

# Common Assault v Child Cruelty

## Common Misconceptions

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# What is Common Assault

- On **\*\*(..SPECIFY DATE..)** at **\*\*(..SPECIFY TOWNSHIP..)** assaulted **\*\*(..SPECIFY PERSON..)** by beating  
Section 39 Criminal Justice Act 1988

# What is Child Cruelty

- On **\*\*(..SPECIFY DATE..)** at **\*\*(..SPECIFY TOWNSHIP..)**, being a person who had attained the age of 16 years, and having responsibility for **\*\*(..SPECIFY THE NAME OF THE CHILD OR YOUNG PERSON..)**, a
  - (A)\_[child]\_
  - (B)\_[young person]\_
  - (C)\_[child or young person]\_
- under that age, wilfully assaulted, the said **\*\*(..SPECIFY THE NAME OF THE CHILD OR YOUNG PERSON..)** in a manner likely to cause
- Him/her
- unnecessary suffering or injury to health
  - Section 1 Childrens and Young Persons Act 1933

# Key differences

Common Assault	Child Cruelty
Any slap, hit, punch, kick, throw, even if no injuries, marks	Wilful Assault, usually over a period of time, such as ongoing significant physical chastisement
Defences in Law: Reasonable Chastisement	Defences in Law: No statutory defence
Trial method: Summarily Only	Trial method: Either Way
Sentencing: Up to 6 months imprisonment	Sentencing: Maximum 14 years imprisonment

# Common Assault

- CPS guidelines specify that injuries of the following severity should normally be charged as battery:-
  - grazes, scratches, abrasions, minor bruising, swellings, reddening of the skin, superficial cuts and a "black eye".
- Therefore not always a section 47
- Can be deemed suitable to be dealt with by social services on a single agency basis
- Use of implement would be a Joint Section 47 under agreed protocol.

# Case Study 1

- A referral was received from the school about T attending school with a black eye. T said that she sustained the black eye when she was playing with her sibling and hit her face on the wall. This was the same reason given by her mother.



# Case Study 1

- Thoughts?
- Outcome: Charged by CPS with Assault by Beating

# Physical Chastisement

- Physical chastisement is an offence of common assault.
- Reasonable chastisement is a defence in law



# Child Cruelty

- A specific charge of assault is likely to be more appropriate where extreme violence is used and serious injury sustained, sufficient to support a charge of wounding/ causing grievous bodily harm with intent.
- Child cruelty/neglect offences are particularly relevant where the behaviour has occurred over a period of time. The type of cruelty should be chosen with care. It may be preferable to have two or more alternative allegations in order that the conduct complained of is appropriately described.
- In some cases, the circumstances might warrant charges of both assault and section 1. For example, regular assaults and cruelty over a period of time, culminating in a child being pushed down the stairs and sustaining serious injuries. Each case must be considered on its own facts and merits.

# Case Study 2

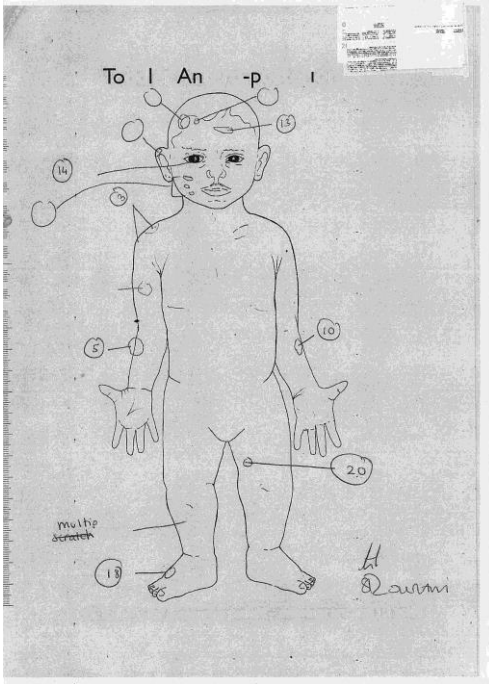
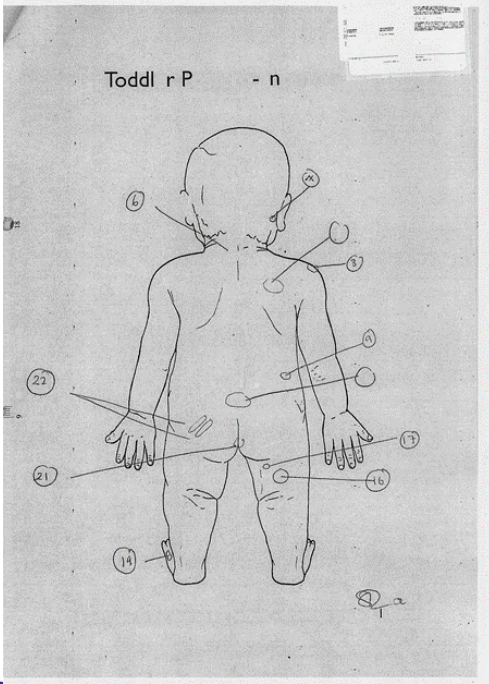
- E woke up at 1am as C was screaming and crying. She found him on the floor and believed he had fallen from his cot (carpeted floor). She stated he landed on a toy wooden car ramp and a plastic light up tree. E Picked him up but did not switch the lights on and used the light from the corridor to check him for any bleeding. She reported he had done this 2 weeks before and had bleedings from his lip. She did not see any bleeding on this occasion so put him back in his cot. E reported the cot was a 'low rise cot from Argos'. It was on the lower setting and when C stands up he is just about taller than the sides of it.
- E reported that lately he has been climbing out of it and does chin ups on radiators. In the cot there was a mattress bed sheet and duvet. At 7am C followed his mother to the bathroom and this is when she first saw his right eye was swollen and when she changed him in the morning she saw a bruise on his right shoulder for the first time.
- She stated no bruises/injuries were present when he went to bed except for some scratch marks from the cat. E had attended Cheshunt community hospital but was advised to attend A and E. She also stated to Dr K that the community hospital had told her that they would call social services. Since the fall, C had been sleepier than usual but there was no vomiting or loss of consciousness. E advised that her partner W S had also been present in the flat overnight.



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# Case Study 2 Part 3



# Case Study 2 Part 4



- Thoughts?
- Outcome: Both parents charged with Child Cruelty



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