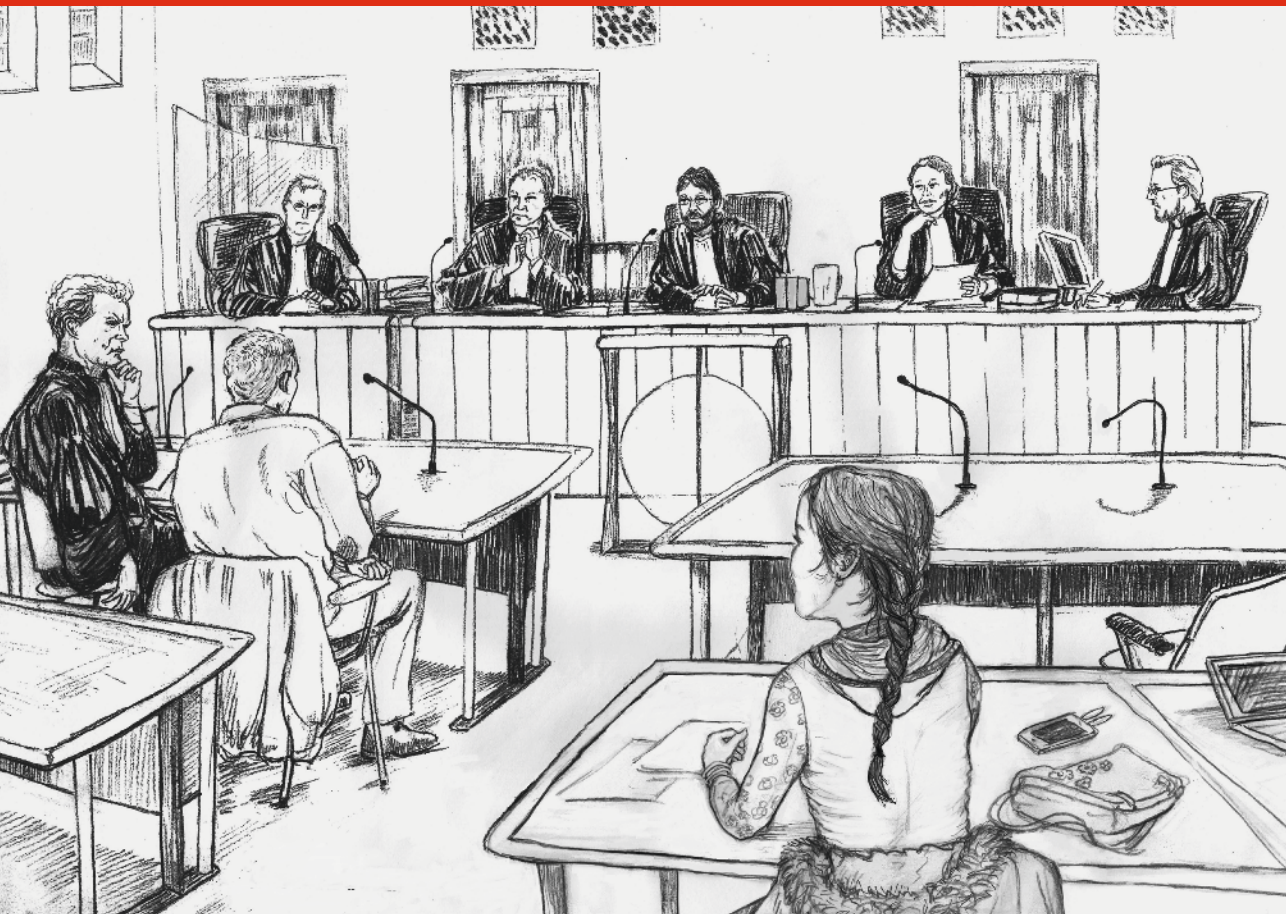




National Rapporteur on Trafficking in
Human Beings and Sexual Violence
against Children

Child Sexual Abuse on Trial

Part 1: The Cases



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On average, almost a thousand suspects appear in court on suspicion of sexual violence against children every year.¹ Sexual violence covers a variety of offences, ranging from hands-off offences, such as possession of child pornography, to hands-on offences such as sexual assault, rape and various forms of indecent assault. Almost half of all suspects who appear in court on charges of sexual violence against children are charged with a form of ‘hands-on indecent assault’; in other words, an offence where there has been physical contact between the suspect and the victim, without any coercion (as legally defined) in the sense of rape or sexual assault.² In her report entitled ‘On solid ground’, the National Rapporteur provides a detailed analysis of the statistics regarding prosecutions and convictions for sexual violence against children.³ That report showed that an average of 73% of the suspects who are tried for a form of ‘hands-on indecent assault’ are convicted by the courts of first instance.⁴ This represents an average of 330 convicted perpetrators of hands-on sexual violence against a child every year.

In themselves, those figures are not very informative. Who are the perpetrators? Are they men or women? How old are they? Who are the victims? Are they primarily boys or girls? And are the victims more often babies and infants, or teenagers and adolescents? Do the victims know the perpetrators, for example because they have been assaulted by their own father or another family member? How often is the perpetrator an acquaintance of the victim, or is it more often the figurative ‘creepy man in the woods’? And precisely what types of physical sexual abuse are involved? Was it normally a one-off incident or was the perpetrator able to continue his or her activities for years?

To find an answer to these questions, the judgments rendered in cases in 2012 and 2013 where the suspect was convicted of sexual assault have been studied. This report discusses the nature of the sexual abuse, including the relevant articles of the Dutch Criminal Code (DCC) under which the perpetrators were convicted, the sexual acts, the duration of the abuse and the number of victims. [Chapters 3 and 4](#) discuss the characteristics of the perpetrators and the victims, respectively, and [chapter 5](#) reviews the relationship between with the victims and the perpetrators; for example, were they relatives or complete

1 [National Rapporteur 2014](#), p. 215.

2 The specific articles are Articles. 244, 245, 247, 248a, 248b and 249 (1) DCC. See also [National Rapporteur 2014](#), pp. 199-200 for the definitions.

3 [National Rapporteur 2014](#), Chapter 6.

4 A conviction in first instance means a conviction by the district court. In other words, the study does not cover judgments by the courts of appeal or the Supreme Court.

strangers? The chapter also discusses differences between younger and older victims and between boys and girls. The final chapter presents the conclusions, including a summary of the main findings.

Part 2

This report about the cases themselves is the first half of a two-part report. The second part, which will appear in the summer of 2016, analyses the sentences that were imposed in those cases and the reasons given by the courts for imposing a particular sentence. According to the report 'On solid ground', only 31% of the perpetrators of hands-on sexual assault received even a partially unconditional prison sentence.⁵ This seems a small percentage, even in comparison with the percentage of prison sentences imposed for other sex offences committed against children, such as rape or sexual assault (52%) or a combination of hands-on and hands-off abuse (67%).⁶ How is it possible that the courts do not impose prison sentences on the majority of individuals who are convicted of hands-on sexual abuse of a child? What types of sentence were imposed? What factors played a role in the decision about the type of punishment and the severity of the sentence? And what reasons did the courts give for the sentences? These and many other questions are answered in part two of the study. This first part focuses on the content of the cases; the sentences are not discussed.

Research methodology

The results of the study are based on a random sample of two hundred convictions for hands-on sexual abuse of an underage victim in 2012 and 2013.^{7,8} The sample covers 34% of the total population of all convictions that meet the relevant criteria in those two years. Eighteen of the two hundred convictions in the sample could not ultimately be included in the final analysis.⁹ The judgments in the other 182 cases were analysed both quantitatively and qualitatively.

Since the sample is representative of the total population of convicted perpetrators of hands-on sexual assault in 2012 and 2013, the results of this study can be extrapolated to the entire population. The research methodology is explained in [Appendix A1](#).

5 [National Rapporteur 2014](#), p. 217.

6 [National Rapporteur 2014](#), p. 217.

7 The sample is drawn from the database of the Public Prosecution Service (reference date 4 July 2014).

8 There are 100 cases from each year in which there was a conviction, followed either by the imposition of a sentence or the verdict of being guilty without the imposition of any punishment or measure, in first instance, on charges relating to Articles 244, 245, 247 and/or 249 (1) DCC, without any involvement of Articles 242 and/or 246 DCC (hands-on forcible offences) and/or Articles 239, 240, 240a, 240b, 248c, 248d and/or 248e DCC (hands-off offences). Some cases might have involved the combination of charges under Articles 243, 248a, 248b and/or 250 DCC and offences other than sex offences. See [Table 2.1](#) for the text of each of the relevant articles.

9 The accompanying judgments could not be found in two cases. In four cases, the rulings were made by the police magistrate and there was no full transcript of the judgments, so there was not enough information for the purposes of this study. While studying the associated judgments, it was found that six cases did not meet the criteria: the victim was found to be an adult, not a minor. In five cases, the conviction for hands-on assault proved to be an acquittal, and one case did not in fact involve a hands-on assault at all.

2 The nature of the abuse

For what offences were the perpetrators in the study convicted? Was it a single incident of abuse of a victim or were there multiple victims over a longer period? The majority of the perpetrators (78%) had a single victim. In almost nine out of ten cases, the sexual acts constituted serious sexual abuse, including touching the genitals and penetration of the victim's mouth, vagina or anus. With regard to three-quarters of the victims, the offences were found to have continued for more than one day. In those cases, the period ranged from several days to twelve years.

2.1 Articles of the law

The 182 offenders were convicted of a total of 280 offences of hands-on sexual assault.¹⁰ Their acts are criminal offences under Articles 244, 245, 247 and 249(1) of the Dutch Criminal Code (DCC). In a legal sense, an offence means that one or more sexual acts are together regarded as punishable under a single article of the law. An offence can relate to a single sexual act and to a single victim, but a single offence can also cover multiple sexual acts with multiple victims.

Most offenders (64%) were convicted of a single sexual offence, a quarter were convicted of two sexual offences and one in ten were convicted of three or more sexual offences.¹¹

10 The number of cases in which a single act constituted several offences (*concurus idealis*) was not identified in this study.

11 The percentages are as follows: a single sex offence: 64%; two sex offences: 26%; three sex offences: 7%; four sex offences: 1%; five sex offences: 2%; six sex offences: 0.5%.

Table 2.1. Distribution of hands-on offences declared proven under individual articles of the law (2012-2013)

	Number	Percentage
Article 244 DCC Penetration of a child aged less than 12 years “A person who, with a person who is below the age of twelve (12) performs acts comprising or including sexual penetration of the body is liable to a term of imprisonment of not more than twelve years or a fine of the fifth category.”	55	20%
Article 245 DCC Penetration of a child aged 12-16 years “A person who, out of wedlock, with a person who has reached the age of twelve (12) but not yet sixteen (16), performs indecent acts comprising or including sexual penetration of the body is liable to a term of imprisonment of not more than eight years or a fine of the fifth category.”	89	32%
Article 247 DCC Sexual acts with a child under the age of 16 years “A person who, [...] with a person who has not yet reached the age of sixteen (16) years, out of wedlock, performs indecent acts or by whom the latter is enticed into performing or submitting to such acts, out of wedlock, is liable to a term of imprisonment of not more than six years or a fine of the fourth category.”	110	39%
Article 249(1) DCC Indecent acts with a minor entrusted to his care “A person who performs indecencies with his minor child, stepchild or foster child, his ward, or with a minor, a minor servant or subordinate entrusted to his care, instruction or supervision is liable to a term of imprisonment of not more than six years or a fine of the fourth category.”	26	9%
Total	280	100%

Source: Convictions for indecent assault 2012-2013.

Number of proven offences says nothing about the number of victims

The Public Prosecution Service (PPS) can often bring charges of sexual abuse of a child in different ways. For example, if the offences have been committed for a longer period or there have been different sexual acts, the public prosecutor can often bring charges for multiple offences (under different articles of the law). That multiple offences are charged says nothing about the number of victims; different articles of the law can relate to the same victim. Vice versa, the sexual abuse of multiple victims by a single suspect can be charged as a single offence (in other words, under a single article of the law) or as multiple offences (under the same or different articles of the law). The number of articles under which charges are brought and declared proven does not in itself say anything about the number of victims or the number of times that the suspect abused another person. The number of victims of each offender is discussed in [section 3.3](#).

Table 2.1 shows how often the courts have convicted for offences under each article of the law. Offenders were convicted most often of indecently assaulting a child under the age of sixteen (Article 247 DCC) and for penetration of a child aged between twelve and sixteen (Article 245 DCC).

A conviction under any of these articles of the law says little about the nature of the sexual abuse. Although it is possible to deduce the age group into which the victims fell and that there was sexual penetration from the convictions under Articles 244 and 245 DCC (penetration of a child under the age of twelve and of a child between the ages of twelve and sixteen, respectively), the nature of the penetration abuse can range from French kissing to intercourse. Article 247 (indecent acts with a child under the age of sixteen) and Article 249(1) DCC (indecenty with a person's own minor child) are so broadly formulated that they too can cover a wide variety of sexual acts, and the victims of offences under these articles fall into a very extensive age group (from zero to sixteen and all minors, respectively).

The context in which the abuse takes place can also vary greatly from one case to another; from years of abuse by a much older perpetrator to a single indecent assault involving children of around the same age. The four cases described below illustrate that convictions for an offence under one and the same article can encompass a wide variety of situations; in each case an offender was convicted under Article 244 DCC (penetration of a child under the age of twelve).

Convictions under Article 244 DCC, four different cases

Case 1.¹²: The thirteen-year-old perpetrator repeatedly anally penetrated an eleven-year-old boy with his penis. The court further found that he had touched the victim's penis and had performed fellatio on the victim. Because the victim turned twelve years of age while the abuse continued (a period of six months), charges were also brought and declared proven under Article 245 DCC, in addition to Article 244.

Case 2.¹³: In this case a 24-year-old man was convicted of sexually assaulting an eleven-year-old girl. According to the court, the suspect had a relationship with the victim: "The suspect had been having a relationship with a very young girl for some time. During that relationship he had kissed and caressed the girl." In the case, the sexual penetration consisted of French kissing the victim.

Case 3.¹⁴: In this case a grandfather was convicted of sexually abusing his granddaughter for more than five-and-a-half years. The girl was five years old when the abuse began, and the grandfather was 66 at the time. The abuse consisted of the grandfather penetrating the victim's vagina with his fingers, caressing her vagina and getting the victim to hold his penis.

Case 4.¹⁵ A girl was frequently sexually abused by her father between the ages of six and twelve. The abuse comprised intercourse, which ultimately resulted in her pregnancy. The case came to light when the victim suddenly gave birth to a child during a school trip. It had been conceived by her father.

12 Assen District Court 16 May 2012, 19-700006-12 (not published).

13 Rotterdam District Court March 2012, ECLI:NL:RBROT:2012:2407.

14 Oost Brabant District Court 22 January 2012, ECLI:NL:RBOBR:2013:BY8910.

15 Groningen District Court 27 April 2012, ECLI:NL:RBGRO:2012:BW4225.

These examples illustrate that a conviction for breach of one and the same article can cover a wide variety of situations and sexual acts. To learn more about the nature of the sexual acts that were declared proven, in the next section sexual acts are divided into different categories on the basis of the findings in the various judgments.

2.2 The nature of the sexual acts

As has been shown in the previous section, a conviction for an offence under a particular article of the law does not say very much about what actually happened. Dividing sexual acts into different categories might provide a clearer indication of the nature of the sexual acts. This classification is based on the Directive on Sentencing for Sexual Abuse of Minors¹⁶ from the Council of Procurators-General, which divides sexual acts into four categories for determining the sentences that prosecutors should demand. Each category has its own ‘bandwidth’ within which the public prosecutor can formulate a demand for a sentence. In the sentencing guidelines, the nature of the sexual acts forms the point of departure for the sentence to be demanded, regardless of which article of the law the actions fall under.

Table 2.2. Classification of the nature of sexual acts (2012-2013)

	Number	Percentage
Category 1 Corruption and undressing a victim: “All indecent acts whereby the minor is confronted by the suspect with sexual acts as referred to in Article 248d (sexual corruption). This also covers situations where the minor is induced to undress and (partially) display him-/herself naked, without being touched by the victim him-/herself or by the suspect or a third party.”	3	1%
Category 2 Touching, with the exception of naked genitals: “Any indecent act where the suspect and victim touch or the victim touches him-/herself or is touched by him-/herself or by another. This category includes touching over the clothing and on the naked skin, with the exception of touching the naked genitals. Examples would be stroking or rubbing and touching, grabbing, kissing or licking the breasts, buttocks or other parts of the body. Touching the crotch through the clothing also falls into this category. French kissing is excepted and falls under category 3.”	27	10%

¹⁶ Government Gazette. 2015, 4052.

	Number	Percentage
Category 3 Touching genitals and penetration other than with a genital organ: “The indecent touching of the naked genitals and oral, vaginal or anal penetration other than with a genital organ. In contrast to the requirements for a conviction, for the level of sentencing it is irrelevant whether the suspect penetrated the victim or caused the victim to be penetrated. The acts can range from touching to stimulation of the genitals, such as masturbation. French kissing also falls into this category.”	126	45%
Category 4 Penetration with a genital organ: “All indecent acts where there is oral, vaginal or anal penetration with a genital organ. In contrast to the requirements for a conviction, for the level of sentencing it is irrelevant whether the suspect penetrated the victim or caused the victim to be penetrated.”	122	44%
Unknown	2	1%
Total	280	100%

Source: Convictions for indecent assault 2012–2013. The descriptions of the categories are cited from the Government Gazette 2015, 4052.

As already mentioned, the 182 offenders in the study were convicted of a total of 280 sex offences. The table above divides those 280 sex offences into categories of sexual acts. Almost 90% of all sexual acts fall into the two most serious categories and encompass penetration or the touching of naked genitals. That most of the offences declared proven included these more serious sexual acts is unsurprising, since the study focused on hands-on offences, and ‘penetration’, for example, constitutes an element of the offence under two of the four legal provisions covered by the study.

Penetration of the victim or by the victim? A legally relevant difference

The sentencing guidelines make no distinction between penetration of the victim by the suspect and penetration of the suspect by the victim. The law does make that distinction, however: there is only penetration within the meaning of Articles 244 and 245 DCC when the suspect penetrates the victim. If the victim is induced by the suspect to penetrate him or her, the law does not define this as penetration for the purposes of Articles 244 and 245 DCC. The two following cases illustrate this remarkable distinction:

Case 1.¹⁷: The district court convicted a forty-year-old offender under Article 247 DCC for repeatedly abusing a fifteen-year-old boy over a period of six months. The specific acts for which he was convicted were “fellatio and/or masturbation of [name of the victim]”.

This case involved oral sex performed by the offender on the victim. Although there was actual penetration, it was not the offender who penetrated the victim, but the victim who ‘penetrated’ the offender by being fellated by him. For this reason, charges could not be brought under Article

17 Dordrecht District Court 12 April 2012, ECLI:NL:RBDOR:2012:524.

245 DCC, which requires penetration of the victim by the offender. In the indictment, the offence with a lighter sentence under Article 247 DCC was chosen. Instead of a maximum sentence of eight years (Article 245 DCC), the maximum sentence for an offence under Article 247 DCC is imprisonment for six years.

Case 2.¹⁸: The district court convicted the offender, a father who had abused his two daughters and a third victim for a period of five years, of five different sex offences. Offence 1 concerned the penetration of a child under the age of twelve (Article 244 DCC). The specific acts that were found to be proven were “touching her vagina; and allowing her to touch his penis; and allowing her to pull his penis; and pushing his tongue into her vagina”.

This case also involves oral sex, performed by the perpetrator on the victim. In contrast to the first case, this time there was penetration of the victim. Consequently, charges could be brought under Article 244 DCC, which carries the heavier maximum sentence of imprisonment for twelve years.

To sum up, there is an undesirable distinction between girls and boys in the maximum sentences for similar cases of sexual abuse, i.e. oral sex performed by the offender on the victim. When it is performed on a girl, it will often fall under sexual penetration, for which the maximum sentence will be eight or twelve years, depending on the age of the victim. If the victim is a boy, the act cannot be described as penetration, so the maximum sentence is six years. It is not yet clear whether this discrepancy in the definition and maximum sentence also leads to a difference in sentencing in practice.¹⁹ The PPS does not make this distinction in its guidelines on sentencing, so the sentences demanded in such cases fall within the same bandwidth for boys and for girls.

2.3 The period of abuse

This study not only analysed the nature of the sexual acts, but also the period for which the sexual abuse was found to have continued. That is the duration of the abuse of each victim.²⁰ The analysis produced the following results:

¹⁸ Groningen District Court 1 August 2012, 18-670653-11 (not published).

¹⁹ Because of the small number of cases in which there was penetration of the perpetrator by the victim, this subject is not analysed in further detail in the forthcoming second part of the study.

²⁰ When a victim is abused from the age of ten until the age of fifteen, for example, and this abuse is accompanied by sexual penetration, charges can be brought under Article 244 DCC for the period covering age ten to twelve and under Article 245 DCC for the period covering age twelve to fifteen. In this example, the calculation of the duration of the offence at the level of the offence does not say much; the outcome would be two and three years, respectively. The point is that the sexual abuse lasted five years. For that reason, the duration of the sexual abuse is calculated at the level of the victim.

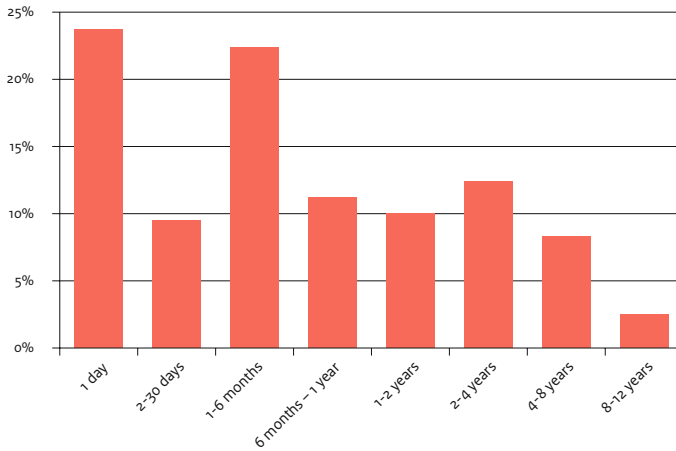


Figure 2.1. Proven duration of the abuse, per victim, N=241 (2012-2013)

Source: *Convictions for indecent assault 2012-2013*.

Almost a quarter of the victims suffered the abuse on a single day. Those cases will usually have involved a single incident of abuse.²¹ Accordingly, for more than three-quarters of the victims the abuse continued for more than a day, which means that in most cases the abuse occurred on more than one occasion.²² For more than one in ten victims, the period of abuse was found to have continued for four years or longer.

²¹ However, it is also conceivable that a victim is abused multiple times on the same day by the same perpetrator.

²² In some cases there is one incident of abuse but the period for which the abuse was found to have occurred is longer than one day because it was not known on precisely which day the abuse occurred. For the purposes of this study, in these cases the entire period for which it was found that the abused occurred is included, so these situations are not counted as victims who were abused on a single day.

3

Characteristics of perpetrators

Naturally, the judgments also provide information about the perpetrators. Are they mainly men, or do they also include women? Are they adults or still children themselves? How wide is the age gap between them and the victims? And do they abuse a single child or do they have multiple victims?

From the judgments that were studied, it emerges that female offenders are rare: only five (3%) of the 182 perpetrators were women. There are perpetrators in every age group, from minors to the very elderly.

One in six perpetrators was still a minor at the time of the offence. Most offenders are convicted of indecent assault on a single victim; more than one in five offenders had two or more victims.

3.1 Age of perpetrators

The ages of the perpetrators vary greatly. The youngest offender was aged twelve at the time of the offence, the oldest was eighty. The median age is 34, which means that 50% of the offenders were younger and 50% were older than 34 when they committed the offence. The ages of the perpetrators are determined on the basis of the commencement date of the earliest sex offence declared proven in the judgment.

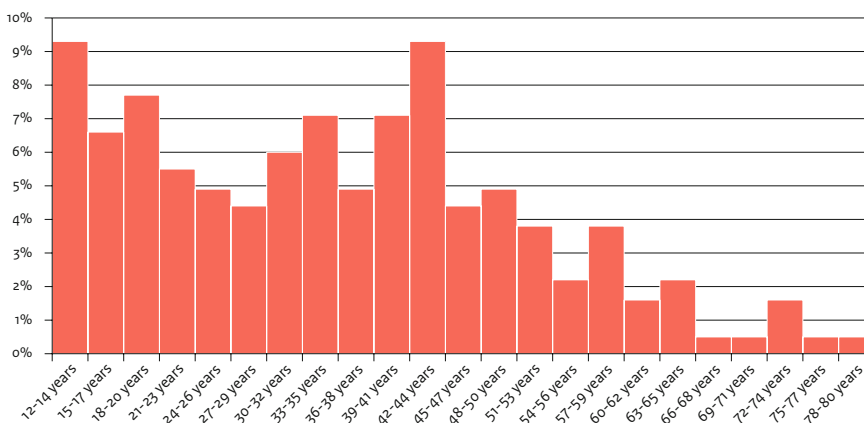


Figure 3.1. Ages of perpetrators (N=182) at the time of the commission of the sexual assault (2012-2013).

Source: *Convictions for indecent assault 2012-2013.*

What stands out is that almost one in six perpetrators was still a minor at the time of the first offence. If young adults up to the age of 24 are also included, the number rises to almost a third (31%, $N=57$) of all perpetrators.²³

Age of offender and the sexual acts

There are no significant differences between minor and adult offenders in terms of the nature of the sexual acts. In other words, the abuse committed by minors is just as serious as that of adult offenders.²⁴ That minors are also convicted of very serious abuse is illustrated by a case in which the district court convicted a youth of sexual abuse of his younger sister.²⁵ The abuse started when the sister was ten years of age and her brother (the perpetrator) was twelve. He abused his sister for four-and-a-half years. During that period he penetrated her vaginally, orally and anally. The perpetrator suffered from a pervasive developmental disorder not otherwise specified (PDD-NOS) and, according to the psychologist who examined him, he was incapable of interpreting his sister's emotions and her non-verbal signals.

3.2 Age difference between victim and offender

The difference in age between the victim and the perpetrator provides insight into the nature of the cases. Because some offenders had multiple victims, the difference in age is calculated at victim level.²⁶ The smallest age gap was zero years (the victim and offender were the same age), while the largest age difference was 73 years. The average age gap between victims and their perpetrators was 24 years ($SD=16.6$).²⁷

No age gap versus 73-year age gap, two cases

Case 1²⁸: In 2013, the district court convicted a suspect who at the age of thirteen had performed sexual acts, together with another boy, on a girl who was also thirteen. Both boys had inserted their penis into the victim's mouth and touched her vagina and breasts. The acts took place at school, but it is not clear from the judgement what the precise relationship between the perpetrators and the victim was.

Case 2²⁹: In this case an 80-year-old man was found guilty of touching the pubic area of a six-year-old girl.³⁰ The victim was the granddaughter of the perpetrator's brother. The abuse occurred several times on a single day, while the victim was sitting on the offender's lap and he was horsing around with her.

23 The age distribution corresponds with the analysis of the period 2008-2012 in *National Rapporteur 2014*, pp. 60-63.

24 See *Table 2.2* for the four categories of sexual acts. Category 1: Fisher's: $p=1.00$; $\varphi=0.03$; $p=0.66$. Category 2: Fisher's: $p=0.08$; $\varphi=0.14$; $p=0.06$. Category 3: $\chi^2(1)=0.64$; $p=0.42$; $\varphi=0.06$. Category 4: $\chi^2(1)=3.81$; $p=0.051$; $\varphi=-0.15$.

25 The Hague District Court 30 December 2013, 09-777258-13 (not published).

26 $N=236$. The ages of five victims were unknown.

27 The median is 23 years.

28 Gelderland District Court 17 September 2013, 05-740065-13 (not published).

29 Rotterdam District Court 27 June 2013, 11-710195-12 (not published).

30 Rounded off to full years, the age difference is 73 years.

3.3 Number of victims

As already mentioned, the 182 perpetrators were convicted of a total of 280 sex offences. The combined number of victims was 241.³¹ A single sex offence can relate to multiple victims and, vice versa, multiple sex offences could have been declared proven against a single victim. In most cases (78%) the perpetrator was convicted of one or more sex offences against a single unique victim. One in seven perpetrators were convicted of sex offences against two victims (14%), while 6% had three victims, one (0.5%) had four victims, and two perpetrators (1%) abused five victims. None of the cases in the sample involved more than five victims.

It emerges from the judgments that perpetrators with multiple victims usually abuse only boys or only girls; only four of the forty offenders with multiple victims abused both boys and girls.

³¹ The number of unique victims in each case was analysed. It is not always possible to discover whether a victim appeared in multiple cases involving different perpetrators, so it is possible that the same victim was involved in multiple cases, for example if a number of suspects were tried, together or separately, for abuse of the same victim.

Naturally, the judgments that were studied also provide information about the victims. For example, it was found in the judgments that for every boy who became a victim, there were six girls. The average age of the victims when the abuse began was 10.4 years. There were scarcely any very young victims in the judgements that were studied.

4.1 Gender and age of victims

The vast majority (85%) of the victims against whom sexual abuse was declared proven, were girls.³²

The figure below shows the distribution of the ages of the victims at the start of the proven abuse. The age of 236 of the 241 victims when the abuse began was known. The youngest victim in the study was aged one, the oldest was seventeen. The law provides an explanation of why there are few victims aged sixteen and seventeen: of the four articles of the law covered by this study, only Article 249(1) DCC also make indecency with children of that age (namely all minors) a crime. The other three articles do not apply to children aged sixteen and seventeen.³³

³² Of the 241 victims, 205 were girls (85%), 35 were boys (15%) and the gender of one victim was unknown (0.4%)

³³ Children reach the age of consent at sixteen. For that reason, a number of the articles in the chapter of the Dutch Criminal Code on offences against public morals only apply to children under the age of sixteen, including three of the four articles covered by this study.

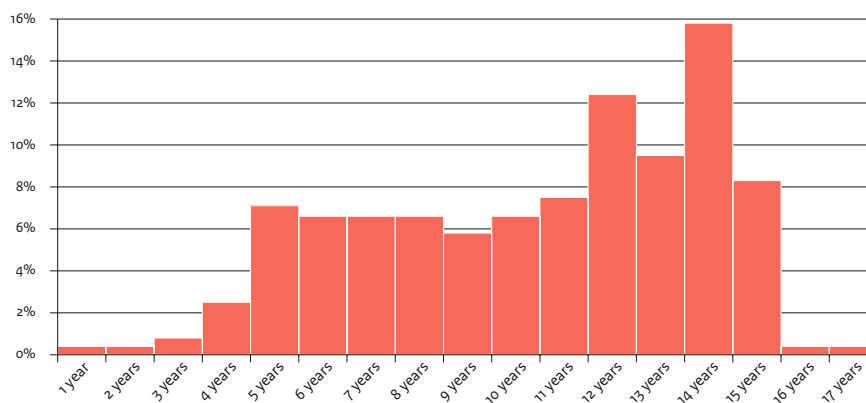


Figure 4.1. Age of victims (N=236) at the time the abuse started (2012-2013).

Source: *Convictions for sexual assault 2012-2013*.

The average age of the victims when the abuse began was 10.4 years ($SD=3.49$). The age distribution does not differ significantly between boys and girls.³⁴ Two percent of the victims are younger than four, 50% were of primary-school age (between four and twelve) and 48% were aged between twelve and eighteen when the abuse began.

Scarcely any very young victims

There were scarcely any very young victims in the judgments: only 4 of the 236 victims (2%) had not yet reached primary-school age when the abuse began. *Disclosure* of sexual abuse by very young children is difficult: they are often not capable of verbally explaining that they have been abused. The abuse will therefore frequently not come to light. And even if there are suspicions of sexual abuse they will be difficult to prove: the evidence in sex offence cases often consists to a large extent of the victim's statement, which a very young child is unable to make. For that reason, in principle children under the age of four are not interviewed by the police.³⁵

If we look at the four offenders who abused victims under the age of four, it is noteworthy that three³⁶ of the four had abused multiple victims and that the other victims in those three cases were older than four. The abuse of the young victims in those three cases also lasted a number of years. In one case the abuse came to light because one of the other older victims talked about it. In the other two cases it was not clear from the judgments how the abuse came to light. The victims in the three cases were five, seven and eight years of age at the time the abuse ended.

34 $U=3841.5$; $z=1.41$; $p=0.19$.

35 See also *National Rapporteur 2014*, p. 180.

36 Rotterdam District Court 25 October 2012, 10-710138-12 (not published); Maastricht District Court 28 March 2012, ECLI:NL:RBMAA:2012: BW0370; and The Hague District Court 24 June 2013, ECLI:NL:RBDHA:2013:10625.

There was only one case in which the abuse came to light when the victim was still very young (two-and-a-half years of age).³⁷ In this case the victim's mother found her daughter crying in the bedroom of the thirteen-year-old son of friends of the parents. The girl said that she was sore and pointed to her vagina. Her mother then discovered blood in her underpants. It emerged from a forensic medical examination and an admission by the perpetrator that the boy had penetrated her with his finger.

37 's-Hertogenbosch District Court 2 July 2012, 01-833023-12 (not published).

5 Are victim and offender known to one another?

Perpetrators of sexual abuse of children are often associated in people's minds with 'the creepy man in the woods' or the professional who works with children, such as a swimming teacher or an employee of a day-care centre. This chapter shows that perpetrators only sporadically fall into these categories: most victims are abused by a family member, a friend or an acquaintance.

5.1 Victim and perpetrator are often known to one another

In the 182 judgments that were studied, a total of 241 minors were victims. The study analysed the relationship of each victim to the offender. The distribution is shown in the pie chart below.

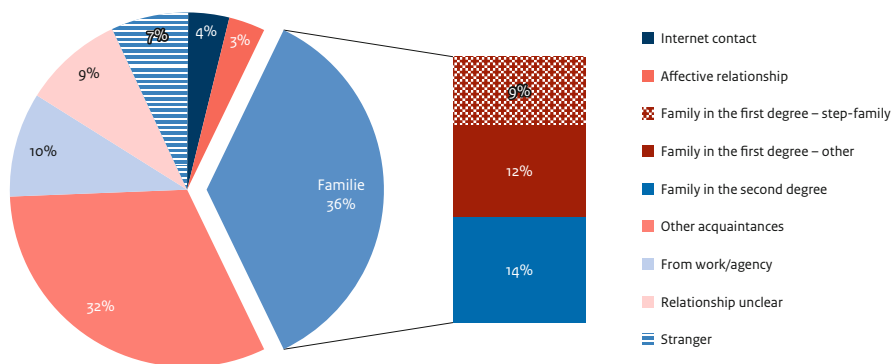


Figure 5.1. Relationship between victim and offender, N=241 (2012-2013)

Source: *Convictions for sexual assault 2012-2013*.

At 36% (N=86), victims who were abused by a family member constitute the largest group. In many cases (N=52) this was a family member in the first degree, i.e., a father, brother, step-father or step-brother.³⁸ What stands out is that there are a relatively large number of step-fathers and step-brothers in this cat-

38 Everyone who committed abuse within the family in the first degree was male. Step-fathers and step-brothers, half-brothers and the partner (married or otherwise) of the victim's mother fall into this category.

egory: no fewer than 42% of the victims who were abused by a family member in the first degree were abused by their step-father or step-brother.³⁹ The literature records that the presence of a step-father in the home is a risk factor for sexual violence.⁴⁰

One in seven victims was abused by a family member in the second degree or further, including grandparents, uncles and cousins.

One in ten victims was abused by a person who worked with children, including a teacher, a sports coach/masseur, a colleague or superior, a host parent or a babysitter. Of the five female offenders in the study, three had committed the abuse on the basis of their work: two offenders were teachers of the victim and one was the babysitter of two victims.

A small proportion of the victims were abused within an affective relationship (3%, $N=8$). Cases are regarded as involving an affective relationship when both the victim and the perpetrator declared that they were in love. In 2013, for example, the district court in The Hague convicted a man of committing indecency with two fourteen-year-old girls.⁴¹ The offender had sex on several occasions with the first victim when he himself was 33 years of age. They had a relationship and, according to both the victim and the perpetrator, the sex was voluntary. It should be noted here that for the purposes of criminal law it is in principle irrelevant whether the sex was voluntary when it involves children under the age of sixteen, who have not reached the age of consent. Sex with children under the age of sixteen is therefore a criminal offence. The perpetrator formed a relationship with his second victim a year later and the sexual acts within their relationship were again voluntary, according to both parties. Consequently, it was not the two victims but their parents who made a complaint to the police. The remarkable significant age gap between the offender and the two victims was a decisive factor in the court's ruling that this was a case of indecent assault.

Another small proportion (4%, $N=9$) of the victims were abused by an 'internet contact'. This category covers cases where the initial contact between victim and offender was made via the internet, for example on social media, chat sites or a dating site, ultimately leading to one or more physical meetings where the abuse occurred. This category exists in a gray area between situations where the victim and offender are totally unknown to one another and where they are acquaintances. Before the abuse took place they had only met online. The first physical encounter immediately resulted in abuse.

A large proportion of the cases in which the victim knew the offender do not fall within any of the aforementioned categories. The category 'other acquaintances' therefore constitutes another large group (32%), which includes friends of the victim (or the victim's parents), neighbours, friends and classmates. Some judgments make no mention of the relationship between the victim and the offender, but it was proved that the offender had repeatedly, on different days, abused the victim. In those cases it was assumed that the victim knew the offender, since it is highly unlikely that a victim would be abused by the same totally unknown offender on various occasions on different days.

39 This relates to 22 of the 52 victims. The category step-fathers also includes perpetrators who were not married to the victim's mother, but were in a relationship with her.

40 Slotboom, et al. (2012), p. 43; Fergusson, Lynskey & Horwood (1996), p. 1359.

41 The Hague District Court 30 August 2013, 09-665329-12 (not published).

Abuse by 'other acquaintances'

Case 1.⁴²: A friend of the family, whom the fifteen-year-old victim regarded as a confidant, systematically abused her over a period of more than six months. The acts consisted of French kissing and vaginal penetration by the offender with his fingers and penis. There was also oral penetration of the victim with the perpetrator's penis. The abuse came to light after the victim's mother read SMS messages from the offender on her daughter's telephone.

Case 2.⁴³: In this case, a man was convicted because he had inserted his tongue in the mouth of an eight-year-old girl. The man knew the girl and her parents because they were all members of the same church congregation.

Case 3.⁴⁴: A twelve-year-old boy performed sexual acts on a girl aged five. The boy and the girl were neighbours.

The common feature of the categories discussed above is that the victim knew the offender in every case. Abuse by a total stranger appears to be a less common occurrence: the analysis of the judgments shows that 7% (N=17) of the 241 victims were abused by a total stranger. For example, the district court in The Hague convicted a man of committing indecent acts against a twelve-year-old girl in a public swimming pool.⁴⁵ The man had sat beside the victim in the bubble bath and touched her. A number of other cases also involved being touched 'unexpectedly' by the perpetrator in a public place, for example at a festival or on a bench in the park. Studying the cases of these seventeen victims, what stands out is how different the situations are. The classic 'creepy man in the woods', where a total stranger abuses apparently random victims in a remote place, did not arise in any of the judgments. There were, however, two cases in which a young offender abused a random child in a remote setting: the first concerned a boy of fourteen who snatched a seven-year-old girl in the playground and carried her under his arm to his home while the victim screamed and tried to break free.⁴⁶ The boy abused the girl in his bedroom. A second case involved the conviction of a nineteen-year-old offender, who forced a boy of fourteen to stop in an uninhabited area, pulled him off his bicycle, kicked him in the face and then kissed him.⁴⁷

Finally, for 22 victims (9%), it is not clear from the judgments whether they did or did not know the offender. For example, in one case the victim was abused by someone from the same housing estate. It was impossible to tell from the judgment whether they knew each other or were total strangers; this case is classified under the category 'uncertain'.

42 Oost Brabant District Court 25 February 2013, ECLI:NL:RBOBR:2013:BZ2059.

43 Haarlem District Court 7 February 2012, 15-700419-11 (not published).

44 The Hague District Court 5 July 2012, 09-900220-12 (not published).

45 The Hague District Court 11 September 2013, 09-852130-13 (not published).

46 Rotterdam District Court 15 August 2013, 10-690161-13 (not published).

47 The Hague District Court 3 August 2012, 09-665300-10 (not published).

5.2 Gender of victim and relationship to the offender

As section 4.1 shows, the victims in the cases that were studied included more girls ($N=205$) than boys ($N=35$). Do boys and girls become victims of sexual abuse in a similar context? An analysis of the gender of the victims in the context of their relationship to the perpetrator shows a number of significant differences.

For example, boys were abused three times more often than girls by a person who had access to them via his or her work (23% compared with 7%)⁴⁸ and boys were also abused more often than girls by a family member in the second degree, such as a grandfather or uncle (26% compared with 12%).⁴⁹ Girls, on the other hand, are four times more likely than boys to be abused within the immediate family (24% compared with 6%).⁵⁰ Boys and girls were equally often victims of sexual violence by a stranger, an ‘other acquaintance’, an internet contact, within an affective relationship or by offenders in the category ‘uncertain’.

5.3 Age of victim and relationship to the offender

It is not only with regard to gender that there are differences in the relationship between the victim and offender. When victims between the ages of four and twelve are compared with older children (between the ages of twelve and eighteen),⁵¹ it is found that the victims in the former category are abused more often within the family than victims who are older than twelve. This applies for abuse committed both by a relative in the first degree⁵² (30% compared with 12%) and by a family member in the second degree⁵³ (23% compared with 4%). It is not surprising that young children are abused by a member of the immediate family relatively more often: they are completely dependent on the care of their own family, and less often have contact in a one-on-one situation outside the family circle than older children.

Children from the age of twelve, on the other hand, are more often victims of an ‘other acquaintance’⁵⁴ than younger children (37% compared with 25%), of a person whom they have met via the internet⁵⁵ (8% compared with 0%) and within an affective relationship⁵⁶ (6% compared with 1%). The older the child is, the more contact they have with persons outside their own family, so there is also greater opportunity for abuse by offenders outside the family circle.

There are no significant differences between the two age groups in terms of abuse by a perpetrator who has contact with the child through his work, by a stranger or by offenders in the category ‘uncertain’.

48 $\chi^2(1)=8.33$; $p=0.004$; $\phi=-0.19$.

49 $\chi^2(1)=4.49$; $p=0.03$; $\phi=-0.14$.

50 $\chi^2(1)=6.14$; $p=0.01$; $\phi=0.16$.

51 The youngest victims between the ages of zero and four years were omitted from this analysis for statistical reasons. This category was so small ($N=4$) that it would somewhat distort the interpretation of the results.

52 $\chi^2(1)=10.94$; $p=0.001$; $\phi=-0.22$.

53 $\chi^2(1)=18.36$; $p<0.001$; $\phi=-0.28$.

54 $\chi^2(1)=3.87$; $p=0.049$; $\phi=0.13$.

55 Fisher’s; $p=0.001$; $\phi=0.21$; $p=0.002$.

56 Fisher’s; $p=0.032$; $\phi=0.12$; $p=0.025$.

6 Conclusion

On average, over three hundred perpetrators are convicted of committing hands-on sexual assault against a child every year. The aim of the study presented in this report was to provide more insight into the perpetrators and victims, the nature and duration of the offences that were committed and the relationship between victims and perpetrators. The information was taken from the judgments in cases in 2012 and 2013 in which offenders were convicted of acts of hands-on indecency with underage victims.⁵⁷

Most offenders were convicted of committing indecent acts with a single victim; 22% of the cases involved two or more victims. In almost nine out of ten cases there was extensive sexual abuse, including touching of the genital organs and penetration of the mouth, vagina or anus of the victim. Furthermore, the period of abuse for which the perpetrators were convicted was longer than one day for three-quarters of the victims, which often means that the abuse occurred on multiple occasions. The proven period of abuse in the cases ranged from one day to twelve years.

There are far more girls than boys among the victims; girls are six times as likely to be victims as boys. In almost every case, both girls and boys are abused by a male: only five of the 182 perpetrators were female.

The average age of the victims was 10.4 years when the abuse began; there were scarcely any very young victims in the judgments that were studied. The ages of the perpetrators varied greatly, from minors to the very elderly. One in six of the perpetrators of child abuse was himself a minor at the time the abuse was committed.

Most victims are abused by a person they know. In 36% of the cases the victim was a relative of the perpetrator, who was, in a large proportion of the cases, a male family member in the first degree. What stands out in this respect is that a relatively large number of victims are abused by a step-father or step-brother. Girls are abused more often than boys by a family member in the first degree, such as a father or brother, while boys are abused more often than girls by a family member in the second degree, such as an uncle or a grandfather.

Only a small proportion of the victims (7%) are abused by a total stranger. In the vast majority of cases, therefore, the perpetrator is a member of the victim's own family or circle of friends and acquaintances.

57 See [A1](#) for the research methodology.

Younger children (between the ages of four and twelve) are abused more often by a family member than children aged twelve and older. On the other hand, members of the latter group are abused more often than young children by an 'other acquaintance', such as a neighbour, friend or acquaintance, and also more often by a person they have met via the internet. Abuse within an affective (loving) relationship is also more common among older than younger children.

The diversity of situations, perpetrators, victims and contexts within which sexual abuse takes place illustrates the impossibility of formulating a description of the typical child molester. Offenders, victims and cases come in all shapes and sizes, from the minor who systematically abuses his younger sister to the man who fondles the daughter of an acquaintance on a single occasion. The public focus on the creepy man in the woods, the swimming teacher or the employee of the day-care centre does not correspond with reality. The figures in this report show that perpetrators are often people who are close to the victim. In many cases, they are family members or people the victim knows, including acquaintances, friends and neighbours.

What the perpetrators in the study do have in common is that they were all convicted by the courts of committing indecency with a child. In the second part of this study, the focus will be on the issue of sentencing. What sentences did the perpetrators receive? What were the factors in the sentencing? And what reasons did the courts give for imposing a particular sentence? These and other questions will be answered in the second part of this report which will be published in the summer of this year.

A1 Research methodology

Objective

Hands-on indecent sexual assault is the largest category of sexual violence against children in terms of the number of persons convicted by the courts. The aim of this study was to gain insight into the nature of the cases in which perpetrators were convicted of hands-on indecent sexual assault. The following questions were addressed:

- 1 What is the nature of the abuse?
- 2 What is known about the duration of the abuse?
- 3 What are the characteristics of perpetrators?
- 4 What are the characteristics of victims?
- 5 What is the relationship between victims and perpetrators?

This study is the first of two parts: the second part of the study will review the sentences imposed and the grounds given by the courts for the sentencing in the cases that were studied. This second part will be published in the summer of 2016.

Data collection

The findings of the study are based on a random representative sample of two hundred convictions for hands-on indecent sexual assault with a minor victim in 2012 and 2013. The sample was taken from the database of the Public Prosecution Service (reference date 4 July 2014) and covers 34% of the total population of all convictions that meet the relevant criteria in those two years.

The sample encompasses a hundred cases from each year in which there was a conviction, followed by either the imposition of a punishment or by a finding of guilty without imposition of a sentence or a measure, in first instance, on charges relating to Articles 244, 245, 247 and/or 249 (1) DCC, without charges under Articles 242 and/or 246 DCC (hands-on forcible) and/or Articles 239, 240, 240a, 240b, 248c, 248d and/or 248e DCC (hands-off). The combination with Articles 248a, 248b and/or 250 DCC or with offences other than sex offences can occur.

The judgments in the sample were requested from the district courts.

Research method

Eighteen of the two hundred requested judgments were disregarded: two because the associated judgments could not be found and four because the judgments were rendered by the police magistrate and there was no transcript, so they contained too little information for the purposes of this study. In twelve cases, it was found after studying the judgments that the convictions did not meet the criteria: the victim was found to be an adult rather than a minor (six times), the conviction for hands-on indecent assault was found to be an acquittal (five times) or the case did not involve a hands-on indecent assault at all (once).

All the quantifiable data from the judgments were analysed using SPSS 21. For [Chapter 2](#) and [Chapter 3](#) the data were analysed at the level of the perpetrator ($N=182$). For [Chapter 4](#) and [Chapter 5](#) the data were rearranged to the level of the victim ($N=241$).

Reservations

All of the information in this report is based on the findings of fact in the 182 judgments that were studied. In other words, the facts as established by the courts in the cases. No police files or other information about the case was requested or studied. Because only the judgments were studied, it was not possible to discover all of the necessary information in every case. For example, five judgments did not contain the victim's date of birth, and in some cases no information about the relationship between the victim and the perpetrator could be derived from the judgement. How the victim knew the perpetrator ([Chapter 5](#)) was interpreted by the researchers and then classified on the basis of the information that was available in the judgment.

The period of abuse that the courts found to have been proved was calculated at the level of the victim: it is the end date of the last offence found to have been proved for a victim minus the starting date of the first offence found to have been proved in relation to the same victim. This can distort the results for the duration of the abuse, since it is possible that in some cases the abuse occurred once but the period declared proven is longer than one day if the precise date on which the abuse took place is unknown. For a better interpretation of the period of abuse, the classification of the offence in the judgment was reviewed. However, the combined information from the classification of the offence and the findings of fact did not always provide sufficient certainty about whether there was a single incident or multiple incidents of abuse. It was ultimately decided to report only the duration according to the court's finding. However, since the date in the finding does not necessarily correspond with the actual starting date of the abuse, this can distort the results in terms of the period of abuse and the ages of the perpetrator and the victims, since the calculation of the ages is based on the earliest date in the court's findings.

A2 Literature

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The National Rapporteur reports on the nature and scale of human trafficking and sexual violence against children in the Netherlands.

What does the National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children do?

The National Rapporteur reports on the nature and scale of human trafficking and sexual violence against children in the Netherlands. The Rapporteur monitors the effects of policy conducted in these domains, identifies bottlenecks and makes recommendations to improve the measures taken to address these themes. The National Rapporteur has no investigative authority and is not a complaints agency.

Who is the National Rapporteur?

The National Rapporteur is Corinne Dettmeijer-Vermeulen. She is supported by a team of researchers from various disciplines.



What activities does the National Rapporteur carry out?

The National Rapporteur collects quantitative and qualitative data by means of independent research, through intensive contact with other bodies, by organizing and participating at meetings and conferences and by participating in task forces and groups of experts. The Rapporteur publishes the results of her research and the ensuing recommendations in reports, which also contain descriptions of the phenomena of human trafficking and sexual violence against children, relevant legislation and the measures taken in the areas of prevention, investigation and prosecution of perpetrators and help for victims. The Rapporteur monitors the practical implementation of her recommendations. The Rapporteur is also active at international level.

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