CHILD VICTIMS OF SEX OFFENCES

T. C. N. GIBBENS
and
JOYCE PRINCE

Published by the
INSTITUTE FOR THE STUDY AND TREATMENT
OF DELINQUENCY

Two Shillings

T. C. N. GIBBENS, M.B.E., M.D., D.P.M., is Senior Lecturer in Forensic Psychiatry at the Institute of Psychiatry, University of London; Hon. Psychiatrist to the Bethlem Royal and Maudsley Hospitals; Psychiatrist to the L.C.C. Remand Homes; Hon. Director of Research to the I.S.T.D.

JOYCE PRINCE, S.R.N., B.Sc.(Econ.), is Research Assistant at the Institute of Psychiatry, University of London. She was formerly Research Assistant at the I.S.T.D. for the investigation into Shoplifting carried out under the direction of Dr. Gibbens, the report on which was published in 1962.

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By

T. C. N. GIBBENS

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JOYCE PRINCE

I.S.T.D.

8 BOURDON STREET, DAVIES STREET, LONDON, W.1

October 1963

David Neil & Company Dorking Surrey

FOR SOME time the law relating to the court appearance of child victims or witnesses of sexual offences has been under criticism. The child victim is interrogated by the police, perhaps on several occasions, given a medical examination, may have to give evidence in a magistrates' court in the presence of its assailant and, above all, may have to wait two or three months to give evidence again at the trial in a higher court. Justice and the fair trial of the accused, it is argued, demand that all the procedures must be followed. Yet one of the principal aims of the law is to protect children and, as everyone who deals with such cases freely admits, the legal procedure may do more harm to the child than the original offence, and may indeed be the only cause of serious upset. The aim of the present pamphlet is to set out the arguments, review the various suggestions for reform which have been made, and report the results of a small survey* carried out in order to discover more about the facts of the situation.

THE PRESENT PROCEDURE

Before dealing with these aspects, it might be helpful to review the practical results of the present methods of prosecution as seen by psychiatrists and others who are in frequent contact with these children. Discussion shows that, among those who feel dissatisfied with the present procedure, there are many variations of opinion about the most harmful features.

Sexual assaults on children cover an extremely wide range of behaviour from the trivial to the most serious. Although everyone knows this to be true, nearly everyone has a stereotype in his mind of what such an offence constitutes, often the picture of an unsuspecting child being attacked in a dark lane by an assailant who, but for some chance incident, would have proceeded to rape or even murder. Although repeated researches (see Radzinowicz, 1957) have shown with great consistency that sexual offenders tend to keep to one particular type of sexual behaviour, often of a very partial kind, and very rarely gravitate to more serious types, this fact is strongly resisted by even the informed public. The rare exceptions receive great publicity, and in a population of fifty million even a rare event occurs somewhere every month or so. Such stereotypes profoundly affect the attitude of parents.

A common type of case, familiar to child guidance clinics, is that in which no offence has occurred. A strange man offers a little girl a lift in his car; after a while, perhaps because he appreciates that she is likely to be unresponsive, he puts her down again. The girl does not think that anything unusual has happened, but the parents show great alarm, treating her for "shock" by putting her to bed in a darkened room or keeping her home from school and consulting a doctor about the best way to undo the effects of the terrible experience. In the end, the child begins to think that something alarming has happened.

* This was made possible with the help of a grant from the research funds of The Bethlem Royal and Maudsley Hospitals.

In the more typical case, a young girl, often looking for extra affection and attention because her home life is disturbed by tensions and parental quarrels, visits the local shopkeeper and is given occasional sweets. She is so friendly that one day he invites her into the back room and some indecent act occurs, perhaps peeping or stroking or cuddling. The girl knows that something "wrong" has occurred and, depending upon whether immediate fear of the man or guilt about her participation is uppermost, tells her mother at once or confesses to it later when she is questioned about coming home late from another meeting. The mother shows extreme anxiety which is rapidly converted into violent hostility to the assailant. This display of rage alarms the girl for she is bound to think: "If mother is so angry with the man, what would she do to me if she found out the part I played in it?" The police are called, the assailant is taken away, several interrogations and a medical examination follow; the neighbours gossip about it, often because the mother tells everyone; the girl becomes an object of fascination to her friends and at school. At this stage (but usually not before) the moral welfare worker may visit and try to calm the mother; but, by now, the gossiping has reached such a point that it is decided to send the child for a "convalescent holiday" to allow the excitement to die down. It is difficult to avoid this having the effect of proving to the child that it is being punished for having done wrong. If the case comes before the magistrates' court, there may be more interrogations and the child has the unpleasant experience of seeing the offender again and wondering whether she ought to continue the old habit of saying nothing because of bribes and threats. But at least the procedure is brief and fairly informal, and usually follows quickly, though delays of several weeks are not rare.

If the case goes to trial, however, an interval of two months or so may follow. Arrangements for the trial proceed, and there is probably a good deal of rehearsal by the mother of what the child will say in court so that she shall be a "credit" to all concerned. How much of the result is a stereotype of previous statements which the child feels she must not depart from, and how much is real memory, is very doubtful; but the first is contrary to the principles of justice and the second to those of mental health. The child has to appear in court if the plea is not guilty, although this is not necessarily related to the gravity of the offence; even in a minor case a professional man, faced with ruin if convicted, may defend himself to the utmost. It is quite legal for the assailant to cross-examine the child who may possibly be terrified, and this is said to happen quite often. Other children may thoroughly enjoy all the publicity; it is difficult to say which is more unpleasant. Though all those in court are kind and sympathetic, and some have special techniques (e.g. judges who have the child sit beside them and go to great lengths to relieve fear and anxiety), counsel for the defence is apt to say: "We all wish to spare you as much as possible, but it is my duty to ask you certain questions. When you say he did this or that, what do you mean? Do you know what this word means?" etc. The procedure strikes anyone who works in the field of child care as a surprising anachronism.

Some people may think that there is a great deal of sentimentality in all this; that children are surprisingly tough and in many cases are used to far greater ordeals than a day of embarrassment in court. This is quite true. The victims vary as much as the offenders. Many little girls know a great deal about sex behaviour from observation from an early age, and it holds no great surprises. They may not participate emotionally in offences, but they certainly precipitate them; and, if supported by another child of the same age, will blackmail adults to pay them weekly for the repetition of the same indecent act. Some children are not likely to be greatly troubled, until the question of removal from home arises.

Appearance in court, in our view, is not the main cause of harmful results. In general, people are far too ready to believe that "shocks" and short-lived traumatic events have permanent consequences. In real life what usually does harm is a stress which lasts for weeks, months or years and requires the child to make readjustments in a whole pattern of attitudes. And so it is here. Court appearance is harmful mainly because of the situation it creates. The essential feature is that the child has to re-orientate its ideas towards an adult interpretation of the offence and its punishment, and accommodate itself to a new atmosphere in the home. A simple (if, in the end, dramatic) example may demonstrate this.

> An attractive but emotionally immature girl of 15, from a respectable but restrictive home, began to be interested in boys; she was told firmly that she was far too young to accept any dates. She met a young man of 23 secretly. He probably pursued her fairly relentlessly, for she said later that he always wanted to go somewhere where they could kiss and cuddle, while she only wanted to go dancing or to the pictures. Her parents found out and forbade her to see him. As so often, this led to protest and rebellion and had the effect of making her start to have sexual intercourse with him. When this was discovered, there was a family crisis; she ran away, was brought before the court as in need of care or protection, and sent to a hostel to remove her from this association. The young man was prosecuted, no doubt mainly because of the father's relentless insistence. In the hostel the girl appeared very anxious and unsettled, and after many weeks had to go and give evidence against her lover, much against her will. She was still very much in love with him, and never had the slightest resentment against him. The warden of the hostel who accompanied her remembered how cool and self-possessed she was during the trial. Her lover was sent to prison for a year. On return to the hostel the girl was much more unsettled. Two older girls exposed her to a great deal of pseudo-sophisticated talk about lesbian habits, and may have taken her to lesbian clubs. She became completely confused and paranoid about friendships with other girls, imagined herself about to be seduced homosexually, and after a few weeks, in an hysterical scene, rushed from the hostel and tried to throw herself under a bus. The report to the court recommended that she be sent home and referred for psychiatric treatment. Her breakdown, very unusual in a case of seduction which does not lead to court, was attributed to having

to give evidence against her lover. She had not only to submit completely to the discipline of parents against whom she was rebelling, but to make a public confession of rejecting all that was most worth while in her experience (however romantic and misguided it may have been). It is not surprising that this led temporarily to a rejection of heterosexuality altogether and a state of acute emotional confusion which had quite dangerous results.

This case incidentally demonstrates two further features which are quite common. The first is that the victim is often spoken of as "wonderfully brave," "surprisingly composed," when giving evidence in court. It is an index to the degree of reorientation which has to go on. The reaction occurs later. Again and again one hears from moral welfare workers who are in continuous contact with the children that they later become increasingly unsettled. In younger children, greater disobedience, irritability and a growing hostility to the parents, who are vaguely held responsible for all that has occurred, are characteristic. Many differences of opinion in medico-legal work are due to the segmentation of experience common to all who work in this field, and no doubt the present paper bears witness to such a partial approach. But the behaviour of children in magistrates' or higher courts cannot be taken to represent their total reaction to the experience.

Secondly, it is clear in this and many other cases that the behaviour of *parents* is the main source of difficulty. Much has been written recently about "victimology," the theory that the victims of fraud, confidence tricks, violence and sexual offences, especially, frequently select themselves through certain psychological characteristics. Though some child victims of sexual offences are selected by purely chance encounters, many others tend to get themselves involved in such incidents; and since a young child occupies only one corner of a triangular relationship with the parents, it follows that there are parental attitudes which are particularly favourable to this development. Unfortunately, these attitudes are particularly likely to lead to a reaction to the crime which takes no account of the child's best interests.

CHILD VICTIMS AND THEIR PARENTS

There have been a number of studies of child victims and their parents (Bender & Blair, 1937; Cohen, 1951; Wiess, 1955). One can summarise our present knowledge by saying that there are three broad groups in child-parent psychology.

1. The first group, slightly younger than the others and forming about a third of the Californian cases studied by Weiss, consists of "accidental" victims, i.e., the assault is a single event, usually committed by a total stranger and reported at once to the parents. About two-thirds of the families are intact, and in general neither the child nor the parents have any special characteristics or recurring source of tension or preoccupation with sex. The children are not maladjusted. The question of

court appearance is a delicate one. On the one hand many have the stability and home support which will enable them to endure this temporary stress without harm; but for others court appearance will constitute the main traumatic element in the assault. If their assailant is not arrested, they will often get over the experience quite quickly.

2. Two-thirds of the victims, however, are "participant," i.e., they co-operate in an assault more than once or with more than one assailant. A minority of this main group consists of those in whom being a sex-assault victim is only one of a large number of indications of maladjustment. They are promiscuous or provocative, they steal, play truant, run away from home and show other behaviour disorders. Their families tend to be disorganised "problem" families, with parents so negligent, extremely inconsistent or cruel that the child seeks more affectionate and consistent relationships outside the home, especially perhaps with the offender. For them court appearance is only a slight addition to the many stresses of life, but the break-up of the family or removal from home which may follow conviction of the offender will introduce new problems.

3. The majority of the "participant" group, however, do not show this widespread maladjustment. For them, becoming a victim is a sign of a relatively specific disturbance, and the parents do not show gross social disorganisation. There are great variations, but the typical victim of this sort, according to Bender and Blair, is an attractive and appealing girl who shows more interest in the interviewing psychiatrist than in playroom toys and makes an immediate, superficial relationship. She is submissive and sexually seductive, wanting presents and proofs of affection. In her play with dolls she speaks of seeing the parents in bed, undresses the dolls and giggles, or has secrets with one or other parent.

The parents of these children are very varied but nevertheless show certain recurring patterns. There is frequently a conflict in attitude *within* the mother. She criticises herself, at one moment for being too strict and lacking in understanding; at the next for spoiling the child and becoming too lenient. This vacillation extends to the child's growing sexuality; the mother is proud of her attractiveness and winning ways, but at other times labels her "a flirt" and "a prima donna." She is fairly obviously jealous of her and yet guilty about this feeling. In other cases the conflicting attitude to the child's development is distributed between father and mother. One may emphasise modesty while the other thinks this is prudish and strongly emphasises frankness and the naturalness of nudity within the family, etc. The effect of such conflicting attitudes is to draw attention to sexual development and yet to confuse the child.

In more serious cases the trouble is caused not so much by parental conflict about the child's expression of sexuality as by sexually stimulating behaviour by the parents towards the child. The mother may invite sexual behaviour (such as strip-tease dances) by the child, or the father show openly seductive behaviour; the child may observe sexual intercourse between the parents. Weiss emphasises that all these participant children are very guilty about their sexual activities; this feeling is greatly increased by criminal proceedings even if the authorities treat the children as innocent victims. Perhaps the most important feature of these parental conflicts is that they are very likely to be displaced into violent hostility to the offender, with complete disregard for the interests of the child.

The extreme case of parent participation or provocation is that of incest. And it is no accident that incest involves the greatest legal difficulties, the most serious repercussions following legal proceedings, the highest rate of false accusations. There is no field in which it is more difficult to get at the truth. Suspicions or allegations of incest are commonly met with in adolescent girls in need of care or protection. If they are followed for a year or two (Gibbens, 1959) a number of those who have denied incest admit in the course of psychological treatment that it occurred, while others finally admit that their allegations, which were half-believed by others although without enough support to lead to prosecution, were false. The most elaborate and circumstantial accusations are sometimes made without any basis in fact. And it is a curious paradox that the victims of physical incestuous relations with fathers often seem far less seriously disturbed psychologically than one would suppose possible. They are often strong but rough girls long used to dealing with the emergencies of life, but provided the act is divorced from its emotional implications it may be tolerated and not lead to lasting maladjustment. It frequently only comes to light because an older sister has become jealous of the father's attentions to a younger one, or because of some quarrel with the mother. By contrast, a highly emotional situation between father and daughter, without physical relations, can be extremely disruptive. Incest is a grave but rather common offence, and the consequence of conviction, of course, may be the complete disruption of the family, for which the girl is often blamed by her mother.

We have so far dealt with the victims of sexual offences because they occur most frequently, but the same considerations apply to child victims or indeed child witnesses of assaults of all kinds. In a study some years ago of all the men sent to prison in one year for violent cruelty to children (Gibbens & Walker, 1956) we found several instances where the criminal proceedings, especially in the higher courts, seemed inescapably to have added to the child's difficulties. Children are surprisingly tolerant of physical cruelty provided it is only occasional and their parents are at other times affectionate, as they may well be; they know no better. But the sight of their father being sent to prison for cruelty educates them for the first time in an adult view of his behaviour.

Many lawyers have considered whether any alteration of procedure could be recommended which would reduce the stress upon the child, while still protecting the right of the accused to defend himself. In trying to make a contribution to the solution, we felt that one of the unsolved problems was a quantitative one. Does the present procedure work satisfactorily in the vast majority of cases? Hard cases make bad law. There must inevitably be some occasions which involve the child in serious stress. Are these so exceptional that we must suppose the problem to be greatly exaggerated? These questions led to the following enquiry.

THE ENQUIRY

The aim was to study a general sample of child victims in order, first, to find out what proportion had to appear before magistrates' or higher courts; secondly, to contrast with them a sample of children who all had to appear in court to see if there were any obvious differences in the outcome from the child's point of view. Any scientific study of the effects of court appearance is clearly exceptionally difficult, since those who appear will naturally tend to be the more serious cases, and the ill-effects of the offence or of the court appearance cannot be disentangled with certainty.

With the help of the late Sir Basil Henriques, President of the Federation of Committees for the Moral Welfare of Children, who had taken the initiative in drawing attention to the ill effects of court appearance, and of Mr. Marindin, the present Chairman of the Federation, two groups of case records were examined :— (a) a random sample of 82 cases drawn from the admission register of six areas of the Federation and (b) a selected sample of 46 cases who were believed to have been involved in some way in a prosecution. Only those concerned with indecent assault, molestation, incest, indecent exposure and rape were included. The workers were frequently called in to deal with minor sex behaviour between children, home circumstances involving moral danger, etc., but these cases were not our concern.

In the London County Council area children known to have been assaulted are dealt with in several ways, according to the circumstances. In specially severe cases the police or Children's Officer may take action, and arrange for the child's immediate temporary removal from home. In any case, the local education authority is involved, and works in co-operation with the police and Children's Department, and specially trained children's (moral welfare) workers attached to voluntary committees were appointed in each of the nine L.C.C. Education Divisions. Their aim was (and still is) to help children under the age of 16 who are in moral danger from sexual assaults by adults or who are living in immoral surroundings. In 1919 these voluntary committees united to form the Federation of Committees for the Moral Welfare of Children, with one voluntary committee in each L.C.C. area. Four committees south of the river were later taken over by the L.C.C. under the Education Department, but their function remained unaltered. The five North London committees continue to work as voluntary independent bodies, comprising with a Jewish committee and the Liverpool committee the modern Federation. This study was made possible by the five North London committees and the Principal School Care Organiser of the L.C.C. who most kindly allowed us to consult their records and their children's workers, but neither the Federation nor the L.C.C. necessarily concur in the views expressed here. It should be noted that this special child protection service is largely limited to London and Liverpool: as far as we can tell, large areas of the country have no counterpart to it.

Though a random sample drawn from this organisation's work probably comes nearest to being "representative," the different administrative "routes" which cases might follow were so varied that we concluded, after many enquiries and discussions, that it would be impossible to assess the amount of selection which had preceded the collection of these cases. In voluntary and quasi-voluntary work, this ultimately depends upon the very varied relationships and contacts between workers in different fields. We found, for example, that the proportion of boys to girls reported varied from three boys to four girls in one area to one boy to five girls in another. The 82 cases in the random sample included 24 boys and 58 girls. Half the boys were aged 8 or 9 but the girls were fairly evenly distributed between 6 and 16 years of age.

The source of information, by area, proved particularly interesting.

Table 1

SOURCE OF INFORMATION

Area	*Total Cases*	*News-paper*	*Head Teacher*	*Doctor*	*Police*	*Parents*	*Hosp. Almoner*	*Other*	*Not Known*
	82	%	%	%	%	%	%	%	%
U	9	—	45	11	11	—	11	11	11
V	14	57	7	22	—	7	—	—	7
W	10	10	20	—	20	—	50	—	—
X	12	17	17	—	26	8	16	16	—
Y	21	33	14	—	43	—	5	5	—
Z	16	—	63	6	—	13	6	12	—

In Area V, for example, the worker was dependent for 57% of her cases upon a close watch on the newspapers, while police referred no cases. In Area Z again no cases were referred by the police, but 63% by head teachers. In Area Y the police were the main source of information. Cases referred by hospital almoners were all pregnant girls, and those referred by parents were all from families which were already under surveillance for other reasons. Referrals are optional from all these sources with the exception that teachers must report all cases of molestation (including graver offences) to the Divisional School Care Organiser, so that the children's (moral welfare) worker may help and advise.

In 13 of the 82 cases indecent behaviour had been going on for some time. A girl of 11, for example, while on holiday with an aunt, said something in her prayers about her father and 12-year-old sister which led to enquiries and the discovery that incest had been taking place for over a year. Many of the children, of course, were under threat or bribe not to speak.

The Offenders

In 85% of the girls and 71% of the boys the assault was committed by someone they could identify; the remainder could not or would not say who was responsible or were very vague. The assailants were distributed as follows:

Table 2

THE ASSAILANTS

	Complete stranger	*Neigh-bour*	*Family friend*	*Uncle, brother cousin*	*Father or step-father*	*Teacher*	*Other*	*Total*
	%	%	%	%	%	%	%	%
Boys	8 (33)	7 (29)	3 (13)	—	2 (8)	1 (4)	3 (13)	24 (100)
Girls	18 (31)	16 (28)	3 (5)	2 (3)	16 (28)	—	3 (5)	58 (100)
Total	26 (32)	23 (29)	6 (7)	2 (2)	18 (21)	1 (2)	6 (7)	82 (100)

In the group of cases who came to court, the proportion of strangers was naturally rather lower, since they are more difficult to arrest, and the proportion of fathers, stepfathers or neighbours rather higher.

Table 3

ACTION TAKEN

	Complete stranger	*Neigh-bour*	*Family friend*	*Uncle, brother cousin*	*Father or step-father*	*Teacher*	*Other*	*Total*
	%	%	%	%	%	%	%	%
Visit and advice	8(31)	2(8)	1(17)	—	1(6)	—	2(33)	14(17)
Police investigation. No action	7(27)	3(13)	1(17)	—	2(11)	—	3(50)	16(19)
Offender warned	—	2(9)	—	—	1(5)	—	—	3(4)
Court	10(38)	14(62)	4(66)	2 (100)	14(78)	1	1(17)	46(56)
Other	1(4)	2(8)	—	—	—	—	—	3(4)
Not known	—	—	—	—	—	—	—	—
Total	26(100)	23(100)	6(100)	2 (100)	18(100)	1	6(100)	82(100)

In the random sample close relations and friends were brought to court more frequently than complete strangers. Assaults by close relatives are perhaps more likely to be serious because they have been going on for some time before they are revealed. Assaults by strangers may be difficult to prosecute for lack of evidence and are perhaps more likely to be minor or at least transitory offences. Cases in which the offenders are warned by the police include many which involve carnal knowledge by a man close to the girl in age, or in which the circumstances are only highly suspicious.

Table 3 also provides the answer to the main question which led us to examine a random sample; that is, the proportion in which the assailant appeared before the court. This applied to no less than 56% of cases, and in 10% the man was sent to the higher court. This proportion is naturally influenced by the source of information; most of those revealed through newspapers or perhaps the police will be court cases. But the proportion, high as it is, is certainly lower in the work of the Federation, which deals with reports from all sources, than in the work of Children's Departments in various parts of the country. In the 56% of cases in which the offender was brought to court, 33% of the girls and 46% of the boys were in some way involved in court proceedings.

Unfortunately, in all but a few cases it proved impossible to find out exactly what role the child had played at the trial. The notes of the social workers, which recorded their own activities, naturally did not describe this in detail. A few were known definitely to have given evidence, but many more were asked to be present and in the end were not called. Eight offenders were sent to a higher court for trial, sentence or appeal. In only one case did the defendant plead not guilty, so participation of the child in higher court proceedings was rare.

Family Background

The social problems which lay behind these cases were revealed by an analysis of the family background. They were classified in four categories. (1) Not known to any social agency—all apparently well. (2) Not previously known but some problems apparent. (3) Previously known to a social agency. (4) Problem families. This classification refers in the main to outward and visible signs of social disorganisation, reflected partly in material circumstances. As will be seen, those "not previously known" were sometimes more able to put a respectable front upon serious tensions.

The different ways in which children from the four categories of background were dealt with are shown in the following table.

Table 4

FAMILY BACKGROUND: RANDOM SAMPLE

Category	1. *All well* %	2. *Some problems* %	3. *Known to social agency* %	4. *Problem family* %	*Total* %
Visit and advice	8 (29)	2 (8)	3 (18)	1 (7)	14 (17)
Police investigation. No action	4 (15)	4 (17)	3 (18)	5 (36)	16 (19)
Offender warned	1 (4)	—	1 (6)	1 (7)	3 (4)
Court	13 (48)	16 (67)	10 (58)	7 (50)	46 (56)
Other	1 (4)	2 (8)	—	—	3 (4)
Total	27 (100)	24 (100)	17 (100)	14 (100)	82 (100)

The normal families were much more often dealt with merely by visits from the children's workers, and where Juvenile Court proceedings were envisaged, home enquiries would be made by probation officers.

Comparison with the family background of the 87 cases which came before a court (i.e., the court cases from the random group and the selected group of 46 court cases) shows that the proportions were not notably different from those of the random group.

Table 5

FAMILY BACKGROUND: COURT CASES

Category	1. *All well* %	2. *Some problems* %	3. *Known to social agency* %	4. *Problem family* %	*Not known* %	*Total* %
Court	15 (29)	16 (29)	11 (21)	11 (21)	—	53 (100)
High Court	10 (29)	12 (36)	6 (18)	1 (3)	5 (14)	34 (100)
Total	25	28	17	12	5	87

Type of Offender and Home Background

Complete strangers are more frequently found as assailants of children from apparently respectable homes. In some cases these are only outward appearances kept up by a rigid system of discipline—two families in which the father was the offender maintained this appearance.

Table 6

TYPE OF OFFENDER

Category	1. *All well* %	2. *Some problems* %	3. *Known to social agency* %	4. *Problem family* %	*Total* %
Complete stranger	13 (48)	7 (29)	2 (12)	4 (29)	26 (32)
Neighbour	6 (22)	9 (38)	4 (23)	4 (29)	23 (28)
Family friend	2 (8)	1 (4)	3 (18)	—	6 (7)
Uncle, brother, cousin	—	—	1 (6)	1 (7)	2 (3)
Father	2 (8)	5 (21)	6 (35)	5 (35)	18 (22)
Teacher	—	—	1 (6)	—	1 (1)
Other	4 (14)	2 (8)	—	—	6 (7)
Total	27 (100)	24 (100)	17 (100)	14 (100)	82 (100)

Among the problem families the great majority of the assailants consisted of fathers and neighbours. Most of these families were so lacking in recognition of normal social controls and constraints that the event seemed to pass largely unnoticed by the family until some additional crisis drew attention to it.

Although the numbers are too small to allow definite conclusions about the relation of home to type of assailant, they show clearly enough how often the victim comes from an already disturbed home. No less than 17% of the random sample are classed as problem families, although the general incidence of such families in the community according to recent surveys comprises between 0.1-0.6% of all families.

Recovery

The subsequent history of the child, as judged by overt disturbance, was classified in various ways, as shown in Table 7.

Table 7

SUBSEQUENT HISTORY

	Random Sample %	*Court Sample* %
No overt disturbance	35 (43)	27
Child unsettled: behaviour problems, etc.	13 (16)	23
Psychiatric treatment recommended ...	11 (14)	20
Sent to special school	5 (6)	4
Taken into care	6 (7)	8
Other	8 (10)	13
Not known	4 (4)	5
Total	82 (100)	100

The best recovery was shown by those children who were assaulted by strangers; 56% showed no overt disturbance. These children came from better homes and had less chance of ever meeting the assailant again; they became involved in court procedure less frequently. Generally speaking, the nearer the relationship, the greater the subsequent overt disturbance; 50% of those removed from home in the care of the local authority had been assaulted by their fathers or stepfathers (11% of all paternal assaults), and all gave evidence against them.

Comparison shows that in the court cases there were fewer without overt disturbance. Some 56% of the random sample appeared to recover quicky, but this could only be said about 18% of those of this group who came to court. It is, of course, not possible to attribute the difference only or mainly to court involvement. Much depends upon the previous maladjustment. Moreover, it can be argued that cases coming to court are in general more serious. But it is well known that the gravity of a crime tells one little about the personality of the offender; and the individual records convinced one that the nature of the assault was not closely related to the severity of the disturbance. Rape may on occasion have less effect than a minor assault.

Family Disturbance

The families of these children showed great variation in absorbing the shocks of the event and in dealing with the child.

Table 8

FAMILY DISTURBANCE

Families	*Random Sample* %		*Selected Court Cases* %	
Satisfactory	30.4		20.7	
Temporary disruption (e.g., child in holiday home)	34.0	40.3	45.0	56.4
Permanent complete disruption	6.3		11.4	
*Problem family	23.0		17.2	
Not known	6.3		5.7	

(*The problem families are given separately since their state of disorganisation can hardly be increased.)

The ways in which parents dealt with their children in relation to the offence were categorised as follows :—

Table 9

ATTITUDE OF PARENTS

	Random Group %	*Court Group* %
Sensible. Satisfactory	34 (42)	34 (39)
Aggravated the situation	21 (26)	22 (25)
Not applicable: family disrupted	5 (6)	11 (13)
Problem family	15 (18)	13 (15)
Not known	7 (8)	7 (8)

The figures for the two groups are very similar. Just over a quarter of parents in both groups aggravated the situation. These were often families who exploited the situation (e.g. in order to get rehoused) or

showed definite psychiatric abnormality. In the random group, the proportion involved in court action was 11.8% of those dealt with "satisfactorily" by the parents, 52% of those who aggravated the matter, 13.3% of the disrupted and 13.3 of the problem families. The complications resulting from a court case are only a part of the general ill management of the case by the parents.

Court Action

Cases involving 46 of the 82 in the random sample went before the courts. As explained earlier, the exact rôle of the child in the proceedings was not recorded, but in 17 cases the child almost certainly either attended the court or gave evidence, and it is believed that the proportion was at least half.

Table 10 shows the courts' decisions in the relevant cases of the random sample. It also shows the decisions of the magistrates' and higher courts in the 87 court cases collected from all sources.

Table 10

COURT DECISIONS

	Random Sample %	*Court Cases* *Magistrates' Court*	*Higher Court*	*Total* %
Dismissed	5 (11)	4	4	8 (9)
Discharged	2 (4)	4	1	5 (6)
Fined	3 (7)	2	1	3 (3)
Probation	5 (11)	5	0	5 (6)
Prison 3 mths.	2 (4)	2	0	2 (2)
3-6 mths.	2 (4)	3	1	4 (4)
6-12 mths.	9 (20)	0(?)	14	14 (17)
Over 12 mths.	8 (18)	0(?)	25	25 (29)
Other	4 (8)	5	1	6 (6)
Not known	6 (13)	11	4	15 (18)
Total	46 (100)	36	51 (58)	87 (100)

In a high proportion of the boys' cases the sentence was not known, but more offenders against boys had long prison sentences.*

The main feature is the high proportion (58%) which go to the higher courts for trial or sentence. Eleven of the higher court cases pleaded not guilty; we do not know, but may presume, that the child gave evidence in these instances, which form about 10% of the court cases. From the present point of view, the most interesting group consists of cases which were dismissed. In all of them the child gave evidence and they included a high proportion of traumatic cases, of which examples will be given later. But even less serious cases tend to be very confusing for the child.

> For example, an uncle living with a problem family, interferes with his niece. There is a violent family outburst, he moves down the road, and prosecution follows. During the waiting period there is a great deal of family discussion and mutual recrimination which emphasises the offence in the eyes of the child. The case comes to

* The maximum sentence on indictment for an assault on a girl or woman is two years, but on a man or boy is ten years.

court but is dismissed for lack of evidence, and the child is not only confronted by the uncle who still lives a few doors away but bewildered by a decision which is from the child's point of view a palpable injustice.

A pregnant girl refused to discuss the paternity of the child except for a brief moment after its birth, when she confirmed the suspicions of many observers that the offender was her father. The case came to the higher court, but the girl refused to speak, it was said because of extreme pressure from the father, and the case was dismissed. The younger girls of the family were removed from home and later came under supervision. The victim and her sister left home as soon as possible.

A girl of 12 gave evidence in a juvenile court against several youths who had attacked her. The Chairman (Sir Basil Henriques) congratulated her on the way she gave evidence and the boys were committed to an approved school. They appealed and, owing to a misundertanding, no one representing the girl appeared at the appeal court, and the case was dismissed. The girl was soon sent to stay with relatives as she was being terrorised by the boys. Her behaviour became so peculiar that there was some question about whether she had sustained a head injury when assaulted. The girl was kept under observation for five years and continues to have serious difficulties.

Pregnant Girls

Eleven of the girls in the random sample were pregnant, and they came nearest to providing some sort of controlled study of the consequences of court action: Of the 11, four had been assaulted by their fathers, one by her brother, one by a family friend, three by neighbours and two by complete strangers. Of the fathers, two were sentenced to imprisonment, one was not charged for lack of evidence, and one (already quoted) had the case dismissed. Cases where the putative father is a boy-friend rarely result in court appearances.

Of the two girls pregnant by strangers, one (and probably both) had been raped. The offenders were not traced. In spite of this severe experience both had their babies—one was adopted—and immediately settled to work or to school with no overt difficulty. There is little doubt that many girls can make a good recovery from a disaster of this kind, if given the peace to do so. Other girls had a different experience.

One girl of 14 was five months pregnant when the charge was heard before the committing magistrates. The case went to the Assizes where it was adjourned at least once. To avoid local gossip, the girl was sent to relatives 200 miles away but had to make the long journey back to give evidence when seven months pregnant.

A 14-year-old E.S.N. girl was in a special boarding school. The headmistress intercepted love letters from a 38-year old man. She was found to be four months pregnant and, after being questioned

by the police, it was said, for about four hours without the presence of a relative or friend, was admitted to "a place of safety" where nothing was known about her. She admitted sexual intercourse with the man but had no knowledge of the possible results. After being sent to a maternity home in the West Country, she was returned to London to give evidence at the magistrates' court when six months pregnant. The case was sent to the high court and again she travelled to London, waiting all day without giving evidence. By this time she had been found to have cardiac trouble which necessitated delivery by caesarian section. The man and girl never wavered in their deep affection for one another, and up to the time he received eighteen months imprisonment he was writing eloquent love letters to her, making plans about "our home" and "our baby," and signing himself "Your ever loving husband." As he had been divorced, he was free to marry her and was anxious to provide her with a home when it became possible.

A child of 12 was assaulted by a foreigner, described by the police as "an illiterate peasant . . . who . . . when it suited him did not understand English." No one in close contact with the case doubted that the offence had been committed, but it was dismissed as the defendant pleaded not guilty and there were no other witnesses. Despite prolonged holidays, the child remained nervously ill. Reports stated that "her illness seemed rather akin to a breakdown, but one would hesitate to speak of this in a child so young." The child was eating and sleeping badly, became enuretic and lost interest in everything.

Although we have stressed that the court appearance itself is not the most stressful aspect, it can occasionally have serious effects.

Two girls of 7 and 8 were both witnesses and subjects of perverted sexual behaviour by a man of 63, described as "a fairly wealthy, depraved character . . . very undesirable . . . had been in trouble several times." Other tenants of the flats were anxious for him to be brought under control and the parents were persuaded to bring a charge for the protection of other children in the area. He pleaded not guilty and was very ably defended. The case was adjourned several times and finally came before the higher court some months later. The eight-year-old girl was brought from hospital, despite much protest from those in charge, and was cross-examined at length. Both children were said to be "prostrate with terror when they saw the man again," but he was acquitted because evidence on oath could not be taken from the children, and there were no other witnesses. The child who was in hospital insisted on all the doors and windows being closed in case "the man comes for me." The parents felt convinced that more damage had been done by court appearance than by the assault.

Finally, to show that a good deal of caution is necessary, we may quote the following case.

A brother and sister aged 9 and 10 from a problem family said that a man of 62 interfered with both of them. He pleaded not guilty, and although there was evidence of assault of both children, the case was dismissed for lack of evidence. The parents were divorced and the mother lived largely on immoral earnings. The girl came under supervision as in need of care or protection. She later told her probation officer that another girl had "put her up" to the assault story, and in fact the only person who had interfered with her was her brother, with whom she slept. Five years later when he was 14 the boy gave evidence against a man of 37 who was charged with assaulting several boys. This lad had "provided" boys for the defendant in return for money. Shortly after this second court appearance, the boy attended a child guidance clinic. He changed schools, was in an "A" stream and said to be doing well and behaving well.

PROPOSALS FOR REFORM

The ideal procedure from the point of view of the child's interest can be stated quite simply. He or she should be interviewed by an officer trained in social casework and child welfare, given (if necessary) a medical examination by a doctor experienced in this work, and thereafter should take no part in subsequent proceedings. Having obtained the required information, the officer's main task should be to work with the family and minimise the effect on the child, or make sure that a social agency is doing so.

The Israel Law of Evidence (Protection of Children) of 1955 supplies these requirements. A trained "youth examiner" is appointed to the court. He alone has the duty to take a statement from any alleged child victim of a sexual assault. If the child is under 14, he has the right to decide whether the child is fit to give evidence in court. If he decides that this would be harmful, the examiner may be cross-examined in court instead of the child. He may be asked to return to the child and ask it further questions, but may refuse to do this if he thinks it undesirable. The accused cannot be convicted on the evidence of a youth examiner unless it is supported by some other evidence.

The Act implies that a selection must be made of those who are fit or unfit to give evidence. In practice, about 10 per cent of children under 10 have been declared fit to give evidence, and 35 per cent of those aged 10-14 (Reifen, 1958). It seems probable, too, that the general effect is to bring a higher proportion of offenders before the courts since there may be less reluctance on the part of the parents to bring a charge; but a rather higher proportion of offenders may be acquitted, as there is a natural tendency for the youth examiner to err on the side of caution in interpreting the child's statements.

There is a very widespread opinion in England that a law as sweeping as this, which breaks the fundamental rule of the inadmissibility of hearsay evidence and deprives the accused of his right to cross-examine the accuser, could never be acceptable here. Moreover, many magistrates, although wishing to spare the child as much as possible, feel that it is

distinctly helpful to see the child and be able to assess its personality, in a way which is hardly possible from the evidence alone. The clinical psychologist, naturally, sympathises with this desire to examine the child in person. In the case of adults one can understand that the stress of court appearance may help to reveal the truth. But whether a child's behaviour in court gives any reliable indication of its feelings or truthfulness is much more doubtful. In psychiatric reports to the juvenile court one frequently has to warn the court that the child is proposing to say something in court out of fear of its parents, when it has privately insisted on the opposite. Dr. Nesta Wells (1961), a police surgeon of long experience, made much the same point when she wrote: "The general impression (of the crime) may be felt deeply, but the times and sequence of details may fade more quickly from the memory. For this reason, I think that some method should be evolved for utilising more fully the statement made to the police . . . it would help if counsel or the clerk of the court could get the child's agreement to the police statement rather than make her tell afresh the details of the story, as usually happens now. This would be less strain on the memory, and the statement would be nearer the truth."

Whether the child's appearance in court after some weeks really helps to elicit the truth seems doubtful. However, it certainly gives the outward appearance of doing so and, if only for that reason, legal authorities, including the late Sir Basil Henriques, seem unanimous that it cannot be dispensed with. And, as the cases quoted show, the ultimate refusal of the child to give evidence may certainly alter the course of events.

The reforms suggested in England have therefore concentrated upon reducing and modifying rather than abolishing the child's appearance in court. There are four possible means of achieving this:—(1) reducing the number of cases which have to appear at a higher court; (2) speeding the process of trial so that the waiting period, which is the main source of stress, is reduced as much as possible; (3) trying to arrange that the child has to give evidence only once; (4) making procedure in court less formal and frightening.

In October, 1961, the late Sir Basil Henriques put a number of resolutions before the Magistrates' Association and elaborated most of them in an article (1961). His resolutions were:—

(1) that the law should be amended so as to provide that an indecent assault on a child should be an offence triable either summarily without the right by the accused, before summary trial, of election to trial by jury, or on indictment;

(2) that when such cases are tried in Assizes or Quarter Sessions the trial shall take place in a committee room under conditions as near as possible to those of a juvenile court;

(3) that in cases of rape, incest or gross indecency with children the defendant shoud be required to be represented by counsel.

These resolutions were referred to the Council of the Association on the undertaking that a full report would be made. The report was approved by the Council in May, 1962. The reader will no doubt wish to refer to the whole report,* but the nine recommendations were summarised as follows:—

(1) In many cases the need for the child to give evidence at committal proceedings might be relaxed and a written statement of the child's evidence might be put as if it were a deposition. The committing justices would consider whether the depositions of other witnesses together with the child's written statement warranted committal for trial. A copy of the child's statement should be required by law to be served on the defendant who would have the right to serve counter notice requiring oral evidence.

(2) Cases involving assaults on children should be taken early in the Assizes or Sessions lists and so far as practicable the dates for trial should be fixed.

(3) The recommendation of the Ingleby Committee should be adopted to the effect that the wording of section 43 of the Children and Young Persons Act, 1933, which empowers a justice to take a deposition of a child victim of specified offences if satisfied that the child's attendance would involve "serious danger to his life and health" be interpreted as including "mental health."

(4) A court's enquiry as to whether a child should be sworn should be directed to whether the child understands that he is being asked to make a special kind of promise to tell the truth. The form of oath to be administered to children might be altered to the words "I swear before Almighty God . . ." (cf. the Ingleby Committee's report, para. 197).

(5) There is a strong case for considering whether the law of evidence may not be in need of reform where the child is too young to be sworn and where the only corroboration is from other children who are also too young to take the oath. At present this would result in there not being any evidence at all, since corroboration must itself be sworn evidence.

(6) Although it would be very difficult to make it a legal requirement that an accused person should have legal representation, he should be strongly advised that he should be legally represented, provided that free legal aid was made available.

(7) The disturbing effect of appearing in court is largely due to the whole nature of the process rather than to the furnishing of the court room and the wigs and robes of Bench and Bar. A child should be brought close to the Bench.

(8) Power to exclude the public and restrict publication of a child witness's name should apply in all courts by the operation of law unless the court, for good reason, decided otherwise.

(9) Difficulties would arise if indecent assault on a child were made a summary offence only or even a "hybrid" offence punishable on conviction by two years imprisonment or on summary conviction by six months or £100 fine or both. It should remain an indictable offence triable summarily.

*Magistrates' Association: memorandum on Criminal Procedure and Child Victims of Sexual Offences.

The Committee therefore reached the conclusion that the Association should not at present support the precise recommendations made by the late Sir Basil Henriques. "We have the greatest sympathy for his objectives, but we feel that the less drastic changes that we recommend may well be more acceptable and sufficient to avoid the worst evils that he had set himself to remedy. We think that these lesser changes should be tried and a careful watch kept on the results: if there were no substantial improvements, the Association might well favour more extensive changes."

Meanwhile the Children and Young Persons' Act, 1963, provides under Section 27:

(1) In any proceedings before a magistrates' court inquiring into a sexual offence as examining justices—
  (a) a child shall not be called as a witness for the prosecution; but
  (b) any statement made in writing by or taken in writing from the child shall be admissible in evidence of any matter of which his oral testimony would be admissible,

  except in a case where the application of this subsection is excluded under subsection (2) of this section.

(2) Subsection (1) of this section shall not apply—
  (a) where at or before the time when such a statement is tendered in evidence the defence objects to the application of that subsection; or
  (b) where the prosecution requires the attendance of the child for the purpose of establishing the identity of any person; or
  (c) where the court is satisfied that it has not been possible to obtain from the child a statement that may be given in evidence under this section; or
  (d) where the inquiry into the offence takes place after the court has discontinued to try it summarily and the child has given evidence in the summary trial.

(3) Section 23 of the Magistrates' Court Act 1952 (which, in a case where an inquiry into an offence is followed by summary trial, treats evidence given for the purpose of the inquiry as having been given for the purposes of the trial) shall not apply to any statement admitted in pursuance of subsection (1) of this section.

(4) In this section, "sexual offence" means any offence under the Sexual Offences Act 1956 or the Indecency with Children Act 1960, or any attempt to commit such an offence.

Further suggestions

The possibility of reducing the number of cases appearing before the higher courts has been carefully considered by the Magistrates' Association. There are considerable legal complications, and it is not within our competence to comment in detail on these views. The possibility of bringing a higher proportion of sexual offences within the competence of the magistrates' courts was considered by the Streatfeild Committee and only recommended in the case of indecent assault on a man or woman of 16 or over. Further alterations of this kind would perhaps need a more fundamental change in the legal definition of sexual offences. But the apparently insoluble difficulties in relation to child victims may underline the need for some reconsideration.

Legal definitions naturally place great emphasis upon particular physical acts. In the case of offences against property and aggressive offences the gradation of physical acts associated with the crime represents on the whole a gradation in the gravity of the charge. This is only partly the case in sexual offences. But it is generally accepted that the gravity of sexual offences is measured mainly by the degree of force used, extent of seduction of the weak or immature, or offence to public decency. These do not run parallel to the exact physical act, on which definition depends. The gravity of rape presumably resides in the fact that great force is needed when it is against a girl's consent, rather than the fact that penetration occurred. (Presumably, attempted rape is often just as seriously damaging, and is so dealt with). There is also the argument that pregnancy might result. In the case of buggery, triable only at Assizes, there do not seem to be any realistic grounds for supposing that "the full offence" is necessarily any more serious than many other homosexual acts, degrees of consent being equal. The studies resulting from the Wolfenden Committee's report (e.g. Westwood, 1960) have shown that buggery is as frequently accepted as the natural form of sexual intercourse by homosexuals who are of high moral stature in other aspects of their lives as by those who are "degenerate" in personality.

In the case of incest we have a grave offence triable only at Assizes which, with murder, belongs to the fundamental prohibitions on which civilised life rests. Yet our civilisation progressed quite successfully before it became a criminal offence for the first time in 1908. It is, nevertheless, an offence which occurs frequently but rarely comes to court; though, whether it does so or not, it is often possible for appropriate measures to be taken for the protection of children. Although in theory the standards of proof are the same for the magistrates' court as for Assizes, it would be remarkable if the need to convince a jury did not influence the selection of cases which are felt capable of being adequately proved. Apart from incest between consenting adults (if such cases are ever prosecuted), it seems questionable whether any useful purpose is served by keeping it as a separate offence; the ordinary charges of indecent assault, rape, etc. might cover all the cases.

The object of this argument is to lead to the suggestion that the protection of child victims is only likely to be secured if a large number of sexual offences, apart from uncommon exceptions, can be dealt with only at the magistrates' courts with the limited powers of punishment which this would involve (i.e., a maximum of 6 months imprisonment or £100 fine). This would apply *in the first instance;* the notion of gravity, with

corresponding severity of punishment, should be linked primarily with *repetition* rather than with the particular nature of the offence. Such a procedure would correspond to the criminology of sexual offences; for 80 per cent of sex offenders are not reconvicted and there is little to suggest that this result is achieved mainly by close adjustment of the penalty to the crime.

There is not only a balance between justice to the child and to the offender, but a balance between the amount of sexual crime and the frequency of its prosecution. At present many sexual assaults are probably not reported for fear of damaging the child victims further: the few offenders who are convicted frequently receive exemplary punishment. Those concerned with the medico-social aspects of sex crime would prefer that larger numbers of offenders were brought under control and treatment, even if this meant that in the first instance severe punishments were held in reserve, to be used in the event of repeated offences. This approach seems especially suitable for sex offenders, for it is general experience that they tend to become so preoccupied by their desires that they become oblivious to the social consequences (and often oblivious to precautions against being arrested): conviction, even without punishment, often gives them a different outlook on their behaviour and on the threat to their future which it represents.

Whether such a procedure would result in a greater willingness to plead guilty is perhaps doubtful, though it would ensure that the majority of cases were dealt with quickly. Moreover, the report of the Committee of the Magistrates' Association points out that in cases for which very limited powers of punishment are inadequate, it would be unfair to deny the offender the right to trial by jury, yet subject him to the risk of severe sentence by a higher court. These proposals are, we realise, based on a medico-social view which no doubt greatly underestimates the legal difficulties; a second suggestion lies more certainly within our competence as social workers, and is possibly more practicable.

The social and psychological consequences of sex offences against children are so great that the "court case," however managed, is only the visible part of the iceberg. As Dr. Nesta Wells observed, there is a great need for more aftercare in dealing with these consequences. The Federation and local authority officers are there to provide this service, but one of the main results of our study was to emphasise the great variation in the methods of referral. The criminal courts are not social agencies but they do in fact initiate a great deal of welfare work—as our recent study of shoplifting (Gibbens and Prince, 1962) showed—and there are circumstances, for example in decisions about children in divorce proceedings, where it is recognised that social consequences will be taken into consideration. We suggest, therefore, that special women officers should be appointed, who have been previously trained in social casework and child welfare to the extent which would make them eligible for appointment as probation officers or psychiatric social workers. They would need additional (but not lengthy) training in police work and should be appointed as women police officers subject to disciplinary requirements about the taking of statements and following police prosecution policy. It might be possible for them to be special constables employed on a sessional basis by the police but mainly in the service of local Children's Departments. Their duty would be to visit the child victims at their homes, in plain clothes, and take statements from them. Having fulfilled their police role, however, their main duty would be to work with the family from the earliest moment to mitigate the consequences, accompanying and advising the child in all subsequent medical or legal examinations, and either "taking on" the family in the casework sense or making sure that it was dealt with by officers of the local authority, the Federation or by a child guidance clinic. The primary task would be work with the family; but if the child could not be prevented from appearing in court, the officer might conceivably have some admissible evidence to give as well.

Those who deal with adolescent girls have a great respect for the women police and their tact and skill in taking statements; they often do much social work with families of wayward girls, which is really beyond their duty as police. But as full-time officers, they have many duties—arresting and guarding adult women offenders, making enquiries and searches, controlling traffic. Taking statements from childen is only one aspect of their work, and the official role is limited to this. For the special officer it would only be a small, if very important, part of her work. A professional training and appointment in social work are the two pillars on which successful liaison depends, when there is no question of the duty and right to consult and be consulted.

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