

Child sexual abuse

- The mechanisms involved in child sexual abuse differ significantly from those found in adult sex crimes.
- A person who commits child sex offenses rarely uses physical violence, seeking instead to build or deepen the child's trust, create a bond, and manipulate by concealing true intentions.
- The perpetrator is usually a known person and comes from the child's immediate circle.
- Sexual violence is often a chronic process, lasting weeks, months or years.
- Children rarely report the sexual offense immediately after the incident.
- Disclosure of sexual abuse often takes the form of a drawn-out process that is usually manifested by a change in the child's behavior or physical symptoms.
- The scale of the phenomenon of sexual violence against children in Poland is not fully understood.

CHILD SEXUAL ABUSE

Involving a child in sexual activity that the child is unable to **fully understand and give informed consent to** (including not being developmentally mature), in **violation of the laws and mores of** a given society.

Sexual abuse occurs when it is **between a child and an adult, or a child and another child**, in a situation of dependence, if these persons, because of their age or stage of development, are **in a relationship of care, dependence, power**.

The purpose of such activity is to **meet the needs of another person**.

Such activities may include:

- 1) soliciting or coercing a child to engage in any legally prohibited sexual activity;
- 2) using the child for prostitution or other illegal sexual practices;
- 3) Using the child for pornographic performances and materials.

WHO

Epidemiology of the phenomenon in Poland?

rape +/- other sexual activity +/- viewing pornography +/- exhibitionism

3-18%



5-27%

TYPES OF SEXUAL ABUSE

INCEST

RAPE

SEXUAL HARASSMENT

WITHOUT PHYSICAL CONTACT

WITH VARIOUS FORMS OF VIOLENCE

SYMPTOMS THAT MAY INDICATE SEXUAL ABUSE

SOMATIC

Pregnancy <15 years of age.

STD

genitourinary infections

defloration

genital injuries

discomfort/difficulty urinating

genital bleeding

changes in the oral cavity

object in the reproductive system/rectum/vagina

MENTAL/BEHAVIORAL

skipping class, excessive interest in sexual topics,
impaired concentration

changes in academic performance

unjustified fear, feeling ashamed

lowered mood, fear of contact with other people

night terrors, nightmares, wetting

excessive eroticization, regression

low self-esteem, guilt, suicidal thoughts, self-
harm

motor hyperactivity, eating disorders

psychosomatic complaints

disrupted peer relationships

alcohol, cigarettes, prostitution

Art. 197.1 of the Penal Code. Whoever **by means of violence, unlawful threat or deceit leads another person to have sexual intercourse**, shall be subject to the penalty of deprivation of liberty for a term of between 2 and 12 years.

§ 2. If the perpetrator, in the manner specified in § 1, **induces another person to submit to another sexual act or to perform such an act**, he shall be subject to the penalty of deprivation of liberty for a term of between 6 months and 8 years.

§ 3. If the offender commits rape:

1) jointly with another person,

2) **to a minor under 15 years of age**,

3) to an ascendant, descendant, adopted child, adoptee, brother or sister,

shall be punishable by imprisonment for a term of **not less than 3 years**.

§ 4. if the perpetrator of the act specified in § 1-3 acts with extreme cruelty, he shall be subject to the penalty of deprivation of liberty for a term not shorter than 5 years.

Article 198 of the Penal Code. Whoever, **taking advantage of another person's helplessness or lack of ability to recognize the significance of the act or to control his/her conduct due to mental disability or mental illness**, leads such a person to sexual intercourse or to submission to another sexual act or to performing such an act, shall be subject to the penalty of deprivation of liberty for a term between 6 months and 8 years.

RAPE - sexual intercourse that violates the freedom of self-determination, including both heterosexual and homosexual, vaginal, oral, and anal intercourse

Sexual intercourse as defined in Article 197 § 1 of the Penal Code shall be understood to include not only acts of traditional penetration but also its **surrogates**. It refers to intercourse analogous to it, leading (or likely to lead) to the **satisfaction of sexual desire**; in particular, oral and anal intercourse is involved. Homosexual intercourse is also included within the concept of sexual intercourse. For the concept of sexual intercourse to exist, it is necessary to involve the sexual organs of at least one person - the perpetrator or the victim. (II AKa 142/11 - Judgment of the AC in Katowice of 2 June 2011)

OTHER SEXUAL ACTIVITY - sexual activity – the perpetrator is in **contact with another person's body** (e.g., genital touching, genital touching of other body parts, insertion of objects into body orifices)

A sexual act is touching the victim's genitals or anus (which the perpetrator may treat as a sexual organ), inserting various objects therein, touching with the genitals of the mentioned or other parts of the victim's body, forcing her to masturbate the perpetrator or to perform such an act on herself. (II AKa 142/11 - Judgment of the SA in Katowice of 2 June 2011)

V KK 139/08 - Ruling of the Supreme Court of 21 May 2008.

"Other sexual activity", within the meaning of Article 200 § 1 of the Criminal Code is such conduct, not included in the term "sexual intercourse", which is connected with broadly understood human sexual life, consisting of bodily **contact of the perpetrator with the victim or at least bodily and sexual involvement of the victim**, which includes those situations in which the perpetrator, aiming at arousal or satisfaction of his/her libido, not only touches the victim's genitals (even through underwear or clothing), but also undertakes other activities in contact with his/her body (e.g. caresses, kisses, etc.). It is not only touching the genitals of the victim (even through underwear or clothing), but also performing other actions in contact with his/her body (e.g. fondling, kissing). Undoubtedly, touching the victim's breasts also falls within this scope of meaning.

V KK 103/14 Ruling of the Supreme Court of 27 June 2014.

For the existence of a crime under Article 197 § 2 of the Penal Code, it is not important whether the perpetrators involved their conduct in their sexual life, but whether the actions they undertook towards the victim or those that the victim was to perform as a result of the use of violence were objectively related to the sexual life.

II AKa 142/11 - The sentence of the Court of Appeals in Katowice of 2 June 2012.

Submission to another sexual act is based on a **passive attitude**, on bearing certain behaviors of the other person.

Art. 200 § 1 Whoever has sexual intercourse with a minor under the age of 15 or engages in another sexual act towards such a person, or leads such a person to submit to such an act or to perform it, shall be subject to the penalty of deprivation of liberty for a term between 2 and 12 years.

§ 3 Whoever presents pornographic content to a minor under 15 years of age or provides him with access to pornographic objects or distributes pornographic content in a manner allowing such a minor to become acquainted with it shall be subject to the penalty of deprivation of liberty for a term up to 3 years.

§ 4. The penalty specified in § 3 shall be imposed on anyone who, for the purpose of his/her sexual gratification or sexual gratification of another person presents to a minor under 15 years of age the performance of a sexual act.

§ 5. The penalty specified in § 3 shall be imposed on anyone who conducts advertising or promotion of an activity consisting in the dissemination of pornographic content in a manner allowing a minor under 15 years of age to become acquainted with it.

Article 156 § 1. Whoever causes grievous bodily harm in the form of:

- 1) deprive a person of sight, hearing, speech, or the ability to procreate,
- 2) other severe disability, severe incurable or prolonged illness, life-threatening illness, permanent mental illness, total or substantial permanent incapacity for work in an occupation, or permanent, substantial disfigurement or disfigurement of the body,

shall be punishable by imprisonment for a term of not less than 3 years.

§ 2. If the perpetrator acts unintentionally, he shall be subject to the penalty of deprivation of liberty for up to 3 years.

If the consequence of the act specified in § 1 is the death of a human being, the perpetrator shall be subject to a penalty of deprivation of liberty for a term of 5 years, a penalty of 25 years' imprisonment or a penalty of life imprisonment.

Article 157 § 1. Whoever causes an impairment of bodily functions or a health disorder other than specified in Article 156 § 1, shall be subject to the penalty of deprivation of liberty for a term of between 3 months and 5 years.

Whoever causes an impairment of bodily functions or disorder of health lasting no longer than 7 days shall be subject to a fine, the penalty of restriction of liberty or the penalty of deprivation of liberty for up to 2 years.

§ 3 If the perpetrator of the act specified in § 1 or 2 acts unintentionally, he/she shall be subject to a fine, the penalty of limitation of liberty or deprivation of liberty for up to one year.

(4) The prosecution of an offence specified in § 2 or 3, if the violation of bodily organ functions or health disorder did not last longer than 7 days, shall be conducted by private prosecution.

(5) If the violation of bodily organ functions or disorder of health lasted longer than 7 days, and the injured person is the closest person, prosecution of the offence specified in § 3 shall take place on their motion.

Art. 148 § 1. Whoever kills a human being shall be subject to the penalty of deprivation of liberty for a term not shorter than 8 years, the penalty of 25 years of imprisonment or the penalty of life imprisonment.

§ 2. Whoever kills a person:

- 1) With particular cruelty,
- 2) **in connection with** hostage taking, **rape** or robbery,
- (3) as a result of motivation deserving special condemnation,
- 4) with explosives,

shall be punishable by imprisonment for a term of not less than 12 years, 25 years of imprisonment or life imprisonment.

§ 3. The punishment specified in § 2 shall be imposed on a person who with one act kills more than one person or has previously been legally convicted of murder, and on a perpetrator of murder of a public official committed during or in connection with the performance of his/her official duties related to the protection of human security or the protection of public safety or order.

§ 4. Whoever kills a person under the influence of strong agitation justified by the circumstances shall be subject to the penalty of deprivation of liberty for a term of between 1 and 10 years.

Article 200a. Electronic sexual corruption of a minor.

§ 1. Whoever, in order to commit the crime specified in Article 197 § 3 point 2 or Article 200, as well as production or recording of pornographic content, through the information and communication system or telecommunication network establishes contact with a minor under 15 years of age, aiming at a meeting with him/her by means of deception, exploitation of an error or incapability of grasping the situation properly, or by unlawful threat, shall be subject to the penalty of deprivation of liberty for up to 3 years.

§ 2 Whoever, by means of an IT system or telecommunication network, proposes to a minor under 15 years of age to have sexual intercourse, to submit to or perform another sexual act or to participate in the production or recording of pornographic content, and attempts to commit such an act, shall be subject to a fine, penalty of restriction of liberty or deprivation of liberty for up to 2 years.

Article 200b. Propagation of pedophilia.

Whoever publicly promotes or praises behaviour of a paedophilic nature, shall be subject to a fine, penalty of restriction of liberty or imprisonment for up to 2 years.

Article 201 Incest.

Whoever commits sexual intercourse with an ascendant, descendant, adopted, adoptee, brother or sister shall be subject to the penalty of deprivation of liberty for a term of between 3 months and 5 years.

Article 203 Forced prostitution.

Whoever, by using violence, an unlawful threat, deceit or exploiting a relationship of dependence or critical position, leads another person to practice prostitution, shall be subject to the penalty of deprivation of liberty for a term of between 1 and 10 years.

Article 204 Pimping.

§ 1. Whoever, in order to derive a material benefit, induces another person to engage in prostitution or facilitates it, shall be subject to the penalty of deprivation of liberty for a term of between 3 months and 5 years.

§ 2. Whoever derives a material benefit from prostitution performed by another person shall be subject to the penalty specified in § 1.

§ 3. If the person specified in § 1 or 2 is a minor, the perpetrator shall be subject to the penalty of deprivation of liberty for a term of between 1 and 10 years.

Dealing with a victim of sexual violence



From a procedural standpoint...



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JUSTICE

ALLEGATIONS



COURT/CONVICTION

MEDICAL OPINION → EVIDENCE IN THE CASE

INTERVIEW

- personal details (age - guardian), details of known offender
- Date, time, place, how you were located, other circumstances of the incident;
- witnesses
- effect of alcohol/drugs
- course of events
- manifestations of physical and psychological violence
- details of sexual activities (type of intercourse, constellation, ejaculation, condom, use of objects, animals)
- Gynecological history (contraception, last voluntary intercourse, genital diseases, pregnancies, miscarriages, births)
- chronic diseases/ past history of similar events
- Activities performed by the victim after the incident (e.g., urinating/stooling, washing clothes, seeking medical attention)
- actions taken by the offender after the incident
- current complaints

PHYSICAL EXAMINATION

Basic/general physical examination; including physical age assessment (Tanner scale)

Personal Injury:

- **signs of struggle and defence** - bloody and contused wounds on the face, head, epidermal abrasions on the face and neck bloody subluxations on the dorsal surfaces of the hands and the back surfaces of the forearms
- **traces of breaking resistance** - bleeding on the medial surfaces of both arms and wrists, linear, small and arched abrasions on the neck, bleeding on the medial surfaces of both thighs, possible signs of restraint on the legs and wrists
- injuries **resulting from rape** - numerous small, superficial, linear, parallel to each other, sometimes streaky abrasions on the back, knees, injuries within the external genitalia - mainly bleeding, abrasions of the epidermis/epithelium, rarely of the vaginal wall mucous membrane, rarely abrasions of the vaginal vault, cervix; similar with regard to the anus and anodermis)

Symptoms highly suggestive of sexual abuse, even in the absence of testimony from the child, unless the child or parents/guardians provide an accurate and clinically consistent account of the accident or surgical treatment that would have resulted in these symptoms or injuries to the genital or anal area:

1. early injuries in the genital and anal region:
 - a. A darting wound or bleeding subluxation in the labia majora, penis, scrotum, or perineum;
 - b. Dart wound in the vaginal vestibule area, not involving the hymen;
 - c. Bleeding or epidermal abrasions in the hymen area;
 - d. Darting wound of the hymen;
 - e. Vaginal contusion wound;
 - f. Periorbital puncture/tear wound with visualization of tissue below the dermis;

2. healed injuries in the genital and anal areas:
 - a. A scar in the periaqueductal area;
 - b. A healed complete hymenal defect located below the 3rd and 9th hour that penetrates into or through the base of the hymen;
 - c. Symptoms suggestive of a history of female circumcision.

GYNAECOLOGICAL EXAMINATION

Accurate assessment of the extent of injury and condition of external genitalia + examination in speculum; accurate assessment of the condition of the hymen (fresh defloration)

Collection of swabs for perpetrator DNA testing, sperm testing, microbiological testing
Evaluation of indications for postcoital contraception; testing for pregnancy

PRESERVATION OF BIOLOGICAL PROBLEMS FROM THE BODY OF THE VICTIM + Comparative material for the DNA of the victim (swab from the mucous membrane of the mouth)

SECURING THE VICTIM'S CLOTHING

EXAMINATION OF THE PERPETRATOR

VISUAL INSPECTION OF THE SCENE

KIND OF EVENT	SURVIVAL TIME OF THE GENETIC MATERIAL
Semen ejaculation on the surface of the skin	Usually up to 48 hours; if body surface has not been wiped/washed - up to 7 days
Oral intercourse	Usually up to 48 hours
Vaginal intercourse	Before puberty up to 72 hours; after puberty up to 7 days;
Anal intercourse	Up to 72 hours
Vaginal/penile penetration with a body part other than the penis	Up to 48 hours

Pregnancy Prevention Counseling- The overall risk of pregnancy following sexual violence is up to 5%. Routine management when examining a victim includes taking a pregnancy test, documenting the result, and determining the date of the last menstrual cycle. Victims of sexual abuse, as individually indicated, **should be allowed to use of postcoital contraception.**

REFERRAL TO AN INFECTIOUS DISEASE SPECIALIST

Determine indications for STD prophylaxis:

N. gonorrhoeae, Ch. trachomatis, T. vaginalis; syphilis, HIV, HBV, HCV

Other examinations and specialist consultations as indicated

In many situations of suspected child sexual abuse, forensic medical examinations fail to categorically determine whether rape occurred.

Opinion difficulties arise from:

- The long time that elapsed between the incident and the survey;
- The young age of the victim and the resulting communication difficulties and limitations of the study;
- lack of cooperation or even obstruction of diagnostic activities by caregivers;
- False accusations and confabulation by the victim or caregivers;
- failure of the physician who first examined the patient to take a vaginal swab;
- menstruation, inflammation of the reproductive organs;
- The failure of the physician who first examined the patient to accurately describe the injuries to both the genitals and other parts of the body;
- the various circumstances under which the injuries occurred;
- No injury during oral or anal intercourse.

Sexually transmitted diseases as a marker of sexual harassment

Whenever a child is diagnosed with a sexually transmitted infection, sexual abuse should be considered - excluding the neonatal period

Evaluation should be done by an experienced physician /consultation/.

Confirmed cases

Other symptoms

Always an individual assessment

Patient safety comes first

Confirmed infection	Evidence of sexual abuse	Proceedings
Gonorrhoea	+++	Report
Syphilis	+++	Report
Chlamydia trachomatis*	+++	Report
Rorschistococcus	++	Report
HIV	+++	Report
HSV	++	Report
HPV*	+	Consider reporting
Bacterial vaginosis	-	Observation

HBV, HCV, MCV ...

Article 161. of the Penal Code [Exposing a person to contagion].

§ 1. Whoever, knowing that he is infected with HIV, directly exposes another person to such infection, shall be subject to the penalty of deprivation of liberty for a term of between 6 months and 8 years.

§ 2. Whoever, knowing that he or she is infected with a venereal or contagious disease, or a serious incurable or life-threatening disease, directly exposes another person to infection with such a disease, shall be subject to the penalty of deprivation of liberty for a term of between 3 months and 5 years.

§ 3. If the perpetrator of the act specified in § 2 exposes many persons to infection, he shall be subject to the penalty of deprivation of liberty for a term of one to ten years.

(4) The prosecution of the offence specified in § 1 and 2 shall occur on the motion of the injured person.