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## Chapter 25

### Elements of the Offences

Drawing upon information obtained in the National Police Force Survey, the findings presented in this chapter provide documentation concerning: the nature of the age disparities between victims and suspected offenders; the listing of sexual offences in relation to the types of sexual acts committed; the use of threats and force against victims; the reactions of victims; and the type of association or relationship between victims and offenders in relation to the ages of the victims and the offences and acts committed against them. The Committee has drawn upon these findings as the basis for a number of its principal recommendations specified in Part III of the Report.

#### Age Disparities between Victims and Offenders

In light of government proposals to amend the *Criminal Code* provisions relating to sexual offences against young persons, information was collected in the National Police Force Survey on the age disparities between offenders and their victims. For example, **section 246.1(2) of the *Criminal Code* (a provision which came into force in January, 1983) provides that it is a legal defence to a sexual assault charge if a complainant under 14 years of age consents to the sexual activity and the accused is less than three years older than the complainant. This is a new concept in Canadian criminal law. Under the repealed indecent assault offences, the consent of a person under the age of 14 to be touched sexually by another person was not a defence to a charge.**

The notion of "relative closeness in age" as a legal defence for persons who engage in consensual sexual activity with other young persons has also found expression in recent government proposals. For example, in *Bill C-53*, the "less than three years age disparity" defence was proposed for all forms of consensual sexual activity (including sexual intercourse) with persons under 14, or 14 or 15. Similarly, in a *Working Paper* by the federal Department of Justice in 1982 which modified the proposals advanced in *Bill C-53*, the "less than three years age disparity" defence was applied to consensual sexual activity with persons under 14, and a defence of less than five years age disparity was proposed for consensual sexual activity involving persons 14 or 15 years of age.

The justification for these proposals appears to rest upon several implicit social and legal assumptions, namely, that:

- The law, in principle, should accord young persons greater autonomy to engage in consensual sexual acts with their peers, by removing the criminal sanction against the older party.
- Relative closeness in age between the young persons is itself an indication that the sexual acts engaged in are more likely to be genuinely consensual between the parties.
- Consensual sexual activity between young persons who are close in age is, by itself, not harmful to either of the young participants.
- It is not the function of the criminal law to attempt to regulate consensual sexual behaviour between young persons who are close in age.

In order to test the validity of these assumptions, the findings of the National Police Force Survey were reviewed in relation to the nature of the age disparities between victims and offenders and the types of sexual acts which occurred involving young persons who were close in age that came to police attention. A summary of the findings on age disparities between victims and offenders is given in Table 25.1.

**Table 25.1**  
**Age Disparity between Suspected Sexual Offenders and Victims**

Age of Victim	Age of Offender							
	Younger Than Victim		Less Than 3 Years Older Than Victim		More Than 3 Years Older Than Victim		Total	
	No.	%	No.	%	No.	%	No.	%
Under 7	—	—	12	1.5	790	98.5	802	100.0
7 – 11	5	0.3	38	2.3	1,609	97.4	1,652	100.0
12 – 13	5	0.5	76	7.3	956	92.2	1,037	100.0
14 – 15	17	1.3	132	10.0	1,173	88.7	1,322	100.0
16	14	4.7	38	12.6	249	82.7	301	100.0
17	19	6.7	38	13.5	225	79.8	282	100.0
18	23	8.2	53	18.8	206	73.0	282	100.0
19	24	9.8	47	19.2	173	71.0	244	100.0
20	27	12.9	19	9.1	163	78.0	209	100.0
<b>TOTAL</b>	<b>134</b>	<b>2.2</b>	<b>453</b>	<b>7.4</b>	<b>5,544</b>	<b>90.4</b>	<b>6,131</b>	<b>100.0</b>

*National Police Force Survey.* Category "less than 3 years older" includes persons less than three years older than the victim, except where victims were 19 years-old and older. Information missing for 72 cases.

Two points should be noted in relation to these findings. First, while information was gathered in the National Police Force Survey for all victims under the age of 16, information on occurrences involving victims between the ages of

16 and 20 was collected from only some police forces. This accounts for the marked drop in the number of the total occurrences involving victims age 16 and older. Second, the category "offender less than 3 years older than victim" only applies with strict accuracy to victims aged 18 or younger. Where the victim was 19, this category refers to offenders 19 or 20; where the victim was 20, this category refers to offenders who were also 20. Equally, the category "offender more than 3 years older than victim" only applies to victims 18 or younger. With respect to victims 19 or 20, this category refers to offenders who were 21 or older; this classification masks to some extent incidents in which the offender was less than three years older than the victim. Accordingly, the findings presented in Table 25.1 are most illustrative in relation to occurrences involving victims 18 or younger.

With respect to occurrences involving victims under the age of 18, three consistent trends are apparent:

1. The proportion of offenders who were younger than their victims increases steadily with the ages of victims, from a low of about one in 300 (0.3 per cent) concerning victims under the age of seven, to a high of about one in 12 (8.2 per cent) concerning victims aged 18. Since the *Young Offenders Act* sets the age of criminal responsibility at age 12, it would appear that there will at least be a small number of very young sexual offenders who will have to be dealt with, if at all, under provincial law.
2. The proportion of offenders who were less than three years older than their victims also increases with the ages of victims. When the category "offender younger than victim" is added to category "offender less than 3 years older than victim", the following results are obtained:

Age of Victim	Offender Younger Than or Less Than 3 Years Older Than Victim	
	Number	Per Cent
Under 7	12	1.5
7 - 11	43	2.6
12 - 13	81	7.8
14 - 15	149	11.3
16	52	17.3
17	57	20.2
18	76	27.0

With respect to victims in the 12-15 age group, it appears that a defence based on an age disparity of less than three years would potentially be applicable to a small proportion of cases. The scope of its application would doubtless be widened where an age disparity of less than five years (as proposed by the federal government's "*Working Paper*") applied.

3. The proportion of offenders who were more than three years older than their victims decreased steadily with the ages of victims, from a high of 98.5 per cent concerning victims under the age of seven, to a low of 73.0 per cent concerning victims aged 18. In relation to occurrences involving victims 18 or younger, 91.7 per cent, or about 11 in 12 cases, involved

offenders who were more than three years older than their victims. This proportion is even higher when only occurrences involving victims under the age of 16 are considered: almost 14 in every 15 cases (93.4 per cent) involved offenders who were more than three years older than their victims. Conversely, only in about one in 15 cases (6.6 per cent) was the offender less than three years older than the victim in occurrences involving victims under the age of 16.

The findings given in Table 25.1 indicate the relative extent to which sexual offenders are close in age to their victims, but they do not shed light on the central issue: Are the sexual acts involving two persons who are relatively close in age and which come to police attention generally less serious in nature than those in which there is a wider disparity in age between the parties? That this is so appears to be a premise of recent legislative proposals that provide a legal defence for the older party where consensual sexual acts occur between young persons less than three or five years apart in age.

Tables 25.2 and 25.3 present findings in relation to the use or non-use of threats or force by offenders in occurrences where the offender was either younger than the victim, less than three years older than the victim, or more than three years older than the victim. Where threats or force were used by an offender, there obviously was no genuine consent on the victim's part. Further, where the victim was 12 years-old or older and no threats or force were used by the offender, this indicates only that there was a possibility that the victim gave a genuine consent. A key determination, then, is whether the non-use of threats or force by offenders and the consequent possibility that victims gave a genuine consent (although the act was legally proscribed on other grounds, for example, sexual intercourse with females under 14, or 14 or 15) varied with the relative ages of offenders and victims. The findings in this regard are presented in Table 25.2.

**Table 25.2**  
**The Use of Threats or Force**  
**by Disparities in Age between Suspected Offenders and Victims**

The Use or Non-use of Threats or Force by Offenders	Offender Younger Than Victim	Offender Less Than 3 Years Older Than Victim	Offender More Than 3 Years Older Than Victim
	Per Cent	Per Cent	Per Cent
Victim threatened	1.0	2.3	3.7
Victim forced	60.8	70.6	56.0
Victim neither threatened nor forced	38.2	27.1	40.3
<b>TOTAL</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>

*National Police Force Survey.*

Overall, about three in five victims were either threatened or forced to engage in the sexual act or acts with the offender. What is striking is that, proportionately, offenders who were less than three years older than their victims were appreciably more likely to use threats or force (72.9 per cent) than offenders who were more than three years older than their victims (59.7 per cent). These findings argue strongly against the advisability of introducing a "close in age" exception into the provisions of *Criminal Code* sexual offences. Only slightly more than one in four (27.1 per cent) occurrences involving persons less than three years apart in age involved no threats or force by the offender, and therefore, the possibility of genuinely consensual sexual interaction was smaller in these instances than in either of the other two categories.

Table 25.3

The Use of Threats or Force by Offenders  
by Ages of Victims in Relation to  
Disparities in Age between Suspected Offenders and Victims

Age of Victim	Offender Younger Than Victim		Offender Less Than 3 Years Older Than Victim		Offender More Than 3 Years Older Than Victim	
	Threats or Force	No Threats or Force	Threats or Force	No Threats or Force	Threats or Force	No Threats or Force
	Per cent	Per Cent	Per Cent	Per Cent	Per Cent	Per Cent
Under 7	52.0	48.0	81.8	18.2	63.6	36.4
7 - 11	44.7	55.3	81.8	18.2	57.1	42.9
12 - 13	50.0	50.0	75.0	25.0	50.2	49.8
14 - 15	64.0	36.0	62.4	37.6	59.3	40.7
16 - 17	75.0	25.0	75.9	24.1	69.4	30.6
18 - 20	75.9	24.1	75.7	24.3	73.5	26.5
TOTAL	61.8	38.2	72.9	27.1	59.7	40.3

National Police Force Survey.

Findings concerning the use of threats or force by offenders in relation to victims of certain ages are presented in Table 25.3. The findings indicate that, in general, victims of all ages were proportionally more likely to be threatened or forced by offenders less than three years older than they, than by offenders either younger than or more than three years older than their victims. This finding is especially stark in relation to victims under the age of 14: in more than four in five (81.8 per cent) occurrences involving victims 11 or younger, and where the offenders were less than three years older than their victims, threats or force had been used. This proportion dropped only slightly with respect to the same category of offenders in occurrences involving victims 12 or 13 years of age (75.0 per cent). With respect to victims 14 and older, the use of threats or force by offenders is virtually a constant, and does not vary appreciably with disparities in age between offenders and victims.

The findings strongly suggest that young victims are as likely, and often more likely, to be threatened or forced to engage in sexual acts by persons relatively close in age than by older persons. This conclusion is supported by the Committee's complementary findings in the National Police Force Survey concerning the reactions of victims to the sexual encounter, particularly when viewed in relation to the age disparity between the offender and victim.

**Table 25.4**  
**Reactions of Victims by**  
**Disparities in Age between Suspected Offenders and Victims**

Reaction of Victim to Sexual Encounter	Offender Younger Than Victim	Offender Less Than 3 Years Older Than Victim	Offender More Than 3 Years Older Than Victim
	Per Cent	Per Cent	Per Cent
Resisted	61.2	53.1	50.6
Resisted with a weapon	0.1	0.9	0.2
Fled	22.7	22.9	15.5
Submitted, but did not consent	14.4	15.7	25.5
Willingly participated	1.6	7.4	8.2
<b>TOTAL</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>

*National Police Force Survey.*

In light of the findings presented in Table 25.4, it is apparent that most young sexual victims either resisted or fled from their assailants. A much smaller proportion submitted without consenting, and few willingly participated in the sexual encounter. Proportionately, more resistance was offered to younger offenders than to offenders more than three years older than their victims; correspondingly, more victims either submitted to or willingly participated in the sexual encounter with offenders more than three years older than they, than did victims whose offenders were relatively younger. This trend reveals itself more sharply, as documented in the findings given in Table 25.5, when specific age groups of victims are considered in relation to their resistance, submission, or willing participation in the sexual encounter.

The assumption that sexual encounters between young persons close in age which come to police attention are less threatening or serious to the complainant is refuted by the findings given in Table 25.5. Although, in general, very young victims were less likely to resist their assailants, it is apparent that the proportion of victims who resisted their assailants rises markedly with age, from about two in three cases involving children 7-11 to more than three in four cases involving victims 16 and older. Further, offenders comparatively close in age to their victims posed a greater threat (in terms of the resistance offered by victims) than did offenders more than three years older than they.

**Table 25.5**  
**Reactions of Victims by their Ages in**  
**relation to Disparities in Age between Suspected Offenders and Victims**

Age of Victim	Offender Younger Than Victim		Offender Less Than 3 Years Older		Offender More Than 3 Years Older	
	Resisted	Willing or Submitted	Resisted	Willing or Submitted	Resisted	Willing or Submitted
	Per Cent	Per Cent	Per Cent	Per Cent	Per Cent	Per Cent
Under 7	72.2	27.8	30.0	70.0	36.6	63.4
7 - 11	85.7	14.3	66.7	33.3	66.5	33.5
12 - 13	88.9	11.1	80.0	20.0	70.5	29.5
14 - 15	87.2	12.8	68.0	32.0	67.6	32.4
16 - 17	79.3	20.7	83.1	16.9	73.2	26.8
18 - 20	85.6	14.4	84.0	16.0	77.1	22.9
<b>TOTAL</b>	<b>84.0</b>	<b>16.0</b>	<b>76.9</b>	<b>23.1</b>	<b>66.3</b>	<b>33.7</b>

*National Police Force Survey. Categories include: Resisted, fled, used weapon; and Willing and Submitted.*

A complementary means of testing whether sexual encounters between persons close in age are qualitatively different from those in which there is a wide age disparity between the parties is to examine the nature of the sexual acts that occur in these different contexts. The salient finding documented in Table 25.6 is the sheer comparability in the types of sexual acts perpetrated by offenders who were either younger than, less than three years older than, or more than three years older than their victims. For each group of offenders, the acts of "fondling breasts/buttocks", "fondling genitals", and "kissing sexual parts of the body" constituted the majority of sexual acts committed, and there are no appreciable differences in the nature of sexual acts perpetrated by offenders either younger, about the same age, or more than three years older than their victims.

**In relation to the sexual encounters involving young persons that came to police attention, the findings clearly indicate that enacting a special "close in age" exception to the law of sexual offences against young persons would likely serve to remove protection for young persons. Such a proposal is not supported by the Committee's research findings.**

**In the Committee's judgment, a special "close in age" exception in the law of sexual offences is wrong in principle. In many sexual offences (for example, the three forms of "sexual assault" in the *Criminal Code*), proving the complainant's lack of consent is a prerequisite to a successful prosecution. This is, for reasons given in Part III of the Report, often difficult to prove, and typically reduces to a contest between the perceived credibility of the complainant and the accused. Where a legal "close in age" exception exists, there is a real possibility that prosecutorial decisions may be influenced in dif-**



difficult cases by the fact that the offender is within the age exception, notwithstanding that the complainant states that he or she did not consent. Were this to occur, it would have the effect of removing protection from young victims of sexual offences whose assailants were close in age to them, and would contradict the traditional policy of the criminal law in protecting the bodily integrity of all persons from unwanted touchings. For these reasons, the Committee considers that the "close in age" exception in the context of sexual offences involving young persons is an unacceptable legal reform.

**Table 25.6**  
**Types of Sexual Acts Committed in relation to**  
**Disparities in Age between Suspected Offenders and Victims**

Types of Sexual Acts Committed Against Victims	Offender Younger Than Victim (n=134)	Offender Less Than 3 Years Older (n=453)	Offender More Than 3 Years Older (n=5544)
	Per Cent	Per Cent	Per Cent
Fondling breasts/buttocks	31.6	31.8	24.0
Fondling genitals	29.4	29.7	31.7
Kissing sexual parts	9.3	9.0	10.3
Thigh intercourse	0.9	1.1	2.1
Oral/genital	5.3	3.4	8.1
Oral/anal	0.3	—	0.6
Attempted vaginal penetration with penis	3.2	3.7	4.1
Vaginal penetration with penis	15.0	17.8	10.3
Vaginal penetration with finger	2.3	1.6	4.1
Vaginal penetration with object	0.2	0.2	0.4
Attempted anal penetration with penis	0.9	0.5	1.5
Anal penetration with penis	0.7	0.7	1.8

*National Police Force Survey.*

### Types of Sexual Offences by Sexual Acts Committed

From the information recorded on the police general occurrence form, each sexual act that was reported to have occurred was noted, regardless of the number of sexual offences specified on the form. For example, although the investigating officer may have indicated that the occurrence was "rape", the report would invariably disclose that sexual acts in addition to sexual intercourse occurred, often as a prelude to the sexual intercourse. Further, in a number of instances, more than one sexual offence was listed on the general

occurrence form; no indication was given in these reports concerning which sexual acts corresponded to which sexual offence under investigation. Accordingly, the total number of sexual acts which were noted greatly exceeds the total number of sexual offences specified on the general occurrence forms.

Of the 6203 police occurrences on which information was compiled by the Committee, the great preponderance (5854, or 94.4 per cent) listed only one sexual offence on the general occurrence form. In the balance of these cases (349, or 5.6 per cent), some combination of two or more sexual offences was listed.

Single Offence Reported	Number of Occurrences
Rape	357
Attempted rape	81
Sexual intercourse with a female under 14	82
Sexual intercourse with a female 14 or 15	64
Sexual intercourse with step-daughter, foster daughter, or female ward	23
Sexual intercourse with a feeble-minded female	5
Incest	76
Indecent assault on a female	2,311
Indecent assault on a male	593
Buggery	23
Gross indecency	101
Corrupting children	1
Contributing to juvenile delinquency	114
Indecent act	2,023
<b>TOTAL</b>	<b>5,854</b>

The offences of indecent assault on a female (2311) and indecent act (2023) were by far the most frequently listed sexual offences. Next in frequency were indecent assault on a male (593), rape (357) and contributing to juvenile delinquency (114). Knowing the type of sexual offence listed by the investigating police officer, however, gives only a rough indication of the nature of the sexual acts committed. In this regard, information was collected in the National Police Force Survey both on the acts performed by the suspect on the victim and the acts performed by the victim on the suspect. The findings given in Tables 25.7 and 25.8 pertain to the 5854 occurrences in which a single sexual offence was listed by the investigating police officer.

The findings given in these tables indicate that acts of exposure constituted the most prevalent sexual act committed. The fondling of young persons' genitalia and breasts or buttocks were the next most prevalent sexual

**Table 25.7**  
**Sexual Offences in relation to Sexual Acts Performed on the Victim by the Suspect**

Sexual Act	Rape (n=357)	Attempted Rape (n=81)	Sex. Int. Female Under 14 (n=82)	Sex. Int. Female 14 or 15 (n=64)	Sex. Int. Feeble-Minded Female (n=5)	Indecent Assault Female (n=2,311)	Indecent Assault Male (n=593)	Incest (n=76)	Sex. Int. Step-Daughter etc. (n=23)	Beggary (n=23)	Gross Indecency (n=101)	Indecent Act (n=2,023)	Corrupting Children (n=1)	Contributing to J.D.A. (n=114)
Fondling/touching breasts/buttocks	99	27	20	16	2	1,203	74	26	2	3	6	10	1	25
Fondling/touching genital area	79	24	15	14	2	1,193	360	25	5	2	21	6	1	49
Kissing mouth and other areas of the body	65	21	14	13	—	330	58	12	—	4	11	5	—	20
Thigh intercourse	4	2	1	1	—	81	12	2	4	—	3	—	—	3
Oral/genital	34	5	4	2	—	108	142	7	1	3	41	1	—	27
Oral/anal	—	—	—	—	—	16	6	—	2	—	1	—	—	—
Attempted vaginal penetration with penis	18	44	3	—	—	128	2	6	1	1	3	—	—	—
Vaginal penetration with penis	326	4	75	61	4	41	2	60	2	1	1	—	—	20
Vaginal penetration with finger	14	10	—	1	1	164	1	7	—	—	1	—	—	1
Vaginal penetration with object	1	—	—	—	—	14	—	—	—	—	1	—	—	—
Attempted anal penetration with penis	7	1	1	—	—	19	31	3	4	4	3	—	—	—

Table 25.7 (continued)

Sexual Offences in relation to Sexual Acts Performed on the Victim by the Suspect

Sexual Act	Rape (n=357)	Attempted Rape (n=81)	Sex. Int. Female Under 14 (n=82)	Sex. Int. Female 14 or 15 (n=64)	Sex. Int. Feeble- Minded Female (n=5)	Indecent Assault Female (n=2,311)	Indecent Assault Male (n=593)	Incest (n=76)	Sex. Int. Step- Daughter etc. (n=23)	Ruggery (n=23)	Gross Indecency (n=101)	Indecent Act (n=2,023)	Corrupt- ing Children (n=1)	Contrib- uting to/ J.D.A. (n=114)
Anal penetration with penis	11	—	2	—	—	2	17	3	1	17	2	1	—	3
Anal penetration with finger	1	1	—	—	—	10	11	2	—	1	2	—	—	—
Anal penetration with an object.	1	—	—	—	—	2	7	—	—	—	—	—	—	—
Bestiality	—	—	—	—	—	—	—	—	—	—	—	1	—	—
Suspect exposed genitals	20	12	3	3	—	244	68	5	1	1	31	1,862	—	20
Suspect exposed nude body	7	6	6	5	—	67	13	5	—	—	10	189	—	21
Suspect aided another in sexual act	6	1	2	1	—	7	5	—	—	—	—	2	—	2
Suspect attempted to remove or removed clothing	34	20	2	4	1	185	50	8	1	2	9	7	—	15
<b>TOTAL NUMBER OF SEXUAL ACTS</b>	<b>727</b>	<b>178</b>	<b>148</b>	<b>121</b>	<b>10</b>	<b>3,814</b>	<b>859</b>	<b>171</b>	<b>24</b>	<b>39</b>	<b>146</b>	<b>2,084</b>	<b>2</b>	<b>206</b>

National Police Force Survey. Listing of cases in which only one sexual offence was reported, n=5854.

Table 25.8  
Sexual Offences in relation to Sexual Acts Performed on the Suspect by the Victim

Sexual Act	Rape (n=357)	Attempted Rape (n=81)	Sex. Int. Female Under 14 (n=82)	Sex. Int. Female 14 or 15 (n=64)	Sex. Int. Female Minder Female (n=5)	Indecent Assault Female (n=2311)	Indecent Assault Male (n=593)	Incant (n=76)	Sex. Int. Supt. Daughter, etc. (n=23)	Bigamy (n=23)	Gross Indecency (n=101)	Indecent Act (n=2023)	Contributing to J.D.A. (n=114)
Fondling/touching breasts/buttocks	1	—	2	1	—	10	8	1	—	—	11	1	3
Fondling/touching genital area	10	5	7	4	—	156	71	9	4	—	4	11	18
Kissing mouth and other areas of the body	1	—	7	2	—	30	8	3	3	—	—	—	7
Thigh intercourse	—	—	—	—	—	2	—	—	—	—	—	—	—
Oral/genital	53	2	6	2	—	100	100	12	2	3	4	—	21
Oral/anal	—	—	—	—	—	2	2	—	—	—	—	—	—
Attempted vaginal penetration with penis	1	—	1	1	—	—	—	3	—	—	—	—	—
Vaginal penetration with penis	—	—	—	—	—	—	—	—	—	—	—	—	—
Vaginal penetration with finger	—	—	—	—	—	3	—	—	—	—	—	—	—
Vaginal penetration with object	—	—	—	—	—	—	—	—	—	—	—	—	—
Attempted anal penetration with penis	—	—	—	—	—	—	—	—	—	—	—	—	—

**Table 25.8 (continued)**  
**Sexual Offences in relation to Sexual Acts Performed on the Suspect by the Victim**

Sexual Act	Rape (n=357)	Attempted Rape (n=81)	Sex. Int. Female Under 14 (n=82)	Sex. Int. Female 14 or 15 (n=64)	Sex. Int. Female Minder Female (n=5)	Indecent Assault Female (n=2311)	Indecent Assault Male (n=593)	Incest (n=76)	Sex. Int. Step-Daughter, etc. (n=23)	Rape by (n=23)	Gross Indecency (n=101)	Indecent Act (n=2023)	Contributing to J.D.A. (n=114)
Anal penetration with penis	—	—	—	—	—	—	4	—	—	1	—	—	—
Anal penetration with finger	—	—	—	—	—	—	—	—	—	—	—	—	—
Anal penetration with an object	—	—	—	—	—	—	—	—	—	—	—	—	—
Bestiality	—	—	—	—	—	—	—	—	—	—	—	—	—
Victim exposed genitals	3	1	1	2	—	8	18	3	—	—	—	3	1
Victim exposed nude body	9	5	4	3	—	27	8	5	—	—	1	—	8
Victim aided another in sexual act	—	—	2	—	—	1	—	—	—	—	—	—	1
Victim removed clothing	—	—	—	—	—	5	1	—	2	—	—	—	1
<b>TOTAL NUMBER OF SEXUAL ACTS</b>	<b>78</b>	<b>13</b>	<b>30</b>	<b>15</b>	<b>—</b>	<b>344</b>	<b>220</b>	<b>36</b>	<b>11</b>	<b>4</b>	<b>20</b>	<b>15</b>	<b>60</b>

*National Police Force Survey. Listing of cases in which only one sexual offence was reported, n=5853 with one case of corrupting a child not listed.*

acts, followed by acts of vaginal intercourse. The most striking implication of these findings is the findings themselves: virtually every conceivable sexual act is represented, to greater or lesser degrees. Plainly, child sexual abuse comprises a wide variety of sexual behaviours. On average, for the 5584 cases in which a single sexual offence was reported, 1.5 sexual acts had been committed against young victims.

**This information makes it clear that child sexual abuse not only involves acts committed against the child or youth, but that offenders may also induce or coerce the young person to manipulate the offender's body.** In about one in seven cases (14.5 per cent), the victim was induced or forced to perform sexual acts on the offender (Table 25.8). Acts of this kind tended to occur more frequently in situations in which the offender was either well known to the child or held a position of trust to the child. In slightly less than half of the cases in which the offences of incest (47.4 per cent) and sexual intercourse by a guardian (47.8 per cent) were reported, the child or youth had performed sexual acts on the suspected offender.

Many sexual offences in Canadian criminal law are vague: for instance, the offence of 'gross indecency' subsumes a wide variety of sexual acts. In addition, even where the offence is not vague, for example, sexual intercourse with a girl under 14, other sexual acts between the parties may have occurred as a prelude to the sexual intercourse, which are not relevant for the purpose of proving that particular offence. The findings show clearly that a wide range of sexual acts is subsumed under different types of sexual offences, even where specific acts are proscribed. For seven sexual offences in which the acts proscribed are clearly specified, there was congruence between the acts and the behaviours prohibited in the offences in about six in seven instances (86.7 per cent). In the case of the offence of buggery for which 23 offences were docu-

Offences Specifying Sexual Intercourse	Number of Offences Reported	Reported Acts of Vaginal Intercourse with Penis	Proportion of Acts to Offences
			Per cent
Rape	357	326	91.3
Incest	76	60	78.9
Sexual intercourse, under 14	82	75	91.5
Sexual intercourse, 14-15	64	61	95.3
Sexual intercourse, step-daughter, etc.	23	2	8.7
Sexual intercourse, feeble-minded	5	4	80.0
<b>TOTAL</b>	<b>607</b>	<b>528</b>	<b>87.0</b>

mented, anal penetration with a penis was reported to have occurred in about four in five (78.3 per cent) of these incidents (17 involving acts committed against victims and one case where a victim had performed this act on a suspected offender.

**Six sexual offences proscribe sexual intercourse; in relation to these offences, there was considerable variation in regard to whether sexual intercourse with a penis was reported to have occurred.**

**In the case of vaguely worded offences, such as indecent assault on a female and indecent assault on a male, the full range of sexual acts was reported to have been committed. These findings strongly support the Committee's recommendations concerning the need to restructure the sexual offences to correspond more directly to the types of sexual acts committed. When the offences reported are considered in relation to the sexual acts committed, the findings indicate that a wide range of sexual acts is subsumed under different types of sexual offences, even where specific behaviours are proscribed.**

## Threats and Use of Force

Two points must be noted in relation to the findings concerning the use of threats or force by offenders against victims. First, the National Police Force Survey, by definition, provides information only on sexual offences against young persons that came to police attention. Second, that the police were notified does not necessarily mean that the sexual act was committed without the young person's consent. Where the child is very young, a valid consent to sexual activity should not be presumed. Moreover, until the amendments introduced in 1983, Canadian law deemed the consent of a child under 14 not to be a defence to sexual offence charges, even where the young person arguably appreciated the nature of the sexual act and participated in it freely and willingly with his or her partner.

Where the young person is 14 or older, the law, in general, recognizes that he or she can give both a *de facto* and a *legal* consent to certain sexual acts with another person; the question becomes, where a form of sexual assault (formerly indecent assault) is alleged, whether the young person in fact consented. This is a subjective issue, one that does not readily lend itself to statistical treatment. What is both possible and illuminating, however, is to take into account the objective considerations from which inferences about the young person's consent or lack of consent can be drawn, for example, the use of threats or force by the offender and the nature of the victim's resistance to the sexual act. An assessment of these considerations sheds light on the consensual or non-consensual nature of the sexual acts involving young persons about whom information was obtained in the National Police Force Survey.

The category "victim was threatened" includes all situations in which the victim's submission to or acquiescence in the sexual act was accomplished by



means of the offender's threats directed towards the victim. The category "victim was forced" includes all situations in which the victim's submission to or acquiescence in the sexual act was accomplished either by the offender's physical coercion of the victim, his or her direct assault on the victim, or his or her brandishing a weapon during the sexual act.

Under the state of the law as it existed when the findings were collected, the "consent" of a person under age 14 to any form of sexual activity with another person was not a defence for the accused. In this regard, almost three in five (56.3 per cent) of the occurrences studied in the survey disclosed a sexual offence under the then existing criminal law. Of the 5,913 occurrences, for which this information was available, 3,327 (or 56.3 per cent) involved a child under the age of 14, and 4,599 (or 77.8 per cent) involved a child under the age of 16.

Children under Age 14	Males	Females	Total
Number	669	2658	3327
Per cent of all all victims	77.6	52.6	56.3

The findings given in Table 25.9 and 25.10 indicate that threats or force were used against the victim in more than three in five occurrences with respect both to female victims (61.0 per cent) and male victims (61.8 per cent). The use of threats by the offender was less of a factor in occurrences involving children under the age of seven than in incidents involving older children. Further, children of both sexes under the age of 14 were less likely to be either threatened or forced by the offender than were young persons 14 and older.

## Resistance Offered by Victims

That the victim was neither threatened nor forced to submit to or acquiesce in the sexual act with the offender does not imply that the victim gave his or her consent in a manner recognized by law. It only implies that this was at least a possibility in any given case. The magnitude of this possibility can be better assessed by considering the reactions of young sexual victims to the incident in question, as noted by the investigating officer.

The category "victim used weapon" refers to cases in which the victim used an object in order to defend himself or herself from the offender. The category "submitted" refers to cases in which the victim submitted to the sexual act, without consenting to the sexual act.

Children under seven years of age, and of both sexes, tended to be more compliant with their molesters; this is neither surprising developmentally nor

**Table 25.9**  
**The Use or Non-Use of Threats and Force in Sexual Offences**  
**Committed against Females under Age 21**

Age of Female against whom Offence was Alleged to have been Committed	Victim was Threatened		Victim was Forced		Victim was neither Threatened nor Forced		Total	
	Number	Per Cent	Number	Per Cent	Number	Per Cent	Number	Per Cent
Under age 7	9	1.7	332	61.7	197	36.6	538	100.0
7 - 11 years	40	3.2	643	50.7	584	46.1	1267	100.0
12 - 13 years	22	2.6	428	50.2	403	47.2	853	100.0
14 - 15 years	36	3.1	659	57.7	447	39.2	1142	100.0
16 - 17 years	22	3.8	387	67.7	163	28.5	572	100.0
18 - 20 years	15	2.2	489	72.0	175	25.8	679	100.0
<b>TOTAL</b>	<b>144</b>	<b>2.8</b>	<b>2938</b>	<b>58.2</b>	<b>1969</b>	<b>39.0</b>	<b>5051</b>	<b>100.0</b>

*National Police Force Survey. Information missing for 241 cases.*

**Table 25.10**  
**The Use or Non-Use of Threats and Force in Sexual Offences**  
**Committed against Males under Age 21**

Age of Male against whom Offence was Alleged to have been Committed	Victim was Threatened		Victim was Forced		Victim was neither Threatened nor Forced		Total	
	Number	Per Cent	Number	Per Cent	Number	Per Cent	Number	Per Cent
Under age 7	9	4.2	121	56.5	84	39.3	214	100.0
7 — 11 years	28	8.8	188	58.7	104	32.5	320	100.0
12 — 13 years	4	3.0	64	47.4	67	49.6	135	100.0
14 — 15 years	6	4.6	70	53.8	54	41.6	130	100.0
16 — 17 years	2	5.9	19	55.9	13	38.2	34	100.0
18 — 20 years	3	10.3	19	65.5	7	24.2	29	100.0
<b>TOTAL</b>	<b>52</b>	<b>6.0</b>	<b>481</b>	<b>55.8</b>	<b>329</b>	<b>38.2</b>	<b>862</b>	<b>100.0</b>

*National Police Force Survey. Information missing for 49 cases.*

relevant legally. Over half of the girls (55.2 per cent) and about a third of the boys (32.5 per cent) in this age group submitted without resistance to the acts committed against them.

These findings indicate that a low proportion of young victims was reported to have "participated willingly" in the sexual act with the other party, especially in occurrences involving female victims. Of female victims, only about one in 16 (6.1 per cent) was reported to have willingly participated in the sexual act. A more realistic measure in this regard is female victims in the 14-20 age group, since the "willing participation" of a female under 14 was not a valid defence for the accused when the findings were collected. Of female victims between the ages of 14 and 20, about one in 20 (5.2 per cent) was reported to have participated willingly (i.e., "consented") in the sexual act with the other party.

Reactions of Victims	Male Victims (n = 737)	Female Victims (n = 5250)
	Per Cent	Per Cent
Used weapon	0.1	0.2
Resisted	40.2	54.2
Fled	9.0	18.1
Submitted	35.5	21.3
Participated willingly	15.2	6.1
TOTAL	100.0	99.9*

Information missing for 216 cases. (42 female victims, 174 male victims)

\*Rounding error

Proportionately, more male than female victims were reported to have participated willingly in the sexual act with the suspect (15.2 per cent for males, as opposed to 6.1 per cent for females). Considering only male victims in the 14-20 age group, about one in six (16.8 per cent) was reported to have participated willingly. Virtually all of these incidents involving male victims were homosexual in nature and would have been charged under the offences of indecent assault on a male, buggery, gross indecency or contributing to juvenile delinquency. **The findings indicate that, if the age of "full consent" to heterosexual or homosexual behaviour were lowered from 21 to 18, this would not affect police charging practices to any appreciable extent.**

The findings on the lack of "willing participation" by young persons are significant in themselves, but it should not be overlooked that the protection of young persons' bodily integrity against unwanted sexual touchings is only one of the legitimate policy bases of the criminal law of sexual offences, particularly those committed against young persons. Notwithstanding that a young

person can and does give a *de facto* consent to sexual activity with another person, the criminal law has traditionally played a role in sanctioning offenders who engage in sexual acts thought to be harmful to young persons (for example, sexual intercourse and buggery) or who exploit a young person sexually by misusing a position of trust or authority (for example, the offences of incest, sexual intercourse with one's step-daughter and contributing to juvenile delinquency). That a young person willingly participates in a sexual act with another person does not conclude the question whether such behaviour is within the legitimate province of the criminal law. Other crucial considerations are the age of the young person, the nature of the sexual act engaged in and the social or legal relationship between the young person and his or her sexual partner.

**It is clear from the findings that the vast majority of police occurrences indicating a sexual offence against a young person involved either young children unable to give either a *de facto*, and certainly not a legal, consent to sexual behaviour, or older children who in fact did not consent to the behaviour in question. There is no case to be made from these findings that police resources are being used to investigate either unfounded allegations, or sexual behaviour involving young persons that is venial or trivial in nature. Nor is it plausible to infer from these findings that a substantial proportion of the incidents involved "sexual experimentation" among teenagers, in which police intervention was seen to be unnecessary or heavy-handed. On the contrary, the findings strongly suggest that the vast majority of these incidents were considered serious both by the young person or by others on his or her behalf, and by the police.**

## Sexual Offences by Type of Association

A key social issue is the relative extent to which young persons are at risk of sexual abuse from different persons in their lives. This social issue generates a corollary legal one, namely, how should the criminal law (child welfare law implicitly does so) reflect the fact that young persons may be proportionately more at risk from persons who are prominent in their lives, for example, family members and persons in a guardianship or trust relationship with respect to the young person? The following review presents the findings from the National Police Force Survey with respect to: the relationship between offenders and their victims; the types of sexual offences committed; the nature of the sexual acts committed; and the ages of the victims. In light of the fact that more than one offence may have been committed, the listing of offences given in Table 25.11 exceeds the number of victims about whom information was assembled in the National Police Force Survey. In addition to these summary findings, the specific listing of offences by the types of association is given in Tables 25.12 to 25.18. Several trends are apparent from these findings.

- Male persons whom the female person either knew or was acquainted with (191 offences) accounted for almost as many rape offences as male persons in the "other/stranger" category (219 offences). This trend was only slightly less evident with respect to the attempted rape offences.

**Table 25.11**  
**Sexual Offences Committed against Children under Age 21 by Type of Association with Suspected Offender**

Type of Offense Committed Against the Child	Person Committing Offences Against the Child										Total All Offences
	Incest Relationship	Other Blood Relative	Guardianship Position	Other Family Member	Position of Trust	Friends/Acquaintances	Other/Stranger	Unknown			
Rape	8	10	9	10	4	150	219	5			415
Attempted rape	1	3	1	3	2	28	59	1			98
Intercourse with female under age 14	8	8	21	13	5	52	7	4			118
Intercourse with female age 14 but under 16	2	5	8	3	—	58	8	2			86
Intercourse with feeble-minded	—	—	—	—	1	1	5	—			7
Indecent assault female	190	93	111	76	112	787	1,101	22			2,492
Indecent assault male	21	14	22	10	56	263	274	10			670
Incest	93	—	3	2	—	—	1	—			99
Intercourse with female ward	—	—	7	2	—	—	—	—			9
Buggery	2	5	8	3	—	34	16	—			68
Gross indecency	34	10	18	14	14	82	75	7			254
Indecent act	3	—	2	—	5	104	1,938	7			2,059
Corrupting child Contributing to/J.D.A.	3	—	—	1	—	—	1	—			5
	16	5	4	10	11	124	25	11			206
<b>TOTAL</b>	<b>381</b>	<b>153</b>	<b>214</b>	<b>147</b>	<b>210</b>	<b>1,683</b>	<b>3,729</b>	<b>69</b>			<b>6,586</b>

National Police Force Survey.

**Table 25.12**  
**Sexual Offences Committed against Children under Age 21 involving a Relationship of Incest**

Type of Sexual Offense Committed Against the Child	Person Committing Offences Against the Child										Total
	Father	Mother	Brother	Half-Brother	Sister	Half-Sister	Grandfather	Grandmother			
Rape	5	—	1	2	—	—	—	—	—	—	8
Attempted rape	—	—	—	—	—	—	—	—	—	1	1
Intercourse with female under age 14	6	—	—	1	—	—	—	—	—	—	8
Intercourse with female age 14 but under 16	—	—	1	1	—	—	—	—	—	—	2
Intercourse with feeble-minded	—	—	—	—	—	—	—	—	—	—	—
Indecent assault female	158	1	18	2	1	—	—	—	—	10	190
Indecent assault male	16	—	1	1	—	—	—	—	—	3	21
Incest	81	1	10	1	—	—	—	—	—	—	93
Seduction of female ward	—	—	—	—	—	—	—	—	—	—	—
Buggery	2	—	—	—	—	—	—	—	—	—	2
Gross indecency	28	1	1	3	—	—	—	—	—	1	34
Indecent act	3	—	—	—	—	—	—	—	—	—	3
Corrupting a child	2	1	—	—	—	—	—	—	—	—	3
Contributing to J.D.A.	12	1	—	2	—	—	—	—	—	1	16

*National Police Force Survey.*

**Table 25.13**  
**Sexual Offences Committed against Children under Age 21**  
**by Relatives (Non-Incest)**

Type of Sexual Offence Committed Against the Child	Person Committing Offence Against the Child					Total
	Uncle	Aunt	Nephew	Niece	Cousin	
Rape	6	—	—	—	4	10
Attempted rape	2	—	—	—	1	3
Intercourse with female under 14	6	—	—	—	2	8
Intercourse with female 14 but under 16	5	—	—	—	—	5
Intercourse with feeble-minded	—	—	—	—	—	—
Indecent assault female	74	—	1	—	18	93
Indecent assault male	11	—	1	—	2	14
Incest	—	—	—	—	—	—
Seduction female ward	—	—	—	—	—	—
Buggery	5	—	—	—	—	5
Gross indecency	9	—	—	—	1	10
Indecent act	—	—	—	—	—	—
Corrupting child	—	—	—	—	—	—
Contributing to/ J.D.A.	3	—	1	—	1	5

*National Police Force Survey.*

- By way of contrast, the “unlawful sexual intercourse” offences were committed in the vast majority of cases by male persons whom the girl either knew or was acquainted with (107 of the 118 offences where the girl was under 14, and 76 of the 86 offences where the girl was 14 or 15). This may be accounted for by the fact that the unlawful sexual intercourse offences can be charged notwithstanding that the girl consented to the sexual intercourse. What is striking is that, with respect to girls under 14, offences of this sort committed by friends or acquaintances (52 offences) were fewer in number than the number of offences committed by the girls’ male family members, guardians, or persons in positions of trust (55 offences). This trend dropped sharply with respect to girls 14 or 15.
- Concerning the offences of indecent assault on a male or female, male persons whom the young person either knew or was acquainted with accounted for a sizeably greater proportion of offences against both males and females than male persons in the “other/stranger” category. With respect



to offences of indecent assault on a female, the breakdown was 1369 offences in which the female knew or was acquainted with the offender, as opposed to 1101 offences in which the offender was in the "other/stranger" category. This proportion was even greater in relation to offences of indecent assault on a male: 386 offences in which the male victim knew or was acquainted with the male offender, as opposed to 274 offences in which the offender was in the "other/stranger" category.

- Of the 99 offences listed as incest, six involved offenders who could not legally be convicted of that offence, since they were outside the prohibited degrees of consanguinity specified in section 150 of the *Criminal Code*. In these instances, it appears that the police officers involved may have been unaware of the specific legal elements of the incest offence.

**Table 25.14**  
**Sexual Offences Committed against Children under Age 21**  
**by Persons in Guardianship Positions**

Type of Sexual Offence Committed Against the Child	Person Committing Offence Against the Child				Total
	Step-Father	Foster-Father	Legal Guardian	Employer/Supervisor	
Rape	6	2	—	1	9
Attempted rape	1	—	—	—	1
Intercourse with female under 14	21	—	—	—	21
Intercourse with female 14 but under 16	8	—	—	—	8
Intercourse with feeble-minded	—	—	—	—	—
Indecent assault female	79	4	1	27	111
Indecent assault male	7	2	—	13	22
Incest	3	—	—	—	3
Seduction female ward	6	1	—	—	7
Buggery	7	1	—	—	8
Gross indecency	14	1	—	3	18
Indecent act	—	—	—	2	2
Corrupting child	—	—	—	—	—
Contributing to/J.D.A.	1	—	—	3	4

*National Police Force Survey.*

**Table 25.15**  
**Sexual Offences Committed against Children under Age 21 by Other Family Members**

Type of Sexual Offence Committed Against the Child	Person Committing Offence Against the Child							Total
	Adoptive Father	Adoptive Brother	Adoptive Grandfather	Foster Brother	Common-Law Parent	Other Family Members		
Rape	1	—	1	—	4	4	10	
Attempted rape	—	—	—	—	2	1	3	
Intercourse with female under age 14	2	—	—	1	3	7	13	
Intercourse with female age 14 but under 16	—	—	—	—	2	1	3	
Intercourse with feeble-minded	—	—	—	—	—	—	—	
Indecent assault female	8	—	5	—	50	13	76	
Indecent assault male	—	—	—	—	5	5	10	
Incest	1	—	—	—	1	—	2	
Seduction of female ward	2	—	—	—	—	—	2	
Buggery	—	1	—	—	1	1	3	
Gross indecency	2	—	—	—	11	1	14	
Indecent act	—	—	—	—	—	—	—	
Corrupting a child	—	—	—	—	1	—	1	
Contributing to/I.D.A.	1	—	—	—	4	5	10	

*National Police Force Survey.*

Table 25.16

Sexual Offences Committed against Children under Age 21 by Persons in Positions of Trust

Type of Sexual Offence Committed Against the Child	Person Committing Offence Against the Child								Total
	Day Care Worker	Teacher	Youth Worker	Baby-Sitter	Group Home Worker	School Bus Driver			
Rape	—	1	—	3	—	—	—	—	4
Attempted rape	—	—	—	2	—	—	—	—	2
Intercourse with female under age 14	—	—	—	5	—	—	—	—	5
Intercourse with female age 14 but under 16.	—	—	—	—	—	—	—	—	—
Intercourse with feeble-minded	—	1	—	—	—	—	—	—	1
Indecent assault female	3	8	5	86	2	8	—	—	112
Indecent assault male	2	6	6	41	1	—	—	—	56
Incest	—	—	—	—	—	—	—	—	—
Seduction of female ward	—	—	—	—	—	—	—	—	—
Buggery	—	—	—	—	—	—	—	—	—
Gross indecency	2	—	1	11	—	—	—	—	14
Indecent act	—	1	—	3	1	—	—	—	5
Corrupting a child	—	—	—	—	—	—	—	—	—
Contributing to J.D.A.	—	4	1	5	1	—	—	—	11

Table 23.11

## Sexual Offences Committed against Children under Age 21 by Friends and Acquaintances

Type of Sexual Offence Committed Against the Child	Person Committing Offence Against the Child								Total
	Boyfriend	Girlfriend	Personal Friend	Family Friend	Neighbour	Acquaintance			
Rape	7	—	34	17	9	83			150
Attempted rape	5	—	2	4	5	12			28
Intercourse with female under age 14	16	1	7	3	2	23			52
Intercourse with female age 14 but under 16	29	—	5	4	1	19			58
Intercourse with feeble-minded	—	—	—	—	—	1			1
Indecent assault female	18	2	70	107	195	395			787
Indecent assault male	2	—	35	34	65	127			263
Incest	—	—	—	—	—	—			—
Seduction of female ward	—	—	—	—	—	—			—
Buggery	3	—	1	5	3	22			34
Gross indecency	3	—	4	14	18	43			82
Indecent act	—	—	4	5	62	33			104
Corrupting a child	—	—	—	—	—	—			—
Contributing to/J.D.A.	22	—	16	9	10	67			124

National Police Force Survey.

Table 25.18  
Sexual Offences Committed against Children under Age 21 by Other Persons and Strangers

Type of Sexual Offence Committed Against the Child	Persons Committing Offences Against the Child						Total
	Co-Employee	Boarder	Trick	Co-Resident Group Home	Stranger		
Rape	4	—	5	—	210	219	
Attempted rape	1	—	—	—	58	59	
Intercourse with female under age 14	—	1	—	—	6	7	
Intercourse with female age 14 but under 16	—	—	—	—	8	8	
Intercourse with feeble-minded	—	—	—	—	5	5	
Indecent assault female	10	17	3	1	1070	1101	
Indecent assault male	4	12	2	1	255	274	
Incest	—	—	—	—	1	1	
Seduction of female ward	—	—	—	—	—	—	
Buggery	1	1	1	—	13	16	
Gross indecency	—	5	—	—	70	75	
Indecent act	—	2	—	—	1936	1938	
Corrupting a child	—	—	—	—	1	1	
Contributing to/J.D.A.	—	1	—	—	24	25	

National Police Force Survey.

- With respect to the offence of buggery (sexual intercourse *per anum* by a male on a male or female) and gross indecency, the offender was much more likely to be known to the young person than not. For the offences of buggery, in 52 of the 68 occurrences the young person knew or was acquainted with the offender; for the offences of gross indecency, the offender was known to or acquainted with the young person in 172 of the 247 documented occurrences.
- The offences of "indecent act", which almost exclusively are acts of genital exposure by males, were committed by strangers in 94.1 per cent of the occurrences.
- The charge of "contributing to juvenile delinquency" was relatively seldom laid by the police. This offence constituted 3.1 per cent of the 6,586 offences listed. Where this offence was listed, it was used much more often where the offender was known to the young person than otherwise.
- Twenty-nine step-fathers were listed in relation to the "unlawful sexual intercourse" offences, and only six in relation to the specific offence of sexual intercourse with one's step-daughter. A probable explanation for this is the fact that, under the law as it existed when the findings were collected, the "unlawful sexual intercourse" offences did not require corroboration as a matter of law, whereas the offence of sexual intercourse with one's step-daughter was attended by a statutory corroboration requirement.
- In 84 offences, the offender was listed as being the common-law parent of the victim. Although much smaller in absolute terms than the number of offenders who were fathers, this in no way implies that the relative risk posed by male common-law parents is less than that posed by biological fathers.
- The extent to which young persons are at risk from family friends and neighbours is noteworthy; virtually every serious sexual offence is represented by persons in these categories.

Excluding offences of indecent act, almost one in four (24.2 per cent) of the sexual offences against young persons was committed by persons either prominent in the child's life or to whom the child was particularly vulnerable; about three in five (59.1 per cent) were committed by persons whom the child

Type of Association between Victim and Suspected Offender	All Offences	Excluding Offences of "Indecent Act"
	Per Cent	Per Cent
Offender was Family Member, Guardian or in a Position of Trust with respect to the child	16.8	24.2
Offender was a Friend or Acquaintance of the child	25.6	34.9
Other/Stranger	56.6	39.6
Not Reported	1.0	1.3
TOTAL	100.0	100.0

either knew or was acquainted with. Other persons and strangers accounted for about two in five (39.6 per cent) of the sexual offences which involved a sexual touching of some sort.

## Sexual Acts by Type of Association

Since several sexual acts may have been committed upon or with a child, the total number of sexual acts listed in Table 25.19 exceeds the number of children and youths (6203) about whom information was obtained in the National Police Force Survey. The findings presented in Table 25.19 indicate that, apart from the acts of exposure ("suspect exposed genitalia"), the most prevalent sexual acts committed were the fondling of the child's genitalia and the fondling of the child's breasts or buttocks (1886 acts and 1580 acts, respectively). Sexual intercourse between a male offender and a female complainant was the next most prevalent sexual act committed (681 acts). What is conspicuous from these findings is the sheer heterogeneity of the sexual behaviours committed against children and youths. In relation to these findings, the following trends are noteworthy:

- The sexual acts committed by offenders in an incest relationship with respect to their victims covered a wide range, over and above the specific acts of sexual intercourse and attempted sexual intercourse. By definition, however, the offence of incest in Canadian criminal law refers only to acts of sexual intercourse between persons closely related by blood.
- Acts of sexual intercourse and attempted sexual intercourse by a male with a female constituted about one in 10 of the total number of sexual acts committed.
- The majority of acts of genital exposure were committed by persons in the "other/stranger" category.
- With respect to acts of sexual intercourse, 13.7 per cent were committed by offenders (predominantly fathers) who were within the degrees of consanguinity specified by the incest offence in section 150 of the *Criminal Code*.
- If offenders in the incest relationship are grouped with those who were otherwise related by blood, family members, guardians, and persons in a position of trust vis-a-vis the young person, then this group accounted for 28.5 per cent of all acts of sexual intercourse. Offenders who were friends or acquaintances of their female victims accounted for 39.4 per cent of acts of sexual intercourse, while persons in the "other/stranger" category accounted for 32.1 per cent of these acts.
- Accordingly, well over a quarter (28.5 per cent) of the acts of sexual intercourse were perpetrated by offenders to whom the young person was particularly vulnerable, and almost seven in 10 (67.9 per cent) of these acts were perpetrated by offenders whom the young person knew or was acquainted with.

**In relation to more serious sexual acts, a young person is at risk from persons prominent in his or her life (for example, his or her father, uncle, guardian, or common-law parent) to almost as great an extent as from strangers.**

**Table 25.19**  
**Sexual Acts Committed against Children under Age 21 by Type of Association with Suspected Offender**

Type of Sexual Act Committed Against the Child	Person Committing Offences Against the Child							Total
	Incest Relationship	Other Blood Relative	Guardianship Position	Other Family Member	Position of Trust	Friends/Acquaintances	Others/Strangers	
Fondling breasts/buttocks	137	36	104	40	32	485	746	1580
Fondling genitalia	176	69	94	60	88	663	736	1886
Kissing mouth/other parts	61	19	36	21	13	255	213	618
Thigh intercourse	19	13	7	7	3	44	26	119
Oral/genital	51	19	28	23	30	173	121	445
Oral/anal	2	—	—	2	3	11	17	35
Attempted vaginal penetration with penis	40	18	10	8	13	78	72	239
Vaginal penetration with penis	93	24	44	25	8	268	219	681
Vaginal penetration with finger	40	16	21	10	15	70	47	219
Vaginal penetration with object	5	1	3	—	3	8	4	24
Attempted anal penetration with penis	8	4	3	1	5	35	22	78
Anal penetration with penis	8	3	6	2	2	40	26	87
Anal penetration with finger	5	4	2	3	2	9	13	38
Anal penetration with object	2	—	1	1	—	4	7	15
Bestiality	—	—	—	—	—	—	2	2
Exposed genitalia	38	19	23	15	25	214	1992	2326
Exposed nude body	39	8	16	10	6	90	209	378
Suspect aided another person	2	—	1	1	—	17	9	30
Suspect removed child's clothes	25	17	15	5	10	112	179	363
<b>TOTAL</b>	<b>751</b>	<b>270</b>	<b>414</b>	<b>234</b>	<b>258</b>	<b>2576</b>	<b>4660</b>	<b>9163</b>

National Police Force Survey.



Persons Committing Sexual Act	All Sexual Acts	"Serious" Sexual Acts
	Per Cent	Per Cent
Family Members, Guardians, or persons in Position of Trust	21.0	30.7
Friends/Acquaintances	28.1	36.6
Other persons/strangers	50.9	32.7
TOTAL	100.0	100.0

Since offenders in the former category have greater opportunity to abuse sexually young persons in their charge and, correspondingly, are persons to whom these children are particularly vulnerable, the Committee believes that the criminal law must be strengthened to afford a more important deterrent role in this context.

### Ages of Victims by Type of Association

The analysis of the social or legal relationships between offenders and victims as a function of the ages of the victims provides important insights into the question: To what extent are young persons of different ages variously at risk from persons to whom they are legally or socially related? The findings given in Table 25.20 provide a breakdown of the types of association between offenders and victims in terms of the ages of the victims. The findings indicate that:

- With respect to offences in which the offender was within the degrees of consanguinity specified in the incest offence in section 150 of the *Criminal Code*, this occurred proportionately more often where the victim was under 16 than where he or she was 16 or older. Over a third of these offences (35.8 per cent) concerned children under the age of 12, and more than half (51.7 per cent) concerned children 12-15 years of age. Only about one in eight offences (12.3 per cent) in which the offender was within the "incest" relation concerned young persons in the 16-20 year age-group.
- An even more marked trend was evident with respect to offenders in the category, "other blood relative". Almost three-quarters (72.2 per cent) of offences by other blood relatives concerned children under the age of 12; 96.2 per cent concerned children under the age of 16. Offences by other blood relatives of victims 16 and older constituted less than one in 26 (3.8 per cent) of all offences committed by this group. Similar trends occurred with respect to offenders in the "guardianship" and "other family member" categories.
- Offences committed by persons in a position of trust to the child occurred most often with respect to children under the age of 12; about six in seven of all offences committed by such persons concerned a child 11 years of age

**Table 25.20**  
**Ages of Sexually Assaulted Victims by Type of Association with Suspected Offender**

Age of Victim	Type of Association														Total	
	Incest Relationship		Other Blood Relative		Guardianship Position		Other Family Member		Position of Trust		Friends/Acquaintances		Others Strangers		No.	%
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Under age 7	36	11.4	52	39.1	6	3.4	12	11.3	89	53.3	270	20.9	196	11.1	661	16.7
7 — 11 years	77	24.4	44	33.1	28	15.9	32	30.2	55	32.9	349	27.1	386	21.9	971	24.6
12 — 13 years	59	18.7	12	9.0	32	18.2	20	18.9	10	6.0	204	15.8	212	12.0	549	13.9
14 — 15 years	104	33.0	20	15.0	67	38.1	30	28.3	5	3.0	274	21.3	339	19.2	839	21.3
16 — 17 years	31	9.8	2	1.5	33	18.7	8	7.5	3	1.8	81	6.3	266	15.1	424	10.7
18 — 20 years	8	2.5	3	2.3	10	5.7	4	3.8	5	3.0	111	8.6	363	20.6	504	12.8
<b>TOTAL</b>	<b>315</b>	<b>99.8*</b>	<b>133</b>	<b>100.0</b>	<b>176</b>	<b>100.0</b>	<b>106</b>	<b>100.0</b>	<b>167</b>	<b>100.0</b>	<b>1289</b>	<b>100.0</b>	<b>1762</b>	<b>99.9*</b>	<b>3948</b>	<b>100.0</b>

*National Police Force Survey. All children and youths under age 21 who were sexually assaulted (excluding 2060 acts of exposure). Information missing for 195 cases.*

\*Rounding error.

or younger (86.2 per cent). This dropped off sharply with respect to young persons 12 and older.

- Offences committed by friends or acquaintances of the child also occurred proportionately more often where the child was 11 or younger (48.0 per cent). These persons became much less a factor in relation to victims in the 16-20 age-group.
- The proportion of offences committed by persons in the "other/stranger" category varies appreciably from one age group to another, from a low of 11.1 per cent in relation to victims under age seven to a high of 21.9 per cent in relation to victims between seven and 11 years-old.

The findings clearly show that, in general, young persons were proportionally at greater risk from blood relatives and persons in positions of trust than from other persons. With respect to children 11 years or younger, the proportion in each of these categories is striking:

- 86.2 per cent of all offences committed by persons in a position of trust relative to the child victim concerned children 11 years-old or younger;
- 72.2 per cent of all offences committed by other blood relatives of victims (excluding incest relations) concerned children 11 years-old or younger; and
- 35.8 per cent of all offences committed by persons in an incest relation with respect to the child victim concerned children 11 years-old or younger.

The findings indicate that young children are at greatest risk from persons prominent in their lives, whether they be blood relations, family members or persons in positions of trust (for example, baby-sitters and teachers). In other words, young children are proportionately at greatest risk of sexual abuse from persons to whom they are socially most vulnerable.

## Co-residence of Victims and Offenders

The Committee's findings in respect to whether the offender resided in the same household as the victim at the time of the offence strengthen and complement the other analyses undertaken to determine the persons from whom children are at greatest risk from sexual abuse. Overall, in about one in five cases of sexual assault (19.8 per cent) investigated by the police, the victim and the suspected offender lived, shared or were present in the same residence. Girls were over twice as likely (20.8 per cent) to be victims of these types of offences as boys (9.7 per cent).

Of those offences in which the offender and the victim co-resided, in more than one in three (36.1 per cent) the offender was related to the victim within the degrees of consanguinity specified in the incest offence in section 150 of the *Criminal Code*. Other blood relatives accounted for about one in 13 (7.4 per cent) of these offences, and other family members for about one in nine (10.6 per cent). In descending order, the balance of these "co-resident" offences was accounted for by persons in guardianship positions (15.7 per cent); friends or acquaintances of the victim (14.8 per cent); other persons and strangers (13.1 per cent); and persons in positions of trust vis-a-vis the victim (2.2 per cent).

**Table 25.21**  
**Co-residence of Victim and Offender by Type of Association**

Type of Association between Offenders and Victims	Number of Offences in which Offender and Victim Co-resided	Per Cent
<i>Incest Relationship</i>		
• father	244	
• mother	3	
• brother	27	
• half-brother	10	
• sister	1	
• half-sister	—	
• grandfather	12	
• grandmother	—	
<b>TOTAL</b>	<b>297</b>	<b>36.1</b>
<i>Other Blood Relatives</i>		
• uncle	50	
• aunt	—	
• nephew	1	
• niece	—	
• cousin	10	
<b>TOTAL</b>	<b>61</b>	<b>7.4</b>
<i>Other Family Members</i>		
• adoptive father	12	
• adoptive brother	2	
• adoptive grandfather	1	
• foster brother	1	
• common-law parent	59	
• other	12	
<b>TOTAL</b>	<b>87</b>	<b>10.6</b>
<i>Guardianship Positions</i>		
• step-father	116	
• foster-father	10	
• legal guardian	1	
• employer	2	
<b>TOTAL</b>	<b>129</b>	<b>15.7</b>
<i>Positions of Trust</i>		
• day care worker	—	
• teacher	1	
• youth worker	6	
• group home worker	2	
• baby-sitter	9	
<b>TOTAL</b>	<b>18</b>	<b>2.2</b>

**Table 25.21 (continued)**

**Co-residence of Victim and Offender by Type of Association**

Type of Association between Offenders and Victims	Number of Offences in which Offender and Victim Co-resided	Per Cent
<i>Friends/Acquaintances</i>		
• boyfriend	12	
• personal friend	15	
• family friend	52	
• neighbour	5	
• acquaintance	38	
<b>TOTAL</b>	<b>122</b>	<b>14.8</b>
<i>Others/Strangers</i>		
• boarder	32	
• co-resident of group home	2	
• other	57	
• stranger	17	
<b>TOTAL</b>	<b>108</b>	<b>13.1</b>
<b>GRAND TOTAL</b>	<b>822</b>	<b>99.9*</b>

*National Police Force Survey.*

\*Rounding error

Findings on the offences in which offenders and victims co-resided are presented in Table 25.22 in relation to the dimensions of the types of association between them and the ages of the victims. What is apparent from these findings is that children under 16 were proportionately at greater risk from persons with whom they resided than were young persons 16 and older. About seven in eight of these offences (86.8 per cent) concerned a child 15 years of age or younger, while only about one in eight (13.2 per cent) concerned a young person 16 or older. Children under the age of 12 were particularly at risk from blood relatives and persons in positions of trust. The highest proportion of "co-resident offences" occurred in relation to children 14 and 15 years of age (30.3 per cent of the total); the next highest proportions of these offences occurred in relation to children 7-11 years of age (25.8 per cent of the total), children 12 and 13 years of age (18.0 per cent of the total), and children under seven years of age (12.7 per cent of the total).

**Table 25.22**  
**Victims and Suspected Offenders Living in the Same Residence by Type of Association and Age of Victim**

Age of Victim	Type of Association														Total	
	Incest Relationship		Other Blood Relative		Other Family Member		Guardianship Positions		Position of Trust		Friends/Acquaintances		Others Strangers		No.	%
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Under Age 7	29	10.3	22	36.1	13	15.1	6	4.6	7	38.9	18	14.7	2	3.3	97	12.7
7 — 11 years	63	21.7	24	39.3	22	25.6	27	20.9	6	33.3	33	27.0	23	37.7	198	25.8
12 — 13 years	57	19.7	4	6.5	15	17.4	25	19.4	1	5.6	20	16.4	16	26.2	138	18.0
14 — 15 years	104	36.0	9	14.8	27	31.4	46	35.7	1	5.6	34	27.9	11	18.0	232	30.3
16 — 17 years	28	9.6	2	3.3	8	9.3	20	15.5	3	16.6	4	3.3	6	9.8	71	9.3
18 — 20 years	8	2.7	—	—	1	1.2	5	3.9	—	—	13	10.7	3	4.9	30	3.9
<b>TOTAL</b>	<b>289</b>	<b>100.0</b>	<b>61</b>	<b>100.0</b>	<b>86</b>	<b>100.0</b>	<b>129</b>	<b>100.0</b>	<b>18</b>	<b>100.0</b>	<b>122</b>	<b>100.0</b>	<b>61</b>	<b>99.9*</b>	<b>766</b>	<b>100.0</b>

*National Police Force Survey. Information missing for 56 cases.*

\* rounding error

## Summary

1. Victims were more likely to be threatened or forced by offenders less than three years older than they than by offenders either younger than or more than three years older than their victims.
2. Proportionately, more resistance was offered by victims to younger offenders than to offenders more than three years older than their victims.
3. There were no appreciable differences in the nature of the sexual acts committed by offenders either younger, about the same age, or more than three years older than their victims.
4. In reported occurrences involving a single offence, an average of 1.5 sexual acts had been committed against the victim.
5. In about one in seven cases (14.5 per cent), the victim had been induced or forced to perform sexual acts on the offender. Acts of these kind tended to occur more frequently where the offender was well known to the child or held a position of trust to the child.
6. In the vast majority of sexual offences against the child, either the young person was unable to give a legal consent to sexual behaviour, or in the case of older children, resisted the behaviour in question.

A low proportion of victims (females, 6.1 per cent; males 15.2 per cent) was reported to have "participated willingly" in the sexual act. In the case of male victims in the 14-20 age group, only about one in six (16.8 per cent) was reported to have participated willingly.

7. Excluding offences of indecent act, almost one in four (24.2 per cent) of the sexual offences was committed by persons either prominent in the child's life or to whom the child was particularly vulnerable. Overall, about three in five offences (59.1 per cent) were committed by persons whom the child either knew or was acquainted with.
8. When the less serious sexual acts involving fondling, kissing, thigh intercourse and exposures are excluded, then proportionately the more serious sexual acts were more likely to have been committed by a person whom the child knew or was acquainted with than by a stranger.

**Part V**

**Child Protection Services**



## Chapter 26

### The Child in Need of Protection

The organization of child protection services across Canada ranges from loosely affiliated local or regional children's aid societies to centrally administered services. The distinctive features of each approach evolved from historical precedents that reflected local needs and different philosophies about social policy, about which level of government, municipal or provincial, should assume these responsibilities, and about whether private or public initiative was required to achieve these purposes. Fact-finding on the provision of child protection services in Canada is compounded by the operation of 12 separate jurisdictions (provinces and territories), each with its own child welfare statutes and service programs. There is no listing for the country along uniform lines of the full range of services provided. When the Committee started its review, it found that there was no common definition of child sexual abuse, little documentation of the child protection services provided for sexually assaulted children and no information about whether these services effectively assisted children. There is no documentation for Canada that compares how the sharply different programs which exist may influence the care and protection of sexually assaulted children.

Since the legal jurisdiction for child protection services is a provincial responsibility, and for this reason lay beyond the scope of its mandate, the Committee's review was limited to a consideration of how the organization and operation of these services affect the application and adequacy of protection afforded by the sexual offences in the *Criminal Code*.

In undertaking its review, the Committee received indispensable and effective co-operation from child protection services in all provinces and the Yukon. The extent of this participation in a federally appointed study underscores the nature of the deeply held concerns of child protection administrators and workers in all parts of Canada about the need to understand better the complex dimensions of child sexual abuse and about how these children can be better protected and served. The Committee knows of no precedent where collaborative research along these lines involving provincial child protection services has been undertaken in this country.

In this chapter, a review is given of the statutory definitions of the child in need of protection, the development of the National Child Protection Survey is described and the operation of a number of special service programs is outlined. The issues considered in the remaining chapters in this section of the Report deal with:

1. A review of legislation in relation to the duty to report cases of child sexual abuse. Research findings are given concerning the extent to which cases were reported to registers and the types of cases for which notification was made.
2. The provision of child protection services for sexually abused children documented on the basis of findings assembled by the National Child Protection Survey.
3. A review of research findings concerning the services provided by philosophically different intervention strategies — the child-centred and family-centred approaches — in relation to the protection and assistance afforded by these means for sexually abused children.

## Provincial Statutory Definitions

The definition in each provincial Act of “a child in need of protection” establishes the range of situations in which a child may be eligible to receive services from child protection services, and in which these agencies are authorized to intervene in the affairs of the child and his family. Table 26.1 sets out the major elements of risk that accumulatively constitute the definition of a child in need of protection for the purposes of each statute.<sup>1</sup> Categories having equivalent or analogous meanings are grouped together in this synopsis.

In the provincial acts, the concept of “a child in need of protection” is so broadly defined as to render virtually any child living in unsatisfactory domestic conditions or subjected to any form of abuse or neglect, eligible to receive protective services. Each definition contains an “umbrella” category that encompasses an enormous range of situations (e.g., “child living in unfit or improper place/circumstances”; “child whose life, health, morals/emotional well-being may be endangered by the conduct of the person in whose charge the child is”; and “child subjected to abuse”). These broad categories also incorporate concepts such as “morals”, “emotional well-being”, “unfit”, “improper” and “abuse”.

The definitions of “a child in need of protection” appear to have been drafted to ensure that, in any conceivable case of child abuse or neglect, there would be some statutory basis for the authorization of intervention. Such legislation confers wide discretionary powers on those persons who must apply the statutes. Protection is afforded families, however, in their right to contest in

**Table 26.1**  
**Provincial Statutory Definitions of the Child in Need of Protection**

Category of Child at Risk	Province											
	Nfld.	P.E.I.	N.S.	N.B.	Que.	Ont.	Man.	Sask.	Alta.	B.C.	Yukon	N.W.T.
Child who is the victim of sexual assault/exploitation or who is subject to physical ill-treatment through violence and neglect.	X	X		X	X							
Child brought with consent of person in whose charge he is before a court to be dealt with under the act.	X					X	X		X		X	X
Child born to unmarried parents whose mother is unable or unwilling to care for him/delivers him for adoption.		X					X					
Child who refuses or is unable to provide properly and adequately for the health and welfare needs of herself or her child.		X					X					
A child who without sufficient cause is habitually absent from home/school	X	X	X	X		X			X			
Child absent from home in circumstances that endanger his safety or well-being.										X		

**Table 26.1 (continued)**  
**Provincial Statutory Definitions of the Child in Need of Protection**

Category of Child at Risk	Province											
	Nfld.	P.E.I.	N.S.	N.B.	Que.	Ont.	Man.	Sask.	Alta.	B.C.	Yukon	N.W.T.
Child who leaves a hospital centre or reception centre or foster family without authorization.					X							
Child who leaves/is absent from his home/parents without authorization.		X			X							
Child found begging or receiving charity in a public place.						X			X			
Child forced or induced to beg or do work disproportionate to his strength or to perform for the public in a manner that is unacceptable for his age.		X			X							X
Child committed pursuant to S.20(1) (b) or (i) of the Juvenile Delinquents Act.												
Child who, with the consent or connivance of the person in whose charge he is, commits any act that renders him liable to a penalty under any Act of Parliament, or of the Legislature, or under any Municipal By-Law/Child who commits an offence.				X					X			X

Table 26.1 (continued)

Provincial Statutory Definitions of the Child in Need of Protection

Category of Child at Risk	Province											
	Nfld.	P.E.I.	N.S.	N.B.	Que.	Ont.	Man.	Sask.	Alta.	B.C.	Yukon	N.W.T.
Child where the person in whose charge the child is neglects or refuses to provide or obtain proper medical, surgical or other recognized remedial care or treatment necessary for the child's health or well-being, or refuses to permit such care or treatment to be supplied to the child when it is recommended by a legally qualified medical practitioner, or who otherwise fails to protect the child adequately.	X	X	X	X		X	X	X	X	X		X
Child for whom the person in whose custody he is neglects, refuses or is unable to provide the services and assistance needed by the child because of the child's physical, mental or emotional handicap or disability.		X										
Child deserted/abandoned by the person having charge of the child.			X	X		X	X	X	X	X	X	X
Child where the person having charge of the child cannot for any reason care properly for the child/or where that person has died and there is no suitable person to care for the child.	X				X	X	X		X	X	X	X

Table 26.1 (continued)  
 Provincial Statutory Definitions of the Child in Need of Protection

Category of Child at Risk	Province											
	Nfld.	P.E.I.	N.S.	N.B.	Que.	Ont.	Man.	Sask.	Alta.	B.C.	Yukon	N.W.T.
Child where the person having charge of the child omits to/is unable to control the child/child has serious behaviour disturbances.	X	X		X	X	X	X	X	X			X
Child abused or neglected so that his life/safety or health/well-being is endangered.			X						X	X		
Child deprived of/lacking the material conditions of life appropriate to his needs and to the resources of his family/family is unfit, unwilling or unable to care for him.	X	X	X	X	X		X					
Child whose behaviour, condition, environment or association is injurious to himself or others.	X	X		X			X					
Child subjected to abuse.							X					
Child whose mental or emotional health is threatened by the isolation in which he is maintained.					X							
Child living in a situation where there is severe domestic violence.	X	X		X								

**Table 26.1 (concluded)**  
**Provincial Statutory Definitions of the Child in Need of Protection**

Category of Child at Risk	Province											
	Nfld.	P.E.I.	N.S.	N.B.	Que.	Ont.	Man.	Sask.	Alta.	B.C.	Yukon	N.W.T.
Child whose life, health, morals/emotional well-being may be endangered by the conduct of the person in whose care the child is.		X		X	X	X	X	X	X			
Child whose emotional or mental development is endangered because of emotional rejection or deprivation of affection/guidance/discipline by the person having charge of the child.		X				X	X		X			X
Child living in unfit or improper place/circumstances.	X					X		X	X		X	X
Child found associating with an unfit or improper person.						X			X			X

court any action taken by child protection agencies. Recognition is given to the individual and the unique nature of each family's difficulties since child protection workers may assess all aspects of a family's situation rather than checking for a specific range of prohibited behaviours before directly intervening in the life of a family and the child.

In the definitions of "children in need of protection", sexual abuse receives no statutory identification as a separate kind of risk faced by children, and against which they require protection. Four provincial Acts — those of Newfoundland, Prince Edward Island, New Brunswick and Quebec — cite sexual abuse as part of the definition of "a child in need of protection". In these Acts, however, sexual abuse is not treated as a separate category of harm or danger. Rather, sexual abuse or exploitation is grouped together in these Acts with other forms of abuse, such as physical abuse, physical or emotional neglect, or threatening behaviour.

In the eight jurisdictions where no mention is made of sexual abuse in the definition of children requiring protection, authorization to intervene on behalf of the sexually abused child must be inferred from one of the broad "umbrella" categories of risk (e.g., "child whose life, health, morals/emotional well-being may be endangered by the conduct of the person in whose care the child is").

In provincial child welfare statutes, the range of measures authorized to be taken on behalf of any child deemed to be in need of protection is identical whether the child has been battered, neglected, abandoned, permitted to be absent from school or sodomized. The statutes do not state explicitly that it is part of the mandate of the child caring agencies to protect sexually abused children. The exception is the Quebec Act, s. 23(j) which authorizes Le Comité de la protection de la jeunesse to "promote the protection of children who are the victims of sexual assault or who are subject to physical ill-treatment through violence or neglect."<sup>2</sup>

**On the basis of its review, the Committee concludes that the majority of provincial legislatures have not given specific consideration to child sexual abuse in framing their child welfare legislation. Although, the statutes of Prince Edward Island, Quebec, Manitoba, Saskatchewan, Alberta, the Yukon and the Northwest Territories create summary conviction offences for anyone who neglects, abandons, ill-treats or abuses a child in his or her care, none expressly makes an offence of child sexual abuse.**

**The provincial statutes are of little value in terms of providing any real guidance, or practical assistance to officials responsible for child care and protection, or in specifying clearly the basis upon which decisions are to be made whether incidents of child sexual abuse are to be dealt with under the terms of**



**child protection legislation or under the sexual offences in the *Criminal Code*. On the basis of the findings given in the following chapters in this section of the Report, the Committee concluded that it is the organization of services not the specific wording of any particular provincial statute, that affects the provision of assistance to sexually abused children. In this regard, sharply contrasting approaches have evolved in the administration and operation of different child protection services which have markedly different consequences in relation to affording assistance and protection for sexually abused children.**

The Committee reviewed extensively whether the statutory authority under which child protection services function should specify child physical and sexual abusive investigation responsibility in addition to the broad concepts of neglect and protection. As documented in this Report, **there can be no doubt that more adequate investigation of cases of child sexual abuse is required. The clear specification of the types of investigative responsibility for physical and child sexual abuse would accord with and promote the changing mandate responsive to public expectations.** Accordingly, on the basis of the findings presented concerning the provision of child protection services, **the Committee recommends that this is an issue requiring full review and, if deemed appropriate, action at the provincial level.** Because the investigative practices followed have crucial and profound consequences for the protection and well-being of physically and sexually abused children, the Committee believes that these matters should not be left solely to well intentioned but variable discretion, but that the basic principles and social policies involved warrant specification in legislation.

## Development of National Survey

As it started its review, the Committee was told by a number of experienced case workers that the records of child protection services were an inappropriate source to draw upon to document the experience of sexually abused children and the services provided for them. It was reported that most case records were incomplete, that there was no uniform definition of child sexual abuse, and that social workers were too busy to provide information by means of a standard protocol. The Committee was also bluntly told in some instances that the needs of these children were already well known and that more resources, not research, were needed. One senior official characterized the findings that might be obtained as "totally irrelevant" and was also concerned that the results might spark a "backlash of strong criticism" from the media and the public. The concerns that a national survey could not be undertaken were unfounded.

The Committee inquired of all provincial child protection services about the feasibility of undertaking a survey of services provided to sexually abused children. Collaborative research was initially started in three provinces, and subsequently, all provinces joined the study which became a National Child Protection Survey of Child Sexual Abuse.

Basic information for certain items was obtained in all jurisdictions. The survey relied on three sources of information. These were: the findings obtained by means of the child protection research protocol on child sexual abuse in eight provinces and the Yukon; an adaptation of the Committee's research protocol used in a province-wide sampling of cases known to child protection workers undertaken by Le Comité de la protection de la jeunesse in Quebec; and information obtained by means of an abbreviated protocol from cases listed in the Child Abuse Registry maintained by the Ontario Ministry of Community and Social Services. In the case of the survey conducted in Quebec, half of the items used in the research protocol corresponded to questions listed in the survey undertaken in eight other provinces. None of the 51 Children's Aid Societies in Ontario found it feasible to participate directly in the survey. However, with the full co-operation of the Ontario Ministry of Community and Social Services, information was drawn from the provincial Child Abuse Registry.

In order to provide the broadest coverage possible of the findings from the three sources, information from each of the surveys was combined, wherever this proved to be feasible. When the findings are referred to, the following code is used.

A — findings from all sources

B — findings for eight provinces, Quebec and the Yukon

C — findings from eight provinces, the Yukon and Ontario

National Child Protection Survey — findings from eight provinces and the Yukon.

The Committee acknowledges the participation in the survey of:

- Newfoundland Department of Social Services
- Prince Edward Island Department of Health and Social Services
- Nova Scotia Family and Child Welfare Association
- New Brunswick Department of Social Services
- Le Comité de la protection de la jeunesse (Quebec)
- Ontario Ministry of Community and Social Services
- The Children's Aid Society of Winnipeg and the Winnipeg Regional Office, Manitoba Department of Community Services and Corrections
- Saskatchewan Department of Social Services
- Alberta Department of Social Services and Community Health
- British Columbia Ministry of Human Resources
- Yukon Department of Health and Human Resources

Unlike the findings obtained in the Committee's national surveys of police forces and hospitals where in each instance information was obtained about all cases known to participating programs, the findings assembled in the National Child Protection Survey varied with respect to whether all, a sample, or a

selected number of cases known to child protection workers were documented. All known cases were included in the surveys undertaken in four provinces. In one province, Quebec, a sample was drawn of cases known to child protection workers in all parts of the province. Elsewhere, cases were included representing specific rural and urban regions of a province. As a result of how these findings were obtained, overall, they do not constitute a sample but rather a sizeable number of cases (totalling 1418) of young victims assisted by child protection services in all parts of Canada.

In most instances, child protection workers were asked to review cases known to them, and on this basis, to complete the research protocols themselves or with assistance from a researcher. In a few provinces, records were the initial source of information, and in these instances, the findings were reviewed for completeness by the professional staff of the agencies.

Despite the limitations noted, what is unusual about the findings obtained by the Committee is the size of the group of children whose experience was documented, the detailed nature of much of the information obtained, and the fact that findings were assembled from all provinces and the Yukon. Until more complete information is available along these lines, the Committee accepts the findings of the National Child Protection Survey as the basis for reaching its conclusions concerning the provision of child protection services for sexually abused children.

Before presenting findings from the National Child Protection Survey which dealt with the experience of services provided by officially authorized agencies, a synopsis is given of the operation of a number of special community programs established in different parts of the country.

## Special Community and Social Services

In the course of its review, the Committee learned of a number of innovative programs that had been developed for sexually abused children. What is striking about these programs is their breadth and diversity. In some instances, these activities are subsumed within general child protection services, while in other cases, such initiatives have come directly from the community to serve these children. The examples given here illustrate trends that are emerging across Canada.

### Associations of Victims

In several regions of Canada, groups or associations have been formed to help victims of sexual assaults, to provide counselling and to recommend the better provision of services. An example of such an association is the Sexual Abuse Victims Anonymous Association (S.A.V.A.) of British Columbia based in Campbell River. This voluntary community association, whose members are former incest victims, documents incest cases, offers peer counselling, makes

referrals and mounts public education programs (e.g., workshops, media programs and personal safety courses for children in schools). S.A.V.A.'s therapy sessions are designed to overcome incest-related trauma and to work towards the long-term rehabilitation of incest victims through the use of cathartic techniques that foster self-awareness, improve self-esteem and break down harmful rationalization on the part of the victim. Written assignments are used to assist the victim in coming to terms with having been sexually abused.

Where incestuous behaviour still occurs, the program aims at breaking down the offender's position of dominance within the family; support and advocacy are provided to victims as an encouragement to lay charges. S.A.V.A. members accompany victims to court in order to provide moral support and assistance. Where members are suicidal or severely depressed, formal contracts are used which bind them to contact other members before attempting desperate actions.

Another example of such an association is the Parents Anonymous group established in 1978 by the Social Services Council for Greater Saint John. The members of Parents Anonymous maintain a 24 hour telephone service providing counselling to parents under stress who fear that they may mistreat their children as an outlet for their anxieties. Parents Anonymous also sponsors "Parents Helping Parents" meetings offering peer support to troubled parents.

The sharp increase in the number of associations of victims from coast to coast indicates that some sexually assaulted persons seek assistance from persons who themselves may have been victims of sexual offences. Several of these groups have been established in liaison with public services and receive either input from professional staff or public funding for some of their activities.

### Advocacy Groups

In several provinces, associations have been formed to represent the interests of children and to serve as advocates for their better protection. The Saskatchewan Society for the Prevention of Cruelty to Children is an organization seeking to create a province-wide outlet for the involvement of concerned citizens in providing for the well-being of children. The S.S.P.C.C. has provided advocacy for children in courts and before various official bodies, has championed the cause of children in the media, has promoted professional and public awareness of all forms of child mistreatment and has sponsored Parents Anonymous groups. The organization has also produced materials for public and professional use and a bi-weekly newsletter. In 1982, the Society convened a conference that considered all aspects of the care of sexually abused children.

In Ontario, Justice for Children is a non-profit organization which seeks to advance the cause of child-oriented law-reform. One of the organization's concerns is with the legal issues surrounding incestuous assault. The group also provides a public information service dealing with issues that affect children.

## Sexual Assault Centres

Rape crisis centres (subsequently retitled sexual assault centres) were initially opened in Vancouver and Toronto in 1974. Since then, approximately 50 have been established across Canada. Some centres are located in hospitals or women's centres, while others operate independently. Most of the centres are staffed by volunteers whose work in some instances is complemented by paid professional staff.

The major function of the sexual assault centres is to provide immediate and direct assistance to victims. Several national conferences have been held and a National Association has been established whose functions include: assistance to new centres; collection of national statistics on sexual assault; service as a national information clearinghouse; training volunteers; preparation of briefs related to law reform; and production of handbooks on child sexual abuse.

Several centres have mounted services specifically intended for sexually abused children. An instance of this is the program developed by the Sexual Assault Centre of Edmonton. The Centre's services include: a paediatric examination; a social work assessment; psychological testing; and a psychiatric assessment (where required). The Centre's procedures involve setting up for sexually abused children and their families treatment plans that may entail: family counselling; teaching appropriate parental expectations and attitudes; psychotherapy; play therapy; and other types of treatment deemed necessary. In addition to providing a range of counselling, a telephone hotline, and support services, the Edmonton Centre publishes a series of leaflets concerning sexual offences against children.

The Coalition of British Columbia Sexual Assault Centres has sponsored the formation of Taking Responsible Action for Children and Youth (T.R.A.C.Y.). Among T.R.A.C.Y.'s anti-child abuse activities is a "block parents" training program. T.R.A.C.Y. also conducts child abuse-related workshops for teachers and social workers. The agency's Preventive Education Task Force provides seminars for school children between kindergarten and third grade. The seminars familiarize children with different kinds of touching; they inform children that certain sorts of touching are inappropriate, that their bodies are their own and that they do not have to accept being touched by adults in these ways. Similar seminars are being held elsewhere in the country.

## Telephone Hotlines

An abiding dilemma for child protection services is how to be accessible and to reach out quickly and effectively to abused children. An unusual outreach program that was established in 1979 by the British Columbia Ministry of Human Resources consists of a province-wide, 24 hour telephone service that receives reports of child neglect, abuse and other crises. Calls received between 8:30 a.m. and 4:30 p.m. are routed to the nearest appropriate offices

of the Ministry; during off-hours, the calls are directed automatically to the Vancouver Emergency Services Unit which has a staff of 60 crisis intervention workers and maintains liaison with the police. The Zenith Hotline is staffed by workers from the Ministry's Family Team and Youth Team. The Family Team is responsible for responding to all child welfare emergencies and adult or family crises, while the focus of the Youth Team is on troubled teenagers.

The goal of the Zenith Hotline is to reach into the community and find those victims whom the child protection system may otherwise fail to identify. The urgency of each call is assessed and calls are then referred on to the most suitable local agency or resource.

The Zenith Hotline operates as a comprehensive referral system designed to put victims and their families in contact with the most appropriate services and agencies with a minimum of red tape and delay, and to assure that follow-up and immediate investigation take place in cases of serious abuse and neglect. Its purpose is to complement the routine work of the Ministry's child protection workers. Following the precedent established by British Columbia, some other provinces have established their own hotlines.

### Co-ordinating Committees

The 1971 Report on *Child Abuse in Nova Scotia* noted that while there was insufficient co-ordination between related services, there was a strong and growing recognition that interdisciplinary co-operation was required to deal effectively with these problems.<sup>3</sup> During the intervening years, co-ordinating committees concerned with child abuse have been established in all parts of the country, most commonly, in larger urban centres. The Committee learned of the operation of a number of informal liaison groups in smaller communities which consisted of child protection workers, the police, physicians, and other lay and professional groups. In these instances, information about sexually abused children was shared between services and decisions were reached for care and appropriate follow-up.

In addition to these informal arrangements, several other means intended to co-ordinate services have evolved. These include: multidisciplinary service teams, reviewed elsewhere in the Report; and both locally and provincially established committees intended to co-ordinate child abuse services.

An example of a locally established co-ordinating committee is the Edmonton Committee on Child Abuse and Neglect. The Committee's members include representatives from: the Public School Board; the Separate School Board; Social Services; the Police Department; and Public Health Services. The activities of this Committee relate to: the co-ordination of resources; consultation; encouraging the development of a team approach to child abuse; fostering better communication between agencies that deal with the problem; and providing liaison with the Child Welfare Branch of the Alberta Department of Social Services and Community Health.

A somewhat comparable program has also been developed in Calgary. In conjunction with the Alberta Children's Hospital, the Calgary Child Sexual Abuse Committee was established as a result of a conference convened in 1980 to review how more effective care could be provided. Following this meeting, working sub-committees were set up (e.g., the Needs, Resources and Planning Sub-Committee whose seven members presented an extensive, provincially funded report in 1982 advocating the establishment of a specialized multidisciplinary core team to deal comprehensively with child sexual abuse in Calgary). In 1981, the Committee received funding from Alberta's Department of Social Services and Community Health to establish a Child Sexual Abuse Treatment Centre.

In other jurisdictions, provincial child protection services have established co-ordinating committees concerned with child abuse. For instance, Ontario has developed a large number of pilot projects, multidisciplinary bodies, educational activities and services focussing on child abuse. In 1981, 53 planning and co-ordinating groups concerned with child abuse were operating in 40 Ontario communities. Parents' Anonymous Groups had been formed in 17 areas; 48 interdisciplinary treatment or community access teams were functioning in 33 localities.

A somewhat different approach has been adopted in New Brunswick where the Department of Social Services has established a Community Committee Program in order to ensure that the expertise associated with multidisciplinary teams was made available to each area of the province. The purpose of each Committee is to act as an adjunct to the Department of Social Services in the detection, prevention and treatment of child abuse, and in educating the public about the problem. At least one Committee is formed in association with each of the Department of Social Services' six area offices. Each Committee is under the direction of the Area Administrator of Personal and Social Services responsible for the area office with which that particular Committee operates. The Area Administrator, in turn, reports to the Director of Personal Social Services on the activities of the Committee(s), and makes recommendations regarding its functions, effectiveness, composition, frequency of meetings and special areas of concern. The Committees draw their membership from a number of core disciplines.

The Committees are not involved in case management. However, they seek to assure that information concerning a probable need for services is brought to the attention of the proper investigating authority. The Committees have participated in active programs for encouraging teachers and other school personnel to report suspected cases of abuse; accordingly, materials for teachers have been published which outline the indicators of abuse, interviewing a child in order to gain verification and procedures for reporting the suspected abuse.

## Residential Facilities

As part of their provision of services for abused children, all provincial child protection services provide residential facilities for their temporary placement. Some of the facilities which include group homes, hostels and halfway houses have been developed specifically for the placement and treatment of such children. An example of this type of resource is the Mitchnick Group Home in Calgary, a small centre (accommodating up to six residents) which caters specifically to children with histories of neglect, abuse or sexual abuse. The children served by the facility range from 13 to 17 years of age. The Home's program features community exploration trips and in-house lessons on topics such as sex education.

Across Canada, a network of Transition Houses for physically and emotionally abused women has been established. Most of these houses were established by private societies and develop their own programs. One such group home, located in central Surrey in British Columbia, caters specifically to sexually abused girls. Another house is operated by the New Hope Therapeutic Society and has residents consisting exclusively of female incest victims. Recreational facilities are provided to make the resident's stay more pleasant and a daily routine is provided (e.g., school, household chores) in order to reinforce a home-like sense of normalcy. Weekly group therapy sessions are held for residents, as well as sessions for persons living outside the facility, including victims, perpetrators and family members.

## School Education Programs

The inclusion of sex education and family planning in the curriculum is a sensitive issue for school boards. Despite the difficulties faced in teaching such topics, a number of programs have been started across the country intended to provide parents and children with information about the signs of child abuse. A number of the programs initiated by local police forces deal with how children should react to various situations involving strangers.

Instances of two educational programs dealing more broadly with child abuse are ones in Vancouver and Saskatchewan. Since 1976, a high school education program has been run in the Lower Mainland under the joint sponsorship of the Junior League of Vancouver, the Ministry of Human Resources' Child Abuse Team and its Volunteer Services. The project was designed to supply students with information regarding abuse and the resources available to them and their parents.

The Saskatchewan Department of Social Services, recognizing that the province's schools constitute a potentially invaluable resource for the prevention and detection of child abuse, have encouraged them to adopt some of the following measures:

1. Offering parenthood, child care and family living courses.



2. Assigning a guidance counsellor or a teacher as a liaison, receiving and communicating reports of abuse to the appropriate social service in the community.
3. Promoting teacher awareness of the signs of child abuse.

The Saskatchewan Federation of Home and School Associations established a special child abuse project designed to improve the awareness of child abuse in the province among local Home and School Associations and members. The project has also encouraged the Association to create volunteer programs to educate parents about abuse.

### Professional Education Programs

Several provincial programs, such as the Division of Child Welfare of the Newfoundland Department of Social Services, have engaged in a variety of activities to educate professionals and the public about child abuse. In the Newfoundland program, seminars have been held across the province. Video presentations have been produced that offer information to parents, teachers and doctors on the prevention, detection and reporting of child abuse. The Division also has prepared and distributed a variety of pamphlets concerning issues related to child abuse.

In Nova Scotia, the Family and Child Welfare Division of the Department of Social Services has been active in developing an educational program focusing on child abuse. In 1979, an information kit was prepared and distributed to all schools, universities, public health units, police departments, hospitals and day care centres in the province, as well as to selected professionals involved with children, and clergy. The Department has co-sponsored a seven-part series of audio-visual presentations on "Violence in the Family". The series was broadcast on cable television community channels; one third of the programs concentrated specifically on sexual abuse. Other educational activities have included in-service workshops on child abuse for teachers and nurses.

The Saskatchewan Department of Social Services has sponsored a series of activities to improve public and professional education concerning child abuse, including a media campaign, and training programs for child protection workers, law enforcement personnel, teachers and health workers. The Department produces a booklet of Guidelines for the health professions to increase their detection and reporting of child abuse.

In Quebec, Le Comité de la protection de la jeunesse has prepared announcements about child sexual abuse for radio and television. One announcement noted that during the previous year about 1000 cases of child sexual abuse had been reported to child protection services. Listeners were told that they should report cases to the local Director of Youth Protection Services, or that they should encourage the victims to do this themselves.

Le Comité has also prepared a leaflet for sexually abused children which asks them to seek help from a trusted adult. Entitled *Les abus sexuels ça va mieux quand on en parle!*, the leaflet seeks to reassure the child that telling a teacher, doctor or child protection worker will not involve the breaking up of the child's family. A telephone number which can be called without charge is given in the leaflet.

### Standard Reporting Procedures

In recent years there has been a marked shift in the recognition of the need to establish guidelines for the reporting of cases of child abuse. Several provinces have issued such guidelines, and an example is provided by the Manitoba Department of Community Services and Corrections which has prepared a series of protocols on child abuse, its definition and detection, as well as a description of reporting procedures. A specialized protocol was developed for both the teaching and medical professions, while a general one was prepared for members of other professions. It was intended that these handbooks would instill the knowledge and motivation required to increase the professional reporting of child abuse. The protocols were drafted by the Provincial Advisory Committee on Child Abuse, an organization representing provincial and private social work agencies, health and law enforcement.

The development of general guidelines on child abuse is usually a first step towards establishing detailed procedures for professionals working with sexually abused children. Two such programs have been initiated in Ontario. In January, 1981, a standardized forensic sexual assault evidence kit was made available to hospitals across Ontario. The kit was developed by the Provincial Secretariat for Justice in conjunction with: the Ministry of Health; the Centre of Forensic Sciences; the Niagara Committee Against Rape and Sexual Assault; the police; Crown attorneys; rape crisis centres; and physicians. The kit incorporates a colour-coded, step-by-step set of procedural guidelines to assist hospital personnel in collecting and properly identifying evidence.

The Provincial Secretariat for Justice also distributes an instructional videotape intended to familiarize doctors and nurses with the proper use of the evidence kit and with the physical and emotional needs of victims. The evidence kit was created to foster a satisfactory standard of examination and testing for proof of sexual assault across the province. The new procedures were designed to assure that the analysis of evidence would be conducted at the facility possessing the greatest expertise and best resources for such purposes: the Centre of Forensic Sciences. Finally, the use of the kit was intended to guarantee that the medical proof assembled in each sexual abuse case complies with the rules and technicalities of the law concerning the admissibility and sufficiency of evidence. In 1983, a sexual assault evidence kit specifically designed to meet the needs of children and youths was being developed by the Secretariat.

## Research

Most service programs have not undertaken or published research concerning the identification of child sexual abuse and the provision of services to victims. The notable exceptions are: the surveys of sexual assaults by the Winnipeg Rape Crisis Centre and the Ontario Sexual Assault Centres; and the projects of the United Way of the Lower Mainland in British Columbia.

The most extensive research by any community association or provincial child protection service dealing with child abuse has been undertaken by Le Comité de la protection de la jeunesse in Quebec. Since its inception in the mid-1970s, Le Comité has completed several major investigations concerning the situation of sexually abused children, the harms incurred and the services provided on their behalf. These significant documents are unique for Canada in terms of their scope and their implications for how better protection might be afforded for sexually abused children. That they have been undertaken in conjunction with the ongoing provision of services underscores the feasibility and need for this type of collaboration. Such research may be critical of deficiencies which may otherwise not be brought to attention, or whose extent is unknown. In these respects, the child protection research of sexually abused victims for Quebec has entailed much courage and foresight.

## Emerging Trends

Considerable variation has characterized the development across Canada of special services for abused children. In some areas there is a clustering of innovative initiatives emanating from the public and private sectors. Elsewhere, little attention has been paid to the problem of child sexual abuse and no resources have been tailored to meet the problem. This situation stems from: a philosophy that general rather than special services are warranted; the non-recognition of these problems; a shortage of staff and resources; and the absence of persons sufficiently trained or experienced to deal with these issues.

The current acceptance of an interprofessional approach to child protection has arisen from a realization that the different forms of child abuse are too complex to be understood and handled entirely within the conceptual confines of a single discipline, and that the victim's needs overflow the boundaries of the services which the individual professions can provide. This shifting philosophy of providing services is epitomized by the move towards multidisciplinary participation in research planning, policy development, case investigation, consultation and management, and treatment of the victim, offender and family. Cooperation between members of different professions tends to occur in either of two settings: in hospital-based teams, or among organizations at the community level. The former resources are typified by teams functioning in Sainte-Justine Hôpital in Montreal and the Children's Hospital of Winnipeg, while the latter are exemplified by New Brunswick's Community Committees. Hospital teams function to perform a remedial role, that is, to concentrate most of

their efforts on diagnosis and treatment in suspected or confirmed cases of child abuse.

There is also a trend towards acknowledging that the perspectives of a number of disciplines must be taken into account if there is to be a valid assessment of the resources, programs and services required in any given locality. Experts in one field may be aware of problems, needs and pitfalls with which representatives of other disciplines are unacquainted. A consensus is beginning to emerge that pooling the diverse insights of these experts serves to maximize the chances of creating a comprehensive, truly effective range of services.

All provinces have developed policy manuals or guidelines for the use of professional workers dealing with abused children. These guidelines range in explicitness and detail from brief statements of policy concerning the appropriate responses by workers to situations encountered in the field to complete descriptions of procedures to be employed, standards to be maintained, definitions of relevant terms in the authorizing legislation and purposes and goals of treatment. The purpose of these materials is to foster consistency in service delivery in every part of a province and to establish a minimum standard of care available to children.

While most of the recent developments occurring in the provision of services for abused children represent a heightening of awareness and a strengthening of effort, there are still omissions in service. These problems include: the duplication of effort; an absence of effective co-ordination between service programs; and insufficient evaluation of whether policy initiatives, guidelines and programs are actually working and whether they tangibly benefit children. Crucial to the effective operation of these special programs intended to protect abused children is sufficient information about abused children, the problems that they experience and the benefits gained from different intervention strategies. In the Committee's judgment, the information that is available for Canada on these matters is insufficient and fragmentary.

In undertaking its mandate, the Committee was afforded an unusual opportunity to learn of the work of a number of innovative programs providing care for abused children across Canada. Possibly because of the size of the nation, the accepted principle of using two official languages and the responsibility for child protection services falling under the jurisdiction of the provinces, the Committee found that the activities of many of the programs were unknown in other parts of the country, and often, elsewhere in the same province. Instead of looking at precedents that had evolved in other provinces, and drawing upon this experience, there was a widespread predilection to assume that such developments did not exist, or to look abroad for consultation about new developments. In the Committee's judgment, the numerous developments that have evolved and that are emerging in Canada concerning all aspects of child abuse, including sexual offences against children, would be considerably strengthened by the more extensive sharing of this experience.

## References

### Chapter 26: The Child in Need of Protection

<sup>1</sup> The provincial child welfare legislation reviewed here includes:

- (i) Newfoundland. *Child Welfare Act*, 1972, S. Nfld. 1972, Act No. 37;
- (ii) Prince Edward Island. *Family and Child Services Act*, S.P.E.I. 1981, c. 12;
- (iii) Nova Scotia. *Children's Services Act*, S.N.S. 1976, c.8;
- (iv) New Brunswick. *Child and Family Services and Family Relations Act*, S.N.B. 1980, c. C-2.1, (proclaimed in force effective September 1, 1981);
- (v) Quebec. *Youth Protection Act*, R.S.Q. c. P.-34.1;
- (vi) Ontario. *Child Welfare Act*, R.S.O. 1980, c. 66;
- (vii) Manitoba. *Child Welfare Act*, S.M. 1974, c. 30;
- (viii) Saskatchewan. *Family Services Act*, R.S.S. 1978, c. F-7;
- (ix) Alberta. *Child Welfare Act*, R.S.A. 1970, c. 45;
- (x) British Columbia. *Family and Child Services Act*, S.B.C. 1980, c. 11 (proclaimed in force June 1, 1981);
- (xi) Yukon Territory. *Child Welfare Ordinance*, R.O.N.Y. 1971, c. C-4;
- (xii) Northwest Territory. *Child Welfare Ordinance*, R.O.N.W.T. 1974 c. C-3.

<sup>2</sup> Quebec. *Youth Protection Act*, *supra*, s. 23(j).

<sup>3</sup> Fraser, F.M., J.P. Anderson and K. Burns, *Child Abuse in Nova Scotia*, Halifax, 1973. (mimeo, 295 pages).

## Chapter 27

# Duty to Report

In this chapter, the two main questions considered are: "Who is responsible for supplying information that a child has been sexually abused?" and "What is done with the information after it is received?" The former question leads to a consideration of the abuse reporting provisions in provincial child welfare acts, while the latter necessitates an examination of the provinces' central child abuse registers.

### Provincial Statutory Reporting Requirements

Generally speaking, our legal system tends to eschew laws which create a positive duty for one person to aid another (i.e., "good Samaritan" laws). The standard exception occurs when positive duties are established which apply to persons between whom there exists a special relationship (e.g., in ss. 197-201 of the *Criminal Code*). It may be argued that a special relationship exists between children and society at large. The existence of this relationship is indicated by the special legal status which traditionally has been afforded children, by the existence of statutes designed to promote the welfare of children, and by society's establishment of special institutions and agencies specifically for the purpose of protection and caring for children. With respect to these societal concerns, the child welfare legislation of each province and of the Yukon Territory establishes that reporting child abuse and neglect is the responsibility of every person. While the wording varies from statute to statute, the relevant provisions effectively obligate everyone to report who suspects, or has reason to suspect, that a child is in need of protection or protective guardianship, is neglected, or that the security or development of the child is in danger (as those several terms are defined in each statute). In addition, the Acts of New Brunswick, Quebec, Ontario and Manitoba contain separate provisions requiring persons to report whose reasons for suspecting a child to be in need of protection arose in the course of their professional or official activities (in Saskatchewan, a similar provision applies only to peace officers). There is no requirement to report under the Northwest Territories' Child Welfare Ordinance. In every jurisdiction (other than the Northwest Territories), the reporting requirement transcends traditional professional privileges, except for the solicitor-client privilege in some provinces.

In Manitoba, Saskatchewan, Alberta and British Columbia, there is no statutory provision for penalizing persons who fail to report a child in need of protection. (However, all provinces have a general statutory provision containing a penalty for persons infringing a provincial statute). In Ontario, there is no specific penalty for private persons but a fine of up to \$1000 is provided in the case of non-reporting professionals. The maximum penalties provided for in other jurisdictions are: Prince Edward Island, \$300; Quebec, \$500 for an individual and \$1000 for a corporation; Yukon Territory, \$500 or six months' imprisonment or both; Newfoundland and New Brunswick (for non-reporting professionals), \$1000 or six months' imprisonment or both; Nova Scotia, \$1000 or one year imprisonment or both.

Concerning the penalties for non-reporting, the issue must be addressed of whether such sanctions serve any function beyond a purely symbolic one. Only two instances are known in Canada in which a person has been charged with failure to notify authorities of a suspected case of abuse.

Society's use of sanctions is intended to serve at least two distinct ends — those of education and deterrence. With respect to the former, it has been noted that:

The purpose of such legislation may be to educate, direct and reinforce good intentions, subject perhaps to an occasional symbolic or admonitory prosecution to keep professionals alert to their responsibility. News of proceedings would be circulated in professional journals, and the requirement of the law would thereby be emphasized.<sup>1</sup>

As for their deterrent function, penalties may dissuade persons from keeping silent about suspected abuse cases; the shared reluctance of professionals and laymen to incur legal sanctions would suffice to counter-balance their reluctance to entangle themselves with the criminal justice or child welfare system and to gain the possible opprobrium of relations, friends or neighbours. Penalties possess the potential to educate and deter the general public no less than professionals.

Society's concern must be with finding ways to assure that child sexual abuse is reported with greater regularity and reliability. Children are less able than most persons to speak out about the abuses they sustain; some are too young or too incapacitated to be verbal, some are handicapped by fear or ignorance, and some are bound by a desperate love to their abusive families. Adults must provide information that children cannot.

A further question arises as to whether non-reporting professionals should be subject to more severe penalties than non-reporting laymen. The argument in favour of such a differentiation would assert that professionals occupy a special position of public trust and responsibility, that they are relied upon by others, and that they are expected to adhere to ethical codes more rigorous than those which guide the conduct of ordinary persons. Thus, a professional person's dereliction of a vital public duty would be more blameworthy than a layman's. Moreover, given their education and training, and the amount of

contact that many of them have with children, professionals may be in a better position to observe and identify cases of child abuse than any other group or class within society.

There are competing ethical concerns that tend to dissuade professionals — especially physicians and lawyers — from reporting suspected or known cases of physical and sexual abuse. There can be no doubt that most professionals are very serious about their duty of non-disclosure and are inclined to safeguard the rights of their clients to keep confidential any statements made to them in the course of their professional relationships.<sup>2</sup> Another contentious issue is that of whether the solicitor-client privilege should take precedence over the duty to report. There can be no doubt that the solicitor-client privilege represents one of the fundamental safeguards of our system of administering justice. The decision as to whether the importance of that safeguard is outweighed by the need to maximize the protection extended to children is one that cannot be made on any firm or objective basis.

The need arises to protect two virtually indispensable, but nonetheless incompatible, interests. Between these two interests a choice must be made — a choice which will depend on the priorities and values of each set of provincial legislators. In Prince Edward Island, New Brunswick, Quebec, Ontario and British Columbia, the decision has been to preserve the privilege; in other relevant jurisdictions, it has been determined by statute that solicitor-client privilege — like the other professional privileges — must yield to the duty to report.

Another means by which legislators have attempted to encourage reporting has been to establish statutory immunity from civil liability for those persons who inform the proper authorities of their reasonable suspicions that a child has been abused. The child welfare legislation of Newfoundland, Nova Scotia, Ontario, Manitoba, Alberta, British Columbia and the Yukon protects the reporter from liability, except where the report is made maliciously or without reasonable and probable grounds (or cause). In Saskatchewan, the protection applies to all reporters save those persons whose reports are false and are made maliciously. In New Brunswick, immunity is extended to those persons who report in good faith, and similarly, the Quebec Act provides that no person shall be prosecuted for acts done in good faith. In Prince Edward Island, liability is precluded for those persons whose reports are based on reasonable and probable cause.

In the National Child Protection Survey, about one third (36.7 per cent) of the mothers of victims were the first person to know of the sexual abuse. Others in the family who were first to know about these incidents were: sister (8.7 per cent); other family member (7.1 per cent); brother (4.3 per cent); and father (1.4 per cent). If the offender was part of the victim's family and in situations where the mother had known about the offence (56.6 per cent), about half had not reported it to the police (48.3 per cent); to child protection services (45.5 per cent); or to anyone else (43.7 per cent).



Findings for the fathers indicate that if he knew of the offence and if the offender was part of the victim's family, the father reported the offence to the police in 0.9 per cent of all the cases; to the child protection agency in 1.0 per cent of the instances; or to anyone else in 0.5 per cent of the cases. The responses for the fathers were either inapplicable or unreported in 90.6 per cent of the cases.

The findings show clearly that many parents of victims served by child protection services often did not feel the necessity of or comfortable with reporting to authorities. The major reasons cited by child protection workers why mothers had not reported incidents which they had known about were:

Fear of or coercion by offender	19.4%
Fear of the law and social services	18.9%
Fear of economic and psychological consequences	17.0%
Disbelief that the incident had occurred or that it was an offence	14.9%

As documented in Chapter 7, *Dimensions of Sexual Assault*, one in four of the cases involving sexually abused children known to agencies had been initiated by victims or family members on their behalf. Other referrals of these cases were made respectively by: school staff; physicians; other health workers; police; and rape crisis/sexual assault centres. Information from the Quebec Child Protection Survey confirms this pattern of reporting, with the police being the highest reporters (17.1 per cent) to the Quebec Director of Youth Protection; "professionals" were the next most frequent reporters (15.6 per cent), followed by mothers (9.9 per cent) and the victims themselves (6.5 per cent).

The findings of the National Population Survey found that few persons who had been sexually assaulted as children had contacted child protection services nor had such referrals been made on their behalf. Most of the victims who had sought assistance from official agencies had initially turned to physicians, hospitals and the police. When the findings of the national surveys of police forces and hospitals are considered, it is evident that a sizeable proportion of sexually assaulted children served by these services had not been referred to child protection services.

Of medically examined patients whose experience was documented in the National Hospital Survey, three in five (59.7 per cent) had involved contacts with child protection services. Child protection workers themselves had initiated about one in five (22.7 per cent) referrals of patients examined at hospitals. Of the remainder of the patients who had not been referred to hospital by child protection workers, referrals to these services were subsequently made in about a third of the cases. Of the referrals initiated by child protection services, these workers had accompanied about two in five of the victims to hospital.

The findings of the national surveys show that in relation to the average length of time taken by victims to contact helping services, or for these contacts

to be made on their behalf, about three in five cases investigated by the police were reported within 24 hours and about half of the patients examined at hospitals obtained care within a day. In contrast, only one in five cases served by child protection workers came to their attention within 24 hours of the assaults having been committed, and for one in three cases, over a year had passed before these services had been notified or learned of the incidents (see Chapter 7, *Dimensions of Sexual Assault*).

The concept of crisis intervention suggests that assistance provided in relation to maladaptive functioning is likely to be most effective when it is provided immediately following a crisis or a harmful event. The gap which occurs between the occurrence of sexual assaults against children and when these cases become known to child protection workers may seriously dissipate the likelihood of their being able to assist them effectively.

On the basis of the findings of the national surveys, **the Committee reaches the inescapable conclusion that the process of referral envisioned by provincial legislators and relied upon by child protection services is operating randomly and inefficiently.** Public and professional ignorance about the duty to report may well be one culprit. Lack of faith in the ability of child protection services to deliver real aid to abused children and their families may be another source of the problem. **It is evident that child protection services are neither extensively turned to directly by sexually assaulted victims nor do they receive referrals on a sizeable proportion of cases known to the police or hospitals.**

## Child Abuse Registers

The central child abuse registers are files containing vital information concerning child abuse cases occurring within a given province. Registers, or analogous record-keeping systems, are authorized by the child welfare legislation of eight provinces: Newfoundland, Nova Scotia, Quebec, Ontario, Manitoba, Saskatchewan, Alberta and British Columbia. Rather than legislating the establishment of a single, central register, Prince Edward Island's *Family and Child Services Act*, S.P.E.I. 1981, c. 12 s. 45(2)-(3) requires individual care-providing facilities to maintain registers containing the case histories of children receiving services, recorded in a manner specified by regulation. Child welfare legislation in New Brunswick, the Yukon and the Northwest Territories contains no provisions for establishing registers.

Each register receives its information on standardized forms from the child protection services within that province. The nature and degree of detail of the information recorded varies from province to province. For instance, British Columbia's register uses brief reporting forms on which a child protection worker can record a limited number of basic facts about a given case. On the other hand, Ontario has opted for far more detailed initial reports; the Ontario register's reporting form has spaces for the recording of basic information about: the child and his or her family; the injuries sustained; the nature,

date and place of the alleged incident of abuse; the number of children under age 16 in the home when the incident occurred; any previous involvement by a Children's Aid Society with the child and family; action taken on behalf of the child (whether medical or social service); the present whereabouts of the child and alleged abuser; whether court action is pending with respect to the alleged abuse; and the current status of the case. The nation-wide picture with respect to the storage of child abuse-related information is one of enormous variation ranging from jurisdictions where no collection occurs, to ones where a limited amount of information is gathered, to ones where detailed accounts of child abuse cases are recorded.

A fundamental distinction between the information collected by the various registers concerns the stage at which the case is reported to the central file. In some jurisdictions, information is required to be sent to the register only after a report of abuse or neglect has been investigated and verified by a case worker; elsewhere, every report of abuse or neglect must be forwarded to the register (these provinces can be described as having "reporting" registers). Although some jurisdictions have not clearly designated to which category they belong, the provinces whose registers record only verified cases appear to include Newfoundland, Nova Scotia, Ontario and Saskatchewan, while it appears that every received report is recorded in the registers of Quebec, Manitoba, Alberta and British Columbia.

While there is variation from province to province, the range of functions which child abuse registers were intended to fulfill includes the following purposes.

- Providing information for research in order to develop a clearer understanding of the nature and extent of child abuse;
- Monitoring the management of cases;
- Assessing the potential risk of child abuse. Knowledge of prior incidents of abuse, either within the same or a different province, may influence workers' decisions as to how best to help both the child and family; and
- Checking that new cases have no outstanding court orders against them (such as the child being under a supervision order awarded to another agency).

Follow-up reports, submitted periodically and at every critical juncture in the management of a case (e.g., transfer to another agency or closure) can extend the length of time over which these functions can be exercised. (Form 7 used by the Ontario Ministry of Community and Social Services is an example of this type of follow-up report).

In light of the functions which registers were intended to fulfill, their effective operation is contingent upon the extent to which these purposes are realized with respect to: the complete reporting of cases of child abuse to the registers; the regular consultation of the registers by child protection workers in relation to children being served; the standardized transfer of information from the registers between jurisdictions in instances where abused children and their

families have moved; and the updating and expungement of cases from the registers. The findings of the National Child Protection Survey are drawn upon as the basis of reviewing how these functions were being met in relation to the management of sexually abused children and youths.

## Reporting of Cases

If the purposes for which registers were established are to be effectively realized, then it is essential that the register of each province should include a reasonably complete listing of all verified cases of child abuse occurring in that province which are known to child protection workers. The value of the register for assessment of cases is severely vitiated if its records are incomplete. For example, if an abusing parent has been involved with child protection services on previous occasions, and none of these contacts has been reported to the register, the child protection worker who now suspects that the parent is mistreating children again will receive no assistance from the registry in attempting to confirm these suspicions.

If the register is to be used as a source of information for basic research, or for resource allocation and program planning, then the files must contain a comprehensive record of the caseload being handled by child protection workers. The sizeable non-reporting of cases to the registry would render invalid statistical research derived from these files. Non-reporting could also result in an official under-estimation of the extent of the child abuse problem.

In considering the question of the completeness of the information in registers in relation to the occurrence of child sexual abuse, the Committee drew upon findings concerning: the national surveys with respect to the number of cases known in comparison to the numbers listed in registers; the professional interpretation of reporting cases to registers; and the reporting of cases by child protection workers documented in the National Child Protection Survey.

Province	Number of Cases Reported in National Surveys	Number of Cases Listed in Register, 1982
Newfoundland	101	22
Nova Scotia	123	15
Quebec	525	721
Ontario	1,763	330
Manitoba	231	117
Saskatchewan	196	76
Alberta	146	340
British Columbia	215	679

In its national surveys, the Committee obtained information from police forces and hospitals across Canada, but in no instance was this information complete in relation to documenting all cases of child sexual abuse known to these services in a particular province. On the basis of the information provided, it was feasible to document separately the proportion of sexual assaults known to the police and hospitals participating in these surveys in which no contacts had been made with child protection services and to add these totals to the number of cases of child sexual abuse found for that province in the National Child Protection Survey.

In interpreting these findings, the point is reiterated that the cases of sexual assaults against children under age 16 identified by the Committee were based on fragmentary sources in each province (i.e., typically one or more police forces, a hospital and child protection services). It is evident that although the coverage obtained by the Committee was limited, the number of cases identified in several provinces either sharply exceeded the number of cases of child sexual abuse listed in the provincial registers for 1982 or constituted a substantial proportion of the cases that had been reported to the registers. All cases in the police and hospital surveys where contacts had been made with child protection services were deleted to preclude a potential "double-counting" of results.

What is meant by the "reporting" of a suspected or verified case of child sexual abuse to a register may be a matter that is subject to different interpretations by child protection workers. In the National Child Protection Survey, it was found that workers indicated that reports had been made to provincial registers (where these had been established) for about three in four (72.0 per cent) of all children being served. In a special analysis, it was found that there was a small, but statistically significant relationship between the rate of reporting cases to provinces having "reporting" rather than verified "abuse" types of registers.<sup>3</sup> These findings indicate that child protection workers were more likely to report cases where this was either done automatically with cases being opened or where sexual abuse was suspected than to registers having the requirement that cases be verified prior to their being reported.

There was no difference by the age of victims in relation to the reporting or non-reporting of cases to registers. **There were striking differences, however, with respect to cases which were reported or not reported to registers by: the sex of the children; and the types of sexual acts committed.** With one exception, there was a tendency for more sexual acts against girls to be reported than those against boys. However, most of the children served by child protection workers were girls, and when their experience is considered, it is evident that, in general, a higher proportion of sexual acts involving anal contacts and the sexual fondling or touching of the child was reported than the proportion of acts involving attempted vaginal penetration and vaginal penetration with a penis. In the latter category, of 134 cases in which vaginal penetration with a penis were noted in case records by workers to have occurred, a third (32.8 per cent) of these incidents were not reported to registers. Of the 43 instances of attempted rape or vaginal penetration with an object or a finger, over a third (37.2 per cent) were unreported to registers.

**Table 27.1**  
**Types of Sexual Acts Committed Against Children Reported to Provincial Child Abuse Registers**

Type of Sexual Act Committed Against the Child	Cases Reported to Registers			
	Males		Females	
	Reported	Not Reported	Reported	Not Reported
	Per Cent	Per Cent	Per Cent	Per Cent
Fondling/touching breasts, buttocks, genital area	76.5	23.5	76.8	23.2
Oral-genital/anal	66.7	33.3	85.7	14.3
Attempted vaginal penetration with penis, object, finger	—	—	62.8	37.2
Vaginal penetration with penis	—	—	67.2	32.8
Attempted anal penetration with penis, object, finger	50.0	50.0	80.5	19.5
Anal penetration with penis	73.7	26.3	91.7	8.3

*National Child Protection Survey.* Types of sexual contact grouped on basis of more specific listing of acts; findings given for six provinces having registers, n=539.

The findings indicate an inversion in the reporting of sexual abuse to registers with notification being made more often for less serious than for more serious sexual acts. In this regard, some child protection workers may be reluctant to report cases when they believe that notification might result in a police investigation or some other form of intervention which does not accord with the agency's treatment plans for a child. The evidence, however, indicates that a number of suspected serious sexual offences against children known to child protection workers were not reported to registers.

The three in four ratio (72.0 per cent) of reporting cases of suspected or verified cases of child sexual abuse to registers must be interpreted cautiously on several grounds. First, as noted, in some provinces the registration of a case is synonymous with its being opened by an agency, and thus, all cases are reported. For this reason, the seven in 10 ratio may be inflated for "abuse" registers as contrasted to those operating on a basis of "reporting" cases.

The second reason for caution in interpreting this reporting ratio hinges upon the process involved between whether a worker makes such a report and whether that report appears in the listing maintained by a provincial register. Allowing for the fact that two provinces did not have central registers and that

the Committee did not obtain information on all cases known to child protection workers in most provinces, it was found in three provinces that the number of cases which child protection workers said they had reported to registers sharply exceeded the total number of cases of child sexual abuse listed in 1982 in the respective provincial registers. These discrepancies ranged between 28.9 per cent and 40.0 per cent. The reasons why these discrepancies occurred may be due to the belief by workers that reports made to a child protection agency have been forwarded to a register when in fact the agency in question did not send the reports to the register.

These findings about the three in four cases of child sexual abuse having been reported to registers contrast sharply with the finding that only one in five (19.7 per cent) child protection workers consulted the registers in relation to the cases upon which information was obtained in the National Child Protection Survey. This anomaly may be partially explained by the fact that in the survey, a number of child protection workers stated what they believed should have been reported rather than what had in fact happened.

A different gauge of the extent to which provincial child abuse registers contain complete information about cases of child sexual abuse was obtained by a question in the National Child Protection Survey which dealt with sexual abuse known to have been committed prior to the case reported to the agency. The question asked whether the child protection worker knew if sexual abuse had previously been committed and who were the suspected offenders and victims.

Reporting of Previous Sexual Offenders to Provincial Register	Number	Percentage
Not reported	84	57.5
Reported for other abuse or neglect	39	26.7
Reported for sexual abuse	12	8.2
Unknown	11	7.5
<b>TOTAL</b>	<b>146</b>	<b>99.9*</b>

\* Rounding error

Workers stated that prior sexual offences were known to have been previously committed in about one in three (31.5 per cent) families of children whose cases were being investigated. Four in five (80.2 per cent) of these offences were against a child or children. Of the 146 suspected offenders, reports had been submitted to a provincial register for abuse and neglect in one in three instances (34.9 per cent). Less than one in 12 (8.2 per cent) of these suspected offenders had been reported for sexual abuse to a register.

When child protection workers were asked in the National Child Protection Survey why cases of suspected child sexual abuse had not been reported to a register, the most commonly cited reasons were:

• Insufficient evidence	31.4%
• Uncertainty about reporting procedures	23.1%
• The belief that no register existed in the province	24.4%
• The victim was unwilling to give evidence	6.4%
• The assault was believed to have been an isolated incident	4.5%
• Other	10.2%

Factors which foster incompleteness in the reporting of cases of child sexual abuse to registers may stem in part from the definition of "child abuse" adopted for the purposes of determining which cases are or are not to be reported. Reflecting the definitions set out in provincial child welfare statutes which apply solely to parents or caretakers, other types of abuse involving other relatives, friends or strangers may be excluded from the registers. Cases involving offences prohibited under the *Criminal Code* — such as sexual intercourse with a stranger — need not be reported to a register (although in practice some are). Further, in at least one province, the definition of sexual abuse is limited to children 13 years and younger, thus denying protection to victims over 13, but under the age of majority.

Additional factors which may account for the incompleteness in reporting cases of child sexual abuse include missing referrals, discretionary reporting by workers, lack of sufficient co-operation with other organizations, bureaucratic stress and age restrictions.<sup>4</sup> First, many abuses committed by non-family members are never reported to child protection agencies. Second, child protection workers use their professional judgment as to whether to report an incident of abuse to the register; if the abuse was an isolated incident, occurred long ago, or if it is felt that the family should be spared the stigma of being listed, a report will not be made. Third, in provinces where suspected abusers are notified of their inclusion on a register, the process of reporting may be delayed due to an ongoing police investigation. Fourth, child protection workers carry substantial caseloads, with clients who often go from crisis to crisis in which the physical and the emotional well-being of children are endangered; this situation may leave workers — who, for the most part, maintain an ethic that values work with persons over paperwork — with limited time and little inclination to fill out forms. Finally, the abusive incident may not be recorded if the abuser was a child himself or if, at the time of disclosure, the victim was over the age of majority.

The forms on which initial reports are made may affect the extent to which child protection workers submit information to registers. This conclusion is based on the experience of British Columbia, where the formats of the complaint and follow-up forms were simplified at the beginning of 1978. The modification of these forms "caused a tremendous increase in the forwarding of information to the Registry."<sup>5</sup> The number of verified cases submitted in 1977 (before the changeover) was 653; in 1978, the number of verified cases was 1,061, an increase of 62.5 per cent in a single year.



## Consultation of Registers

Provincial registers can only serve as an effective aid in the assessment and provision of assistance to sexually abused children to the extent that child protection workers themselves routinely refer to them upon opening cases. Information from a 1978 study of Ontario's 50 Children's Aid Societies found that 12 stated that their workers "always" or "usually" consulted the Ontario Register and 24 "seldom" or "never" consulted it.<sup>6</sup>

**In the National Child Protection Survey, it was found that in provinces where registers had been established, only one in five (21.2 per cent) child protection workers said that they had consulted registers in relation to cases involving child sexual abuse.**

Proportion of Cases in Which the Register was Consulted	Number	Percentage
Consulted	114	21.2
Not consulted	379	70.3
Not reported	46	8.5
<b>TOTAL</b>	<b>539</b>	<b>100.0</b>

**On the basis of the findings of the two studies, it is difficult to make a strong case for the utility of provincial child abuse registers as these are presently operated and as they are used by workers in relation to sexually abused children. It is evident that most of the workers whom it might be expected would routinely use this resource in fact do not use it. In the absence of registers being regularly consulted in relation to the child sexual abuse, the major purpose for which they were established is vitiated.**

## Transfer of Information between Jurisdictions

The information contained in a provincial child abuse register is restricted to cases occurring within that province; the mobility of victims and their families, however, is not similarly restricted. In its meetings with experienced police officers, physicians and child protection workers across Canada, the Committee learned of numerous instances where victims had been moved from jurisdiction to jurisdiction, as their parents sought to escape social service or police intervention and the opprobrium attendant upon the community's discovery of their abusive behaviour. In situations where the previous incidents of abuse occurred in another jurisdiction or region, and the case was handled by a different agency or a different office of the same agency, then the agency now seeking to provide appropriate services is likely to learn nothing of the victim's history from its own files. Only consultation of the central registers will supply information that will strengthen suspicions that abuse is re-occurring within a

family, that will reveal that court intervention was necessary in the past or that will list the various treatments tried.

The utility of consistent consultation is also affected by the speed with which information may be culled from a register and transmitted to workers in the field. If the information is transferred physically (e.g., by mail or courier), it may not arrive in time to help a child protection worker who is faced with critical decisions, particularly if the worker's office is situated in an outlying location. This dilemma could be resolved by having the information in central registers placed on computers, with all agencies having computer terminals to provide rapid links with the central information bases.

There are two methods by which the sharing of information could be facilitated between provinces. First, whenever a child protection agency learns that a family in which abuse has occurred has moved to another province, that agency could arrange to have the family's registry file (or a copy of it) sent to the other province's register. Second, when an agency makes contact with an abusing family, and learns that the family formerly resided in another province, the agency could contact the register of the other province.

Both methods of interprovincial communication are subject to difficulties. At least one agency must know the prior or subsequent location of the family before information can be sought or sent. Families which move from one province to another without contacting child protection services may break the interprovincial chain of information. Families which refuse, as is their right, to inform an agency of where they previously resided may accomplish the same feat.

The effective operation of either method would require that all provinces having registers to adopt certain uniform procedures. If it is decided to have the files of registers transferred from one province to the next, then the registers must have authorization to release copies of the files at the request of child protection services, and to accept files sent from other jurisdictions. If registers are to provide information from their records to workers from other provinces, they must also have the necessary authorization and procedures for so doing.

Only in Nova Scotia and Ontario does a formal commitment appear to have been made to facilitate a free flow of information between jurisdictions. The situation in other provinces is less clear; and exact mechanisms for transmission remain obscure. It is evident that if the interests of sexually abused children are to be effectively served and protected, then the operation of the various provincial registers must function in an orderly, clearly defined way that fosters an unrestricted exchange of relevant information between the child protection services of each province, including those not currently having registers. **At present, the policies of the various provinces concerning inter-jurisdictional information sharing are inconsistent and lack formal structure.**

## Expungement Procedures

For a number of provincial child abuse registers, the practice of registering every report has the advantage of not forcing child protection workers to judge whether or not a certain degree of inappropriate child-rearing conduct actually constitutes abuse, and is registerable. Against this advantage, however, is the likelihood that these all-inclusive registers will receive and file not only valid reports, but also false reports, including some made maliciously or without reasonable grounds.

A number of mechanisms are available to counteract the potential unfairness of registers that collect unconfirmed child abuse reports. There is the option of requiring workers to submit follow-up reports to the register within a specified period of time after an alleged abuse case comes to the attention of a child protection service. Such reports would state whether or not the original suspicions of abuse had been verified. However, there is an argument to be made that even a follow-up statement exonerating a reported abuser is insufficient to correct the injustice done to that person. The only adequate remedy for persons improperly registered is the expungement of their names from the register. Establishing procedures by which persons may have their names removed from the register would serve as a salutary safeguard to ensure that even individuals who are "confirmed" as abusers are not deprived of the right to challenge being thus classified.

The possibility of expungement is of no value, though, if persons registered as alleged or confirmed abusers are not notified of their registration. It may well be that registering a person as a child abuser without so informing him or her, constitutes a violation of his or her civil rights (particularly under the new *Charter of Rights and Freedoms*). There can be no doubt that it is an ethically questionable practice to enter an individual's name in a register of persons who engage in conduct of which society strongly disapproves, without letting him or her know that he or she has been so labelled. This practice effectively denies the person any avenue of appeal. When the Committee undertook its review, there were three jurisdictions where persons received no notification of their names having been placed on the register. These jurisdictions were: Newfoundland, Manitoba and Saskatchewan. In Manitoba, all reports were recorded in the register, and not simply those which had been verified. This means that the name of a person who has never committed any form of abuse may be registered without that person ever knowing of it. In Alberta, there appears to be no formal (i.e., written) notification of the person having been registered, but it is the practice to inform the person of his or her registration during the investigation of the report. No information was received concerning the practice in Quebec with regard to notification of registered persons. In Nova Scotia, Ontario and British Columbia, official notification procedures have been adopted.

As far as the actual availability of expungement procedures is concerned, no method exists in the following provinces by which a person whose name has been entered on the register can apply to have it removed: Newfoundland, Quebec, Manitoba, Saskatchewan and Alberta. Official expungement procedures

have been established in Nova Scotia, Ontario and British Columbia. In Nova Scotia, these procedures are part of a package of safeguards authorized under s. 14 of the *Children's Services Act*, S.N.S. 1976, c. 8. Section 14 provides as follows:

1. Proven cases of abuse shall be removed from the Register after ten years from the date the case was last reported to the Register.
2. Cases of alleged abuse shall not be registered when the agency has been unable to substantiate the allegation and it is the mutual opinion of the Administrator, and the agency which investigated the allegation, that abuse did not occur, and is unlikely to occur.
3. Cases of alleged abuse which may have been registered shall be removed from the Register where a Family Court dismissed an action under s. 49 of the Act [i.e., an application to have a child declared to be in need of protection.]
4. When a case is not removed from the Register, the party wishing the case removed may place the matter before a judge of the Family Court for review.
5. A judge conducting a review pursuant to subsection (4) may order that the case be removed from the Register, or subject to subsection (1) remain on the Register.

Ontario's expungement procedures are set out as follows in the *Guidelines for Reporting to the Register — Child Abuse*:<sup>7</sup>

A name recorded in the Register will be retained for a minimum period of 25 years, unless the Director has ordered the name expunged. Names recorded on the former Registry will be expunged if there has been no access to them for 16 years following the year of registration.

Any person who receives notification that he is identifiable from the Registry or Register may inspect the information and request a Director of Child Welfare to expunge his name altogether or to otherwise amend the identifying information.

This includes persons named on the Registry or Register as allegedly permitting abuse, and children named as abused children where the alleged abuser is not known. In the latter case, the parents or guardians of the child may inspect the Registry or Register and request removal or amending of the information.

The Director will not expunge a name from the Registry or Register unless he has reasonable grounds to believe that the information is in error or should not be in the Registry or Register.

Normally, a name will be expunged when a Children's Aid Society advises that after further investigation they believe the case is not one of reportable abuse.

#### *Expunction Hearing*

Where the Director receives a request to expunge a registered person's name or to otherwise amend the Registry or Register, the Director or his delegate

shall hold a hearing pursuant to *The Statutory Powers Procedure Act*, 1971 before *refusing* the request.

... Long before the case is heard, the verification process will have been completed, and any serious doubts or questions concerning registration will have been examined by the Society and the Ministry.

Any party to an expungement hearing may appeal the decision before the Divisional Court of the Supreme Court of Ontario.

**Careful consideration has been given in Nova Scotia and Ontario, and in the review procedures instituted in 1982 in British Columbia, to the potential for procedural injustice inherent in any child abuse registry, and accordingly, measures have been adopted to assure that this potential is not realized. In this respect, these provinces might well be looked to as models by the other provinces, in some of which the establishment of a central register has been accomplished with a disregard for the possibility of civil rights' violations.**

The question of expungement leads to a consideration of the related issue of whether there should be established a set period of time after which the names of abusers would automatically be struck from the register, provided that they had not committed further acts of abuse within that period. As has emerged already, this approach has been adopted in Nova Scotia and Quebec, with Ontario going the opposite route and setting a minimum period of 25 years for names to be left on the current register. Nova Scotia has limited the lifespan of entries to 10 years from the date that the given case was reported last, while Quebec has provided for expungement when the child in question reaches age 21.

This practice of automatic deletion may be useful for a number of reasons. First, it tends to keep the registers from becoming cluttered with old cases and maintains them in an up-to-date condition. Second, the practice may be seen as a humane one designed to prevent non-repeating abusers from having their names permanently blackened. On the other hand, the elimination of old records may make the register useless for research purposes — particularly when the research is designed to evaluate differences between the nature and incidence of abuse in the present and in the past. Automatic expungement also prevents workers from tracing past offences beyond a certain period, of persons whom they suspect to be currently abusing children. (For example, the National Child Protection Survey found 2.1 per cent of the offenders were grandfathers). If provincial registers are retained, then a balance must be struck between the rights of offenders not to remain indefinitely on a list whose members are stigmatized by society and the rights of children to be protected by as extensive documentation as possible.

## Summary

On the basis of its research findings concerning the use of child abuse registers, the Committee found that:

1. A sizeable proportion of cases of child sexual abuse known to the police, physicians and child protection workers was not reported to child abuse registers;
2. Reports to registers had only been made in one in three cases of previous instances of child sexual abuse of cases currently open;
3. Proportionately more minor than serious sexual offences were reported;
4. Child protection workers had consulted registers in relation to only one in five cases which were open;
5. Procedures relating to the exchange of information between provinces are inconsistent and lack formal structure; and
6. Several provinces having registers have no formal procedures with respect to the periodic review and expungement of cases listed in the files of registers.

In the Committee's view, provincial child abuse registers are clearly not being used to the extent or in the manner they had been intended to by legislators. The utility of their functions appear also to be severely limited as case catalogues, research aids or assessment tools.

**The use of the registers is characterized by a selective reporting of cases, an infrequent consultation by workers and an absence of effective means of exchanging information between provinces. This system cannot be construed as one that is particularly helpful in affording protection to sexually abused children. In the Committee's judgment, the alternatives are clear: either the registers must become effective means of identifying child sexual abuse or they must be scrapped in favour of more effective procedures to provide protection for these children. The current operation of the registers is both inefficient and ineffective and does little to assist and protect most children who are sexually abused. Most of the workers do not routinely consult this resource, only a fraction of cases which occur is reported, and review and expungement procedures in use in some provinces require clear specification.**

In its general review of public services mandated to assist and protect sexually abused children, the Committee found that the main information reporting system used by each service was seriously flawed in relation to its accuracy of classification of sexual offences against children. This conclusion is documented elsewhere in the Report in relation to police and crime statistics, the medical classification of diagnoses and the identification of convicted child sexual offenders. In relation to these broader trends, the findings concerning the accuracy of the information reported to provincial child abuse registers and their comparatively infrequent use by child protection workers are not unexpected.

The needs of sexually abused children and youths are complex. These children require expert assistance provided by several helping professions. In the Committee's judgment, in most instances, the welfare and protection of the child is too crucial a concern to be attended by a single profession — whether this be by the police, physicians or child protection workers. What is required in this regard is the effective co-ordination of expert assessment and care provided by several professions channelled through as few workers as possible in directly serving the needs of these children.

Elsewhere in the Report, the Committee recommends, in relation to the provision of care for and the protection of sexually assaulted children, that it be a statutory requirement for each case in which child sexual abuse is suspected or confirmed for the services of the police, physicians and child protection workers to be co-ordinated in the assessment of a child's needs, the provision of care and their follow-up.

As a by-product of this mandatory interprofessional co-operation, the Committee believes that a more accurate assessment of a child's situation and needs will be realized, that victims themselves will be better served and protected and that more complete information will be obtained by participating services about the identification and the extent of occurrence of child sexual abuse.

**What is required is a central source of pooled information for each province rather than the existing inefficient and inaccurate classification systems now in use which serve little useful purpose as means to protect sexually abused children. To the extent that existing systems of classification used by the police, physicians and child protection workers remain unaltered, they will continue to exist by virtue of entrenched custom, professional indifference or for the symbolic purposes of appearing to serve sexually abused victims, but in fact not doing so for most children and youths against whom sexual offences are committed.**

## References

### Chapter 27: Duty to Report

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- <sup>4</sup> Lane, M.E., *The Legal Response to Sexual Abuse of Children* (October, 1982 Toronto: The Metropolitan Chairman's Special Committee on Child Abuse, p. 43).
- <sup>5</sup> Ellingham, J.C. *1978 Report on Registry of "Protection of Children Act" Complaints*, Victoria: 1979, (17 pages, mimeo), p. 2.
- <sup>6</sup> Harvey, T.G., et al., *A Study of Guidelines for Practices and Procedures in Handling Cases of Child Abuse in Ontario's Children's Aid Societies* Toronto, June 9, 1978, p. 31.
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## Chapter 28

### Provision of Child Protection Services

Child protection services are established by provincial child welfare legislation as the official agencies to receive reports of and to provide assessment, care and protection for neglected and abused children. In relation to its mandate, the Committee was instructed to consider services rendered on behalf of sexually abused children and how they could be afforded better protection. It was in this regard that, with the co-operation of child protection services in all provinces and the Yukon, the Committee undertook its national survey which documented the experience of young sexually abused victims cared for by these workers.

The development and design of the National Child Protection Survey are given in Chapter 26, *The Child in need of Protection*. The national survey included three components, each of which obtained common basic information, but varied in relation to other items. The three sub-studies were:

1. *National Child Protection Survey* This survey included: Newfoundland, Prince Edward Island, New Brunswick, Nova Scotia, Manitoba, Saskatchewan, Alberta, British Columbia and the Yukon. The full research protocol was used to obtain findings in these jurisdictions for 578 sexually abused children. In four provinces (Newfoundland, Prince Edward Island, Nova Scotia and Saskatchewan), all cases reported to agencies were documented.
2. *Quebec Child Protection Survey* Le Comité de la protection de la jeunesse undertook a survey of services in all regions of Quebec, totalling 403 cases. Approximately half of the items used in the National Child Protection Survey were also incorporated in the Quebec survey.
3. *Ontario Child Abuse Registry* The Ontario Ministry of Community and Social Services provided access to the files of the Child Abuse Registry. All cases (457) reported to the Registry between January, 1981 and July, 1982 were documented.

In order to draw upon as complete information as possible, different combinations of sources relating to the experience of 1438 sexually abused children were used in relation to particular issues. These were coded, respectively:

- Per cent A — National Child Protection Survey, Quebec and Ontario, n=1438

- Per cent B — National Child Protection Survey and Quebec, n=981
- Per cent C — National Child Protection Survey and Ontario, n=1035
- Where the reference is to the National Child Protection Survey, only this source is used, n=578

In Chapter 7, *Dimensions of Sexual Assault*, a description is given of some of the characteristics of victims served by child protection services and the nature of the assaults which they experienced. In this chapter, additional findings are given which describe the children and families served by child protection agencies. *These findings indicate that, in general, the sexually abused victims served by these workers represented a special segment of the Canadian people, a fact which needs to be borne in mind when the findings are being considered.*

Because a number of special words or phrases are used in the child welfare field, a brief glossary is provided of some of the terms used in this chapter.

<b>Glossary of Words and Terms in Child Welfare Field</b>
<b>Agency.</b> Commonly used by child protection workers to refer to the officially designated provincial service or children's aid society responsible for providing services to abused children.
<b>Assessment.</b> The initial phase of case management which comprises a complete collection of information on the child, his or her present state, living conditions, past and present development, and similar information on significant adults and other siblings in the child's life. The primary purpose of the assessment is to develop an appropriate scheme of intervention to meet the child's needs.
<b>Child Protection Worker.</b> An employee of an agency who is usually, but not in all instances, a social worker.
<b>Client.</b> Refers to the person or family served by an agency.
<b>Counselling.</b> Encompasses services provided by workers, including the mutual exchange of information structured in order to facilitate change in the client's circumstances or situation.
<b>Intervention.</b> The procedures used by child protection workers which are intended to produce change in the circumstances of clients. May be used interchangeably with 'treatment'.
<b>Mother/Father-figure.</b> Refers to persons filling parental roles for children, including natural parents, adoptive, step, foster, common-law and parent's friend relationships.
<b>Open Case.</b> Refers to a client currently being served by an agency.
<b>Psychosocial.</b> Used by social workers to refer to the interplay of psychological and social forces impinging upon clients which may affect their ability to function effectively.
<b>Reconstituted Family.</b> A family in which an original parent is absent by death, divorce or separation and is replaced by one or more new members.

## Characteristics of Children and Families

Well over eight in 10 children served by the agencies were girls, and when the group of children aged 16 and 17 is included (a reflection of the age limits established by some provinces), then about a third (30.7 per cent A) of the 1438 boys and girls were older teenagers. Two conclusions may be drawn from these findings. Either the effects of the abuse were so detrimental that intervention in these children's lives was necessary years after the event, or these children had been abused more than once or continuously over a period of years. The latter supposition is more strongly supported by the survey's findings. Almost one-sixth of the victims (17.8 per cent) were reported as having been abused prior to the offences which the agencies were treating when the survey was undertaken. Similarly, almost eight in 10 current cases (78.6 per cent) involved abuse that had continued for some years.

On the whole, the children who were victims of sexual abuse presented themselves as average and not severely dysfunctional persons. When asked if the child was currently attending school, the findings of the National Child Protection Survey indicate that in three in four cases (76.1 per cent), the child was attending. In almost three-quarters of the cases (73.2 per cent), the child's intelligence was assessed by the case-worker as being at an average or above average level.

In terms of their family circumstances, a sizeable proportion of the sexually abused children served by child protection workers came from reconstituted families, a high proportion of their 'father-figures' was unemployed, half of the families were on the caseloads of agencies prior to the incidents being reported and one in five had previously been removed by agencies from his or her home. In eight in 10 cases (81.5 per cent C) in all provinces (except Quebec), the child's natural mother was the 'mother-figure' in the home when the offence had occurred. However, it was only half as likely that the natural father was the 'father-figure' (45.2 per cent C). Adoptive or stepfathers (17.5 per cent C) or male common-law partners (13.8 per cent C) filled the paternal role in three in 10 cases. These findings tend to confirm the widely held belief in the child welfare field that reconstituted families served by workers are likely to experience types of problems which are less commonly present in families of partners having first-time marriages or relationships.

A third of the children's mothers (31.3 per cent) were employed and about half of the 'father-figures' (52.7 per cent) had regular jobs. Two in five (42.7 per cent) mothers of sexually abused children received some form of government financial assistance, and of these, three in four (76.8 per cent) were on municipal or provincial welfare. A third of the 'father-figures' (35.5 per cent) were recipients of municipal or provincial welfare.

Half of the families (51.6 per cent C) were on the caseloads of agencies prior to the opening of child sexual abuse cases. As noted in Chapter 7, this experience sharply distinguishes the children served by child protection workers

from those who had contacted the police and hospitals, a high proportion of whom had come to police or hospital attention directly or through professional referrals. This finding underscores a well recognized aspect of the work of child protection services, namely, that they tend to serve families having deeply rooted clusters of problems. The findings are congruent with the results of the 1979-81 review of the locations where victims and offenders lived in Metropolitan Toronto (see Chapter 7). Both sources of information suggest that family composition and neighbourhood of residence may be factors affecting the risk of being sexually abused for some young victims.

In one in five cases (20.1 per cent B) in the National Child Protection and Quebec Surveys, the sexually abused child had been removed by agencies at least once before from his or her home. In two in five families (39.1 per cent), workers had known or suspected that at least one member had previously been sexually abused; in about a half of the cases (47.4 per cent), a family member had been physically abused in the past; and in eight in 10 cases of child sexual abuse (78.6 per cent), the abuse had occurred over an extended period of time.

When these findings are considered together — half of the families being already on agency caseloads, one in five children having previously been removed, the knowledge of previous physical abuse occurring in half of the families, and four in five victims having been abused over a period of time — it is evident that the child protection workers had had numerous previous contacts with many victims and their families. On the basis of their reports, they had recognized that there were severe difficulties in many of these homes. The findings indicate the need for a more careful and thorough assessment of the early signs of risk and danger in relation to child sexual abuse; in this respect, the assessment skills of child protection workers need to be strengthened and/or complemented by those of other workers.

In the review of cases of child sexual abuse referred to provincial registers, it was found that proportionately more minor and fewer serious sexual acts committed against children had been reported. As noted in the next section of this chapter, in two in three cases (64.6 per cent), the workers had known that these children had been sexually abused before the cases had been formally 'opened'. In these situations, it is evident that insufficient protection had been provided in cases where knowledge of abuse was already available to workers. Where this occurred, child protection workers had acted on their belief in the benefits gained by keeping families together, and, by doing so, they may have left the abused child in a position of risk when intervention might have been initiated sooner.

## Initial Assessment

In the national survey, child protection workers were asked for a retrospective assessment of the child's situation before cases were formally opened by agencies. In this regard, it is recalled that many children and their families were already known for other reasons to workers. The workers were asked if

the victimized child had had social, psychological or behavioural difficulties before a report of the incident had been made to the agency. The most frequently indicated *sócial* problem was parent-child conflict (35.3 per cent). Academic failure (30.1 per cent), disruptive behaviour (22.7 per cent) and truancy (21.3 per cent) were other frequently indicated difficulties.

In three in 10 cases (31.7 per cent), a poor self-image was the most frequently reported *psychological* problem. Other less frequently reported psychological problems were: depression (17.0 per cent); suicidal tendencies (12.8 per cent); health problems (12.1 per cent); and disturbed sleep patterns (11.8 per cent). When child protection workers were asked to indicate the frequency of *behavioural* problems experienced by victims before a report of sexual abuse had been made to an agency, in about one in 10 cases, the workers reported: drug abuse (10.9 per cent), alcohol use (10.4 per cent); or theft (9.9 per cent), as apparent behavioural difficulties. Aggressive behaviour (14.2 per cent) and sexual activity (12.8 per cent) were the more frequently cited behavioural problems.

Since the experience of children who had not been victims of child sexual abuse is unknown in relation to whether they may have had comparable difficulties, no conclusions can be reached about whether the children seen by workers were unusually troubled. The findings show that none was without some form of social, psychological or behavioural problem; some had experienced several problems. Overall, most of the children were not assessed as having had many severe problems before child protection workers had formally intervened in reponse to an incident of suspected sexual abuse.

When cases are opened, children and their families are expected to be assessed in relation both to the nature of their presenting problems and to their potential strengths. Some families have different coping skills with which to face crises and resolve their difficulties. On the basis of the worker's initial assessment, different types of intervention may be undertaken.

In two in three (64.4 per cent B) of 981 cases in the National Child Protection and Quebec Surveys, workers had known before the cases had been opened by agencies that the children had been sexually abused. For less than one in three (31.2 per cent), they had not known about the incidents, or the abuse had not yet occurred.

Child protection workers in the National Child Protection Survey identified sexual abuse as a presenting problem (although not necessarily the major one which caused the case to be opened) in four in five cases (78.8 per cent). Physical abuse (17.4 per cent) and neglect (18.8 per cent) were cited as problems in about one-sixth of the cases.

Among problems not involving sexual abuse, marital difficulties were reported for half (49.7 per cent) of the families. (In Ontario, 'family problems' were detected in 41.8 per cent of the cases). Over four in 10 families (44.9 per cent) were experiencing conflict between parents and children. When the work-

**Table 28.1**  
**Assessment of Prior Social, Psychological and Behavioural**  
**Difficulties of Sexually Abused Children**  
**Identified by Child Protection Workers**

Assessment of Difficulties Experienced by Victims	Sex of Sexually Abused Children	
	Male Victims (n=73)	Female Victims (n=505)
	Non-Accum. %	Non-Accum. %
<i>Social Difficulties</i>		
• Truancy	21.9	21.7
• Academic failures	27.4	30.4
• Disruptive behaviour	27.4	21.9
• Inability to form relationships	23.2	16.5
• Difficulty relating to authority	13.7	14.7
• Negative peer group	17.8	14.1
• Parent-child conflict	30.1	36.0
• Running away from home	13.7	19.3
• Other	4.1	1.8
<i>Psychological Difficulties</i>		
• Poor self-image	40.0	32.1
• Suicidal	9.4	13.7
• Health problems	9.4	12.9
• Bedwetting and soiling	15.1	3.8
• Eating difficulties	7.6	4.4
• General mental health problems	15.1	10.1
• Phobias	7.6	8.5
• General depression	17.0	17.6
• Pre-occupation with incident	13.2	6.9
• Disturbed sleep pattern	18.9	11.5
<i>Behavioural Problems</i>		
• Drug use	7.6	11.7
• Alcohol use	—	11.9
• Sexually active	7.6	13.9
• Prostitution	1.9	4.6
• Aggressive/assaultive	24.5	13.7
• Theft	7.6	10.5

*National Child Protection Survey (eight provinces and the Yukon, n=578).*

ers visited these families, they reported that two in five parents (43.2 per cent) had problems with alcohol or drugs. Roughly the same percentage (39.7 per cent) faced stress due to a lack of housing or money.

In half of the cases (52.5 per cent B), assessments by workers began within the first 48 hours after the cases had been opened. Two-thirds (66.7 per cent B) of the assessments started within the first week. However, one-third (33.3 per cent B) of the sexually abused children waited over a week between the opening of the case and the initial assessment.

Between Interval Referral and Assessment	Male Victims (n=152)	Female Victims (n=829)	Total (n=981)
	Accum. %	Accum. %	Accum. %
Within 24 hours	39.5	48.5	47.2
Within 48 hours	44.7	53.8	52.5
Within one week	59.2	67.9	66.7
Within one month	68.4	76.8	75.6
Over one month	70.4	83.4	83.1

In the Committee's judgment, these delays in providing care are unacceptable. They may be extremely harmful to the child, they extend the period of risk and they run counter to the known policies of child protection services.

An outstanding characteristic of the sexual abuses documented in the National Child Protection Survey is their duration. In over three-quarters of the cases (78.6 per cent), the abuses were not isolated incidents. The period of time involved ranged from less than one month to 13 years. The sexual abuse had gone on for less than six months in only 13.7 per cent of the cases. One in four children (24.0 per cent) had been subjected to abuse for 6-12 months; and one in 10 (10.4 per cent) was abused for 13-24 months. Almost one in four victims (24.2 per cent) had suffered abuse for three years or longer.

Duration of Sexual Abuse	Male Victims (n=73)	Female Victims (n=505)
	Per cent	Per cent
Under 6 months	19.2	12.9
6 - 12 months	16.4	25.2
1 - 2 years	1.3	11.7
3 - 5 years	11.0	16.0
6 or more years	11.0	8.5
Not Reported	41.1	25.7

In the Quebec survey, it was found that about one in eight cases (12.4 per cent) was an isolated incident of sexual abuse. One-ninth (10.7 per cent) of the children were abused for six months or less; 5.0 per cent were abused for 7-11 months. One child in 20 had been victimized for a period between one and two years and, for one in eight (12.7 per cent), the abuse had continued longer than two years.

In making their initial assessments, child protection workers encountered a broad range of attitudes held by victims and their parents. Three in 10 children (31.7 per cent) expressed negative feelings towards offenders. Over one-quarter (27.7 per cent) wanted to leave their homes, while almost another quarter (23.9

per cent) wished to stay. One in four victims (24.7 per cent) wanted his or her family to stay together.

Almost half the offenders (47.4 per cent), most of whom were 'father figures', did not want to leave their homes and one-quarter (26.0 per cent) wished to maintain family unity. Over one-third of the mothers (34.3 per cent) preferred to have the offenders remain and to have their children stay with them (33.4 per cent). One in four mothers (26.8 per cent) rejected the offenders.

When child protection workers open cases involving child sexual abuse, the findings indicate that they were confronted with an array of contrasting attitudes held by victims and family members, and that in this respect, there was no standard pattern of customary attitudes or behaviours. Families served by workers came from a variety of backgrounds, faced different difficulties and reacted differently to incidents of child sexual abuse. **The findings underscore the necessity for child protection workers to be well trained in methods of assessment and intervention, since in relation to the problems encountered, no single set of professional techniques is likely to suffice to serve the diverse needs of sexually abused children.**

## Services Provided

The two principal methods used by child protection workers to assist abused children are: direct work with children and their families; and co-ordinating the referrals of clients to other services. Services directly provided to sexually abused children may include: short or long-term counselling with individuals, couples or families; group therapy; crisis intervention; parent education; and provision of transportation or accompanying clients to court or hospital. The second type of service provided may include: consultation with other professionals involved in cases; meetings with foster parents; advocacy for clients; referral of clients to appropriate resources; mediation between clients and organizations; serving as witnesses at court; and professional training and organizational meetings.

## Medical Examination

About one in two children (52.6 per cent C) in the National Child Protection and Ontario Surveys had been medically examined, either at the behest of child protection workers or these visits had been sought by the children themselves, or by their parents or guardians.

In the Quebec survey, 107 (26.6 per cent) children had had a medical examination (three in 10 girls, 29.9 per cent; one in eight boys, 12.7 per cent). Of the 285 children in the National Child Protection Survey who had been medically examined, two in five (41.1 per cent) had been seen by family doctors and somewhat fewer by hospital abuse unit members (25.6 per cent) or by emergency room personnel (19.3 per cent). Information for Ontario revealed



Medically Examined	Male Victims		Female Victims		Total	
	No.	%	No.	%	No.	%
Yes	54	42.5	490	54.0	544	52.6
No	63	49.6	347	38.2	410	39.6
Unknown	10	7.9	71	7.8	81	7.8
<b>TOTAL</b>	<b>127</b>	<b>100.0</b>	<b>908</b>	<b>100.0</b>	<b>1035</b>	<b>100.0</b>

that 88.4 per cent of the 457 victims had been examined by doctors, 1.2 per cent by nurses and 5.4 per cent by both a doctor and nurse.

Most of the medical care reported to have been received by sexually abused children had not been initiated by child protection workers. Workers were asked to list which types of services had been contacted and whether these contacts had been made by telephone, involved meetings or had led to a full medical assessment.

Proportion of Victims Having Assessment & Services Provided by Physicians/Hospitals Initiated by Child Protection Workers	Male Victims	Female Victims
	Non-Accum. %	Non-Accum. %
Telephoned	20.5	27.3
Meeting	23.3	30.7
Full joint investigation	21.9	26.9

Of children who had been sexually abused, a medical examination had been initiated for one in four girls (26.9 per cent) and one in five boys (21.9 per cent).

When the types of sexual acts committed against children are considered (see Chapter 7), many of which involved vaginal or anal penetration, it is evident that medical care was not provided for a substantial proportion of these children. In its interviews with workers, the Committee learned that medical examinations had not been sought in these instances because: the assaults had occurred sometime in the past; or it was felt by workers that a medical examination might heighten the trauma already experienced by victims.

In light of its findings on sexually transmitted diseases (see Chapter 33), the Committee considers it essential that all sexually abused children be medically examined where it is suspected that vaginal and/or anal penetration has been attempted or has occurred. However cogent other reasons may appear to be at face value, in the Committee's judgment **the protection of the physical**

well-being of these children must be assured; the presumption that no harm may have been incurred because a sexual act was completed in the past is invalid.

### Police Services

On average, three in four (74.7 per cent) sexually abused children served by workers were known to the police. About one in 10 cases had been referred to agencies by the police and between a fifth and a quarter (22.6 per cent) had had contacts with the police which victims, their families or other persons had initiated. About half (46.0 per cent) of the contacts with the police had been made by workers.

Contacts With Police	Male Victims (n=73)	Female Victims (n=505)
	Per Cent	Per Cent
Case referred by police	8.2	9.1
Other contacts with police	12.3	20.8
Agency initiated referral	52.1	45.1
None, unknown	27.4	25.0

In one in six (15.7 per cent) contacts with the police, the initial assessment of the child had been jointly undertaken by workers from both public services.

Following the initial assessment, the nature of the contacts between workers and the police included telephone conversations, meetings and jointly undertaken investigations.

Proportion of Victims Having Assessment & Services Provided by Police & Child Protection Workers	Male Victims	Female Victims
	Non-Accum. %	Non-Accum. %
Telephoned	27.4	26.9
Meeting	30.1	31.1
Full joint investigation	28.8	36.2

In about one in three cases (35.3 per cent), a jointly undertaken assessment by police and child protection workers was made of the child's situation.

### Other Services

In addition to medical and police services, the other types of services most frequently turned to were school staff and mental health workers. Crown prosecutors were less frequently consulted and voluntary community associa-

tions such as sexual assault centres were contacted in only a small proportion of cases. Few of the contacts with other services led to a jointly undertaken assessment and investigation.

Other Services Contacted	Type of Consultation (n=578)		
	Telephoned	Meeting	Full Investigation
	Non-Accum. %	Non-Accum. %	Non-Accum. %
Crown prosecutor	9.3	9.5	2.4
School staff	18.2	25.6	7.1
Mental health worker	10.5	13.5	4.3
Voluntary community agency	4.3	3.8	0.5

In relation to the types of public and community services contacted by child protection workers in cases involving child sexual abuse, the findings indicate that an intervention model of interdisciplinary co-operation was evolving, but it is evident that it had not yet become a standard operating practice. In some instances, the use of allied professional services and other community resources was sporadic. These contacts infrequently led to a full assessment initiated and co-ordinated by child protection workers.

### Interviews with Victims and Family Members

The results of the National Child Protection and Quebec Surveys indicate that workers interviewed victims (79.0 per cent B) and mothers (78.2 per cent B) in four in five cases. (Reasons for not interviewing victims may include the lack of the child's verbal ability or the child's physical absence). In about half of the cases (45.7 per cent B), non-offending fathers were interviewed — in other words, almost all of this group. The victims' siblings were spoken to in two in five cases (42.3 per cent B). Overall, less than half (48.2 per cent B) of the offenders were interviewed by workers.

Persons Interviewed by Child Protection Workers	Male Victims (n=152)	Female Victims (n=829)
	Per Cent	Per Cent
Child (victims)	73.7	79.9
Mother (- figure)	64.8	78.7
Father (- figure)	41.5	46.3
Siblings	39.5	42.8
Offender	41.5	49.5

The findings indicate an uneven and incomplete assessment of the situations of victims and their families upon which to develop subsequent treatment and intervention plans. In cases reported for nine provinces, interviews had not been held with: one in five victims; one in five mothers; one in two offenders; and three in five of the victims' siblings.

The findings indicate serious deficiencies in the scope and thoroughness of the assessments carried out by child protection workers. It is known, for instance, that children living in the same family other than the victim may also have been sexually abused, as the survey's findings document. In the Committee's judgment, it is unclear how an adequate and effective program of treatment and intervention can be conceived and carried out when a full assessment has not been made involving all concerned members of a family, including siblings either at risk or who may have already been victims.

In the Committee's judgment, these significant findings imply a major deficiency in providing protection for sexually abused children served by child protection workers. For many of these children, there is an insufficient assessment of their situation to serve as the requisite basis upon which to mount an effective program for their immediate and long-term protection.

### Psychotherapeutic Services Provided

Child protection workers were asked to specify the types of services which they themselves provided for sexually abused children. In their replies, workers distinguished sharply between counselling and assessment interviewing and the provision of other services. In the National Child Protection Survey, half of the victims (53.5 per cent) and one in five offenders (20.6 per cent) were reported to have received counselling from workers. Fewer than one in four families (22.8 per cent) had been involved in some form of family therapy. The findings from the Ontario Survey were comparable, with fewer than one in four children (22.3 per cent) and one in eight offenders (12.7 per cent) reported as having been counselled by child protection workers.

Specialized services, such as group therapy, marital therapy or play therapy were infrequently utilized. Although a broad range of potential psychotherapeutic services could be provided in relation to the needs of victims and their families, the findings indicate that counselling was the most commonly provided service and that even this means of intervention was not being extensively used.

Child protection workers identified social and environmental problems in four in 10 families being served. As documented in the National Child Protection and Ontario Surveys, one in four families (23.2 per cent C) received some form of financial assistance; one in nine (11.1 per cent C), legal assistance; and one in 14 (6.9 per cent C), medical care.

**Table 28.2**  
**Provision of Psychotherapeutic Services to**  
**Sexually Abused Children by Child Protection Workers**

Type of Service Provided	Recipients of Services		
	Victim (n=578)	Offender (n=578)	Family (n=578)
	Non-Accum. %	Non-Accum. %	Non-Accum. %
Individual counselling	53.5	20.6	28.0
Group therapy	9.2	1.4	2.6
Family therapy	10.9	6.9	22.8
Marital therapy	—	6.2	5.5
Victim/offender counselling	3.5	3.5	—
Psychotherapy	4.2	4.5	1.7
Play/art therapy	4.8	—	0.7
Crisis intervention	11.6	5.5	9.5
Addiction counselling	0.5	5.0	3.6
Child management	—	2.1	9.2
Self-Help	0.4	0.9	2.8
Hot-Line	0.7	0.2	0.7
Psychological testing	18.8	10.0	5.5
Other	4.8	1.2	2.8

*National Child Protection Survey (eight provinces and the Yukon).*

### Number of Workers Providing Services

That the nature and quality of the services rendered by child protection workers are instrumental in providing effective assistance is a principle accepted alike by laymen and professionals. In this regard, it is well recognized

Number of Workers Involved	Male Victims (n=73)	Female Victims (n=505)
	Per Cent	Per Cent
One	31.5	39.8
Two	35.6	29.5
Three	13.7	10.9
Four	5.5	6.3
Five	4.1	3.8
More than Five	0.4	3.8
Unknown	9.2	5.9

that optimal care in child welfare, where feasible, should involve as few professional workers as possible who are working on behalf of clients. In this respect, the findings of the National Child Protection Survey indicate that most, but not all, sexually abused children were well served. About four in 10 victims (38.7 per cent) were served by one child protection worker.

Transfers of cases between intake and long-term service workers occur routinely: 30.2 per cent of the clients were assigned to two workers. Over two-thirds of the victims and their families can be considered not to have been subjected to multiple transfers. Nevertheless, one-quarter of the clients (25.6 per cent) were transferred among three or more workers. The Committee learned that the rates of staff turnover in child protection agencies were high and this fact likely accounted for the frequent transfer of some of the clients.

## Removal and Placement of Children

In seeking to assist sexually abused children, child protection workers are caught in the dilemma of judging which of several courses of action may best serve the child's interests and needs and protect his or her well-being. Their legal and social mandate is to protect children from harm — in this instance, sexual abuse. The only certain method to accomplish this duty, namely, to ensure that children are not abused again, is to remove them physically from their homes (where abusers are residents) and break off unsupervised contacts between victims and offenders. The Committee was told by experienced workers of the immense pressure that the community often placed on them to apprehend children. At the same time, child protection workers are aware of the harms incurred by forcing children to leave their homes. The established policy of many agencies is, whenever possible, to keep families together. It is widely believed by child protection workers that children who are taken from their families are likely to view this intervention as a form of punishment, may resent it or feel it is no more than they deserve. It has been suggested in the child welfare literature that the removal of the child may be more harmful than the abuse the child sustained.

In theory, the solution to this dilemma is simple: the abuser should be removed from the home. In practice, factors such as recriminations by the remaining parent, the possible return of the offender, and, above all, the lack of statutory authority under child welfare legislation enabling the expulsion of reluctant abusers from their homes effectively hinder the efforts of child protection agencies in this regard. To attain this end, child protection workers must seek recourse to the criminal justice system.

In the course of its review, the Committee found instances where child protection workers and the police worked effectively together on behalf of sexually abused children. However, close collaboration resulting in jointly undertaken assessments and investigations is still the exception; it is not an established practice. Many child protection workers resent what they perceive to be the brusque intrusion of the police in the sensitive domestic problems of fami-

lies, an intervention which is often seen as being more harmful than beneficial. While these sentiments are more matters of belief than of documented fact, some workers act upon them in reaching decisions concerning the disposition of sexually abused children.

In Chapter 29, *Intervention Strategies*, a review is provided which compares the procedures and outcomes resulting from philosophically different assessment and intervention approaches adopted to assist sexually abused children. In the remainder of this chapter, an overview is given of the actions taken by child protection workers following their assessment of the needs of these children.

### Initial Removal of the Child

In the National Child Protection and Ontario Surveys, it was found that during the period immediately following an initial assessment by an agency's staff, about half of the children (47.7 per cent C) were removed and about half (48.0 per cent C) remained at home. In contrast, about one in five (18.6 per cent) victims in Quebec was removed from his or her home. For nine provinces and the Yukon, about two in five children (38.1 per cent C) were placed in an agency's facility and one in 10 (9.7 per cent C) was placed with relatives. The siblings of victims were also removed from home in one in 15 cases (6.5 per cent C).

Initial Placement of Children	Male Victims (n=127)		Female Victims (n=908)		Total (n=1,035)	
	No.	Non-Accum. %	No.	Non-Accum. %	No.	Non-Accum. %
Child at home	67	52.8	430	47.4	497	48.0
Child in care	46	36.2	348	38.3	394	38.1
Child with relatives	5	3.9	95	10.5	100	9.7
Siblings in care	5	3.9	62	6.8	67	6.5
Other	8	6.3	71	7.8	79	7.6

The workers' decisions to remove children from their homes were based on a number of considerations, including: the child's age; the frequency of the abuse; the family environment; other problems experienced by the victims; the distance between the child's residence and the agency's offices (affecting the time taken by workers to contact victims and their families); and other factors. **The findings of the National Child Protection Survey indicate that there was no relationship between the agency's decision to remove or not to remove children and the types of sexual acts committed against them. Children who had been sexually fondled were as likely to have been apprehended as children who had been victims of vaginal or anal intercourse (regression analysis,  $r^2=0.0028$ ). Conversely, children who had been victims of more serious sexual acts were as likely to be left in their homes as to have been removed. This finding indicates that a sizeable proportion of sexually assaulted children is left in a position of unknown risk.**

**This finding warrants the immediate and sharp revision of child protection practices in relation to serving these children, and underscores the need for more effective assessments of these types of cases.**

### Initial Removal of Suspected Offender

In one in four cases (27.8 per cent C) in the National Child Protection and Ontario Surveys, child protection workers were uncertain or did not know what had happened to offenders who lived in the victims' homes. This finding may well be a result of incomplete reporting of information in agency records. In the Committee's view, however, it is an omission of significant information which should be included in all child protection records concerning sexually abused children.

In about one in three cases in nine provinces and the Yukon (36.4 per cent C), the suspected offenders remained at home and for another third (34.9 per cent C), the offenders left home following an agency's initial assessment.

Initial Removal of Offender	Male Victims (n=127)	Female Victims (n=908)	Total (n=1,035)
	Per Cent	Per Cent	Per Cent
Offender at home	24.4	38.1	36.4
Offender left	33.9	36.1	34.9
Other	3.1	1.8	1.9
Unknown	38.6	24.0	26.8
TOTAL	100.0	100.0	100.0

Findings comparable to those obtained for victims were found concerning the types of sexual acts committed and whether offenders stayed at or left their homes (regression analysis,  $r^2=0.0027$ ). There was no significant relationship between the removal of offenders and the types of sexual acts committed.

**These important findings concerning the removal and non-removal of victims and offenders in relation to the sexual acts committed raise serious questions about the principles and adequacy of assessment practices of child protection services. They reflect the unsettled state of the field in relation to the different intervention strategies adopted. Many of the intervention strategies adopted are manifestly not based on a judgment concerning the gravity of the sexual assaults committed. Children who had been victims of vaginal or anal intercourse were as likely to be left at home with resident offenders as to have been removed. In its recommendations given elsewhere, the Committee considers the social policy and legal significance of these findings in relation to the need to afford better protection for sexually abused children served by child protection workers.**



## Living Arrangements For Children Following Assessment

The findings of the National Child Protection Survey indicate that several different types of living arrangements occurred after child protection assessments had been completed. These included: one in five cases (20.2 per cent) in which the non-offending parent and the child continued to live together; one in five cases (20.8 per cent) in which all family members separated; about one in five (18.9 per cent) in which both parents continued to live together without the child; and for about two in five cases, other options were taken.

Living Arrangements After Assessment	Male Victims (n=73)	Female Victims (n=505)	Total (n=578)
	Per Cent	Per Cent	Per Cent
Family together	13.7	15.1	14.9
Parent and child	23.3	19.8	20.2
Parents together	8.2	20.4	18.9
Offender and child	4.1	1.0	1.4
Family apart	26.0	20.0	20.7
Other*	19.2	18.0	18.2
Unknown	5.5	5.7	5.7
<b>TOTAL</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>

\* "Other" includes situations in which the offender was not a family member.

## Time in Care

The information concerning the length of time that children removed from their homes spent away from them does not provide an accurate assessment of the usual duration, since a number of the cases documented in the National Child Protection Survey were still open or services were being provided when the information was obtained.

Time in Care	Male Victims (n=73)	Female Victims (n=505)	Total (n=578)
	Accum. %	Accum. %	Accum. %
Not in care	100.0	98.4	99.3*
Less than 1 week	65.8	64.7	64.9
1 - 4 weeks	61.7	61.0	61.1
1 - 3 months	49.3	50.3	50.2
4 - 6 months	39.7	42.8	42.4
7 - 11 months	24.7	29.1	28.5
1 - 2 years	19.2	19.8	19.7
3 years	2.7	4.0	3.8
More than 3 years	2.7	1.8	1.9

\* Information missing for 0.7 per cent.

About two in five children (38.9 per cent) were reported to have been in care for less than four weeks. Two in five (42.4 per cent) had been in care for four months or longer.

### Present Living Arrangements

Of children removed from their homes when the National Child Protection Survey was undertaken, one in three (30.6 per cent) was in foster care, over two in five (44.5 per cent) were living with their families and about one in four (26.3 per cent) lived with families from which the resident offender had departed. About one in five children (18.2 per cent) lived with families that included offenders.

Present Living Arrangements of Victims	Male Victims (n=73)	Female Victims (n=505)	Total (n=578)
	Accum. %	Accum. %	Accum. %
Foster care	39.7	29.3	30.6
On own	1.4	6.5	5.9
With relatives	2.7	7.3	6.7
With family without offender	28.8	25.9	26.3
With family with offender	20.6	17.8	18.2
Other	2.7	5.3	5.0
Unknown	4.1	7.9	7.3
<b>TOTAL</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>

In Quebec, somewhat different living arrangements were found in the survey conducted by Le Comité de la protection de la jeunesse. One child in 10 (10.7 per cent) was in foster care and one in four (24.8 per cent) had remained with his or her family. Of the latter, virtually all were living with offenders. In relation to the findings of both surveys, it is recalled that since some of the children were still being cared for by agencies, the final place of residence might differ from those reported as the "present place of residence".

### Status of Case

Although the benefits of short-term therapy (i.e., three months or less) are gaining recognition in the field of child welfare, child protection workers also are aware that sexual abuse is a deeply rooted problem which may require a considerable amount of casework to undo its effects and to prevent, if possible, reoccurrences. The findings from the National Child Protection and Quebec Surveys illustrate this awareness: over three-quarters of the cases (77.9 per cent B) were open when the Committee obtained its information.

Status of Case	Male Victims (n=152)	Female Victims (n=829)	Total (n=981)
	Accum. %	Accum. %	Accum. %
Open	83.5	76.8	77.9
Closed	15.8	22.3	21.3
Unknown	0.7	0.9	0.8
TOTAL	100.0	100.0	100.0

Although the reporting forms submitted to the Ontario Child Abuse Register specify the "current" status of a case, information was not provided on this point for two in five cases (40.9 per cent). Of the remainder, one in five (21.0 per cent) was closed and about two in five (38.1 per cent) were open.

Information on the reasons for closing cases was sought in the National Child Protection Survey. For the 188 closed cases, the most frequently cited reason was that sufficient counselling had been provided (36.2 per cent). Of this group, the most frequent reason cited was that sufficient counselling had been rendered with the result that the clients no longer needed assistance (36.2 per cent). One in five cases (21.8 per cent) had been closed because the agencies did not receive the clients' co-operation. Less frequently, cases were closed because families had moved away (13.8 per cent) or had been referred to other service organizations (12.8 per cent). The least frequently cited reason was that children had become too old to be provided with child protection services (10.6 per cent).

### No Court Involvement

Of the cases of child sexual abuse in which there was no court involvement, the most commonly cited reason, one given for two in three cases (68.2 per cent), was that the agency's plan for the client precluded taking this course of action. In about a third of the cases (33.0 per cent), insufficient evidence was reported as the basis for not seeking a court hearing. Sometimes, more than one justification was listed. Among the less frequently stated reasons were: cases were before criminal courts (16.5 per cent); the victim or a witness refused to testify in court (10.6 per cent); and child protection workers believed that a court appearance would place too much stress on the child (9.4 per cent).

### Court Involvement

The results for 1438 cases from all provinces and the Yukon indicate that in one in three cases (34.3 per cent A) charges were laid, in about two in five cases (42.9 per cent A) no charges were laid and this information was unknown by workers for one in five cases (22.8 per cent A).

Criminal Charges Laid	Male Victims		Female Victims		Total	
	No.	%	No.	%	No.	%
Yes	64	31.1	429	34.8	493	34.3
No	82	39.8	535	43.4	617	42.9
Unknown	60	29.1	268	21.8	328	22.8
<b>TOTAL</b>	<b>206</b>	<b>100.0</b>	<b>1,232</b>	<b>100.0</b>	<b>1,438</b>	<b>100.0</b>

Somewhat different findings emerge when the information for Quebec is considered separately and only the experience of the other nine provinces and the Yukon is drawn upon in relation to the proportion of cases in which there was intervention by the courts. In about one in five cases (18.4 per cent C), this information was not reported in the National Child Protection and Ontario Surveys.

Court Involvement	Number	Percentage
No Court Involvement	302	29.2
Child Welfare Court	138	13.3
Criminal Court	253	24.4
Child Welfare and Criminal Courts	152	14.7
Not Reported	190	18.4
<b>TOTAL</b>	<b>1035</b>	<b>100.0</b>

**In three in 10 cases (29.2 per cent C), there was no court involvement. Between one in seven and one in eight cases (13.3 per cent C) proceeded solely to child welfare courts and one in four (24.4 per cent C) exclusively involved hearings before criminal courts. In one in seven cases (14.7 per cent C), the cases were brought before both child welfare and criminal courts. In the Quebec Survey, information was not reported concerning court involvement for one in two cases (49.6 per cent). For one in three cases (34.0 per cent), there was no court involvement, one in 10 (10.2 per cent) proceeded to the Youth Court, one in 25 (4.0 per cent) to the Court of Sessions, and 2.2 per cent involved hearings before both types of courts.**

Except for Quebec, of cases involving child sexual abuse documented for nine provinces and the Yukon, the criminal justice system was more often resorted to than was the civil justice system (child welfare courts). Of the one in two cases (52.4 per cent C) having court hearings, three in four (74.6 per cent C) proceeded to criminal courts and one in two (53.4 per cent C) to child welfare courts. As noted, a portion of the cases came before both levels of court.

## Child Welfare Court

The Committee learned from its meetings with many child protection workers across Canada that most agencies prefer not to seek court intervention in relation to child sexual abuse. As documented in the National Child Protection and Ontario Surveys, this option was, however, followed in about one in two cases (52.4 per cent C). When this course of action is taken by child protection workers, it is because they recognize that a child is in need of certain types of services or of a period of guardianship, means which may not otherwise be realized, but only attained through the auspices of the Court.

It is widely believed in the child welfare field that most cases coming before Child Welfare Courts represent a failure of all parties involved to come to an agreement to co-operate in the child's best interests. In these instances, resorting to the courts may be the only avenue available whereby workers feel they can work effectively with hostile or reluctant families. In this regard, in the National Child Protection Survey, workers reported that one in four suspected offenders (27.0 per cent), one in five mothers (21.8 per cent) and one in six victims (17.1 per cent) were hostile to the initial intervention by workers in their affairs.

## Child Present in Court

Although court proceedings may vitally affect their lives, the findings of the National Child Protection Survey found that in about two in three cases (64.5 per cent), these children were reported not to have appeared at any time in court. In about a third of the cases (32.4 per cent), children did appear in court.

Child Present in Child Welfare Court	Male Victims (n=33)	Female Victims (n=229)	Total (n=262)
	Per Cent	Per Cent	Per Cent
Yes	27.8	33.2	32.4
No	72.2	63.3	64.5
Unknown	—	3.5	3.1
TOTAL	100.0	100.0	100.0

Some of the children who did not appear in court may have been either too young or incapacitated physically and mentally to experience the stress of making such an appearance. However, the findings obtained by the Committee in relation to the social, psychological and behavioural difficulties experienced by sexually abused children served by child protection workers indicate that many of these children who were fit to appear were not given the opportunity to do so. The Committee regards this practice as disturbing: it precludes these children from directly giving their accounts to judges, and in turn, prevents judges

from directly forming their own assessments about the emotional and physical state of the child.

### The Child Represented in Court

At Child Welfare Court hearings, no information was reported for one in four cases (26.3 per cent) documented in the National Child Protection Survey. One child in eight (12.2 per cent) was represented by no one. About two in five (38.6 per cent) were represented by child protection workers. One in nine children (11.4 per cent) was represented by a lawyer.

Child Represented in Child Welfare Court	Male Victims (n=33)	Female Victims (n=229)	Total (n=262)
	Per Cent	Per Cent	Per Cent
Lawyer	3.0	12.7	11.5
Child protection worker	42.4	38.0	38.6
Other	6.1	12.2	11.4
No representative	21.2	10.9	12.2
Unknown	27.3	26.2	26.3
<b>TOTAL</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>

How these findings are interpreted depends upon the weight assigned to having a professional trained in legal affairs — but not usually child welfare — representing children in court. In framing child welfare statutes, it appears that legislators acted on the assumption that child protection agencies would work towards ensuring the best interests of children, and, therefore, would speak effectively for them in court. Recently, there has been a growing and more widely held belief that children should be able to present their own views, or for them to be represented by attorneys. If the latter philosophy is adopted, the findings presented may be viewed with concern.

### Reactions to Court Proceedings

Child protection workers completing the National Child Protection Survey were not aware of their client's reactions to child welfare proceedings in one in four cases (25.6 per cent). The workers listed a number of varied responses for the rest of the children. (Children who did not appear in court are included as the court process affected them as well). Undoubtedly like many persons unexperienced in court procedures, it is not surprising to learn that many of the children exhibited anxious and excited reactions.

Child's Reaction to Child Welfare Court	Male Victims (n=33)	Female Victims (n=229)	Total (n=262)
	Per Cent	Per Cent	Per Cent
Agitated	6.1	15.2	14.1
Anxious	21.2	23.6	23.3
Depressed	18.2	15.3	15.6
Indifferent	12.1	8.3	8.8
Excited <sup>1</sup>	—	2.2	1.9
Other	3.0	11.8	10.7
Unknown	39.4	23.6	25.6
TOTAL	100.0	100.0	100.0

One in four children (23.3 per cent) was adjudged by workers to have been nervous about the court hearing; depression was the next most common response (15.6 per cent); and one in seven (14.1 per cent) was agitated or upset. The workers believed that about one in three children (29.7 per cent) was traumatized by being involved in the proceedings of a child welfare court. The remainder were indifferent (8.8 per cent), excited (1.9 per cent) or evinced a number of other reactions (10.7 per cent).

#### Proportion of Children Harmed by Child Welfare Court Intervention

In interpreting these findings about the reactions of sexually abused children involved in proceedings before a child welfare court, an important consideration is whether the child protection workers believed that these young victims had been harmed by this intervention. During its review, the Committee learned that it was a widely held belief in the fields of child welfare and family law that the involvement of children in court proceedings is harmful to children. Precedents established elsewhere, such as in Israel where the child is represented by a child advocate in court, were cited as justification for this position. In this regard, the Ministry of Justice of the Government of Israel informed the Committee that no studies have been undertaken for that nation which assess the application of this procedure and its consequences for the children involved.

In order to determine whether children were believed to have been harmed by their involvement in child welfare court proceedings, the Committee asked child protection workers for their judgment on this matter concerning cases they had served which had proceeded to court. The Committee recognizes that this type of information may not accord directly with whether these children had in fact been harmed. The findings, however, were based on the informed judgment of child protection workers who presumably had worked closely with these children and their families, who had been responsible for seeking court

intervention, and who, in many instances, had represented their interests at court hearings. As such, the findings represent the informed judgment of child protection workers, who it could be expected, would be deeply concerned and well appraised of the risks involved for children under their care.

Proportion of Children Harmed by Involvement in Child Welfare Court Proceedings	Male Victims (n=33)	Female Victims (n=229)	Total (n=262)
	Per Cent	Per Cent	Per Cent
Harmed	6.1	5.2	5.3
Not harmed	39.4	48.0	47.0
Unknown	54.5	46.7	47.7
<b>TOTAL</b>	100.0	99.9*	100.0

\*Rounding error

In the National Child Protection Survey, child protection workers were asked whether in their judgment the children involved in proceedings of child welfare courts had been harmed. In half of the cases (47.7 per cent), this information was unknown. Considering the crucial significance of this type of information, its lack of documentation represents a serious omission in child protection records. It is recalled that, in assembling information for the National Child Protection Survey, both records of agencies and the experience of workers were drawn upon; the findings did not exclusively derive from the former source.

For about half of the cases (47.0 per cent), it was reported that the children involved in court proceedings had not been harmed. Overall, child protection workers reported that about one in 19 children (5.3 per cent) had been harmed by this form of legal intervention.

**When the findings concerning the reported reactions of children and the assessment of harms incurred are considered together, it appears, based on the informed judgment of child protection workers, that while considerably more children were anxious or upset by court proceedings, few were believed to have suffered any lasting harms resulting from this process.**

**Until more complete and detailed documentation is available, the Committee accepts these findings as constituting the informed opinion of professional workers who were deeply concerned about children's well-being. The findings indicate that for well over nine in 10 children, there was no justification in relation to the potential harms incurred to believe that they were likely to have been seriously harmed by court intervention on their behalf. The findings given subsequently concerning the reactions of children to the proceedings of criminal courts reinforce this conclusion.**



## Criminal Court

The information about the experience of sexually abused children whose cases were brought to criminal court is limited, since as noted in Chapter 6, *Occurrence of the Problem*, only a small proportion of the persons who were victims of sexual offences as children had contacted or been served by child protection services. Of those who came to the attention of child protection services, many were not involved in court proceedings, and of those who were, cases may have been heard before child welfare courts, criminal courts or both types of courts. As a result of this selective, winnowing process, only a portion of the cases initiated by child protection services came to the attention of the criminal courts.

The information available from child protection workers about the experience of children served by agencies whose cases involved criminal court hearings is further limited by an aspect of child protection practice about which the Committee had been unaware before it undertook its review. The findings indicate that, in a sizeable number of cases involving criminal court hearings, child protection workers were either misinformed, or did not know what had happened to the children in their care or to the suspected offenders who had been charged. It is recalled that the cases known to child protection services having any form of court intervention, three in four had resulted in criminal court hearings. In this regard, the lack of information by child protection workers about what happened to a sizeable proportion of these children constitutes a serious omission in the scope of the services provided for these children and in the follow-up of children in their care.

## Reasons For Not Laying Charges

In a total of 480 cases drawn from the National Child Protection and Ontario Surveys, criminal charges were not laid against suspected offenders. Among these cases, the most commonly cited reason why charges were not laid was lack of evidence (72.7 per cent C). In about one in five cases (18.7 per cent C), the offender's willingness to receive treatment was reported as a reason for not laying charges. For one case in six (16.7 per cent C), a person — child, witness or spouse — was unwilling to testify. In about one in eight cases (12.1 per cent C), the credibility of the complainant or witness was questioned, and unlike the confirmation of cases by child protection workers, this occurred in cases involving boys three times more often than those involving girls.

Elsewhere in the Report, the Committee makes recommendations with respect to the admissibility of children's evidence in court hearings. The findings for nine provinces (except Quebec) show that the age of the child was given as the reason for not laying charges in only one in 19 cases (5.6 per cent C) in this survey.

Reasons Charges Not Laid	Male Victims (n=59)	Female Victims (n=421)	Total (n=480)
	Non-Accum. %	Non-Accum. %	Non-Accum. %
Age of child	10.2	5.0	5.6
Offender unknown	5.1	5.2	5.2
Lack of evidence	71.2	72.9	72.7
Credibility questioned	28.8	9.7	12.1
Unwilling to testify	23.7	15.7	16.7
Offender warned	8.5	3.3	4.0
Offender seeking treatment	23.7	18.1	18.8
Other	28.8	39.9	38.5
Unknown	15.3	10.5	11.0

### Sexual Acts Committed and Charges Laid

Two types of statistical analysis were undertaken to determine the association between the types of sexual acts committed against children served by child protection services and whether charges were laid against suspected offenders. In both instances, the findings were drawn from the National Child Protection Survey. In the first analysis, a multiple regression correlation, it was found that when all types of sexual acts were considered, there was no statistically significant relationship between these acts and whether criminal charges had been laid against suspected offenders (regression coefficient,  $r^2=0.0386$ ).

In the second statistical analysis, a more detailed review was made involving the more serious acts where vaginal and/or anal penetration by a penis had been committed against children served by child protection workers. Acts of this kind had been committed against 183 children, of whom information about whether charges had been laid was unknown for 14 cases. The findings given here are for 169 children.

Type of Sexual Act Committed against the Child	No Charges Laid		Charges Laid	
	No.	%	No.	%
<i>Male Victims</i> Anal penetration with penis	8	47.1	9	52.9
<i>Female Victims</i> Anal penetration with penis	2	28.6	5	71.4
Vaginal penetration with penis	60	45.1	73	54.9
Anal and vaginal penetration by penis	2	16.7	10	83.3

The findings serve to extend results of the regression analysis. Although the number of cases is small where both vaginal and anal penetration by a penis had occurred, charges were laid in five in six of these cases (83.3 per cent). The next category where charges were most frequently laid was the anal penetration by a penis of female victims. Slightly over one half (54.9 per cent) of the cases involving vaginal penetration by a penis resulted in charges being laid.

In instances involving anal penetration by a penis, charges were more likely to be laid in incidents in which girls (71.4 per cent) than boys (52.9 per cent) had been victims. When a distinction is made for girls who had been victims of vaginal and anal acts of penetration by a penis (double-counting the few instances where both acts had been committed), then charges were considerably more often laid in instances where anal penetration by a penis (78.9 per cent) had occurred than those where vaginal penetration by a penis (57.2 per cent) had been committed.

These findings parallel those obtained in relation to the types of sexual acts committed against children reported by child protection workers to provincial child abuse registers. **These findings indicate that many serious sexual offences known to child protection workers had not been reported to registers or resulted in charges being laid and, in fact, that there was an inversion from the results which might have been expected in relation to two of the most serious sexual acts — vaginal and anal penetration by a penis. Some of the child protection workers serving these sexually assaulted children, it appears, regarded acts of anal penetration by a penis as a more serious offence than acts of vaginal penetration by a penis. In terms of the potential long-term physical harms to girls of becoming pregnant or contracting physically damaging sexually transmitted diseases, there can be no doubt that the latter acts constitute a graver danger for children than do the former.**

**In the Committee's judgment, the professional grounds upon which decisions of this kind are made, and the decisions themselves, are wholly unacceptable. There can be no doubt that the protection afforded children in these situations must be strengthened.**

### Guilty Plea

Of the cases in the National Child Protection Survey for which information was available, one in three (33.0 per cent) suspected offenders pleaded guilty, about one in four (23.7 per cent) did not and child protection workers did not know the outcomes of the remainder of the cases appearing in criminal court (43.3 per cent).

Guilty Plea	Male Victims (n=20)	Female Victims (n=174)	Total (n=194)
	Per Cent	Per Cent	Per Cent
Yes	50.0	31.0	33.0
No	20.0	24.1	23.7
Unknown	30.0	44.8	43.3
<b>TOTAL</b>	<b>100.0</b>	<b>99.9*</b>	<b>100.0</b>

\*Rounding error

### Preliminary Hearing

At the preliminary criminal court hearings of suspected offenders, about one in five (19.1 per cent) was not committed to trial, one in three (32.5 per cent) was, and about one in six (17.5 per cent) was referred for psychiatric and/or psychological assessment. In three in 10 cases (30.9 per cent), workers did not know the trial status of suspected offenders in relation to the children whom they had been serving.

Results of Preliminary Hearing	Male Victims (n=20)	Female Victims (n=174)	Total (n=194)
	Per Cent	Per Cent	Per Cent
Committed to trial	20.0	33.9	32.5
Not committed to trial	20.0	19.0	19.1
Psychiatric assessment	5.0	19.0	17.5
Unknown	55.0	28.1	30.9
<b>TOTAL</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>

### Reactions to Criminal Court Proceedings

The information about whether children appeared at preliminary criminal court hearings or trials is incomplete, with this fact not having been documented for two in five cases (41.2 per cent) reported in the National Child Protection Survey. Of the three in five cases where this information was provided, slightly more of the children (32.5 per cent) did not appear at preliminary hearings or trials than those who had done so (26.3 per cent).

Child Present in Criminal Court	Male Victims (n=20)	Female Victims (n=174)	Total (n=194)
	Per Cent	Per Cent	Per Cent
Yes	15.0	27.6	26.3
No	30.0	32.8	32.5
Unknown	55.0	39.6	41.2
TOTAL	100.0	100.0	100.0

In comparison to the experience of children attending child welfare courts, proportionately fewer children appeared in criminal courts. Of the 51 cases in which the victims were present in criminal court, just over half (54.9 per cent) testified. Of the 28 children who testified, one in nine (10.7 per cent) was under age seven. Almost one-third (32.1 per cent) were between seven and 11 years-old. One in four (25.0 per cent) was between 12 and 13 years-old; another quarter (25.0 per cent) were 14 and 15 years-old. Although the number of cases in which children gave testimony in criminal court proceedings is small, it is evident that in a number of instances the testimony of very young children was permitted to be given by the court. Almost three in five (57.1 per cent) of these children gave sworn testimony and about three in 10 (28.6 per cent) gave unsworn testimony. The sole reason cited why four children had not given testimony was that they were incapable of doing so on account of their young age.

Children may become upset or agitated concerning court hearings in which they are not present as well as those in which they actually appear; here, their general reactions are considered in relation to criminal court proceedings whether they were present or not present at preliminary hearings or trials.

Child's Reaction to Criminal Court	Male Victims (n=20)	Female Victims (n=174)	Total (n=194)
	Per Cent	Per Cent	Per Cent
Agitated	20.0	14.9	15.5
Anxious	10.0	11.5	11.3
Depressed	10.0	8.1	8.3
Indifferent	—	4.0	3.6
Excited	—	0.6	0.5
Other	—	6.3	5.7
Unknown	60.0	54.6	55.1
TOTAL	100.0	100.0	100.0

The principal finding obtained in the National Child Protection Survey concerning children's reactions to criminal court proceedings was that child

protection workers gave no information for over one in two cases (55.1 per cent) involved in this process. Of the remainder, the most frequently reported reactions were: agitation (15.5 per cent); anxiety (11.3 per cent); and depression (8.3 per cent).

### Proportion of Children Harmed by Criminal Court Intervention

In two in three cases (67.5 per cent) in which sexually abused children had been involved in criminal court proceedings, child protection workers reported no information concerning whether in their judgment these children had been harmed by this legal intervention. About one in 10 children (9.8 per cent), a proportion higher than that reported for cases appearing before child welfare courts, was deemed to have been harmed.

Proportion of Children Harmed by Involvement in Criminal Court Proceedings	Male Victims (n=20)	Female Victims (n=174)	Total (n=194)
	Per Cent	Per Cent	Per Cent
Harmed	20.0	8.6	9.8
Not harmed	10.0	24.1	22.7
Unknown	70.0	67.2	67.5
<b>TOTAL</b>	100.0	99.9*	100.0

\* Rounding error

The findings concerning whether children involved in the proceedings of child welfare and criminal courts had been harmed by these interventions is incomplete. For most of the children, child protection workers gave no information concerning this issue. On the basis of the information provided, in each instance, only a small proportion of the children was reported by workers to have been harmed.

### Outcome of Trials

Of the 1035 cases of child sexual abuse documented in the National Child Protection and Ontario Surveys, one in six (16.5 per cent C) resulted in offenders being convicted on charges pertaining to sexual abuse. Of the 462 persons charged, 171 were convicted, charges were withdrawn in one in 15 cases (6.5 per cent C) and one in 36 suspected offenders (2.8 per cent C) was acquitted.

Outcome of Trial	Male Victims (n=56)	Female Victims (n=406)	Total (n=462)
	Per Cent	Per Cent	Per Cent
Conviction	35.7	37.2	37.0
Acquittal	1.8	3.0	2.8
Charges with- drawn	1.8	7.1	6.5
Unknown	60.7	52.7	53.7
<b>TOTAL</b>	100.0	100.0	100.0

Of the 171 convicted offenders, slightly over half (53.8 per cent C) received prison sentences, over a third (35.7 per cent C) were put on probation and one in 17 (5.8 per cent C) was given an absolute or conditional discharge.

Sentences	Male Victims (n=20)	Female Victims (n=151)	Total (n=171)
	Per Cent	Per Cent	Per Cent
Imprisonment	15.0	42.4	39.2
Imprisonment*	10.0	15.2	14.6
Probation	65.0	27.8	32.2
Probation*	5.0	3.3	3.5
Discharge	5.0	6.0	5.8
Other	—	5.3	4.7
<b>TOTAL</b>	100.0	100.0	100.0

\* Additional conditions, e.g., mandatory treatment.

## Summary

The Committee recognizes the constraints that exist in relation to the allocation of resources and personnel available to child protection services. The Committee also acknowledges the crucial importance of sensitively and effectively provided assistance to sexually abused children rendered by child protection workers. These workers have a difficult and complex mandate to fulfill, one not facilitated by unjust criticism of their work.

In recognizing these concerns, however, the Committee believes that there are commanding reasons, as documented in the child protection surveys undertaken across Canada, to conclude that the work of these services in relation to child sexual abuse must be sharply strengthened, augmented and more effectively co-ordinated with the services provided by other helping professions.

One of the main dilemmas documented in the Committee's research is that, in many respects, child protection workers serving sexually abused children worked too much on their own and did not co-operate closely or effectively enough with other public services. **The findings show that there was fragmentary and insufficient contact with medical services and that relations with the police were often brief and did not result in joint co-operation or follow-up. Many other available public services and community associations were relatively seldom turned to for assistance, counsel or co-ordination of care.**

At a time when resources for all types of public services are limited and becoming more difficult to obtain in relation to meeting potentially infinite service needs, no single group can reasonably expect that it will be assigned its full requested quota of personal and public funding. In the Committee's view, there is a more important issue than the sheer volume of resources assigned to a particular service, namely, the need for continuous and effective co-ordination of efforts between public agencies providing complementary services to sexually abused children.

**A second dilemma and, in this instance, a serious deficiency in the application of child protection practice, is the relative lack of sufficient assessment of cases of child sexual abuse and inadequate follow-up of cases assigned to the care of these workers.** The surveys' findings show that many victims, parents, offenders and the children's brothers and sisters were not interviewed by workers. Of cases resulting in either child welfare or criminal court hearings, in a sizeable proportion of these cases it was found that child protection workers either had not been involved in these hearings or trials or were uninformed about what had happened to the children in their care (or whose cases had been assigned to them for long-term monitoring).

**In the Committee's view, there can be no doubt in relation to both of these issues — the need for more complete assessments and for a more effective and long-term follow-up of cases — that the protection afforded these children must be strengthened and that this must be done promptly by the levels of government concerned.**

Throughout this chapter, the point has been reiterated that certain types of information were missing, unreported or unknown. In this regard the Committee recognizes a distinction between types of information which it would be useful to have about victims, their experience and suspected offenders, and those facts which are essential for the assessment, provision of care and follow-up of these children.

**The records of public agencies concerning persons being served are not just the personal repositories of observations made by workers. They are essential documents recording the experience, needs and outcomes of services provided to sexually abused children. In light of the reported high level of staff turnover in many child protection agencies across Canada, the need for sufficiently detailed and reasonably complete case records is even more apparent.**



**This is a matter that, in the sphere of medical care, has received considerable public and professional attention and that has resulted in the professional review of patients' charts as constituting an essential and important component in relation to periodic accreditation of hospitals. An analogous review procedure is warranted in relation to the completeness and adequacy of child protection records maintained for sexually abused children.**

## Chapter 29

# Intervention Strategies

A review of the child protection research literature and reports about the operation of different programs reveals that opinion and practice vary widely about the best means to intervene on behalf of, and ideally to help, sexually abused children and their families. Among the issues involved, the greatest area of disagreement revolves about the respective merits of what are referred to here as the child-centred and family-centred intervention approaches.

In its review, the Committee found that the adoption of one or other of these prototypical models, or in some instances the inclusion of elements of both approaches, varied widely across Canada. Both approaches are grounded on two fundamental premises of social work, namely, a recognition of the inherent worth of all persons, and an acknowledgment of their right to receive assistance. The main intervention strategies in some degree allow for the provision of services for each person involved in an incident of child sexual abuse. Beyond these common elements, the children served by child protection workers adhering principally to one approach are served substantially differently than those cared for by workers following the alternate means of intervention. Where these contrasting models of intervention differ is in the relative emphasis given to:

1. The involvement of legal, enforcement, health and other social service professionals in the assessment of and intervention on behalf of cases served by child protection agencies.
2. The adoption of a child-oriented or a family-oriented approach in the provision of services.
3. The belief that child sexual abuse is a distinctive problem to be dealt with separately from other problems affecting the well-being of children and their families, or whether it is a problem inextricably bound up in more deeply rooted familial difficulties, and as such, that it cannot be effectively dealt with by itself.

In this chapter, the development of these different approaches is reviewed, an outline is given of the main assumptions of the two principal approaches, and findings drawn from the National Child Protection Survey and those

undertaken in Quebec and Ontario are considered in relation to the operation and consequences for sexually abused children of these intervention strategies.

## Development of Different Approaches

In undertaking its review of child protection services for sexually abused children, the Committee found that relatively little had been written concerning the Canadian experience about the different ways of organizing and providing these services or comparing their relative effectiveness in achieving their intended purposes. As noted in the review of provincial child welfare legislation, these statutes do not define child sexual abuse nor do they set out with precision the procedures to be followed in the assessment of these cases. The operational practices that have evolved come in part from a broader tradition in the child welfare field involving the provision of assistance to neglected children and their families, and in particular, have been influenced by developments in the United States concerning the care of sexually abused children.

Although several distinctive intervention strategies in relation to the provision of services for sexually abused children have been in operation across Canada for a number of years, the Committee found that the staff of these programs often either did not know of the existence of other programs or that they had little information about how they operated. Instead, there has been a proclivity to visit and compare Canadian experience with programs elsewhere, primarily those initiated in the United States. In each instance, where a major Canadian program has been developed, either American research has been cited as justification to develop the new program, the senior persons involved in promoting or administering these services have visited or consulted American programs, or American experts have been invited to Canada to consult with child protection personnel. Because of this ingrained feature, it is pertinent to consider briefly the nature of the programs drawn upon as the basis for developing and justifying the various Canadian intervention strategies.

On the basis of reports provided to the Committee by the *United States National Center for Child Abuse and Neglect*, it appears that up to 1982, there had been no comprehensive comparative review for that nation of the growing number of special programs developed to serve sexually abused children.<sup>1</sup> Since most of the programs had been in operation for a short time, the research undertaken had focussed on the organization and provision of services and had not dealt directly with a consideration of their impact in benefitting children. In this connection, the *U.S. National Center* noted the ethical and practical difficulties involved in setting up experimental and control child protection services and the absence of appropriate and agreed upon criteria upon which to base such evaluations. In this regard, the findings obtained for Canada by means of the National Child Protection Survey draw upon and compare the experience of programs which have evolved for different historical reasons. In recent times, it is generally recognized that in his 1962 report on the *Battered-Child Syndrome*, paediatrician Henry Kempe of Denver drew wide public and

professional attention to the complex issues involved in child abuse, the need for a team approach and the requirement that there be long-term follow-up of these children. At that time, Kempe advocated that medically verified cases of child abuse should be reported to the police, that physicians should be familiar with how to assemble reliable forensic evidence and that there should be a close liaison between physicians, child protection workers, the police and the courts.

On the question of to whom these reports should be made, and whether the submission of such reports should be mandatory or made on a discretionary basis, a cleavage occurred that was to remain a central point of contention in the field of child welfare. In Kempe's report and the guidelines subsequently proposed by the U.S. Children's Bureau, it was recommended that there be mandatory reporting to the police of all suspected cases. It was argued that where criminal acts were suspected, they should be investigated by the police who were accessible on an around-the-clock basis.<sup>2</sup> In contrast to this position, the American Humane Society issued its guidelines in 1963 which recommended that reports of child abuse should be made to child protection services. Social workers, it was asserted, were better prepared to deal with these problems than were the police and they were able to provide abused children with needed counsel and treatment.

The guidelines recommended by the U.S. Children's Bureau were also rejected by the American Medical Association on the grounds that physicians had been singled out as the only professional group responsible for reporting. The Association was also concerned that the mandatory reporting of cases would be counterproductive, since parents of injured children would avoid bringing them to receive medical care.

The substance of this debate as to which system — civil law or criminal justice — should be responsible for the management of child sexual abuse is still an unresolved and contentious issue. Over a decade and a half after the issuing of his 1962 report, Kempe reiterated his previously expressed concerns. In his 1978 Aldrich Lecture to the American Academy of Pediatrics, he called for a developmental approach to the long neglected problem of child sexual abuse. He argued that such abuse must be stopped — absolutely. Disagreeing with the growing emphasis upon family therapy and reunification, Kempe concluded that: "reuniting families should not be the overriding goal. Rather, the best interests of the child should be served."<sup>3</sup> In order to achieve this purpose, Kempe argued that the jointly provided services of professionals in social work, law and medicine were required. He also recognized the need to adjust and evaluate constantly the services being provided. "Ultimately, treatment can be judged to be successful only many years later, when the child has grown up and made a success of life."

The *U.S. National Center for Child Abuse and Neglect* has identified a number of programs in the United States developed for the care of sexually abused children.<sup>4</sup> The most distinctive of these programs in terms of their contrasting philosophies are the Sexual Assault Center of Seattle and the Child Sexual Abuse Treatment Program of Santa Clara County, California. Other

programs have also been established in: Washington, D.C.; Chicago; Philadelphia; and Knoxville.

The review of reports of the American experience with different intervention strategies providing services for sexually assaulted children indicates that firm conclusions cannot be drawn from these sources in relation to a number of important issues. This research has focussed more on the organization of intervention models than on the outcomes achieved by these services. The documentation available on occasion relies on an inadequate methodology, deals with the experience of small and unrepresentative groups of persons, does not sufficiently indicate the nature of the protection provided, and does not focus on the long-term experience of victims or offenders. Until these and other types of information are available, it is premature to consider one or another of these approaches as having unmistakably been a "proven" success.

The American experience with different intervention strategies illustrates the difficulties involved in the selection of appropriate measures as the basis for the comparison of the efficacy of different programs. It is apparent, for instance, that assessing the proportion of families that stay together following an episode of child sexual abuse, or the proportion of families which may be reunified after such incidents, are not by themselves sufficient measures of the nature of the protection afforded children, or of whether the sexual abuse has in fact been stopped. It is evident for Canada that comprehensive and reasonably firm documentation and evaluation of these kinds of programs is essential, and that in this regard, only a modest and incomplete start has yet been made.

## Child-centred Approach

This intervention approach combines the elements of interdisciplinary teamwork, a victim orientation and the use of child protection workers who are specifically trained to deal with cases of sexual abuse. Its strategy is equally applicable in situations where the victim lives or does not live in proximity to the offender. Its philosophy rests on three assumptions:

1. The primary focus of service should be the victim, even though considerable attention may be paid to the offender.
2. Any type of sexual contact between minors and adults is considered to be morally wrong and damaging to the child.
3. The adult offender is totally responsible for any abuse which occurs.

With these assumptions in place, the model labels child sexual abuse as a crime and relies upon the criminal justice system as an essential procedural element. Inherent in this approach is the co-ordination of treatment between medical and child protection services which are deemed to be essential to assure protection for the child.

In the review of Special Community and Social Service Programs, it was noted that a number of interdisciplinary teams and co-ordinating committees had been developed in several parts of Canada. This type of liaison has operated effectively in some communities on an informal basis; it has included social workers, police, physicians, teachers, Crown prosecutors, ministers and other persons. In these communities, the idea of establishing interdisciplinary teams in neither a new nor a revolutionary development.

What has changed in recent years is the formalization of these of initially loosely structured practices and the evolving comprehensiveness of the scope of the services provided. This model now draws upon personnel from child protection agencies and medical settings, the police and Crown prosecutors working together and following standardized guidelines for the intervention and co-ordination of their efforts to help abused children. Where this model is followed, teams with representatives from these fields meet on a regular basis to discuss new cases and follow up open cases. Decisions about the children and their families are arrived at jointly.

Just as the philosophy of the model seeks to engender a smooth co-ordination among all services dedicated to the protection of abused children, it also takes as its primary concern the well-being of the child. From the initial reporting of an allegation of sexual abuse, the needs of the victims are considered to be paramount. It is considered essential that each person meeting the victim communicates that his or her account is believed, that he or she has done nothing wrong, that he or she is not responsible for what may happen to the offender, and that he or she realizes that assistance will be provided.

The victimized child must only describe the sexual abuse incurred to as few outsiders as possible, typically, the child protection worker and the investigating police officer, who in turn, share this information with other members of the interdisciplinary team. Where it is deemed necessary, a medical examination may be undertaken to assess and treat injuries. Additional intervention may include: crisis intervention or long-term counselling by child protection workers; individual and/or group therapy by the staff of a hospital's sexual abuse unit; or treatment and counselling by community family doctors and psychiatrists. Family therapy, with or without the offender, may also be undertaken.

In cases where offenders reside with victims, they are required to leave the home. Wherever possible, the apprehension of the child is avoided. It is recognized in the child welfare field that the child's removal from his or her home and placement in an alien environment risks compounding any emotional injuries that may have already been suffered by young victims. Removal from the family may also contribute to the child's feeling of guilt and worthlessness.

Before deciding whether it is appropriate to leave a child in the custody of the non-offending parent, the child protection worker involved in the initial investigation of the case must make an assessment of the non-offending parent (usually the mother). If the victim-oriented goals of the model are to be

achieved, the child must remain in an environment which affords him or her the maximum degree of emotional support. Thus, the non-offending parent, almost invariably the mother, will be left in charge of the victim only if her words and actions indicate that she does not blame the child, that she believes the child's complaint, and that she will be emotionally supportive (e.g., will place no pressure on the child to withdraw or alter his or her complaint). Also, the custodial parent must be willing to abide by any court order that prohibits the offender from having any communication or contact with his family. If the non-offending parent does not fulfill these requirements, it may be necessary to remove the child from the home.

Realizing the impact that the abusive situation may have on the non-offending parent, she (he) is provided with help, counselling and financial/environmental assistance from the child protection agency and group therapy (with a strong emphasis on assertiveness-training) from the children's hospital.

Simultaneously, if the initial investigation uncovers evidence that a serious sexual offence has been committed against a child by a parent or guardian and it appears that the child is in imminent danger of further harm, an investigating police officer is immediately required to arrest the offender and to charge him under the *Criminal Code*. In less severe cases, the police are instructed to consult with the staff of the child protection agency and medical personnel and to obtain permission from a Crown prosecutor before laying criminal charges.

A number of benefits may result from this policy emphasizing the charging of sexual offenders. First, by arresting the offending parent as quickly as possible, the victim is removed instantly from further peril. Second, arresting the offender is seen as a salutary means of breaking down his power over the rest of the family. Finally, it is argued that application of this policy is of therapeutic value to the offending parent. Advocates of charging contend that the shock of being arrested can break down the abuser's rationalizations that there is nothing wrong with his relationship with other members of his family; the arrest is seen as an "icy shower" capable of bringing the offender to his senses and making him realize that he has a serious behavioural problem. Moreover, the prospect of being sent to prison may frighten the abuser into agreeing to receive treatment. Thus, proponents of this model of child protection argue that the policy of arresting sexually abusive parents serves the best interests of both the child and the offender.

Recognizing the culpability and pathology of the offender, before proceeding along these lines, the advocates of this model seek to evaluate the situation not only of the victim but also that of the offender. A psychological assessment of the abusing parent may be ordered (and is usually carried out by a private practitioner) to determine the severity of the accused's psychosocial problems. When the offender has been charged with a less serious offence, the findings from this assessment may influence the decision on how to proceed. Where appropriate, the offender charged with a less serious offence is offered a choice between seeking treatment and being tried for his offence. The abuser usually is released on his own recognizance, with the stipulation that he abstain from

having any communication with his family. The primary avenue of treatment, where prosecution is stayed, is a unit operating in a children's hospital. Any failure by the abusive parent to attend treatment sessions, or to make a serious effort at correcting his behavioural problems, is reported in writing by the treatment facility to the Crown prosecutor; such lapses may trigger a resumption of prosecution. Thus, the offender is given a tangible incentive to work earnestly at rehabilitating himself.

Where the decision is made to proceed to trial in the case of an offender charged with a less serious offence, and the accused is convicted, he is often placed on probation conditional upon his seeking treatment. It then will be the responsibility of the offender's probation officer to arrange treatment and monitor the probationer's progress. Ideally, the probation officer reports back to the child protection agency as to any improvement in his client.

Where an abusive parent has been charged with a more serious offence (e.g., sexual intercourse with the victim), the policy dictates that there be no discretion to stay prosecution: *the accused must stand trial. Every effort is made to persuade the accused to plead "guilty", and then to offer him treatment.* Such treatment continues up to the sentencing date. If the personnel providing treatment feel that the accused's treatment will be cut short prematurely by an early trial date, they will so advise the Crown prosecutor who then may move for a postponement. Where the accused has pleaded "guilty" to, or has been convicted of, a more serious offence, he generally is required to serve a prison sentence. Although hospital personnel visit the prisoner occasionally, these visits only constitute a support service.

If the abusing parent is to be tried for his offence, the legal system continues the efforts made by social services, police and medical personnel to provide emotional support for the victim. Certain Crown prosecutors are assigned to child sexual abuse cases; these prosecutors have developed special skills in communicating with the sexually victimized child. A standard practice of these Crown prosecutors is to take the victim into an empty courtroom before the commencement of the trial, and explain the workings of the court to him or her. The child is thereby placed at ease in an otherwise forbidding environment and is given some sense of what to expect when called upon to testify. In an effort to reduce the potential trauma to the child still further, the Crown prosecutor usually moves to have the court cleared during the child's testimony. In child protection proceedings, the Committee learned that on occasion testimony is given in the Judge's Chambers. The Committee has no means of assessing the success or failure of this approach.

In summary, the main purpose of the child-centred approach is that all members of the interdisciplinary team should focus their intervention primarily on the child, while also providing service to others involved in the problem.



## Family-centred Approach

In contrast to the child-centred approach, the distinguishing features of the family-centred approach are its emphasis upon multidisciplinary consultation, its family orientation and its reliance upon the employment of child protection generalists. The adoption of this intervention strategy is most relevant in situations where the victim and offender are related. Its philosophy rests upon three main premises.

1. The primary focus of attention is the family and it is within the context of meeting its needs that those of the sexually abused child are best served;
2. Children have the inalienable right not to be assaulted, and they are entitled to live in their natural homes.
3. Intervention in the affairs of a family is more effectively and ethically achieved when this is done on a voluntary basis.

Inherent in this philosophy is the assumption that the criminal justice system should be used as a last resort, since, by necessity, it is disruptive to the family, including the victim. In contrast to the emphasis upon interdisciplinary teamwork in the child-centred approach, it is a characteristic of this model to regard legal, health and other social services as supplementary to the work of child protection personnel. Decisions concerning cases are made according to standardized guidelines set down within the agency; consultation with experts in social work, medicine or psychology enhances the decision-making process. In this regard, the agency acts as the co-ordinator among all organizations which may be involved with the family and serves as an overseer of the child's best interests.

In light of its conceptual premises, it is not surprising that this model stresses therapeutic intervention rather than reliance upon the criminal justice system. It is believed by advocates of this model that recommendations are rarely made involving the laying of charges against an offending parent. Where there is reason to believe that a child is in trouble and requires assistance, the standard procedure is to assess the needs of the child and his or her family, and based on the assessment, to propose voluntary measures to the child and his or her parents. These voluntary measures may include the family's acceptance of any of a variety of services, including: visits by a social worker; family counselling; temporary placement of the child in foster care; and medical or psychiatric care. By offering these services to family members as voluntary measures which require their consent, it is believed that the family's co-operation can usually be obtained without necessitating formal legal action. The implementation of these voluntary measures is carefully scrutinized and regularly reviewed to ensure that they remain responsive to the needs of the child and his or her family.

Only where the family in question refuses to consent to the proposed voluntary measures, and the child's situation remains unsatisfactory, is formal legal action taken. The family is brought before a child welfare court or, less

often, the offender may be tried in criminal court. In cases necessitating judicial involvement, a child protection worker may act on behalf of the child, ensuring that the court is informed of the child's wishes and feelings. Where a child must appear in court, the agency provides an escort in order to provide comfort and emotional support.

This model also takes into account the fact that there are certain situations in which the child is in real and imminent danger, and cannot remain with his or her family without being subjected to an unacceptable risk of harm. In such situations, emergency measures are applied. The child is apprehended and placed in foster care until a court hearing is convened to have the child declared to be in need of protection. Even after such a declaration has been made, the agency's first priority, according to this model, is to provide treatment and service aimed at restoring the family to a safe, adaptive environment for the child, and ultimately, at reuniting the child with his or her parents. Such treatment may involve family therapy or counselling for family members.

The approach to intervention represented by this model is clear in principle: the decreased use of the criminal justice system and an emphasis on the promotion of voluntary therapy primarily provided by child protection workers. Stemming from this orientation is the perspective that child sexual abuse by a family member is only one, but a severe symptom of family instability which includes other difficulties and stresses which must be ameliorated to ensure that the abuse of the child will be stopped. In undertaking this demanding form of intervention, it is believed that child protection workers experienced in a wide range of casework techniques are best suited to work with these children and their families.

## Comparison of Intervention Approaches

The conceptual premises of the two prototypical approaches involving the provision of child protection services for sexually abused children have been outlined as they are optimally expected to be applied in practice. In each instance, the application of these premises is contingent upon the training and professional altruism of the workers involved, the nature of the financial and manpower resources available to child protection services, the flexibility and spirit of innovation kindling the work of the organizations providing these services and, above all, the concerns and demands of the persons living in the communities being served.

In its meetings with experienced child protection workers across Canada, the Committee found that in provinces, or regions within provinces, where the principles of either of the two main intervention approaches had been adopted, each was accorded considerable loyalty by the workers involved. From the perspective of child welfare theory, each approach has decided strengths and weaknesses.

In the child-centred approach, the formation of an interdisciplinary team enables a sexually abused child and his or her family to receive help from several specialists whose services are complementary. The work of the team is intended to streamline the provision of needed care and provide maximum protection for the child. The sharing of information by a team decreases the necessity for the child to repeat the intimate details of the offence to several outsiders. Co-operation with the criminal justice system heightens the chances of laying charges and of successfully obtaining convictions or agreements by offenders to receive counselling and/or treatment.

Where teams have been established, the regular and continuous review by interdisciplinary members may serve as a means to reduce stereotypical and derogatory biases about the abilities of other professionals and replace these by a sense of mutual respect. (Discussions held with a considerable number of professionals revealed that they often saw their profession as the only one capable of helping the sexually abused child).

According to the 1982 report of the *Metropolitan Toronto Chairman's Special Committee on Child Abuse*:

Joint investigations by the Police and the C.A.S. produce many problems from the perspective of both agencies. C.A.S. workers are concerned, for example, that the Police in some circumstances appear reluctant to initiate or continue an investigation. They are also uncertain as to their role once the Police are involved. The Police, on the other hand, are anxious that the C.A.S. not interfere with the offender and that they maintain their distance during the Police investigation. The Police also feel that C.A.S. workers have unrealistic expectations as to their capacity to predict the result of criminal proceedings. In their view, joint consultation is only useful if it occurs immediately after the offence is reported and investigated.<sup>5</sup>

Similar concerns have been raised by participants in a child welfare-criminal justice workshop in British Columbia: confusion over roles, frustration at the lack of results achieved by other professionals, lack of understanding of other services and inadequate training about sexual abuse by other disciplines, as well as their own.<sup>6</sup> In commenting upon these problems from the perspective of a program which had been in operation for several years, the Co-ordinator of the Child Abuse Program in Manitoba recognized that "there is a growing need for 'teamwork' development, i.e., training packages which assist regional teams to define their roles and responsibilities, outline clear procedures and processes".<sup>7</sup> Many of these problems stem from interdisciplinary ignorance, a lack of procedural consensus and contrasting views about how best to proceed in serving the interests of sexually abused children. An increased level of co-operation between the professionals involved in assessing and intervening in cases of child sexual abuse, if coupled with clear, standardized guidelines on professional roles, might serve to alleviate some of the present difficulties in the present interdisciplinary system of protecting children.

Conversely, a system of multidisciplinary consultation, as contrasted to interdisciplinary teamwork, also has distinct advantages. In this system in which one agency retains the position of primary care giver, children may be

less likely to be lost in interagency shuffles. Prestigious and powerful professionals cannot coerce or direct the actions of less socially esteemed or powerful colleagues. The problem of a betrayal of ethics by breaching pledges of confidentiality may be lessened. Front-line professionals, overwhelmed by substantial caseloads, may be spared the further burden of a continual series of additional meetings.

The victim-oriented stance of the child-centred approach ensures maximum physical protection for the child, while not depriving him or her of the familiar comforts of home. Through its belief in the veracity of children and its labelling of sexual abuse as criminal behaviour, it provides the victim with an emotionally vindicating experience; in effect, it says to the child: "society thinks what was done to you was wrong, no matter what you did, and will punish the offender who hurt you". Accordingly, the child is afforded protection under the law.

The family-oriented approach, in its turn, may be more sophisticated about the psychosocial dynamics of families. It strives to minimize the emotional, social and economic impact that the separation of the family may have on all of its members, including the victimized child. The child is thus not placed in the position of believing that he or she has been responsible for having sent his or her father to jail, or of reducing his or her mother to becoming a welfare recipient.

The family-centred approach of seeking to obtain the voluntary consent of family members to receive counselling and other recommended services provides a safeguard against the possibility that a court hearing may deny an agency's application to have a child found to be in need of protection, or to involve itself with a suspected offender who is found to be guilty, thus leaving child protection workers in an untenable position in working with hostile families. This approach is designed to ensure that, in practice, the criminal justice system either does not impinge, or that this type of intervention occurs infrequently, upon the integrity of the family.

The application of the family-centred approach presupposes that child protection workers can reach these crucial decisions about the best means of protecting sexually abused children and serving the needs of their families largely upon the basis of their own professional judgment and that of their immediate colleagues or supervisors. As the findings given in Chapter 28, *Provision of Child Protection Services*, have shown, the decisions reached in many cases may fail to achieve these intended purposes. The application of this approach may also inadvertently give rise to a situation where the offenders in a family are enabled to continue to commit offences proscribed by the *Criminal Code*.

## Operation of Intervention Strategies

Recognizing the different aims, benefits and limitations of the two main intervention strategies adopted in relation to the provision of child protection services for sexually abused children, the Committee considered the findings about the operation of contrasting programs in light of its assigned mandate. In each instance, it was recognized that there would likely be a gap between the purposes ideally intended and their actual implementation in practice.

The findings obtained about the operation of these different intervention programs are more cogent than those which might be obtained in an artificially contrived experimental study since they pertain to services which were actually being provided. In this regard, the findings afford an unusual review of the consequences of the decisions taken in relation to the care of these children.

**On the basis of their conceptual premises, it would be expected that the operation of each main intervention approach would result in proportionately more or fewer types of particular services being provided to victims and their families. In the case of the child-centred approach's philosophy, for instance, it would be expected that its implementation would entail: a relatively high level of interdisciplinary involvement; without the requirement of court orders, a low level of counselling received by offenders and spouses; a high proportion of children remaining at home; after notification had occurred, a low proportion of offenders remaining at home; a high proportion of children living at home without offenders during or towards the end of an agency's intervention; a high level of cases being brought to child welfare court; a high proportion of charges being laid against suspected offenders; and a relatively high level of convictions obtained in criminal court.**

**In contrast, except for a high proportion of children remaining at home, it would be expected that the operation of the family-centred approach would produce results opposite to the intended outcomes of the child-centred approach.**

The findings obtained by the National Child Protection Survey and those for Quebec and Ontario indicate that:

1. On a regular basis, two provincial child protection programs tended to follow the child-centred approach.
2. Two provincial child protection programs tended to follow the family-centred approach.
3. Other provinces variously adopted elements of both intervention approaches, and in some instances, appeared to have no consistent operational approach in serving sexually abused children.

The findings given in Table 29.1 group together the results for the two provinces following the child-centred approach and those for the two provinces following the family-centred approach. The results for the other provinces are listed separately. To highlight the nature of the services provided, the findings

are given as a proportion of the cases documented for particular jurisdictions. There is no identification of the experience of particular provinces (the results for the Yukon were not included since only a small number of cases was documented). Because of the sensitive and evaluative nature of the research undertaken, it was agreed, as a condition of obtaining this information, that the anonymity of particular programs would be preserved. The findings clearly show, however, that in seeking to serve the needs and interests of sexually abused children, there is a need for more sunshine concerning the public review of these programs.

### Promptness of Initial Assessment

In relation to how quickly the initial assessments of sexually abused children were undertaken, the child-centred approach ranked second in this regard, while the family-centred approach ranked the lowest among all jurisdictions. These trends also occurred with respect to the proportion of victims having a medical examination. In each instance, there was a prompter assessment of the needs, both psychological and medical, of children served by the child-centred approach than those served by the family-centred approach. The experience of programs in other provinces varied in both of these respects.

### Contacts With Other Services

Workers following the family-centred approach were the group which most frequently contacted other types of social services, and conversely, made proportionately the fewest contacts with the police, and were above average in terms of consulting physicians. In contrast, children served by workers following the child-centred approach had a high proportion of contacts made on their behalf with physicians and the police, and other types of social services were initially contacted in only one in eight cases. One other province tended to follow this high level of interdisciplinary consultation, while in four provinces, there was a relatively low level of contacts with physicians, and in two provinces, there were infrequent contacts with the police.

### Family Members Contacted

Regardless of the intervention approach followed, the results were generally comparable in all parts of the country in relation to contacts made with different family members. However, in relation to the types of family members who had not been contacted, some remarkable variations occurred among specific provincial programs. Instances where no contacts had been made included: two in five victims (38.1 per cent); one in three mothers of victims (33.3 per cent); three in four fathers (76.1 per cent); four in five siblings (80.9 per cent); and over nine in 10 suspected offenders (95.2 per cent).

Table 29.1  
Services Provided Sexually Abused Children by Provincial Child Protection Programs

Services Provided and Outcomes for Sexually Abused Children	Provincial Programs									
	Child-Centred Approach (Two Provinces)	Family-Centred Approach (Two Provinces)	Province Five	Province Six	Province Seven	Province Eight	Province Nine	Province Ten	Non-Accumulative Percentages	
<i>Immediate Assessment</i>	69.6	28.7	41.4	76.1	60.0	50.0	—	—	54.2	
<i>Organizations Contacted</i>										
• Other Social Services	12.9	38.0	7.1	17.4	12.5	—	—	—	5.1	
• Physicians/Hospitals	56.7	25.4	18.2	73.9	21.9	4.8	—	—	25.4	
• Police	83.6	25.9	57.6	89.1	38.1	42.9	—	—	52.5	
<i>Persons Contacted</i>										
• Victim	89.5	78.4	75.8	91.3	71.3	61.9	—	—	72.9	
• Mother	83.0	80.5	66.7	89.1	70.6	76.2	—	—	79.7	
• Father	36.3	60.8	27.3	23.9	40.0	33.3	—	—	30.5	
• Brothers/Sisters	50.9	40.6	35.4	73.9	35.0	19.1	—	—	42.4	
• Offender	47.3	59.6	23.2	82.6	33.1	4.8	—	—	39.0	
<i>Medical Examination</i>	56.7	27.1	30.3	63.0	45.6	38.1	56.7	61.0		
<i>Child Protection Services</i>										
• Counselling victim	57.9	34.2	26.3	71.7	54.4	47.6	22.4	55.9		
• Counselling offender	19.3	33.5	7.1	60.9	20.6	9.5	12.7	13.6		
• Counselling family	30.4	33.3	8.1	50.0	28.1	61.9	—	27.1		
• Marital therapy	8.2	1.2	6.1	15.2	16.9	9.5	—	10.2		

Table 29.1 (continued)  
 Services Provided Sexually Abused Children by Provincial Child Protection Programs

Services Provided and Outcomes for Sexually Abused Children	Provincial Programs									
	Child-Centred Approach (Two Provinces)	Family-Centred Approach (Two Provinces)	Province Five	Province Six	Province Seven	Province Eight	Province Nine	Province Ten		
	Non-Accumulative Percentages									
<i>Child Protection Services</i>										
• Family therapy	22.2	0.5	19.2	15.2	28.8	14.3	—	28.8	14.3	28.8
• Victim/offender counselling	6.4	0.2	—	—	2.5	—	—	5.1	—	5.1
• Psychotherapy: victim	4.1	—	—	8.7	3.1	14.3	6.6	8.5	14.3	8.5
• Psychotherapy: offender	2.9	0.2	1.0	19.6	3.8	4.8	10.5	5.1	4.8	5.1
• Psychotherapy: family	2.3	—	—	—	1.9	14.3	—	—	14.3	—
• Crisis intervention: victim	9.4	0.7	—	—	22.5	47.6	—	—	47.6	3.4
• Crisis intervention: offender	2.3	1.0	—	—	12.5	19.1	—	—	19.1	—
• Crisis intervention: family	5.3	1.0	—	—	21.9	33.3	—	—	33.3	—
• Group therapy: victim	17.0	—	2.0	17.4	5.6	—	—	6.8	—	6.8
• Group therapy: offender	1.8	—	—	4.4	1.9	—	—	—	11.6	—
• Group therapy: family	2.9	—	1.0	4.4	3.1	4.8	11.6	—	11.6	1.7
• Counselling/treatment services accepted voluntarily	5.9	30.4	4.0	4.4	10.6	9.5	—	10.2	9.5	10.2
<i>Separation of Family</i>										
• Child remains initially	31.0	72.9	34.3	30.4	36.3	47.6	63.8	44.1	47.6	44.1
• Offender remains initially	36.3	18.8	39.4	28.3	47.5	47.6	30.3	44.1	47.6	44.1

(Continued ...)



Table 29.1 (concluded)

Services Provided Sexually Abused Children by Provincial Child Protection Programs

Services Provided and Outcomes for Sexually Abused Children	Provincial Programs									
	Child-Centred Approach (Two Provinces)	Family-Centred Approach (Two Provinces)	Province Five	Province Six	Province Seven	Province Eight	Province Nine	Province Ten	Non-Accumulative Percentages	
<i>After Assessment</i>										
• Family together	11.7	20.0	16.2	10.9	15.0	19.1	—	20.3		
• Parent and child	24.6	8.1	19.2	13.0	16.9	33.3	—	20.3		
• Parents together	21.6	7.1	21.2	15.2	16.3	4.8	—	20.3		
• Offender and child	1.8	—	3.0	—	1.3	—	—	—		
• Family apart	19.9	0.5	16.2	56.5	20.0	9.5	—	18.6		
<i>Present Residence of Child</i>										
• In foster care	40.4	10.7	19.2	19.6	31.9	14.3	—	32.2		
• Living on own	4.1	0.2	3.0	10.9	10.0	4.8	—	1.7		
• With relatives	4.1	1.2	6.1	6.5	8.1	9.5	—	5.1		
• With family without offender	28.1	3.1	25.3	37.0	21.3	33.3	—	32.2		
• With family with offender	16.4	22.6	20.2	19.6	15.6	19.1	—	22.0		
Voluntary separation	5.9	6.4	4.0	—	5.0	14.3	3.7	6.8		
<i>Court Hearings</i>										
Child Welfare Court	46.8	13.8	33.3	56.5	24.4	9.5	32.2	37.3		
Charges laid	40.4	8.1	33.3	54.4	19.4	23.8	58.7	27.1		
Offender convicted	16.4	4.8	14.1	28.3	11.3	19.1	17.7	13.6		
<i>Case Closed</i>	27.5	4.5	59.6	21.7	23.1	21.7	17.7	40.7		

The findings indicate that there was no consistent practice across Canada with respect to contacting different family members of victims to obtain information concerning the cases being assessed, or where siblings also lived with resident suspected offenders, to ascertain the nature of the risks which they may have been facing.

### Counselling and Therapy

As noted in Chapter 28, *Provision of Child Protection Services*, on average, child protection workers were found to provide a relatively limited range of services directly to victims and their family members. This finding is reaffirmed when the experience of different provincial programs is considered.

With two exceptions, those involving counselling by workers to suspected offenders and family counselling, the child-centred approach consistently provided more kinds of services to victims and their families than did the family-centred approach. Both intervention strategies were about equally likely to offer family counselling, with the family-centred approach doing this marginally more often than the child-centred approach. A sharp contrast occurred in the provision of counselling to sexually abused children: three in five (57.9 per cent) children served by the child-centred approach and one in three (34.2 per cent) served by the family-centred approach had received counselling from child protection workers.

### Services Accepted Voluntarily

Although the child-centred approach, on average, provided more and a wider range of counselling and treatment services than the family-centred approach, these services were not as often accepted on a voluntary basis when the former rather than the latter approach was adopted. With the exception of the two provinces adopting the family-centred approach, elsewhere across Canada, the counselling of family members was typically received on an involuntary basis.

The family-centred approach is founded on the belief that the counselling provided by workers should be voluntarily received by the persons being helped. In about one in three cases (30.4 per cent), this purpose was realized, a level four times that of the child-centred approach. Despite this significant difference, however, the main finding in relation to how family members received counselling is that under all programs, regardless of the approach adopted, the great majority of family members received counselling on an involuntary basis.

### Separation of Families

After provincial agencies learned of cases of child sexual abuse, in five provinces about two in three children were removed from their homes, in two provinces approximately a half were removed, and in three provinces between

two in three and three in four remained at home. These findings show that after notification of an incident of sexual abuse, whether a child was left at home or was removed is both a function of residence and the application of different child protection intervention approaches. In this regard, there was no uniform or consistent social policy across Canada.

This difference is the sharpest in relation to the operation of the two main intervention strategies. About one in three children (31.0 per cent) served by the child-centred approach initially remained at home. In contrast, over seven in 10 children (72.9 per cent) served by the family-centred approach initially remained at home.

The different programs across Canada and the two main intervention approaches also differed substantially in relation to whether the resident suspected offenders initially remained at home following notification to child protection agencies. The range in variation fluctuated by more than 100 per cent. In the family-centred approach, over four in five suspected offenders (81.2 per cent) were removed, a proportion that is about a fifth higher than cases served by the child-centred approach (63.7 per cent). Both approaches, however, were more likely to involve the removal of suspected offenders than was the case in four provinces where a higher proportion of suspected offenders stayed in the same homes with victims.

### Present Location of Child

There is a 300 per cent variation across Canada in relation to the proportion of sexually abused children placed in foster care. Of children served by the child-centred approach, two in five (40.4 per cent) were in foster care, a proportion which contrasts with the about one in nine children (10.7 per cent) served by the family-centred approach. Considerably more of the children cared for by the child-centred approach than those served by the family-centred approach were likely to be living with their families without offenders being present, with relatives or on their own. An anomaly in the results obtained for the family-centred approach is that when the survey was undertaken, information on the whereabouts of almost three in five children (55.8 per cent) was unknown or was not reported. Since well over nine in 10 (95.5 per cent) cases were still open which were being served by agencies adopting the family-centered approach, this finding cannot be construed as being particularly reassuring in relation to the adequacy of their continued monitoring and followup.

### Court Involvement

Corresponding directly with their enunciated premises concerning the use of legal sanctions or voluntary measures, the findings indicate that the two

main intervention approaches followed by child protection services make substantially different use of both child welfare and criminal courts. Of the cases served by the child-centred approach, there were between three and five times as many court hearings than those held for children served by the family-centred approach. Across Canada, three different trends occurred with respect to court hearings involving cases of child sexual abuse. On average, in four provinces a relatively high level of cases came to court, three provinces fell within an intermediate range, and in the three remaining provinces, the great majority of cases were handled without court intervention. On average, there is a direct relationship between the proportion of cases brought to criminal court and the proportion of offenders convicted.

## Summary

In considering the findings of the National Child Protection Survey, the Quebec Survey and the Ontario Survey, the Committee also took into account the results of the other national surveys undertaken. From all of these sources, there is comparatively little documentation about the nature of the long-term effects of child sexual abuse, particularly in relation to the psychological harms which may have been incurred. In this regard, it was a consistent finding in the population, police and hospital surveys that while proportionately more victims were psychologically and emotionally harmed than those who were physically injured, the number of children known to have sustained any type of reported harm or injury was relatively small.

In the context of these general findings, it is recognized that the nature of the long-term benefits for sexually abused children resulting from the adoption of either of the two main child protection intervention strategies is unknown. Obtaining this type of information would entail the mounting of a carefully designed longitudinal study which obtained information from victims over a period of years. Even then, the results so obtained would likely be ambiguous and uncertain in their social policy implications unless the approaches being monitored were distinctively different at the outset in most salient aspects.

Before comparing the relative strengths and weaknesses of the main child protection intervention strategies and the nature of their short-term benefits for sexually abused children, it is pertinent to recall the findings of Chapter 28, *Provision of Child Protection Services*. Regardless of the approach taken, significant information was frequently unknown or unreported concerning essential elements in the services intended to provide protection for these children.

**Allowing for these considerations in relation to the absence of sufficient information about potential long-term harms and incomplete information for certain aspects of the protection being afforded, it is evident that the child-centred approach in comparison to the family-centred approach provides more short-term benefits for sexually abused children. These documented benefits include:**

- More promptly undertaken initial assessments.
- More victims receiving medical examinations.
- Broader and more extensive consultation with other disciplines in relation to assessing the child's needs.
- A slightly higher proportion of victims, their mothers and their siblings being interviewed.
- A substantially higher proportion of victims being counselled, and overall, the more frequent provision of a broader range of counselling and treatment services for victims and members of their families.
- In two in three cases (63.7 per cent), after notification to an agency, the resident offender was removed from the home.

The findings presented in this chapter indicate that a majority of the provinces did not follow any consistent practice in the provision of child protection services for sexually abused children. The provision of these services was unco-ordinated and lacked reasonable uniformity. While regional variation and flexibility may be hallmarks in the provision of social and medical services across Canada, their consequences for sexually abused children are that a child in one province received very different services and protection than a child in another province.

On the basis of the survey's findings, it appears that the child-centred approach is a more appropriate initial means of intervention affording more immediate protection for the sexually abused child and that the family-centred approach may be the more appropriate means of providing for the long-term assessment and care of victims and their families. However, regardless of the intervention approach initially adopted, the Committee believes it is mandatory for all cases of suspected child sexual abuse that a complete and comprehensive assessment be made of their needs and situation. In this regard, the survey's findings indicate that both main intervention approaches were seriously deficient in their application.

The Committee recommends that the Office of the Commissioner in conjunction with the Department of Justice, the Department of National Health and Welfare, Provincial Attorneys-General, Departments of Health and Child Protection Services and non-governmental agencies:

1. Develop minimum standards of services to be provided by each of the main public services (police, medical and child protection services) in relation to the investigation, assessment and care of sexually abused children. These standards, pertaining to each service, should specify, among other considerations, that:
  - (i) Every one must report cases of child sexual abuse to the police and/or to child protection services;
  - (ii) It be mandatory that all cases of child sexual abuse that constitute sexual offences under the *Criminal Code* be reported to the police,
  - (iii) An initial assessment is to be made promptly and no later than 24 hours following notification;

- (iv) A medical assessment be made of the physical and mental state of all cases of child sexual abuse;
  - (v) There be clear documentation of services provided and that long-term monitoring be undertaken to assure that the child is at no further risk of being harmed; and
  - (vi) A procedure be established to review reports of child sexual abuse and ensure that the needs of the children are being adequately met.
2. That legislation be enacted to specify these standards and to assure that they are being met in the assessment and care of these children.

The Committee considered whether the statutory authority under which child protection services function should specify child physical and sexual abusive assessment responsibility in addition to the broad concepts of neglect and protection. As documented in the Report, there can be no doubt that more adequate assessment of cases of child sexual abuse is required.

**The Committee recommends that Provincial Ministers responsible for Child Protection Services:**

1. Review provincial child welfare legislation to ensure the specification of assessment procedures to be undertaken on behalf of sexually abused children.
2. Introduce any appropriate amendments to this effect.
3. Develop a standard protocol for the collection of information, assessments to be conducted, findings to be recorded and other necessary procedures (e.g., reporting, referrals, etc.).
4. Make this protocol widely available, particularly to those likely to have first contacts with sexually abused children and that instruction be provided in its appropriate use.

The Committee believes that the present system of providing child protection services for sexually abused children across Canada is unjust. These children must be better protected and more equitably served.

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### Chapter 29: Intervention Strategies

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