



FACULDADE DE MEDICINA  
UNIVERSIDADE DO PORTO

## MESTRADO INTEGRADO EM MEDICINA

2011/2012

Diana Catarina Maltez Alves  
Sexual Offenses Perpetrated by Children and Adolescents

março, 2012

# FMUP



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## **Sexual Offenses Perpetrated by Children and Adolescents**

**Mestrado Integrado em Medicina**

**Área: Medicina Legal**

**Trabalho efetuado sob a Orientação de:**

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**E sob a Co-orientação de:**

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março, 2012

# FMUP

**Projecto de Opção do 6º ano – DECLARAÇÃO DE  
REPRODUÇÃO**

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**Número do Bilhete de Identidade:** 13211312

**Título da Dissertação:** Sexual Offenses Perpetrated by Children and Adolescents

**Orientador:** Professora Doutora Teresa Maria Salgado de Magalhães

**Ano de conclusão:** 2012

**Designação da área do projecto:** Medicina Legal

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# Sexual Offenses Perpetrated by Children and Adolescents

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## Abstract

*Introduction:* Sexual violence is still often little associated by society with minor offenders. Therefore, the aim of this study is to expose some of the features of this kind of offense that can be used to provide information that help to understand and deal with these situations.

*Material and methods:* This study is a retrospective analysis of 238 suspected cases of sexual offenses perpetrated by children and adolescents, whose victims were observed in the north forensic medical services between 2004 and 2010.

*Results:* The alleged offenders were majority males (98.3%) with, in average, 14.4 years-old (Min=2; Max=17; SD=2.6) and known to the victims (34.9% family and 62.6% acquaintance). The victims were, in average, 11 years-old (Min=0.5; Max=82; SD=6.9) and mostly females (64.3%). The first suspicion was, in 59.2% of the cases, based on the disclosure made by the victim and was reported to health services (39.1%) or police (28.6%). The alleged offense was repeated, at least, in 14.7% and it took place at the offenders and/or victims' home (46.6%), under verbal threats (24.4%) or physical violence (47.9%), with intrusive sexual practices (vaginal, anal and/or oral penetration - 42.9%) and fondling (26.1%). In 72.7% of the cases, medico-legal examination took place more than 72 hours after the last offense and did not revealed physical (72.7%) or

biological evidence (95.4%). Judicial outcomes analysis (n=47) revealed that 57.4% of the cases had been filed because of complaint withdrawal (55.6%) and lack of evidence (37%), although, in the accused cases, 16.7% were acquitted and 83.3% had been convicted, generally with the application of educational measures.

*Conclusions:* These results, when compared to studies including adult offenders revealed: lower intra-familial abuse rates, higher prevalence of physical violence, and more frequent intrusive sexual practices. This study help to identify many aspects of this type of offenses which can help to promote strategies for detection, diagnoses and prevention of cases, as well as to protect victims and treat and/or rehab offenders.

**Keywords:**

Sexual offenses, children and adolescents sex offenders, characteristics

**Introduction**

In the last years the whole society has begun to consider sexual offenses a public health problem that it is driven by many factors derived from a range of social, cultural and economic contexts<sup>1,2</sup>. Sexual violence is defined by the World Health Organization as “any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic, or otherwise directed, against a person’s sexuality using coercion, by any person regardless of their relationship to the victim, in any setting, including but not limited to home and work”<sup>2</sup>. Sexual violence has a profound impact on physical and mental health, which can be as serious as the first, and may be equally long<sup>1,2</sup>. The degree of harm depends on several factors: age of the victim, type and duration of abuse, relationship to the abuser, among others<sup>3</sup>.

However, this type of violence is still often little associated by society with minor offenders. They are usually the victims, not the perpetrators. Nevertheless, many statistics suggest that a significant portion of sexual violence is perpetrated by this type of offenders<sup>1,4-6</sup>. Some studies reveal that one in five total sexual offenses and one-third of sexual offenses perpetrated against children under 12 are committed by an individual under the age of 18<sup>4</sup>. Previous reports of adult offenders have indicated that in many cases sexual violence began during adolescence<sup>5,7-9</sup>. United Kingdom criminal statistics indicate that in 1992 in England and Wales, juveniles, aged between 10 and

17, received 1329 cautions for sexual offenses; a further 366 were found guilty, which amounts to 7.3% of all convictions for sex offenses in the same year<sup>9</sup>.

Nevertheless, the majority of studies focus on characteristics of male juvenile sexual offenders (they are the vast majority), as opposed to female or young children sexual offenders<sup>1, 5, 9-12</sup>. In fact, it is estimated that less than 5% of that type of offenders are females but there is little data about this kind of perpetrators which may be related with disagreements about the definition of abuse by females, social beliefs about juvenile females' behavior and parental denial about the behavior of these girls<sup>12, 13</sup>. Adding to this, in patriarchal societies, children may be less likely to be perceived by females as their property than by males<sup>12, 13</sup>.

As far as young children are concerned, they are historically regarded as asexual, and any evidence of sexual behavior has been questioned as a symptom of sexual abuse, which may lead to the fewer cases in which they are considered sexual offenders<sup>14</sup>. In addition, young children are considered criminally irresponsible and can't be judged by the juvenile court in the majority of the countries, which means that there is no official records of offenses that are carried out by this group of children.

Meanwhile, it is important to study this group of minor offenders, because studies of adult sex offenders revealed that most of them began offending prior age 12 and that many of them were children with sexual behavior problems, defined as "children aged 12 or younger who initiate behaviors involving sexual body parts that are developmentally inappropriate or potentially harmful to themselves or others"<sup>14, 15</sup>.

In Portugal, in 2010, 10.21% of the sexual crimes reported to the police authorities were perpetrated by young people aged between 16 and 18 years old<sup>16</sup>. A prospective study conducted, in 1997, at the north branch of the National Institute of Legal Medicine, revealed that in 26.9% of the cases the alleged offender was aged between 11 and 20 years<sup>3</sup>.

Nonetheless, if we just consider these official figures, we will under-estimate these cases for several reasons: (a) children, below the age of criminal responsibility, may be not included in the crime statistics; (b) victims under-report sexual offenses, seeing that 50% of rapes may go unreported and 35% of children who are sexually victimized don't report this to anyone; (c) outsiders such as parents under-report, due to the offender age or/and because he/she is usually known to the family. In these situations, people often minimize or deny the seriousness of the behavior, ascribing it,

in the cases of adolescents offenders, to "adolescent experimentation", is usually done<sup>9</sup>,  
12, 17.

According to the Portuguese Penal Code (Law 59/2007, September 4<sup>th</sup>), the criminal majority (the age at which an individual is supervised by the ordinary criminal law and no longer benefits from the fact that it is young) begins at 21 years and criminal responsibility at 16 years. Young people over 16 years and under the age of 21 are subject to specific criteria - *Rules of young adults* (Decree-Law 401/82, September 23rd). These criteria specify that, when applicable the term of imprisonment, the judge should soothe the penalty (Articles 73 and 74 of the Penal Code), when they have serious reasons to believe that the attenuation will undertake advantages for the social reintegration of the young offender, so they must assess in each case the nature and mode of execution of the crime, their motives, the personality of the young and his/her conduct before and after the crime. When a youngster aged between 12 and 16 years practices an act qualified by law as a crime, it conducts to the application of punitive-educational measures (Portugal Punitive-Educational Law), approved by Law No. 166/99 of September 14th). These measures can range from a simple warning to an internment in an educational center. The choice of what measure should be applied has as base a measure which interferes minimally with the "autonomous decision-making and conduct of life of the child and that is most susceptible to have a greater adherence and support of their parents, legal guardians, or person having custody of them "(Article 6, Law No. 166/99, September 14) and which proves to be adequate. On the other hand, a child under 12 years old, in addition to being considered criminally irresponsible, as mentioned before, cannot also be subject to punitive-educational measures.

It is important to characterize the sexual offenses perpetrated by children and adolescents to better understand this serious problem since there is lack of data in many aspects of this type of offense and in Portugal there are no published data on this subject. Therefore, the aim of this study is to expose some of the features of this kind of offense and, based upon these data, verify if there are statistically significant differences between the group of offenders under 16 years, who are considered by the law criminally irresponsible, and the group of offenders with 16 or more years. These data can be used to provide information that help to promote strategies for detection, diagnoses and prevention of cases, as well as to protect victims and treat and/or rehab offenders.



## **Material and Methods**

A retrospective study was conducted based on the analysis of forensic medical evaluation reports related to suspected cases of sexual offenses perpetrated by children and adolescents (under 18 years old), whose victims were observed in the north forensic medical services (north branch - Porto - and medico-legal offices of Braga, Bragança, Chaves, Guimarães, Mirandela, Penafiel, Santa Maria da Feira, Viana do Castelo and Vila Real), between 2004 and 2010 (n=238).

A questionnaire was applied to collect data, only by one researcher, ensuring the reliability of data collection. The study variables were divided into different sections: description of the case, characterization of the alleged offender, characterization of the victim, characterization of the alleged offense, forensic medical evaluation, diagnostic exams, forensic interviews, forensic conclusions and legal outcome. Due to the retrospective nature of study, it was not possible to collect all data of the different categories.

For the expressions used in this study, it should be noted that, with regard to the victim, was taken into account the Law 112/2009 of 16th September, which states that "the complaint submitted after the crime and the absence of strong evidence that it is unfounded, is assigned to the victim, for all purposes, legal status of "victim" and not "alleged victim"". As for the suspect and the act committed by the same were used the terms "alleged offender" and "alleged offense", taking into account Article 32 of the Portuguese Constitution, which states that "The defendant is presumed innocent until the final judgment of condemnation sentence."

With regard to legal outcomes in cases where the alleged offender was 12 years or less, there isn't any judicial decision to be requested because, in Portugal, below this age, these children are considered criminally irresponsible (Law 59/2007, September 4<sup>th</sup>) and cannot be subject to punitive-educational measures (Law 166/99, September 14<sup>th</sup>). In all other cases the legal outcomes were requested by mail to the Public Prosecutor's offices and/or Criminal Courts or Minors Court.

To collect data regarding the type of practice and the lesions observed, when these were multiple, only the most physically intrusive practice and the most severe sexual lesion were considered. When it was noticed more than one alleged perpetrator, it has been considered the offender who had the closest relationship with the victim;

when the relationship between the victim and the alleged perpetrator was the same, it has been considered the oldest offender.

A descriptive study was done to evaluate all of the variables and a statistical study was used to compare the cases in which the alleged offender was under 16 years and the alleged offender was 16 or older.

The Database Software used was Excel 2010. Statistical analysis was performed with SPSS 18.0 for Windows. Chi-square Pearson test was used in the comparison and the verification of independence of categorical variables. It was assumed a significance level of 0.05.

## **Results**

Over the studied 7-year period, 2231 victims of sexual offenses were examined at the north forensic medical services and 10.7% (n=238) of these offenses were allegedly perpetrated by people under 18 years of age.

### **1. Characterization of the alleged offender**

In this study the average age of the offenders was 14 years old (median=15, minimum=2, maximum=17, SD=2.6); more than a half of the offenders (58%, n=138) were under 16 years old, and from these, 21.7% (n=30) were 12 years old or less.

The alleged offenders were, in the majority of the cases, males (98.3%, n=234). Only 1.7% (n=4) of the alleged offenses were perpetrated by a female (in 3 cases the female offender was under 16 years old - namely, a cousin, a sister and an acquaintance - and in one case the relationship between the victim and the alleged female offender was unknown). Regarding the sex of the offender, there wasn't any correlation study performed because there were only 4 cases in which the alleged offender was female (table 1).

The information about the activity of the alleged offender revealed that 13.9% (n=33) were students, 1.7% had a profession and 2.1% were unemployed. The data was not present in 82.4% of the cases.

About the background of the offenders, 3.8% (n=9) had a history of previous sexual assault and 2.1% (n=5) had other previous deviant behavior, drug abuse in 3 cases and other delinquent behavior not specified in the other 2 cases. There were no significant differences when comparing the two groups (p=0.70) (table 1).

In 34.9% (n=83) of the cases, the alleged offender was a member of the victim's family and in 62.6% (n=149) it was an acquaintance. Only in 2.5% (n=6) of the situations the offender was a completely stranger to the victim. There were no significant differences when comparing the two groups ( $p=0.10$ ) (table 1).

## **2. Characterization of the victim**

Considering the victims, the mean age was 11 years old (median=10, minimum=1, maximum=82,  $SD=6.9$ ); more than half of the victims were 12 years or less (n=143, 60.1%) and only 3 were adults (40, 46 and 81 years old). When correlating the two groups of offenders (under 16 years and 16 years or more) significant differences were confirmed. The victims were younger when they were abused by younger perpetrators (group under 16 years) ( $p<0.05$ ) (table 2).

Most victims were female (n=153, 64.3%). There were no significant differences when comparing the two study groups ( $p=0.20$ ) (table 2).

Data on the victim's activity demonstrated that 77.3% (n=184) of them were students at the time of the aggression and 7.6% (n=18) was not active. Data were not available in 15.1% (n=36) of the cases. No significant statistical differences were found between groups ( $p=0.44$ ) (table 2).

The information about personal background shows that only 0.8% of the cases (n= 2) had a physical handicap and in 4.6% (n=11) had a mental handicap. Behavioral or emotional problems were reported in 8.8% (n = 21) of the situations, like drug abuse (n=3), alcohol abuse (n=1), sexual behavior problems (n=3), self-mutilation (n=1), use of psychiatric medication (n=12) or delinquent behavior (n=1). There were no significant differences when comparing the two groups ( $p=0.56$ ) (table 2).

About the type of family, in 28.2% (n=67) of the cases the victim lived in a nuclear family, 11.8 % (n=28) in a monoparental family, 7.1% (n=17) in an extended family and in 16.8% (n=40) in institutions or with foster families. In 24.4% (n=58) of the cases there was no data about this topic. No significant statistical differences were found between groups ( $p=0.26$ ) (table 2).

## **3. Characterization of the first suspicion**

The first suspicion of sexual offense in 39.9% (n=95) of cases came from the family of the victim. In 21.4% (n=51) of the situations, the person who made the report or complaint was another one, such as teachers, neighbors, doctors, friends,

psychologists and workers of the institution where the victim lived. In 38.7% (n=92) of the cases it wasn't possible to obtain this information. There were significant differences when comparing the two study groups ( $p<0.05$ ), showing that when the perpetrator is younger the complaint is more probably made by the family of the victim (44.2%, n=61), and when the offender is older most of the time the identity of the person who made the complaint is not known (49%, n=49) (table 3).

In most cases, the source of suspicions was the victim discloser (59.2%, n=141). In 14.7% (n=35) of cases the source of the suspicions was the presence of an eyewitness at the moment of the alleged offense and in 11.8% (n=28) of the cases victims had signs or symptoms interpreted as suggestive of sexual contact (vulvar erythema with intense white leukorrhea; vulvar pain; rectal bleeding; pain, itching and anal fissures; dysuria, polyuria, and hematuria; urinary incontinence; presence of condyloma acuminata; blood stain on the victim's underwear; sudden change and suspect behavior). In 2.5% (n=6) of the cases, suspicion was originated by the existence of a prior sexual offense by the alleged perpetrator against other person close to the victim. In 3.8% (n=9) of suspected cases, suspicion was due to an unexplained temporary disappearance of the victim. There were no significant differences between two study groups ( $p=0.13$ ) (table 3).

The suspicion was predominantly communicated to health services (39.1%, n=93) and police (28.6%, n=68). In only 5.5% (n=13) of the cases, it had been reported to the commission for the protection of children and juvenile and in 3.4% (n=8) to other entities. Information was not obtained in 23.5% of cases (n=56). There are significant differences between the two groups of alleged perpetrators ( $p<0.05$ ), showing that the report to health services (48.6%, n=67) is more often performed when the alleged offender is under 16 years old, while with older offenders, reports are usually made directly to the police (34%, n=34) (table 3).

#### **4. Characterization of the alleged offense**

The type of practices mostly described were fondling (26.1%, n=62). The vaginal penetration was reported in 18.1% (n=43) patients, anal penetration by 13% (n=31), the oral penetration in 4.2% (n=10), attempt to anal, vaginal or oral penetration in 11.8% (n=28) and multiple penetrations (anal and / or vaginal and / or oral) in 7.6% (n=18). There were no statistically significant differences between the two study groups ( $p=0.7$ ) (table 4).

The alleged offenses occurred in 18.5% (n=44) of the cases in the perpetrator's home, 15.5% (n=37) in the perpetrator and the victim's home, in 13.9% (n=33) in an isolated place and in 12.6% (n=30) in the victim's home. In 5% (n=12) of the cases, the location of the alleged offense was the home of relatives and 5.9% (n=14) was another place (4 in a public toilets, 3 on camping, 1 in the beach, 2 in the building where the victim lived, 1 in a friend's house and 1 in a public space not specified). There were significant differences between the groups ( $p < 0.05$ ). Among the under 16-year-old alleged offenders offenses tended to occur more in the house where they both lived (18.1%, n=25) or in the house of the perpetrator (15.9%, n=22), whereas in the older group of offenders the offense occurred more in the home of the perpetrator (22.0%, n=22) or in the victim's home (18%, n=18), not in the house where they both lived (table 4).

Regarding the frequency of sexual practices, 47.9% (n=114) of the cases were a single episode and 24.4% (n=58) were sporadic assaults. Only in 2.9% (n=7) of cases there was an assault perpetrated regularly. Information was not obtained in 24.8% (n=59) of cases. There were no significant differences between the two groups ( $p = 0.73$ ) (table 4).

Physical violence occurred in 21.4% (n=51) of the situations and verbal threats or threats with weapons occurred in 11.3% (n=27). The victims were lured in only 4.2% (n = 10) of the cases and in these situations money, playstation games, rackets, cocaine, chewing gum were used as an alluring factor, but this information was not obtained in 63% (n=150) of the cases. No significant statistical differences were found between groups ( $p = 0.75$ ) (table 4).

## **5. Characterization of forensic medical evaluation**

The time interval between the alleged offense and the forensic medical evaluation was predominantly 72 hours or more (72.7%, n=173) and there were no statistically significant differences between the two groups of alleged offenders ( $p = 0.84$ ) (table 5).

In most cases no injuries (72.7%, n=173) were diagnosed. Lesions suggestive of sexual contact were only detected in 14.3 (n=34) of cases and diagnostic lesions were present in 11.8% (n=28) of the situations. In 3 cases the forensic medical evaluation was not conducted because, in one case, the examinee abandoned the local before it was made and in the other two cases the cause was not known. Lesions suggestive of contact

were detected in 18.2% (n=25) in the group of offenders under 16 years and only 9.2% (n=9) in the other group. These differences were statistically significant ( $p < 0.05$ ) (table 5).

Studies in genetics and forensic biology for the analysis of DNA took place in 16.8% of cases (n=40). From the total cases, in only 4.6% (n=11) a different genetic profile of the victim was obtained in biological samples collected from the body or clothing of the victim. The results obtained in the two groups were not statistically significant ( $p = 0.67$ ) (table 5).

The toxicological and microbiological studies were conducted in only 0.8% (n=2) and 12.2% (n=29) of all cases respectively. In microbiology no positive result was obtained and in the toxicology results were both positive for the presence of ethanol in blood ( $< 0.05$  g/L; in one case the alleged offender was under 16 years and in the other one was more than 16 years). No significant associations were found between microbiological studies and the two groups ( $p = 0.94$ ) (table 5). Regarding the toxicological study, no correlation study was carried out because they were performed in only two cases (table 5).

The forensic interview was conducted in only 13.4% (n=32) of the cases and was always carried out after the forensic medical evaluation. No significant associations were found between the two groups ( $p = 0.33$ ) (table 5).

Based on the analysis of all available information (laboratory test results, physical examinations and forensic interview) the forensic evaluation showed that most of the findings were nonspecific for the diagnosis of sexual offense (85.3%, n=203). Only in 5.0% (n=12) of the cases they were considered diagnostic and 9.7% (n=23) suggestive of sexual assault. Among both groups of offenders there were no statistically significant differences in this field ( $p = 0.33$ ) (table 5).

## **6. Characterization of legal outcomes**

Regarding the analysis of legal outcomes, in 67.6% (n=161) of the cases it was not possible to obtain this information and in 12.6% (n=30) of cases the offender was under 12 years of age and therefore there was not any kind of legal outcome to be analyzed. However in cases in which it was possible to obtain the judicial decision (n=47; 19.7%), these revealed that 57.4% (n=27) of these cases were filed, 38.3% (n=18) were charged and trialed and in 4.3% (n=2) of the situations the process was temporarily suspended

(figure 1). There were no statistically significant differences between the two groups of the alleged offenders ( $p=0.41$ ) (table 6).

The most common reason for filing was withdrawn by the victim or those responsible for the complaints (55.5%,  $n=15$ ) (figure 1). The filling of the cases were due to the lack of evidence in 37.7% ( $n=10$ ) of these cases (figure 1).

In the charges, the crime that was more often applied was "child abuse" - Article 171 of the Criminal Code (66.7%,  $n=10$ ).

In trialed cases ( $n=18$ ), 3 were acquitted (all the offenders were 16 or more) and 83.3% ( $n=15$ ) convicted (figure 1).

It was used a punitive-educational measure in the under 16 years old convicted offenders (60%,  $n=9$ ) (figure 1). In the cases of older offenders, in 26.7% a suspended sentence was used (mean=23, median= 22.5, minimum=12, maximum=34, SD=10.8), in one case a prison sentence of 5 years and 5 months was applied (a case involving rape and robbery of an 81-year-old elderly woman by an 17-year-old) and in another one security measures were defined (figure 1).

When punitive-educational measures were applied, in 44.4% ( $n=4$ ) of the cases an educational support was implemented, in one case internment in an education center for 12 months was chosen and in another one imposing obligations (medical-psychological attendance for 6 months) (figure 1). The average time elapsed between the forensic medical evaluation and the final adjudication was 12.8 months (minimum=14 days, maximum=55.5 months, SD=10.6 months), although in filed or provisionally suspended cases this average time was 9 months and in the judged cases 17.8 months.

## **Discussion**

In recent years it has been paid more attention to the existence of sex offenders who are minors and it has been gradually abandoned the idea that these behaviors are characteristic of the age. Between 2004 and 2010 in Portugal, sex offenders under 18 years accounted for 10.7% of all the sexual offenses reported and examined in the north forensic medical services, however it was not possible to get the age of the offender in all cases, so this percentage may be below its real value. This value is slightly lower than that reported in international studies, which show a value of at least 20% <sup>1, 4, 11</sup>.

This may be due to several factors such as victim under-reporting and acquaintances under-reporting<sup>9, 12</sup>. Perhaps in Portugal the common belief that "boys will be boys" is still very present and society in general is still not keen on this type of situation. Therefore society norms regarding aggressive male sexual behavior may be a source of bias<sup>8</sup>.

A lot of effort has been employed in trying to identify psychological, behavioral, and environmental factors which predispose these children or adolescents to sexually offend. As a result, a long list of personality characteristics, family dynamics, demographic factors, life experience, delinquent behaviors and offense characteristics associated with adolescent sexual offending has been generated in the research literature<sup>18</sup>. Nevertheless while much more is known more researchers come to the conclusion that that group is very heterogeneous<sup>18</sup>.

The major limitation which this study presents is the lack of information concerning the offender, since all the data we have are provided by the victims or their companions or guardians, not being the offender evaluated. In this study the offenders were mostly under 16 years old (58%) and they were mostly male (98.3%), verifying the presence of only four female offenders, being in agreement with other studies<sup>9, 12, 13</sup>.

Taking into account the group of female offenders, the data scarcity of this group could be for several causes: disagreements about the definition of offense by females, seeing that offense often focus on physical evidence, and instances of female offense may be less likely to produce such evidence, which can lead, for example, to less condemnation of sexual activity between a female adolescent and a young boy than between a male adolescent and a young girl; social beliefs about juvenile females' behavior and parental denial about the behavior of these girls<sup>12, 13</sup>. What also contributes to this data lack is the fact that many female offenders often act while in the role of a caretaker or babysitter and they manage to hide their behavior for a long period of time<sup>12, 13</sup>.

Regarding the occupation pursued by the perpetrator was obtained little information (82.4% of cases had no information), but when it existed most were students, which is consistent with other studies<sup>9</sup>. The majority of the offenders had no previous relevant background (94.1%). However 3.8% of the offenders were referred to having a previous history of sexual assault and 2.1% history of other deviant behavior. Other researches show that even 50% of these offenders have already presented evidence of committed prior sexual offenses (convicted or not)<sup>6, 9, 12</sup>. Up to 30% of



other delinquents behaviors are described in these offenders, but not more than in other juvenile offenders<sup>6,9,12</sup>.

In most cases the offender knew the victim, 34.9% was a family member and 62.6% was just an acquaintance. These data confirm other studies that claim that most perpetrators are known to the victims, although there are some studies of minor offenders that show higher percentages of intra-familial offenders (48-67%)<sup>5, 11, 12</sup>. Comparing this study with studies of adult offenders, there is also a higher percentage of intra-familial offenses in these studies than in the studies with minor offenders<sup>19, 20</sup>. Sexual offenses that occur within the family acquire a more serious outcome because victims are younger, the attacks are less visible, the victim experiences a breach of trust and a profound loss of safe home environment<sup>3, 19</sup>. A further delay until the achievement of the forensic medical evaluation occurred more in the intra-familial cases, and when this is done, it is usually associated with a lower degree of physical, genetic and biological evidence<sup>19</sup>. The high percentage of offenders, who are not relatives of the victims, shows the ease with which offenders have access to children outside the family and can develop a trusting relationship as neighbors, family friends, or sitters<sup>11</sup>.

The analysis of the alleged sexual offenses revealed that most victims are female (64.3%) and are younger than 12 years old (60.1%), confirming other studies<sup>8,12</sup>. It has been shown that younger offenders also hurt younger victims compared with the older offenders (66.7% vs 51%).

The victims were mostly students (77.3%), which is understandable since most were also minors and therefore school age (in Portugal compulsory education goes to the 9th grade, in which children are at least 14 years old). The information about personal background shows that 70.6% of the victims don't have anything relevant to be reported. Most of the victims integrate a nuclear family (28.2%) or a foster family/institution (16.8%). However some studies with adults offenders shows that although in most cases the victim also belong to a nuclear family, those who belong to a foster family/ institution is substantially less<sup>20</sup>.

Regarding the characterization of the first suspicion, there are few data in the literature. In this study, it was found that in most cases the situation was revealed by a relative of the victim (40.2%), but significant differences were found between the two groups of offenders: when the perpetrator is younger the complaint is more probably made by the family of the victim (44.2%, n=61), and when the offender is older most of

the time the identity of the person who made the complaint is not known. The suspicious fact was the story revealed by the victim (59.2%) and the suspicion was reported in 39.1% of the cases to health services and 28.6% directly to the police. In this last parameter, significant differences between the two groups of offenders were found, namely, when the offender was younger, the complaint was made preferentially to health services (health services: 48.6% vs. police: 24.6 %) and, among the older offenders, complaints were made more equally to the police (34%) and to health services (26%). This difference may happen for two reasons: on the one hand, the fact that the perpetrators are younger and usually known of the victims and their families, what may mean they are more reluctant to report these offenders to the police<sup>12</sup>. On the other hand, as shown above, offenders under 16 offend victims who are younger too, which can lead families to make use of health services in the first instance when any complaint or story is revealed by the victim.

The characteristics of sexual offense have been significant in determining its effects on victims and the presence, degree, and nature of psychopathological conditions afflicting perpetrators<sup>5</sup>. The type of practices more often described was intrusive sexual practices (vaginal, anal and/or oral penetration - 42.9%) and fondling (26.1%), which are consistent with some studies<sup>8, 11, 12</sup>. In studies with adults offenders, the percentage of cases in which occurs an intrusive sexual practice is less than it is in this work<sup>19, 20</sup>.

The alleged offenses occurred in most cases as a single episode (47.9%), the duration of the abuse is important because the longer the duration of the abuse the more negative outcomes there will be to the victims<sup>5</sup>. In the majority (58%) of cases occurred use of physical force (in which information was available). However, this information contradicts data that claim that the main method of coercion used by these offenders is the verbal threats<sup>12</sup>, and others studies that tell us that only one-third of these offenses occur under use of physical force<sup>9</sup>. These discrepancies show us the heterogeneity of this group, as mentioned above<sup>18</sup>. The percentage of physical violence determined in this study is also superior to that found in studies involving adult abusers<sup>19, 20</sup>.

In this research the alleged offenses occurred in 18.5% of cases at the perpetrator's home, 12.6% at the victim's home and 15.5% at the home where both lived. Existing data suggest that the most common location of the offenses is indoors, as in this study<sup>12</sup>. In regard to this parameter, this study revealed the presence of statistically significant differences between the two groups of offenders, revealing that

the group of young offenders tended to offend more at the home where both lived (18, 1%) or at the home of the perpetrator (15.9%), while in the other group the offense tended to occur in the offender's home (22.0%) or at the victim's house (18%), occurring in fewer cases in the house that both share (12%). Consequently, we may think that in the younger group of offenders, perpetrator and victim live together more often, and that it is this proximity which may lead to the choice of the victim.

In relation to the medical evaluation, this occurred in most cases more than 72 hours after the offense had happened, which leads to the study of DNA which becomes more difficult. Moreover, in many cases, the type of offense does not justify the demand for sperm or semen, which may explain the low rate of genetic studies conducted (16.8%). Thus, it is a lot of pressure placed on physical examination and results that might have, revealing or not, the evidence that these attacks have occurred.

In this paper we did not detect any type of injury in 72.7% of cases, which confirms the recent literature that has stressed that a normal physical examination is common in child sexual abuse <sup>11</sup>. However the absence of physical signs can also be the result of the forensic examination delays. Therefore, performing the forensic medical evaluation as soon as possible improves the chance of finding supportive <sup>19</sup>. Even if the offense provoked injuries, it is known that lesions of the anogenital tissues heal quickly and can be difficult to detect after weeks or months <sup>21,22</sup>.

In addition the studies also report that the reports of the victims, especially when they are very young, may not mention exactly what happened, for example, when a child says "he put his thing in my private", may not mean that full penetration occurred <sup>15,21</sup>. Nonetheless, the absence of signs of injury in a child who gives a clear disclosure of sexual abuse does not mean that the child was not abused in the manner he or she described <sup>22</sup>. In these situations, the medical diagnosis of sexual offense should be made based on history with the clear statement by the victim and a psychological and social assessment of the family and the abuser <sup>19</sup>. But careful need to be taken with this type of evidence, it will be only reliable if the victim's information is spontaneous and uncontaminated <sup>19</sup>. In this research the forensic interview was conducted in only 13,4% of all cases, and always carried out after the forensic medical evaluation. In studies involving adults offenders, the percentage of forensic interview performed was considerably higher <sup>20</sup>.

The toxicological and microbiological studies were conducted in only 0.8% and 12.2% of all cases, respectively. In microbiology any positive result was obtained and in

the toxicology results were both positive for the presence of ethanol in blood. Microbiological analysis is important because it confirms the presence of infection and contact with infected bodily secretions, most likely to have been sexual in nature <sup>22</sup>. When certain infections are present in certain conditions, these can be considered diagnostic <sup>22</sup>, but, in the submitted sample, none of microbiological tests came back positive.

Based on the analysis of all available information (laboratory test results, physical examinations and forensic interview), the forensic findings were in order to consider most of them nonspecific for the diagnosis of sexual offense (85.3%). Only in 5.0% of the cases they were considered diagnostic.

In cases that result in injuries or traces, there are few indicators currently considered diagnostic. Indeed, except for pregnancy and the presence of semen on the victim's body, all other indicators are considered suggestive of sexual offense or nonspecific <sup>21-23</sup>. Thus only in few situations it is categorically recognized as sexual assault, as in this case.

The analysis of legal outcomes revealed that, in cases in which it was possible to determine this parameter, 57.4% of these were filed most for withdrawal by the victim or their responsible (55.6%). In 38.3% of the cases they were charged and trialed. The literature on judicial decisions indicates that the majority of child sexual abuse cases are filed for lack of evidence <sup>24, 25</sup>, the same is true in studies with adult offenders <sup>20</sup>. It is also observed large variations in rates of prosecution of children sexual abuse, mainly in more recent studies, in which these vary between 28% and 94% <sup>25</sup>. These variations can be explained by differences in sampling and study methodologies, which may be influenced by cultural, social and legal issues <sup>2</sup>. Nevertheless it is clear that in the case of minor offenders, the literature says that the number of these offenders who actually reach the court is very small <sup>24, 26</sup>. Having found such a high percentage of filed cases (54%) confirms that. These data could result from several causes: difficulty in prosecuting cases having very young victims, lack of corroborative evidence, victims hesitancy or inability to express themselves or to identify the perpetrator, and failure of the family to cooperate with criminal prosecution, particularly when the alleged offender is young and likely to be a family member or otherwise know to them <sup>24, 26</sup>. This last aspect may be related to the high number of dropouts and it may be responsible for the low number of reports of this kind of situations.

In 4% of cases trials were provisionally suspended, in accordance with Article 281 of the Portuguese Code of Penal Procedure. This article provides that if a suspect has never been convicted of a crime of sexual nature, not previously benefited from this measure, and obey all rules of conduct that are imposed on, the public prosecutor, with the concurrence of Judge of instruction and the suspected, may suspend the proceedings temporarily, to a maximum of five years, and then archive it.

The alleged offenders were convicted in 66.7% of defendants (12% of judgments obtained). These results are consistent with other studies of sexual abuse of children that reveal the probability of conviction is high in cases that are charged and tried<sup>25, 27</sup>. From the cases convicted, in 60% was applied a punitive-educational measure due to the offender's age (less than 16 years). In the group of older offenders there was penalty of imprisonment in one case, which was 5 years and 5 months. One study reveals that after adjudication most juvenile sex offenders (80%) are placed in community settings, the other 20% are remanded to residential treatment centers or are incarcerated<sup>6</sup>.

As stated before, young people over 16 years and under the age of 21 are subject to specific criteria - *Rules of young adults*. These criteria specify that, when applicable the term of imprisonment, the judge should sooth the, when they have serious reasons to believe that the attenuation will undertake advantages for the social reintegration of the young offender. This may be one explanation for having only one case of imprisonment in the group of convicted offenders.

Although there may always be a small percentage of youth whose crimes require incarceration, it seems worthwhile to consider many more youth could be safely maintained in their own homes. The literature indicates that grouping antisocial youth together (whether for treatment or incarceration) carries with it the risk of actually increasing recidivism rates because youth who view themselves as "delinquent" are less likely to change patterns of offending<sup>1, 28</sup>. Thus it seems Portugal is doing well to judge young sexual offenders, because, according to the results of this study, few cases lead to incarceration of young people, giving primacy to keep them in a more favorable environment. However more work must be done in this area in order to better understand how these youngsters are prosecuted and accompanied during this process.

The average time elapsed between the medico-legal and judicial outcome was 12.8 months. Note, however, that this average value may be higher since there weren't

obtained 67.6% of cases required, many of which were not available for not having been completed yet.

The present study has some limitations, one of which is its retrospective nature, which did not allow collecting data on all the variables. We must also bear in mind that this study is based on forensic reports in which the examinee is the victim and not the alleged offender, and so, all information about it is given by the victims, through their legal representatives or by others who report cases, and can be therefore a source of bias.

## **Conclusions**

The results of this study allowed us to conclude that:

1. Sex offenders under 18 years accounted for 10.7% of all the sexual offenses reported and examined in the Portuguese north forensic medical services, verifying a lower percentage than in international studies;

2. These offenders are mostly males (97.9%), aged less than 16 years (58%) and known of the victims (34.7% the offender is a member of family and a 62.8% acquaintances);

3. The victims of this group of offenders are 11 years in average, most female (64.4%), students (77%), without significant history of disease or deviant behavior (70.6%);

4. The first suspicion is in most cases the disclosure made by the victim (59%) to a family member (40.2%) and reported to health services (38.9%) or police (28.9%);

5. Regarding the alleged offense, this is usually a single episode (47.7%), in which a significant percentage of cases physical force is used to dominate the victim. The alleged offense can occur in several places, the most common being the home of the offender (18.4%) or the home of both parties (15.5%). Most victims were allegedly abused by fondling (26.1%) or vaginal penetration (18.1%);

6. Most victims performed the forensic medical evaluation 72 hours or more after the injury has occurred, not having verified the presence of physical consequences in most cases (72.4%) and only in 4.6% of the cases could be identified a genetic profile different from the victim;

7. The majority of the cases in which it was possible to obtain the judicial outcome was filed (57.4%) for withdrawn. In the accused cases, 83.3% were convicted.

In these, in 60% was applied a punitive-educational measure (in offenders under the age of 16) which was mainly an educational support (60%, n=9), and in the other aggressors the suspended sentence (averaged 23 months) was the verdict chosen in the majority of the cases. The average time elapsed between the medical-legal examination and final adjudication was 12.8 months, and, in cases filed or provisionally suspended, this average time was 9 months and in the judged cases 17.8 months;

8. The age of the offender showed a statistically significant relationship with: the victim's age, the individual who first suspected the offense, the entity to whom the complaint was made, the local where the offense occurred and type of injury found in the forensic evaluation.

These results when compared to studies with adult or minor offenders revealed lower intra-familial abuse rates, higher prevalence of physical violence. Intrusive sexual practices were higher when compared to studies with adult offenders.

Despite all the data from this study, the minor offenders remain a complex area of research, and the social perception of this group remains contentious. Since most of the available research regarding the sexual violence has been conducted with adult offenders, especially in Portugal, where no study was published in this area till now, additional studies will be necessary to better understand the characteristics of the children and adolescents sex offenders and all variables that surround them. This study may promote the creation of strategies for detection, diagnoses and prevention of cases, victims' protection and the treatment and/or rehabilitation of offenders.

### **Ethical Approval**

This study has been carried out in accordance with ethica rules and it has not been submitted to Ethical Approval because it is a retrospective case review in which no invasive studies were carried out nor identification of the individuals were given.

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## Tables

**Table 1**

Characterization of alleged offender

		<16 years (n=138) n (%)	≥ 16 years (n=100) n (%)	p
Relationship with victim	Relative	55 (39.9)	28 (28)	0.10
	Acquaintance	81 (58.7)	68 (68)	
	Unknown	2 (1,4)	4 (4)	
Previous deviant behavior	Sexual offenses	4 (2.9)	5 (5)	0.70
	Other deviant behavior	3 (2.2)	2 (2)	
	None	131 (95)	93 (93)	

**Table 2**

Characterization of the victim

		<16 years (n=138) n (%)	≥ 16 years (n=100) n (%)	p
Gender	Male	54 (39.1)	31 (31)	0.20
	Female	84 (60.1)	69 (69)	
Age (years)	≤ 12	92 (66.7)	51 (51)	< 0.05
	> 12	46 (33.3)	49 (49)	
Activity	Student	105 (76.1)	79 (79)	0.44
	None	9 (6.5)	9 (9)	
	No information	24 (17.4)	12 (12)	
Background	Physical handicap	1 (0.7)	1 (1)	0.56
	Mental handicap	4 (2.9)	7 (7)	
	Behavior or emotional problems	11 (8)	10 (10)	
	Others	23 (16.7)	13 (13)	
	None	99 (71.7)	69 (69)	
Family type	Nuclear	32 (23.2)	35 (35)	0.26
	Monoparental	18 (13)	10 (10)	
	Combined	13 (9.4)	4 (4)	
	Extended	18 (13)	8 (8)	
	Institution/Foster Family	21 (15.2)	19 (19)	
	Other	1 (0.7)	1 (1)	
	No information	35 (25.4)	23 (23)	

**Table 3**

## Characterization of the first suspicion

		<16 years (n=138)	≥ 16 years (n=100)	p
		n (%)	n (%)	
Person who suspect	Relative	61 (44.2)	34 (34)	<0.05
	Other person	34 (24.6)	17 (17)	
	No information	43 (31.2)	49 (49)	
Report	Health services	67 (48.6)	26 (26)	< 0.05
	Police	34 (24.6)	34 (34)	
	CPCJ	8 (5.8)	5 (5)	
	Others	4 (2.9)	4 (4)	
	No information	25 (18.1)	31 (31)	
	Fact revealed for the victim	80 (58)	61 (61)	
Suspicion	Suggestive signs or symptoms	19 (13.8)	9 (9)	
	Eyewitness	24 (17.4)	11 (11)	
	Temporary disappearance	2 (1.4)	7 (7)	
	Sexual offenses against others	4 (2.9)	2 (2)	
	No information	9 (6.5)	10 (10)	

**Table 4**

## Characterization of the alleged offense

		<16 years (n=138) n (%)	≥ 16 years (n=100) n (%)	p
Type	Fondling	34 (24.6)	28 (28)	0.7
	Vaginal, anal or oral attempt of penetration	15 (10.9)	13 (13)	
	Anal penetration	21 (15.2)	10 (10)	
	Vaginal penetration	23 (16.7)	20 (20)	
	Oral penetration	5 (3.6)	5 (5)	
	Multiple penetration	13 (9.4)	5 (5)	
	No information	27 (19.6)	19 (19)	
Place	Victim's home	12 (8.7)	18 (18)	<0.05
	Offender's home	22 (15.9)	22 (22)	
	Victim's and offender's home	25 (18.1)	12 (12)	
	Isolated place	18 (13)	15 (15)	
	School	16 (11.6)	2 (2)	
	No information	28 (20.3)	22 (22)	
	Other	7 (5.1)	7 (7)	
	Relative's home	10 (7.2)	2 (2)	
Circumstances	Verbal threats	13 (9.4)	14 (14)	0.75
	Physical violence	30 (21.7)	21 (21)	
	Inducement	6 (4.3)	4 (4)	
	No information	89 (64.5)	61 (61)	
Frequency	Unique	69 (50)	45 (45)	0.73
	Regular	3 (2.2)	4 (4)	
	Sporadic	32 (23.2)	27 (27)	
	No information	34 (24.6)	24 (24)	

**Table 5**

## Characterization of medical forensic evaluation

		<16 years (n=138)	≥ 16 years (n=100)	p
		n (%)	n (%)	
Delay between occurrence and examination	<72 hours	37 (26.8)	28 (28)	0.84
	≥ 72 hours	101 (73.2)	72 (72)	
Injury	Suggestive	25 (18.1)	9 (9)	< 0.05
	Unspecific	21 (15.2)	7 (7)	
	None	91 (65.9)	82 (82)	
	No evaluation	1 (0.7)	2 (2)	
Genetics and forensic biology	Positive	6 (4.3)	5 (5)	0.67
	Negative	19 (13.8)	10 (10)	
	No realized	113 (81.9)	85 (85)	
Forensic interview	Fulfilled	16 (11.6)	16 (16)	
	Not fulfilled	122 (88.4)	84 (84)	
Conclusions	Diagnostic	9 (6.5)	3 (3)	0.33
	Suggestive	15 (10.9)	8 (8)	
	Unspecific	114 (82.6)	89 (89)	

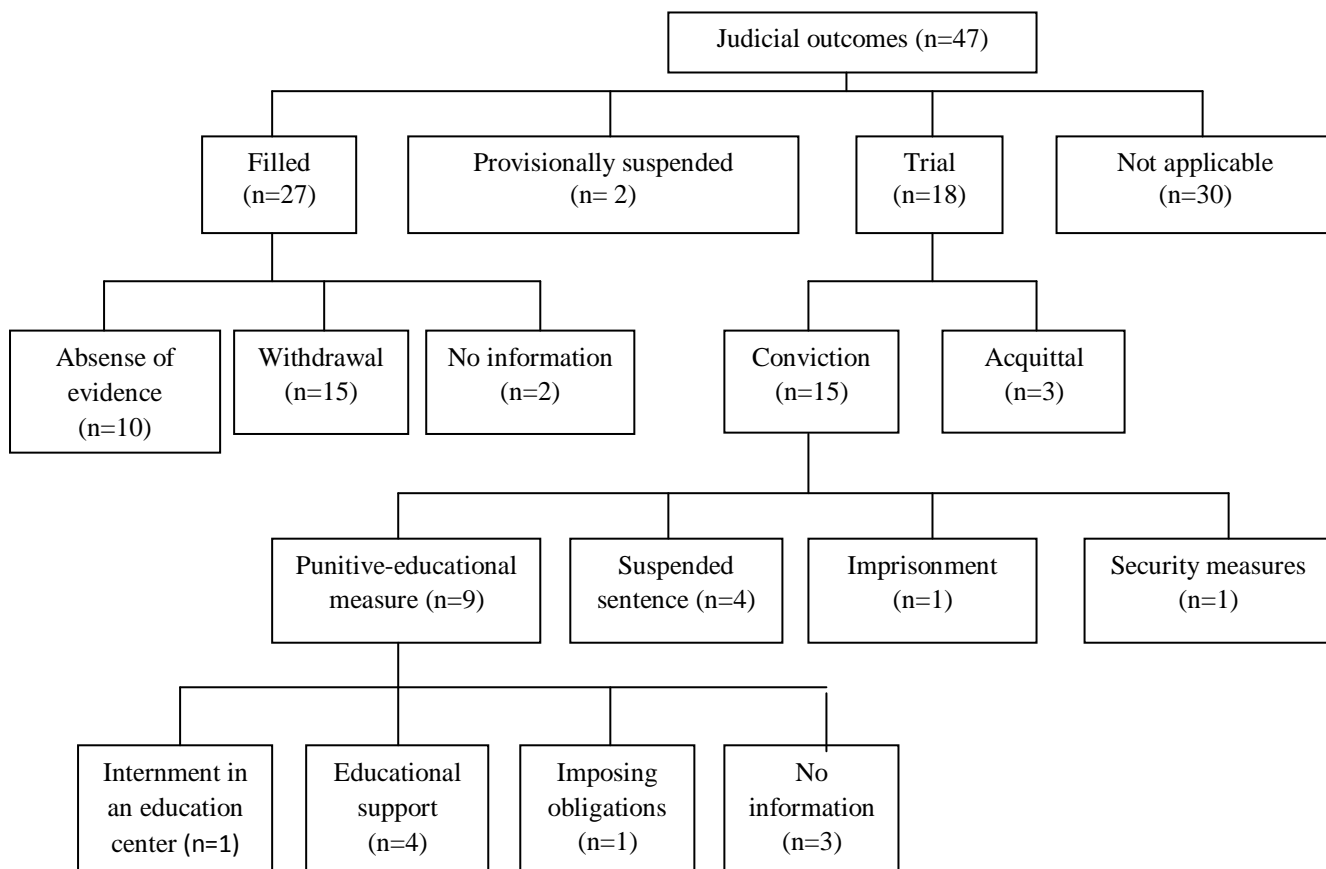
**Table 6**

## Characterization of legal outcomes

	<16 years (n=24)	≥ 16 years (n=23)	p
	n (%)	n (%)	
Filled	16 (66.7)	11(47.8)	0.41
Provisionally suspended	1 (4.2)	1 (4.3)	
Trial	7 (29.2)	11(47.8)	

**Figure 1**

Legal outcomes



# **ANEXOS**

## Anexo 1: **Regras de Publicação**

(Revista de referência: *Journal of Forensic and Legal Medicine*)

### **INTRODUCTION**

#### ***Types of paper***

The following types of articles will be considered for publication:

*Original Communication*: new research, previously unpublished.

*Review*: detailed review of specific subject, backed up by full reference list and exploring all aspects of subject.

*Clinical Practice*: review backed up by relevant literature of specific aspects of clinical practice.

*Short Report*: new research or clinical issue, straightforward idea, simple methodology, concise takehome message.

*Case Reviews*: one or two related cases with specific message, backed up by broad review of related literature.

*Learning Point*: single case where outcome identifies or reinforces an important clinical, pathological or legal issue.

*Case Reports*: one or two related cases with specific unambiguous message that needs little discussion, small number of references.

*Personal View*: unreferenced, discursive paper on aspect of treatment, care, management that impacted directly on author.

*Leading Article*: invited article by an authority on a particular issue.

*Editorial*: topical polemic on an issue of the day, some commissioned, some submitted.

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The decision to publish submitted letters rests purely with the Editor-in-Chief.

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