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Forty-fifth session
Agenda item 10 (c)

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED
TO ANY FORM OF DETENTION OR IMPRISONMENT

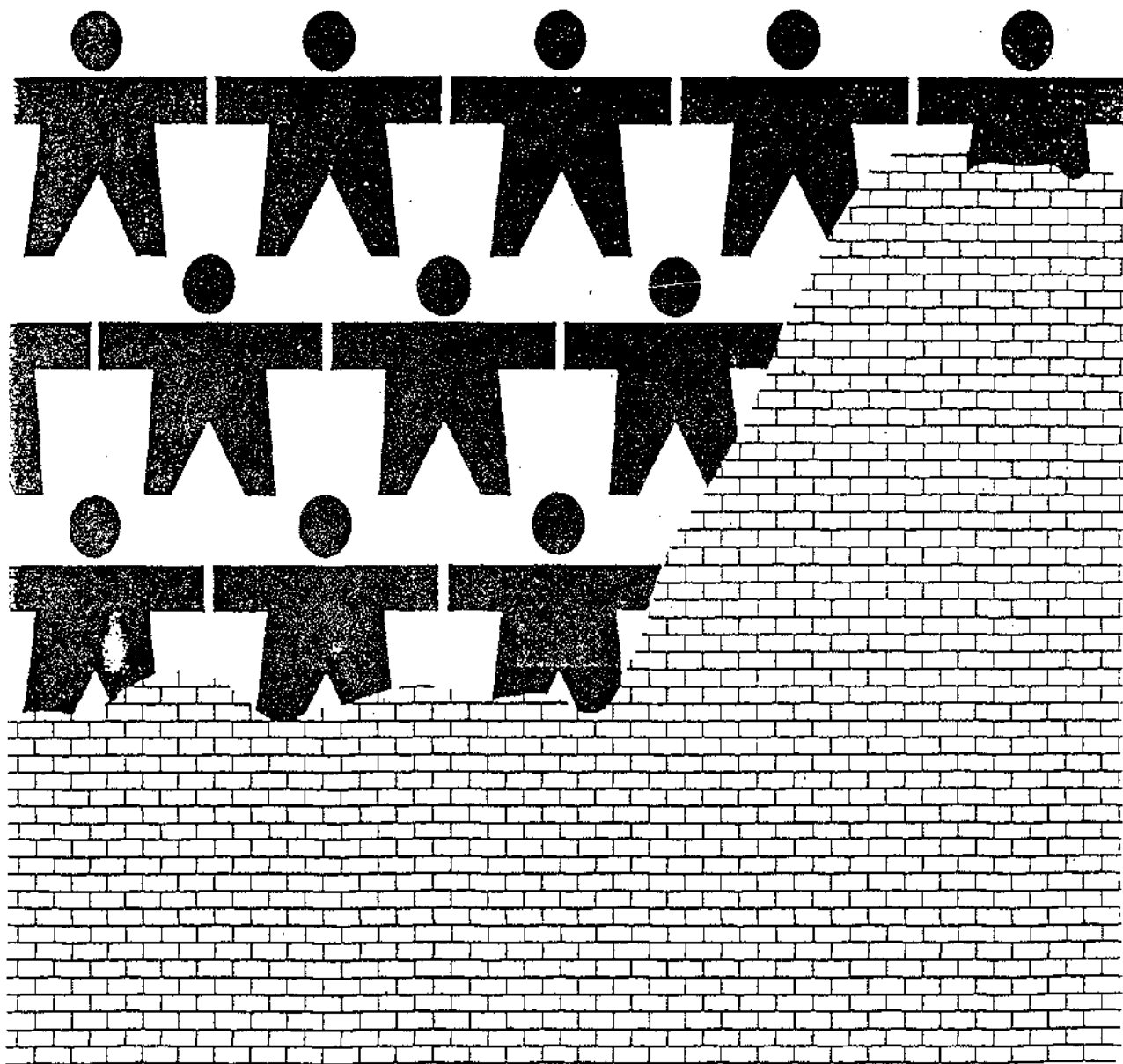
QUESTION OF ENFORCED OR INVOLUNTARY DISAPPEARANCES

Note verbale dated 1 March 1989 from the Permanent Mission of
Guatemala to the United Nations Office at Geneva addressed to
the Chairman of the Commission on Human Rights

The Permanent Mission of Guatemala to the United Nations Office and other international organizations in Geneva presents its compliments to the Chairman of the forty-fifth session of the Commission on Human Rights and has the honour to attach herewith a report by the Government of Guatemala on human rights, and in particular on disappeared persons, as well as the statistical tables on all 2,106 cases reported.

The Permanent Mission of Guatemala would be grateful if this report and its annex could be circulated as an official document during the present session.

Human Rights in Guatemala



THE PROBLEM OF THE MISSING PERSONS

A number of complaints submitted, but mostly disinformation, have misled public opinion, both Guatemalan and international, about alleged violations of human rights in the disappearance of persons.

This is due to the fact that the case of someone who leaves home for family reasons, people who go abroad or travel within the country in search of better living conditions, minors who get lost when travelling from one place to another within the national territory, juveniles who run away from their homes because of ill-treatment or because of sentimental problems, and even individuals who have joined subversive groups are all treated alike, as if they were cases of kidnappings and political activities, which are always attributed to the authorities.

The Government of Guatemala, pursuant to paragraph 7 of Commission on Human Rights resolution 1987/53, which urges the appropriate authorities to "clarify the fate of the disappeared persons" presents a documented report on that problem.

It should be stressed that important State institutions are involved in the process of investigating most of the cases of missing persons reported; they specifically followed up each file in order to produce tangible results.

The work of investigation in itself involves, in addition to the judicial investigation, field work which consists of an interview with the complainant and/or relative of the missing person, in order to establish possible causes and to complete the framework of the judicial investigation.

In terms of results, this exercise made it possible to establish that 64 per cent of the cases of missing persons reported to some authority had been resolved almost immediately, because those persons had returned and the fact had not been reported.

This anomaly creates a distorted image of the real situation concerning disappearances in Guatemala; and it was possible to correct it in a high percentage of cases, by the municipal or judicial authority registering the appropriate testimony given by the person who has returned.

The investigation made it possible to prove that some 16 per cent of the complaints were unfounded.

Further, approximately 20 per cent of cases continue to be in the investigatory phase and could not be concluded because of the limited resources available. It is expected that when the investigation is completed within a short period of time the same results will be apparent.

A breakdown of the overall results of the investigation and a study of computerized cases give the following picture of the problem of missing persons:

Total number of cases reported:	2,106 = 100 per cent;
Total number of cases investigated:	1,689 = 80 per cent;
Total number of cases under investigation:	417 = 20 per cent.

It has been established that of the total number of cases investigated 1,352 persons, accounting for 64 per cent, have returned to their homes, and a total of 417 persons, accounting for 20 per cent of the total number are still missing and are still under investigation.

The various investigations conducted made it possible to establish, both individually and generally, the motives, the manner, the profession or employment, the sex, the place, the age, and the date on which these persons were lost. Similarly, it was possible to determine the real reason, the date, the place and the physical condition in which the persons returned to their homes.

The most important aspect of the work of the investigation is that a fairly high level of progress was achieved and computerized systems began to be used to assist in the investigation and to assess important aspects that will be of considerable use in the future, and thus improve the Government's ability, through the security agencies, in respect of the protection of human rights, since it has been possible to establish which areas, at which times, and for what reasons these acts usually occur. It will enable additional efforts to be made to prevent them from continuing to occur and it will thus be possible to provide better guarantees for the real enjoyment of human rights.

The other important aspect of the investigation is the fact that it has been possible to grade accurately the extremely varied reasons why those persons were lost, ranging from family problems to mental disorders. In many cases repeated and totally unfounded reports were received. It was possible to establish that only on very rare occasions were the reasons why people disappeared politically motivated.

It is also important to point out that in most cases, the non-governmental organizations that monitor the effectiveness of human rights, make reports on persons who vanish but rarely take note of the complaints filed in the courts or provide information that contributes to the investigation.

The investigation initially made it possible to establish a list of reasons given by the relatives who made the report to the competent authorities. Subsequently when the field work was carried out and the respective interviews held, it was possible to establish that many of the persons concerned had already returned to their homes, while others did not but were known to have changed address or emigrated for a perfectly justified reason.

The various reasons that make for missing persons are as follows:

Accidents	158
Delinquency	20
Migration	564
Family problems	942

Kidnapping/abduction	85
Unfounded complaints	337
Total	2,106

It is common knowledge that cases of family problems, accidents caused by alcoholism, mental breakdowns, cases of persons losing their way in transit and cases of persons who stray are the main causes of the cases of missing persons in Guatemala. These are followed by migration which ranges from absence from the home to various changes both of work and residence, journeys within Guatemala and abroad. Afterwards, there is a high percentage of unfounded reports, in the form of false names, inaccurate addresses, incorrect motives and methods; in respect of the missing person and the complainant and finally, a small percentage of cases of kidnapping/abduction and common delinquency including assault, robbery and traffic in children.

REPORTED MANNER IN WHICH THE DISAPPEARANCES OCCURRED

The reports submitted by the relatives of missing persons indicate that 79 per cent, or 1,665 persons, took place without any kind of violence. Sixteen per cent (337) turned out to be unfounded reports, whereas the remaining 5 per cent, or 104 persons, occurred with violence of some kind, such as kidnapping, abduction, threats, assault, seizure, etc.

One can see that in a small percentage of cases the criminal activities occur outside the control of the forces of law and order and that in most cases the persons simply leave home.

A study of the physical condition in which the individuals return to their homes shows that 59 per cent, or 1,244 persons, returned safe and sound. Sixteen per cent, or 337 persons, were unfounded reports. Twenty per cent, or 417 persons, are currently under investigation. Four per cent, or 77 persons, appear to have died for various reasons such as the use of firearms or cutting weapons, and 1 per cent, or 31 persons, are confined in hospitals.

In general, one sees that of a total of 2,106 cases reported to the authorities, 64 per cent, or 1,352 persons, have returned to their homes, 20 per cent, or 417 persons, are under investigation and 16 per cent, or 337 persons were proved to be unfounded reports, as it proved impossible to trace the person who made the report since incorrect false data had been given.

In 20 per cent of cases under investigation, or 417 missing persons, there is every reason to believe that the results obtained will be similar to those cases already investigated, since the motives for their disappearance were reported by relatives and the 417 cases may be graded according to the following reasons:

Desertion	31
Alcoholism	2
Change of address	1

Change of work	2
Missing	17
Causes unknown	110
Family problems	35
Kidnapping or abduction	13
Sentimental reasons	17
Absent from home	146
Traffic in children	2
Mental disorders	20
Travel abroad	19
Travel within the country	2
Total	417

The international community will note that the Government has made considerable efforts to enhance the capacity of the authorities responsible for the investigations. A good deal of progress has been achieved and the experience acquired, combined with the will of the people and Government to build a better society, will lead to the full enjoyment of human rights.

The Government of Guatemala is highly gratified to be able to reinforce the progress achieved in the investigation of persons reported to have disappeared.

Both the judicial and extra-judicial activities use a computerized service which, starting with the initial phase of the report, the de officio investigation and the direct interview, records the results of each phase, specifying causes and culminating with the appearance, which is sealed by judicial act to finalize the case.

The experience acquired in the work of investigation made it possible to work out the appeal to all national and international sectors involved in the problems of missing persons to report periodically and objectively on each case to which there is access, as well as on the accompanying process of investigation, in order to support the rule of the State of Law and to reduce the causes that generate these problems (see appendix A).

A study conducted in 1988 in the metropolitan area has yielded similar results to those produced at the national level. A system of interviews with the complainants and relatives of alleged victims was also utilized.

As a result of this system, in 843 cases reported, it was possible to establish that in 61 per cent of the cases, or a total of 517 alleged disappearances, the persons had already returned to their homes or their new address was known.

Some 5 per cent of the cases reported concerned young people who went abroad secretly or who had family problems and prefer to live away from their homes, while 34 per cent were undetermined cases, due to the fact that the families had changed residence, without leaving any indications or leaving non-existent addresses.

The files on persons alleged to have disappeared have built up because when the authorities receive a complaint, they refer the question to the appropriate court. Even when the persons reappear, a same process takes place; the fact is not notified because such a report is not considered to have any value and the files continue in existence, even when the case has been resolved.

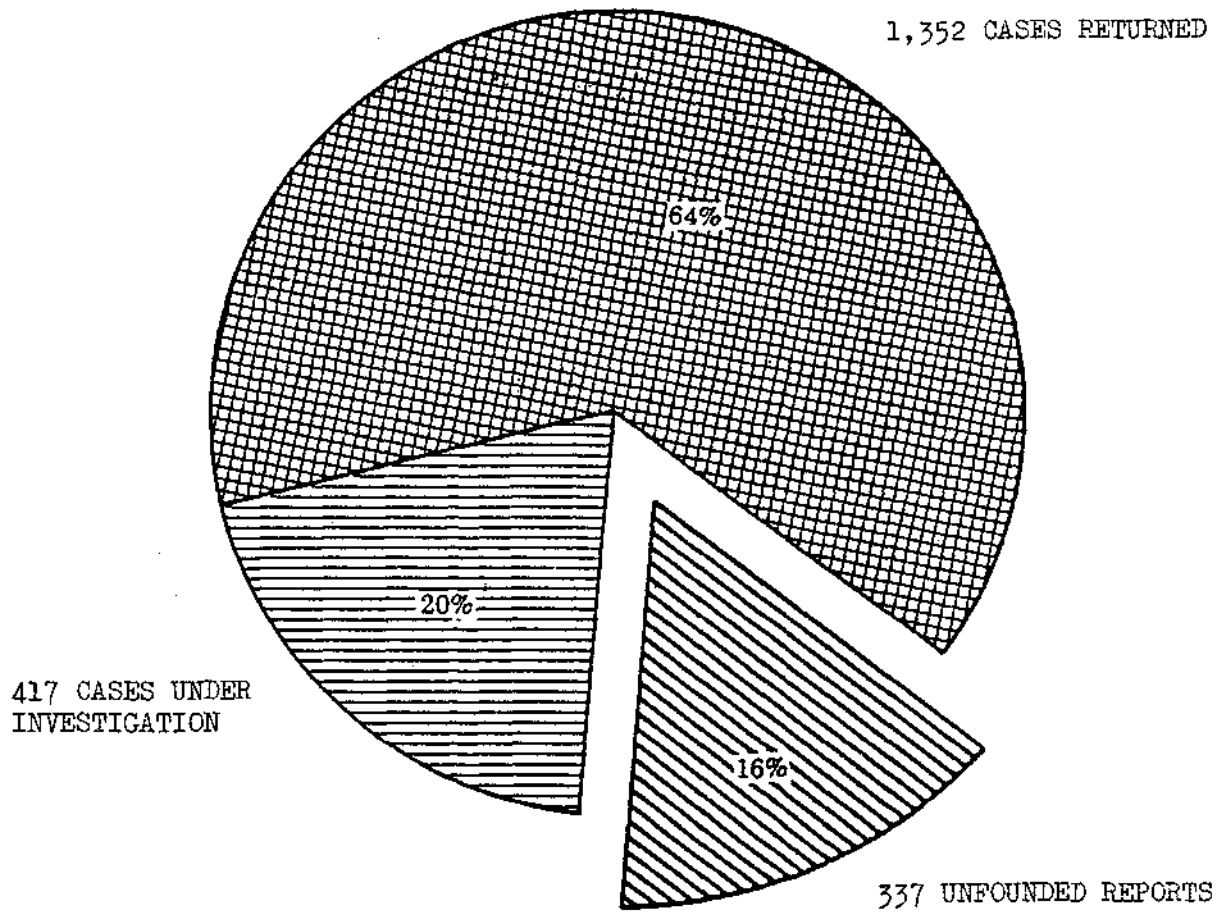
The system of interviews of complainants and relatives of persons alleged to have disappeared has proved that the disappearances are not political in origin; this rules out any possible participation by the security forces in such acts and thus discredits the accusations of various groups, both national and international, which describe the cases as "violations of human rights".

Solutions to cases of complaints of human rights violations that occurred under previous régimes and which have accumulated are currently being speeded up, with the participation of the security forces combined in the Civil Protection System (SIPROCI) which co-operates closely with the Advisory Commission to the Presidency of the Republic on Human Rights Matters.

APPENDIX A

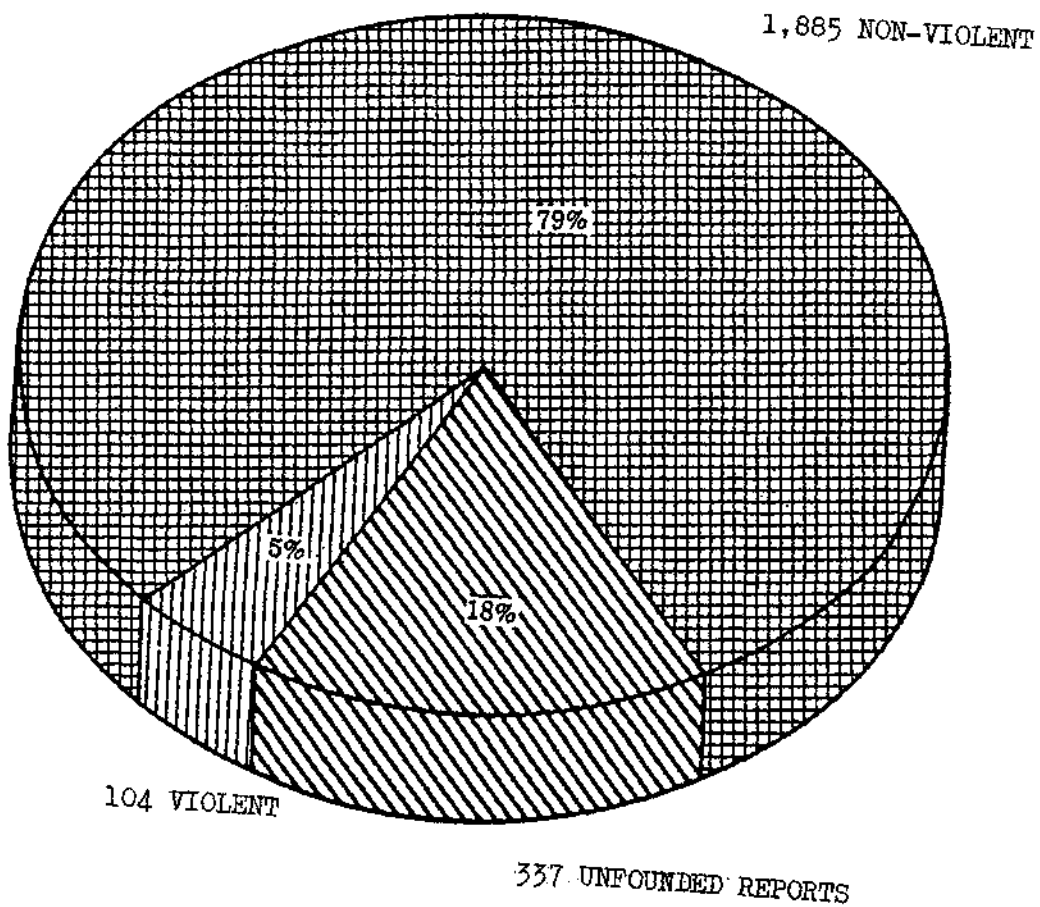
DOCUMENTATION ILLUSTRATING THE PROCESS OF INVESTIGATION

DIAGRAM SHOWING OVERALL RESULTS



OUT OF 2,106 CASES REPORTED

DIAGRAM INDICATING MANNER IN WHICH THE DISAPPEARANCES
WERE REPORTED TO HAVE OCCURRED

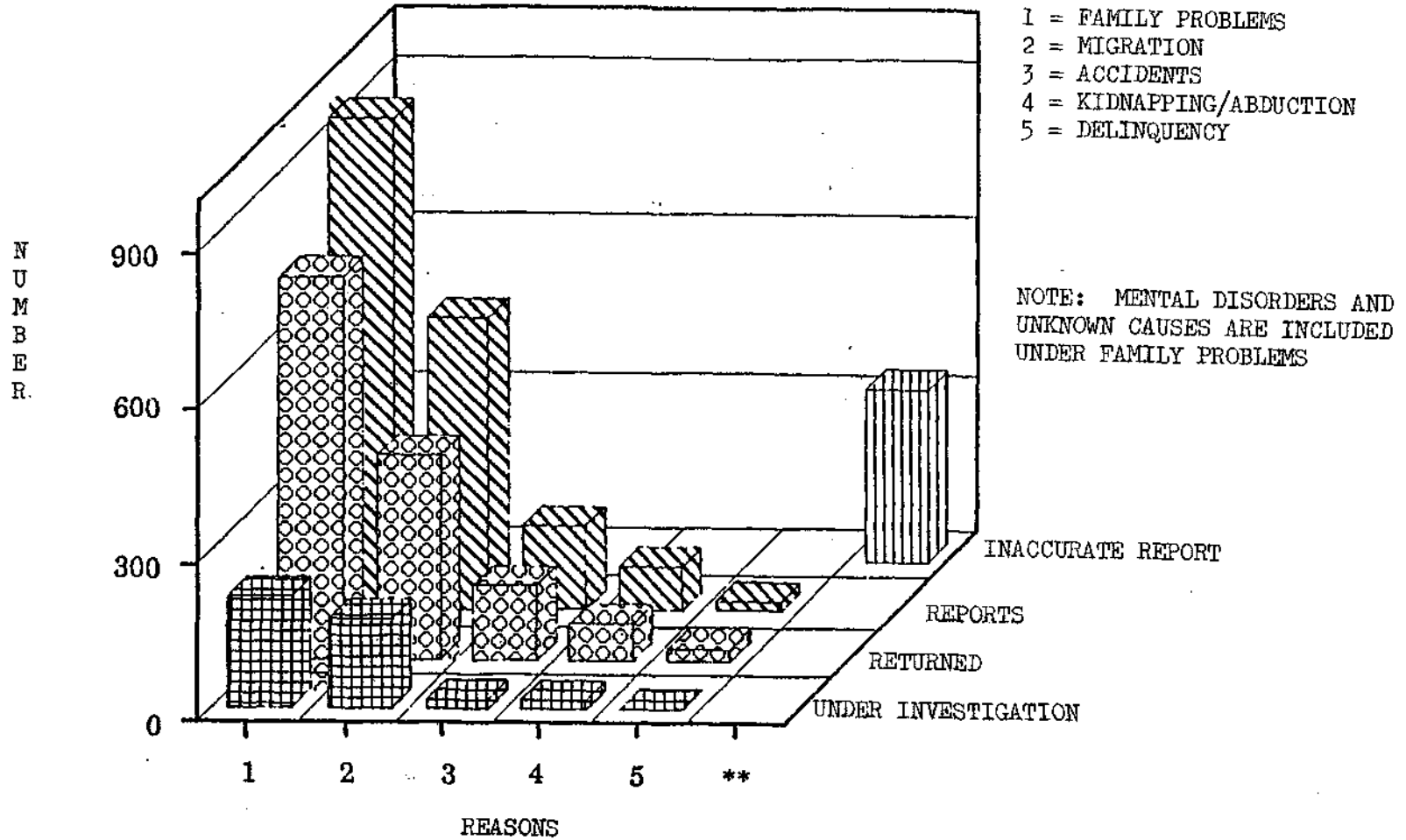


OUT OF 2,106 CASES

REASONS FOR DISAPPEARANCE AND RETURN OF PERSONS

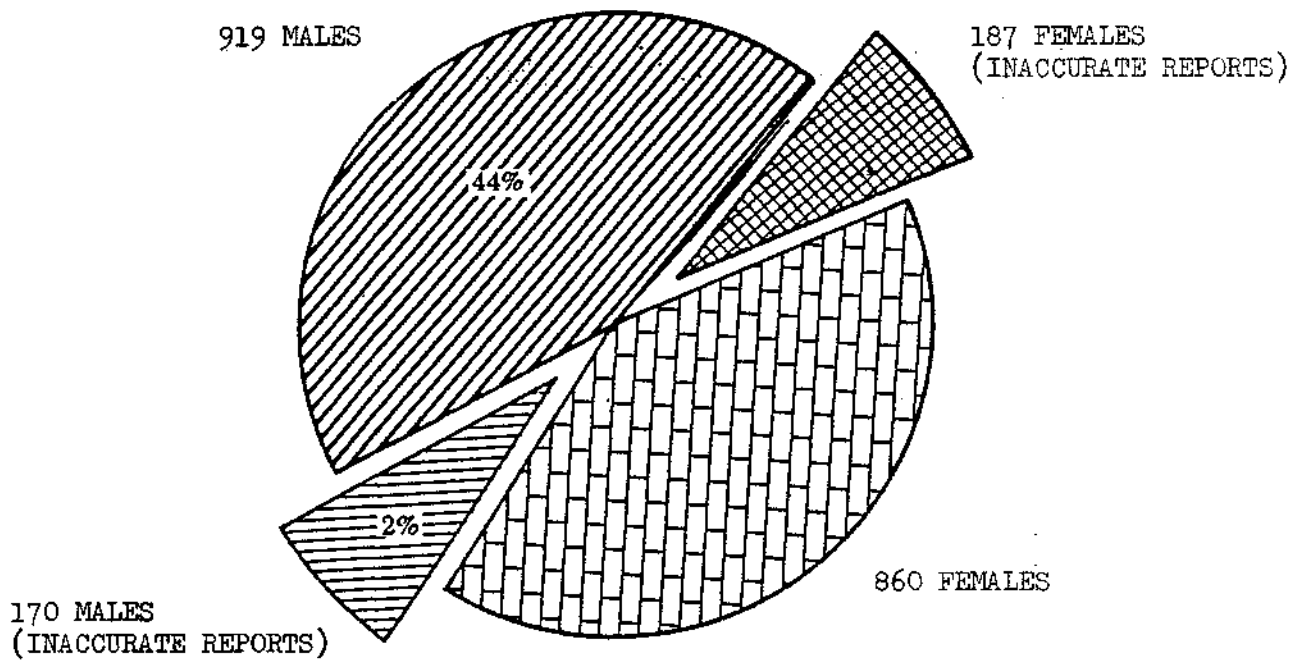
No.	REASONS	REPORTS	RETURNED	UNDER INVESTIGATION	UNFOUNDED
01	FAMILY PROBLEMS	942	731	211	
02	MIGRATION	564	392	172	
03	ACCIDENTS	158	139	19	
04	KIDNAPPING/ABDUCTION	85	70	15	
05	DELINQUENCY	20	20	0	
06	INACCURATE				337

DIAGRAM OF REASONS FOR DISAPPEARANCE AND RETURN OF PERSONS



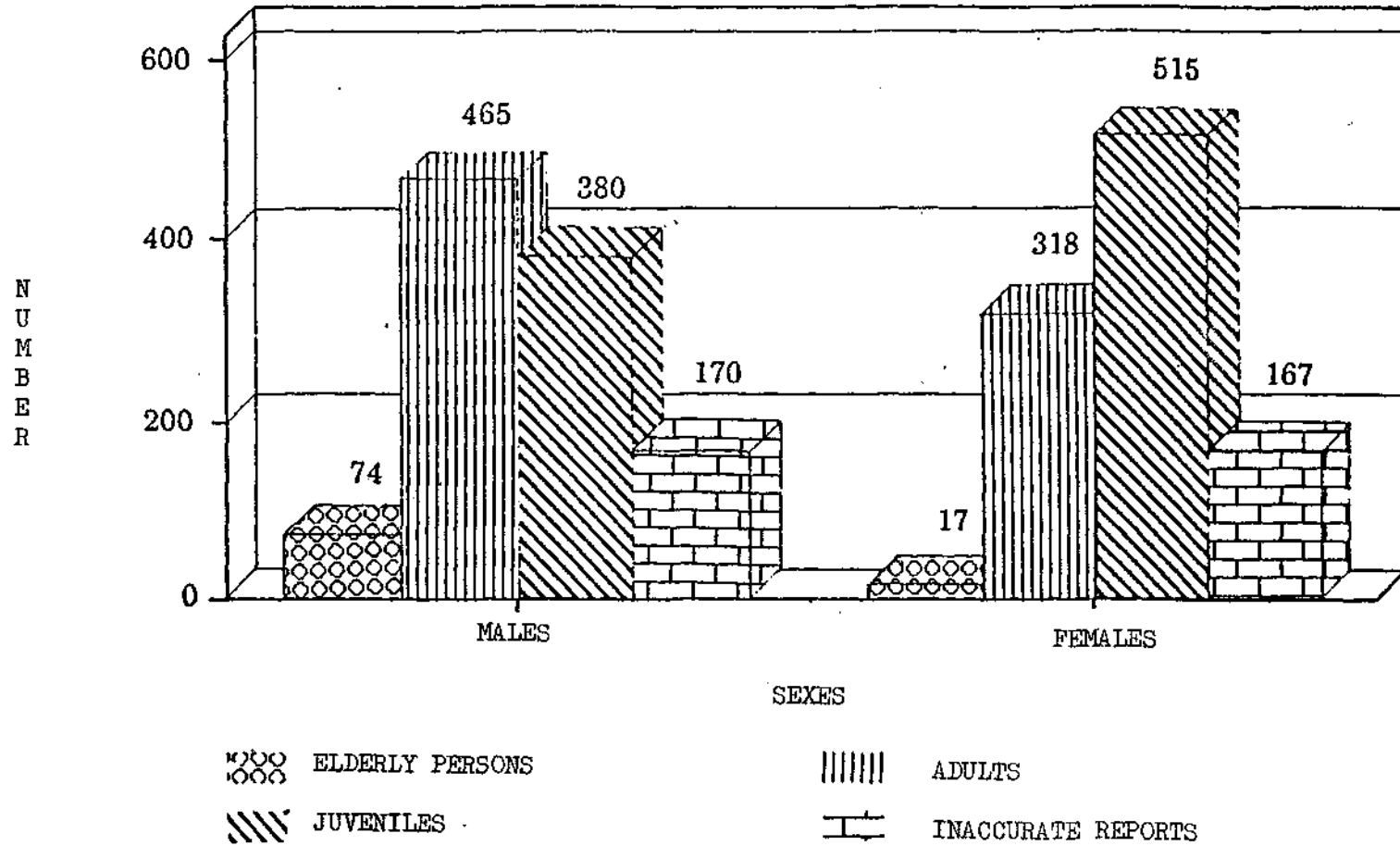
OUT OF 2,106 REPORTED CASES

OVERALL DIAGRAM ACCORDING TO SEX



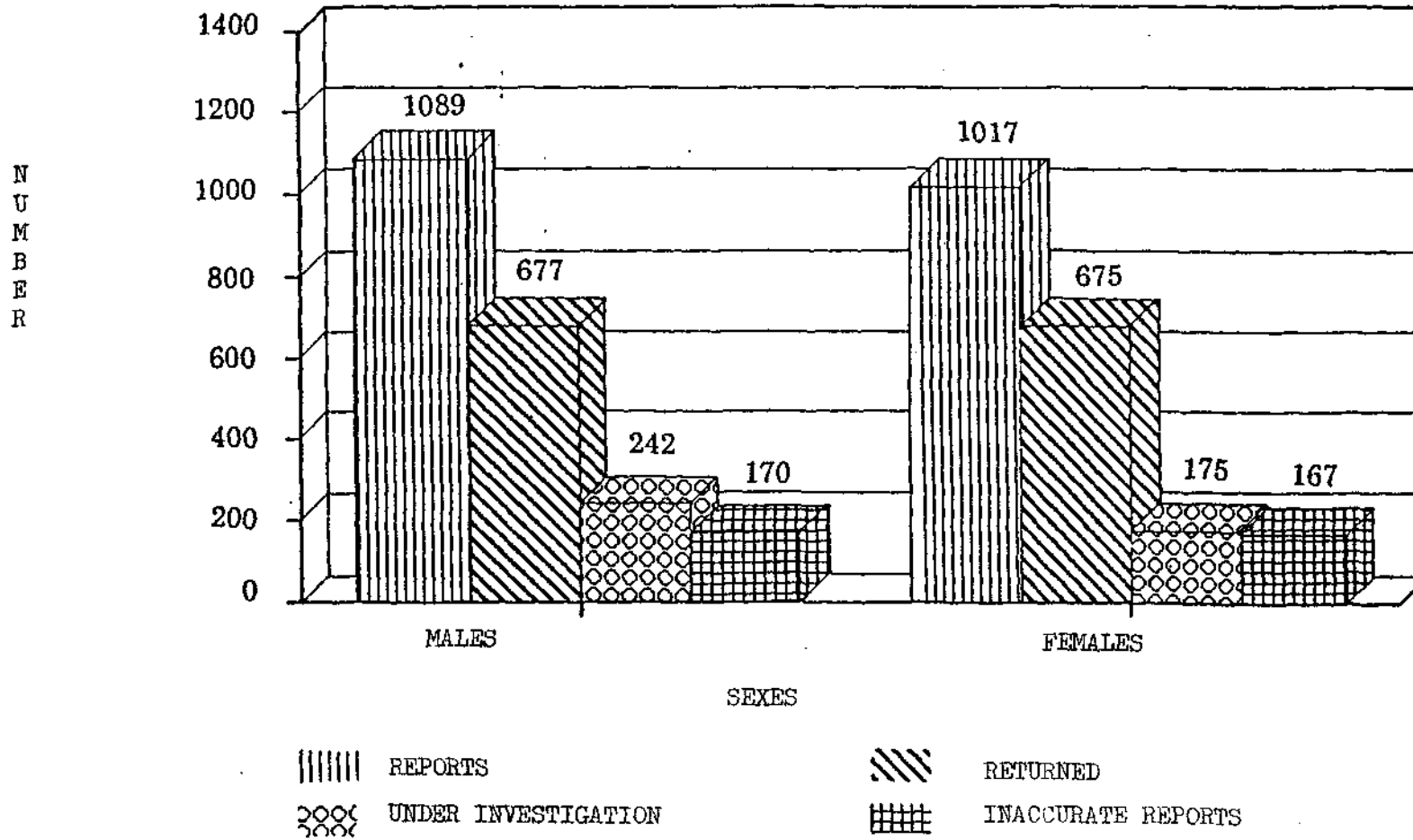
OUT OF 2,106 REPORTED CASES

OVERALL DIAGRAM ACCORDING TO SEX



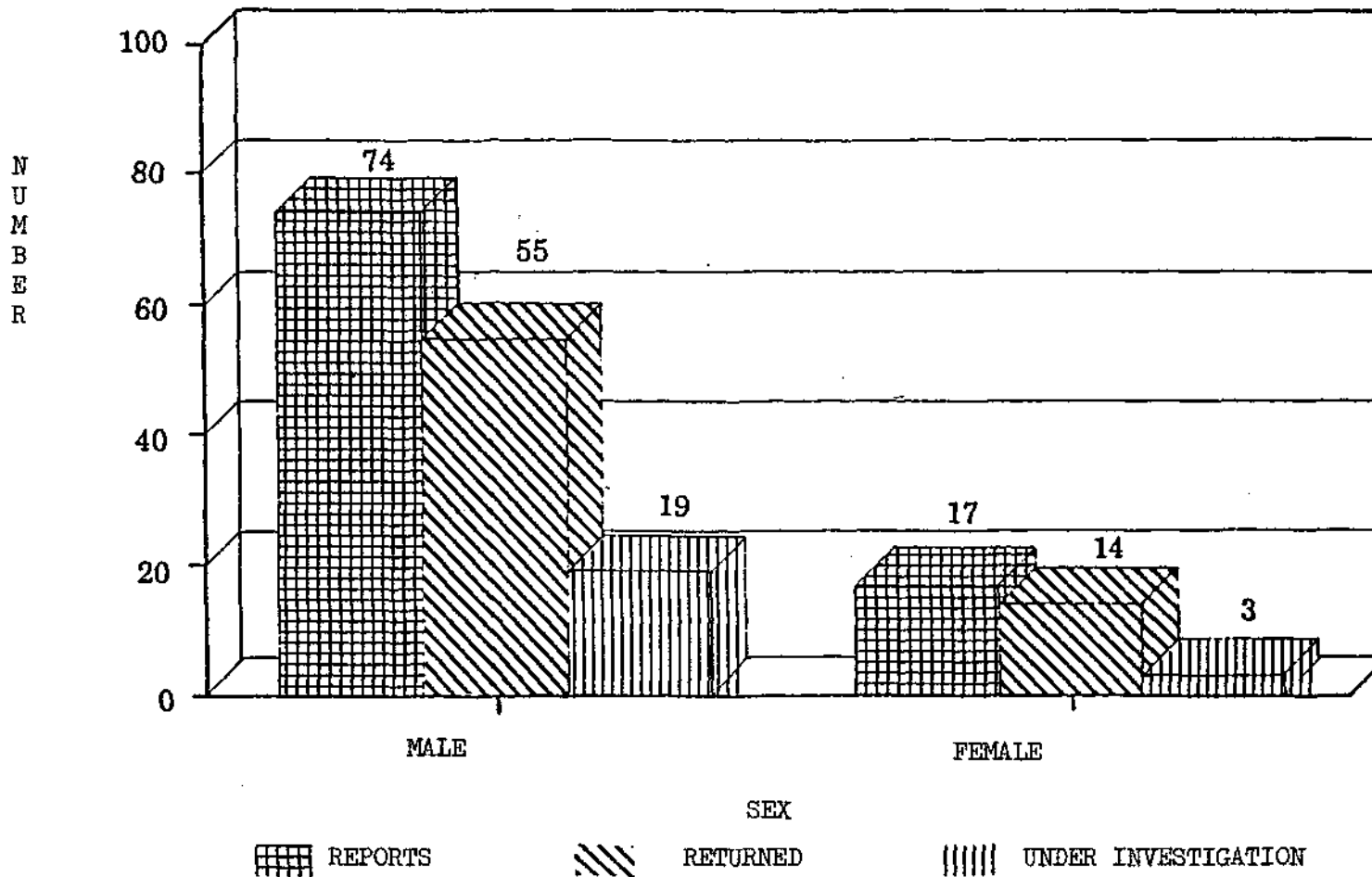
OUT OF 2,106 REPORTED CASES

OVERALL RESULT ACCORDING TO SEX



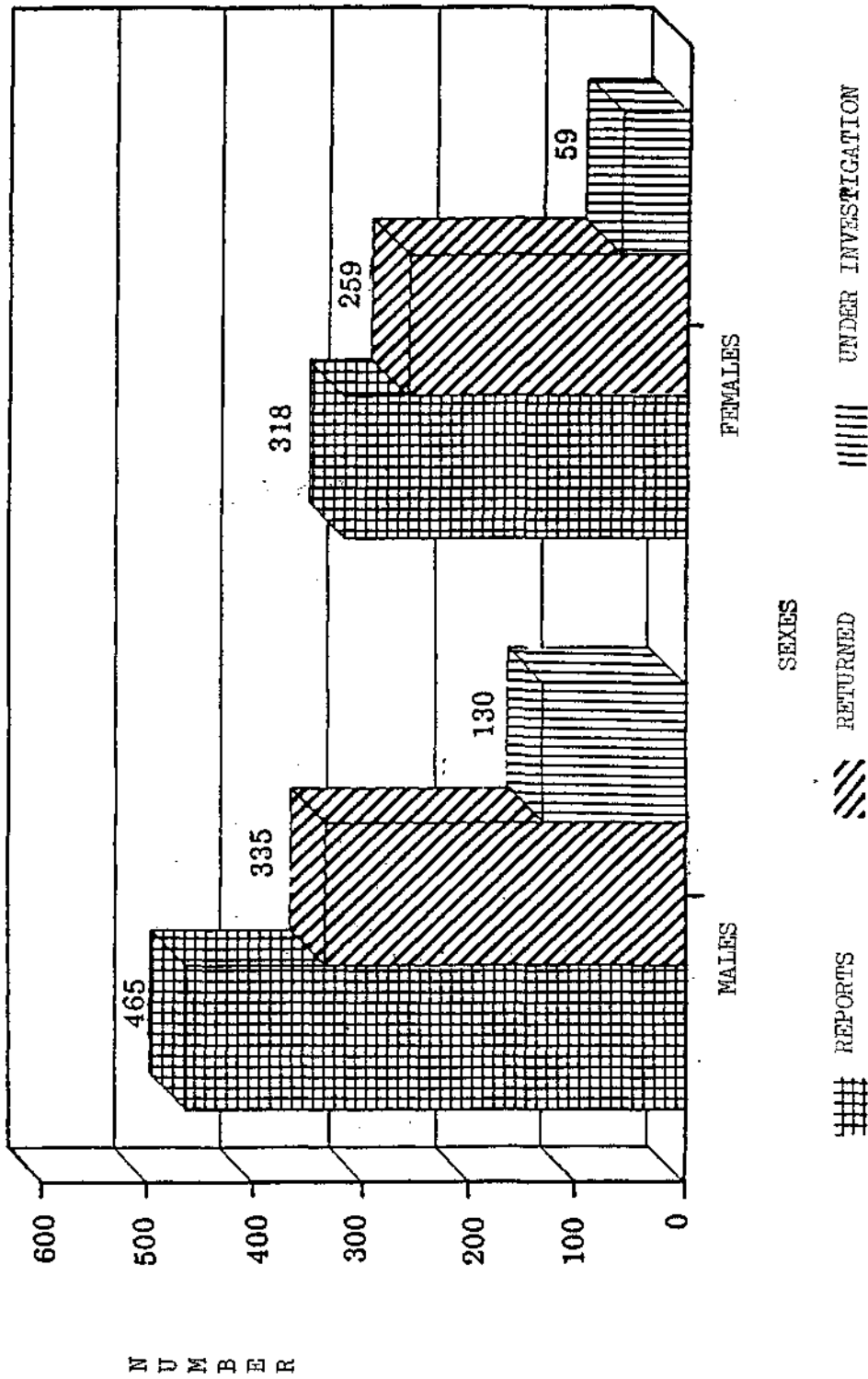
OUT OF 2,106 REPORTED CASES

RESULT CONCERNING ELDERLY PERSONS ACCORDING TO SEX



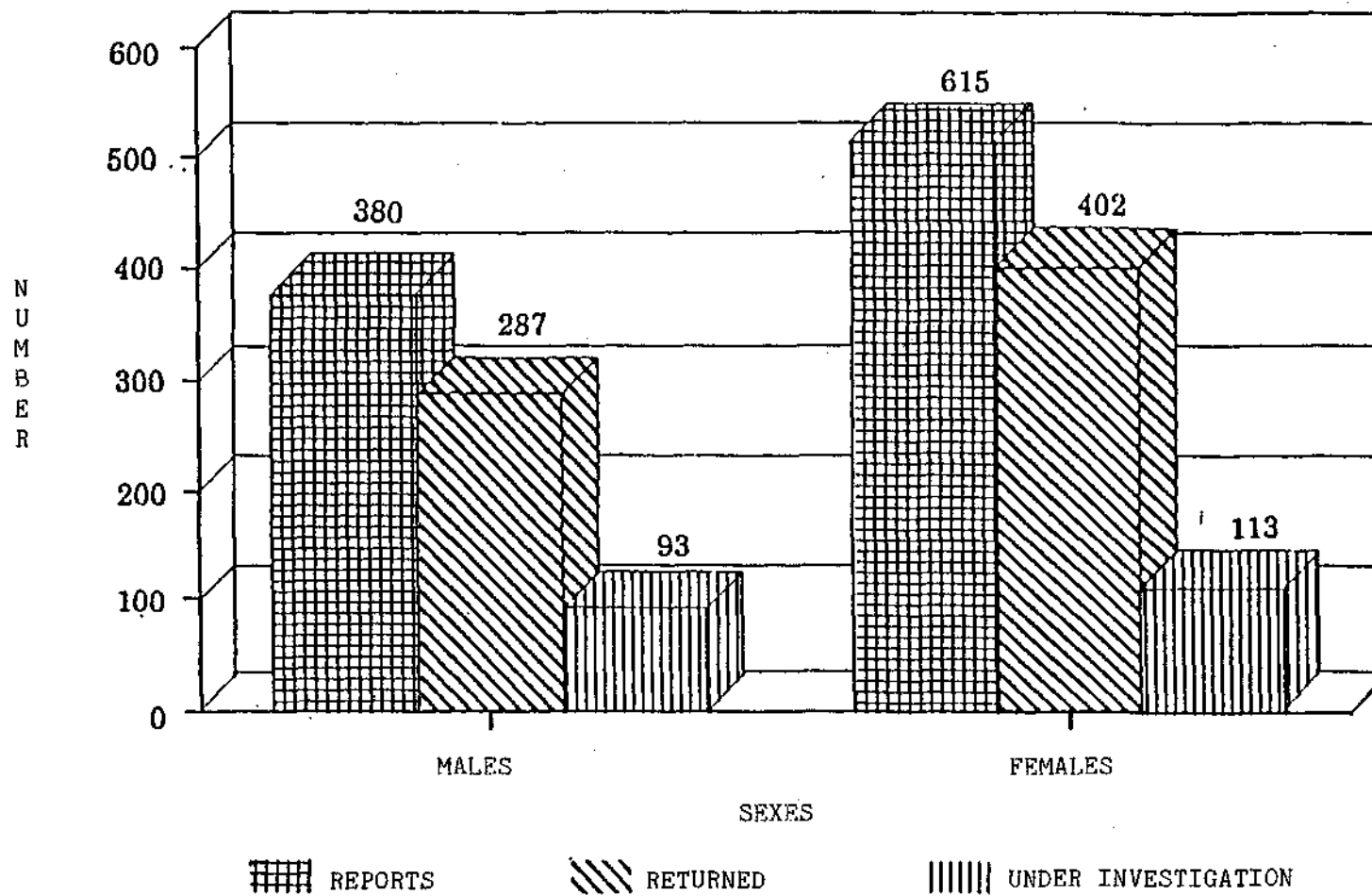
OUT OF 2,106 REPORTED CASES

RESULT CONCERNING ADULTS ACCORDING TO SEX



OUT OF 2,106 REPORTED CASES

RESULT CONCERNING JUVENILES ACCORDING TO AGE

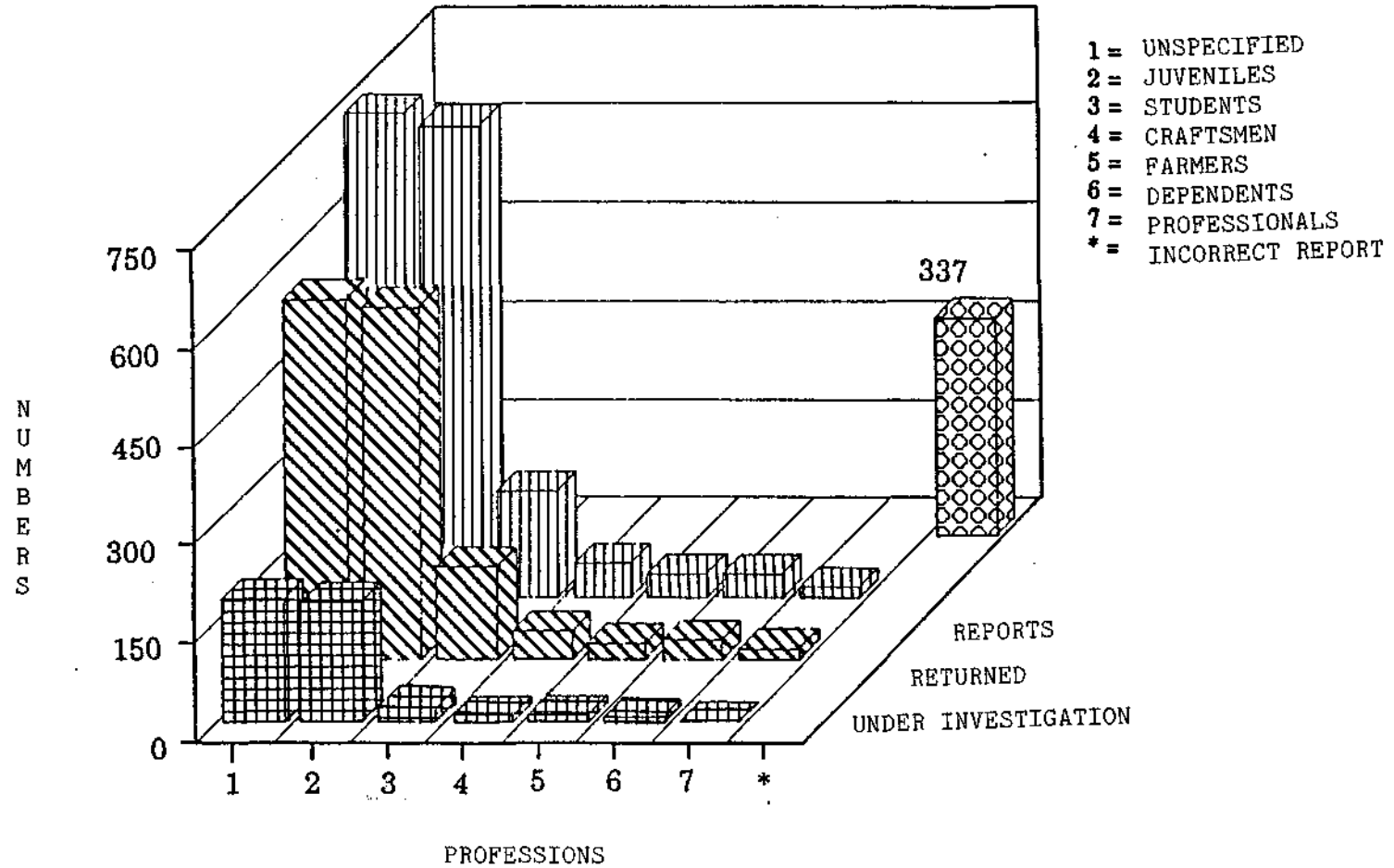


OUT OF 2,106 REPORTED CASES

RESULT OF THE INVESTIGATION INTO MISSING PERSONS ACCORDING TO PROFESSION

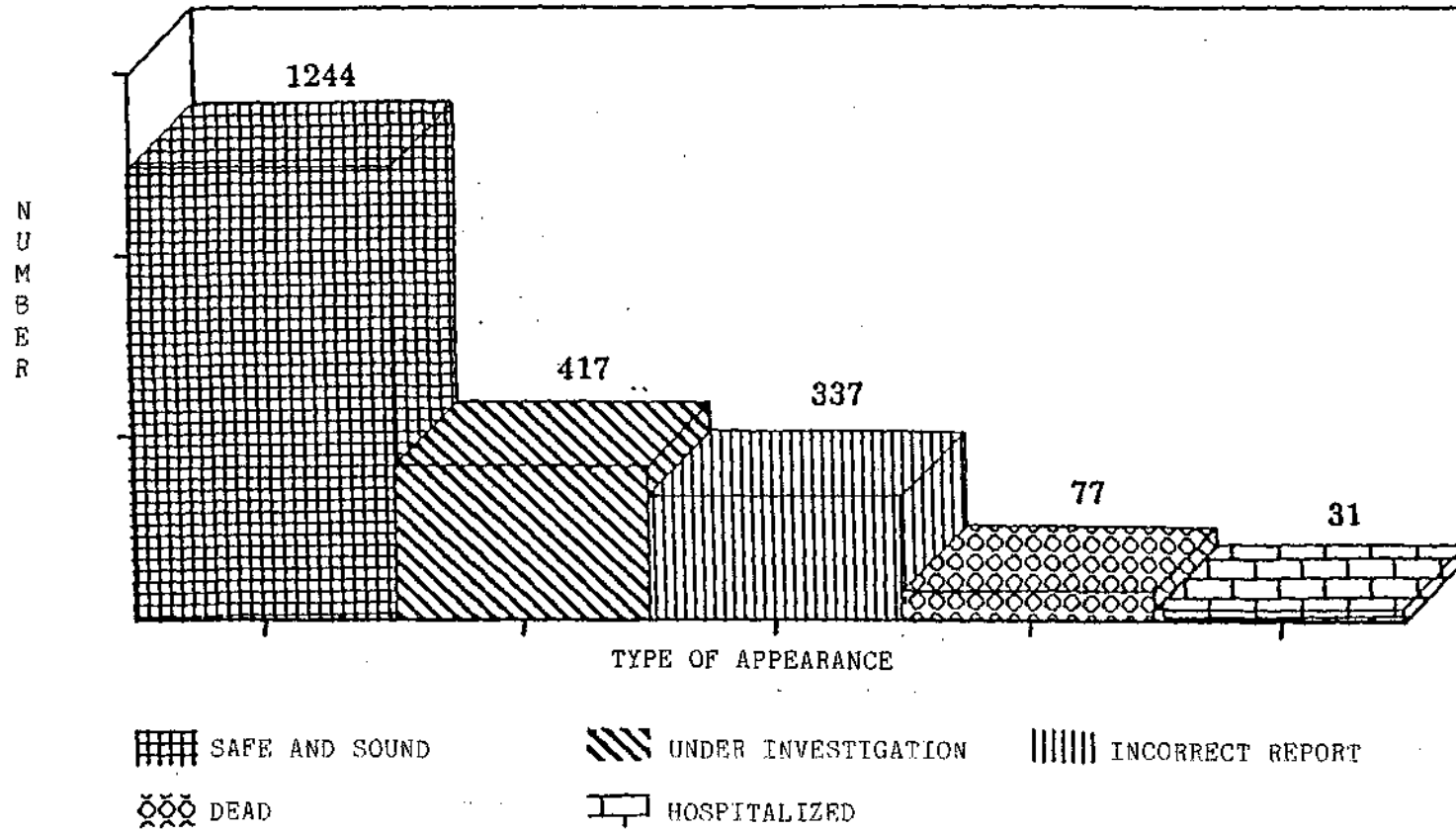
NO.	PROFESSION	REPORTS	RETURNED	UNDER INVESTIGATION	INCORRECT
01	UNSPECIFIED	739	553	186	
02	JUVENILES	721	540	181	
03	STUDENTS	166	142	24	
04	CRAFTSMEN	52	43	9	
05	FARMERS	37	26	11	
06	DEPENDENTS	37	31	6	
07	PROFESSIONALS	17	17	0	
08	INCORRECT				337

DIAGRAM OF MISSING PERSONS ACCORDING TO THEIR PROFESSIONAL ACTIVITY



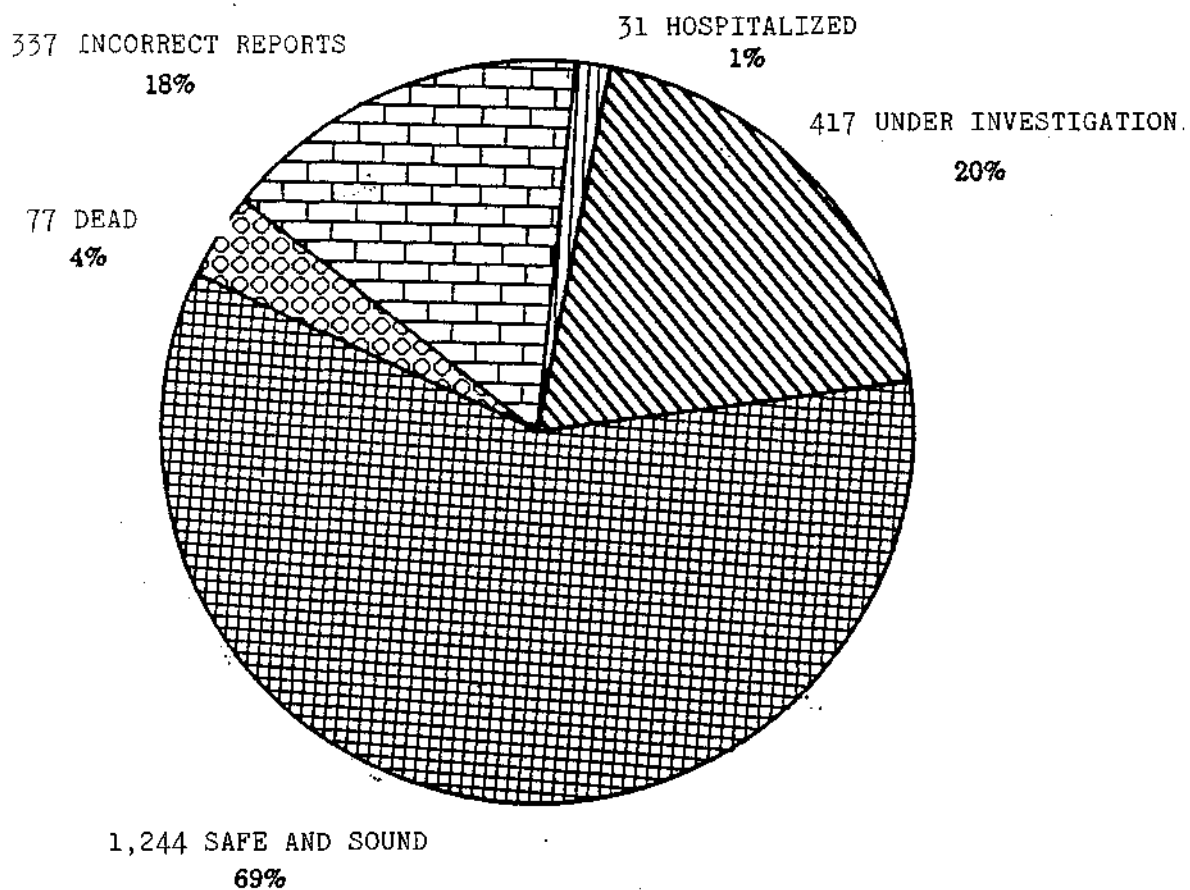
OUT OF 2,106 REPORTED CASES

PHYSICAL CONDITION ON APPEARANCE OF MISSING PERSONS



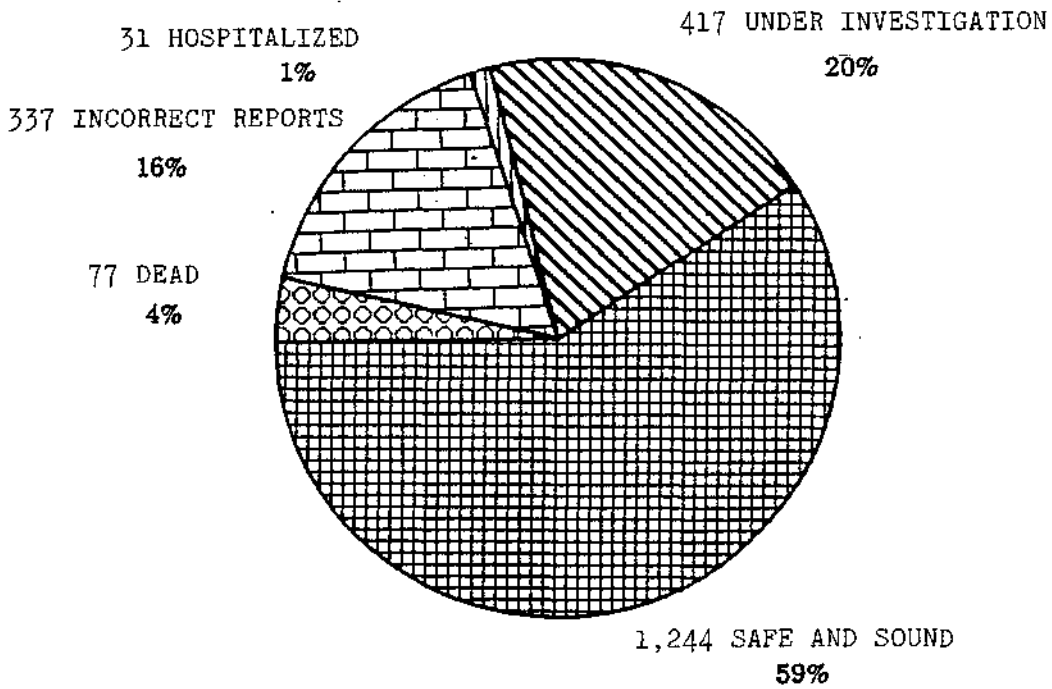
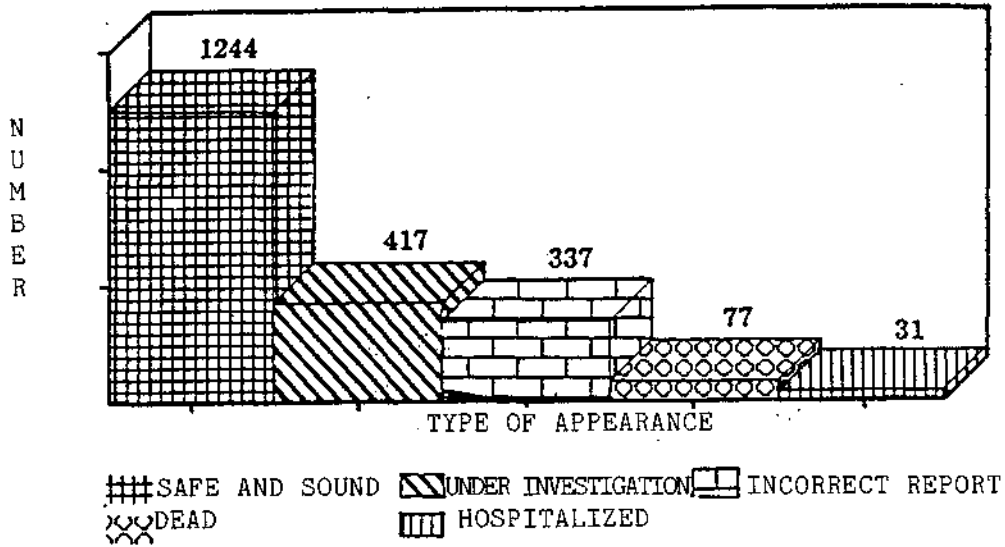
OUT OF 2,106 REPORTS

PHYSICAL CONDITION ON APPEARANCE OF MISSING PERSONS



OUT OF 2,106 REPORTED CASES

PHYSICAL CONDITION ON APPEARANCE OF MISSING PERSONS

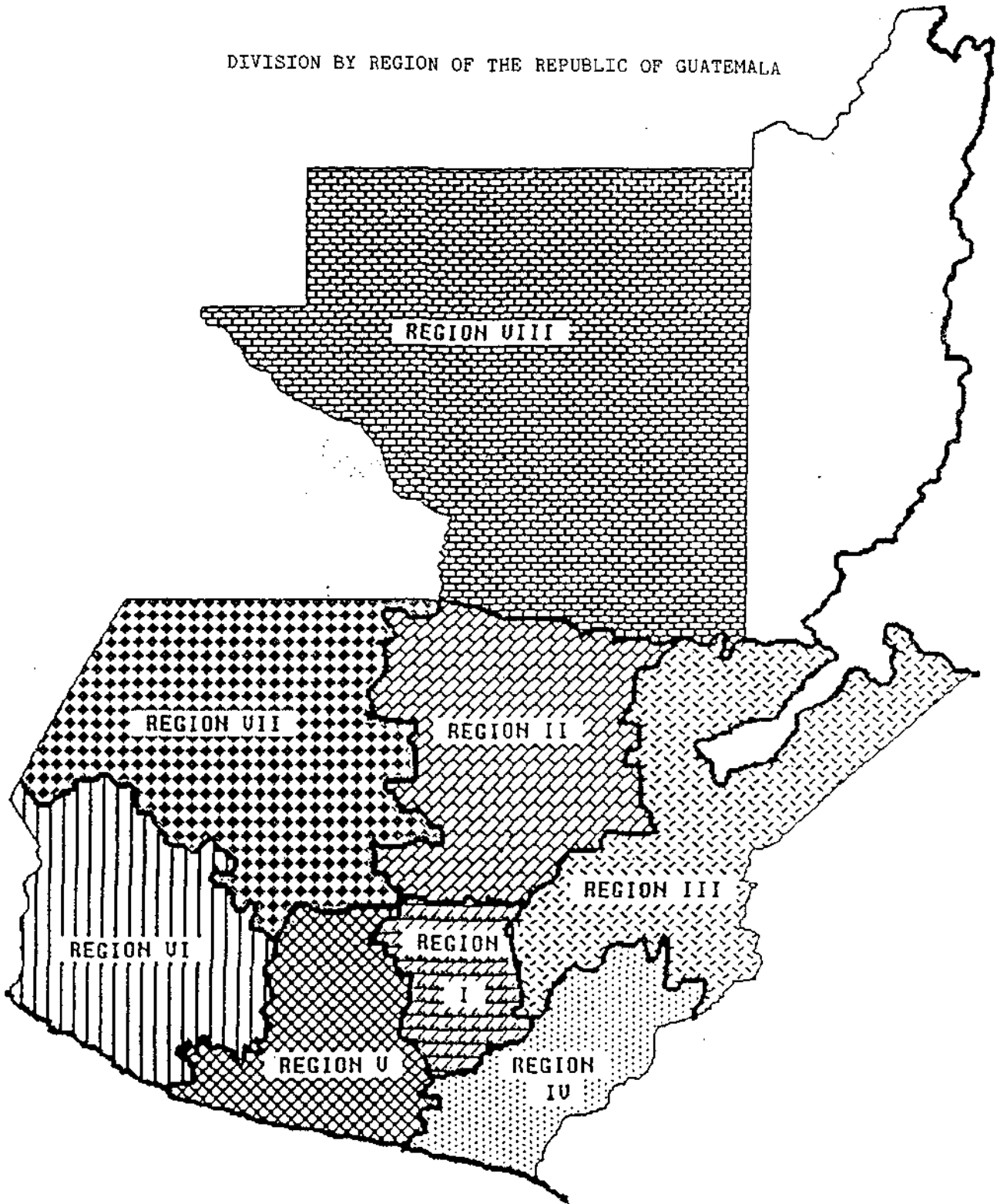


OUT OF 2,106 REPORTED CASES

DIVISION BY REGION OF THE REPUBLIC OF GUATEMALA

REGION I:	GUATEMALA
REGION II:	ALTA VERAPAZ BAJA VERAPAZ
REGION III:	ZACAPA CHIQUIMULA IZABAL EL PROGRESO
REGION IV:	JUTIAPA JALAPA SANTA ROSA
REGION V:	SACATEPEQUEZ ESCUINTLA CHIMALTENANGO
REGION VI:	QUETZALTENANGO SAN MARCOS RETALHULEU SUCHITEPEQUEZ SOLOLA TOTONICAPAN
REGION VII:	HUEHUETENANGO EL QUICHE
REGION VIII:	EL PETEN

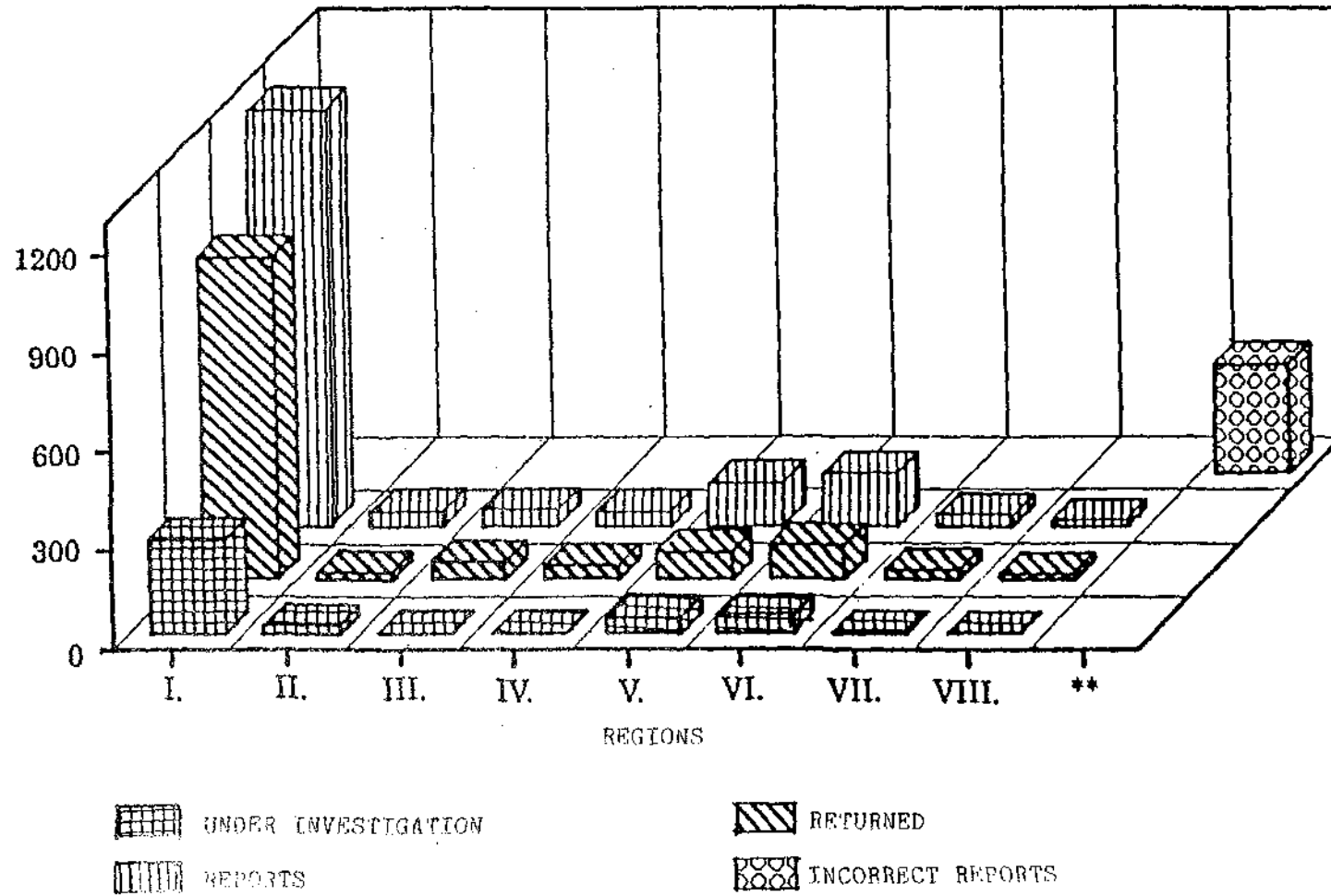
DIVISION BY REGION OF THE REPUBLIC OF GUATEMALA



RESULT OF THE INVESTIGATION INTO MISSING PERSONS BY REGION

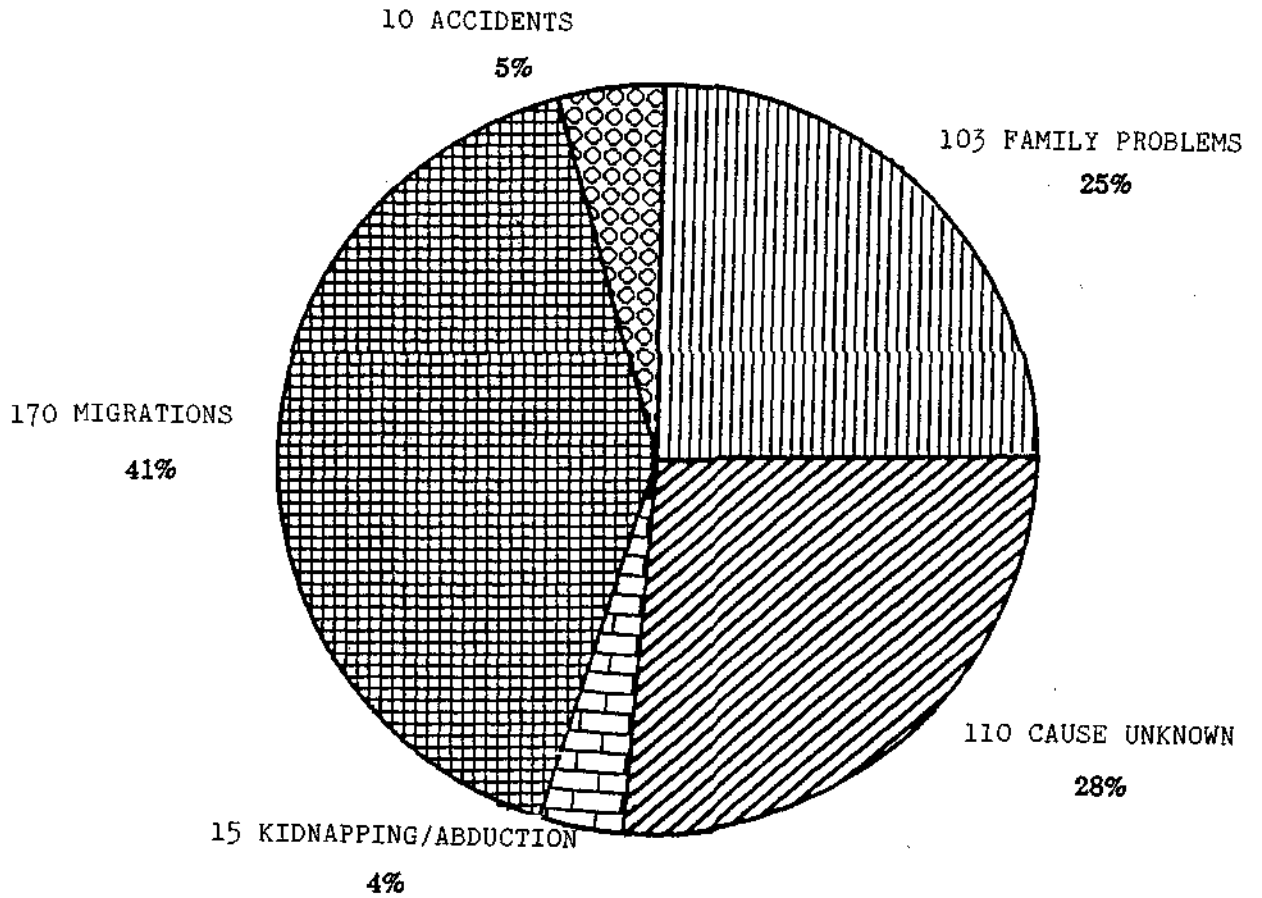
NO.	REGIONS	REPORTS	RETURNED	UNDER INVESTIGATION	INCORRECT
01	I.	1 268	983	285	
02	II.	46	23	23	
03	III.	55	55	00	
04	IV.	47	44	3	
05	V.	135	90	45	
06	VI.	162	108	54	
07	VII.	37	31	6	
08	VIII.	19	18	1	
09	INCORRECT				337

DIAGRAM SHOWING GEO-POLITICAL REGIONS



OUT OF 2,106 REPORTED CASES

OVERALL REASONS OF CASES UNDER INVESTIGATION



OUT OF 417 CASES