

## **8th review of police activity since enactment of the Crimes (Substituted Section 59) Amendment Act 2007**

### **Background**

This report details results from the 8th review of relevant Police activity since enactment of the Crimes (Substituted Section 59) Amendment Act 2007. This review covers the period 23 June to 21 December 2010.

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 eighth review are consistent with previous reviews.
- (ii) The fourth prosecution for a smacking event since June 2007 has occurred during this latest review period.
- (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', '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 (Commissioner's Circular).

## Outcomes of 8th review period

444 child assault events attended by police during this period were considered for the 8th review. 18 of these events were identified as involving 'smacking' and 45 involved 'minor acts of physical discipline'.

Event	Number
'Smacking'	18
'Minor act of physical discipline'	45
'Other child assault'	348
'No offence disclosed'	33
<b>Total</b>	<b>444</b>

Of the 18 'smacking' events, one resulted in prosecution, nine resulted in a warning, and eight resulted in other/no further action being taken. Of the 45 'minor acts of physical discipline' events, six resulted in prosecutions, 28 resulted in warnings and 11 resulted in other/no further action being taken.

Of the 'smacking' and 'minor acts of physical discipline' events, files indicate that 34 events were referred to Child Youth and Family, 19 were referred to an inter-agency case management meeting (Family Violence Inter-Agency Response System or FVIARS) and 8 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'	10	3	5	2
'Minor act of physical discipline'	24	8	3	4

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.

## Extra information on the seven prosecutions

In the current review period, Police prosecuted one 'smacking' event for a charge of Assault Child (Manually) where a child was smacked on the buttocks with no physical injury. The defendant received six months supervision on this charge.

Police prosecuted six 'minor act of physical discipline' events during this review period. Case one related to an incident where the victim was slapped hard once across the right side of the face. The defendant was convicted and sentenced to six months supervision.

In the second case, the victim was slapped four times around the head and upper body. The defendant was convicted and sentenced to nine months supervision.

Case three involved a victim who was slapped on the head and face three times. The defendant was prosecuted and has yet to enter a plea.

Case four concerned a victim who was slapped twice on the lower back. The defendant was convicted and was ordered to come up for sentence if called upon to do so.

Case five involved a victim who was slapped around the head twice and threatened with a further physical assault. The defendant was convicted and sentenced to a year and a month of intensive supervision.

Case six related to a child who disclosed that he was being hit repeatedly around the body and face with an open hand. The defendant pleaded guilty and will be sentenced in April 2011.

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 eighth 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)

Event type	Review								Total
	1	2	3	4	5	6	7	8	
<b>Smacking</b>	3	13	9	8	3	11	25	18	<b>90</b>
<b>Minor act of physical discipline</b>	12	69	49	39	10	39	38	45	<b>301</b>
<b>Other child assault, not specified or no offence disclosed</b>	96	206	200	232	114	318	353	381	<b>1900</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>2291</b>

The number of 'smacking' incidents has declined from 25 in the seventh review period to 18 in the current review. As with the previous review, there was just a single prosecution for 'smacking' in the current review period.

Although the number of 'Minor Act of Physical Discipline' (MAPD) incidents increased slightly from the previous review, the 45 recorded incidents in the eighth review period is still lower than the peak of 69 MAPD incidents recorded in the second review. However, the six MAPD prosecutions during the eighth review period is a notable increase on the two prosecutions recorded during the seventh review.

Although the total number of section 59 events is the highest ever recorded, it is still unclear whether this is either because the number of actual physical assaults is increasing, or because more incidents are being reported to Police.