



**24th August 2012**

**10th review of police activity since enactment of the Crimes (Substituted Section 59) Amendment Act 2007**

**Background**

This report details results from the 10th review of relevant Police activity since enactment of the Crimes (Substituted Section 59) Amendment Act 2007. This review covers the period 22 June to 21 December 2011.

Monitoring initially took place for a two year period since enactment on 22nd June, 2007.

In December 2009, the Prime Minister invited Police to continue monitoring for a further three years. This followed the review into the policies and procedures used by the New Zealand Police and Child, Youth and Family. Police was also invited to include data on cases in which a parent or caregiver said the force used on the child was reasonable in the circumstances.

Monitoring was originally undertaken so that Police could respond proactively to any issues which might arise following the enactment. It was also done to provide specific information on the number of calls to police about child assaults involving 'smacking' and 'minor acts of physical discipline'.

**Summary**

- (i) Results for the tenth review are consistent with previous reviews.
- (ii) There were three prosecutions for smacking in the tenth review period. This means that there have now been eight prosecutions for smacking since monitoring began in June 2007.
- (iii) There is an increase in the number of events attended by police during this review period which is consistent with reduced tolerance and increased reporting of child assault events.

**Methodology**

The number of child assault events identified in each review period does not reflect the total number of child assault events attended by police during this time. The events are those most likely to identify incidents which might involve 'smacking', as 'smacking' in itself is not a separate offence. Nine different offence codes were examined to identify such incidents.

The rationale used to allocate each event to a category of 'smacking', 'minor act of physical discipline', 'child assault' involved consideration of the:

- Actual physical action used in the child assault; and
- The context and the surrounding circumstances, as outlined in the practice guidelines (Commissioner's Circular).

For the purposes of the review, the following methodology is used to classify the cases:

- *Smacking*: A slap with the open hand on the buttocks or legs that does not result in any form of injury;

- *Minor Act of Physical Discipline* (MAPD): A slap with the open hand on any other part of the body (including the face) that does not result in any form of injury;
- *Child Assault*: Any form of assault (from a slap with the open hand to being hit with an instrument) that results in injury (including redness to the skin and bruising).

## Outcomes of 10th review period

500 child assault events attended by police during this period were considered for the 10th review. 23 of these events were identified as involving 'smacking' and 45 involved 'minor acts of physical discipline'.

Event	Number
'Smacking'	23
'Minor act of physical discipline'	45
'Other child assault'	344
'No offence disclosed'	88
<b>Total</b>	<b>500</b>

Of the 23 'smacking' events, three resulted in prosecution, 18 resulted in a warning, and two resulted in other/no further action being taken. Of the 45 'minor acts of physical discipline' events, six resulted in prosecutions, 36 resulted in warnings and three resulted in other/no further action being taken.

Of the 'smacking' and 'minor acts of physical discipline' events, files indicate that 51 events were referred to Child Youth and Family, 22 were referred to an inter-agency case management meeting (Family Violence Inter-Agency Response System or FVIARS) and 14 were referred to other support agencies.

A breakdown of referrals is provided in the following table:

Events	Referral to CYF	Referral to FVIARS	Referral to other agency	Referral not specified
'Smacking'	17	9	4	1
'Minor act of physical discipline'	34	13	10	8

Some events were referred to both CYF and another agency. 'Referral not specified' indicates that the information is not recorded on the electronic file and does not necessarily mean that a referral was not completed.

## Additional information on the nine prosecutions

In the current review period, Police prosecuted three 'smacking' events:

- Case one involved a father who allegedly slapped his daughter on her lower leg, causing her to cry but leaving no injury. Although the father was charged with Assaults Child (Manually) the charge was subsequently withdrawn due to insufficient evidence.
- Case two involved a father who smacked his son several times around the upper thighs, leaving no injuries. The father pleaded guilty to a charge of Assaults Child (Manually) and was sentenced to six months supervision.
- Case three involved a father who smacked his two sons on their legs in a public place, resulting in no injuries. The father pleaded guilty to two charges of Assaults Child (Manually) and was sentenced to nine months supervision and 100 hours community work.

Police prosecuted six 'minor act of physical discipline' events during this review period:

- Case one involved a mother who slapped her son twice to the face and three times on the buttocks. The mother pleaded guilty to a charge of Assault Child (Manually) and received nine months supervision.
- Case two involved a father who slapped his son across the head in a public place. He pleaded guilty to a charge of Assault Child (Manually) and received six months supervision.
- Case three involved a father who slapped his daughter three times on the cheek. The father was charged with Assault Child (Manually) but the charge was subsequently withdrawn due to insufficient evidence.
- Case four involved a father who slapped his daughter in the face. The father pleaded guilty to a charge of Common Assault (Domestic) (Manually) and was convicted and discharged.
- Case five involved a mother who slapped her daughter twice on the cheek. The mother successfully defended a charge of Assaults Child (Manually) and the case was dismissed.
- Case six involved a mother who slapped her daughter in the face. The mother pleaded guilty to a charge of Assaults Child (Manually) and was sentenced to 1 years supervision and 60 hours community work.

According to information on the electronic file, none of the defendants prosecuted for 'smacking' or 'minor act of physical discipline' events stated that the force used was reasonable in the circumstances.

## Parent Call Centre

A recommendation from the *Review of New Zealand Police and Child, Youth and Family Policies and Procedures relating to the Crimes (Substituted Section 59) Amendment Act* was the development of child safety pamphlets, to be distributed when police attend an incident involving child safety. The pamphlet provides a number for a parent call centre which is able to answer any questions around a police visit or about child safety and services available. The Victim Liaison Officers nationally advise they received no calls during the tenth review period through the parent call centre relating to smacking.

## Comparison with previous reviews:

(Note the different durations of review periods 1 and 5)

### Cases by Review Period

Period 1: 23 June 2007 - 28 Sept 2007	(3 months)
Period 2: 29 Sept 2007 - 4 April 2008	(6 months)
Period 3: 5 April 2008 - 3 October 2008	(6 months)
Period 4: 4 October 2008 - 4 April 2009	(6 months)
Period 5: 5 April 2009 - 23 June 2009	(2 months)
Period 6: 24 June - 22 December 2009	(6 months)
Period 7: 23 December 2009 - 22 June 2010	(6 months)
Period 8: 23 June 2010 - 21 December 2010	(6 months)
Period 9: 22 December 2010 - 21 June 2011	(6 months)
Period 10: 22 June - 21 December 2011	(6 months)

### Incidents by Review Period

	Review										
Event type	1	2	3	4	5	6	7	8	9	10	Total
Smacking	3	13	9	8	3	11	25	18	18	23	131

MAPD	12	69	49	39	10	39	38	45	58	45	<b>404</b>
Child assault, or not specified	96	206	200	211	105	262	314	352	332	344	<b>2422</b>
No offence disclosed <sup>1</sup>	–	–	–	21	9	56	39	29	48	88	<b>290</b>
<b>Total</b>	<b>111</b>	<b>288</b>	<b>258</b>	<b>279</b>	<b>127</b>	<b>368</b>	<b>416</b>	<b>444</b>	<b>456</b>	<b>500</b>	<b>3247</b>

There were 23 'smacking' incidents in this review period, an increase of five incidents from the previous two reviews. There were also three prosecutions for smacking – the most in any review period. Previous review periods have contained no more than a single prosecution for 'smacking'.

There was a slight decrease in the number of 'Minor Act of Physical Discipline' (MAPD) occurrences in this review period. There was also a corresponding decline in the number of MAPD prosecutions from nine in the previous review period, to six in the current period.

The number of incidents for 'child assault' (whereby a child suffers an actual injury as a result of being smacked, slapped or hit with implements) remains relatively unchanged from the previous three reviews, with a total of 344 incidents.

This review period is particularly notable for the marked increase in the number of occurrences categorised as 'no offence disclosed' – 40 more than in the previous review and, with a total of 88 recorded events, the highest of all the reviews conducted so far. An occurrence is labelled 'no offence disclosed' when an allegation of assault turns out to be false, or where no reliable evidence can be found to support the initial allegation.

An analysis of the 'no offence disclosed' occurrences in the current review period suggests that the increase is due in part to the increasing public awareness of the Section 59 Amendment. A typical scenario in a 'no offence disclosed' occurrence involves a neighbour or family friend who contacts either Police or CYF after receiving news that a child may have been assaulted. In other instances, a child contacts Police alleging they have been smacked or assaulted by a parent. However, when Police and CYF investigate, insufficient or no evidence is found to support the initial allegation.

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<sup>1</sup> No statistics are available for the number of occurrences 'not disclosed' in review periods 1-3.