

立法會司法及法律事務委員會

2001年2月20日會議

建議訂立‘持續性侵犯兒童’罪行的資料文件

問題

兒童性侵犯事件往往事隔多時才被揭發，那時受害人可能已經不能確切回憶被侵犯的詳情，例如被侵犯的次數、日期或每次被侵犯時的周遭環境和被侵犯的過程。這尤其常見於性侵犯行為在一段長時間內多次發生的情況。受害人或許因為年幼，無法精確地描述侵犯者的行為，以致未能符合為案件立據的舉證要求。

2. 控方能否把被告人成功檢控，關鍵在於《公訴書規則》(規則)。規則規定公訴書內的每一項控罪只可控告被告人一項罪名。控方不可在公訴書所載的同一項控罪中，指稱被告人干犯了兩次性侵犯行為。規則也規定每一項控罪都必須述明被告人被控的具體罪行，以及為顯示關於該控罪性質的合理資料所需的詳情。

3. 法庭如果認為指稱的事實或提出的證據顯示公訴書存在“潛在的含糊”，則通常不會判被告人有罪或會推翻判罪。例如控方為了證明某一項控罪而提出被告人曾經干犯了超過一項罪行的證據，便會出現“潛在的含糊”。

現行做法

4. 律政司一向採取下列方法來處理上述問題 -

- (1) 每項指稱的侵犯行為只提出一項控罪。這可能引致向被告人提出多項控罪，以致控方可能會因公訴書“長篇累牘”而遭法庭指摘；

- (2) 針對指稱的侵犯行為提出兩項控罪，概括首次及最後一次的侵犯行為，而不載列指稱的侵犯行為共發生了多少次。在這個情況下，控方便不能提出證據證明指稱的侵犯行為在一段時間內重複發生。這個做法並不理想，因為公訴書和所提出的控罪沒有完全反映有關罪行的刑責和嚴重程度。法庭判罪時只可根據該兩項控罪把被告人判刑。這不單對受害人不公，還有損公眾利益。

訂立“持續性侵犯兒童”罪行的建議

5. 當局是鑑於詹漢民訴香港特別行政區[1999] 1 HKC 428一案的判決(見附件 A 判決提要)而建議訂立這項罪行。在詹漢民一案中，證據顯示投訴人在九歲那年的暑假在家裏曾多次遭繼父強姦。投訴人除了指出在上述時間內被告人曾對她進行約 10 次性侵犯外，未能清楚逐一區別各項性侵犯行為，或指出某次(或多次)的行為屬強姦行為。由於投訴人不能明確指出遭強姦的次數或被強姦的日期，故此不可能逐項以強姦罪提控，控方因而擬定出兩項樣式的強姦控罪，提控被告人。每項控罪指被告人在指定期間不能確定的某日期犯了一項強姦罪。然而，控方援引了多次侵犯行為的證據，包括顯示除最初幾次外，被告曾將生殖器插入投訴人下體的證據。

6. 終審法院推翻了對被告人的定罪，並引用澳洲的案例 *S v The Queen* (1989) 168 CLR 266(見附件 B 判決提要)。澳洲法院在該案中裁定：在公訴控罪中，未能鑑定任何行為或多次行為控罪主體時，控方不能援引一些適用以證明多種情況(其中任何一種，根據控罪所描述，足以構成罪行)的證據，而邀請陪審團根據任何一種情況裁定被告人有罪。

7. 鑑於詹漢民案的裁決，依據樣式控罪來檢控多項罪行的方法已不再適用。問題在於被告人被指稱在一段相當長時間內(可能是提出檢控前數年)曾多次犯罪，而投訴人又未能逐一具體確定指稱的罪行。如受害人是兒童的話，問題就會更加複雜。

建議

8. 現建議修訂《刑事罪行條例》(第 200 章)，以訂立一項“持續性侵犯兒童”的新罪行(“該建議罪行”)。建議條文以新南威爾士州的《刑事罪行法例修訂(兒童性罪行)法令 1998 年第 131 號》為藍本。澳洲大部分的州，包括維多利亞州、塔斯曼尼亞州、昆士蘭州及澳大利亞首都州都制定了類似法例。有關條文見附件 C。

9. 澳洲模式的要義在於要提控這些罪行成功入罪，控方須證實被告人在指明時間內觸犯了不少於三次的非法性行為(有些州則只規定兩次)，但無須證實犯罪的日期或在什麼具體情況下發生。此外，任何一次非法性行為不必與任何其他非法性行為完全一樣。

其他司法管轄區的做法

10. 政府已經作出查詢，但是還未能取得有用資料得知這些法例在澳洲各州的實施情況。英國和南非也正考慮訂立類似的罪行。兩地負責法律改革的機構正就兒童遭性侵犯情況嚴重，必須採取行動打擊一點，進行諮詢。政府獲悉目前英國的性罪行法例諮詢工作(包括建議仿效澳洲制定“持續性侵犯兒童”罪行)尚在進行中。此外，政府正等待南非的回覆。

反對訂立該建議罪行的論據

11. 反對的論據如下 —

- (1) 建議的罪行抵觸了控方針對單一非法性行為不能提出未足以交代具體情況的證據的既定原則。
- (2) 重要的是如被告要提出抗辯，就先要知道控罪的根據。如果對被告人的控罪是依據其他多項罪行的證據而提出，那便對被告不公平，也會令被告處於尷尬位置。

- (3) 如果訂立該建議罪行，被告就沒有機會以任何確實時間或案發環境等因素，以驗證投訴人是否可信，也不能夠就可判處嚴厲刑罰的嚴重控罪提出適當抗辯。
- (4) 根據一般原則，法庭應該就每項控罪進行審訊，讓陪審團可以專注考慮被告有否觸犯該項罪行，然後根據該審訊就該項罪行裁定被告有罪或無罪。這項原則確保法庭會作出確切的裁決。這樣，如果被告其後被控觸犯同一罪行，他便可以基於曾就同一罪行被定罪(即已經就該罪行被定罪，不應該再就同一罪行被定罪)或曾就同一罪行獲裁定無罪(即已經就該罪行獲裁定無罪，不應該再就同一罪行受審)作出答辯。
- (5) 鑑於兒童(甚至是性罪行案件中的兒童)的證供都不再需要佐證，訂立該建議罪行會對被告人十分不利。

支持訂立該建議罪行的論據

12. 支持的論據如下 —

- (1) 兒童受害人的案件會涉及特別問題。期望受害兒童記得過去長時間內屢次遭受性侵犯的事發日期和時間，是不切實際的。如受害兒童的年紀愈小，以及遭受性侵犯的期間愈長，這個期望就愈不切實際。勉強受害兒童指出案發詳情，會令他的供詞出現矛盾。這是檢控人員經常遇到的問題。
- (2) 如果不找出解決方法，這些較容易受害而又最需要保護的人便會成為最缺乏保護的一群。兒童需要，並應該在性方面獲得特別的保護，因為他們在生理上和情緒上都要倚賴別人，心智和各方面都尚未成熟。
- (3) 兒童性侵犯事件的確是個問題，必須正視。根據保護兒童資料系統(在 1997-1999 年)及警方(在 1996-1999 年)的統計資料顯示，每年有不少兒童遭性侵犯(見附件 D)。
- (4) 正如下文第 13-15 段所述，該建議罪行既會保護兒童的需要，同時又可保障被告的權利。

保障被告人的權益

13. 要以建議的“持續性侵犯兒童”罪名把被告人定罪，控方仍須證明指稱罪犯所犯每項性罪行的犯罪行為及犯罪意圖。控罪必須指明所指控性行為的性質及發生的時期，但無須指明指稱罪行發生的日期、時間及詳細情況。

14. 陪審團或單獨開庭的法官必須信納被告人在指明的時期內，的確最少作出三項具體行為，而每項行為都構成性罪行。如有陪審團參與審訊，法官須履行保障公平審訊的責任，向陪審團說明他們必須就某三次犯罪行為達成一致意見，才可把被告人定罪。

15. 也有建議必須得到律政司司長的書面同意，才可以提控該建議罪行。

諮詢意見

16. 2000年11月，政府向約90家機構發出資料文件(本文件所參照的資料)，闡述有關建議。現把迄今接獲的回應扼要表列如下。

| | 諮詢對象 | 意見 |
|----|-----------------|---|
| 1. | 香港青年法律工作者協會有限公司 | 理解政府的關注，並強調重要的考慮因素是：必須兼顧面對刑事法律責任的被告人和案中受害兒童雙方的利益。 對擬訂立的新罪行有保留，待收到有關條例草案後才會進一步評論。 |
| 2. | 社會福利署署長 | 支持訂立新罪行。 |
| 3. | 香港基督教服務處 | 支持訂立新罪行，並強調必須確保不會對被告人造成不必要的損害。 |

| | | |
|-----|----------|----------------------------|
| 4. | 香港婦女發展聯會 | 支持訂立新罪行。 |
| 5. | 香港小童群益會 | 支持訂立新罪行，但強調需要考慮被告人的權利。 |
| 6. | 防止虐待兒童會 | 支持訂立新罪行，還促請政府兼顧被告人的權利。 |
| 7. | 平等機會委員會 | 支持訂立新罪行。 |
| 8. | 香港家庭法例會 | 有待提供意見。 |
| 9. | 香港律師會 | 有待提供意見。 |
| 10. | 香港女童軍總會 | 支持訂立新罪行，並會待條例草案備妥後提交進一步意見。 |
| 11. | 監護委員會 | 支持訂立新罪行。 |
| 12. | 香港大律師公會 | 有待提供意見。 |

17. 從上述收回的意見和傳媒所反映的公眾意見(有關剪報副本備索)可見，各機構都普遍支持有關建議(部分意見甚至表示建議仍有不足之處)，一致認為兒童屬於特別易受傷害的一群，需要和應該得到特別保護，免受性侵犯。此外，還認為新法例需要兼顧被告人和受害人雙方的權益。政府相信實施本文所載的建議，有助達至這些目標。

未來的工作

18. 政府強烈認為應該實施訂立“持續性侵犯兒童”罪行的建議。政府(暫擬於 2001 年 3 月)把《罪行(修訂)條例草案》擬稿送交各界人士傳閱，以徵詢意見。

條例草案須具備的要點

19. 現建議條例草案必須規定 -

- (1) 為符合《刑事訴訟程序條例》(第 221 章)第 79A 條中“兒童”作為易受傷害證人的定義，有關罪行適用於指稱非法性行為發生時年齡不足 17 歲的兒童；
- (2) 任何人進行的一連串行為涉及性侵犯一名兒童三次或以上，每次在不同日期，不論行為是否屬同一性質或構成同一性罪行，均屬犯罪；
- (3) 不論三次行為中任何次數在香港以外的地方發生，只要三次行為中有一次或以上在香港發生，即屬犯罪；
- (4) 控罪必須指明指稱行為發生的時期，以及指稱在該一連串行為中所犯性罪行的性質，但無須指明或證明指稱性罪行發生的日期或確切情況；
- (5) 法官或陪審團必須在無合理疑問下信納有關三次行為的重要事實。倘若證據涉及三次以上的行為，陪審團必須同時在無合理疑問下信納某三次行為，同時法官必須提醒陪審團這項規定；
- (6) 因建議的新罪行而被定罪的最高刑罰，不會低於因在指稱的一連串行為中觸犯實際性罪行(如強姦或亂倫)而被定罪的刑罰；
- (7) 必須得到律政司司長同意，才可以對建議的新罪行提起法律程序。

律政司

法律政策科

2001 年 2 月

#30182

CHIM HON MAN v HKSAR

COURT OF FINAL APPEAL
FINAL APPEAL (CRIMINAL) NO 3 OF 1998
LI CJ, LITTON, CHING AND BOKHARY PJJ AND SIR ANTHONY MASON
26, 27 NOVEMBER 1998, 29 JANUARY 1999

Criminal Law and Procedure – Rape – Prosecution allowed to lead evidence of multiple acts of rape to prove one count of rape – Error of law – Proof of one act for a single count – Criminal Procedure Ordinance (Cap 221) s 9(3)

Criminal Law and Procedure – Summing-up – Rape – Defendant charged with rape committed within specified period – Evidence lacking in specificity – Jury should have been directed to be satisfied of a particular act of rape in specified period in order to convict – Jury should have been reminded of defendant's difficulty in meeting old charges which lacked particularity

Evidence – Child witness in sexual offence – Video-taped interviews received as evidence-in-chief – Whether child should have been sworn and to have adopted statements in interview – Criminal Procedure Ordinance (Cap 221) s 79C(2), (4), (6), (7)

Evidence – Witness in sexual offence – Evidence by live television link – Video-taped interviews received as evidence-in-chief pursuant to s 79C(2) – Witness aged 16 when interviewed and 17 at trial – Whether witness should have been examined on video recorded evidence by way of live television link – Whether witness within meaning of 'child' for purposes of s 79C – Criminal Procedure Ordinance (Cap 221) ss 79A, 79B(2), 79C

Words and Phrases – 'Child' – Criminal Procedure Ordinance (Cap 221) ss 79A, 79B(2), 79C

刑法與刑事訴訟程序 – 強姦 – 容許控方提出多次強姦行為的證據以證明一項強姦罪名 – 法律上的錯誤 – 單一行為以證明單一指控 – 《刑事訴訟程序條例》(第 221 章) 第 9(3) 條

刑法與刑事訴訟程序 – 總結 – 強姦 – 被告人被控在指明時段內犯強姦罪 – 證據欠缺具體詳情 – 應該指示陪審團必須信納被告人在指明時段內作出「一項強姦行為」才可定罪 – 應該提醒陪審團有關被告人面對舊而且欠缺細節的控罪的困難

證據 – 性罪行中的兒童證人 – 錄影帶會面紀錄被接納為主問證據 – 兒童是否應宣誓作供並採納在會面中的陳述 – 《刑事訴訟程序條例》(第 221 章) 第 79C(2), (4), (6), (7) 條

證據 – 性罪行中的證人 – 藉電視直播聯繫提供的證據 – 根據第

A

B

C

D

E

F

G

H

I

A 審訊是 17 歲 – 證人應否以電視直播聯繫方式就錄影紀錄證據接受盤問 – 就第 79C 條而言，證人是否「兒童」 – 《刑事訴訟程序條例》(第 221 章) 第 79A, 79B(2), 79C 條

B 詞彙 – 「兒童」 – 《刑事訴訟程序條例》(第 221 章) 第 79A, 79B(2), 79C 條

The appellant was charged with two counts of rape. The first count alleged that 'on a date unknown between 14 July 1989 and 31 July 1989' the appellant raped his step-daughter (the complainant) at home. The second count was in identical terms save that the date in the particulars of offence was expressed as 'on a date unknown between 1 August 1989 and 15 August 1989'. The complainant was 9½ years old at the material times, but it was not until 1994 that the alleged offences were first revealed by the complainant. At trial, the evidence-in-chief of the complainant consisted of four video-taped interviews recorded between January and August 1996, when she was 15 and later 16 years old. The video-tapes were received in evidence pursuant to s 79C of the Criminal Procedure Ordinance (Cap 221). Cross-examination of the complainant, who had just turned 17, was conducted via a live television link with the complainant in a room outside the court room pursuant to an order made under s 79B(2) of the Criminal Procedure Ordinance when she was 16. The complainant's evidence was that she was repeatedly raped by the appellant during the period between 14 July 1989 and 15 August 1989. She was however unable to differentiate in any significant way between any of the particular acts of rape. The prosecution case was presented in such a way that there was at least one rape during each period, and the jury was asked to find that in each of the two periods one act of rape occurred, without being asked to identify the particular occasion when it occurred. There was no corroboration evidence. The jury convicted the appellant of both counts of rape by a majority of five to two. The appellant applied to the Court of Appeal for leave to appeal against conviction but his application was dismissed. The appellant appealed to the Court of Final Appeal.

The following grounds of appeal were argued in the final appeal:

G (1) the complainant's evidence-in-chief (the video-taped interviews) was unsworn;

(2) her evidence by live television link was erroneously admitted into evidence. The argument was that s 79B only permitted a child to give evidence by way of a live television link. The complainant was over 17 when she gave evidence in court. She therefore did not fall within the meaning of 'child' in s 79A, which defined a child, in the case of an offence of sexual abuse, to be a person under 17 years of age (para (a)(i)), except when it was for the purposes of s 79C, where the age limit was 18, if that person was under 17 when the video recording was made (para (a)(ii));

H (3) the evidence of some ten acts of rape was inadmissible in proof of two counts each alleging one act of rape; and the convictions should be quashed because each was based on evidence of multiple offences;

I (4) the video-taped interviews should not have been received in evidence or should have been the subject of special directions by the trial judge, as the complainant's answers in the interviews were elicited by leading questions and

(5) the trial judge's directions in relation to the way in which the prosecution sought to make out its case were erroneous and inadequate; and the judge should have directed the jury with respect to the frailty of the interview evidence and the danger of convicting on it; and

(6) the verdicts were unsafe and unsatisfactory.

Held, allowing the appeal:

(1) Section 79C(2) of the Criminal Procedure Ordinance expressly provided that, where in the proceedings to which it applied, as in the present case, a video recording had been made of an interview between an adult and a child who was not a defendant; and where the interview related to any matter in issue in the proceedings, the video recording might be given in evidence with leave of the court. Subsequent subsections of s 79C, including sub-ss (4), (6) and (7) made it clear that it was the video recording that was received into evidence. Further, sub-s (7) provided that, where a video recording was given in evidence, any statement made by the child which was disclosed by the recording should be treated as if given by that witness in direct oral testimony. The effect of this subsection was to give the statements in the recording the same effect they would have if given in evidence on oath or affirmation, thus making it unnecessary for the child to be sworn and to adopt the statements in the recording. *R v Day* [1997] 1 Cr App R 181 and *R v Sharman* [1998] 1 Cr App R 406 considered (at 437C-E, G-I).

(2) Section 79B(2) was directed, in part, to serving the interests of s 79C. Section 79B(2) provided for the way in which a child might give evidence in discharge of the obligation imposed by s 79C(6)(a), namely that, where a video recording was admitted, the child 'shall be called'. In that situation, namely 'where a child ... is to be examined on video recorded evidence given under s 79C', s 79B(2) authorised the court to permit the child 'to give evidence or be examined by way of a live television link'. The conferral of this power on the court was, accordingly, 'for the purposes of s 79C'. The reference in s 79B(2) to 'child' in the context of 'is to be examined on video recorded evidence' and in the context of 'to ... be examined by way of live television link' was clearly a reference to a 'child' as defined for the purposes of s 79C, that is, as defined by s 79A(a)(ii), namely a person under 18 (at 439F-I).

(3) As each count in the indictment charged a single act of rape, the indictment was not bad for duplicity, as it would have been had each count charged more than one act of rape. There was no basis on which the indictment could be quashed (at 440F).

(4) In the absence of any act or acts being identified as the subject of an offence charged in an indictment, the prosecution could not lead evidence that was equally capable of referring to a number of occasions, any one of which might constitute an offence as described in the charge and invite the jury to convict on any one of them. The prosecution was confined to the proof of one offence as the basis for a conviction of a single offence charged in a count in an indictment. In the present case, in allowing the trial to proceed without confining each count to a single act of rape, there was an error of law. *Johnson v Miller* (1937) 59 CLR 467 and *S v The Queen* (1989) 168 CLR 266 applied; *R v Accused* [1993] 1 NZLR 385 and *R v P* [1998] 3 NZLR 587 considered (at 441H, 443E-F, 446B).

(5) Although s 9(3) of the Criminal Procedure Ordinance provided that the practice and procedure in all criminal causes and matters had to be, as nearly as

possible, the same as the practice and procedure from time to time and for the time being in force for similar cases in England, that provision was necessarily subject to the requirements of substantive principles of law. If there was a general principle which precluded proof of more than one offence as the basis for the conviction of the single offence charged, s 9(3) could not require the Hong Kong courts to depart from that substantive principle of law (at 445D/E-F).

(6) Although the four recorded interviews were, to a significant extent, repetitive and offered the opportunity not ordinarily available to a witness in examination-in-chief, of elaborating, refining and strengthening the complainant's evidence, this did not mean that the recordings should not have been received in evidence. There had been no objection taken or application made by the appellant at the trial to edit the tapes. Further, as the recordings were of interviews, it would not be right to insist that leading questions could not be asked (at 446C, D/E, G).

(7) The trial judge failed to instruct the jury that, in order to convict the accused on both counts, they must be satisfied that he committed the one particular act of rape in each of the two periods specified in the indictment (at 447A-B).

(8) The trial judge also failed to instruct the jury to the effect that the absence of particularity with respect to the individual incidents alleged to have occurred so long ago made it difficult for the accused to meet the charges. *R v Rackham* [1997] 2 Cr App R 222 applied (at 447B-C).

(9) The way in which the case was presented, the absence of critical directions, together with the frailty, the uncertainty, lack of specificity and inconsistency of the complainant's version of events, coupled with the absence of any corroboration, rendered the convictions unsafe and unsatisfactory and there was no basis for applying the proviso. The convictions were quashed. Further, as the evidence available to the prosecution could not sustain a conviction, a new trial was not ordered (at 447E-F).

Obiter

(1) The existence of an order giving leave for a child under 18, who was to be examined on a video recording, to give evidence by live television link would not provide justification for taking that course after the child attained the age of 18 (at 440D-E).

(2) In cases where differentiation was impossible, an indictment might be drawn to include a number of counts, each, apart from the first, alleging 'on an occasion other than that alleged [in the previous count]'. That course could be pursued where the series of offences was alleged to have been committed over a relatively short period of time. Although that approach in the present case would not have resulted in the giving of particulars or of more specificity in the complainant's evidence, it would have resulted in the jury's attention being focused on the individual acts alleged and the evidence relating to those acts, without any departure from the general principle (at 445G-I).

Cases referred to

Director of Public Prosecutions v Merriman [1973] AC 584, [1972] 3 All ER 42, [1972] 3 WLR 545
Johnson v Miller (1937) 59 CLR 467
Parker v Sutherland (1917) 86 LJKB 1052, (1917) 116 LT 820, (1917) 81 JP 197
R v Accused [1993] 1 NZLR 385

S.

APPELLANT;

AND

THE QUEEN

RESPONDENT.

ON APPEAL FROM THE SUPREME COURT OF WESTERN AUSTRALIA.

H. C. OF A.
1989.PERTH,
Oct. 24.SYDNEY,
Dec. 21.Brennan,
Dawson,
Toohey,
Gaudron and
McHugh JJ.

Criminal Law — Indictment — Sufficiency — Latent ambiguity — Duplicity — Three counts of incest on dates unknown each within twelve month period — Evidence of numerous acts of intercourse in each period — Misdirection to jury — Conviction on each count — Whether substantial miscarriage of justice — Criminal Code (W.A.), s. 689(1).

An indictment charged a father with three counts of carnal knowledge of his daughter. Each count charged one act of carnal knowledge on a date unknown within a specified period of twelve months, namely 1 January 1980 to 31 December 1980, 1 January 1981 to 31 December 1981 and 8 November 1981 to 8 November 1982. The trial judge rejected the accused's application for an adjournment pending the supply of particulars and his further application that the prosecutor nominate or identify the acts the subject of the counts. The complainant gave evidence of two specific acts of intercourse, but there was no evidence to link either with any one of the specified periods. She also gave evidence of numerous further acts over a period of two years until she left home in November 1982. She could not remember details or frequency other than that it occurred "every couple of months for a year". The accused was convicted on each count.

Held, (1) In the absence of any act or acts being identified as the subject of an offence charged in an indictment, the Crown cannot lead evidence that is equally capable of referring to a number of occasions, any one of which might constitute an offence the legal nature of which is described in the charge, and invite the jury to convict on any one of them.

Johnson v. Miller (1937), 59 C.L.R. 467, applied.

(2) Even if such act or acts are identified, serious questions of admissibility arise; the jury must be instructed as to the proper use to be made of such evidence, if admitted.

(3) By Dawson, Toohey, Gaudron and McHugh JJ., Brennan J. dissenting, that the course followed at the trial involved a substantial miscarriage of justice within the meaning of s. 689(1) of the *Criminal Code* (W.A.). Hence the convictions should be quashed and there should be a retrial.

Decision of the Supreme Court of Western Australia (Court of Criminal Appeal): S. (1988), 39 A. Crim. R. 288, reversed.

APPLICATION for special leave to appeal from the Supreme Court of Western Australia.

S. was tried before the District Court of Western Australia on three counts of carnal knowledge of his daughter. Each count charged one act of carnal knowledge on a date unknown within a specified period of twelve months. The periods specified were those between 1 January 1980 and 31 December 1980, 1 January 1981 and 31 December 1981 and 8 November 1981 and 8 November 1982. An application by S.'s counsel for an adjournment pending the supply of particulars was rejected by Judge Healy. An application that the prosecutor nominate or identify the acts the subject of the counts in the indictment was also refused. The complainant gave evidence of two specific acts of sexual intercourse, but there was no evidence to link either act to any one of the specified periods. Apart from those acts the complainant gave evidence that sexual intercourse had occurred over a period of two years until she left home in November 1982. She could not remember details or frequency other than that it had occurred "every couple of months for a year". S. was convicted. An appeal against conviction to the Court of Criminal Appeal (Brinsden and Smith JJ., Kennedy J. dissenting) was dismissed (1). S. then applied for special leave to appeal to the High Court.

P. S. Bates, for the applicant.

M. J. Murray Q.C. and K. Pettit, for the respondent, referred to *R. v. Conley* (2); *Parker v. Sutherland* (3); *Johnson v. Miller* (4); and *Jones v. The Queen* (5).

Cur. adv. vult.

The following written judgments were delivered:—

BRENNAN J. The applicant was convicted before the District Court of Western Australia on three counts of incest with his daughter. The daughter gave evidence that, from the age of nine or ten, her father had engaged in sexual acts with her and that, as she grew older, he went further until he had sexual intercourse with her when she was aged about fourteen. Her fourteenth birthday was in November 1979. She said that he had intercourse with her thereafter until she left home in February 1983, when she was aged

(1) (1988) 39 A. Crim. R. 288.
(2) [1916] V.L.R. 639.
(3) [1917] 1 K.J. 820.

(4) (1937) 59 C.L.R. 467.
(5) [1980] W.A.R. 203.

H. C. OF A.
1989.
S.
v.
THE QUEEN.

Dec. 21.

SA Consolidated Acts

CRIMINAL LAW CONSOLIDATION ACT 1935 - SECT 74

74 Persistent sexual abuse of a child

74. (1) A person may be charged with and convicted of the offence of persistent sexual abuse of a child.

(2) Persistent sexual abuse of a child consists of a course of conduct involving the commission of a sexual offence against a child on at least three separate occasions (whether the offence is of the same nature on each occasion or differs from occasion to occasion).

(3) A person does not however commit the offence of persistent sexual abuse of a child unless the occasions on which a sexual offence is committed against the child fall on at least three days.

(4) A charge of persistent sexual abuse of a child-

(a) must specify with reasonable particularity when the course of conduct alleged against the defendant began and when it ended; and

(b) must describe the general nature of the conduct alleged against the defendant and the nature of the sexual offences alleged to have been committed in the course of that conduct,

but the charge need not state the dates on which the sexual offences were committed, the order in which the offences were committed, or differentiate the circumstances of commission of each offence.

(5) Before a jury returns a verdict that a defendant is guilty of persistent sexual abuse of a child-

(a) the jury must be satisfied beyond reasonable doubt that the evidence establishes at least three separate incidents, falling on separate days, between the time when the course of conduct is alleged to have begun and when it is alleged to have ended in which the defendant committed a sexual offence against the child; and

(b) the jury must be agreed on the material facts of three such incidents in which the defendant committed a sexual offence of a nature described in the charge (although they need not be agreed about the dates of the incidents, or the order in which they occurred).

(6) The judge must warn a jury, before it retires to consider its verdict on a charge of persistent sexual abuse of a child, of the requirements of subsection (5).

(7) A person convicted of persistent sexual abuse of a child is liable to a term of imprisonment proportionate to the seriousness of the offender's conduct which may, in the most serious of cases, be imprisonment for life.

(8) A charge of persistent sexual abuse of a child subsumes all sexual offences committed by the same person against the same child during the period of the alleged sexual abuse, and hence a person cannot be simultaneously charged (either in the same or in different instruments of charge) with persistent sexual abuse of a child and a sexual offence alleged to have been committed against the same child during the period of the alleged persistent sexual abuse.

(9) A person who has been tried and convicted or acquitted on a charge of persistent sexual abuse of a child may not be charged with a sexual offence against the same child alleged to have been committed during the period over which the defendant was alleged to have committed persistent sexual abuse of the child.

(10) A prosecution on behalf of the Crown for persistent sexual abuse of a child cannot be commenced without the

consent of the Director of Public Prosecutions.

(11) In this section-

"**child**" means a person under the age of sixteen years;

"**sexual offence**" means an offence against section 48, 49, 56, 58, 58A, 68 or 72, or an attempt to commit, or an assault with intent to commit, any of those offences.

Victorian Consolidated Legislation

CRIMES ACT 1958 - SECT 47A

Sexual relationship with child under the age of 16

47A. Sexual relationship with child under the age of 16

(1) A person who maintains a sexual relationship with a child under the age of 16 to whom he or she is not married is guilty of an indictable offence.

(2) To prove an offence under sub-section (1) it is necessary to prove-

- (a) that the accused during a particular period (while the child was under the age of 16) did an act in relation to the child which would constitute an offence under a provision of this Subdivision or Subdivision (8A) or (8B); and
- (b) that an act which would constitute an offence under a provision of this Subdivision or Subdivision (8A) or (8B) took place between the accused and the child on at least two other occasions during that period.

(2A) It is not necessary that the alleged acts be of a similar nature or constitute an offence under the same provision.

(3) It is not necessary to prove an act referred to in sub-section (2)(a) or (b) with the same degree of specificity as to date, time, place, circumstances or occasion as would be required if the accused were charged with an offence constituted by that act instead of an offence against sub-section (1).

(4) A person who is guilty of an offence under sub-section (1) is liable to level 2 imprisonment (25 years maximum).

(5) If on the trial of a person charged with an offence against sub-section (1) the jury are not satisfied that he or she is guilty of the offence charged but are satisfied that the accused did an act during that period which constitutes an offence against Subdivision (8A), (8B), (8C), (8D) or (8E) of Division 1 of Part I, the jury must acquit the accused of the offence charged but may find him or her guilty of that other offence and he or she is liable to punishment accordingly.

(6) Sub-section (5) does not restrict the operation of section 421 or 422.

(7) A prosecution for an offence under sub-section (1) must not be commenced without the consent of the Director of Public Prosecutions.

ACT Consolidated Legislation

CRIMES ACT 1900 - SECT 92EA

92EA. Maintaining a sexual relationship with a young person

(1) In this section-

"adult" means a person who has attained the age of 18 years;

"sexual act" means an act that constitutes an offence under this Part but does not include an act referred to in subsection 92E (2) or 92KE (2) if the person who committed the act establishes the matters referred to in subsection 92E (3) or 92K (3), as the case may be, that would be a defence if the person had been charged with an offence against subsection 92E (2) or 92K (2), as the case may be;

"young person" means a person who is under the age of 16 years.

(2) A person who, being an adult, maintains a sexual relationship with a young person is guilty of an offence.

(3) For the purposes of subsection (2), an adult shall be taken to have maintained a sexual relationship with a young person if the adult has engaged in a sexual act in relation to the young person on 3 or more occasions.

(4) In proceedings for an offence under subsection (2), evidence of a sexual act is not inadmissible by reason only that it does not disclose the date or the exact circumstances in which the act occurred.

(5) Subject to subsection (6), a person who is convicted of an offence under subsection (2) is liable to imprisonment for 7 years.

(6) If a person convicted under subsection (2) is found, during the course of the relationship, to have committed another offence under this Part in relation to the young person (whether or not the person has been convicted of that offence), the offence under subsection (2) is punishable by imprisonment-

- (a) if the other offence is punishable by imprisonment for less than 14 years-for 14 years; or
- (b) if the other offence is punishable by imprisonment for a period of 14 years or more-for life.

(7) Subject to subsection (8), a person may be charged in 1 indictment with an offence under subsection (2) and with another offence under this Part alleged to have been committed by the person during the course of the alleged relationship and may be convicted of and punished for any or all of the offences so charged.

(8) Notwithstanding subsection 443 (1), where a person convicted of an offence under subsection (2) is sentenced to a term of imprisonment for that offence and a term of imprisonment for another offence under this Part committed during the course of the relationship, the court shall not direct that those sentences be cumulative.

(9) A prosecution for an offence under subsection (2) shall not be commenced except by, or with the consent of, the Director of Public Prosecutions.

- Child under 16: Sexual relationship with

321A. (1) For the purposes of this section a person has a sexual relationship with a child under the age of 16 years if that person, on 3 or more occasions each of which is on a different day, does an act in relation to the child which would constitute a prescribed offence.

(2) In subsection (1) the act referred to need not be the same act, or constitute the same offence on each of the 3 or more occasions.

(3) A person who has a sexual relationship with a child under the age of 16 years is guilty of a crime and is liable to imprisonment for 20 years.

(4) An indictment under subsection (3) shall specify the period during which it is alleged that the sexual relationship occurred and the accused shall not be charged in the same indictment with any other offence under this chapter alleged to have been committed against the child during that period.

(5) In proceedings on an indictment charging an offence under subsection (3) it is not necessary to specify the dates, or in any other way to particularize the circumstances, of the alleged acts.

(6) An indictment for an offence under this section is to be signed by the Director of Public Prosecutions or the Deputy Director of Public Prosecutions.

(7) It is a defence to a charge under subsection (3) to prove the accused person believed on reasonable grounds that the child was of or over the age of 16 years.

(8) It is a defence to a charge under subsection (3) to prove the accused person was lawfully married to the child.

(9) Upon an indictment charging a person with an offence under subsection (3), if the jury is not satisfied the accused person is guilty of that offence, the accused person may be convicted of one or more prescribed offences if the offence or offences are established by the evidence.

(10) If a person has been tried and convicted or acquitted on an indictment alleging the commission of an offence under subsection (3), that fact is a defence to any charge of an offence under this chapter alleged to have been committed against the same child during the period when it was alleged the sexual relationship with the child occurred.

(11) In this section, "prescribed offence" means --

(a) an offence under section 320 (2) or (4) or 321 (2) or (4); or

(b) an offence under section 320 (3) or 321 (3) where the child in fact engages in sexual behaviour.

[Section 321A inserted by No. 14 of 1992 s.6 (1).]

- 131A. UNLAWFUL SEXUAL RELATIONSHIP WITH CHILD

(1) For the purposes of this section, "offence of a sexual nature" means an offence defined by section 128, 129, 132, 134, 135, 188(1) and (2)(k), 192 or 192B.

(2) Any adult who maintains an unlawful relationship of a sexual nature with a child under the age of 16 years is guilty of a crime and is liable to imprisonment for 7 years.

(3) A person shall not be convicted of the crime defined by this section unless it is shown that the offender, as an adult, has, during the period in which it is alleged that he maintained the relationship in issue with the child, done an act defined to constitute an offence of a sexual nature in relation to the child on 3 or more occasions, and evidence of the doing of any such act shall be admissible and probative of the maintenance of the relationship notwithstanding that the evidence does not disclose the dates or the exact circumstances of those occasions.

(4) If in the course of the relationship of a sexual nature the offender has committed an offence of a sexual nature for which he is liable to imprisonment for 5 years or more or 14 years or less, the offender is liable in respect of maintaining the relationship to imprisonment for 14 years.

(5) If in the course of the relationship of a sexual nature the offender has committed an offence of a sexual nature for which he is liable to imprisonment for more than 14 years, the offender is liable in respect of maintaining the relationship to imprisonment for life.

(6) It is a defence to a charge of a crime defined by this section to prove that the accused person believed, on reasonable grounds, that the other person was of or above the age of 16 years.

(7) A person may be charged in one indictment with an offence defined by this section and with any other offence of a sexual nature alleged to have been committed by him in the course of the relationship in issue in the first-mentioned offence and he may be convicted of and punished for any or all of the offences so charged.

(8) Where the offender is sentenced to a term of imprisonment for the offence defined by this section and a term of imprisonment for an offence of a sexual nature, an order shall not be made directing that one of those sentences take effect from the expiration of deprivation of liberty for the other offence.

(9) An indictment for an offence against this section shall be signed by the Director of Public Prosecutions.

(10) Section 12 does not apply to the child with whom an act herein proscribed is done.

Maintaining a sexual relationship with a child

229B. (1) Any adult who maintains an unlawful relationship of a sexual nature with a child under the prescribed age is guilty of a crime and is liable to imprisonment for 14 years.

(2) A person shall not be convicted of the offence defined in subsection-(1) unless it is shown that the accused person, as an adult, has, during the period in which it is alleged that he or she maintained the relationship in issue with the child, done an act defined to constitute an offence of a sexual nature in relation to the child, other than an offence defined in section-210(1)(e) or (f), on 3 or more occasions and evidence of the doing of any such act shall be admissible and probative of the maintenance of the relationship notwithstanding that the evidence does not disclose the dates or the exact circumstances of those occasions.

(3) If in the course of the relationship of a sexual nature the offender has committed an offence of a sexual nature for which the offender is liable to imprisonment for 14 years or more, the offender is liable in respect of maintaining the relationship to imprisonment for life.

(4) If—

(a) the offence of a sexual nature mentioned in subsection (2) is alleged to have been committed in respect of a child of or above 12 years; and

(b) the offence is defined under section 208 or 209; [8]

it is a defence to prove that the accused person believed throughout the relationship, on reasonable grounds, that the child was of or above 18 years.

(5) If—

(a) the offence of a sexual nature mentioned in subsection (2) is alleged to have been committed in respect of a child of or above 12 years; and

(b) the offence is one other than one defined under section 208 or 209;

it is a defence to prove that the accused person believed throughout the relationship, on reasonable grounds, that the child was of or above 16 years.

(6) A person may be charged in 1 indictment with an offence defined in this section and with any other offence of a sexual nature alleged to have been committed by him or her in the course of the relationship in issue in the first mentioned offence and he or she may be convicted of and punished for any or all of the offences so charged.

(7) However, where the offender is sentenced to a term of imprisonment for the first mentioned offence and a term of imprisonment for the other offence an order shall not be made directing that 1 of those sentences take effect from the expiration of deprivation of liberty for the other.

(8) A prosecution for an offence defined in this section shall not be commenced without the consent of a Crown Law Officer.

(9) In this section—

"prescribed age" means—

(a) to the extent that the relationship involves an act defined to constitute an offence in section

208 or 209—18 years; or

(b) to the extent that the relationship involves any other act defined to constitute an offence of a sexual nature—16 years.

Maintaining sexual relationship with young person

125A. (1) In this section, "unlawful sexual act" means an act that constitutes an offence under section 124, 126, 127, 127A, 133 or 185.

(2) A person who maintains a sexual relationship with a young person who is under the age of 17 years, and to whom he or she is not married, is guilty of a crime.

Charge:

Maintaining a sexual relationship with a young person under the age of 17 years.

(3) An accused person is guilty of having committed an offence under subsection (2) if, during a particular period when the young person was under the age of 17 years -

- (a) the accused committed an unlawful sexual act in relation to the young person on at least 3 occasions; and
- (b) the young person was not married to the accused.

(4) For the purposes of subsection (3) -

- (a) it is not necessary to prove the dates on which any of the unlawful sexual acts were committed or the exact circumstances in which any of the unlawful sexual acts were committed; and
- (b) the unlawful sexual act that was committed on any one of the occasions need not have been the same as the unlawful sexual act that was committed on each or any of the other occasions.

(5) It is a defence to a charge under subsection (2) to prove that the accused person believed on reasonable grounds that the young person was of or above the age of 17 years.

(6) An indictment charging a person with having committed an offence under subsection (2) -

- (a) is to specify the particular period during which it is alleged that the sexual relationship between the accused and the young person was maintained; and
- (b) is not to contain a separate charge that the accused committed an unlawful sexual sexual act in relation to the young person during that period.

(7) A prosecution for an offence under this section is not to be commenced without the written authority of the Director of Public Prosecutions.

New South Wales Consolidated Acts

CRIMES ACT 1900 - SECT 66EA

66EA Persistent sexual abuse of a child

- (1) A person who, on 3 or more separate occasions occurring on separate days during any period, engages in conduct in relation to a particular child that constitutes a sexual offence is liable to imprisonment for 25 years.
- (2) It is immaterial whether or not the conduct is of the same nature, or constitutes the same offence, on each occasion.
- (3) It is immaterial that the conduct on any of those occasions occurred outside New South Wales, so long as the conduct on at least one of those occasions occurred in New South Wales.
- (4) In proceedings for an offence against this section, it is not necessary to specify or to prove the dates or exact circumstances of the alleged occasions on which the conduct constituting the offence occurred.
- (5) A charge of an offence against this section:
 - (a) must specify with reasonable particularity the period during which the offence against this section occurred, and
 - (b) must describe the nature of the separate offences alleged to have been committed by the accused during that period.
- (6) In order for the accused to be convicted of an offence against this section:
 - (a) the jury must be satisfied beyond reasonable doubt that the evidence establishes at least 3 separate occasions, occurring on separate days during the period concerned, on which the accused engaged in conduct constituting a sexual offence in relation to a particular child of a nature described in the charge, and
 - (b) the jury must be so satisfied about the material facts of the 3 such occasions, although the jury need not be so satisfied about the dates or the order of those occasions, and
 - (c) if more than 3 such occasions are relied on as evidence of the commission of an offence against this section, all the members of the jury must be so satisfied about the same 3 occasions, and
 - (d) the jury must be satisfied that the 3 such occasions relied on as evidence of the commission of an offence against this section occurred after the commencement of this section.
- (7) In proceedings for an offence against this section, the judge must inform the jury of the requirements of subsection (6).
- (8) A person who has been convicted or acquitted of an offence against this section may not be convicted of a sexual offence in relation to the same child that is alleged to have been committed in the period during which the accused

was alleged to have committed an offence against this section. This subsection does not prevent an alternative verdict under subsection (10).

(9) A person who has been convicted or acquitted of a sexual offence may not be convicted of an offence against this section in relation to the same child if any of the occasions relied on as evidence of the commission of the offence against this section includes the occasion of that sexual offence.

(10) If on the trial of a person charged with an offence against this section the jury is not satisfied that the offence is proven but is satisfied that the person has, in respect of any of the occasions relied on as evidence of the commission of the offence against this section, committed a sexual offence, the jury may acquit the person of the offence charged and find the person guilty of that sexual offence. the person is liable to punishment accordingly.

(11) Proceedings for an offence against this section may only be instituted by or with the approval of the Director of Public Prosecutions.

(12) In this section:
child means a person under the age of 18 years.
sexual offence means any of the following:

- (a) an offence under section 61I, 61J, 61K, 61L, 61M, 61N, 61O, 66A, 66B, 66C, 66D, 66E, 73, 74, 78H, 78I, 78K, 78L, 78N, 78O, 78Q or 80A,
- (b) an offence of attempting to commit an offence referred to in paragraph (a), (c) an offence under the law of a place outside New South Wales that would, if it had been committed in New South Wales, be an offence referred to in paragraph (a) or (b).

PART 1

New Cases 1997

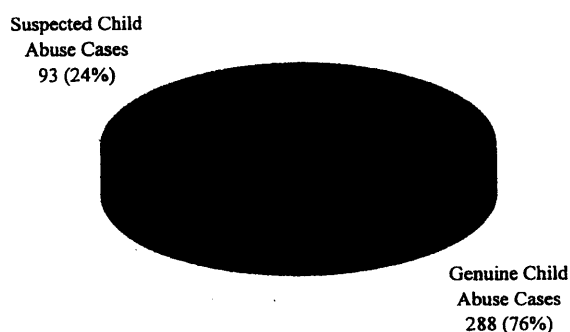
In 1997, there were 381 newly registered child abuse cases. As compared with the 311 newly registered cases in 1996, there was an increase of 22.5% in new child abuse cases.

1.1 General Information

1.1.1 Nature of Case

76% of the registered child abuse cases were genuine child abuse cases.

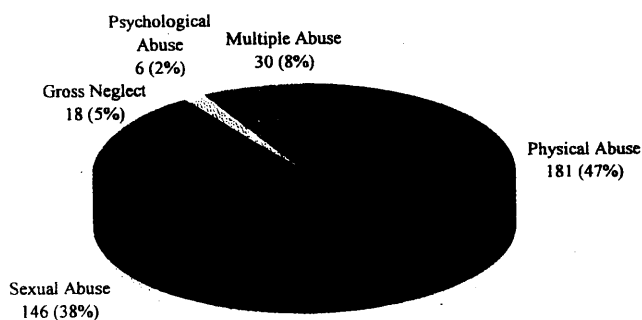
Graph 1 - Distribution of Cases by Nature



1.1.2 Types of Abuse

47% of the registered cases were physical abuse cases and 38% were sexual abuse cases.

Graph 2 - Distribution of Cases by Types of Abuse



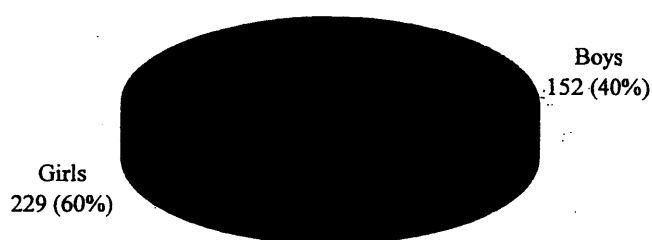
1/2/9

1.2 Child Characteristics

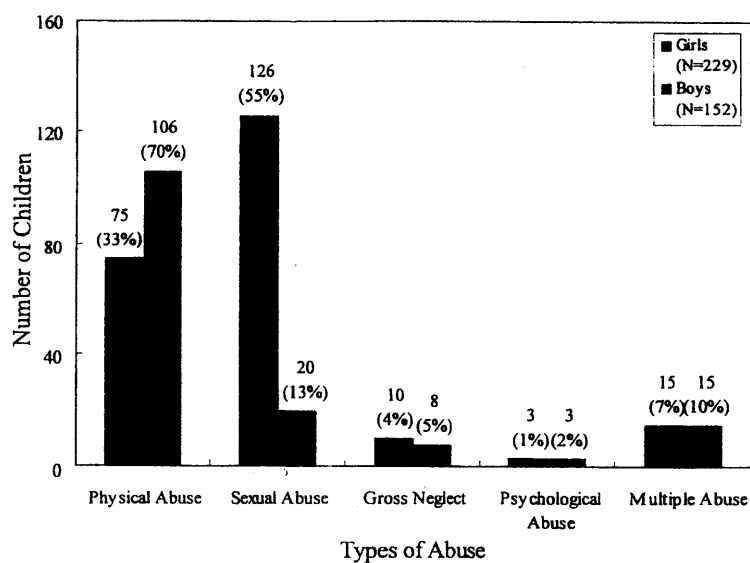
1.2.1 Distribution of Children by Sex

There were more girl victims (60%) than boy victims (40%). A breakdown of the sex of the children by types of abuse indicated that more girls (55%) were involved in sexual abuse cases and more boys (70%) in physical abuse cases.

Graph 4 - Distribution of Children by Sex



Graph 5 - Distribution of Children by Sex and by Types of Abuse



Note: Figures in brackets are percentages of corresponding sex.

1/3/9

1.2.2 Distribution of Children by Age

The highest percentage of child abuse cases (24%) was found among children within the age group of 12 to 14 years. Table 1 shows the distribution of children of different age groups by the types of abuse.

Graph 6 - Distribution of Children by Age

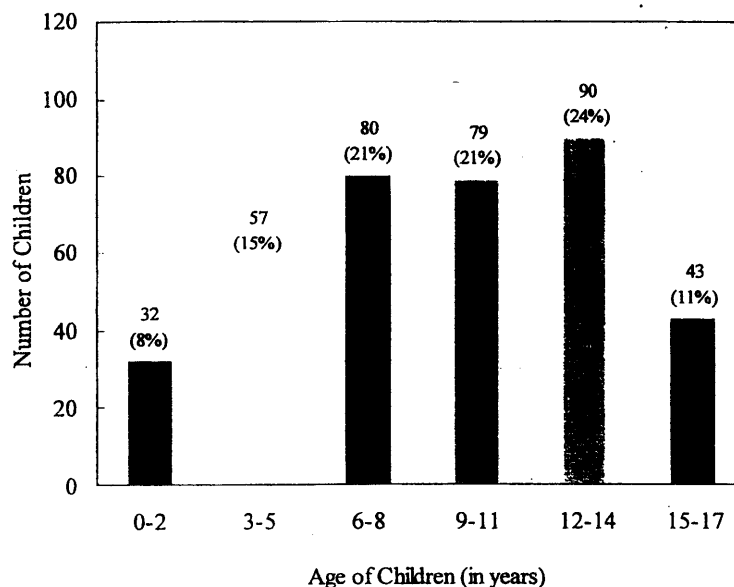


Table 1 - Distribution of Children by Age and by Types of Abuse

| Age | Types of Abuse | | | | | Total |
|---------|----------------|--------|---------------|---------------|----------|-------|
| | Physical | Sexual | Gross Neglect | Psychological | Multiple | |
| 0 - 2 | 19 | 3 | 7 | 1 | 2 | 32 |
| 3 - 5 | 27 | 15 | 5 | 2 | 8 | 57 |
| 6 - 8 | 34 | 24 | 1 | 0 | 9 | 80 |
| 9 - 11 | 37 | 33 | 3 | 2 | 4 | 79 |
| 12 - 14 | 40 | 11 | 2 | 0 | 5 | 90 |
| 15 - 17 | 12 | 28 | 0 | 1 | 2 | 43 |
| Total | 181 | 146 | 18 | 6 | 30 | 381 |

Note: Age groups with the highest number of children for different types of abuse are highlighted.

1.2.3 Distribution of Children by Age by Sex and by Types of Abuse

1419

On Girls

The distribution of girl victims of different age groups by types of abuse, with the highest numbers highlighted, is as follows:

Table 2 - Distribution of Girl Victims by Age and by Types of Abuse

| Age | Types of Abuse | | | | | |
|---------|----------------|--------|---------------|---------------|----------|-------|
| | Physical | Sexual | Gross Neglect | Psychological | Multiple | Total |
| 0 - 2 | 10 | 3 | 3 | 1 | 0 | 17 |
| 3 - 5 | 14 | 14 | 4 | 0 | 3 | 35 |
| 6 - 8 | 16 | 18 | 1 | 0 | 5 | 40 |
| 9 - 11 | 9 | 27 | 2 | 1 | 3 | 42 |
| 12 - 14 | 17 | 38 | 0 | 0 | 2 | 57 |
| 15 - 17 | 9 | 26 | 0 | 1 | 2 | 38 |
| Total | 75 | 126 | 10 | 3 | 15 | 229 |

On Boys

The distribution of boy victims of different age groups by types of abuse, with the highest numbers highlighted, is as follows:

Table 3 - Distribution of Boy Victims by Age and by Types of Abuse

| Age | Types of Abuse | | | | | |
|---------|----------------|--------|---------------|---------------|----------|-------|
| | Physical | Sexual | Gross Neglect | Psychological | Multiple | Total |
| 0 - 2 | 9 | 0 | 4 | 0 | 2 | 15 |
| 3 - 5 | 13 | 1 | 1 | 2 | 2 | 22 |
| 6 - 8 | 11 | 6 | 0 | 0 | 4 | 21 |
| 9 - 11 | 28 | 26 | 1 | 1 | 1 | 37 |
| 12 - 14 | 23 | 5 | 2 | 0 | 3 | 33 |
| 15 - 17 | 3 | 2 | 0 | 0 | 0 | 5 |
| Total | 106 | 20 | 8 | 3 | 15 | 152 |

1/5/9

PART 2

Active Cases 1997

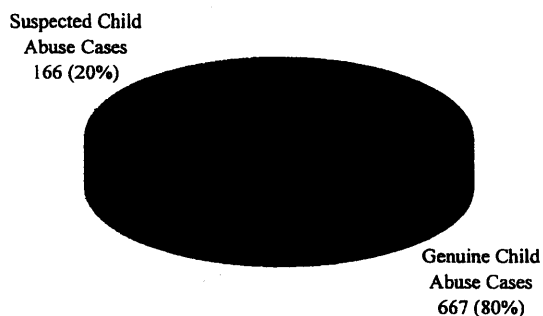
As at end of December 1997, the Child Protection Registry recorded a total of 833 child abuse cases which were actively handled by the Social Welfare Department and non-governmental organizations. As compared with the total of 690 active child abuse cases as at end of December 1996, there was an increase of 21% in active child abuse cases.

2.1 General Information

2.1.1 Nature of Case

80% of the active child abuse cases were genuine child abuse cases.

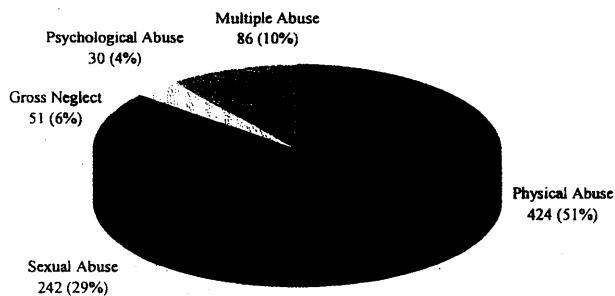
Graph 14 - Distribution of Cases by Nature



2.1.2 Types of Abuse

51% of the active child abuse cases were physical abuse cases and 29% were sexual abuse cases.

Graph 15 - Distribution of Cases by Types of Abuse

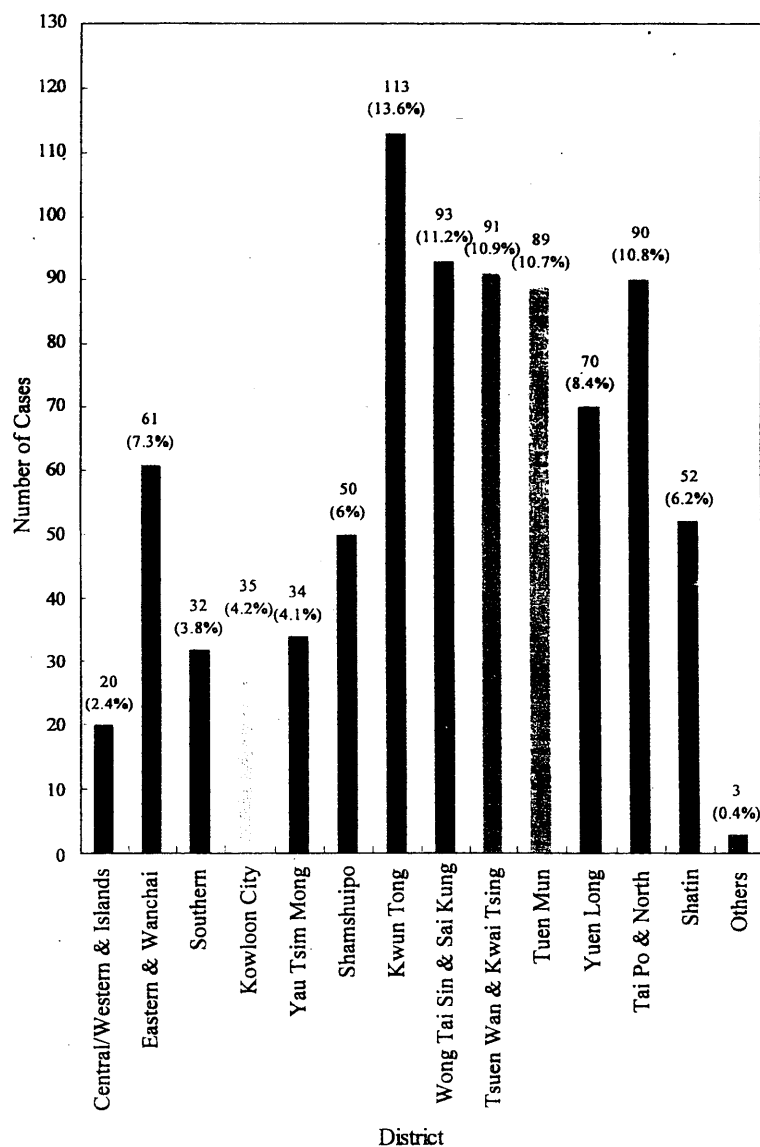


1/6/9

2.1.3 District Distribution

The three districts with the highest percentage of active child abuse cases were Kwun Tong District (13.6%), Wong Tai Sin & Sai Kung District (11.2%) and Tsuen Wan & Kwai Tsing District (10.9%).

Graph 16 - Distribution of Cases by District



Note: The others refer to cases in which the abuse incidents were taken place outside Hong Kong.

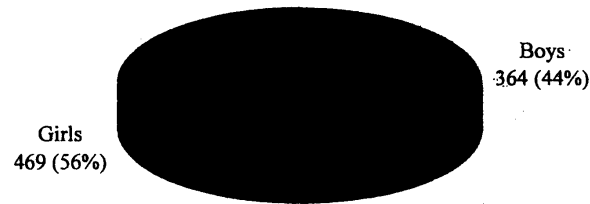
1/7/4

2.2 Child Characteristics

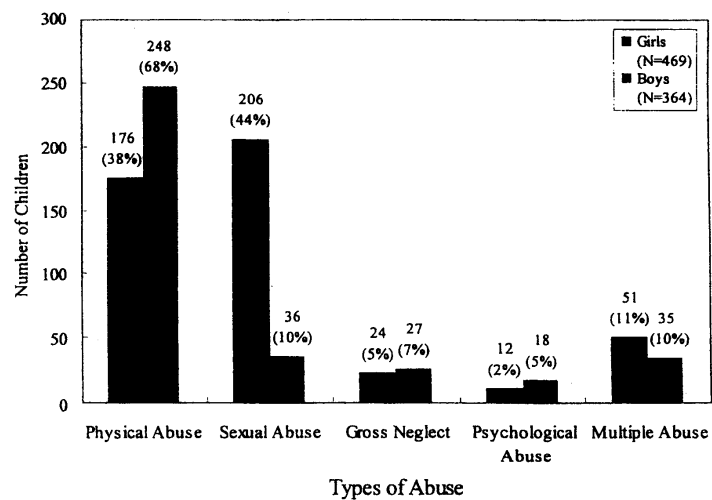
2.2.1 Distribution of Children by Sex

There were more girl victims (56%) than boy victims (44%) among the active child abuse cases. A breakdown of the sex of the children by types of abuse indicated that 44% of the girl victims were involved in sexual abuse cases and 68% of the boy victims in physical abuse cases.

Graph 17 - Distribution of Children by Sex



Graph 18 - Distribution of Children by Sex and by Types of Abuse



Note: Figures in brackets are percentages of corresponding sex.

1/8/9

2.2.2 Distribution of Children by Age

The highest percentage of child abuse cases (25%) was found among children within the age group of 12 to 14 years. Table 8 shows the distribution of children of different age groups by types of abuse.

Graph 19 - Distribution of Children by Age

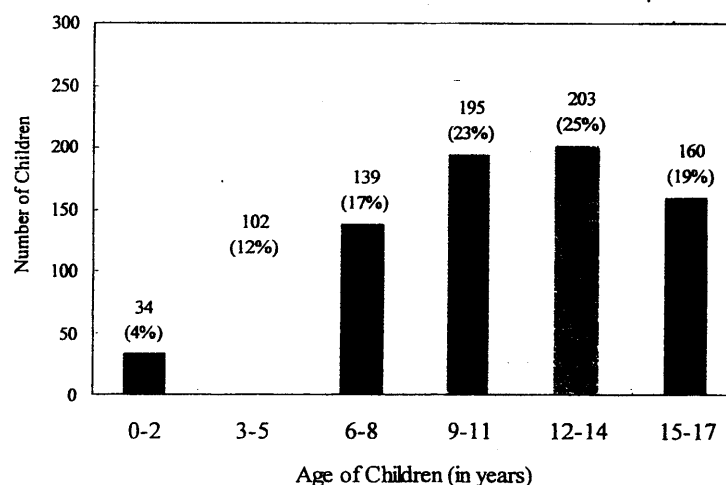


Table 8 - Distribution of Age of Children by Types of Abuse

| Age | Types of Abuse | | | | | Total |
|---------|----------------|--------|---------------|---------------|----------|-------|
| | Physical | Sexual | Gross Neglect | Psychological | Multiple | |
| 0 - 2 | 24 | 2 | 6 | 0 | 2 | 34 |
| 3 - 5 | 47 | 27 | 13 | 1 | 14 | 102 |
| 6 - 8 | 76 | 34 | 11 | 5 | 13 | 139 |
| 9 - 11 | 114 | 45 | 9 | 5 | 21 | 195 |
| 12 - 14 | 105 | 59 | 9 | 9 | 21 | 213 |
| 15 - 17 | 58 | 75 | 3 | 11 | 14 | 160 |
| Total | 424 | 242 | 51 | 30 | 86 | 833 |

Note: Age groups with the highest number of children for different types of abuse are highlighted.

1/9/

2.2.3 Distribution of Children by Age by Sex and by Types of Abuse

On Girls

The distribution of girl victims of different age groups by types of abuse, with the highest numbers highlighted, is as follows:

Table 9 - Distribution of Age of Girl Victims by Types of Abuse

| | Types of Abuse | | | | | |
|---------|----------------|--------|---------------|---------------|----------|-------|
| | Physical | Sexual | Gross Neglect | Psychological | Multiple | Total |
| 0 - 2 | 12 | 2 | 3 | 0 | 0 | 17 |
| 3 - 5 | 25 | 26 | | 0 | 10 | 69 |
| 6 - 8 | 31 | 28 | 5 | 2 | 6 | 72 |
| 9 - 11 | 35 | 30 | 5 | 1 | | 83 |
| 12 - 14 | 36 | 49 | 2 | 2 | | 101 |
| 15 - 17 | 37 | 71 | 1 | 7 | 11 | 177 |
| Total | 176 | 206 | 24 | 12 | 51 | 469 |

On Boys

The distribution of boy victims of different age groups by types of abuse, with the highest numbers highlighted, is as follows:

Table 10 - Distribution of Age of Boy Victims by Types of Abuse

| Age | Types of Abuse | | | | | |
|---------|----------------|--------|---------------|---------------|----------|-------|
| | Physical | Sexual | Gross Neglect | Psychological | Multiple | Total |
| 0 - 2 | 12 | 0 | 3 | 0 | 2 | 17 |
| 3 - 5 | 22 | 1 | 5 | 1 | 4 | 33 |
| 6 - 8 | 45 | 6 | 6 | 3 | 7 | 67 |
| 9 - 11 | | | 4 | 4 | | 12 |
| 12 - 14 | 69 | 10 | | | 9 | 102 |
| 15 - 17 | 21 | 4 | 2 | 3 | 3 | 33 |
| Total | 248 | 36 | 27 | 18 | 35 | 364 |

2/1/8

Part 1

New Cases 1998

In 1998, there were 409 newly registered child abuse cases. As compared with the 381 newly registered cases in 1997, there was an increase of 7%.

1.1 General Information

1.1.1 Nature of Case

72% of the newly registered child abuse cases were genuine child abuse cases.

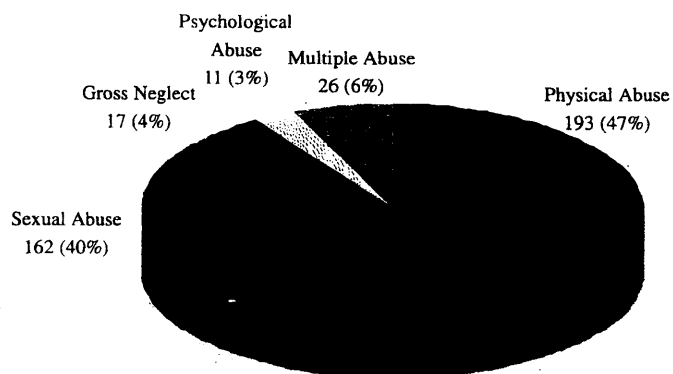
Graph 1 - Distribution of Cases by Nature



1.1.2 Type of Abuse

47% of the newly registered child abuse cases were physical abuse cases and 40% were sexual abuse cases.

Graph 2 - Distribution of Cases by Type of Abuse



1.2 Child Characteristics

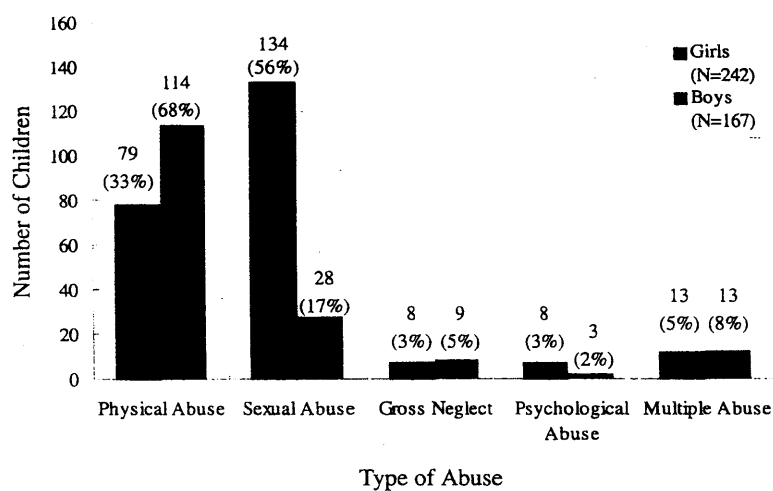
1.2.1 Distribution of Children by Sex

There were more girl victims (59%) than boy victims (41%) among the newly registered child abuse cases. A breakdown of the sex of the children by type of abuse indicated that 56% of the girl victims were involved in sexual abuse cases and 68% of boy victims in physical abuse cases.

Graph 4 – Distribution of Children by Sex



Graph 5 – Distribution of Children by Sex and by Type of Abuse



Note: Figures in brackets are percentages of corresponding sex.

1.2.2 Distribution of Children by Age

The highest percentage of the newly registered child abuse cases (23%) was found among children within the age group 9 to 11 years. Table 2 shows the distribution of children of different age groups by the type of abuse and categories with the highest numbers are highlighted.

Graph 6 – Distribution of Children by Age

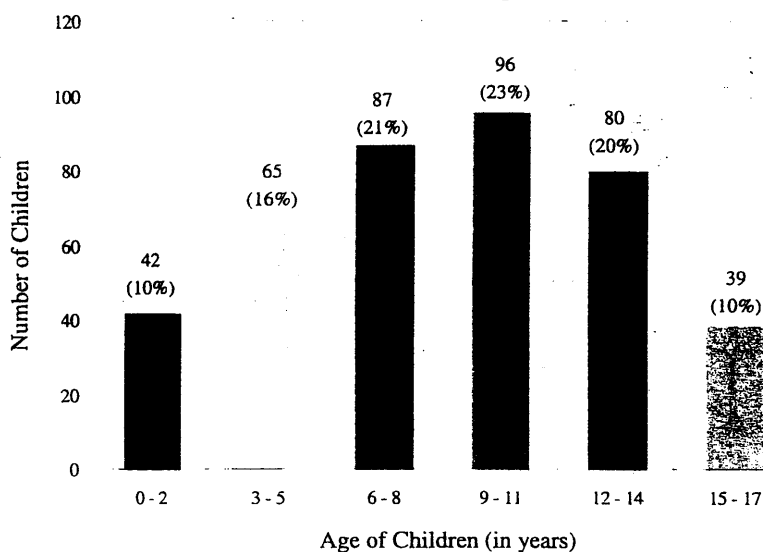


Table 2 – Distribution of Children by Age and by Type of Abuse

| Age | Type of Abuse | | | | | Total |
|---------|---------------|--------|---------------|---------------|----------|-------|
| | Physical | Sexual | Gross Neglect | Psychological | Multiple | |
| 0 – 2 | 29 | 3 | | 1 | 5 | 42 |
| 3 – 5 | 25 | 31 | 3 | 3 | 3 | 65 |
| 6 – 8 | | 19 | 3 | | 5 | 87 |
| 9 – 11 | 51 | 35 | | 1 | 5 | |
| 12 – 14 | 24 | | 2 | 2 | | 80 |
| 15 – 17 | 8 | 29 | 1 | 0 | 1 | 39 |
| Total | 193 | 162 | 17 | 11 | 26 | 409 |

2/4/

1.2.3 Distribution of Children by Age by Sex and by Type of Abuse

On Girls

The distribution of girl victims of different age groups by type of abuse, with the highest numbers highlighted, is as follows:

Table 3 – Distribution of Girl Victims by Age and by Type of Abuse

| Age | Type of Abuse | | | | | Total |
|---------|---------------|--------|---------------|---------------|----------|-------|
| | Physical | Sexual | Gross Neglect | Psychological | Multiple | |
| 0 – 2 | 15 | 2 | | 1 | 3 | 24 |
| 3 – 5 | 10 | 27 | 1 | 2 | 0 | 40 |
| 6 – 8 | | 13 | 1 | 2 | 3 | 39 |
| 9 – 11 | | 28 | 2 | 1 | 3 | 54 |
| 12 – 14 | 10 | | 1 | 2 | 3 | 53 |
| 15 – 17 | 4 | 27 | 0 | 0 | 1 | 32 |
| Total | 79 | 134 | 8 | 8 | 13 | 242 |

On Boys

The distribution of boy victims of different age groups by type of abuse, with the highest numbers highlighted, is as follows:

Table 4 – Distribution of Boy Victims by Age and by Type of Abuse

| Age | Type of Abuse | | | | | Total |
|---------|---------------|--------|---------------|---------------|----------|-------|
| | Physical | Sexual | Gross Neglect | Psychological | Multiple | |
| 0 – 2 | 14 | 1 | 1 | 0 | 2 | 18 |
| 3 – 5 | 15 | 4 | 2 | 1 | 3 | 25 |
| 6 – 8 | 36 | 6 | 2 | 2 | 2 | 48 |
| 9 – 11 | 31 | 7 | 2 | 0 | 2 | 42 |
| 12 – 14 | 14 | 8 | 1 | 0 | 4 | 27 |
| 15 – 17 | 4 | 2 | 1 | 0 | 0 | 7 |
| Total | 114 | 28 | 9 | 3 | 13 | 167 |

2/5/8

Part 2

Active Cases 1998

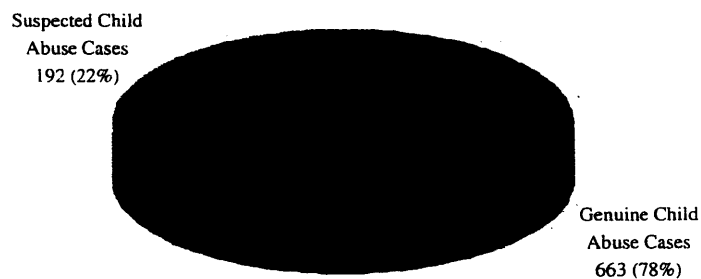
As at end of December 1998, the Child Protection Registry recorded a total of 855 child abuse cases which were actively handled by the Social Welfare Department and non-governmental organizations. As compared with the total of 833 active cases as at end of December 1997, there was an increase of 3%.

2.1 General Information

2.1.1 Nature of Case

78% of the active child abuse cases were genuine child abuse cases.

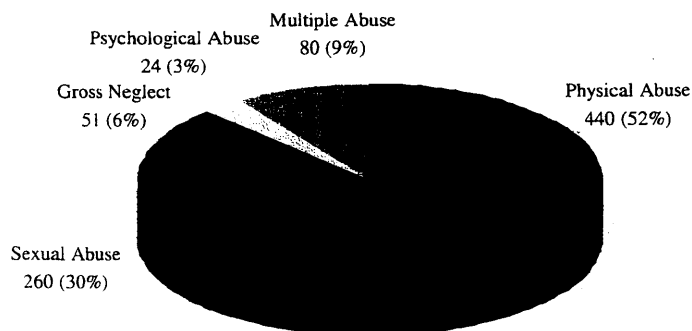
Graph 14 – Distribution of Cases by Nature



2.1.2 Type of Abuse

52% of the active child abuse cases were physical abuse cases and 30% were sexual abuse cases.

Graph 15 – Distribution of Cases by Type of Abuse

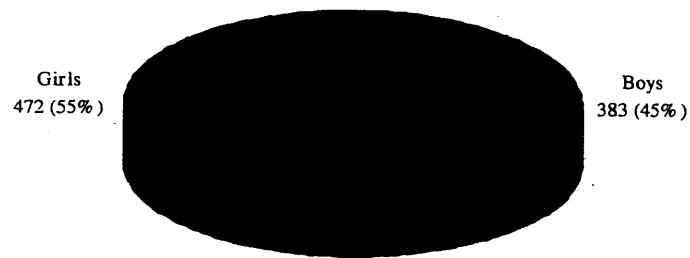


2.2 Child Characteristics

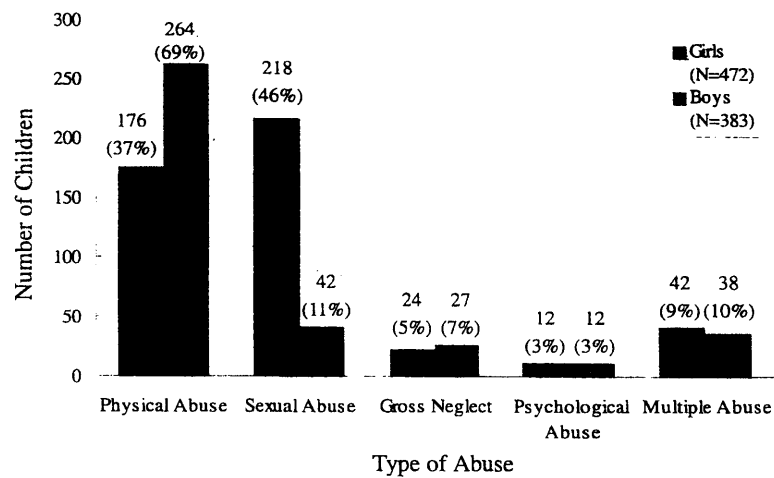
2.2.1 Distribution of Children by Sex

There were more girl victims (55%) than boy victims (45%) among the active child abuse cases. A breakdown of the sex of the children by type of abuse indicated that 46% of girl victims were involved in sexual abuse cases and 69% of the boy victims in physical abuse cases.

Graph 17 – Distribution of Children by Sex



Graph 18 – Distribution of Children by Sex and by Type of Abuse



Note: Figures in brackets are percentages of corresponding sex.

2.2.2 Distribution of Children by Age

The highest percentage of the active child abuse cases (24%) was found among children within the age groups 9 to 11 and 12 to 14 years. Table 10 shows the distribution of children of different age groups by the type of abuse and categories with the highest numbers are highlighted.

Graph 19 – Distribution of Children by Age

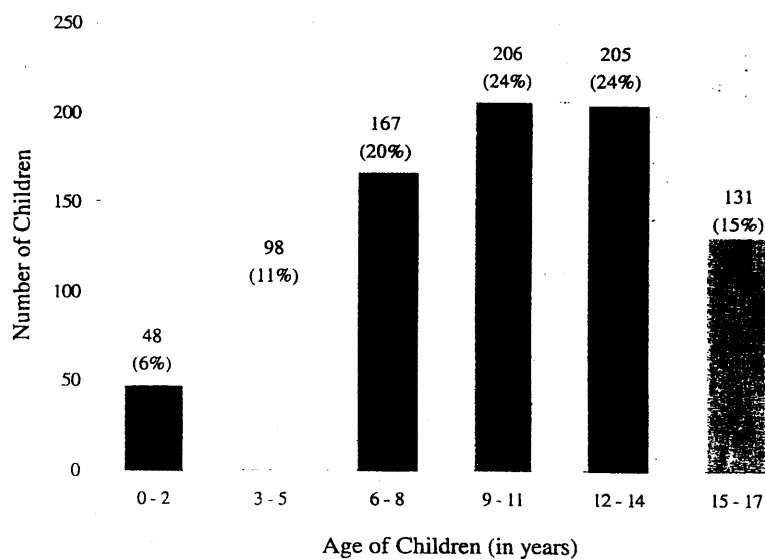


Table 10 – Distribution of Children by Age and by Type of Abuse

| Age | Type of Abuse | | | | | Total |
|---------|---------------|--------|---------------|---------------|----------|-------|
| | Physical | Sexual | Gross Neglect | Psychological | Multiple | |
| 0 – 2 | 32 | 2 | 8 | 1 | 5 | 48 |
| 3 – 5 | 47 | 39 | 7 | 3 | 2 | 98 |
| 6 – 8 | 96 | 30 | | 5 | 21 | 167 |
| 9 – 11 | | 58 | 10 | 5 | 16 | |
| 12 – 14 | 98 | | 8 | | | 205 |
| 15 – 17 | 50 | 64 | 3 | 4 | 10 | 131 |
| Total | 440 | 260 | 51 | 24 | 80 | 855 |

2/8/18

2.2.3 Distribution of Children by Age by Sex and by Type of Abuse

On Girls

The distribution of girl victims of different age groups by type of abuse, with the highest numbers highlighted, is as follows:

Table 11 – Distribution of Girl Victims by Age and by Type of Abuse

| Age | Type of Abuse | | | | | Total |
|---------|---------------|--------|---------------|---------------|----------|-------|
| | Physical | Sexual | Gross Neglect | Psychological | Multiple | |
| 0 – 2 | 19 | 2 | 5 | 1 | 3 | 30 |
| 3 – 5 | 19 | 35 | 2 | 2 | 1 | 59 |
| 6 – 8 | 34 | 22 | | 2 | 10 | 76 |
| 9 – 11 | | 43 | 7 | 2 | 10 | |
| 12 – 14 | 27 | 57 | 2 | 2 | | 100 |
| 15 – 17 | 32 | | 0 | | 6 | 100 |
| Total | 176 | 218 | 24 | 12 | 42 | 472 |

On Boys

The distribution of boy victims of different age groups by type of abuse, with the highest numbers highlighted, is as follows:

Table 12 – Distribution of Boy Victims by Age and by Type of Abuse

| Age | Type of Abuse | | | | | Total |
|---------|---------------|--------|---------------|---------------|----------|-------|
| | Physical | Sexual | Gross Neglect | Psychological | Multiple | |
| 0 – 2 | 13 | 0 | 3 | 0 | 2 | 18 |
| 3 – 5 | 28 | 4 | 5 | 1 | 1 | 39 |
| 6 – 8 | 62 | 8 | | 3 | 11 | 91 |
| 9 – 11 | | | 3 | 3 | 6 | 99 |
| 12 – 14 | 71 | 10 | 6 | | | |
| 15 – 17 | 18 | 5 | 3 | 1 | 4 | 31 |
| Total | 264 | 42 | 27 | 12 | 38 | 383 |

3/1/8

Part 1
New Cases 1999

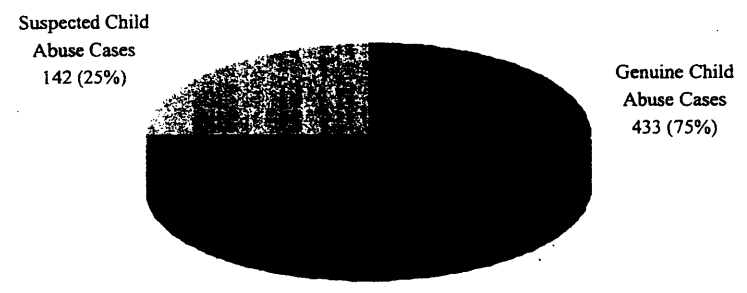
In 1999, there were 575 newly registered child abuse cases. As compared with the 409 newly registered cases in 1998, there was an increase of 41%.

1.1 General Information

1.1.1 Nature of Case

75% of the newly registered child abuse cases were genuine child abuse cases.

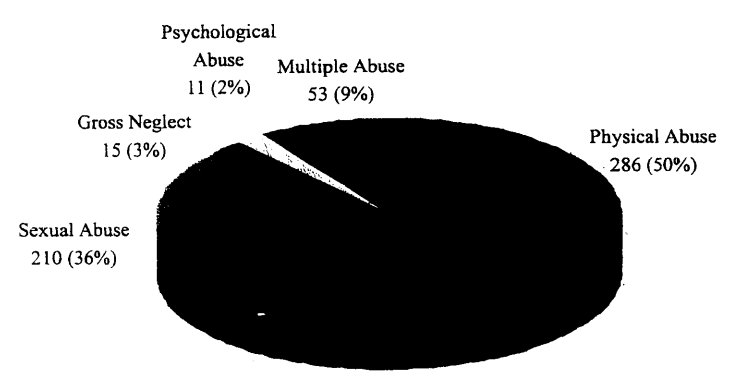
Graph 1 - Distribution of Cases by Nature



1.1.2 Type of Abuse

50% of the newly registered child abuse cases were physical abuse cases and 36% were sexual abuse cases.

Graph 2 - Distribution of Cases by Type of Abuse



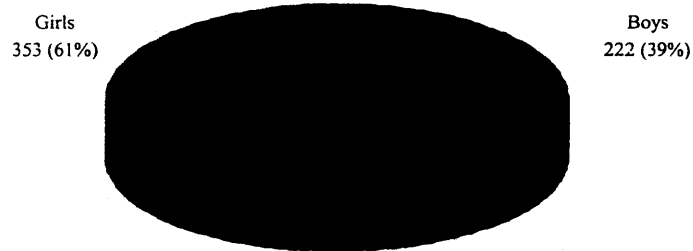
3/2/8

1.2 Child Characteristics

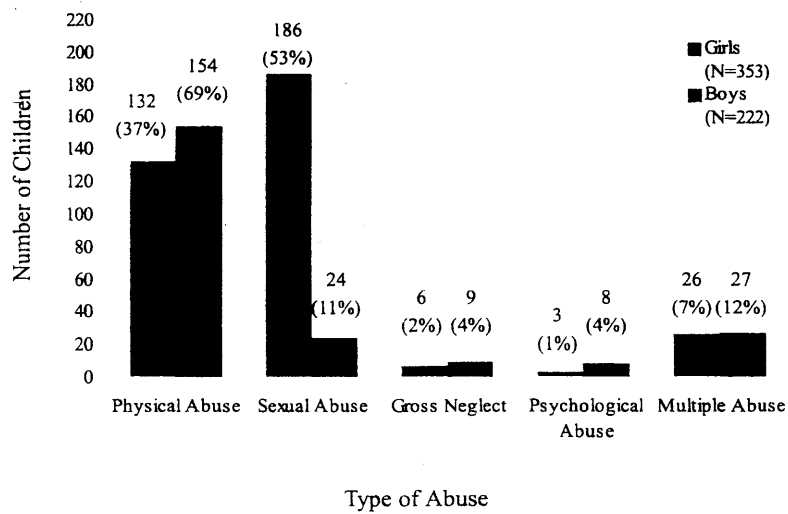
1.2.1 Distribution of Children by Sex

There were more girl victims (61%) than boy victims (39%) among the newly registered child abuse cases. A breakdown of the sex of the children by type of abuse indicated that 53% of the girl victims were involved in sexual abuse cases and 69% of boy victims in physical abuse cases:

Graph 4 – Distribution of Children by Sex



Graph 5 – Distribution of Children by Sex and by Type of Abuse



Note: Figures in brackets are percentages of corresponding sex.

1.2.2 Distribution of Children by Age

3/3/8

The highest percentage of the newly registered child abuse cases (22%) was found among children within the age group 9 to 11 years. Table 2 shows the distribution of children of different age groups by the type of abuse and categories with the highest numbers are highlighted.

Graph 6 – Distribution of Children by Age

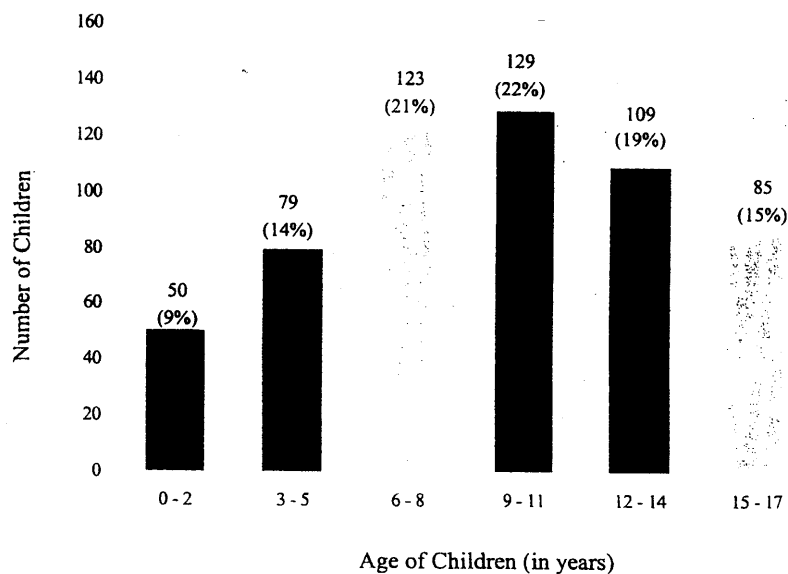


Table 2 – Distribution of Children by Age and by Type of Abuse

| Age | Type of Abuse | | | | | Total |
|---------|---------------|--------|---------------|---------------|----------|-------|
| | Physical | Sexual | Gross Neglect | Psychological | Multiple | |
| 0 - 2 | 35 | 3 | 5 | 0 | 7 | 50 |
| 3 - 5 | 46 | 21 | 2 | 2 | 8 | 79 |
| 6 - 8 | 68 | 38 | 4 | 1 | 12 | 123 |
| 9 - 11 | 66 | 45 | 3 | 2 | 13 | 129 |
| 12 - 14 | 51 | 43 | 1 | 4 | 10 | 109 |
| 15 - 17 | 20 | 60 | 0 | 2 | 3 | 85 |
| Total | 286 | 210 | 15 | 11 | 53 | 575 |

1.2.3 Distribution of Children by Age by Sex and by Type of Abuse

3/4/8

On Girls

The distribution of girl victims of different age groups by type of abuse, with the highest numbers highlighted, is as follows:

Table 3 – Distribution of Girl Victims by Age and by Type of Abuse

| Age | Type of Abuse | | | | | Total |
|---------|---------------|--------|---------------|---------------|----------|-------|
| | Physical | Sexual | Gross Neglect | Psychological | Multiple | |
| 0 – 2 | 16 | 3 | 3 | 0 | 5 | 27 |
| 3 – 5 | 25 | 17 | 1 | 0 | 2 | 45 |
| 6 – 8 | 29 | 34 | 1 | 0 | 4 | 68 |
| 9 – 11 | 24 | 36 | 1 | 1 | 6 | 68 |
| 12 – 14 | 23 | 39 | 0 | 2 | 7 | 71 |
| 15 – 17 | 15 | 57 | 0 | 0 | 2 | 74 |
| Total | 132 | 186 | 6 | 3 | 26 | 353 |

On Boys

The distribution of boy victims of different age groups by type of abuse, with the highest numbers highlighted, is as follows:

Table 4 – Distribution of Boy Victims by Age and by Type of Abuse

| Age | Type of Abuse | | | | | Total |
|---------|---------------|--------|---------------|---------------|----------|-------|
| | Physical | Sexual | Gross Neglect | Psychological | Multiple | |
| 0 – 2 | 19 | 0 | 2 | 0 | 2 | 23 |
| 3 – 5 | 21 | 4 | 1 | 2 | 6 | 34 |
| 6 – 8 | 39 | 4 | 3 | 1 | 8 | 55 |
| 9 – 11 | 42 | 9 | 2 | 1 | 7 | 61 |
| 12 – 14 | 28 | 4 | 1 | 2 | 3 | 38 |
| 15 – 17 | 5 | 3 | 0 | 2 | 1 | 11 |
| Total | 154 | 24 | 9 | 8 | 27 | 222 |

3/5/8

Part 2

Active Cases 1999

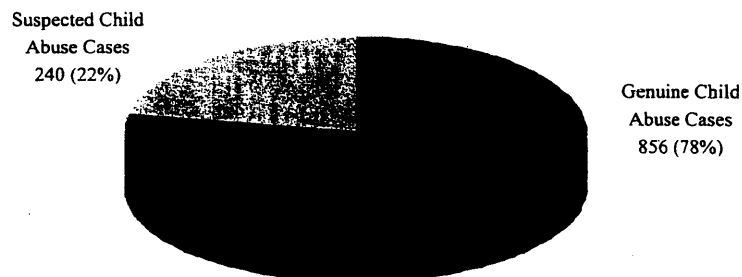
As at end of December 1999, the Child Protection Registry recorded a total of 1 096 child abuse cases which were actively handled by the Social Welfare Department and non-governmental organizations. As compared with the total of 855 active cases as at end of December 1998, there was an increase of 28%.

2.1 General Information

2.1.1 Nature of Case

78% of the active child abuse cases were genuine child abuse cases.

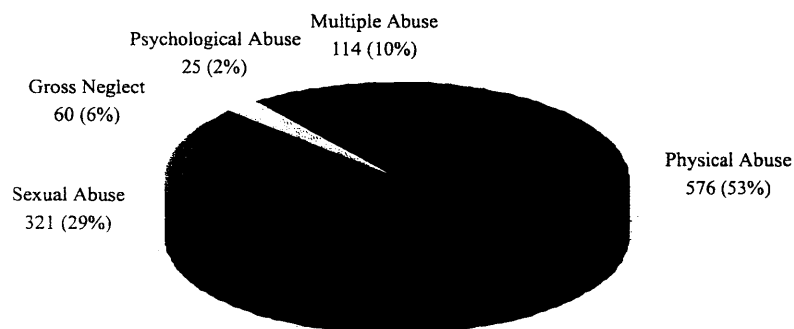
Graph 14 – Distribution of Cases by Nature



2.1.2 Type of Abuse

53% of the active child abuse cases were physical abuse cases and 29% were sexual abuse cases.

Graph 15 – Distribution of Cases by Type of Abuse



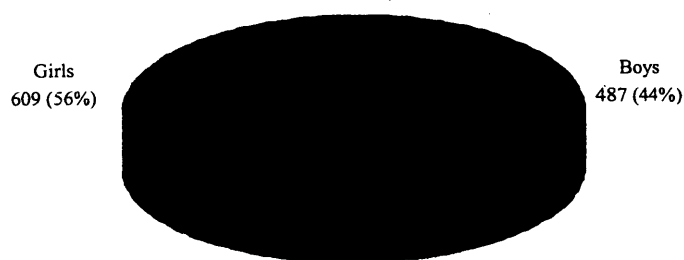
3/6/8

2.2 Child Characteristics

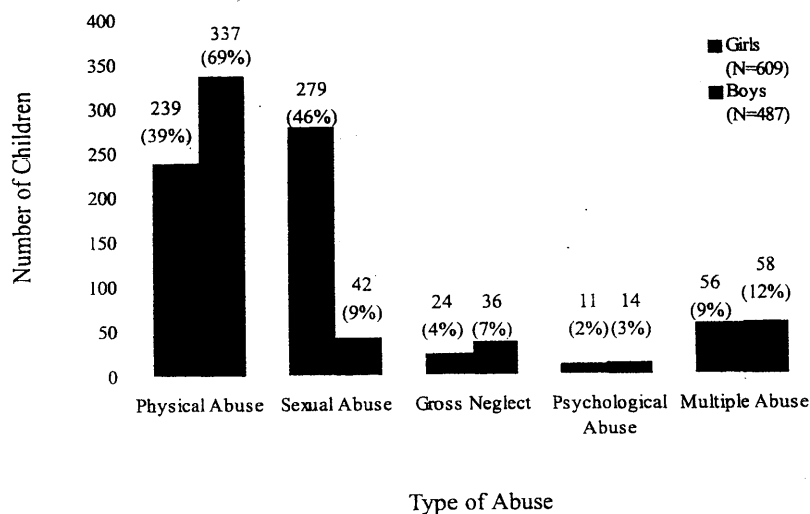
2.2.1 Distribution of Children by Sex

There were more girl victims (56%) than boy victims (44%) among the active child abuse cases. A breakdown of the sex of the children by type of abuse indicated that 46% of girl victims were involved in sexual abuse cases and 69% of the boy victims in physical abuse cases.

Graph 17 – Distribution of Children by Sex



Graph 18 – Distribution of Children by Sex and by Type of Abuse



Note: Figures in brackets are percentages of corresponding sex.

3/7/8

2.2.2 Distribution of Children by Age

The highest percentage of the active child abuse cases (24%) was found among children within the age groups, 9 to 11 years. Table 10 shows the distribution of children of different age groups by the type of abuse and categories with the highest numbers are highlighted.

Graph 19 – Distribution of Children by Age

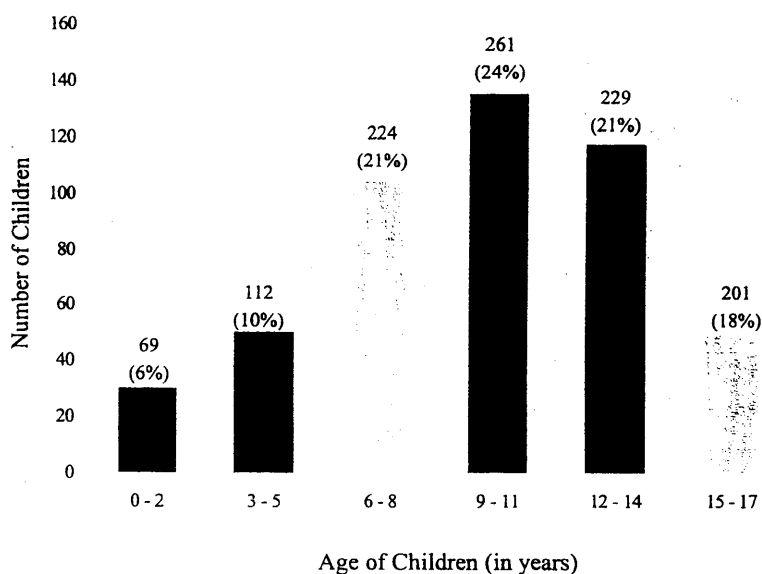


Table 10 – Distribution of Children by Age and by Type of Abuse

| Age | Type of Abuse | | | | | Total |
|---------|---------------|--------|---------------|---------------|----------|-------|
| | Physical | Sexual | Gross Neglect | Psychological | Multiple | |
| 0 – 2 | 50 | 3 | 8 | 0 | 8 | 69 |
| 3 – 5 | 60 | 25 | 10 | 5 | 12 | 112 |
| 6 – 8 | 128 | 59 | 11 | 2 | 24 | 224 |
| 9 – 11 | 150 | 64 | 15 | 7 | 25 | 261 |
| 12 – 14 | 122 | 74 | 8 | 3 | 22 | 229 |
| 15 – 17 | 66 | 96 | 8 | 3 | 23 | 201 |
| Total | 576 | 321 | 60 | 25 | 114 | 1 096 |

2.2.3 Distribution of Children by Age by Sex and by Type of Abuse

3/8/8

On Girls

The distribution of girl victims of different age groups by type of abuse, with the highest numbers highlighted, is as follows:

Table 11 – Distribution of Girl Victims by Age and by Type of Abuse

| Age | Type of Abuse | | | | | Total |
|---------|---------------|-----------|---------------|---------------|-----------|------------|
| | Physical | Sexual | Gross Neglect | Psychological | Multiple | |
| 0 – 2 | 26 | 3 | 5 | 0 | 5 | 39 |
| 3 – 5 | 28 | 24 | 3 | 2 | 5 | 62 |
| 6 – 8 | 54 | 52 | 4 | 1 | 8 | 119 |
| 9 – 11 | 56 | 46 | 7 | 3 | 14 | 126 |
| 12 – 14 | 34 | 62 | 4 | 1 | 11 | 112 |
| 15 – 17 | 41 | 92 | 1 | 4 | 13 | 151 |
| Total | 239 | 279 | 24 | 11 | 56 | 609 |

On Boys

The distribution of boy victims of different age groups by type of abuse, with the highest numbers highlighted, is as follows:

Table 12 – Distribution of Boy Victims by Age and by Type of Abuse

| Age | Type of Abuse | | | | | Total |
|---------|---------------|-----------|---------------|---------------|-----------|------------|
| | Physical | Sexual | Gross Neglect | Psychological | Multiple | |
| 0 – 2 | 24 | 0 | 3 | 0 | 3 | 30 |
| 3 – 5 | 32 | 1 | 7 | 3 | 7 | 50 |
| 6 – 8 | 74 | 7 | 7 | 1 | 16 | 105 |
| 9 – 11 | 94 | 18 | 8 | 4 | 11 | 135 |
| 12 – 14 | 88 | 12 | 4 | 2 | 11 | 117 |
| 15 – 17 | 25 | 4 | 7 | 4 | 10 | 50 |
| Total | 337 | 42 | 36 | 14 | 58 | 487 |