

Legislative Council Panel on Administration of Justice and Legal Services

Meeting on 20 February 2001

Paper on the proposed creation of the offence
of “Persistent sexual abuse of a child”

The Problem

The sexual abuse of a child may only be disclosed a long time after it occurs, and victims may not be able to recall precisely details such as the number of times they have been abused, the dates or other surrounding circumstances of each occasion of abuse and the acts performed on each occasion. This is especially so where numerous acts of abuse have occurred over a long period of time. Victims may be very young and unable to describe with sufficient particularity the acts done to them so as to satisfy the rules of evidence for proving a case.

2. The success or otherwise of a prosecution is affected by the Indictment Rules, which provide that a single count in an indictment should only charge the accused with one offence. The prosecution cannot allege two incidents of sexual abuse in one count on an indictment. The Rules also require that each count should contain a statement of the specific offence with which the accused is charged, together with such particulars as may be necessary to give reasonable information as to the nature of the offence.

3. The court will usually not convict or allow a conviction to stand if the facts alleged, or the evidence led, disclose a “latent ambiguity” in the indictment. An instance of “latent ambiguity” will arise when the prosecution leads evidence of the commission of more than one offence in proof of the one offence charged.

Existing practice

4. The problem has been dealt with by adopting one of the following

methods –

- (1) prefer one charge for each alleged act of abuse. This may result in numerous charges being laid. The prosecution may be criticised by the court for “overloading” the indictment;
- (2) prefer two charges to cover the first and last occasion of the abuse regardless of the number of times the abuse is alleged to have been committed. In this case, the prosecution cannot call evidence to prove that the alleged abuse has been repeated over a period of time. This is unsatisfactory in that the indictment and charges laid do not fully reflect the criminality and gravity of the offences concerned. Upon conviction, the court may only sentence the defendant on the basis of the two counts preferred. This is both unfair to the victim and contrary to the public interest.

Proposal for the creation of the offence of “persistent sexual abuse of a child”

5. The proposed offence is a response to the ruling in Chim Hon-man v HKSAR [1999] 1 HKC 428 (copy of headnote at Annex A). In Chim, there was evidence that, when the complainant was 9 years old and at home during summer vacation, she was raped by her stepfather on a number of occasions. The complainant was unable to differentiate significantly between any of the particular acts of sexual molestation or to identify which ones amounted to rape, save that there were about 10 occasions on which the accused sexually molested her. Since the complainant was unable to say with certainty how many times she was raped or the dates on which she was raped, the laying of a separate count for each distinct act of rape was impossible. The prosecution framed two specimen charges of rape against the accused. Each count charged one act of rape on a date unknown during a specified period. However, the prosecution led evidence of the various acts of molestation including evidence that penetration took place except on the first few occasions.

6. The Court of Final Appeal quashed the convictions against the defendant. In so doing, it applied the Australian case S v The Queen (1989) 168 CLR 266 (copy of headnote at Annex B), which held that in the absence of any act or acts being identified as the subject of an offence charged in an indictment, the prosecution cannot lead evidence that is equally capable of referring to a number of occasions, any one of which might constitute an offence as described in the charge and then invite the jury to convict on any one of them.

7. Following Chim, it is no longer possible to rely on sample charges in multiple offences where the offences are alleged to have occurred over a lengthy period (which might be several years before the prosecution) and where the complainant is unable to identify specific allegations with particularity. The problem is compounded where the victim is a child.

The Proposal

8. It is proposed that the Crimes Ordinance (Cap. 200) be amended to create a new offence of “persistent sexual abuse of a child”. This follows the precedent of the Crimes Legislation Amendment (Child Sexual Offences) Act 1998 No. 131 of New South Wales. Most other Australian states, namely, Victoria, Tasmania, Queensland and the Australian Capital Territory, have also enacted such legislation. Copies of the relevant provisions are attached at Annex C.

9. The essence of the Australian model is that in order to secure a conviction of the offence, the prosecution is required to prove that the defendant committed an unlawful sexual act more than three times (in some states, twice) within a specified time period, and 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 them were committed. Further, 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 any of the other occasions.

Practice in other jurisdictions

10. Although enquiries have been made, the Administration has been unable to obtain any useful comment on how the provisions have worked in the respective Australian states. The creation of a similar offence is being considered in England and South Africa. The bodies responsible for law reform in both jurisdictions are conducting consultations on the view that the sexual abuse of children is prevalent and should be dealt with directly. The Administration has been informed that consultation in England on the law on sexual offences (including a recommendation that an offence of “persistent sexual abuse of a child” be created on the Australian model) is continuing. The Administration is awaiting a response from South Africa.

Arguments against the proposed offence

11. The following are arguments against the proposal –
- (1) The proposed offence would be inconsistent with the established principle that the prosecution cannot lead evidence that is not fully particularised in respect of a single unlawful sexual act.
 - (2) It is important that an accused knows the foundation of a charge when he puts forward a defence. An accused may be subjected to unfairness and embarrassment if called upon to meet a charge of one offence based upon evidence of the commission of multiple offences.
 - (3) The accused would be denied the opportunity to test the credit of the complainant by reference to any precise time or surrounding circumstances. The accused may not be in a position that permits him or her properly to defend a serious allegation that carries a severe penalty.

- (4) It is a general principle that there should be one trial for one offence which enables the jury to focus on the single offence as the basis for a conviction or acquittal of the offence charged. This provides certainty in the conviction or the acquittal and goes to the availability of a plea of *autrefois convict* (the defendant has been convicted of this offence already and should not be convicted twice) or *autrefois acquit* (that the defendant has already been acquitted of that offence and should not be tried again) on a subsequent prosecution for the same offence.
- (5) The proposed creation of a new offence, when viewed together with the fact that corroboration of a child's evidence is no longer required, even in sexual offence cases, would work to the serious detriment of a defendant.

Arguments for the proposed offence

12. The following are arguments for the proposal –

- (1) Child victims present special problems. To expect a child to remember dates and times of repeated incidents of sexual abuse over a long period is unrealistic and becomes all the more so the younger the child and the longer the period of abuse. The pressure to remember such particulars results in the inconsistency in the child's evidence encountered regularly by prosecutors.
- (2) Unless a solution is provided, it is precisely the group that is more at risk and that requires most protection, that would be the least protected. Children need and deserve particular protection in the field of sexual relations because they are physically and emotionally dependent and not

yet fully or psychologically mature.

- (3) Sexual abuse of children is a problem that must be viewed with serious concern. Statistics kept by the Child Protection Registry (for 1997-1999) and the Police (for 1996-1999) indicate that a substantial number of boys and girls are abused each year (see Annex D).
- (4) As noted in paragraphs 13-15 below, the proposed offence would carefully balance the need to protect children from sexual abuse with the rights of defendants.

Protection of the defendant's interest

13. In order to secure a conviction for the proposed offence of “persistent sexual abuse of a child”, the prosecution would still have to prove the actus reus and the mens rea of each of the sexual offences which the alleged offender has committed. The charge would have to specify the nature of the sexual acts complained of, and the period of time during which they occurred. The specificity that may be omitted relates only to the dates, time, and the exact circumstances of the alleged offences.

14. The jury or, where sitting alone, the judge, must be satisfied that the defendant must have committed at least three specific acts, each of which amount to a sexual offence, during the specified period of time. Where there is a jury, the judge would, as part of his duty to ensure a fair trial, explain to the jury the need for agreement on the same three occasions before convicting the defendant.

15. It is also proposed that no prosecution for the proposed offence should be instituted without the written consent of the Secretary for Justice.

Consultation

16. In November 2000, the Administration circulated an information paper (on which the present paper is based) describing the proposal to approximately 90

organisations. The responses received to date are summarised in the table below.

	Recipient	Comments
1	Hong Kong Young Legal Professionals Association Ltd.	Appreciates the concerns of the Administration and stresses that the paramount consideration must be a balance between the interest of a defendant facing potential criminal liability and that of the alleged child victim. Has reservations about the proposed new offence and would only further comment when a draft bill is provided.
2.	Director of Social Welfare	The proposed new offence is supported.
3.	Hong Kong Christian Service	Supports the proposed new offence and stresses the need to ensure that unnecessary damage is not inflicted on the defendant.
4.	Hong Kong Women Development Association	Supports the proposed new offence.
5.	The Boys' and Girls' Clubs Association of Hong Kong	Supports the proposed new offence. Stresses the need to also consider the defendant's rights.
6.	Against Child Abuse	Supports the proposed new offence and also urges the Administration to balance the rights of the defendants.
7.	Equal Opportunities Commission	Supports the proposed new offence.
8.	The Hong Kong Family Law Association	Awaiting comments.
9.	Law Society of Hong Kong	Awaiting comments.
10.	The Hong Kong Girl Guides Association	Supports the proposed new offence and would comment further when the draft bill is available.
11.	Guardianship Board	Supports the proposed new offence.
12.	Bar Association	Awaiting comments.

17. It is evident from the responses received to date, and public sentiment as

expressed in the media (copies of relevant newspaper cuttings can be provided on request), that the proposal is generally supported (some comments were actually to the effect that the proposal has not gone far enough). There is consensus that children comprise an especially vulnerable group that needs and deserves special protection against sexual abuse. The need to balance the interest of the defendants with that of the alleged victims is also recognised. The Administration considers that these objectives would be achieved under the proposal as described in this paper.

The way forward

18. The Administration is strongly of the view that the proposal to create the offence of “persistent sexual abuse of a child” should be pursued. A draft Crimes (Amendment) Bill for this purpose will be circulated (tentatively in March 2001) to seek comments from interested parties.

Proposed major features of the Bill

19. It is proposed that the Bill should provide that –

- (1) consistently with the definition of a “child” as a vulnerable witness under section 79A of the Criminal Procedure Ordinance (Cap. 221), the offence would apply to children who are under 17 years old when the alleged unlawful sexual acts occurred;
- (2) the offence would be committed if a person engages in a course of conduct involving the commission of a sexual offence against a particular child on at least three occasions, falling on separate days, whether or not the conduct is of the same nature, or constitutes the same sexual offence, on each occasion;
- (3) it is immaterial that the conduct on any of the three occasions occurred outside Hong Kong, so long as the conduct on at least one of the three occasions occurred in Hong Kong;

- (4) while the charge must specify the period during which the alleged conduct occurred as well as the nature of the sexual offences alleged to have been committed in the course of that conduct, it is not necessary to specify or to prove the dates or exact circumstances of the alleged sexual offences;
- (5) the judge or jury must be satisfied beyond reasonable doubt regarding the material facts of the three occasions in question. Where evidence has been led regarding more than three occasions, the jury must be so satisfied about the same three occasions and the judge must warn the jury of this requirement;
- (6) the maximum penalty for a person convicted of the proposed new offence is not to be lower than that for the substantive sexual offence (for example, rape or incest) committed in the alleged course of conduct;
- (7) proceedings for the proposed new offence may only be instituted with the consent of the Secretary for Justice.

Legal Policy Division
Department of Justice
February 2001

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了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 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));

(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;

(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-1).

(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] 161 T. 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

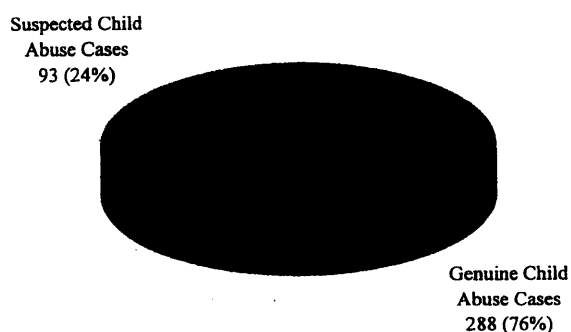
In 1997, there were 381 newly registered child abuse cases. As compared with the 311 newly registered cases in 1996, there was an increase of 22.5% in new child abuse cases.

1.1 General Information

1.1.1 Nature of Case

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

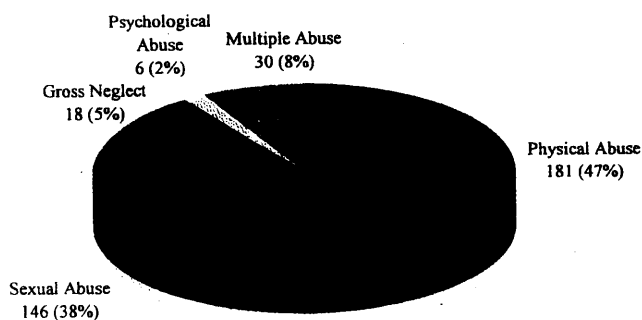
Graph 1 - Distribution of Cases by Nature



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



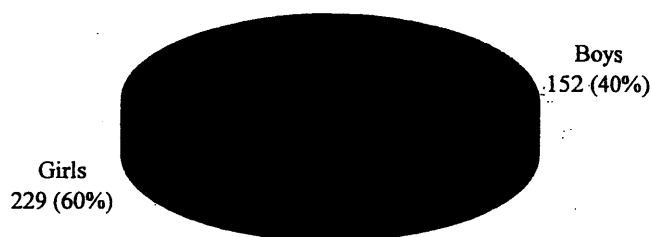
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1.2 Child Characteristics

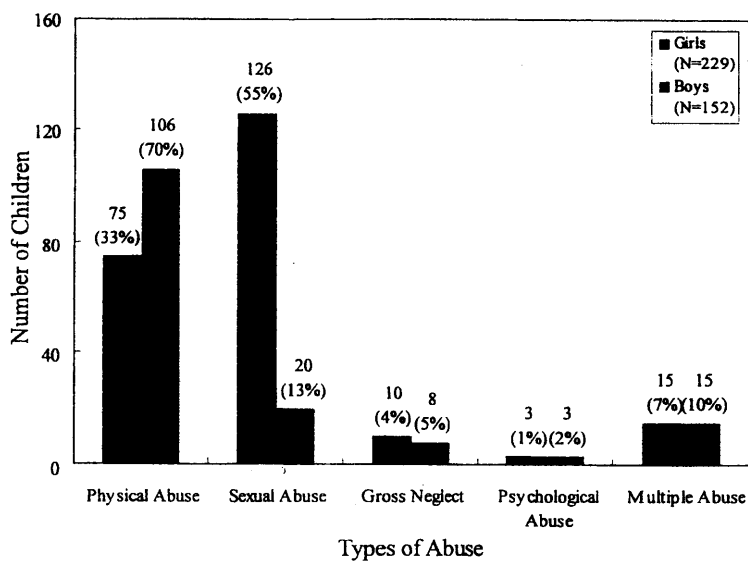
1.2.1 Distribution of Children by Sex

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

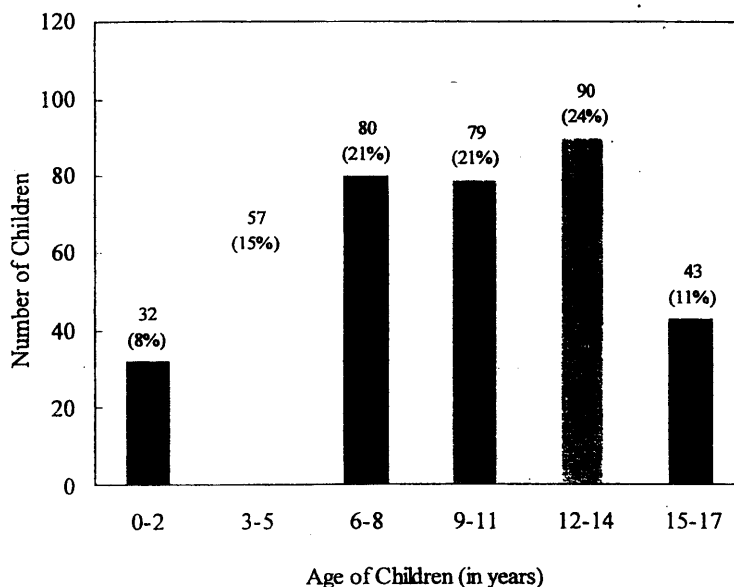


Table 1 - Distribution of Children by Age and by Types of Abuse

Age	Types of Abuse					Total
	Physical	Sexual	Gross Neglect	Psychological	Multiple	
0 - 2	19	3		1	2	32
3 - 5	27	15	5	2	8	57
6 - 8		24	1	0	4	80
9 - 11	37	33	3		4	79
12 - 14	40		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

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		0	17
3 - 5	14	14		0	3	35
6 - 8		18	1	0	5	40
9 - 11	9	27	2		3	42
12 - 14	17		0	0	2	57
15 - 17	9	26	0		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		0	2	15
3 - 5	13	1	1			22
6 - 8		6	0	0	4	40
9 - 11	28		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

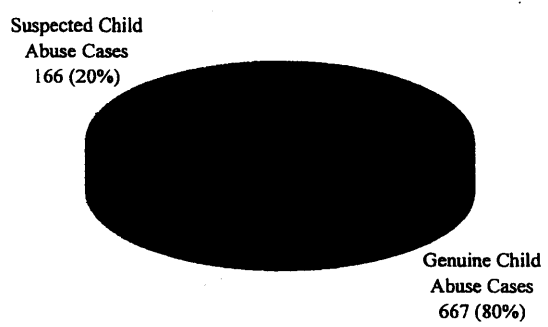
As at end of December 1997, the Child Protection Registry recorded a total of 833 child abuse cases which were actively handled by the Social Welfare Department and non-governmental organizations. As compared with the total of 690 active child abuse cases as at end of December 1996, there was an increase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

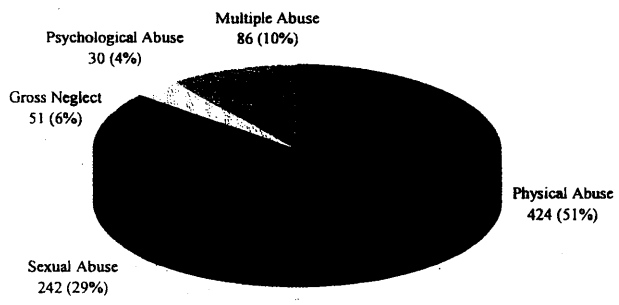
Graph 14 - Distribution of Cases by Nature



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

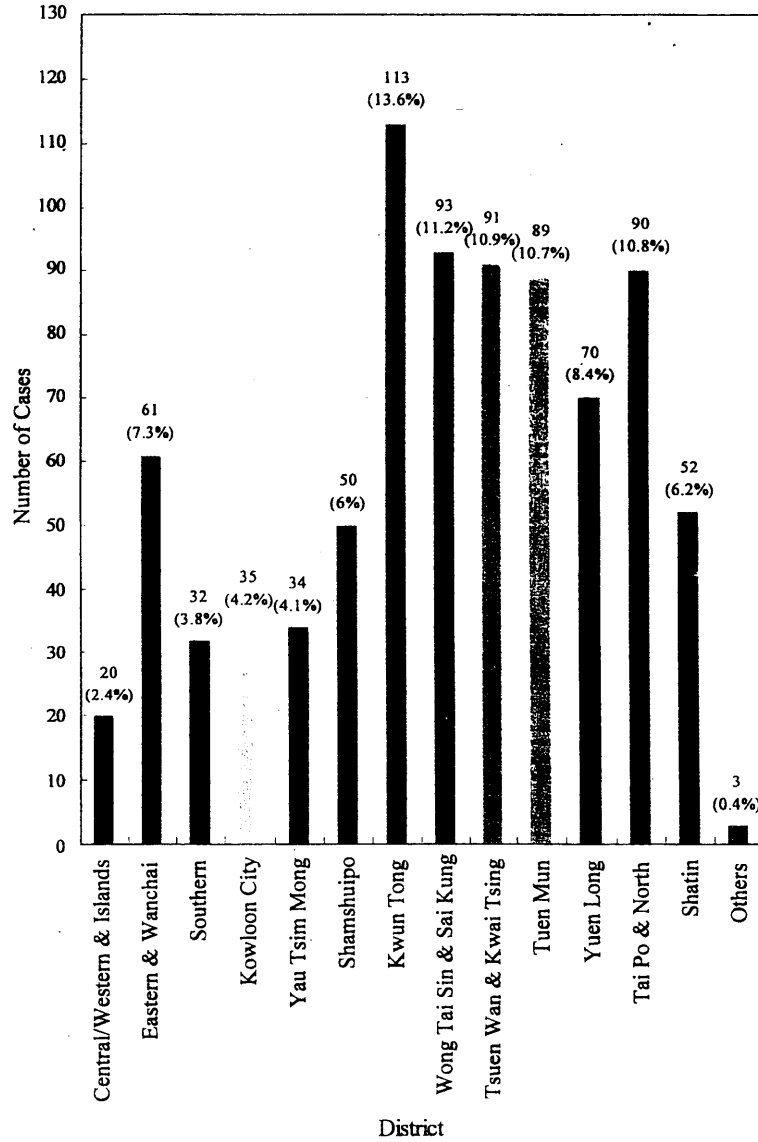


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2.1.3 District Distribution

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.

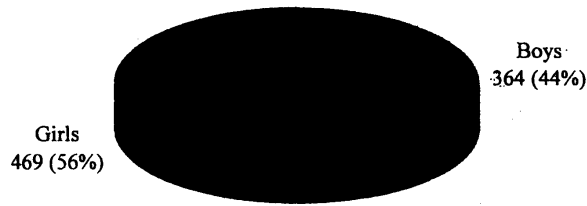
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2.2 **Child Characteristics**

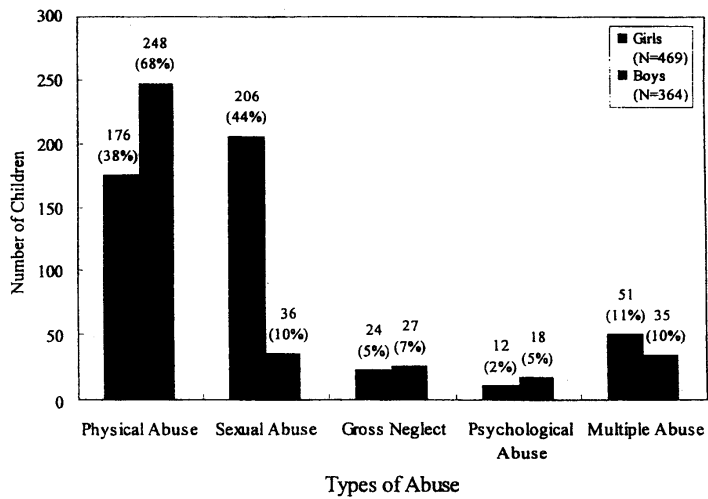
2.2.1 **Distribution of Children by Sex**

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

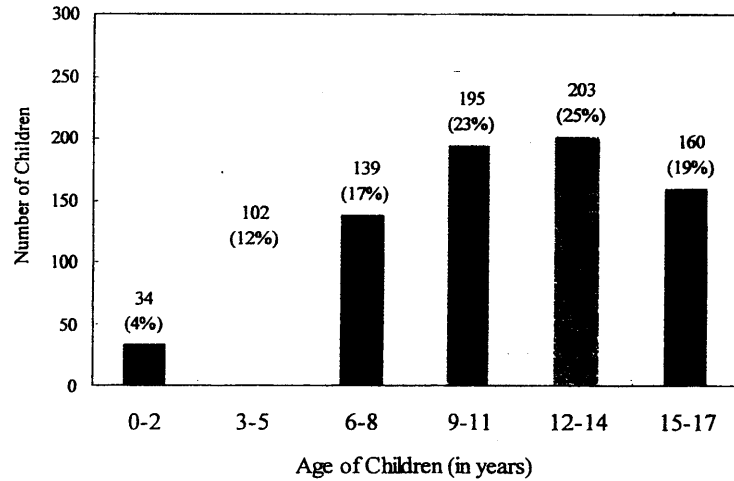


Table 8 - Distribution of Age of Children by Types of Abuse

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.

1/91

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			1		11	
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

>1/8

Part 1 New Cases 1998

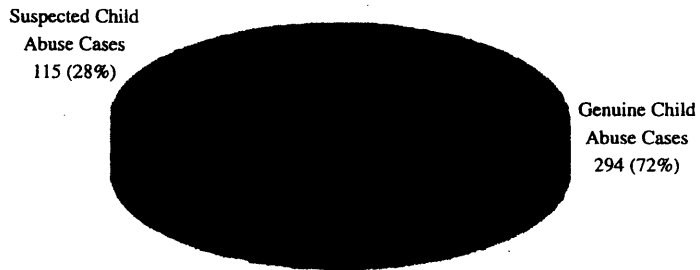
In 1998, there were 409 newly registered child abuse cases. As compared with the 381 newly registered cases in 1997, there was an increase of 7%.

1.1 General Information

1.1.1 Nature of Case

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

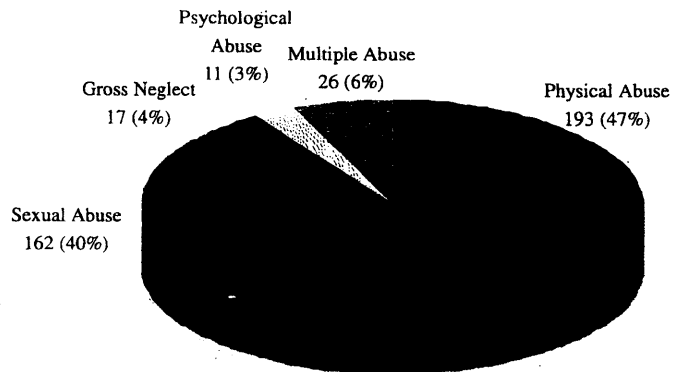
Graph 1 - Distribution of Cases by Nature



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

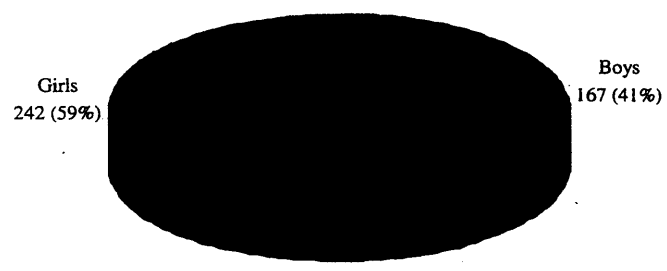


1.2 Child Characteristics

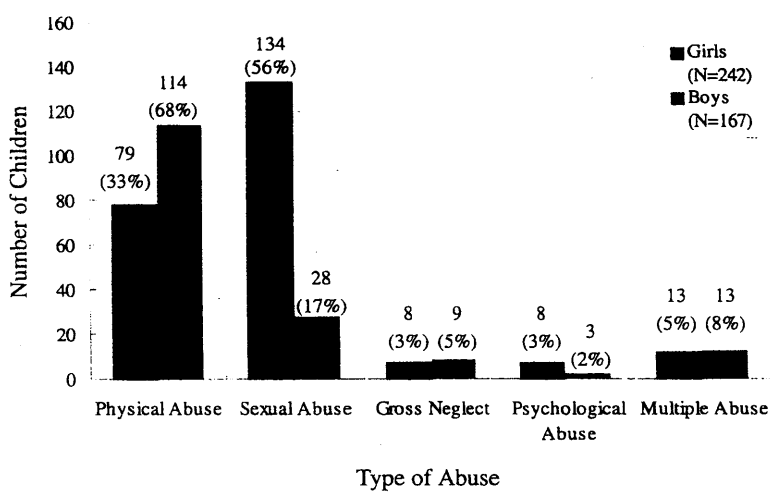
1.2.1 Distribution of Children by Sex

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

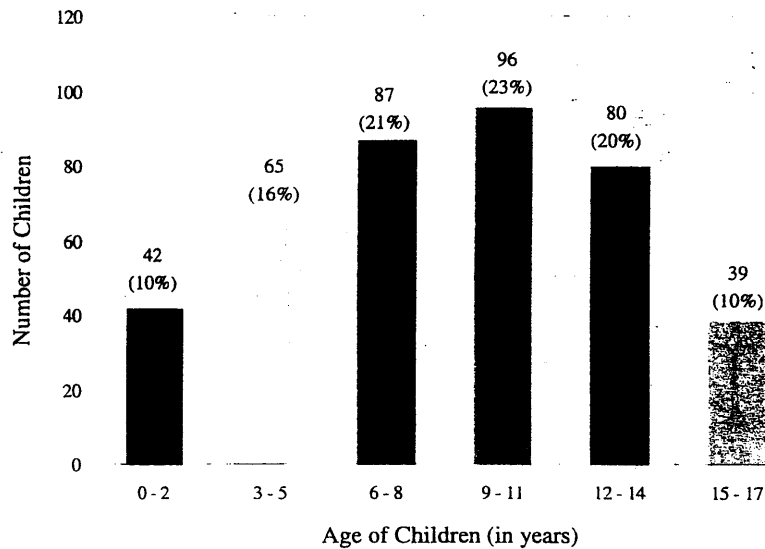


Table 2 – Distribution of Children by Age and by Type of Abuse

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	20	28	2	1	3	54
12 – 14	10	37	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

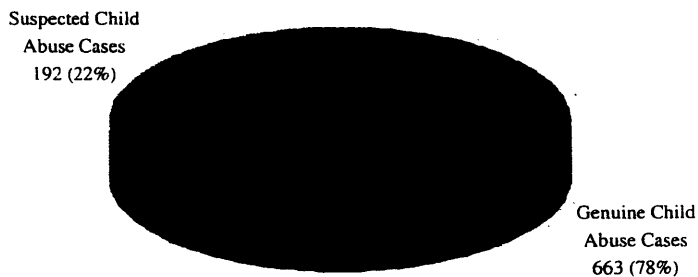
As at end of December 1998, the Child Protection Registry recorded a total of 855 child abuse cases which were actively handled by the Social Welfare Department and non-governmental organizations. As compared with the total of 833 active cases as at end of December 1997, there was an increase of 3%.

2.1 General Information

2.1.1 Nature of Case

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

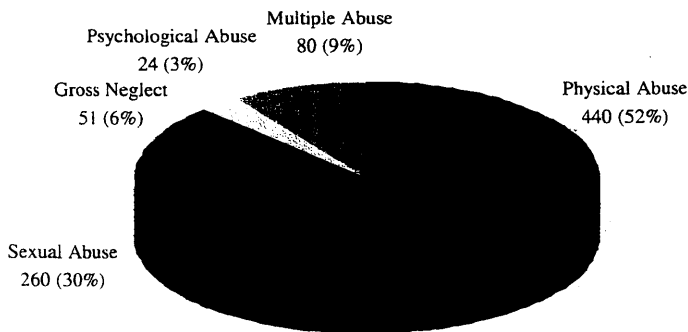
Graph 14 – Distribution of Cases by Nature



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

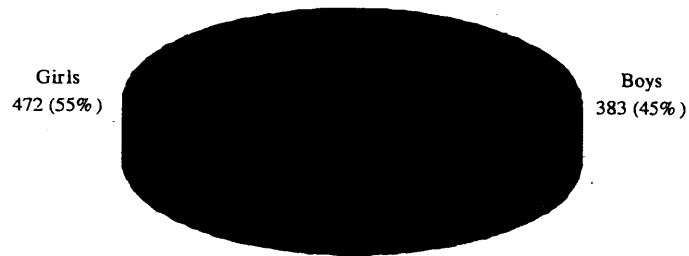


2.2 Child Characteristics

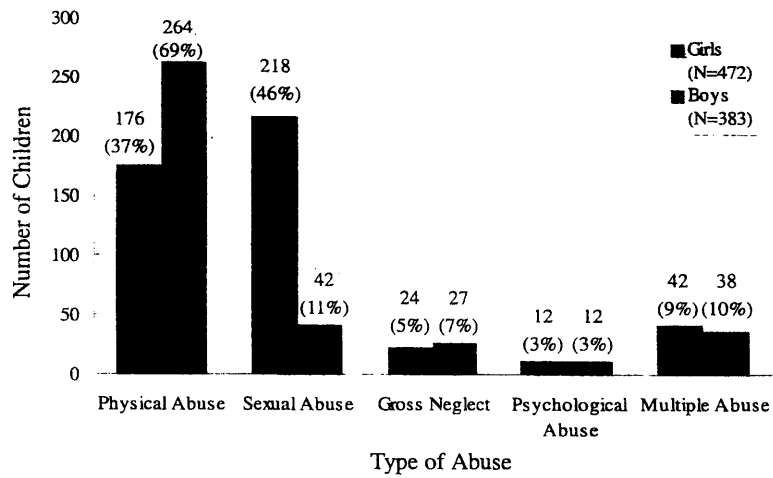
2.2.1 Distribution of Children by Sex

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

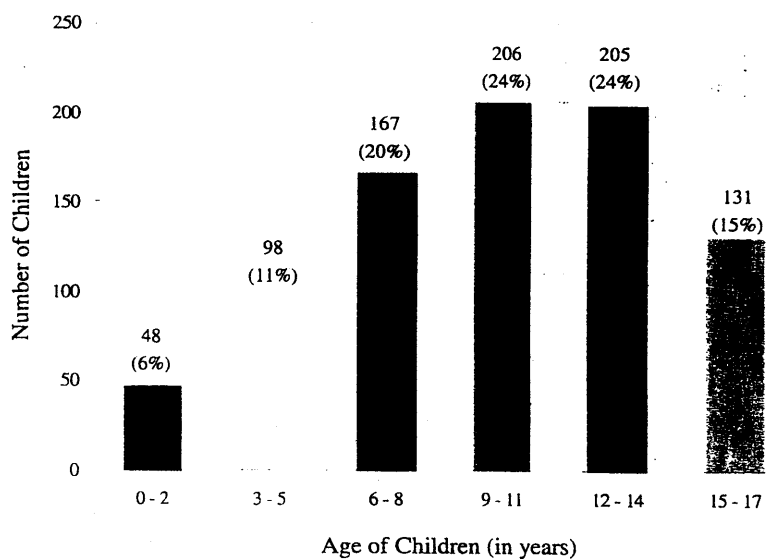


Table 10 – Distribution of Children by Age and by Type of Abuse

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

2/8/2

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

3/18

Part 1

New Cases 1999

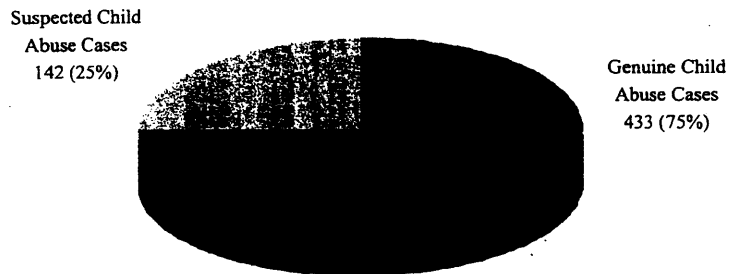
In 1999, there were 575 newly registered child abuse cases. As compared with the 409 newly registered cases in 1998, there was an increase of 41%.

1.1 General Information

1.1.1 Nature of Case

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

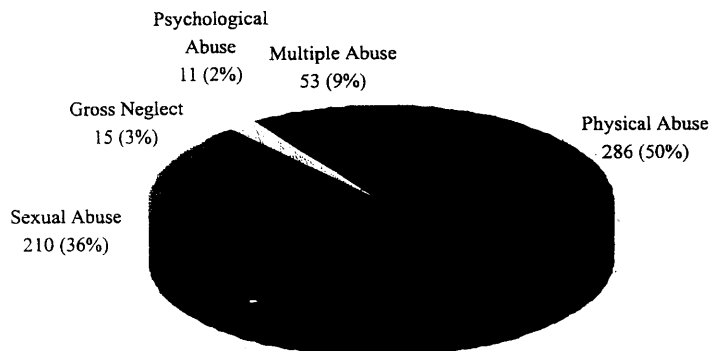
Graph 1 - Distribution of Cases by Nature



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



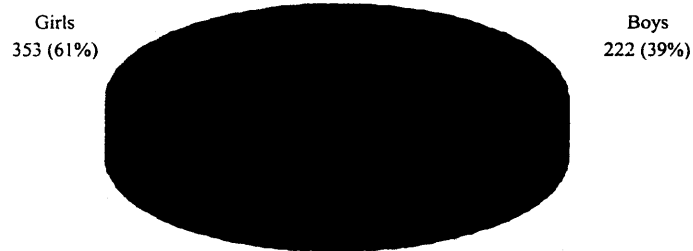
3/2/18

1.2 Child Characteristics

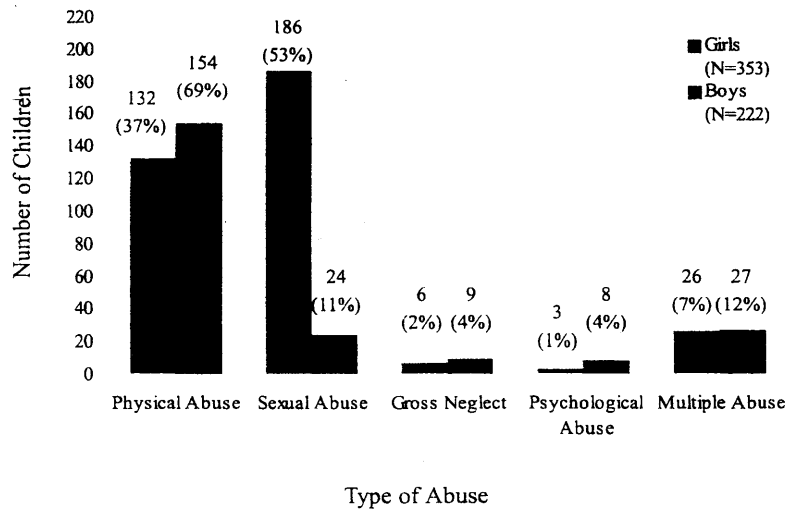
1.2.1 Distribution of Children by Sex

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.

3/3/8

1.2.2 Distribution of Children by Age

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

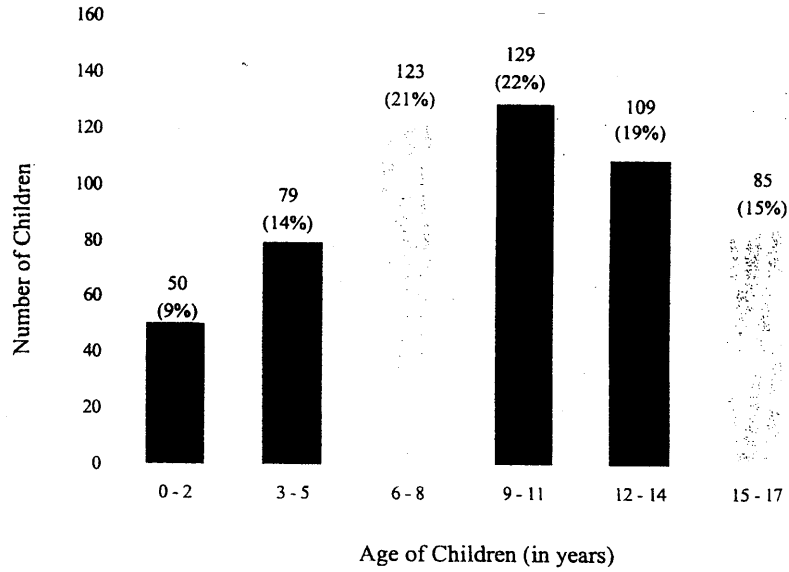


Table 2 – Distribution of Children by Age and by Type of Abuse

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

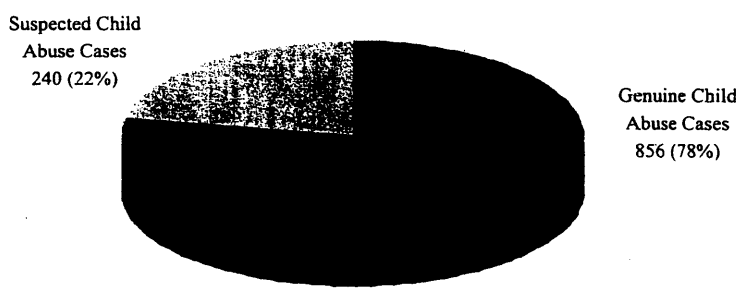
As at end of December 1999, the Child Protection Registry recorded a total of 1 096 child abuse cases which were actively handled by the Social Welfare Department and non-governmental organizations. As compared with the total of 855 active cases as at end of December 1998, there was an increase of 28%.

2.1 General Information

2.1.1 Nature of Case

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

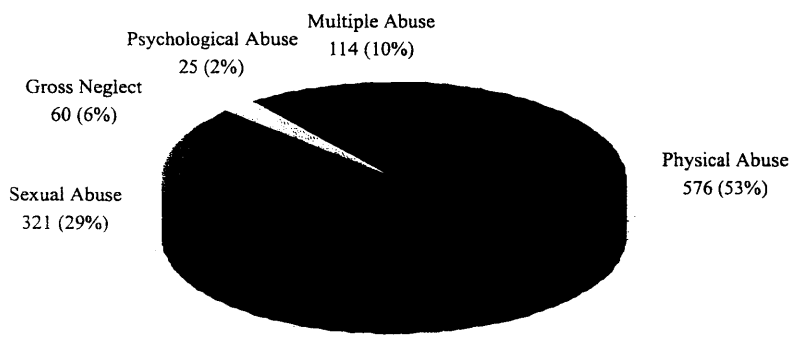
Graph 14 – Distribution of Cases by Nature



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



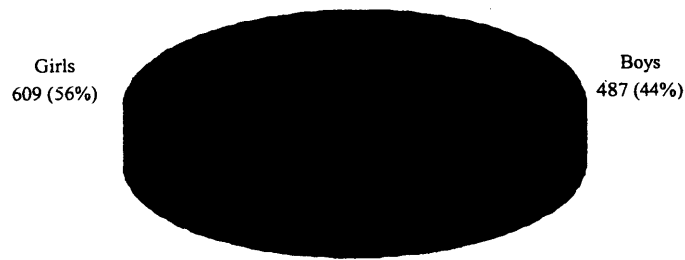
3/6/8

2.2 Child Characteristics

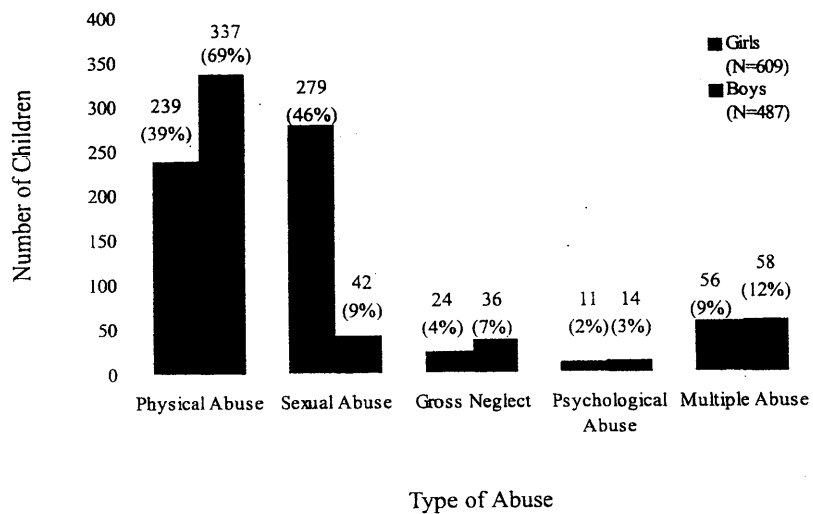
2.2.1 Distribution of Children by Sex

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

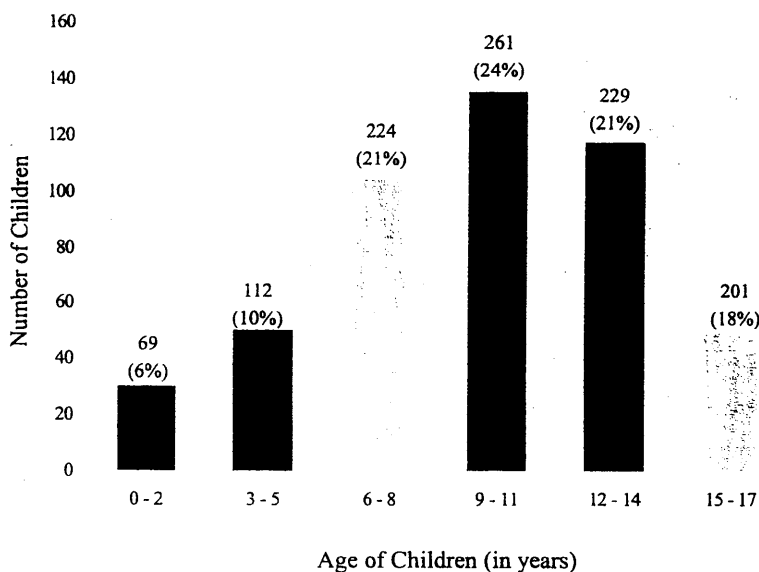


Table 10 – Distribution of Children by Age and by Type of Abuse

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

3/8/8

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	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