OUT OF HARM'S WAY?

Tracking child abuse cases through the child protection system at five selected sites in South Africa

RESEARCH REPORT

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child rights in focus
Research • Advocacy • Education

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46 Sawkins Road, Rondebosch, Cape Town, 7700, South Africa
Tel: 021 650 1473

Acronyms

DBE	Department of Education
DCPO	Designated child protection organisation
CDR	Child Death Review
DoH	Department of Health
DSD	Department of Social Development
EC	Eastern Cape
FCS	Family Violence, Child Protection and Sexual Offences Unit
FSW	Forensic social worker
NCPR	National Child Protection Register
NPO	Non-profit organisation
KZN	KwaZulu-Natal
PEP	Post-exposure prophylaxis
PTSD	Post-traumatic stress disorder
SAPS	South Africa Police Service
TCC	Thuthuzela Care Centres
UCT	University of Cape Town

About the authors

Lucy Jamieson is a senior researcher at the Children's Institute, University of Cape Town and has a Masters in Democratic Governance; her research interests include child protection and child participation. She is the series editor for the Children's Act Guides for Professionals. Lucy co-convenes the Child Rights and Child Law and Child Rights and Advocacy courses and guest lectures on a range of post-graduate course and professional training. She serves on the National Child Care and Protection Committee, and the National Child Rights Coordinating Committee.

Assoc Prof Shanaaz Mathews is a public health research specialist and heads the Children's Institute (CI), University of Cape Town. She has a background in clinical social work with a focus on child sexual abuse and a PhD in public health. Prior to joining the CI she worked for the Medical Research Council's Gender & Health Research Unit. Her research interests include violence against women and children, as well as pathways to violent masculinities. She trained researchers in East and Southern Africa to integrate gender-based violence research into programming. She serves on the Inter-Ministerial Committee on Violence Against Women and Children and is a founding member of the Western Cape Network on Violence against Women.

Winnie Sambu has a Master of Economics degree from the University of the Western Cape and a Master of Arts (Development Management) degree from Ruhr-Universität Bochum. She is a researcher at the Children's Institute (CI), University of Cape Town where she conducts statistical analyses for *Children Count* – an ongoing data and advocacy project which monitors the well-being of children in South Africa. Her research interests include food security, child nutrition, poverty and inequality, and living conditions.

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Introduction

Violence against children is a pervasive problem that affects many children in South Africa. The first national prevalence study estimates that between 20 – 34 % of children experienced some form of contact violence before the age of 18. Early intervention and effective service responses are critical to enable healing and recovery, and to prevent the negative long-term psychological and behavioural outcomes associated with violence exposure. However, limited resources and a weak social welfare infrastructure contribute to ineffective service provision to children and families, leaving children at risk of continued abuse. Thus the opportunities to prevent violence in the short-term and break the cycle of violence are missed.

One in three children are the victims of sexual violence and physical abuse

The need for quality child protection services

Although the exact extent of child abuse in South Africa is still unknown as studies use different definitions and inconsistent measures of severity of abuse, the results consistently reveal that abuse is commonplace. A national prevalence study published in 2016 estimates that one in three children are the victims of sexual violence and physical abuse before they reach the age of 18, whilst 12% of children report neglect and 16% report emotional abuse.[1] 2013/14 national crime statistics show that 29% (18,524) of sexual offences reported to the police were children under the age of 18 years – this equates to 51 cases a day.[2] Various community-based studies suggest that the extent of violence is more widespread:

- Over half of children (56%) in Mpumalanga and the Western Cape report lifetime prevalence of physical abuse by caregivers, teachers or relatives;[3]
- In the Eastern Cape 53% girls vs 56% boys reported emotional abuse and neglect;[4]
- 39% girls vs 16% of boys experience sexual violence before the age of 18;[5] and
- 35 – 45% of children witness violence against a mother by her intimate partner[6].

The effects of child abuse go beyond physical injuries and visible scars and impact on a child's cognitive, social, psychological, and emotional development,[7] and if experienced in the early years can even affect brain development[8]. Abuse can reduce academic performance,[9] and is linked to aggressive behaviour in later life especially in boys. The effects of violence last a lifetime and spark a vicious cycle that spans generations. Violence is interlinked and cumulative in nature, children who experience or witness violence are at increased risk of revictimisation or perpetration later in life;[10] and when they become parents themselves they often lack the ability to bond with their own children and are more inclined to use violence[11]. Early detection and therapeutic interventions minimise long-term risks and help break the inter-generational cycle.[12] Conversely, a poor response can lead to secondary trauma and increases risks of revictimisation and perpetration.[13] Child abuse also carries an economic burden; research in various parts of the world has shown the numerous healthcare costs (in childhood and adulthood), special education and criminal justice costs, as well as productivity losses associated

with child maltreatment.[14] Therefore, it is essential that South Africa has a responsive child protection system.

Legal framework

South Africa has committed to providing a child protection system that supports victims of child abuse. Since 1994, South Africa has put in place a comprehensive legal framework that defines a wide spectrum of abuse, and obliges government to establish a child protection system that provides services to manage abuse and maltreatment.

The *Children's Act*[15] provides for social services to children. It is based on a cooperative implementation model and explicitly requires government to adopt "a comprehensive, inter-sectoral strategy aimed at securing a properly resourced and co-ordinated national child protection system". The Children's Act also establishes a surveillance system, on paper at least. Part A of the National Child Protection Register (NCPR) contains records on specific children detailing the circumstances of abuse in order to monitor cases and coordinate services. The Act is complemented by a national policy framework and a range of policies and protocols to establish norms and standards and guide service provision.

The national Department of Social Development (DSD) is the lead department responsible for child protection as outlined by the Children's Act. However, child protection services are provided by provincial DSDs, as well as non-profit organisations (NPO) assigned as designated child protection organisations (DCPO).

The Criminal Law (Sexual Offences and Related Matters) Amendment Act,[16] hereinafter the Sexual Offences Act, deals with sexual offences against children, inter alia rape, sexual abuse and exploitation, including sexual grooming, child pornography and child prostitution. The Sexual Offences Act places an obligation on anyone with knowledge of a sexual offence against a child to report the offence to the police. It includes a National Policy Framework and an inter-sectoral committee to ensure a uniform and coordinated approach in respect of child protection but does not provide for therapeutic services.

The *National Instruction on Sexual Offences*[17] guides South African Police Service (SAPS) officials on services available to victims, including child victims of sexual offences. However, it focuses on how to deal with victims in accordance with the Sexual Offences Act. It fails to mention many of the obligations under the Children's Act, including the legal obligation to refer cases to the DSD or a DCPO.

Child protection system in practice

Part A of the NCPR is supposed to act as a surveillance system allowing social service professionals to monitor individual cases and provide macro-level data to enable policy-makers and planners to target resources and services where they are most needed. The NCPR is, however, not properly maintained, so we do not have accurate information about how many cases of abuse are reported. In 2010/11, the NCPR registered a total of 1,348 abuse (sexual, physical, and emotional) and neglect cases.[18] However, in the same year the police recorded over 51,000 sexual offences and physical assaults against children.[19] Although these statistics are not directly comparable, this disparity suggests that the DSD is almost certainly under-reporting levels of abuse. The government admits that "[t]hese data gaps hamper an accurate analysis of the extent to which the full spectrum of protective rights is being

The effects of child abuse go beyond physical injuries and visible scars and impact on a child's cognitive, social, psychological, and emotional development

realised".[20] The discrepancies between the national statistics suggest that police are not fulfilling their obligations under the Children's Act by reporting cases to the DSD. If that is true it is unlikely that children are receiving adequate and appropriate protection services.

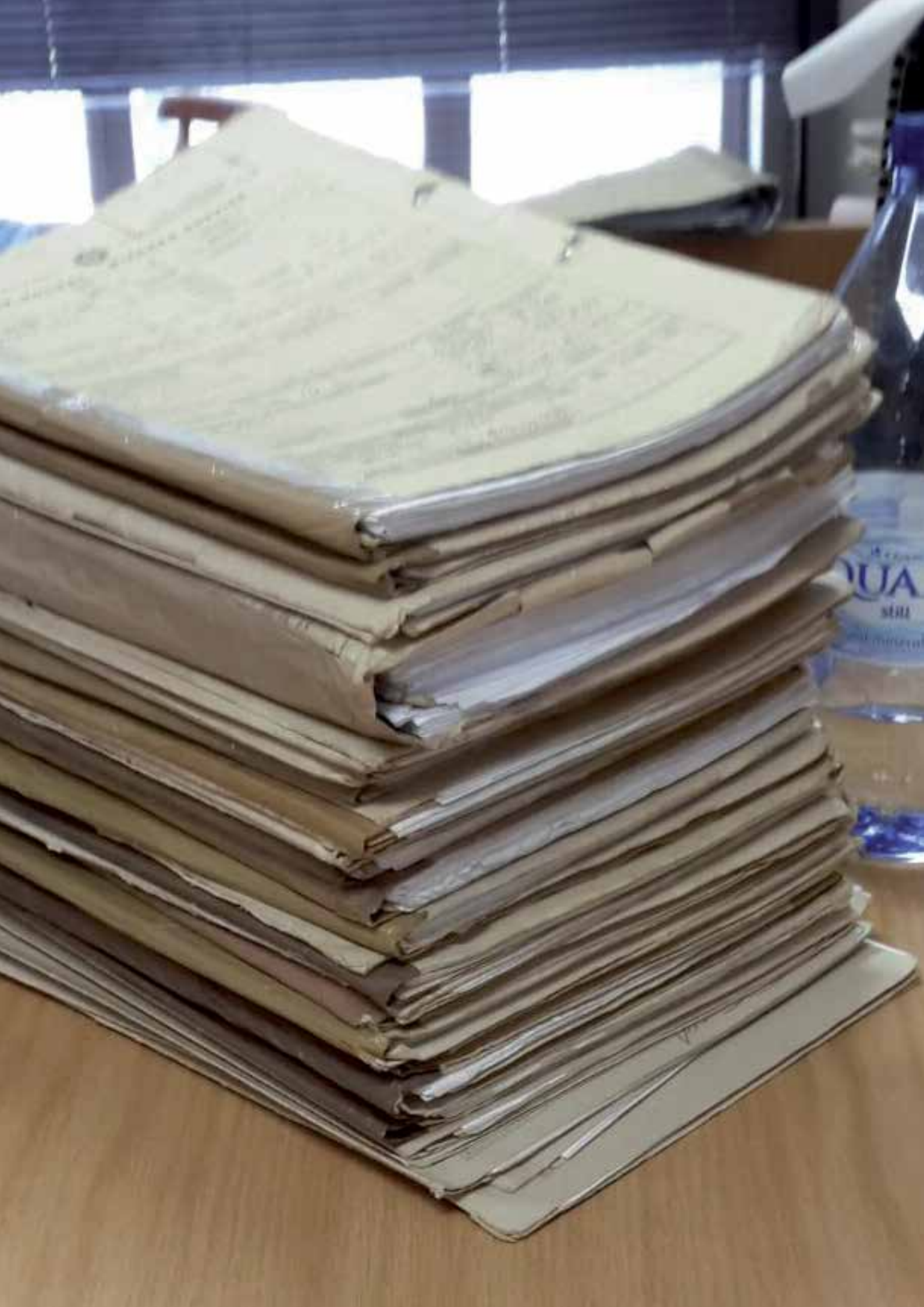
Barberton calculated the cost of implementing the Children's Act in terms of human and financial resources before the bill was passed by Parliament.[21] The actual allocations for the children and families programme have consistently been well below even the lowest estimated cost of implementation.[22] Furthermore, the allocations are not shared on an equitable basis between the state and civil society organisations. Services are predominantly provided by designated child protection organisations which are NPOs. In 2012, the state transferred just under half (48.9%) of its provincial social welfare programme budget for the year to NPOs to deliver social welfare services on its behalf.[23] Yet, it is estimated that NPOs provide over 60% of current social welfare services.[24]

The Children's Bill costing also included estimates of the number of professionals required to provide children's social services and, as with the budget, four scenarios were calculated.[25] Even in comparison with the most conservative estimates there is a chronic shortage of all social service professionals available to implement the Children's Act.[26] For example, Barberton estimated that by the sixth year of implementation South Africa would need a minimum of 16,504 social workers to implement the Children's Act.[27] Over the last decade the government has introduced measures to expand the workforce including bursaries for social work students, recognising social work as a scarce skill,[28] and improving pay and compensation packages set nationally through occupation-specific dispensations. Consequently, between 2000 and 2014 the total number of registered social workers grew from 9,072 to 18,213.[29] However, only 9,289 of these are currently employed by government or NPOs and only a proportion work with children and families.

Despite the comprehensive legal framework the lack of resources and coordination mean that the need for quality services by children and families far outweighs the ability of social services to respond.[30] A small-scale longitudinal study of children and their caregivers in the Western Cape exploring psychosocial adjustment post sexual assault revealed that children face numerous barriers to access services.[31] Additionally, a study exploring co-victimisation of children as victims of domestic violence showed that although negative effects on children's mental health are well documented, domestic violence services have no focus on children as victims.[32]

Rationale for the study

We know that the child protection system is under-resourced and that social workers are failing to manage their foster care cases.[33] Some authors claim that limited resources and a weak social welfare infrastructure contribute to the ineffective service provision to abused children and their families, leaving children at risk of continued abuse as well as becoming victims of fatal child abuse.[34] Others surmise that children who have been abused or neglected are waiting for extended periods to receive social worker services because the child protection system is overburdened with foster care cases.[35] However, there are no published studies on the functioning of the child protection system in South Africa. Very little is known about the extent to which child protection workers are following protocol.



Methodology

The study aims to document how the child protection system processes reported cases of child abuse, and make recommendations about how child protection services could be strengthened, to reduce the risk of trauma to children and breaking the inter-generational cycle of violence. In particular the study generates recommendations for the specific improvement of child protection services within the local setting. The findings were shared with all stakeholders in the provinces to stimulate inter-agency cooperation.

South Africa has committed to providing a child protection system that supports victims of child abuse

Objectives

- To investigate the current practices of child protection workers in relation to case management.
- To compare procedure followed in practice with procedures outlined in law and policy.
- To identify and describe the gaps in the child protection system.

Definitions and terms

A child: a person under the age of 18 as defined by the Constitution and the Children's Act.

Child abuse: all forms of physical, emotional and sexual abuse, neglect, exploitation and violence against children (see Appendix A for the full descriptions and indicators defined in the Children's Act).

Child protection: the measures taken to prevent and respond to all forms of abuse, neglect, exploitation and violence against children.

Child protection system: a set of coordinated public and private services (social, police and health) that are working together to prevent and respond to child abuse.[36]

Child protection workers: social workers, social auxiliary workers, police officers, health professionals.

Rape: an act of sexual penetration of a victim, without their consent. Rape occurs when:

- Someone inserts their genital organs into the mouth, anus or genital organs of a victim;
- Any part of someone's body, such as a finger, goes into the anus or genital organs of the victim;
- Any object, like a stick or a bottle, is put into the anus or genital organs of the victim;
- The genital organs of an animal are put into the mouth of the victim;
- The sexual penetration occurs with a child under the age of 12.

Consensual sexual penetration with a child (statutory rape): occurs when an adult has consensual penetrative sex with a child below the age of 16; or if a 16- or 17-year-old has consensual sex with a child who is more than two years younger than him or her.

Pilot study

A pilot study was conducted in 2013. The site selected was in the Western Cape province. Records were reviewed from Family Violence, Child Protection and Sexual Offences Units (FCS), DSD, and a designated child protection organisation (DCPO). The pilot study was designed to test the methodology and data collection tool, and explore the available data sources. The pilot study used both quantitative and qualitative methods for data collection. A standardised data collection sheet was developed to gather data on

identified cases. Case files were reviewed and data was extracted onto a data collection form. Qualitative semi-structured interviews were conducted with key informants: FCS officers and social workers from DSD and the DCPO.

The methodology tested in the pilot study has shown to be viable as it allows for: tracking of cases within agency, how cases are managed, whether cases are completed (court outcomes), how cases are documented, inter-agency collaboration as some of the indicators identified. One of the main concerns the pilot raised is the impact Promotion of Access to Information Act (PAIA)[i] has on the ability to access DSD social worker case files. The methodology of reviewing cases through DSD social work supervisors can potentially have a negative impact on the study as this can introduce a selection bias. For the main study PAIA applications were made enabling the fieldworkers to access the records directly and to use a standard methodology across all sites.

A second concern was the availability of the files. The FCS were able to trace all of the dockets relating to closed cases, however, DSD could trace only half and the DCPO two thirds of cases, see **Table 1**.

Main study design

This is a retrospective descriptive study using a combination of quantitative and qualitative methods. The quantitative component consists of a record review of police dockets and social work files and qualitative data were gathered through in-depth interviews and focus groups with child protection social workers and agency managers and police commanders.

Why a retrospective study was necessary

Section 110 of the Children's Act places a legal obligation on police officers to notify a child protection organisation within 24 hours when they receive a report of child abuse or neglect and, conversely, social workers must report the possible commission of an offence to the police. The police and social services should collaborate when handling cases of child abuse. In order to assess the extent to which this inter-agency collaboration is happening the researchers needed to access both the SAPS and social work records for each case. The SAPS does not authorise researchers to access open dockets as there is a risk of contaminating the evidentiary chain, losing documents, or even interfering with witnesses when approaching the subject for consent. We therefore used dockets that had already been closed.

TABLE 1: CASES IDENTIFIED, TRACED AND REVIEWED DURING THE PILOT

Service	No of cases identified	No of cases traced	No of cases reviewed
FCS	17	11 (closed dockets) 6 (open dockets)	11
DSD	25	13	6
DCPO	15	10	10
Total	57	40	27

i The Promotion of Access to Information Act, 2000 (or PAIA; Act No. 2 of 2000) is a freedom of information law in South Africa. It allows access to any information held by the State, and any information held by private bodies that is required for the exercise and protection of any rights. However, it controls access to information about children.

The Children's Act places a legal obligation on police officers to notify social services when they receive a report of child abuse and on social workers to report crimes to the police

Ethical considerations

Ethics guidelines usually require that researchers not only protect the best interests of their subjects but that they respect subjects' right to protect themselves – informed consent being the major safeguard. In this study the research team accessed social work case files without the consent of the child, parent or guardian. The research team took the decision not to seek the explicit consent to access to their case files from the children or their parents or guardians for two reasons: firstly, the very act of asking for consent was likely to cause stress and trauma to the child and the family resulting in re-traumatisation, whereas accessing the files and processing the data were likely to have little impact. Secondly, the difficulty of obtaining consent could have limited the sample size: the agencies opened the case three and a half to four years before the review. We deemed it highly probable that the families' circumstances would have changed and during the research we found that many of the files did not contain up-to-date contact details. In terms of the Protection of Access to Information Act, the government can authorise access to the information it holds on individuals for the purposes of research. Advice was sought from two legal experts and permission for access to the files was obtained from the provincial Departments of Social Development and the Divisional Commissioners of Detective Services. The research protocol was approved by the Human Research Ethics Committee at the Faculty of Health Sciences, University of Cape Town.[37]

The fieldworkers reviewing the social work files were qualified social workers registered with the South African Council for Social Service Professions. Team members signed confidentiality agreements, and received ethics training provided by the Human Sciences Research Council. Stringent safeguards were put in place to protect the anonymity of the children whose records we examined. The files did not leave the social work office or the police department in which they are kept. The researchers only had access to closed SAPS dockets. No copies of the files were taken. Coding and anonymisation of the data took place on site. Only the fieldworkers and the researcher had access to the data before it was coded and anonymised. The principal investigator kept a separate set of records with identifying information for the purposes of matching police and social work files and identifying cases for follow-up assessment and support. These records were held in a locked cupboard. The coded data were stored on a secure server where only authorised researchers had access to the files.

During the course of data collection we identified cases in which it appeared that a child remained at risk of harm or where there were irregularities in the investigation which put the child at risk. In these instances, the research team discussed each case and referred the matters at the end of the site visit to the provincial Department of Social Development and the FCS station commanders involved.

Site selection

The provinces of Eastern Cape and KwaZulu Natal were purposively selected. We looked for provinces with a mix of urban and rural districts; large child populations; high rates of reported child abuse; but different proportions of lapsed foster care grants during the crisis in 2011 (where the latter indicator is used as a proxy for service delivery). In both provinces approximately a third of all children lived in urban areas. In 2011, KwaZulu-Natal (KZN) had the

largest child population (22% of the total) whereas Eastern Cape had the third largest child population (15%) of the national total.[38] In 2011, KZN had the highest number of lapsed foster care orders (98,380) – almost a third (33%) of the total at the height of the crisis – whilst the Eastern Cape had 42,210 (14%),[39] i.e. the Eastern Cape's share of the lapsed foster care orders was comparable to its share of the child population.

Two large studies were in the field at the time. The first was a prevalence study on child sexual abuse, the other a surveillance study collecting data about children being investigated by the DSD and designated child protection organisations in the same districts. To avoid research fatigue in the areas where both studies had been conducted, i.e. social workers are tired of participating in survey work, we decided to select sites that were not part of the prevalence study. The DSD could not provide information on the numbers of cases reported in the research period, so we used SAPS data to identify areas with high rates of reporting. We thereafter consulted with the provincial social work managers to identify which of these districts served rural, urban and peri-urban communities and which are serviced by both DSD and DCPOs. Few of the districts had DCPOs. We could only identify three that had not been part of the prevalence study, and to increase the sample size we included two districts without a DCPO. In total there were three sites in Eastern Cape; and two sites in KwaZulu-Natal.

The district boundaries for the SAPS clusters are not usually coterminous with the district boundaries covered by social work agencies. To identify agencies to include in the study we asked staff in every agency to mark the geographic areas and communities they serve on a map and the researchers compared the maps to identify overlapping areas. Overall, 23 agencies were involved in the study:

- 20 police stations falling under five FCS units;
- 10 social development service offices in five districts; and
- three designated child protection organisations in three districts.

Study population (inclusion and exclusion criteria)

In 2013, 35% (six out of 17) police dockets selected for the pilot study were still open two years after the initial report had been made. For the main study we wanted more of the police dockets to be closed; therefore, we decided to review cases that had been reported three and a half years earlier. We selected cases reported between 01 January and 31 March 2012. Reports of sexual abuse, physical abuse and deliberate neglect cases involving children (under 18 years) were included. This study does not include fatal child abuse as these cases are handled by homicide detectives and not the Family Violence, Child Protection and Sexual Offences Unit (FCS). These cases should trigger a child protection investigation where there are other children in the household. In theory, we should have picked up these cases in the sample if the child protection system is working correctly; however, many of these cases are not reported by forsenic pathologists,[40] the health professionals or SAPS and most fatal child abuse cases are not managed within a child protection framework[41].

To identify cases reported to the DSD or a designated child protection service we asked the social service offices to provide a copy of their child protection register for the period under review.

Across all the DSD offices only 45% of cases identified on the register could be traced

Where the social work service centre did not have a child protection register, the intake register was requested and coded in order to create a list of all child protection cases. Poor record-keeping meant that it was impossible to determine how many cases were received during the period in two service offices – in the one office we asked staff to pull all the cases for the year and identified relevant cases from the actual files. In the other office they could find neither the intake register nor any of the files. All police cases are recorded on a centralised database (CASNET). We asked each FSC unit to provide a list of all reported cases during the period. Three units provided basic information about the number of closed and open cases, whilst two only released information about closed cases.

In total we identified 171 unique cases of abuse reported to the police and 156 unique cases reported to social services. However, across all the DSD offices only 45% of cases identified on the registers could be traced. The FCS and the DCPOs were much better at maintaining their files and traced 80% and 88% respectively. See **Figure 1**.

In some instances the coding on the register did not match the details in the file, and these cases were excluded from the study. For example, the dates of birth revealed that the victim was an adult and not a child, or cases that had been reported years earlier but were reopened so that it could be reviewed in terms of the Children's Act. Most of these cases could be excluded prior to review; in other instances we only discovered during the analysis that the fieldworker had incorrectly included an ineligible case.

A total of 213 dockets and case files were eligible, of which 15 pertained to multiple victims, for example one case involved a serial paedophile who had sexually abused 24 children, and thus the total number of victims was 258, see **Table 2**. Children had experienced multiple incidents of abuse in 26% of the cases reported to the police.

FIGURE 1: ELIGIBILITY OF REPORTED CASES

FCS	DSD	DCPO
Reported = 210*	Reported = 78	Reported = 78
Closed = 171		
Traced = 139	Traced = 35	Traced = 69
Reviewed = 133	Reviewed = 27	Reviewed = 65
Eligible = 131	Eligible = 25	Eligible = 57

* This is an underestimate as two FCS units only provided information about closed cases.

TABLE 2: NUMBER AND PROPORTION OF CHILD ABUSE CASES REPORTED TO POLICE AND SOCIAL SERVICES

	Police n (%)	Social Services n (%)	Total N
Cases	131 (62)	82 (38)	213
Victims	156 (60)	102(40)	258

Data analysis

The study used the statistical software Stata (version 13) to conduct desciptive and bivariate analysis. Where comparisons were made across groups, statistical tests (such as the Chi-square and Fisher's exact test) were used to examine whether the differences were statistically significant. Fisher's test was employed in cases where the sample sizes were small.

Children had experienced multiple incidents of abuse in 26% of cases reported to the police

Limitations

The result of this study are not representative or generalisable to South Africa as a whole. We purposively selected the sites, we only reviewed cases reported in the first three months of 2012, and some dockets and files identified as eligible for inclusion in the study could not be traced.

This study was based on data that were generated for the purposes of pursuing criminal investigations or child protection investigations. When information was recorded in files and dockets the authors did not have research in mind, therefore, for some variables there was a lot of missing data. Sometimes proportions presented here were calculated as a percentage of all cases, in other instances they are calculated as a proportion of cases where information was available; thus the denominators fluctuate and this should be noted when comparing findings.

Characteristics of reported abuse and neglect

Type of abuse reported

Overall 62% (158) of victims reported sexual abuse, 30% (75) deliberate neglect and 8% (20) physical abuse as the primary form of abuse, see **Figure 2**.

Location of the abuse

Children in this study were most at risk in their own homes. **Table 3** shows that abuse was significantly more likely ($p<0.001$) to occur in the child's own home (45% of all incidents), 28% in other homes, and 17% in public spaces including schools. There is a distinct difference between the cases reported to social services and those reported to the FCS, as most cases reported to social services are neglect cases where the parent or caregiver is the perpetrator.

FIGURE 2: TYPE OF ABUSE

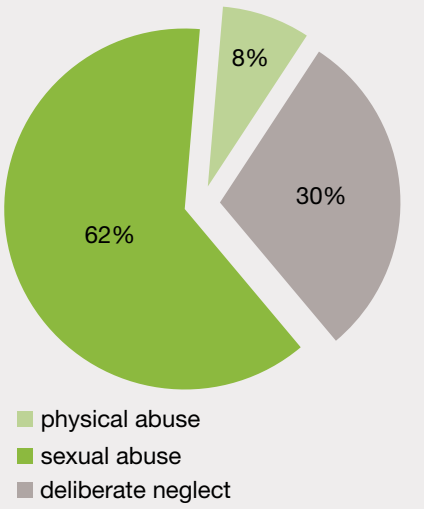


TABLE 3: LOCATION OF ABUSE

Place of alleged offence	Social services (n=82)	FCS (n=127)	Total (n=209)
Child's home	78%	24%	45%
Perpetrator's home/other home	6%	42%	28%
Public space	4%	19%	13%
School/educational area	2%	5%	4%
Other	5%	2%	3%
Unknown	5%	8%	7%

Social and demographic characteristics of the victim

Victim's gender

The results of the Optimus national prevalence study released in 2016 revealed that girls and boys experience similar levels of sexual abuse: 36.8% of boys experienced some form of abuse compared with 33.9% of girls; however, the definition of sexual abuse used in the Optimus study includes exposure to intimate body parts or photographic images, sexual harassment, as well as coerced or sexual touching or penetrative and non-penetrative touching.[42] Girls are more likely to experience contact sexual abuse, for example rape and attempted rape, whilst boys were more likely to experience other forms of sexual abuse, like being forced to watch pornography.[43] Our results show a different pattern in relation to the types of abuse reported; in our sample the type of abuse experienced was clearly related to gender (p=0.005). There was no record of the child's gender in 5% of files (equivalent to 14 cases). An analysis of the remaining cases shows a significant gender difference by type of abuse. **Figure 3** shows that the victims over three-quarters of sexual abuse cases (n=158) and 65% (n=60) of neglect cases were girls, whereas 58% (n=19) of the victims of physical abuse were boys. The different pattern of reporting could be due to the fact that only contact abuse is reported or it could be that boys are less likely to disclose, as evidenced by Jewkes in the Eastern Cape,[44] and Meinck and Cluver in Mpumalanga and the Western Cape[45].

Victim's age

The cases were evenly distributed across age groups, with marginally fewer cases in the youngest and oldest groups. However, different forms of violence are more prevalent in certain age groups. For example, **Figure 4** suggests that there is very little difference between the levels of sexual abuse and neglect in the under-five age group but the differences become

FIGURE 3: TYPE OF ABUSE, BY GENDER

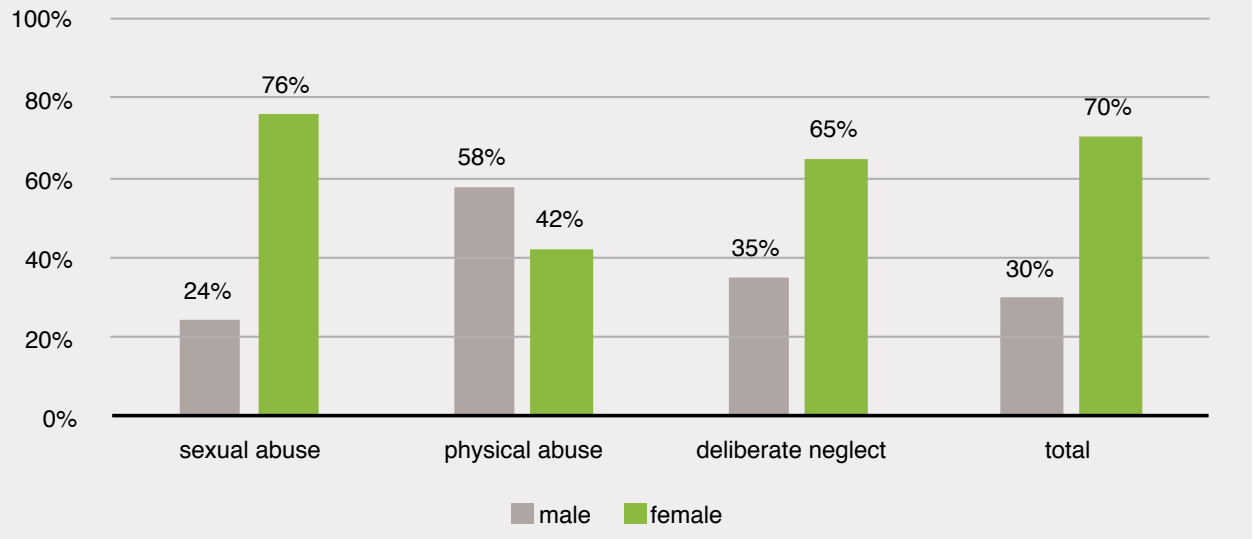
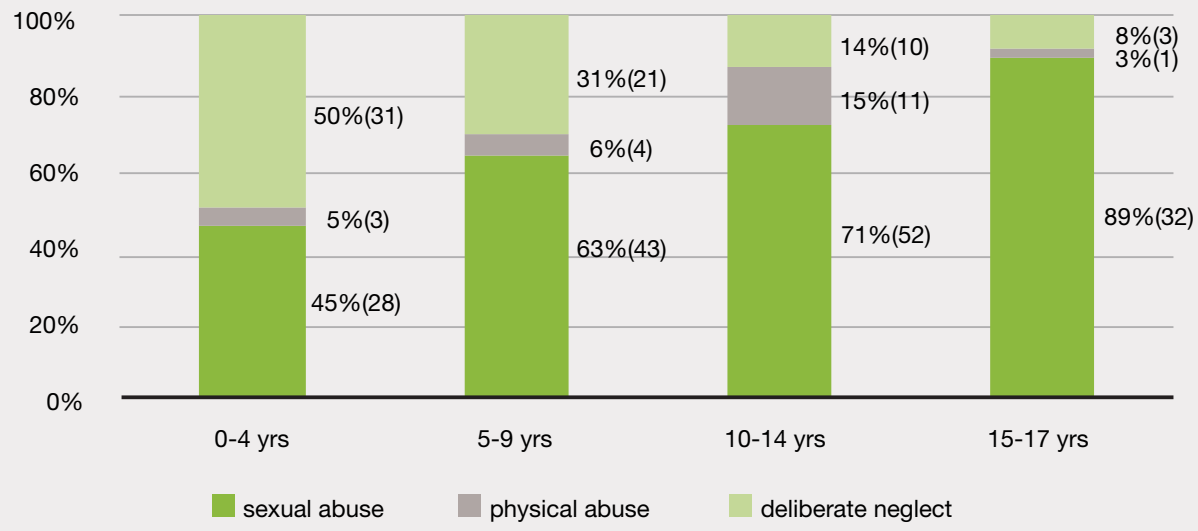


FIGURE 4: TYPE OF ABUSE ACROSS AGE GROUPS



Number of victims in brackets.

more pronounced as children get older, with sexual abuse becoming more prevalent, especially in girls ($p<0.001$). This is similar to findings from an epidemiological study on child homicide that shows children under five years are most likely to be victims of fatal child abuse, while rape homicide mostly affects girls as they become older.[46]

Children with disabilities

Figure 5 shows that 10% of victims of abuse had a disability or chronic illness. However, in 30% of cases the disability status of the child was not recorded. Mental impairment was the most common form of disability.

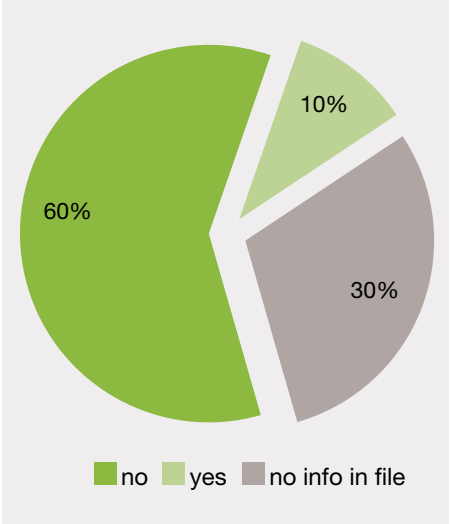
Even when the child protection specialist did not record any details we found other evidence that the child had a disability:

> *The first form 38 states that the child takes medication three times a day but there is no mention of any disability or special needs in the social workers notes (according to the court order the child has a physical disability). (C3)*

Therefore, we assume that 10% is an undercount.

According to the 2001 census 2.5% of South Africa's child population were reported to have some form of serious disability.[47] The 2011 census estimates that 5.8% of children between the ages of five and 19 have a disability.[48] It would appear that a disproportionate

FIGURE 5: PROPORTION OF CHILDREN WITH DISABILITIES OR CHRONIC ILLNESSES



number of children in our sample have a disability in comparison with the general population. This is in line with national and international studies: In 2016, the first nationally representative survey on sexual victimisation showed that the risk of sexual abuse for children with disabilities is 1.5 to 2.1 times more than for their non-disabled peers.[49] This concurs with international findings that children with disabilities are at greater risk of all types of abuse,[50] where children with behavioural (such as conduct disorders) and mental health problems are most at risk[51]. A study in Illinois, United States of America, found that where a child had a prior history of abuse or neglect before age three and was also diagnosed with a behavioural disorder, for example autism, that child was 10 times more likely to be maltreated in the future.[52] Therefore, it is essential that child protection specialists are trained to recognise behavioural/mental health conditions, and that they record the disability status of the child in their files.

Perpetrator's details

Perpetrators were identified in most instances (94%), and there was a significant difference across age groups. **Table 4** shows that older victims were less able to identify the perpetrator, suggesting that the perpetrators were strangers.

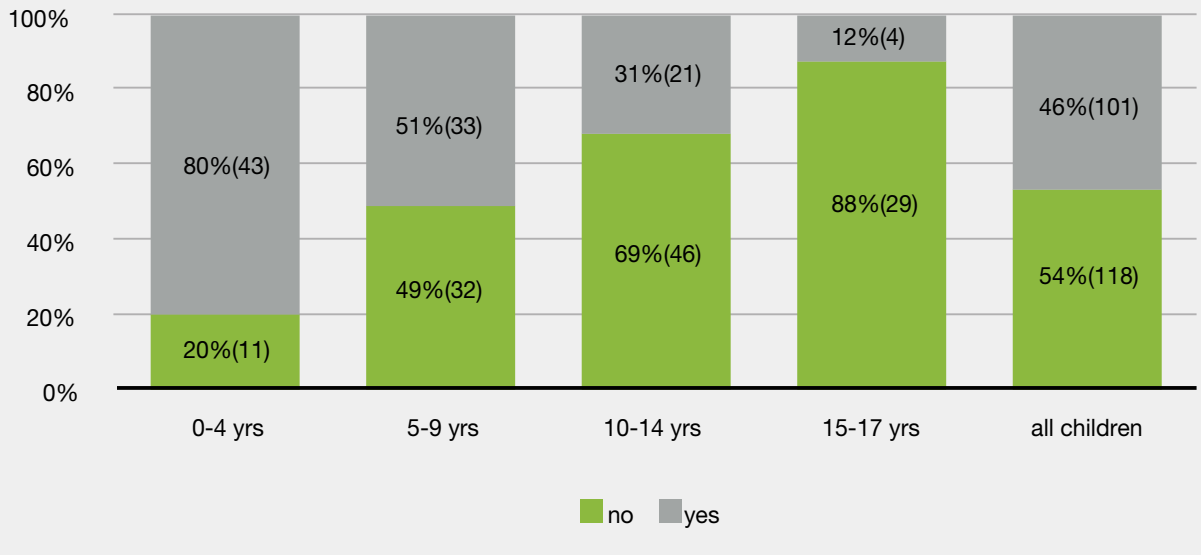
TABLE 4: PERPETRATOR IDENTIFIED, BY AGE GROUPS

Age groups	Number of victims	Proportion where perpetrator was identified
0-4 yrs	60	92%
5-9 yrs	68	97%
10-14 yrs	68	97%
15-17 yrs	35	83%
Total	231	94%

The differences across age groups are statistically significant (p=0.021).

This is probably due to fact that young children were more likely to be abused by relatives (80%) whereas older children were abused by people they were not related to (88%), see **Figure 7**. The majority of the victims (53%) lived in the same household as the person who abused them.

FIGURE 6: PERPETRATOR RELATED OR NOT RELATED TO VICTIM, BY AGE GROUP



Number of victims in brackets. The differences across agencies are statistically significant (p<0.001).

Reporting

The Sexual Offences Act compels anyone who has "knowledge" of a sexual offence committed against a child to report the offence to the police. This includes consensual sexual activities between a child below the age of 16 and anyone above the age of 16 where the gap in their ages is more than two years. In addition, the Children's Act states that certain professionals must, and other persons may, report, if they "conclude on reasonable grounds" that a child has been: abused in a manner causing physical injury; sexually abused; or deliberately neglected; where the conclusion is based on the balance of probabilities following observation of signs and indicators. The Children's Act allows reporting to DSD, a DCPO or the police.

One in five cases were reported by the child. Out of all the cases, 34 cases (16%) were reported by professionals who have a legal obligation in terms of the Children's Act. The majority of cases were reported by individuals (84%), of which most were close family members with a distinct bias towards female relatives: mothers (37%), grandmother (16%) and the child (19%), but this is related to the high number of sexual abuse cases. **Table 5** shows that fathers and grandmothers were more likely to report cases of neglect, while mothers and children were more likely to report sexual abuse. The differences observed are statistically significant ($p<0.001$). Whilst it is true that family members are the ones most likely to report abuse, our qualitative data show that they frequently protect the perpetrator instead of ensuring the safety of the child, which can result in the abuse continuing.

Social workers are not required to record the date of the incident;

TABLE 5: INDIVIDUALS REPORTING THE CASE

	Type of abuse			
Individual who reported the case	**Sexual abuse (n=116)**	**Physical abuse (n=11)**	**Deliberate neglect (n=44)**	**Total (n=171)**
Child	26%	18%	0%	19%
Mother	47%	27%	14%	37%
Father	3%	9%	34%	12%
Grandmother	10%	9%	34%	16%
Other relative	10%	0%	7%	9%
Non-relative	2%	27%	11%	6%
Other	2%	9%	0%	2%

CASE 1: FAMILY MEMBER PROTECTS PERPETRATOR

A young mother woke up in the middle of the night when she heard kissing. When she felt movement she jumped out of bed and pulled off the blanket to discover that her husband was raping her six-year-old daughter. She stated that the child was "wet with his sperms". The mother called her sister-in-law who came immediately and took the child, saying "the child is not injured, nothing happened to this child". The sister-in-law wiped the child then took her home and washed her. No semen was found on the victim. The J88 was missing from the docket but the diary noted that "according to the J88 there was penetration".

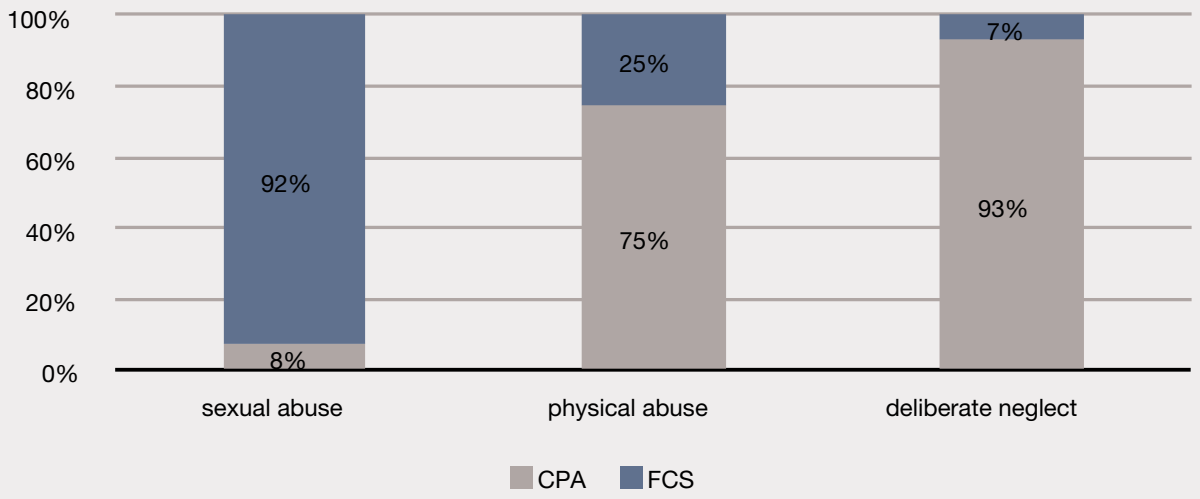
In his statement the husband admited that he was drunk and that they were all sleeping in the same bed and that the child was next to him when his wife removed the blanket. "I noticed that my penis was out of my underwear and that the child's jean pants together with the panty was undressed." The perpetrator was arrested and then released on bail two weeks later in spite of opposition from the state; the Senior Public Prosecutor recommended that there should be no bail. The perpetrator was found guilty a year later and sentenced to 18 years in prison. (C42)

therefore, we did not attempt to collect this information from social work files. The analysis of the sexual abuse cases reported to the police revealed that less than a third of cases (27%) were reported on the day of the incident or the following day but the total rises to 58% if the time period is extended to three days – this is a critical window period for the administration of post-exposure prophylaxis (PEP) and the collection of DNA evidence. However, this means that 33% of cases were reported outside of this critical window, see **Table 6**. This has serious implications for the child's health and for chances of conviction.

TABLE 6: REPORTING TIMEFRAMES FOR VICTIMS OF SEXUAL ABUSE (POLICE DATA)

Period between incident date and reporting date	Frequency	Percentage	Cumulative percentage
Less than 24hrs	33	27%	27%
1-3 days	37	31%	58%
4 days to one week	13	11%	69%
One week to one year	17	14%	83%
Over a year	4	3%	86%
Not recorded	17	14%	100%
Total	121	100%	

FIGURE 7: TYPES OF ABUSE REPORTED AT EACH AGENCY



Almost two-thirds (62%) of child abuse cases were reported to the police. However, as **Figure 7** shows, there is a distinct pattern in the different types of abuse reported. Most victims of sexual abuse (92%, n=146) reported to the police whilst reports of physical abuse (75%, n=15) and deliberate neglect (93%, n=70) were reported to social services (p<0.001).

The proportion of cases involving physical abuse is very low at 8% of the total. In the recent prevalence study, 35% of 15 to 17-year-olds reported experiencing physical abuse.[53] Higher levels of physical abuse and physical punishment were also reported in a population-based study in the Eastern Cape,[54] and a community-based study in the Western Cape and Mpumalanga found that 55% of all children experience lifetime physical abuse[55]. The disparity between our study and studies looking at prevalence and incidence suggests that physical abuse is severely under-reported, even though it constitutes a crime.[56]

When physical abuse is reported it is not taken seriously and rarely referred to the police by social services. This allows the abuse to continue and, at times, worsen – see **Case 2**.

CASE 2: SLOW RESPONSE TO PHYSICAL ABUSE LEAVES PERPETRATOR FREE TO ABUSE AGAIN

In January 2012, social services received a report that a female learner at a special school was physically abused by her teacher. The child was assessed but no report was made to the police. In June the same year the child reported that the same teacher sexually abused her. At this point the social workers refered the case to SAPS. There are no details in the file about the criminal investigation or even notes on whether the perpetrator has previous convictions. It is unknown whether the child was referred for a medical examination, or was assessed by other professionals. There is no record of interviews with the family, school or the teacher. The protection plan states that the social worker was looking for another school and includes plans to take disciplinary action against the teacher. The case went through a children's court inquiry in July 2012 at which point the social worker recommended that the child remained at home and at the same school. The outcome of the court inquiry was not recorded in the file. There is no mention of any therapeutic support or counselling, and the child continued to attend the same school where the perpetrator had access to her. (C68)

CASE 3: VIOLENCE DISMISSED AS DISCIPLINE

A 12-year-old boy reported to the police that his father had physically assaulted him. His mother and three siblings corroborated his statement. The mother also reported that her husband was a bully and that she herself had been a victim of domestic violence. She also stated that she was initially reluctant to ask her husband to stop assaulting the child because she was afraid of him. The case was withdrawn by the police three days later. The commander noted in the diary: "This is moderate discipline and even falls short of child abuse. Withdraw." (C10)

When physical abuse was reported it was often regarded as 'justifiable' punishment under the guise of discipline and accepted as such by services, even when evidence suggested a pattern of violence, see **Case 3**.

In another case a two-year-old child was *"kicked 4 times but sustained a 'small laceration'"* – this description clearly meets the criteria for physical abuse causing injury/assault but, when the father of the young boy assaults the perpetrator, the prosecutor withdraws the case instead of prosecuting both perpetrators.

The analysis of the case summaries suggest that social workers are reluctant to lay charges against parents – even the worst cases of neglect were not referred to SAPS, see **Case 4**; and social workers fail to report historic sexual abuse, for example, one child was raped multiple time over a 4-year period but the case was not referred to SAPS.

When a member of the public makes a report to a designated child protection organisation, the DSD or a police official, the regulations stipulate that a Form 22 must be completed for each child.[57] SAPS however were resistant to using Department of Social Development forms and the regulations were changed to allow them to use their own form, the SAPS 581(b). Neither form was found in the police files. **Table 7** shows that only 5% of reports are recorded on the prescribed forms, the police never use the form, and only 13% of social work files contained the prescribed reporting form.

Most reports were recorded by using non-standardised forms. Police officers made a reference in the investigation diary and the details were captured in witness statements; social workers

Only 5% of reports are recorded on the prescribed forms

CASE 4: RELUCTANCE TO REPORT PARENTS

Childline referred a case of deliberate neglect involving two sisters to social services. The nine-year-old dropped out of school due to malnutrition while the 14-year-old is in grade 5 but not attending school at that time. The children live with both parents. The Childline report states that a neighbour offered money to the mother to take the child to the hospital after she fell and broke her arm; however, the mother spent the money on alcohol and as a result the child's arm started to rot. The children were uncontrollable. The case was not referred to SAPS and therefore the parents were not arrested. (C71)

TABLE 7: COMPLETION OF PRESCRIBED REPORTING FORM (FORM 22/ SAPS 581(b))

Agencies	Not completed	Completed
FCS (n=155)	100%	0%
Social services (n=102)	87%	13%
All children (n=257)	95%	5%

used process notes or occasionally used an intake form, see **Table 8**. Consequently important information was not captured.

The National Child Protection Register

Not a single Form 23[ii] was completed or sent to the Director General of Social Development, and of the 13 Form 22s in the files only four had been sent to provincial or national DSD. Effective planning and allocation of resources are impossible without this information at a district and provincial level. Furthermore, country-level data on child abuse are necessary to support advocacy on the implementation of prevention interventions,[58] and to leverage funds from National Treasury.

33% of sexual abuse cases were reported outside the critical window for administration of PEP and the collection of DNA evidence

TABLE 8: DOCUMENTATION OF THE REPORT

Document	Frequency	Percentage
Form 22	9	4%
Process notes	96	45%
Witness statement	85	40%
Intake form	20	9%
Referral letter	2	1%
Total files	212	100%

ii Regulation 33 of the Children's Act requires that all of the three agencies that can receive reports must notify the Director General of Social Development of the particulars of the abuse. These reports are then entered into the NCPR.


SOUTH AFRICAN
POLICE SERVICE

Police response

The handling of the criminal investigation impacts on the safety and well-being of the child: on the one hand the police have a duty to ensure that the alleged perpetrator does not pose further risk to the victim or other children, and on the other hand the criminal investigation must be handled in a manner that reduces the potential for secondary victimisation. This study did not assess the quality of the criminal investigation but focussed on the police's handling of cases in relation to the child protection aspect of their work, i.e. ensuring the safety of the child, and connecting the child and family with medical and therapeutic support services.

Case management

FCS units in all areas meet twice a day: at the morning parade, officers are allocated duties for the day and challenges are discussed, while new cases are presented at the evening parade. Virtually all cases were reviewed by the FCS commanders within 24 hours, again at the end of the first week, thereafter monthly and every time the case was sent to, or returned from, the prosecutors, courts or another agency involved in the case. The supervision generally was exemplary with the commanders routinely prompting investigating officers to follow procedure, send cases to the prosecutor, and liaise with social services. The same officers work the case throughout the investigation, "so that the child does not see a strange face, because you have to walk the path with that victim from the beginning to the end" (Police officer, focus group 1).

Ensuring the safety of the child

After assessing the level of threat to the child, the police have several options. If they believe that the child is at risk they can arrest the perpetrator in terms of the criminal law, remove the perpetrator in terms of the Children's Act, or as a last resort remove the child, and any other children that may be at risk, to temporary safe care. We found that the police typically used their powers to arrest the perpetrator, rarely removed children and never removed the perpetrator in terms of the Children's Act.

Criminal record check

Slightly less than half (47%) of the police dockets contained evidence that a criminal record check had been performed. Of the records available only 17% of perpetrators had previous convictions, including one for rape and three for assault.

Arrest

We found that the perpetrator was identified in 91% (119) of cases reported to the police. However, police arrested the perpetrator in only 75% of these cases. In a total of 27 instances (23%), the perpetrator was not arrested; further analyses show that the

CASE 5: POSSIBLE INTIMIDATION OF CHILD AND FAMILY MEMBERS

A 13-year-old girl reported that she was raped on her way home, and she identified the perpetrator. The J88 confirms that penetration occurred: the child had semen in her vagina and "sores suggestive of a sexually transmitted disease." The 32-year-old suspect had a prior conviction for assault but he told the police that the child was lying. Later the child recanted, telling the police that the man was her boyfriend and that she lied about the rape as an excuse for running away from home, and that she had sex with someone else. The mother supported this second version of events; hence, the prosecutor withdrew the case. DNA samples from the child were sent to the forensic science laboratory but there is no record of the findings in the docket. Nor is there evidence of blood having been taken from the suspect or anyone else. (C22)

victim and the perpetrator were related and lived in the same household in nine of these instances. Whether or not the victim and perpetrator were co-resident appears to be related to the chances of the perpetrator being detained or released on bail. In more than half of cases (58%), where information was available,[iii] the perpetrator was released with a warning, granted bail, or diverted in terms of the Child Justice Act, but the perpetrator was less likely to be released (21%) if he or she lived with the victim. In several cases the perpetrator disappeared after being released on bail. We also saw evidence in the files that suggested the possibility that children, and their families, were being intimidated. Whilst there was no record of police informing them of their rights or offering protection, see **Case 5**.

Removal of the perpetrator

One option to protect children from potential harm is that the police remove the perpetrator from the household. This measure can be used if the perpetrator is not arrested or is released on bail. This requires the police to issue a written notice to the offender (Form 24), following which a court will decide whether he or she can return to the child's home or will issue an order prohibiting contact between the child and perpetrator. The court's decision will be based on whether or not the person poses a risk to the child's physical or psychological well-being. We found no Form 24s in the files.

Removal of the child

Typically, the police would call social services when it was necessary for a child to be removed and this was one area in which there was inter-sectoral collaboration. The police did a total of six emergency removals, but we were unable to determine whether these were in collaboration with social services as this level of detail was not available from police records.

In 58% of cases the perpetrator was released with a warning, granted bail or diverted in terms of the Child Justice Act

iii There was information in only 23 dockets out of the 89 cases in which the perpetrator was arrested.

CASE 6: CONVICTION FOR A LESSER OFFENCE

A 16-year-old was drinking at a tavern when a man threatened her with a gun, then dragged her to his home and raped her. The semen was positively identified – the forensic report states that the odds of a match are one in a trillion. At trial it was revealed that there was a delay in getting the accused's blood sample to the forensic science laboratory; instead of ordering the accused to give another sample the charge was dismissed. The perpetrator was found guilty of possession of a dangerous weapon and fined R600 or six months' imprisonment wholly suspended for four years. (C29)

Outcomes

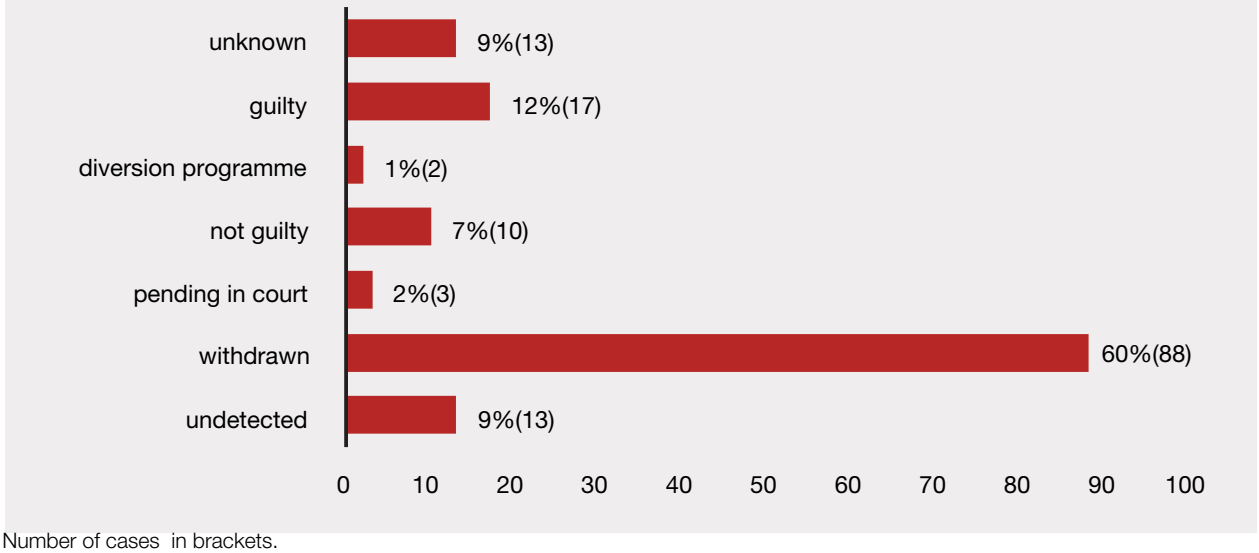
Where there was a police investigation, 9% (n=13) of cases were undetected and 60% (n=88) of such cases were withdrawn – of these 80% (n=70) were withdrawn by the prosecutors. There was no information on the outcome in 9% (n=13) of cases, whilst 22% (n=32) progressed to court. **Figure 8** shows the outcome of the police investigations.

However, the crime statistics don't tell the full story. Firstly, it is important to note that three-quarters (74%) of cases reported to social services were not referred to the police for investigation, these constituted 29% of all the cases in the sample. Secondly, the outcomes can mask deep injustices – **Case 6** illustrates that the perpetrator can be found guilty of a lesser crime.

Length of time taken to close police cases

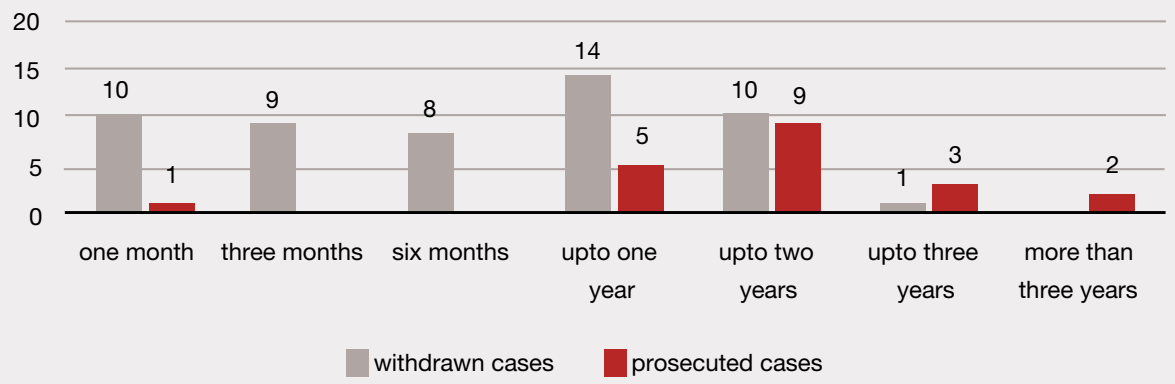
In 40% (52) of cases the date of report or closure was not recorded in or on the docket, so it was not possible to determine how long the case was open. Of the cases where data were available, over two-thirds (67%) – equivalent to 53 cases – were closed within the first year; however, most of these (77%) were cases that were withdrawn. It took much longer to conclude cases when the matter went to court or the child offender was diverted. Of those cases over a quarter (25%) took more

FIGURE 8: OUTCOME OF CASES INVESTIGATED BY POLICE



Number of cases in brackets.

FIGURE 9: LENGTH OF TIME TAKEN TO WITHDRAW OR PROSECUTE CASE



than two years to complete and 10% took more than three years to finalise – these delays increase chance of retraumatisation, as everytime the case is postponed the child has to appear in court and relive the experience. **Figure 9** plots the number of cases that were withdrawn or proceeded to court within certain time frames. No cases were prosecuted within the three and six months categories, and there were no withdrawn cases in the more than three years category.

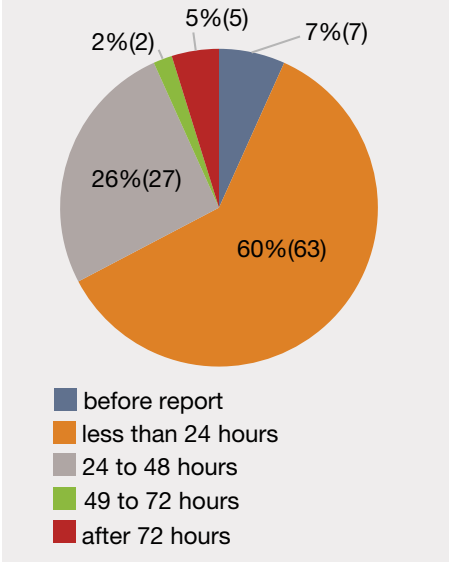
Referral to support services

Health services

The police took 88% of victims (137) to a health professional for a medical examination; of these 135 children were the victims of sexual abuse. **Figure 10** shows that in 7% of cases, children reported directly to the health facility before reporting to the police, that the police referred 61% of cases for medical examination on the day of the report, and that in total 95% of children were examined within 72 hours. However, that still leaves 5% that were referred after 72 hours, meaning that the window for PEP administration and the collection of DNA evidence had closed.

The details of the medical examination should be captured on a J88 form and kept in the police docket. Normally the police keep the forms at the station and bring them along to the medical examination; in one site a police officer was stationed at the Thuthuzela Care Centre (TCC) to administer the J88s.

FIGURE 10: TIME BETWEEN THE REPORT AND THE MEDICAL EXAMINATION FOR SEXUAL ABUSE REPORTED TO THE POLICE



Number of cases in brackets

> *There is a member of FCS on duty at the TCC during office hours, who keeps the register and administers the J88s so there is a record of the chain of evidence. He or she is replaced by a nurse outside office hours. The register details who is signing for the J88 and the rape kits.* (Police officer, focus group 3)

In most of these cases the J88 was indexed in the investigation diary but the actual J88s or copies were available in only 58% of dockets. We assume that the forms were removed from the dockets during the court proceedings but further research is required to establish what is happening to the documents. The J88 is vital evidence that should be kept in the event that a case is reopened. A minority (13%) of dockets contained copies of the SAPS 308, the consent by the guardian to the forensic examination, and it was impossible to tell from most of the dockets if the child had consented to the medical examination. Medical examinations frequently reveal the presence of genital warts and other STIs which are suggestive of chronic abuse but no-one questions the child about a history of abuse, see **Case 5** on page 28.

The police are responsible for informing the victim, or his or her caregiver, about HIV testing and PEP. Less than a quarter of the dockets contained information or evidence about whether or not this had been done. Nine (6%) victims did not receive information, whilst 24 (17%) did receive information on PEP and HIV testing. There was no record on this matter for 77% of victims. One FCS unit asked victims to sign a form acknowledging that they had been informed about PEP and HIV testing. This allows for the police commander to immediately identify if the police officer has performed this critical duty and prompt him or her to do so if it has not been done by the time of the 24-hour inspection.

Referral to social services

Few cases were referred to social services – see pages 47 to 52 on inter-sectoral collaboration – and these consequently received no therapeutic services – see page 43 on support services. Police told us that they experienced poor service from DSD:

> *We contacted them on numerous occasions and they changed the head of department so many times that they don't know who is doing what work. And if you ask them for assistance they will send you from pillar to post without giving you the necessary assistance.* (Police officer, focus group 3)

One FCS unit asked victims to sign a form acknowl-edging that they had been informed about PEP and HIV testing

CASE 7: CHILDREN LOST OR FORGOTTEN

A 10-year-old child claimed her father raped her. A previous complaint a year earlier was withdrawn in court following the death of her mother two weeks prior to this incident. The police contacted social services and the child was placed in temporary safe care, but the social worker couldn't remember where she placed the child when the police wanted to take her to court. "Met Ms X (social worker dealing with this case), she forgot her diary at home – where she wrote the address of where the victim has been placed." Despite repeated requests from the police it took a year before the social worker filed her assessment report. (C28)

One unit had referred 10 children to social services. The police dockets contained the social work case numbers and/or the names of social workers to whom the cases had been referred, but the social workers could not find a single case file or even identify the children on their intake register; furthermore, they claimed that they had not received any child abuse cases during the reporting period, whilst police had over 30 cases on record. Even when they could remember the cases there were instances when social workers couldn't remember where they left the children – **Case 7** is just one example. This lack of care contributes to the distrust of social workers.

Commanders do keep contact numbers for local service providers but even in the urban centres there was a lack of therapeutic services for children: *"Families are referred to Lifeline and a women's support centre. There are no child-specific centres; we can only refer to Childline but there is no centre in the area."* (Police officer, focus group 2)

Avoiding secondary victimisation

The police reacted swiftly to reports, and specially trained officers or forensic social workers took statements from victims. However, the dockets reveal a lack of belief in victims at multiple levels and negative attitudes towards mental health. The dockets referred to children with mental illnesses as "retarded","disturbed" or "slow" and police officers seem unaware and unsympathetic towards their needs.

Lack of belief in children

There seems to be a lack of belief in children by family and professionals alike. Parents and caregivers ignored disclosures, *"The concerned child claims that she told the grandmother and that the grandmother said she should not talk nor say such things"* (C3); refute the claims made by children and withdraw cases in the face of medical evidence, *"J88 shows 4-year-old has been raped, she claims that it was her 15-year-old cousin. Child is assessed by the FSW to be capable of testifying. The case is withdrawn, no reason is given, the cousin is released with a warning"*(C26); or even react violently, *"The investigation diary notes that the child was afraid to tell her mother because her mother would assault her"* (C22).

The complexity associated with disclosure is not well understood in South Africa but research reveals an interconnection with caregiver–child relationship.[59] Disclosure is a process and should not be viewed as "once-off telling" that the abuse had occurred – i.e. children carefully considered who they will tell and how this will happen rather than just telling anyone. We found that a major barrier to children's disclosure to a caregiver is grounded in fear of not being believed or that they will be punished and held responsible for the sexual assault.[60] This appears to be related to the widespread use of harsh and punitive parenting practices influencing the caregiver–child relationship.[61]

Physical abuse was often regarded as 'justifiable' punishment under the guise of discipline, even when evidence suggested a pattern of violence

CASE 8: FAMILY MEMBERS DENY ABUSE

A 10-year-old orphan was raped by one of her uncles, who lived with her. She told her granny the same day, but the family did nothing. Over time, the child's teacher noticed her grades declining and that she was sleeping in class. The teacher reported the matter to the principal, who contacted the social services and SAPS. The medical examination revealed "the child has healed tears on the vestibular floor and the hymen is absent". When social workers informed the aunt about the rape, she said she heard about it but was not sure if it was true. Notes in the docket state that neighbours reported rumours that abuse started two years earlier but refused to give statements as they "fear for their lives". The grandmother denied that she was told anything about the rape; hence, the prosecutor withdrew the case. (C39)

Prosecutors invoked the cautionary rule or do not have faith in children's capacity, for example in one case a six-year-old points out a teacher as the person who raped her, but the prosecutor concludes that the "state failed to prove identity" (C55). They routinely dismiss cases when adults offer contradictory opinions. In **Case 8** the medical examination provides evidence that the child has had sex and, as the child is 10-years-old, she cannot consent to intercourse and therefore it is a matter of fact that she has been raped. There is no assessment of the child's capacity to testify, yet the prosecutor dismisses her testimony because granny says the child is lying.

This lack of belief also extends to young perpetrators, see **Case 9**; in another case the prosecutor withdrew the case ignoring the confession of a 13-year-old and the recommendation of a psychologist that he *"spend a period of correctional rehabilitation in a prison facility for young offenders"* (C15).

Other offences not investigated or prosecuted

In many cases charges of rape were dropped due to insufficient evidence, in the same cases there was clear evidence that an offence of consensual

CASE 9: CONFESSION IGNORED

A 14-year-old-boy reported a case of rape to SAPS – he claimed that the woman looking after him and his three-year-old sister was forcing them to have sex. The three-year-old confirmed that the boy had sexually abused her; she also said that he put something inside that looked like a knobkerrie. The mother took the three-year-old for a medical examination on the same day. The J88 report shows evidence of penetration, bruising, congestion, and that it was a fresh injury. The 14-year-old suspect was arrested but released with a warning. However, the case was never placed on the roll because the prosecutor said "child was unable to relate the story". The two children lived in the same household and despite the fact that the boy admitted that he had sex with the child no measures were put in place to secure her safety, or rehabilitate the boy. Neither of them were offered therapeutic support. (C49)

CASE 10: HISTORIC ABUSE IGNORED

A father reported that his five-year-old son had been raped. A 13-year-old confessed to a psychologist that he had committed the offence. He also told the psychologist that he had been sodomised by another male when he was seven years old – the sodomy allegations were not investigated. The prosecutor withdrew the case. (C15)

sexual penetration with a child[iv] had occurred but this offence was not recognised or prosecuted, see **Case 5** on page 28. Furthermore, the police often overlooked other crimes that were revealed during the course of the investigation, for example, historic abuse was routinely ignored.

Consensual sexual penetration with a child

We reviewed multiple cases where the medical examination confirmed intercourse with a child who was legally incapable of consenting to sex, hence, the crime of consensual sexual penetration with a child has been committed even if rape could not be proven. In these cases the children identified the perpetrators, but the prosecutors withdrew the cases on the grounds of insufficient evidence without a professional assessment of the child's capacity to testify. Even when assessments were conducted they were often problematic: in one site we found multiple social work assessment reports in the police files – often the same ambiguous statements were copied and pasted in every report, suggesting that the assessments were superficial or that the assessor did not have the skill to assess children: "The child will not be able to tell what occurred to her as she is still young."(C21)

The social work reports often were full of contradictory statements. In one report the social worker wrote: "The class teacher reported that the child is sometimes aggressive towards other learners" followed by "The child concerned is reported to be a well behaved child who adheres to disciplinary measures at home and school." (C18)

Historic abuse

We routinely found reports of historic abuse in the statements from victims, child perpetrators and caregivers, but there was no evidence of any inquiry into the historic abuse, see **Case 10,** and **Case 21** on page 50.

Physical abuse and domestic violence

Physical abuse cases were not taken seriously by the police, prosecutors and social workers and were dismissed even when the child had sustained injuries – see **Case 3** on page 24. Frequently, domestic violence and physical abuse were considered acceptable discipline. Nevertheless, research shows that children who witness domestic violence are at increased risk for later victimisation in girls and perpetration of intimate partner violence and other forms of interpersonal violence for boys.[62] It is critical that such cases not only be taken seriously and

iv Consensual sexual penetration with a child is an offence when an adult has consensual penetrative sex with a child below the age of 16; or if a 16- or 17-year-old has consensual sex with a child who is more than two years younger than him or her. Rape occurs when there is no consent and often the case comes down to the testimony of the perpetrator versus the victim. To prove an offence all that is required is evidence that penetrative sex took place between the perpetrator and the victim.

CASE 11: CHILDREN'S NEEDS NOT RECOGNISED

A nine-year-old child was living with her sister and two other siblings; her mother was deceased and her father was unknown. The child did not come home one night and was not found when her sister searched, and this was of great concern because child was on antiretrovirals. The following morning a neighbour found the child sleeping in a dog kennel. The girl claimed that she was raped by a neighbour; however, he was not arrested or questioned. The case was withdrawn by the prosecutor due to contradictions in the child's statement. This family appeared to be struggling and that the child could have been in need of care and protection on a number of grounds. There is, however, no record of the case or the family at the Department of Social Development. (C25)

appropriately managed in order to reduce the long-term effect of exposure to this form of abuse. Evidence in the witness statements or professional assessments often revealed children to be in need of care and protection on grounds other than the charge, but the other grounds were not investigated, see **Case 11.**

Although, most of the detective work was concluded swiftly, police investigations regularly took longer than necessary due to delays in obtaining social work reports, and in some instances led to families withdrawing the charges, see **Case 12**. Consultations with specialists took even longer: one child with a mental disability waited four years for an assessment of her capacity. Such delays result in secondary victimisation as an immediate and appropriate response is crucial for post-rape recovery. It is important that any response must meet the psychological and social needs of the child.[63]

CASE 12: FATHER WITHDRAWS CASE DUE TO LONG DELAYS

A five-year-old was raped by her neighbour and evidence of this was provided in the J88 and by the statement of the child. The police repeatedly asked social services to assess the capacity of the child to testify. A year later the father withdrew the case, complaining that there was no progress and he did not want the child to undergo an assessment that could possibly re-traumatise her. (C30)

South Africa has committed to providing a child protection system that supports victims of child abuse.

Social work investigation

The role of the social worker is to ensure that the child is safe, investigate the report, and support the child and family to recover. In the first instance the social worker assesses the holistic situation of the child, and where necessary refers the child to medical services, and the police. If the child is in immediate danger of further harm the social worker may remove the child to temporary safe care – the court must review this decision. Once assured that the child is safe, the social worker investigates the abuse by conducting home visits, interviewing the child, family members and other support people such as neighbours and teachers. At the end of the investigation the social worker should write a report that includes a plan of what services and support the child and family need. If the child is in need of care and protection she must open a children's court inquiry and recommend a specific alternative care placement or prevention and early intervention programme. If the court places the child in alternative care the social worker supervises the placement and works to reunify the child with his or her family. Throughout the social worker should counsel the child. All of these steps are subject to specific timeframes (See appendix D).

Quality of the case files and administrative data, and record-keeping

Intake and child protection registers

All of the designated child protection organisations, even in different provinces, used the same procedure for recording cases, and traced registers immediately. Whereas, within DSD, there was no consistency in how cases were recorded and tracked. Different services offices within the same district used different methods. One office had not kept a register of any kind for intake during the study period and the child protection register only covered cases where children had been found in need of care and protection by the court – this is highly problematic as very few child protection cases result in a children's court inquiry, and if the other cases are not recorded anywhere it is not possible to track what happens to these children. One office claimed that the register had gone missing when their administrator died and no-one had been able to trace it since. Another office had lost all of their registers and files during a renovation. None had a functioning electronic case management system during the period under review.

Accuracy of the registers

One office identified 30 child abuse cases on their intake register, of which they were able to trace 13. They were unable to trace 17 cases (57%). The social work manager identified four other cases involving children that were not on the intake register. Three cases had case numbers that did not correspond with the case numbers on the intake register, calling the accuracy of the register into question.

Inability to trace files

In total we identified 156 unique cases of abuse and neglect reported to social services; however, across all the DSD

CASE 13: ADDRESSES CAPTURED INCORRECTLY

In March 2012, a neighbour reported that a 10-year-old boy was being physically abused. Six days after the report the social worker attempted to do a home visit but cannot locate the house. From the notes it appears that she went to the wrong part of the district. She noted that she will contact the neighbour and ask him to help her find the house. The next entry in the file is dated July 2015 – it states that a home visit was conducted but the client was unknown and the contact numbers on the file were not working. Hence the file was submitted for closure. (C84)

offices, only 45% of cases identified on the registers could be traced. The DCPOs were much better at maintaining their files and traced 88% of identified cases. In addition to the cases on the register, we gave social service offices details of specific cases referred by police, in one instance the police claimed to have referred 10 cases to DSD and one to a designated child protection organisation. The police dockets contained the names of the social workers to whom nine cases had been referred to, and contained social work case numbers in two instances. The DSD service centre traced none of these cases, nor did the provincial department have any trace of the children in their systems.

Quality of the files

Documentation and detailed report writing are important functions in social work practice. Files should contain case records, process notes that detail every encounter, progress reports, permanency plans, supervision reports and official reports to court where required. Social workers rarely used the prescribed Children's Act forms: 13% of files contained a Form 22, there were no Form 23s or Form 24s. Form 36 was used in only 52% of cases where children were removed to temporary safe care, and only 8% of cases contained a Form 38 – the standard social worker report. At least one essential element of information was missing in 80% of social work files – we classified an item of information as essential if it was necessary to perform one of the social work functions. However, just because the information was captured did not mean that it was correct. For example, a social worker can only locate the child if accurate contact details are captured in the files, so although 98% of files contained contact information captured during the initial report, it was often incorrect, or by the time social workers got round to doing a home visit the child or family were untraceable – see **Case 13**.

Social workers have a duty to ensure the safety of all the children in the household who may be at risk. The regulations state that a separate Form 22 should be completed for every child, including details of siblings. Some of the assessments did relate to the whole family but due to the poor record-keeping it was not possible to tell whether or not the other children were assessed – 16% of cases contained no information on whether or not there were other children in the household. A further 10% of the files indicated that there were other children in the household, but there were no details on these children. Some of these children may have been the only child in the household, but it is improbable that 26% of the children had no siblings –

CASE 14: OUTCOMES NOT RECORDED – LOCATION AND STATUS OF CHILD UNKNOWN

In early January, a 12-year-old boy child was admitted to hospital with physical injuries and a history of being physically abused by his brother. He was living with a caregiver who took him in as a toddler after his parents died. The abuse took place when the caregiver went to Johannesburg for cancer treatment and left him with her son. The boy refused to return home because of the abuse. A Department of Health (DoH) social worker* reported that she conducted a home visit on 23 January but failed to reconcile the boy and the family.

On 13 March the DoH social worker referred the case to the DSD. There are no forms in the file and there is only one process note that was completed on the day of the referral. The note details interviews with other role-players, namely the DoH social worker. After that, no notes were made by the DSD. There is no record of an assessment, or removal to temporary safe care, and no details of support services offered to the child and or the family. No details of any kind of investigation, no children's court inquiry, and nothing to indicate where the child was. (C73)

* DoH social workers are not designated to do child protection investigations. In an ideal scenario, the two departments would work in tandem.

see Appendix B. Social workers should take a detailed family history and map out the members of the household. If there are no other children in the household, one would expect a note to say this is the only child.

A simple checklist of the types of information captured does not give a true reflection of the quality of the information in the files. Files should contain enough detail to ensure that the case can be handed over if the child and family move to anther area or if a social worker resigns and the file is transferred to another social worker in the same unit. Very few of the files gave a clear picture of what had happened to the child and family as process notes lacked detail, for example, if a social worker is counselling a child the notes should detail the type of therapy used, and the social worker's observations on the child's progress. Some social workers did not keep accurate records of the status of the case or details of where he or she had placed the child. In other cases it was impossible to tell the outcome of the case due to the lack of detail in the file, see **Case 14**.

Assessment

Few designated social workers used standardised assessment forms. Instead, a brief entry in the process notes typically indicated that the social worker had visited the family or interviewed the child. Using this loose definition, social workers assessed 80% of victims, 17% were not assessed (i.e. the social worker had no contact with the child), and 3% of the files contained no information. The limited information in the files makes it hard to judge the

One FCS unit referred 10 children to social services, but the social workers could not find a single case file or even identify the children on their intake register

CASE 15: POOR DOCUMENTATION

A two-year-old was sexually abused but the file contained no information on what happened. The case was reported to the police on 23 Jan and to the DSD on 01 Feb. The case was on the list supplied to the researchers by the FCS unit, but it was still open pending trial. There is no information in the social work file about the abuse, although there is an assessment report that states the child did not have the capacity to testify, and details of a prevention plan and commitments to monitor the child's progress. There are no details of monitoring visits in the file. (C74)

quality of these assessments; however, the scarcity of information suggests that the assessments are one dimensional and do not cover the holistic situation of the child and his or her environment, and it also makes it difficult to interpret the outcomes with a degree of certainty. According to what was recorded in the notes or on the assessment form, social workers determined over half (59%) of the children had been abused or neglected. Sometimes the assessment was limited to the child's capacity to testify and there was no documentation relating to the risk and protective factors in the home, see **Case 15**.

Although not conclusive, evidence suggests that there is a link between child abuse and the mental health of the caregiver, especially if the latter is left untreated.[64] Social workers need to consider the possibility that children are at an increased risk if living with a caregiver with a mental illness. Although the mental health of the caregiver was not explicitly explored, it was highlighted in several of the case summaries. Where social workers have identified this risk they should ensure that the caregiver is receiving treatment and has the capacity to care for the child. **Case 16** provides an example where there was no assessment of the caregiver's capacity when considering whether or not to return children to her care.

Securing the safety of the child and other children in the household

Although 85% of files contained information about the perpetrator, social workers did not follow up with police to find out what happened to the perpetrator nor did they appear to be assessing if he or she poses

CASE 16: CAPACITY OF CAREGIVER NOT ASSESSED

A 14-year-old girl was raped three times by her uncle. She and her siblings were removed to temporary safe care. The court order states that the reason for removing the siblings is that the mother is "mentally incapable of caring for the children". In May 2013, the biological mother signed a sworn affidavit claiming that she wanted her children back. There is no evidence of a home visit to assess the mother's capacity to care for her children. At the time of the review (November 2015) it was not possible to determine from the file whether or not the children were still in the place of safety or if they have been returned to the care of their mother. The case does not appear to be closed, while there is no evidence in this file that the case was reviewed or that an application was made to the court to extend the order. (C3)

CASE 17: CHILD HELD RESPONSIBLE FOR HER OWN SAFETY

A 16-year-old girl was raped by her uncle multiple times while staying with him at his home between 2003 and 2007. No protection plan was developed for the child; she was simply told by the social worker not to visit the suspect and to go live permanently with one of her other uncles. (C64)

a continuing risk. Where a risk was identified some victims were told to "go live somewhere else" or to avoid the perpetrators, see **Case 17**.

Just over a third (35%) of assessments were performed within the first 24 hours, as required; this rose to 44%% if the timeframe was extended to the first week. However, 9% of assessments were conducted more than a year after the cases were reported. Failure to complete the assessment timeously leaves children vulnerable to further abuse.

Removal to temporary safe care

Out of the 213 cases that were reviewed, removals occurred in 25 of them. In total, the number of children who were removed to temporary safe care was 27, representing 11% of all victims. However, poor record-keeping meant that it was not possible to determine what happened to a fifth (20%) of the children. Social workers handled just over a third of cases (38%), but conducted three-quarters (78%) of removals. Social workers confirmed that 60 children were victims of abuse, but removed only 21 (35%) of them to temporary safe care. Social workers approached the court for an order before removing the child just over half of the time (52%).

Poor record-keeping meant that it was not possible to determine what happened to one in five children

Once again, poor-record keeping meant that it was not possible to determine accurately the exact date when a child was removed: there were dates on the records in 14 cases (56%) and according to the process notes children in four cases were removed prior to the incident being reported: two were removed more than six months prior to reporting, while another two were removed three days prior to a report being made. A child cannot be removed to temporary safe care before the abuse has been reported. It is possible that these cases were referred from another agency and the dates of referrals were incorrectly given as the dates of the reports. Either way, these are more signs of poor record-keeping.

In only three cases removals were made on the same day as the reports, i.e. in what could be classified as an emergency. As the numbers are so small it is impossible to draw any conclusions but further research is required to determine if social workers and police officers are conducting emergency removals when in fact there may be time to get a court order.

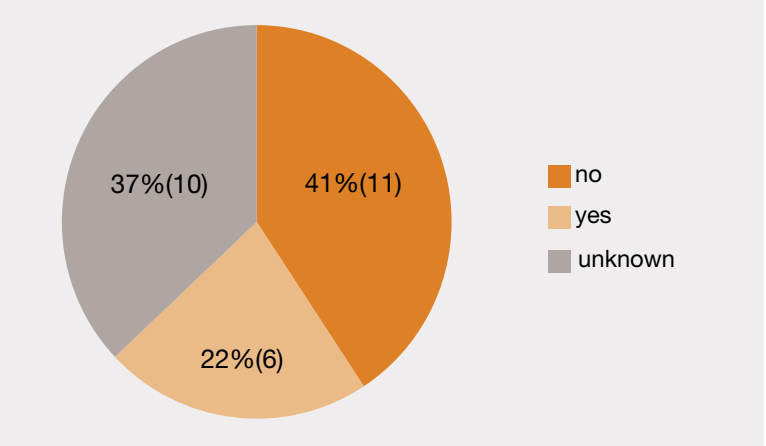
There were 11 official forms authorising the removal of children to temporary safe care (Form 36) in the social work files and only one in the police dockets. SAPS National Instruction 03/2010 refers to the use of a SAPS 581(a) but police officials mentioned the use of Form 36 because they try to work with social workers when removing children. Except for the one instance, neither of these forms were found in the police files.

The children's court should review every removal to temporary safe care even if the removal was ordered by the court. Of the 27 children removed to temporary safe care only six (22%) were reviewed by the children's court, for 10

children (37%) there was no information in the files, but 11 removals (41%) were not reviewed by the children's court, see **Figure 11**.

Although, it is the responsibility of the social worker to inform the parents of the child of the review hearing, and to prepare and bring the child to court, the information in the files was inadequate to determine if these procedures were being followed. Only two of the reviews were conducted within the required timeframe, another two were conducted in less than 10 days, while two took more than six weeks.

FIGURE 11: REMOVALS TO TEMPORARY SAFE CARE REVIEWED BY THE CHILDREN'S COURT



Number of victims in brackets.

Investigation

An investigation was conducted in 80% of cases, 16% were not investigated because the abuse was unsubstantiated or the social worker could not trace the family, and it was impossible to determine if an investigation had been conducted due to lack of information in the files in 4% of cases. The quality of investigations was generally very poor: key tools were not used to assess levels of trauma; there were cases where social workers conducted no home visits and did not interview key role-players, such as other family members and teachers; and in some cases where abuse was substantiated no was action taken, see **Case 18**. In our assessment large numbers of children remained at risk of continued abuse.

The majority (67%) of the investigations were completed within three months, but 19% took more than a year to complete. This was not always the fault of the social worker – in many instances cases were delayed for months or even years while waiting for Home Affairs to provide identity documents or birth certificates, and in some instances the courts refused to accept affidavits from social workers or health professionals in lieu of birth certificates.

Outcome of the social work investigation

The social work report

Whenever a child is removed to temporary safe care, or a social worker conducts an investigation, the social worker must write a report on the measures taken to support the child and family or recommend that the child be found in need of care and protection and bring the child before the court. Investigations were conducted in

CASE 18: FAILURE TO ACT

A four-year-old was sexually abused and the case was reported to SAPS ten weeks earlier. Social services conducted an assessment of the child two weeks after they received the report, i.e. three months after the abuse. This is the last entry in the file. There were no home visits. There is no record of any support services being offered to the child and family. There is no protection plan or other recommendations on the file. (C66)

80% of cases and abuse or neglect were confirmed in 61% of cases. Yet, only 8% of all files contained a report. Most children remained in the care of their parents (58%) or another family member (25%), and very few were placed in alternative care (11%).

Therapeutic interventions for the child

The responses to abuse were often inappropriate and based on outdated practices, for example reports mentioned that the child was *"taught about abuse"* (C3) and how to keep safe: *"The report states that the boy was taught about his body and his responsibility towards it"* (C75). These approaches are not effective and suggest that social workers are not keeping up to date with developments in theory and practice. Some children were referred for counselling or therapeutic services but there were no records of attendance, no reports on the child's progress or response to the treatment. Worse still, most children (52%) received no therapeutic support.

Most trauma experts stress the importance of immediate intervention following a traumatic event to prevent long-term, chronic pathology.[65] Limited availability of therapeutic services in South Africa and findings from previous research indicate that very few children access therapeutic services.[66] When services are provided, the focus is mainly on debriefing as a form of trauma counselling, with limited effect.[67] The impact of trauma is long-lasting and post-traumatic stress disorder (PTSD) is a common psychological outcome due to the fear response among children.[68] Treatment for children with PTSD should be multipronged by targeting the child, caregiver and their support structure. Nevertheless, for any therapy to be effective the child needs to be safe.

Support for the family – prevention and early intervention services

The purpose of prevention and early intervention is to strengthen the capacity of the family to care for the child. Sometimes it is not necessary to remove a child to prevent further abuse, for example a parent could participate in a parenting programme to learn about positive discipline to avoid further physical abuse. If a child is found in need of care and protection it is essential to provide prevention and early intervention services, even if the child is removed to temporary safe care or alternative care and prepare for reunification. Without these services the abuse of the child or his or her siblings may continue, see **Case 19**.

CASE 19: FAILURE TO PROVIDE PREVENTION AND EARLY INTERVENTION LEADS TO ABUSE OF SIBLING

In March 2012 a woman reported that her neighbour consumes alcohol excessively and as a result her three children are suffering from neglect. The natural father walked out on the family, leaving mum to care for the children alone. The designated social worker conducted an assessment and a week later all three children were removed to temporary safe care by order of the children's court. Mum showed little interest in the children and did not visit them. There is no record of prevention and early intervention services (no counselling or parenting programme) or any other support (substance abuse programme) given to mum to prepare for reunification. In June 2012, the mother gave birth to a fourth child. In February the following year he is admitted to hospital with two broken legs and was removed from the mother's care. The case was not reported to SAPS and there were no criminal proceedings against the mother.

TABLE 9: CHILDREN'S COURT INQUIRIES HELD FOLLOWING REMOVAL TO TEMPORARY SAFE CARE

Children's court inquiry	Frequency	Percentage
No inquiry (still in temporary safe care)	2	11%
Children's court inquiry held	10	53%
No information in the file	7	37%
Total	19	100%

Children's court inquiry

Very few of the cases ever reached the children's court: there were only 14 children's court inquiries in total. Of most concern was that it appears that many of the cases of children who were removed to temporary safety did not go through a children's court inquiry – 37% of these case files did not contain any information about a children's court inquiry, and in two cases the children were still in temporary safe care, see **Table 9**. This a strong indication that social workers are not bringing children before the children's court despite a duty to do so.

Participation in court proceedings

It is the responsibility of the clerk of the children's court to notify the parent of the hearing, using a Form 37. Without access to the court files it is not possible to verify if they were notified; however, the social work records clearly indicated that parents were not notified in two cases. The child has a right to participate in the inquiry if he or she has the capacity and chooses to do so. The files contained no data about participation *per se* but close examination of the process notes and court orders suggests that more than a third of the children (38%) did not attend the hearing.

Only four children's court inquiries were held within the recommended 90-day deadline. That is equivalent to a third (33%) of all inquiries, and 42% of inquiries were held more than a year after the abuse was reported. Given that there were adjournments in only two cases out of the 14 that went through an inquiry, the delays were due either to social workers not following protocol or backlogs in the courts, although none of the social workers complained of delays in getting court dates. In one site the court dedicates three mornings a week to hearing children's court inquiries or orders for temporary safe care. Delays in closing cases arose from the court's strict application of requirements for documentation and the inability of the Department of Home Affairs to respond to requests. In one case the social worker completed the investigation in November 2013, and the case was scheduled for an adoption hearing but postponed multiple times due to the lack of a birth certificate for the child and other administrative documents. The hearing still had not taken place two years later.

Outcome of the children's court inquiry

The court should alert the national Director General of Social Development when a child is found in need of care and protection so that the child's details can be added to Part A of the NCPR. The purpose of Part A of the NCPR is to keep a record of what happened in individual cases and to map trends for

TABLE 10: ALTERNATIVE CARE PLACEMENTS BY THE COURT

Placement type	Frequency	Percentage
Foster parent	5	42%
Child and youth care centre	7	58%
Total	12	100%

planning and budgetary purposes. We found no evidence in any such cases that the prescribed Form 25 was ever completed.

The court is also not using its powers to place people that pose a risk to children on the NCPR or make a ruling that a person is unsuitable to work with children even if criminal charges were not brought against a perpetrator. This should be done in cases where parents have abused or neglected their children (but it may not be in the child's best interest to prosecute), or where a perpetrator cannot be traced to stand trial in a criminal case. In 12 of the 14 (86%) children's court inquiries the court found the children in need of care and protection; in the other two cases there was no information in the files about the outcome of the inquiry.

The fact that the court found the children in need of care and protection in virtually all these cases may suggest that social workers are only taking the worst cases to court. The Children's Act states that, if the social worker finds the child in need of care and protection, the child must be brought before the court. However, if the social worker's investigation concludes that the child is not in need of care and protection, the social worker can submit for the court's review a report that details what prevention and early intervention services or other measures have been offered to the family. The courts placed all of the children found in need of care and protection in alternative care, and mostly (58%) in an institution – see **Table 10**. This suggests that courts may not be considering the full range of options and orders available to them, such as ordering the parent or caregiver to participate in a parenting, treatment or rehabilitation programme.

In five of the 12 (42%) cases where children were placed in alternative care they were subsequently reunified with family members, whilst in seven cases (58%) the children were still in alternative care almost four years after the report of abuse.

52% of children received no therapeutic support

Inter-sectoral collaboration

The Children's Act is based on a cooperative implementation model and explicitly requires government to adopt "a comprehensive, inter-sectoral strategy aimed at securing a properly resourced and co-ordinated national child protection system". Section 110 of the Children's Act obliges social workers and police officers to cross-refer cases. A social worker must report a possible offence to the police – physical abuse, neglect and sexual abuse are all offences. Likewise, the police must report cases of alleged child abuse or neglect to the provincial DSD for investigation by a social worker within 24 hours of receiving the report.

Inter-agency referrals

In over two-thirds (71%) of cases the files showed no evidence that cases were referred from social services to the police or vice versa, although there was a marked difference between the police – who claimed that 35% of cases had been referred – and social services, who claimed that only 19% of cases had been referred to the the other agency, see **Table 11**.

Files often would contain a note or some other hint that a case had been referred but contained no supporting evidence in the form of case numbers or contact details for the other agency: *"According to the process notes the case was referred to SAPS immediately but no police case number or any details of the investigation were documented". (C69)*

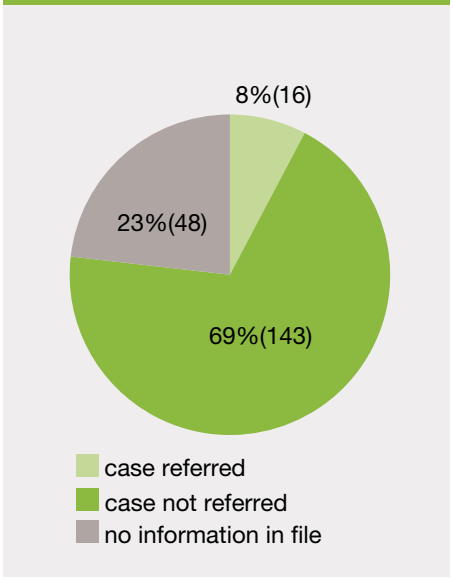
Thus, it was important to verify if the case had actually been referred. Using the identifying information collected during the case reviews the principal investigator verified if the receiving agency had a record of the case. For example, if a record reviewed at social services contained any information that suggested the social worker had reported the matter to the police or that the case had been referred from the police in the first instance, we asked the police commander to

TABLE 11: CASES WHERE POLICE OR SOCIAL SERVICES CLAIM REFERRAL

	Social Services	FCS	TOTAL
Total number of cases	81	126	207
Case not referred/ no information in file	81%	65%	71%
Agency claims referral	19%	35%	29%

check CASNET (the police database) for cases involving that child. Thus we verified if the case had actually been referred. The objective was to locate the corresponding file and review it. In total there were 59 cases where an agency claimed to have referred it to the other. In 31% of these cases there was not enough identifying information about the victim in the original file to reliably verify whether or not the case had been referred. Only 27% of the cases could be traced by the other agency, and worryingly the other agency stated definitely that there was no record of the case on their system in 42% of instances of claimed referral. We identified matching records in the police and social services in 16 cases, but were able to trace the corresponding files for only two victims out of the 258 included in the study. Overall we verified inter-sectoral collaboration in a mere 8% of all cases of reported abuse, see **Figure 12**. Lack of referral results in victims not receiving therapeutic support and unrehabilitated perpetrators continuing to be a threat to children.

FIGURE 12: PROPORTION OF ALL CASES VERIFIABLY REFERRED



Number of cases in brackets

Case 20 shows that children remain at risk after reporting. Given that the abuse was chronic in this case, the abuser must have had regular access to the baby and was most likely a family member, neighbour or close friend. There was no apparent follow-up with

CASE 20: BABY RAPE NOT REPORTED TO SOCIAL SERVICES FOR CHILD PROTECTION INVESTIGATION

Whilst bathing her six-month-old baby, a young mother (18-year-old) noticed that something was wrong, but she did not suspect abuse at first. A neighbour stated, "I was called by the mother to come and see if the child's vagina was attacked by evil spirits as it was wide open." Four days later the mother reported the matter to the police and took the child to hospital. There is no evidence that a paediatric rape kit was completed - it was four days after the mother noticed her daughter's injuries – but the J88 confirms chronic sexual abuse.

There were no witnesses to the sexual abuse, but, in a second statement, the mother revealed that she suspected her stepfather, who the mother claimed had raped her when she was eight years old. The grandmother testified that she never left the baby alone with her husband. The man was never questioned. The prosecutor withdrew the case on the grounds that there was insufficient evidence. The case is not on record with the Department of Social Development. There is no evidence that the child or her mother received any form of therapy or psychosocial support. (C23)

the mother in respect of her allegation that the stepfather raped her. Since the home circumstances did not change the baby was at risk of further abuse and there ought to have been a full social work investigation in terms of section 155(2) to determine if the child was in need of care and protection, and there should have been on-going monitoring of and support for the mother of the child.

Strategic partnerships

According to the SAPS National Instruction 3/2010 every station commander has a responsibility to liaise with local services providers to identify local organisations that are "*willing, able and registered to provide temporary safe care*, *counselling or other support services to children*".[69] He or she must also verify opening hours, admissions policies and fees. This information must be compiled in a list with all the details, including contact numbers. Specifically, the list should include contact details of designated social workers, hospitals and health professionals. The station commander must update the list at least once every six months. Every detective should have an up-to-date copy of the list. These lists were present in all sites but the level of inter-sectoral collaborate varied across the five sites: in two sites inter-sectoral collaboration was virtually non-existent with less than 15% of cases referred, whereas in one site 86% of cases were referred. This may suggest that collaboration is down to relationships between individual professionals. The following quotes are from different focus group discussions in the same province:

> *We just deal with the NGOs and not with DSD, because if you need assistance they are not always in meetings, DSD are always in meetings, or training or handing out food parcels.*
>
> *We had a training with the different forms that we need to complete with regards to how police deal with issues where social workers are required. There are the form SAP 581's that the police deal, then obviously the Form 22, Form 23 and Form 24 that needs to be completed with regards to children in need of care, but there is no-one that deals with it at Social Development.* (Police officer, focus group 3)

TABLE 12: TIME BETWEEN REPORT AND REFERRAL TO THE OTHER AGENCY

Period of time	Frequency	Percentage	Cumulative percentage
Same day	7	20%	20%
Within 24 hours	2	6%	26%
Two to seven days	7	20%	46%
One month	8	23%	69%
More than one month	11	31%	100%
Total	35	100%	
Not referred/information not available	178		

CASE 21: LACK OF COLLABORATION BETWEEN SOCIAL SERVICES AND EDUCATION

Childline referred a report from an anonymous caller to social services. The caller claimed that the principal of the local primary school was dispensing harsh punishment including beating children and that the principal threatened children and parents so that everyone was afraid to report. The caller gave the name of a child that had been beaten so severely he was unable to walk, then asked for the Department of Basic Education (DBE) to be alerted and for someone to investigate. Social workers visited the child and his family, who confirmed that the abuse had taken place three years earlier. They reported that everything was fine at the time of the investigation. No contact was made with the school, parents, or other learners and the details of the case were not passed to the DBE. (C1)

Versus…

> *All cases relating to children are referred to Department of Social Development.*
> (Police officer, focus group 1)

Timeframes

Only a quarter (26%) of referred cases were dealt within the required 24 hours from reporting, and most (43%) took between two days and a month to be referred; however, 31% of referrals were made a month after the report, see **Table 12**.

The lack of inter-sectoral collaboration was not restricted to engagement between the police and social services, as **Case 21** shows a failure of social services to engage with the Department of Basic Education and local therapeutic services.

Case 21 illustrates lack of inter-sectoral collaboration on a number of levels. The social worker substantiated the report of abuse. Even though that incident had taken place three years earlier, the caller alleged that the abuse was on-going and that the community's silence was due to threats. The attack on the child definitely constitutes common assault and it would appear that the principal intended to harm the child; therefore it

CASE 22: LACK OF COOPERATION BETWEEN PROVINCES CREATES BARRIER TO THERAPEUTIC SERVICES

A female aged 15 reported that she was abducted and raped. The perpetrator claimed that the sex was consensual and that he did not suspect that the girl was under age because he met her at a tavern. The forensic science laboratory report was inconclusive and there was no physical evidence of or witnesses to the rape. Two months later the perpetrator was arrested and charged with statutory rape, but bail was not opposed by the state; so two days later he walked free. The child attempted suicide at the same time when the perpetrator was arrested. The child was taken to the nearest psychiatric hospital in the neighbouring province and was discharged after four days with a recommendation that she get psychiatric support. There was a psychiatrist one hour away but this was in the neighbouring province; so the child was referred to one in the same province, however, it was at least a four-hour drive each way. The FCS could not spare an officer to drive her there for treatment. The sister reported behavioural changes and the girl's school performance dropped. (C2)

CASE 23: MULTIDISCIPLINARY TEAMWORK LIMITED TO REFERRALS

Following a report of sexual abuse, a police officer brought a two-year-old girl and her mother to social services. A social worker immediately assessed the child and offered counselling. She made one home visit and conducted interviews with other roleplayers, including the police and the medical doctor. A protection plan was developed for the child whereby the family were given advice concerning the child's safety. The police case number as well as the investigating officer's name and contact details were recorded in the file. The social worker noted that an unrelated suspect was identified – he did not share the same household as the child but there are no details of where he lived or any further details about the police investigation. Likewise, the notes reveal that the child was referred for a medical examination but there are no details of the results or if the child received any treatment. The mother was advised to send the child for regular check-ups at the hospital. (C67)

possibly constitutes assault with intent to cause grievous bodily harm. Hence, the matter should have been reported to the police. It also should have been referred to the Department of Basic Education so that disciplinary action could be taken against the principal in relation to that incident and for investigation of the allegation that other children were being abused. **Case 22** raises a different but equally difficult challenge – the lack of cooperation across provincial boundaries.

Multidisciplinary team work

Although there were instances when cases were referred between agencies, none of the cases we reviewed were jointly managed – instead the agencies worked independently, see **Case 23**. It is impossible to tell if the perpetrator still presents a risk to the victim or other children, rendering the protection plan meaningless, and if medical check-ups involve genital examination they could cause trauma and should be monitored by the professional providing counselling. Developing models of interagency management is critical for children as current practices are not meeting the needs of children.

Genuine collaboration was typically restricted to social workers providing assessments of children's capacity to testify, but police were critical of the length of time it takes for social workers to do assessments, and of the quality of the reports. *"If you get an assessment report it is appalling to see what is in it. If you compare the reports from the government social workers with the social workers in private practice the length of the report is a page or two, whereas with the person in private practice it is usually a book."* (Police officer, focus group 3). In one site we found multiple social work reports in the police files – often the same ambiguous statements were copied and pasted in every report – however, there was no record of the child or family with social services. We concluded that the social worker did not perform their child protection function by assessing whether or not the child was in need of care and protection, or needed therapeutic support.

Conclusion and recommendations

The goal of the child protection system is to create a safe and friendly society for children. It aims to prevent violence against children; to protect child victims from further harm by strengthening the capacity of the family to care for the child, removing the perpetrator or as a last resort removing the child to a safe environment; and to support and treat children who have experienced violence so as to restore them to physical and psychological health. South Africa's legal and policy frameworks are comprehensive, but the results of this study show that implementation is poor. In our assessment, large numbers of children remained at risk of continued abuse following the closure of cases reported to the child protection system. Few families receive prevention and early intervention programmes and most children do not access appropriate therapies. In short the child protection system is failing children.

In South Africa, children experience high levels of abuse and neglect in their homes, schools and communities, and we know that only a small proportion of abuse is reported to the police and social services.[70] Another issue that we identified was the delay in reporting sexual abuse: 33% of sexual abuse cases in our sample were reported after the window for the administration of PEP had closed, which has serious implications for children's physical health. Speedy reporting can also reduce the psychological impact of the abuse on the child, resulting in better recovery post abuse. More effort has to be made to encourage children and their care-givers to report sexual abuse as soon as possible.

Physical abuse is not take seriously

Our findings suggest that physical abuse, in particular, is underreported. Physical abuse, including corporal punishment, is regarded as violence internationally,[71] and is a crime in terms of the Children's Act.[v] Yet, none of the physical abuse cases reported to social services were reported to the police, and most of such cases reported to the police were withdrawn soon after reporting. This could be related to the negative attitudes towards children who reported physical abuse – professionals dismissed their cases as not serious or viewed the perpetrators' actions as justifiable discipline. Children, care-givers and professionals need to take physical abuse seriously, police especially should ensure that complaints are investigated and that agencies provide supportive services for all children.

The needs of children with disabilities are not recognised

Children with disabilities seem to be more vulnerable to abuse. These

v The Children's Act, section 305(3), makes physical abuse a crime and any form of physical violence constitutes assault under the common law; however, in terms of common law parents can raise the defence of reasonable chastisement if a child lays a charge of assault.

findings are in line with other studies in South Africa and the region.[72] If children with disabilities are at higher risk of abuse, prevention and early intervention services must target their families. Unfortunately, none of the agencies routinely captured the disability status of children in their records. Recording this information would ensure that children with disabilities can receive services that are responsive and enabling. Such records can also assist with planning at provincial level to ensure there are enough services available. A further recommendation is that selected child protection workers are trained to work with child with disabilities, so that they understand the heightened risk, how to assess the needs of child with disabilities and are able to communicate effectively.

Children are exposed to ongoing risk

Children are most at risk in their own homes and younger children especially are most likely to be abused by a relative or someone they know (80% of 0 – 4-year-olds were related to the perpetrator). Perpetrators behave with impunity and they often show callous disregard for the effects of their actions on children. We found that families frequently protect perpetrators, leaving children at risk of further abuse. At the same time there seems to be a deep-seated reluctance on the part of child protection workers to prosecute parents or even compel them to participate in programmes to change their behaviour.

Police arrested only 75% of identified perpetrators, of whom more than half (58%) were released back into the child's home or community. In total 12% of perpetrators were convicted. Back in the community they continue to pose a threat to the child's physical and/or psychological safety. Continuous exposure to risk or harm is detrimental to the psychological well-being of traumatised children, undermines therapeutic support and inhibits recovery.

The lack of therapeutic services risks increasing trauma

South Africa has invested in strengthening post-rape services through the introduction of one stop centres modelled on an inter-sectoral collaborative response to sexual assault.[73] Nevertheless, more than a decade after developing a public health response to sexual assault, the needs of children are still not met holistically. We found that only 33% of children verifiably received any kind of therapy, counselling or support services to assist the family. Children are receiving fragmented services that are more damaging to their long-term physical and psychological well-being exposing them to secondary trauma and increasing the risks of revictimisation and perpetration.[74]

Poor record-keeping prohibits evidence based planning

The police have an electronic data management system and dockets follow a standard format everywhere. All the dockets were ordered and indexed and reviewed at regular intervals and in the majority of instances, it was easy to distinguish input from different role-players. Social services do not have an electronic system and there is no consistency in how data are captured or managed. All three DCPOs used a similar record-keeping system. DSD service offices have their own systems for recording cases and managing data – there is no standard protocol and offices in the same district were not following uniform processes. Non-existent or inaccurate registers meant that social workers could not trace files and – by implication – children.

The child protection system is failing children

The quality of the social work files was inconsistent but generally very poor. Few reports or other processes were recorded on the prescribed forms; as a result critical information was missing from the files. Case information was not forwarded for inclusion in the NCPR or even to provincial DSD. Effective planning and allocation of resources are impossible without this information at both district and provincial level. Furthermore, country-level data on child abuse are necessary to review the child protection system effectively, both by service providers and researchers, and to leverage funds from the National Treasury. There is thus an urgent need to strengthen information systems across the DSD.

Best practice could be shared

There were a few examples of best practice to be found and lessons that can be shared. Such as having a police officer on duty at the TCC to disperse, record and register the forms and rape kits. The confirmation form that indicates that the victim has been advised about PEP and HIV testing allows for police commanders to immediately identify if the police officer has performed this critical duty and prompt him or her to do so if it has not been done by the time of the 24-hour inspection.

Poor case management and inadequate supervision lead to child being lost in the system

Social workers and police are not adequately trained on the Children's Act, its regulations, forms and protocols; most did not use the Form 22 or other prescribed forms. Police need training on the National Instruction 3/2010 and their powers and responsibilities under the Children's Act, especially in relation to the power to remove the offender. Whilst social workers need training on child protection including assessment, statutory processes and therapeutic interventions. A procedural manual, commonly referred to as the "blue book", was developed to guide social workers on how to implement the Child Care Act, there is no equivalent document for the Children's Act and hence implementation is idiosyncratic. Protocols are not being followed and professionals are not being held accountable for inadequately protecting children. The result is that children are literally lost in the system.

Children suffer because professionals are not working together

The Children's Act is based on a cooperative implementation model and obliges social workers and police offices to cross-refer cases; however, a mere 8% of all cases of reported abuse were cross-referred, and none were jointly managed. Most of the referrals in our sample were concentrated in two sites, this suggests that inter-sectoral collaboration is dependent on the attitude of key individuals. The lack of inter-sectoral collaboration was based on a lack of trust and low expectations, for example the police referred cases to the DSD and nothing happened. Additionally, there was limited inter-sectoral collaboration between other departments; critically schools and teachers are not being involved in the management of children post abuse. Not surprisingly, everyone complained about the lack of therapeutic services for children. However, when it came to specialist health services, rules about catchment areas prevented children from accessing the nearest facility or professional. Developing models of interagency management is critical for children's recovery as current practices are not meeting the needs of children.

The cycle of violence will continue

The delays in the criminal justice system

coupled with the lack of psychosocial support and counselling are exposing children to secondary victimisation. The lack of inter-sectoral collaboration is undermining the child protection system and preventing children from accessing therapeutic and adequate support services, while perpetrators are allowed to continue to abuse children without any form of criminal investigation. Children are not receiving therapeutic services and as a result, we can expect them to display continuing symptoms of trauma anxiety, depression and PTSD, leading to revictimisation and perpetration that continue the cycle of violence long into the future. Individual children will be denied the opportunity to develop to their full potential and at a societal level we can expect violence to continue. Violence also has a substantial impact on the ecomony, the cost of disability-adjusted life years lost to violence against children (including both fatal and nonfatal) and reduced earnings was estimated at ZAR238 billion in 2015/16.[75] Thus, all children are affected by violence in one way or another.

RECOMMENDATIONS

1. Supervision and monitoring

Social workers require adequate supervision and guidance on child protection protocols and how to manage difficult cases. A procedural manual is urgently required to ensure consistency and higher standards of case management. Specialist training should be developed for social work supervisors and managers, so that they are aware of the Children's Act protocols and developments in theory and practice.

Those involved in case management reviews should be held accountable for poor case management. However, at present, every link in the chain of accountability is broken. The various recruitment schemes implemented by government have doubled the number of registered social workers but supervisor posts are vacant and social workers' files can go without review for years. Social work supervision should be flagged as a critical skill so that these posts can continue to be filled even in times of fiscal constraints and austerity.

Provincial DSDs should routinely inspect both government social service offices, and DCPOs to ensure that records are properly maintained and procedures are followed. National officials should ensure that provincial officials provided standardised monitoring data. Parliament also has a role to play, legislatures at the national and provincial level have a duty to ensure that children's constitutional rights are respected, protected, promoted and fulfilled and that the Children's Act is properly implemented. They should prioritise oversight visits, hearings and inquiries into the level of violence against children and the state of the child protection system.

2. Assessing the needs of children

Child protection services have to act speedily in the investigation of reported cases in order to protect children from continued abuse and neglect, and to prevent fatalities. Social service professionals require training to identify which children in the household are at risk; assess the needs of those children and the capacities of carers to create an environment that is safe and conducive to recovery. Professionals should be trained on the use of standardised assessment tools to measure PTSD, anxiety, depression and parenting capacity to enable targeted interventions.[76] Based

on these assessments social workers must develop concrete protection plans to secure children's safety and access to therapy in order to prevent secondary victimisation and long-term harm. At least one person in each agency should be trained to assess and respond to the needs of children with disabilities.

3. Ensure safe environments for abused children

Police officers should be encouraged to use their powers under the Children's Act (section 153) to remove perpetrators when there are risks to children's safety as assessed by social workers. Social workers need to be trained on how to assess risk and liaise closely with the SAPS so that they are aware of whether or not the perpetrator is in detention or back in the community where he or she may come into contact with the victim. Additionally, regular inter-sectoral case reviews would allow role-players to hold each other accountable for safeguarding children in communities. The non-application of bail legislation also needs further research. Police officers have a vital role in assisting the prosecutors in this process by testifying and providing witness to threats and intimidation.

Social workers require adequate supervision and guidance on child protection protocols and how to manage difficult cases

4. Inter-sectoral collaboration/joint case management

This study highlights the need for inter-sectoral collaboration in the child protection system at both the micro and macro levels. Firstly, there needs to be inter-sectoral collaboration in respect of service planning. DSD, SAPS, and DoH should map services in every district, specifically prevention and early intervention programmes, child protection, police services, and counselling and therapeutic services. This mapping process will then serve as a foundation for the development of local-level agreements that include detailed plans for working together and would also outline roles and responsibilities of the available professionals. Child Care and Protection Forums could become a platform for sharing this information and for analysing child protection data. If DSD, SAPS and DoH were to present the data from their own case management systems, disparities in the number of abused children being identified by each agency will be highlighted.

Secondly, child protection requires a multi-agency response that enables government departments and civil society organisations to work collaboratively to identify individual families who show signs of strain, and to respond to abuse. An example is the Child Death Review (CDR) pilot, which tested a multi-agency approach in the investigation of child deaths.[77] The CDR pilot has established that joint management of cases can strengthen the criminal justice system; investigation outcomes have improved through a collaborative management approach resulting in higher conviction rates, and ultimately, removing the risk of further victimisation of children.[78] Similar pilots should be established to model ways of collaborative case management in the child protection system, when the first signs of strain are identified and before children die.

5. Provide access to appropriate therapeutic and support services

Traumatised children are entitled to access quality therapeutic support in a timely manner. Firstly, it is essential to clarify specific roles and responsibilities for different cadres of social service and mental health practitioners to ensure effective collaboration and coordination. Secondly, the use of para-professionals

to deliver mental health programmes shows potential in low-income settings,[79] and should be explored to address resource constraints. Children should be accepted for treatment at their nearest facility irrespective of provincial boundaries.

6. Information management and planning

The Children's Act commits provincial and national DSDs to evidence-based planning and envisions a system where data is fed into NCPR by social workers, police official and courts on an array of prescribed forms. At present few professionals use the prescribed forms or submit data to provincial authorities and national authorities. It is essential that these forms are properly completed and forwarded to the relevant bodies. If properly maintained, Part A of the NCPR would act as a surveillance system allowing social service professionals to monitor individual cases and provide macro-level data to enable policy-makers and planners to target resources and services where they are most needed. Ultimately this should strengthen the child protection system.

Child protection workers should be trained on how to complete the forms and why they are necessary. Additionally, an electronic case management system would prompt social workers to complete all the relevant information and send reminders of important service deadlines. An electronic system would also allow for improved performance management at all levels. Files are less likely to go missing, and cases could be easily transferred to another office if a family moves, and it would stop cases falling through the cracks or gathering dust on desks when social workers leave their posts.

Child protection requires a multi-agency response that enables government departments and civil society organisations to work collaboratively to respond to abuse

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Appendix A: Definitions of child abuse and neglect

For the purpose of this study, child abuse was categorised into physical abuse, sexual abuse and neglect as defined by the Children's Act and its regulations.

Physical Abuse

"Abuse" includes *"assaulting a child or inflicting any other form of deliberate injury to a child;"* and regulation 35 lists the following indicators of physical abuse:

bruises in any part of the body; grasp marks on the arms, chest or face; variations in bruising colour; black eyes; belt marks; tears around or behind the ears; cigarette or other burn marks; cuts; welts; fractures; head injuries; convulsions that are not due to epilepsy or high temperature; drowsiness; irregular breathing; vomiting; pain; fever or restlessness; …

Sexual Abuse

Sexual abuse means:

> *(a) sexually molesting or assaulting a child or allowing a child to be sexually molested or assaulted;*
>
> *(b) encouraging, inducing or forcing a child to be used for the sexual gratification of another person;*
>
> *(c) using a child in or deliberately exposing a child to sexual activities or pornography; or*
>
> *(d) procuring or allowing a child to be procured for commercial sexual exploitation or in any way participating or assisting in the commercial sexual exploitation of a child.*

Neglect

Neglect in relation to a child means *"a failure in the exercise of parental responsibilities to provide for the basic physical, intellectual, emotional or social needs"* of the child.

However, only deliberate neglect is required to be reported. But the Children's Act and its regulations do not define deliberate neglect. We adopted the following definition for the purposes of this study: *"a failure by the parent or caregiver of a child to provide for the basic physical, intellectual, emotional or social needs despite having the means to do so …"*

The list of indicators of deliberate neglect on the reporting forms also includes "abandonment". Abandoned is defined separately as:

A child is abandoned when he or she has been deserted by the parent, guardian or care-giver or if the child has had no contact with the parent, guardian or care-giver for at least three months for no apparent reason.

Appendix B: Households with more than one child

Results from the 2014 Statistics South Africa's General Household Survey shows that out of the 15.6 million households in the country, 54% of them had at least one child, with the average number of children being 2. In the case of 35% of households, there was more than one child (at least two) resident in the household. In both the Eastern Cape and KwaZulu-Natal provinces the average number of children, for households with children, was three. The Eastern Cape had approximately 1.7 million households of which 40% had more than one child, while in KwaZulu-Natal 39% of the households (out of 2.7 million) had more than one child living in the household.

	Number of households	Proportion of households with only one child	Proportion of households with at least one child	Households with more than one child (at least two children)	Average number of children (for households with one or more children)
National	15 602 000	19%	54%	35%	2
Eastern Cape	1 695 000	20%	60%	40%	3
KwaZulu-Natal	2 663 000	17%	55%	39%	3

Source: Statistics South Africa (2015) General Household Survey 2014. Pretoria, Cape Town: Statistics South Africa. Analysis by Winnie Sambu, Children's Institute, University of Cape Town.

Appendix C: Forms required by the Children's Act

These forms are required in terms of the Children's Act:

Form 22 – Reporting of abuse or deliberate neglect of child

Form 24 – Request for removal of alledged offender

Form 25 – Notification of convictions or findings of abuse or deliberate neglect of children for inclusion in Part A of the National Child Protection Register

Form 28 – Notification of findings of unsuitability to work with children for inclusion in Part B of the National Child Protection Register

Form 29 – Inquiry by employer to establish whether person's name appears in Part B of National Child Protection Register

Form 36 – Authority for removal of child to temporary safe care

Form 37 – Notification to attend Children's Court proceedings

Form 38 – Report by a designated social worker to be considered by the children's court

SAPS forms

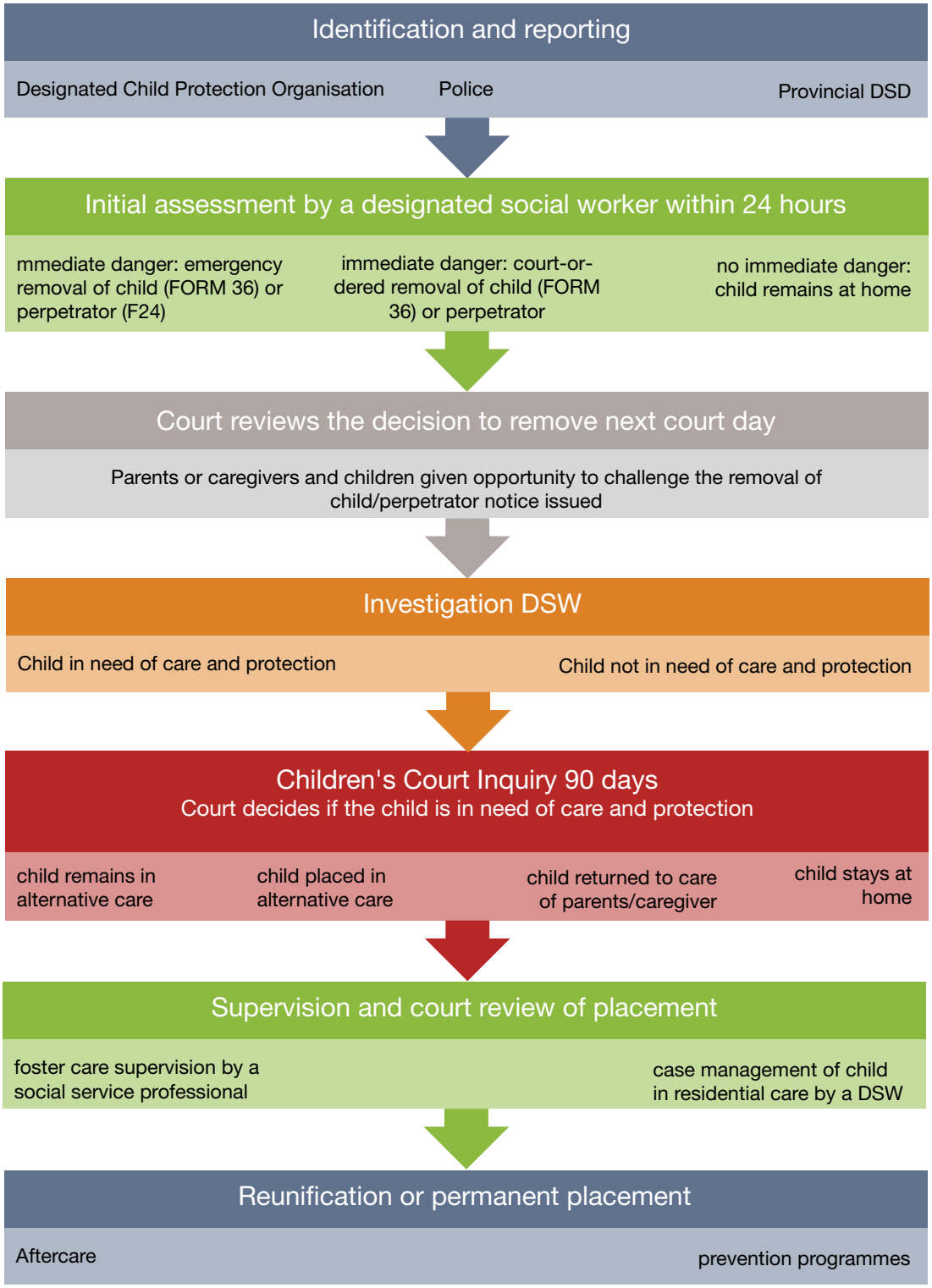
J88 - The J88 is a legal document that is completed by a medical doctor or registered nurse, documenting injuries sustained by the victim in any circumstance where a legal investigation is to follow. It may be the only objective information available in a legal case.

SAPS 308 – form signed by the parent or legal guardian of a child to consent to the forensic examination of the child.

SAPS 581(a) replaces Form 36 – Authority for removal of child to temporary safe care

SAPS 581(b) replaces Form 22 – Reporting of abuse or deliberate neglect of child

Appendix D: child protection process



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Principal Investigator

Lucy Jamieson – Senior Researcher
Children's Institute, University of Cape Town
46 Sawkins Road, Rondebosch, 7700, Cape Town
Tel: 021 650 1466 Fax: 021 650 1460
Email: Lucy.Jamieson@uct.ac.za

Co- Investigators

Assoc Prof Shanaaz Mathews – Director, Children's Institute, UCT
Winnie Sambu – Researcher, Children's Institute, UCT