

6th review of police activity since enactment of the Crimes (substituted section 59) Amendment Act 2007

Background

This report details results from the 6th review of relevant Police activity since enactment of the Crimes (substituted section 59) Amendment Act 2007. This review covers the period 24th June 2009 to 22 December 2009.

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.

Police considered a number of options for reporting on this information and decided to include it only in cases of 'smacking' or 'minor acts of physical discipline' that resulted in prosecution.

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 sixth review are consistent with previous reviews.
- (ii) The second prosecution for a smacking event since June 2007 has occurred during this latest review period.
- (iii) There is an increase in the number of child assault events attended by police during this review period. This 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 an 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', 'other 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 (Commissioners Circular).

Outcomes of 6th review period:

367 child assault events attended by police during this period were considered for the 6th review. 11 of these events were identified as involving 'smacking' and 39 involved 'minor acts of physical discipline'.

Event	Number
'Smacking'	11
'Minor act of physical discipline'	39
'Other child assault'	317
Total	367

Of the 11 'smacking' events one resulted in prosecution, 8 resulted in a warning and 2 resulted in no further action being taken. Of the 39 'minor acts of physical discipline' events, one resulted in prosecution, 37 resulted in warnings and one resulted in no further action being taken.

Of the 'smacking' and 'minor acts of physical discipline' events files indicate that 21 events were referred to Child Youth and Family, 4 were referred to an inter-agency case management meeting (Family Violence Inter-Agency Response System or FVIARS) and 4 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'	4	1	0	6
'Minor act of physical discipline'	17	3	4	21

Extra information on the two prosecutions:

Prosecution for the one 'smacking' event in this review period was for a charge of Assault Child (Manually). It was a result of the red welt that was left visible on the victim's bottom for three days after the event and was resolved by way of Diversion. The defendant admitted that the force used may have been excessive in the circumstances.

Police also prosecuted one event in the 'minor act of physical discipline' category on a charge of Assault Child (Manually). The case was resolved by way of Diversion. The defendant did not raise reasonable force as a defence but did state that stress and frustration led to not coping well with the situation.

Comparison with previous reviews:

(note the different durations of review periods)

Period 1: 23rd June 2007 - 28th Sept 2007	(3 months)
Period 2: 29th Sept 2007 - 4th April 2008	(6 months)
Period 3: 5th April 2008 - 3rd October 2008	(6 months)
Period 4: 4th October 2008 - 4th April 2009	(6 months)
Period 5: 5th April 2009 - 22nd June 2009	(2 months)
Period 6: 24th June - 22nd December 2009	(6 months)

Cases by review period:

Event type	Review 1	Review 2	Review 3	Review 4	Review 5	Review 6	Total
Smacking	3	13	9	8	3	11	47
Minor act of physical discipline	12	69	49	39	10	39	218
Other child assault	96	206	200	232	114	317	1165
Total:	111	288	258	279	127	367	1430

Case resolution: (excluding 'other child assault')

Event type	Resolution	Review 1	Review 2	Review 3	Review 4	Review 5	Review 6	Total
Smacking	Warning/NFA	3	13	8	8	3	10	45
	Prosecution	0	0	1	0	0	1	2
Minor act of physical discipline	Warning/NFA	12	65	45	35	9	38	204
	Prosecution	0	4	4	4	4	1	14
Total		15	82	58	47	13	50	265

NFA: No further action
