



Ninth Australasian Conference on Child Abuse and Neglect

Australian Childhood Foundation

**The decriminalisation of child
abuse in Australia**

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Background to study



Long standing concern about the disengagement of the criminal justice system in the domains of intervention about child abuse

Background to study



- Chris Goddard in his study for the Law Reform Commission in 1988 tracked children who had been sexually abused and were admitted to the Royal Children's Hospital.
- He followed the fate of 104 children into the child protection and criminal justice system. There were 13 (12%) in which charges were laid. Only 5 ended with a prosecution outcome.

Background to study



- Two months ago, a father was charged with assault for having hit his 11 year old son with a rubber hose for 40 minutes causing extensive bruising.
- The magistrate did not record a conviction and gave him a suspended sentence for 3 months.
- In doing so, the magistrate made the following statement “You were well intentioned as a father...you went a little far.”

Background to study



- The recent Interim Report by the Victorian Law Reform Commission on its review of sexual offences found the following
 - Only 14.5% of cases (less than 1 in 7 reports) of penetrative offences against children and young people under 16 years that are reported and recorded by police proceed to prosecution
 - In 12.5% of cases, a perpetrator was committed to stand trial
 - In 6.5% of cases, a perpetrator was convicted

Background to study



- In this recent Victorian Law Reform Commission report, there is not one mention of child protection services as an important stakeholder in criminal prosecutions of child sexual assault
- There is examination of the relation between the CASA network and the police
- There is no examination of the relationship between police and child protection services, or police and other non government organisations

Background to study



- Complex picture in the USA
- Cross, Walsh, Simone and Jones (2003) reviewed the outcomes of 24 studies related to prosecution of child abuse in USA between 1980 – 2000
- Rates of charges varied between 40 – 59% depending on
 - 66% of alleged perpetrators were charged.
 - 43% plead guilty
 - 15% were dismissed or acquitted
 - 26% were incarcerated

Background to study



- Cross, Walsh, Simone and Jones (2003) concluded that child abuse cases were less likely to have charges filed in comparison to other violent crimes and other types of crimes

Background to study



ABS Recorded Crime Figures 1998 - 2002

Number of victims in each category aged 0-14 years

	1998	1999	2000	2001	2002
Murder	28	40	17	35	22
Attempted murder	12	18	32	33	25
Manslaughter	6	11	-	-	-
Assault	10404	10091	10672	10952	11386
Sexual Assault	5609	5420	6378	6796	7391

Background to study



- Increasing number of research findings show that the decision making of police, child protection workers and other related health and welfare professionals fail to recognise the link between adult to adult violence and the abuse and neglect of children.
- Farmer and Owen (1995) describe that the “typical scenario” is that it is the mother is offered emotional support despite the father being identified as the perpetrator of physical violence towards the child.

Background to study



- Stanley and Goddard (2002) found that 82% of a sample of 50 substantiated DHS files involved verbal aggression between adults significant to the child.
- They also found that 62% of this sample of 50 substantiated cases involved acts of physical aggression between adults significant to the child.

Methodology



- National and International Literature Review
- Examining a sample of 100 cases referred to and provided with a specialist counselling service of the Australian Childhood Foundation in the past five years

Research outcomes



- Research in progress
- Completed audit on 40 cases so far
- All cases have been referred in the past five years
- All cases involved substantiated physical and/or sexual abuse of children



Research outcomes

Age	Total number of children	Number of children who had been physically abused	Number of children who had been sexually abused	Number of children who had been physically and sexually abused
4 – 9	30	10	15	5
10 – 14	10	4	4	2



Research outcomes

Age	Total number of children	Number of children who had been physically abuse	Number of children who had been sexually abused	Number of children who had been physically and sexually abused
4 – 9	30	10	15	5
Number of cases where an offender has been charged	3	0	1	2



Research outcomes

Age	Total number of children	Number of children who had been physically abuse	Number of children who had been sexually abused	Number of children who had been physically and sexually abused
10 – 14	10	4	4	2
Number of cases where an offender has been charged	2	0	1	1



Research outcomes

Age	Total number of children	Number of children who had been physically abuse	Number of children who had been sexually abused	Number of children who had been physically and sexually abused
4 – 14	40	14	19	7
Number of cases where an offender has been charged	5	0	2	3



Research outcomes

Age	Total number of children	Number of families in which there was adult to adult violence	Number of families in which there was no adult to adult violence
4 – 14	40	16	24
Number of cases where an offender has been charged	5	4	1

What could be the implications?



- Child abuse is minimised in policy sphere
- It is not a health problem, it is not a crime, it is a welfare problem
- Inconsistent ideologies orienting practice
 - In cases of domestic violence, there seems to be a clearer commitment to involving police and the intention of charging the perpetrator
 - In cases of child abuse, “partnership” services are offered to parents

What could be the implications?



Violence towards children is perceived as less serious than violence targeting adults

- 17% of respondents believed that a parent who causes an injury to a child whilst administering “discipline” should not be charged with assault
- 20% of respondents believed that a parent who causes an injury to a child whilst administering “discipline” should not be convicted of assault
- 10% of respondents believed that a parent who has been convicted of sexually assaulting his/her child should not receive a jail term

(Tucci, Goddard and Mitchell, 2003)

What could be the implications?



- We may be failing to develop effective frameworks of protection for abuse children because we are not engaging the criminal justice system in aiming for prosecutions of perpetrators
- We appear to not make the link between decisions about the removal and placement of children in out of home care and decisions to prosecute
- We do not appear to be considering the paradigm of child abuse as a crime in any of the current policy debates associated with reforming child protection and family support systems



Conclusion

- We need more research
- We need to understand the nature of the relationship between our failure to prosecute cases of child abuse and our capacity to protect children
- We need to be cautious about messages we continue to send to the community about the seriousness of child abuse
- We need to be cautious of the ever increasing pressure to rebalance the policy paradigm between child protection and family support



Feedback



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