

We recorded a Y(es) in this column if, during the alleged offence, the accused allegedly made threats to the complainant. This factor was interpreted broadly to include both violent and non-violent threats (for example financial threats), and threats to or regarding others (for example, the complainant's children).

- Intimidation (column AF)

We recorded a Y(es) in this column if, during the alleged offence, the accused allegedly acted in a way which made the complainant fearful of impending violence or other negative consequence, in a way which cannot be categorised as force or threat. Examples include blocking the door to prevent the complainant leaving, or where the accused was in a state of heightened anger.

- **Deceit (column AG)**

The criterion for recording a Y(es) in this column were that during the alleged offence, the accused allegedly misrepresented a fact which was a fundamental aspect of the complainant's consent. For example, where the accused pretended to be the complainant's spouse.

Non-fundamental details were excluded, for example representing that that the accused was wealthier, or younger, than they actually are.

- **Fraud (column AH)**

We recorded a Y(es) in this column if, during the alleged offence, the accused allegedly misrepresented the nature of the conduct. For example, that touching was a medical procedure rather than sexual contact.

- **Unconsciousness (column AJ)**

We recorded a Y(es) in this column for all charges in which it was alleged that the complainant was not awake during the alleged offending, including because they were asleep, had fainted, or was unconscious due to the consumption of alcohol or drugs.

- **Ages (columns AK – AN)**

All ages are given as a range from the youngest age the party could have been at the commission of the first offence, to the oldest they could have been at the commission of the last offence.

Negative age differences indicate the accused was younger than the complainant.

'Unclear' was recorded where neither a party's date of birth, nor age, was mentioned in the transcript.

- **Coercive Control (column AI)**

We recorded a Y(es) in this column if the charge involved a relationship with a distinct power imbalance in favour of the accused, which the accused routinely exploited. This included physical, emotional, and financial factors.

For example, the accused may not have actively used or threatened violence in relation to a charge, but if, given the history of violence the complainant may have anticipated its use, we included a Y(es) in this column.

- **Sex (columns AP – AQ)**

Sex refers to the party's sex at the time the offence allegedly occurred. If a person later transitioned, their birth sex was recorded. If they had transitioned before the offence, their transitioned sex was recorded.

- **Intoxication (columns AR – AS)**

If intoxication was raised by either party we recorded a Y(es) in this column. Any amount other than nominal was sufficient for inclusion, given tolerances differ between people.

We distinguished between voluntary and involuntary intoxication. Charges described as involving voluntary intoxication include all situations where the party allegedly knew they were consuming an intoxicant, and allegedly consumed it themselves. This included situations where

the accused allegedly provided intoxicants to an underage child, who allegedly chose to consume it.

Charges described as involving involuntary consumption were those where it was alleged the party did not know they were consuming an intoxicant, for example charges alleging drink spiking, or where it was alleged the intoxicant was forced upon them (that is, they consumed it under duress).

- **Disability (columns AT – AU)**

We interpreted disability broadly and included learning, physical and psychological disabilities. Addiction was not considered a disability. The column briefly describes the particular disability.

- **Delay in Complaint (column AV)**

In column AV we recorded the delay between an offence allegedly occurring and being reported in months and years.

We treated the date of complaint as the date the alleged offence was reported to the authorities.

Where the complainant informed someone with mandatory reporting obligations, the date of report to the authorities was used (although this was, in every case, promptly after being informed).

This did not include situations where the complainant told someone such as a friend or family member, but no official action was taken.

Where the date the offence allegedly occurred was expressed as being over a date range, we used the earliest date to calculate any delay.

We used the following descriptors:

- ‘No Delay’ when the delay between the offence allegedly occurring and being reported was less than one week;
- ‘Unclear’ when the date of report is not in the transcript; and
- ‘No Complaint’ when the complainant never complained. This was generally where the police found evidence of the charge in question during an investigation into other charges. For example, police investigating allegations of a person possessing child exploitation material were able to identify the child depicted in the material and laid charges based on the sexual activity depicted.

- **Delay Direction (column AW)**

In this column we recorded Y(es) for charges with respect to which the judge gave the jury a direction pursuant to the terms of section 36BD of the *Evidence Act 1906* (WA) or in the terms the High Court said were necessary in *Crofts v the Queen*.⁴⁵

‘N/A’ refers to a charge which was discontinued or the subject of a directed acquittal, and so no direction was required.

⁴⁵ *Crofts v the Queen* (1996) 186 CLR 247.

- **Longman Direction (forensic disadvantage) (columns AX – AY)**

In column AX, we recorded Y(es) for charges with respect to which the judge gave the jury a direction regarding forensic disadvantage pursuant to or similar to the terms the High Court said were necessary in *Longman v the Queen*⁴⁶(Longman) but the direction did not use language such as ‘dangerous to convict’, ‘scrutinise with special care’, ‘serious risk of a miscarriage of justice’ or similar. When discussing this type of direction with counsel judges sometimes referred to it as a ‘weak Longman’, a ‘part Longman’, a ‘Longman type direction’ or ‘a direction with a Longman flavour.’

In column AY we recorded as Y(es) charges with respect to which the judge gave the jury a direction regarding forensic disadvantage pursuant to or similar to the terms the High Court said were necessary in Longman and the direction did use language such as ‘scrutinise with special care’, ‘dangerous to convict’, ‘serious risk of a miscarriage of justice’ or similar. Cases recorded as Y(es) in column AY are a subset of those recorded as Y(es) in column AX.

- **Trial Length (Days) (column AZ)**

The calculation of trial length is expressed in days and excludes administrative days where no evidence was led and no substantive legal argument occurred, weekends and public holidays.

- **Method Complainant Gave Evidence (column BA)**

Even if there were multiple charges being heard in one trial the method by which the complainant gave evidence was the same for all the charges in the trial. The options were:

1. In person;
2. Via video link;
3. Via pre-recorded evidence;
4. Via a written statement;
5. The complainant did not give evidence; and
6. Mistrial (trial aborted prior to complainant giving evidence).

- Written Statement

We recorded Y(es) in this column if the prosecution, by consent, was allowed to tender the complainant’s written statement instead of the complainant giving evidence in chief and then being cross examined. This only occurred once.

- Complainant did not Give Evidence

We recorded Y(es) in this column when the complainant did not give evidence. Reasons why the complainant did not give evidence included:

- A child complainant did not give evidence because their parents did not consent to them doing so;
- The prosecution believed they could secure a conviction on other evidence besides the complainant’s evidence; and
- The complainant was deceased.

⁴⁶ *Longman v the Queen* (1989) 168 CLR 79.

- **Length of Judge's Directions (column BB)**

In this column we recorded the length of the Judge's directions to the jury in minutes. The calculation did not include any time where the jury had retired, or where the Judge answered jury questions after the jury had retired to consider its verdict. The calculation also does not distinguish whether the directions were given over more than one calendar day.

Annexure B. Research questions

- **Questions about number/types of charges**

1. Number/percentage of charges in the table that were laid under the following sections of the Criminal Code (see “charge” column):

- a. 186
- b. 191
- c. 192
- d. 320
- e. 321
- f. 321A
- g. 322
- h. 323
- i. 324
- j. 325
- k. 326
- l. 327
- m. 328
- n. 329
- o. 330
- p. 331B
- q. 331C
- r. 331D

- **Questions about trial and charge outcomes**

2. Trial outcomes:

- a. Percentage of all charges in the table which resulted in the following outcomes:
 - i. Guilty
 - ii. Not guilty
 - iii. Hung jury
 - iv. Mistrial

- b. Same analysis as question 2a but broken down by whether the charges are against child or adult complainants (as per the **Charges against adult and child complainants** section of *Annexure A. Detailed case coding methodology*, p.33).

3. Charge outcomes – what was the result for each charge under section:

- a. 186 (guilty / not guilty / hung jury / mistrial)
- b. 191 (guilty / not guilty / hung jury / mistrial)
- c. 192 (guilty / not guilty / hung jury / mistrial)
- d. 320 (guilty / not guilty / hung jury / mistrial)
- e. 321 (guilty / not guilty / hung jury / mistrial)
- f. 321A (guilty / not guilty / hung jury / mistrial)
- g. 322 (guilty / not guilty / hung jury / mistrial)
- h. 323 (guilty / not guilty / hung jury / mistrial)
- i. 324 (guilty / not guilty / hung jury / mistrial)
- j. 325 (guilty / not guilty / hung jury / mistrial)
- k. 326 (guilty / not guilty / hung jury / mistrial)
- l. 327 (guilty / not guilty / hung jury / mistrial)

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- m. 328 (guilty / not guilty / hung jury / mistrial)
 - n. 329 (guilty / not guilty / hung jury / mistrial)
 - o. 330 (guilty / not guilty / hung jury / mistrial)
 - p. 331B (guilty / not guilty / hung jury / mistrial)
 - q. 331C (guilty / not guilty / hung jury / mistrial)
 - r. 331D (guilty / not guilty / hung jury / mistrial)

- **Questions about defences**

4. What was the defence(s) run for the following charges against adults – section:
 - a. 323 (consent / mistaken consent / no contact / identity / contact not indecent / mistake of age / mistaken identity / put to proof)
 - b. 324 (consent / mistaken consent / no contact / identity / contact not indecent / mistake of age / mistaken identity / put to proof)
 - c. 325 ((consent / mistaken consent / no contact / identity / contact not indecent / mistake of age / mistaken identity / put to proof)
 - d. 326 (consent / mistaken consent / no contact / identity / contact not indecent / mistake of age / mistaken identity / put to proof)
 - e. 327 (consent / mistaken consent / no contact / identity / contact not indecent / mistake of age / mistaken identity / put to proof)
 - f. 328 (consent / mistaken consent / no contact / identity / contact not indecent / mistake of age / mistaken identity / put to proof)
 - g. 329 (where the data in the “charge” column indicates it was against an adult)) (consent / mistaken consent / no contact / identity / contact not indecent / mistake of age)
5. What was the defence(s) run for the following charges against children – section:
 - a. 320 (consent / mistaken consent / no contact / identity / contact not indecent / mistake of age / mistaken identity / put to proof)
 - b. 321 (consent / mistaken consent / no contact / identity / contact not indecent / mistake of age / mistaken identity / put to proof)
 - c. 321A (consent / mistaken consent / no contact / identity / contact not indecent / mistake of age / mistaken identity / put to proof)
 - d. 322 (consent / mistaken consent / no contact / identity / contact not indecent / mistake of age / mistaken identity / put to proof)
 - e. 329 (where the data in the “charge” column specifies it was against a child)) (consent / mistaken consent / no contact / identity / contact not indecent / mistake of age / mistaken identity / put to proof)
6. For charges against adults in which the defence or a defence run by the accused was mistaken belief in consent, in what percentage of charges was the defence of mistake left to the jury to consider (“mistake left” column)?⁴⁷
7. For charges against children is there any correlation between a particular defence being run (“defence” column) and the trial outcome?
8. For charges against adults is there any correlation between a particular defence being run and the trial outcome?

⁴⁷ For the jury to be allowed to consider the defence of mistaken belief in consent the evidence as to this issue must reach a threshold level. If it reaches that level then the judge will tell the jury that they can consider whether the accused made an honest and reasonable mistake as to whether the jury consented – this is referred to as leaving the defence to the jury.

- **Questions relating to the accused's and complainant's age, sex and relationship**

9. In what percentage of charges against children was the relationship between the accused and complainant:
 - a. Family/domestic
 - b. Romantic
 - c. Friends
 - d. Colleagues
 - e. Social
 - f. Strangers
 - g. Other?
10. In what percentage of charges against adults was the relationship between the accused and complainant:
 - a. Family/domestic
 - b. Romantic
 - c. Friends
 - d. Colleagues
 - e. Social
 - f. Strangers
 - g. Other?
11. Is there any correlation between the accused and complainant's relationship and the defence run? For example, if the parties are in a romantic relationship are they more likely to run a consent defence?
12. Is there any correlation between the accused and complainant's relationship and the outcome? For example, is an accused more likely to be acquitted where they knew the complainant rather than being a stranger?
13. In what percentage of charges against adults was the accused's sex:
 - a. Male
 - b. Female
 - c. Other?
14. In what percentage of charges against children was the accused's sex:
 - a. Male
 - b. Female
 - c. Other?
15. In what percentage of charges against adults was the complainant's sex:
 - a. Male
 - b. Female
 - c. Other?
16. In what percentage of charges against children was the complainant's sex:
 - a. Male
 - b. Female
 - c. Other?
17. In what percentage of charges against adults were there the following combinations of sexes:
 - a. male accused & male complainant

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- b. male accused & female complainant
 - c. female accused & male complainant
 - d. female accused & female complainant?
18. In what percentage of charges against children were there the following combinations of sexes:
- a. male accused & male complainant
 - b. male accused & female complainant
 - c. female accused & male complainant
 - d. female accused & female complainant?
19. In what percentage of charges against adults was there an age gap (age at time of offence) between the complainant and accused of:
- a. Less than 3 years
 - b. 3-5 years
 - c. More than 5 but less than 10 years
 - d. More than 10 but less than 20 years
 - e. 20 + years?
20. In what percentage of charges against children was there an age gap (age at time of offence) between the complainant and accused of:
- a. Less than 3 years
 - b. 3-5 years
 - c. More than 5 but less than 10 years
 - d. More than 10 but less than 20 years
 - e. 20 + years?
- **Questions about factors that tend to negate consent or that might contribute to an accused's mistaken belief in consent**
21. In what percentage of charges adults was there the presence of:
- a. Accused was intoxicated
 - b. Complainant was intoxicated
 - c. Accused had a disability
 - d. Complainant had a disability
 - e. Complainant was unconscious
 - f. The case involved the alleged use of at least one of the following: force, threat, intimidation, deceit or fraud?
22. In what percentage of charges against children was there the presence of:
- a. Accused was intoxicated
 - b. Complainant was intoxicated
 - c. Accused had a disability
 - d. Complainant had a disability
 - e. Complainant was unconscious
 - f. The case involved the alleged use of at least one of the following: force, threat, intimidation, deceit or fraud?
23. For charges against adults involving an allegation of at least one force, threat, intimidation, deceit or fraud, in what percentage of charges was there an allegation of:
- a. Force
 - b. Threat

-
- c. Intimidation
 - d. Deceit
 - e. Fraud?

24. Is there any correlation between whether the accused is intoxicated, the defence raised (including whether mistake was left to the jury) and the outcome? For example is it more likely that an accused who is intoxicated will run mistaken belief in consent and how does this relate to the outcome?
25. Is there any relationship or correlation between whether the complainant is intoxicated, the defence raised (including whether mistake was left to the jury) and the outcome?
26. Is there any relationship or correlation between both the accused and complainant being intoxicated, the defence raised and the outcome?
27. Is there any relationship or correlation between whether the accused has a disability, the defence raised (including whether mistake was left to the jury) and the outcome?
28. Is there any relationship or correlation between whether the complainant has a disability, the defence raised (including whether mistake was left to the jury) and the outcome?
29. Is there any correlation between both accused and complainant having a disability, the defence raised and the outcome?
30. Is there any correlation between the case involving at least one of force, threat, intimidation, deceit or fraud and the outcome?
31. Is there any correlation between any of the following factors: the complainant being unconscious and the defence raised (including whether mistake was left to the jury) and the outcome? For example, if the complainant is unconscious is it less likely the accused will raise the defence of consent or mistaken belief in consent? If the complainant is unconscious is the accused more likely to be convicted?

- **Questions about delay in complaint**

*** notes about how delay is calculated – in some cases it is unclear when the offence occurred (in which case the indictment may specify a date range) and (or) unclear when the offence was reported. In either case delay has been calculated on the basis of the longest delay that is available on the evidence ***

32. In what percentage of charges against adults was there:
 - a. No delay in complaint (defined as delay of 1 week or less)
 - b. Delay of 6 months or less
 - c. Delay of up to 1 year
 - d. Delay of up to 5 years
 - e. Delay of 5-10 years
 - f. Delay of 10+ years?
33. In what percentage of charges against children was there:
 - a. No delay in complaint (defined as delay of 1 week or less)
 - b. Delay of 6 months or less
 - c. Delay of up to 1 year
 - d. Delay of up to 5 years

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- e. Delay of 5-10 years
 - f. Delay of 10+ years?
34. In what percentage of charges against adults was a delay direction⁴⁸ given?
35. In what percentage of charges against children was a delay direction given?
36. For charges against adults what is the correlation, if any, between a delay of the following periods and a delay direction being given where there was:
- a. No delay in complaint
 - b. Delay of 6 months or less
 - c. Delay of up to 1 year
 - d. Delay of up to 5 years
 - e. Delay of 5-10 years
 - f. Delay of 10+ years?
37. For charges against children what is the correlation, if any, between a delay of the following periods and a delay direction being given where there was:
- a. No delay in complaint
 - b. Delay of 6 months or less
 - c. Delay of up to 1 year
 - d. Delay of up to 5 years
 - e. Delay of 5-10 years
 - f. Delay of 10+ years?
38. In what percentage of charges against adults was a Longman⁴⁹ direction given? Please give the overall figure but also break down the charges by charges in which there was:
- a. No delay in complaint
 - b. Delay of 6 months or less
 - c. Delay of up to 1 year
 - d. Delay of up to 5 years
 - e. Delay of 5-10 years
 - f. Delay of 10+ years?
39. In what percentage of charges against children was a Longman direction given? Please give the overall figure but also break down the charges by charges in which there was:
- a. No delay in complaint
 - b. Delay of 6 months or less
 - c. Delay of up to 1 year
 - d. Delay of up to 5 years
 - e. Delay of 5-10 years
 - f. Delay of 10+ years?

⁴⁸ If the judge considers that there was a delay between the alleged offence occurring and a complaint being made to Police/another authority figure the judge must give the jury particular legal directions explaining the significance of the delay. There are two different styles/wordings of delay direction, one which is set out in the Evidence Act, another which is set out in a case called *Crofts v the Queen*.

⁴⁹ A 'Longman direction' is a direction the judge may give a jury if there was a delay in complaint and if the delay resulted in the in the accused being at a forensic disadvantage. For example, the delay may mean that defence witnesses are dead or missing, records such as bank/telephone records are unavailable, lost opportunity to conduct DNA examinations. It is called a Longman direction because the leading case on this issue is *Longman v the Queen*.

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40. In what percentage of charges against adults were both a delay direction and a Longman direction given? Please give the figure overall, and also break down the charges by charges in which there was:
- No delay in complaint
 - Delay of 6 months or less
 - Delay of up to 1 year
 - Delay of up to 5 years
 - Delay of 5-10 years
 - Delay of 10+ years?
41. In what percentage of charges against children were both a delay direction and a Longman direction given? Please give the overall figure, and also break down the charges by charges in which there was:
- No delay in complaint
 - Delay of 6 months or less
 - Delay of up to 1 year
 - Delay of up to 5 years
 - Delay of 5-10 years
 - Delay of 10+ years?
42. In what percentage of charges against adults where a Longman direction was given did the direction involve use of the expression 'dangerous to convict' or 'scrutinise with care' or 'miscarriage of justice' or similar phrases? Please give the overall figure, and also break down the charges by charges in which there was:
- No delay in complaint
 - Delay of 6 months or less
 - Delay of up to 1 year
 - Delay of up to 5 years
 - Delay of 5-10 years
 - Delay of 10+ years?
43. In what percentage of charges against children where a Longman direction was given did the direction involve use of the expression 'dangerous to convict' or 'scrutinise with care' or 'miscarriage of justice' or similar phrases? Please give the overall figure, and also break down the charges by charges in which there was:
- No delay in complaint
 - Delay of 6 months or less
 - Delay of up to 1 year
 - Delay of up to 5 years
 - Delay of 5-10 years
 - Delay of 10+ years?
44. For charges against children what is the correlation, if any, between a delay direction being given and the following trial outcomes:
- Guilty
 - Not guilty
 - Hung jury
 - Mistrial?

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45. For charges against adults what is the correlation, if any, between a delay direction being given and the following trial outcomes:
- Guilty
 - Not guilty
 - Hung jury
 - Mistrial?
46. For charges against children what is the correlation, if any, between a Longman direction (that does not include expressions such as 'dangerous to convict' or 'scrutinise with care' or 'miscarriage of justice' being given) being given and the following trial outcomes:
- Guilty
 - Not guilty
 - Hung jury
 - Mistrial?
47. For charges against children what is the correlation, if any, between a Longman direction (that includes expressions such as 'dangerous to convict' or 'scrutinise with care' or 'miscarriage of justice' being given) and the following trial outcomes:
- Guilty
 - Not guilty
 - Hung jury
 - Mistrial?
48. For charges against adults what is the correlation, if any, between a Longman direction (that does not include expressions such as 'dangerous to convict' or 'scrutinise with care' or 'miscarriage of justice') being given being given and the following trial outcomes:
- Guilty
 - Not guilty
 - Hung jury
 - Mistrial?
49. For charges against adults what is the correlation, if any, between a Longman direction (that includes expressions such as 'dangerous to convict' or 'scrutinise with care' or 'miscarriage of justice') being given being given and the following trial outcomes:
- Guilty
 - Not guilty
 - Hung jury
 - Mistrial?
50. For charges against children what is the correlation, if any, between charges where both a delay direction and Longman direction are given, and the following trial outcomes:
- Guilty
 - Not guilty
 - Hung jury
 - Mistrial?
51. For charges against adults what is the correlation, if any, between charges where both a delay direction and Longman direction are given, and the following trial outcomes:
- Guilty
 - Not guilty

-
- c. Hung jury
 - d. Mistrial?

- **Questions about method by which complainant gave evidence**

52. In what percentage of charges against adults did the complainant give evidence:

- a. In person
- b. By video link
- c. Via the playing of pre-recorded evidence?

53. In what percentage of charges against children did the complainant give evidence:

- a. In person
- b. By video link
- c. Via the playing of pre-recorded evidence?

54. Is there any correlation between the method of giving evidence and the outcome?

- **Questions about trial length**

55. For trials involving only charges against adults what was the:

- a. Longest trial length?
- b. Shortest trial length?
- c. Average trial length? Median trial length? Mode trial length? Standard deviation of trial length?

56. For trials involving only charges against children what was the

- a. Longest trial length?
- b. Shortest trial length?
- c. Average trial length? Median trial length? Mode trial length? Standard deviation of trial length?

57. For trials involving both charges against adults and children what was the

- a. Longest trial length?
- b. Shortest trial length?
- c. Average trial length? Median trial length? Mode trial length? Standard deviation of trial length?

- **Questions about length of judge's directions**

58. For trials involving only charges against adults how long was the

- a. Longest judge's direction?
- b. Shortest judge's direction?
- c. Average length of judge's direction? Median length of judge's direction? Mode length of judge's direction? Standard deviation of judge's direction?

59. For trials involving only charges against children how long was the

- a. Longest judge's direction?
- b. Shortest judge's direction?
- c. Average length of judge's direction? Median length of judge's direction? Mode length of judge's direction? Standard deviation of judge's direction?

60. For trials involving both charges against adults and children how long was the

- a. Longest judge's direction?
- b. Shortest judge's direction?

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- c. Average length of judge's direction? Median length of judge's direction? Mode length of judge's direction? Standard deviation of judge's direction?