

Arizona Criminal Justice Commission

Statistical Analysis Center Publication

Our mission is to sustain and enhance the coordination, cohesiveness, productivity and effectiveness of the Criminal Justice System in Arizona



The Reporting of Sexual Assault in Arizona: 2004 and 2005

2007

March

ARIZONA CRIMINAL JUSTICE COMMISSION



Chairperson
ROBERT CARTER OLSON
Pinal County Attorney

Vice Chairperson
DOUGLAS L. BARTOSH, Chief
Cottonwood Police Department

KELLY ANDERSON, Mayor
City of Maricopa

JOSEPH ARPAIO
Maricopa County Sheriff

DUANE BELCHER, Chairperson
Board of Executive Clemency

DAVID K. BYERS, Director
Administrative Office of the Courts

CLARENCE DUPNIK
Pima County Sheriff

TONY ESTRADA
Santa Cruz County Sheriff

TERRY GODDARD
Attorney General

DANIEL HUGHES, Chief
Surprise Police Department

BARBARA LAWALL
Pima County Attorney

RICHARD MIRANDA, Chief
Tucson Police Department

RALPH OGDEN
Yuma County Sheriff

DAVID SANDERS
Pima County Chief Probation Officer

DORA SCHRIRO, Director
Department of Corrections

LINDA SCOTT
Former Judge

CARL TAYLOR
Coconino County Supervisor

ANDREW P. THOMAS
Maricopa County Attorney

ROGER VANDERPOOL, Director
Department of Public Safety

JOHN A. BLACKBURN, JR.
Executive Director

PHILLIP STEVENSON
Statistical Analysis Center Director

Executive Summary

Arizona Revised Statute (ARS) 41-2406.B, which became law in July 2005, requires the Arizona Criminal Justice Commission (ACJC) to maintain information on sexual assault, sexual assault of a spouse, and the false reporting of sexual assault as it appears on disposition reporting forms submitted to the Arizona Department of Public Safety (DPS). In turn, ACJC is required to submit an annual report that contains this information to the governor, the president of the senate, the speaker of the house, the secretary of state, and the director of the Arizona state library, archives, and public records. This report is to include the total number of police reports, charges, convictions, and sentences for sexual assault and the number of police reports, charges, convictions and sentences for sexual assault involving a spouse, including whether or not the victim and the victim's spouse were estranged at the time of the assault. Additionally, the report is to include the number of charges, convictions, and sentences for false reports of sexual assault involving a spouse.

This is the first report designed to document the information described above and includes data from calendar years 2004 and 2005. The arrest, conviction, and sentencing data come from an extract from the Arizona Computerized Criminal History (ACCH) record system provided by DPS to ACJC in January 2006. The data in ACCH are based on disposition reporting forms submitted to DPS by local law enforcement, prosecutors, and the courts.

Sexual Assault

Based on disposition reporting forms submitted to DPS and entered into the ACCH record system, in 2004 there were 282 reports submitted that included at least one charge of sexual assault. A total of 470 charges of sexual assault were included in the 282 reports (a single arrest report could include multiple charges). Of the 282 arrest reports submitted, 69 convictions were obtained, 55 for the original charge of sexual assault. The sentences imposed on convicted sexual assault offenders include, 41 sentences to probation, 25 sentences to prison, eight sentences to jail, five fines, and 37 other undefined sentences.

In 2005, there were 296 arrest reports submitted that included at least one charge of sexual assault. A total of 531 charges of sexual assault appeared in the 296 arrest reports. At the time the data was extracted from ACCH, 28 convictions were obtained, 21 for the original charge of sexual assault. The sentence imposed on offenders convicted of sexual assault include 12 sentences to prison, 10 sentences of probation, three sentences to jail, one fine, and seven undefined sentences. It is important to note that many of the cases where offenders were charged with sexual assault may not have reached final disposition by January 2006.

Sexual Assault of a Spouse

Based on disposition reporting forms submitted to DPS and entered into the ACCH record system, in 2004 there were 10 arrest reports submitted that included at least one charge of sexual assault of a spouse. A total of 19 charges of sexual assault of a spouse were included in the 10 reports. Of the 10 arrest reports submitted, three convictions were obtained, one of which was for the original charge of sexual assault of a spouse. The sentence imposed on the offender convicted of sexual assault of a spouse was a term of probation.

In 2005, there were 18 reports submitted that included at least one charge of sexual assault of a spouse. A total of 22 charges of sexual assault of a spouse appeared in the 18 reports. At the time the data was extracted from ACCH, there was no record of any convictions on the original charge of sexual assault of a spouse.

False Reporting of Sexual Assault Involving a Spouse

Although false reporting of an offense to law enforcement was a part of the Arizona criminal code in 2004, a specific charge of false reporting of a sexual assault involving a spouse was not. In 2004, there were 6,235 charges of false reporting of an offense to law enforcement. Although information available on disposition reporting forms do not allow for a count of charges for the false reporting of sexual assault involving a spouse, it is possible that some of the false reporting charges were for the false reporting of a sexual assault involving a spouse.

As of July 25, 2005, the false reporting of a sexual assault involving a spouse (ARS 13-2907.03) became a part of the Arizona criminal code. Even though false reporting of a sexual assault involving a spouse is now a specific crime in Arizona's criminal code, there were no charges of false reporting of sexual assault involving a spouse in 2005. There were 6,201 charges of false reporting of an offense to law enforcement in 2005, and it is possible that a subset of them were for the false reporting of sexual assault involving a spouse.

Barriers to Meeting ARS 41-2406.B Requirements

One of the requirements of ARS 41-2406.B is to report on the number of arrests, convictions, and number and type of sentences for cases involving the sexual assault of a spouse. In July of 2005, Senate Bill 1040 repealed ARS 13-1406.01, which allowed for an offender to be specifically charged with sexual assault of a spouse. In the absence of a specific statute for sexual assault of a spouse in Arizona's criminal code, the disposition reporting form currently used does not contain the information needed for ACJC to report all of the information required by ARS 41-2406.B. In addition to reporting information on sexual assaults of a spouse, ARS 41-2406.B requires ACJC to report, in cases of sexual assaults involving a spouse, whether the victim and offender

were estranged at the time of the offense. Except for a general indication of whether an offense involved domestic violence, there is no field on the disposition reporting form that describes the relationship between victim and offender.

Additionally, criminal history records that are created through the submission of disposition reporting forms in every state in the country are often untimely, inaccurate, and incomplete. Recognizing the need for all states to improve the quality of criminal history records, the United States Department of Justice, Office of Justice Programs, through the Bureau of Justice Statistics, has invested more than \$500 million in National Criminal History Improvement Program (NCHIP) funds since 1995. Although numerous state and local agencies are also attempting to improve the quality of Arizona's criminal history record information, including ACJC, there is much work yet to be done. The timeliness, accuracy, and completeness of criminal history records information is not only critical to using that information to understand Arizona's criminal justice system, more importantly, it is critical to effective criminal justice system decision-making and officer safety.

Introduction

Arizona Revised Statute (ARS) 41-2406.B requires the Arizona Criminal Justice Commission (ACJC) to maintain information gleaned from disposition reporting forms provided by the Arizona Department of Public Safety (DPS) on sexual assaults pursuant to section 13-1406 and false reporting of sexual assault pursuant to section 13-2907.03. The number and type of police reports filed, the number and type of charges filed, and the number of convictions that are obtained are to be included in this information. Pursuant to ARS 41-2406.D, ACJC is required to submit a report, the contents of which are described in 41-2406.B, on an annual basis to the governor, the president of the senate, and the speaker of the house. Additionally, a copy of the report is to be provided to the secretary of state and the director of the Arizona state library, archives, and public records.

Providing information on the criminal justice system's response to allegations of sexual assault and the false reporting of sexual assault is an important task. Unfortunately, as ARS 41-2406.B is written, the mechanisms that are intended to monitor the criminal justice system's response to allegations of sexual assault and the false reporting of sexual assault involving a spouse in Arizona are inadequate to achieve the task. The disposition reporting forms used by local criminal justice agencies to report arrests and subsequent criminal justice system activity do not contain all the information needed to meet the requirements of ARS 41-2406.B. Additionally, the quality of the records in the Arizona Computerized Criminal History (ACCH) repository, which is populated by information from the disposition forms referenced in ARS-2406.B, presents obstacles to complete and accurate reporting of criminal justice system activity.

Although the disposition reporting forms do not contain all of the information necessary to provide a complete and accurate reporting of arrests and subsequent criminal justice system activity on an annual basis, in this, the first annual report since ARS 41-2406.B was enacted, ACJC reports the information that is available on the number of arrests for sexual assault and the false reporting of sexual assault, the number of charges that are filed and what charges are filed, the number of convictions obtained, and the sentences that are imposed for each conviction. Concluding this report is a brief discussion of the issues that prevent ACJC from reporting the required information.

Reporting Requirements

ARS 41-2406.B requires DPS to provide to ACJC "each applicable disposition reporting form relating to sexual assaults pursuant to section 13-1406 and false reporting of sexual assault pursuant to section 13-2907..." In turn, ARS 13-2406.B (1-4) requires ACJC to, "...maintain the following records regarding sexual assaults pursuant to section 13-1406 and false reporting of sexual assault pursuant to section 13-2907 that are submitted to the Commission by the Department of Public Safety: 1) The number of police reports that are filed; 2) The number of charges that are filed and what charges

are filed; 3) The number of convictions that are obtained; 4) The sentences that are imposed for each conviction.”

ARS 41-2406 goes on to state that:

“...The records shall identify the total number of police reports, charges, convictions and sentences for all sexual assaults and the number of police reports, charges, convictions and sentences for those sexual assaults that involved a spouse. For those sexual assaults that involved a spouse, the report shall identify whether the victim and the victim’s spouse were estranged. The records shall also identify the total number of police reports, charges, convictions and sentences for all false reports that are related to sexual assault of a spouse pursuant to section 13-2907.03.”

To serve as a baseline for subsequent annual reports on sexual assault and the false reporting of sexual assault, this report will contain all available data on arrest reports, charges, convictions, and sentencing information for sexual assault and the false reporting of sexual assault that occurred in calendar years 2004 and 2005, and were submitted to the ACCH repository maintained by DPS. The information in the ACCH replicates the information from the disposition reporting form submitted by local law enforcement, prosecutors, and the courts. The ACCH data used for this report was extracted from ACCH in January of 2006.

2004 data

Calendar year 2004 arrests for sexual assault and sexual assault of a spouse were selected as the starting point for two reasons: 1) the time from arrest, to prosecution, and ultimate disposition of a case can be significant. It is assumed that by January of 2006, the majority, if not all charges originating in 2004, would have reached final case disposition; and 2) Calendar year 2004 is the last full year that sexual assault of a spouse (i.e., ARS 13-1406.01) was a specific offense in Arizona’s criminal code. Selecting this year as a baseline provides a context for the 2005 data and gives us the most recent and complete information from disposition reporting forms on sexual assault of a spouse. Tables 1 and 2 summarize the available data on arrests for sexual assault and sexual assault of a spouse in 2004, respectively.

Sexual Assault

Based on disposition reporting forms submitted to DPS, in 2004 there were 282 sexual assault police reports filed with DPS that included at least one charge of sexual assault. The 282 sexual assault reports that were filed in 2004 included 272 individuals who were charged with sexual assault. In other words, 10 individuals were arrested twice in 2004 for a sexual assault. The 272 individuals arrested for sexual assault in 2004 were responsible for 470 charges of sexual assault.

Of the 470 charges for sexual assault submitted to DPS in 2004, 69 resulted in convictions. Of those 69 convictions, 55 were for the original charge of sexual assault and two were for a modified charge of sexual assault of a spouse. The other 14 convictions obtained were for assault, aggravated assault, unlawful imprisonment, sexual abuse, sexual conduct with a minor, sexual assault of a spouse, harassment, and bigamy. In the two cases where the defendant was originally charged with sexual assault and was convicted of sexual assault of a spouse, one resulted in a combined sentence of jail and probation, and the other a combined sentence of probation and an unreported "other" type of sentence.

Table 1: Sexual Assault, 2004

Number of police reports (i.e., arrest reports) filed with DPS that included a sexual assault charge	282
Number of sexual assault charges filed	470
Number of convictions for sexual assault	55
<i>Type of sentences for convictions of sexual assault</i>	
Fine	5
Probation	41
Jail	8
Prison	25
Other	37

Of the remaining 401 charges, 82 were dismissed by the court, 42 were reported as no complaint filed, eight were not referred for prosecution, four had the defendant found not guilty, and the remaining 265 charges had no final disposition information entered into ACCH.

Sexual Assault of a Spouse

Based on disposition reporting forms submitted to DPS, in 2004 there were 10 police reports filed with DPS that included at least one charge of sexual assault of a spouse. The 10 police reports were on 10 different individuals who were charged with a total of 19 counts of sexual assault of a spouse. Six individuals were charged with one count each of sexual assault of a spouse, two individuals were charged with two counts each, one individual was charged with three counts, and one individual was charged with six counts of sexual assault of a spouse.

Of the 19 counts of sexual assault of a spouse, one conviction was obtained that resulted in a probation sentence and another resulted in a deferred sentence of probation on a charge of misdemeanor assault. Although there were no other records of convictions specifically for sexual assault of a spouse in 2004 (final disposition

information associated with eight other charges of sexual assault of a spouse was unavailable), the individual charged with six counts of sexual assault of a spouse was convicted of a concurrent offense and sentenced to probation. Unfortunately, the offense for which the conviction was obtained and any other sentence that might have been associated with the offenses with which the individual was charged was unavailable.

Table 2: Sexual Assault of a Spouse, 2004

Number of police reports (i.e., arrest reports) filed with DPS that included a charge of sexual assault of a spouse	10
Number of charges filed for sexual assault of a spouse	19
Number of convictions for sexual assault of a spouse	1
<i>Type of sentences</i>	
Fine	0
Probation	1
Jail	0
Prison	0
Other	0

False Reporting of Sexual Assault Involving a Spouse

Although false reporting of an offense to law enforcement was a part of the Arizona criminal code in 2004, the specific charge of false reporting of sexual assault involving a spouse (ARS 13-2907.03) was not. Thus, a review of the disposition reporting forms submitted to DPS would not identify any instances of false reporting of sexual assault involving a spouse. It is possible that a subset of the 6,235 charges of false reporting was for the false reporting of sexual assault involving a spouse, but the number is unknown given the information provided on the disposition reporting forms and the absence of a specific charge of false reporting of sexual assault involving a spouse in Arizona’s criminal code in 2004.

2005 Data

Sexual Assault

Based on disposition reporting forms submitted to DPS, in 2005 there were 296 sexual assault police reports filed with DPS that included at least one charge of sexual assault. The 296 reports that were filed in 2005 charged 284 different individuals with sexual assault, in which 12 individuals were arrested twice in 2005 for sexual assault. The 284

individuals arrested for sexual assault in 2005 were responsible for 531 charges of sexual assault.

Of the 531 charges for sexual assault submitted to DPS in 2005, at the time DPS forwarded disposition forms information to ACJC in January of 2006, 28 had resulted in convictions. Of the 28 convictions, 21 were for the original charge of sexual assault. The other seven convictions obtained were for aggravated assault, sexual abuse, sexual conduct with a minor, and molestation of a child. Table 3 summarizes the available data on sexual assault in 2005.

Table 3: Sexual Assault, 2005

Number of police reports (i.e., arrest reports) filed with DPS that included a sexual assault charge	296
Number of sexual assault charges filed	531
Number of convictions for sexual assault	21
<i>Type of sentences for convictions of sexual assault</i>	
Fine	1
Probation	10
Jail	3
Prison	12
Other	7

Of the remaining 503 charges, 26 were dismissed by the court, 63 were reported as no complaint filed, one resulted in a plea of nolo contendere, and the remaining 413 were missing final case disposition information. It is likely that many of the cases that were missing disposition information had charges of sexual assault filed, but had not reached a conclusion.

Sexual Assault of a Spouse

Based on disposition reporting forms submitted to DPS, in 2005 there were 18 police reports filed that included at least one charge of sexual assault of a spouse. The 18 police reports were on 18 different individuals who were charged with a total of 22 counts of sexual assault of a spouse. At arrest, 15 individuals were charged with one count each of sexual assault of a spouse, two individuals were charged with two counts, and one individual was charged with three counts of sexual assault of a spouse. It is important to note that Senate Bill 1040, which became law in July of 2005, repealed ARS 13-1406.01 which resulted in law enforcement no longer being able to charge an alleged offender with the specific charge of sexual assault of a spouse.

Of the 22 counts of sexual assault of a spouse, by January 2006 no convictions were obtained specifically for the sexual assault of a spouse. In one case, a conviction was obtained on a charge of aggravated assault and the offender was sentenced to probation. Three of the sexual assault of a spouse charges were dismissed by the court and two were not filed for prosecution. For the 16 remaining charges of sexual assault of a spouse, disposition information was unavailable. Table 4 summarizes the available data on sexual assault of a spouse in 2005.

Table 4: Sexual Assault of a Spouse, 2005

Number of police reports (i.e., arrest reports) filed with DPS that included a charge of sexual assault of a spouse	18
Number of charges filed for sexual assault of a spouse	22
Number of convictions for sexual assault of a spouse	0
<i>Type of sentences for sexual assault of a spouse</i>	
Fine	0
Probation	0
Jail	0
Prison	0
Other	0

False Reporting of Sexual Assault Involving a Spouse

During calendar year 2005, there were zero (0) charges of false reporting of sexual assault involving a spouse. It is important to note that false reporting of sexual assault involving a spouse (ARS 13-2907.03) did not become law until July 25, 2005. Prior to this date, Arizona's criminal justice system did not have the ability to charge an alleged offender specifically with the false reporting of sexual assault involving a spouse. Although there were no charges of false reporting of sexual assault involving a spouse, there were 6,201 charges of false reporting an offense to law enforcement. It is possible that a subset of the 6,201 charges of false reporting were for the false reporting of sexual assault involving a spouse, but was reported as the more general false reporting to law enforcement.

Discussion

Utilizing information gleaned from disposition reporting forms and the criminal history records they create is a promising strategy for understanding patterns of criminal offending, re-offending (i.e., recidivism), and the performance of the criminal justice

system. Unfortunately, all of the information needed to fully meet the requirement of ARS 41-2406.B is not captured by the disposition reporting forms currently in use by Arizona's criminal justice system and entered into the ACCH repository. This directly applies to the requirement in ARS 41-2406.B that the records "shall identify...those sexual assaults that involved a spouse." The relationship between victim and offender (i.e., strangers, friends, married, etc.) is not a specific field on the disposition reporting form. In the absence of a specific statute in Arizona's criminal code that law enforcement can use to charge an alleged offender with sexual assault of a spouse, a victim-offender relationship field would be necessary to obtain the required information. Although there is a field that allows law enforcement to indicate whether a crime involves domestic violence, according to ARS 13-3601, a crime of domestic violence is not restricted to instances where the victim and offender are married and can include any of the following:

- The relationship between the victim and the defendant is one of marriage or former marriage or of persons residing or having resided in the same household;
- The victim and the defendant have a child in common;
- The victim or the defendant is pregnant by the other party;
- The victim is related to the defendant or the defendant's spouse by blood or court order as a parent, grandparent, child, grandchild, brother or sister, or by marriage as a parent-in-law, grandparent-in-law, stepparent, step-grandparent, stepchild, step-grandchild, brother-in-law or sister-in-law; or
- The victim is a child who resides or has resided in the same household as the defendant and is related by blood to a former spouse of the defendant or to a person who resides or who has resided in the same household as the defendant.

As was briefly described earlier in this report, another barrier to attempts by ACJC to provide all of the required information pursuant to ARS 41-2406.B is that Senate Bill 1040 repealed ARS 13-1406.01, which previously allowed law enforcement to specifically charge an individual with sexual assault of a spouse. In the absence of a specific statute in Arizona's criminal code and/or a field on the disposition reporting forms that described the relationship between the victim and offender, the number of sexual assaults involving a spouse that occurred after the repeal of ARS 13-1406.01 is unknown from disposition reporting forms submitted to DPS.

Still another limitation of the disposition reporting forms as a source of the information required in ARS 41-2406.B is the absence of a field that describes whether married victims and offenders are estranged. Because there is no field on the disposition reporting form that allows law enforcement to indicate that the victim and offender are married, it is not surprising that there is also no field on the disposition reporting form to indicate if they were estranged.

Further complicating ACJC's ability to accurately report all of the information required by ARS 41-2406.B, specifically the information on false reporting of sexual assault involving

a spouse, are the fingerprinting requirements as described in ARS 41-1750 that initiate a new or revised criminal history record. Although individuals arrested for sex offenses are required by law to be fingerprinted and the record of the arrest submitted to ACCH, law enforcement is not required to fingerprint individuals arrested for misdemeanor offenses that are not a violation of ARS title 13, chapter 14 (i.e., sex offenses), title 28, chapter 4 (i.e., driving under the influence), or domestic violence offenses as defined in section 13-3601. A first charge of false reporting of a sexual assault involving a spouse is a class one misdemeanor and is not one of the offense types that require fingerprints. Therefore, the arrests in ACCH may be an undercount of the number of false reports of sexual assault involving a spouse.

Finally, there is a well documented need for state criminal justice systems to improve the quality of information in their criminal history records repository (in Arizona, ACCH). Recognizing the limitations and the importance of good criminal history record information, the United States Department of Justice, Office of Justice Programs, through the Bureau of Justice Statistics, has invested more than \$500 million in National Criminal History Improvement Program (NCHIP) funds since 1995 to enhance the quality, completeness, and accessibility of state criminal history record information. Although Arizona has obtained \$8.7 million in NCHIP funds since 1995, like all other states in the country, the need still remains for Arizona to improve the quality of criminal history record information. The number of missing case disposition information for sexual assault arrests in 2004, more than one year later, illustrates just one aspect of Arizona's criminal history record information that requires improvement.