Child Abuse & Neglect 69 (2017) 20–28

Contents lists available at ScienceDirect

Child Abuse & Neglect

journal homepage: www.elsevier.com/locate/chiabuneg

Full length article

The practice of prosecuting child maltreatment: Results of an online survey of prosecutors☆

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ARTICLE INFO

Keywords:
Child abuse and neglect
Prosecution
Corroboration
Crawford v. Washington
Sex offender registry
Safe harbor laws

ABSTRACT

Despite efforts by advocates, practitioners, and legislators to alleviate the burden on child maltreatment victims in the criminal justice system, many challenges remain for prosecutors as they seek to hold offenders accountable while minimizing the emotional impact on children. More than 200 state and local prosecutors in 37 states responded to an online survey to share their perspectives on current challenges, procedures to support children in the adjudication process, and the impact of the U.S. Supreme Court opinion in Crawford v. Washington (2004), sex offender registries, and "Safe Harbor" legislation to protect child sexual exploitation victims. Respondents' most pressing challenges were obtaining evidence to corroborate children's statements and the difficulties of working with child victims. Child testimony was ranked as more frequent than any other type of evidence, and least frequent were DNA, photos or videos of criminal acts, and other physical evidence. Prosecutors rely primarily on victim/witness assistants and courtroom tours to prepare children for testimony; technological alternatives are seldom used. Results suggest a real but limited impact of the Crawford opinion on the need for child testimony and on the decision to prosecute. Survey findings indicate a need for greater attention to thorough investigations with particular attention to corroboration. Doing so may strengthen the child's credibility, which is especially critical in cases lacking physical or medical evidence of maltreatment.

1. Introduction

Prosecuting child maltreatment is an enormous undertaking with considerable impact. It can have life-changing consequences for both defendants and child victims, who typically must recount their history of abuse in investigations and testify in court for cases to be prosecuted. It is built on a complex edifice of investigation and victim support, engaging police, victim advocates and child protection, medical and mental health professionals as well as prosecutors. Some research suggests a relationship between prosecution and child protection outcomes (Cross, Martell, McDonald & Ahl, 1999, but see also Martell, 2005 for contradictory evidence). Families, professionals and the community as a whole have a substantial investment and stake in the prosecution process.

Yet prosecution of child maltreatment is difficult, because evidence is often sparse (Walsh, Jones, Cross & Lippert, 2010; Whitcomb, 1992) and often so much of the effort to prove abuse in court rests on the child's testimony. Small proportions of cases are prosecuted (Cross, Walsh, Simone & Jones, 2003). Participating in prosecution and testifying in court is stressful for many children

☆ The authors are deeply grateful to Kay Chopard Cohen, Tom Robertson, Caren Harp, and Mary Ann Burkhart for their assistance in conducting the survey and preparing the manuscript.

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http://dx.doi.org/10.1016/j.chiabu.2017.04.007
Received 11 January 2016; Received in revised form 24 September 2016; Accepted 6 April 2017

(Goodman et al., 1992; Quas et al., 2005), though the well-being of most children involved in these cases improves over time (Whitcomb, Goodman, Runyan & Hoak, 1994). Testifying has been associated with better mental health outcomes in one study in a juvenile court setting (Runyan, Everson, Edelsohn, Hunter, & Coulter, 1988), but repeatedly testifying has been associated with poorer mental health outcomes (Goodman et al., 1992; Quas et al., 2005; Whitcomb, Runyan et al., 1994). In a follow-up study, Quas et al. (2005) found that the negative effects of repeatedly testifying persisted even more than a decade after the case. In Quas' long-term follow-up, children were split on the degree to which their experience of the case was positive or negative and whether it had a positive or negative impact on their lives. When defendants received a lighter sentence, *not* testifying was associated with poorer mental health outcomes.

Research provides empirical evidence of some of the challenges prosecutors face in deciding whether or not to prosecute child abuse, in preparing and supporting child witnesses, and in eliciting testimony from children in court. For example, Cross, DeVos, and Whitcomb (1994) found that such factors as the non-offending parent's support for the child and the child's mental health were related to whether child sexual abuse cases were accepted for prosecution. Child victims often approach testifying in court with considerable fear (see, e.g., Back, Gustafsson, Larsson, & Bertero, 2011), though research suggests that court preparation programs can significantly reduce children's anxiety (Nathanson & Saywitz, 2015). Yet McAuliff, Lapin and Michel's (2015) study suggests that providing a support person for a child testifying in court may backfire, as research participants viewing a simulation of child testimony with a support person next to the child were less likely to believe the child than participants viewing child testimony without a support person. Ahern, Stolzenberg and Lyon's (2015) study of trial transcripts found that prosecutors questioning children in court often failed to provide adequate instructions to the child, to build rapport with the child, and to ask open-ended questions that best elicited accurate testimony.

By the early 1980s, concerned legislators began to introduce protective measures intended to support and protect child victims who testify in court (Whitcomb, 1992). Closed-circuit television and videotape technology were increasingly proposed as alternatives to in-court testimony. Under certain circumstances, courtroom audiences can be limited during children's testimony. Special hearsay exceptions were designed to allow children's out-of-court statements that did not fit within any of the established exceptions in federal or state rules of evidence.

In 1985, Whitcomb et al. interviewed prosecutors, law enforcement officers, judges, victim/witness assistants, and allied professionals in four jurisdictions, and concluded that most courtroom accommodations to help children testify would likely be considered measures of last resort (Whitcomb, Shapiro & Stellwagen, 1985). Respondents cited concerns with infringements on due process and defendants' constitutional rights, especially their Sixth Amendment right to confront their accusers (the child victims) in court (Whitcomb et al., 1985; see also, Goodman et al., 1992; Whitcomb, 1992). Since then, in fact, the United States Supreme Court has imposed specific restrictions on prosecutors' ability to introduce alternative procedures for child victim/witnesses. In Maryland v. Craig (1990), the Court ruled that before allowing a child's testimony via closed circuit television, there must be a finding that the child would be traumatized beyond "de minimus" if made to testify in the presence of a defendant. Results from Goodman and colleagues' 1999 survey (Goodman, Quas, Bulkley, & Shapiro, 1999) were consistent with Whitcomb et al.'s (1985) findings: prosecutors reported that they rarely utilized courtroom accommodations to assist child victims, relying instead on preparing children in advance and providing support during their testimony. Goodman et al.'s findings suggest that *Maryland v. Craig*'s allowance for testifying via closed circuit television for some child victims had little impact on prosecutorial practice (Goodman et al., 1999).

In 2004, the Supreme Court provided additional guidance regarding efforts to introduce out-of-court statements when children are unavailable to testify. In Crawford v. Washington (2004), the Court stated that unless the child victim/witness testifies, out-of-court statements that do not fit within traditional hearsay exceptions (e.g., excited utterances or statements made for purposes of medical diagnosis) cannot be introduced if they are determined to be "testimonial" in nature, that is, if they were made under circumstances that might objectively lead to use at trial, such as statements made to law enforcement officers.

The impact of Crawford on prosecution of child maltreatment is not entirely clear. Two judges reviewing cases one year after Crawford suggested that it had little impact on prosecutor actions in child abuse cases (Gersten & Karan, 2005). On the other hand, Richey-Allen (2009) suggests that Crawford has affected some cases seen at Children's Advocacy Centers (CACs), which facilitate and coordinate the investigative and service response of multiple agencies to severe child abuse in over 800 communities across the country (see, e.g., Cross, Jones, Walsh, Simone, & Kolko, 2007; National Children's Alliance, 2014). Trained forensic interviewers at CACs conduct many of the child forensic interviews in these cases; usually interviews are videotaped. Some courts have ruled that CAC interviews are not testimonial because of CACs' child service function, while other courts have ruled that these interviews *are* testimonial because police and prosecutuors are involved in CACs and make use of the interviews (Richey-Allen, 2009). A number of legal studies have analyzed the conditions in which child statements in abuse cases would be considered testimonial (e.g., Carr, 2007; Kyed, 2004; Lyon & Dente, 2012; McKimmie, 2005; Richey-Allen, 2009). Crawford has led to a number of convictions in child sexual abuse cases being reversed or returned to a lower court on appeal (Carr, 2007; Lyon & Dente, 2012). The research on the effect of Crawford in prosecuting child abuse has involved review of legal cases. It has not studied prosecutor practice generally nor has it used statistical methods.

Meanwhile, the federal government and many states have enacted legislation that could have important implications for prosecution of child maltreatment. In 2006, the U.S. Congress enacted the Sex Offender Registration and Notification Act as Title 1 of the Adam Walsh Child Protection and Safety Act (P.L. 109-248). This legislation created a comprehensive, national registration system to monitor and track sex offenders following their release into the community. All states, the District of Columbia, four territories, and many federally recognized Indian tribes have enacted their own laws creating registries and identifying offenses that are subject to mandatory lifetime registration (United States Department of Justice, 2017). Research casts doubt on the effectiveness

of these laws in achieving their goals of deterring offenders and reducing recidivism (Tewksbury & Jennings, 2010; Zgoba, Veysey & Dalessandro, 2010); still, prosecutors responding to one survey reported high degrees of support for the residency restrictions inherent in many of these laws even without scientific evidence of their effectiveness (Muscatin, Tewksbury, Connor, & Payne, 2015). One study in South Carolina suggests that prosecutors take sex offender registration laws into consideration in their strategic decision-making: Following the enactment of that state's sex offender registration law, the number of defendants in sexual abuse cases who were allowed to plead to non-sex related offenses increased (Letourneau, Levenson, Bandyopadhyay, Armstrong, & Sinha, 2010); juvenile sex offenders, in particular, more often pled to offenses that were not sex-related or of lesser severity (Letourneau, Armstrong, Bandyopadhyay, & Sinha, 2013).

Another legislative initiative that might be hypothesized to impact prosecution is the growing adoption of so-called "Safe Harbor" laws to protect child victims of commercial sexual exploitation, or trafficking. At least 31 states had enacted such laws as of 2014 (National Conference of State Legislatures, 2014). Although the details vary, the goals of Safe Harbor laws are to treat trafficked children as victims rather than prostitutes; to divert them from the justice system to appropriate services; to prevent further victimization; and to punish individuals who fund, profit from, or pay for sex with children (National Conference of State Legislatures, 2014). There is, as yet, no published research on the impact of these laws in achieving these goals.

Despite the importance of prosecution of child maltreatment and the evolving and complex effort to pursue justice while protecting child victims, little research is available to inform the many stakeholders in the process about how prosecutors are actually pursuing these cases and what practices they are using to protect child victim/witnesses. Since Goodman et al.'s (1999) survey, there have been concerted efforts to improve the justice system's response to child victim/witnesses. These include, for example, the widespread adoption of child advocacy centers to coordinate and streamline the investigation process; increasing professionalization of victim advocacy as a specialized discipline; development of evidence-based forensic interviewing practices expressly designed for young children—even introduction of "courthouse dogs" to calm children during interviews and court proceedings. Specialized professional training and conferences for prosecutors and other justice system personnel have sought to increase awareness of these and other initiatives. Given this recent history of innovation and outreach, it is reasonable to hypothesize that prosecutors approach child maltreatment cases differently today than they did in 1999. The current article addresses the knowledge gap on prosecution of child maltreatment in criminal courts through a survey conducted in 2015 of prosecutors who work on child maltreatment cases. The survey assessed their perspectives on the difficulties inherent in this specialized work, their use of different practices to support and protect children in the process, and their perceptions of the effects of the *Crawford* decision and sex offender registry and Safe Harbor legislation.

2. Method

The authors conducted a national online survey of prosecutors in the Spring of 2015. The survey was limited to prosecutors working in state and local courts in the United States, where the large majority of criminal child maltreatment cases are heard; the practice environment in civil, federal, and military courts is markedly different. Prosecutors working solely in juvenile dependency or delinquency courts or "in care" proceedings were also excluded.

At the authors' request, the Executive Director of the National District Attorneys Association (NDAA) and the Executive Director of the National Association of Prosecutor Coordinators (NAPC) distributed an email invitation via their respective membership lists to recruit participants. NDAA represents elected and front-line prosecutors working in state and local courts nationwide; membership is approximately 6500. NAPC is a hub for prosecutor coordinators in 47 states whose mission is to meet the training and technical assistance needs of prosecutors and allied professionals such as law enforcement and victim advocates. The email inviting participation included a link to a survey webpage in the Qualtrics online survey system (see www.qualtrics.com), using the Qualtrics account of the School of Social Work of the University of Illinois at Urbana-Champaign. NDAA members were invited to complete the survey themselves or to forward it to another, more appropriate respondent in their offices. Similarly, NAPC email recipients were asked to share the survey invitation with prosecutors in their respective states. Consequently, it is impossible to calculate the number of potential respondents. Reminder emails were sent out at intervals of two, four, and eight weeks after the initial email requests, and a final request was posted on the home page of NDAA's web site. The survey was kept open for approximately three months.

Questions for the survey were developed by consulting multiple published sources on the prosecution of child abuse and neglect and by talking with numerous content experts representing law enforcement, prosecution, child advocacy, and victim assistance, as well as several leading child maltreatment professionals. This article first describes characteristics of the respondents and their offices, and reports the frequency with which they review and prosecute different types of child maltreatment and the types of hearings in which children testify. The article then analyses questions from the survey in the following topic areas: 1) challenges of prosecuting child maltreatment, 2) availability of different types of evidence, 3) methods of assisting and supporting child abuse victims in courts, 4) use of expert witnesses, and 5) effects on prosecuting child abuse of the *Crawford* decision, sex offender registries and Safe Harbor laws. For every domain except sample description, additional analyses compared respondents who were in specialized units with respondents who were not in specialized units; statistically significant differences from these comparisons are presented below. Most items analysed used Likert scales or rank ordering, but one open-ended item asked prosecutors, *What would you say is the biggest challenge in cases involving child victim/witnesses*?. The first author conducted a content analysis on the responses to this item.

Table 1
Prosecutors' Estimates of Frequency of Different Types of Child Maltreatment Reviewed and Prosecuted in 2014 (N = 200 respondents).

Type of Maltreatment	Reviewed			Prosecuted		
	Median	At least one case in 2014	At least ten cases in 2014	Median	At least one case in 2014	At least ten cases in 2014
Sexual Abuse	20	94.3%	75.1%	10	89.7%	54.7%
Physical Abuse	10	85.0%	42.8%	5	83.7%	42.2%
Child Pornography	3	66.2%	28.2%	2	64.7%	21.6%
Child Neglect	2	64.0%	30.0%	1	58.5%	19.9%
Sexting	1	50.4%	18.3%	0	36.5%	6.6%
Exposure to Domestic Violence	0	36.0%	25.5%	0	29.9%	17.6%
Child Trafficking	0	18.6%	4.8%	0	16.9%	1.4%
Torture/Chronic Abuse	0	17.7%	0.7%	0	16.5%	0.7%
Emotional Abuse	0	14.1%	6.3%	0	11.5%	3.6%
Exposure to Animal Abuse	0	9.9%	0.7%	0	5.8%	0%
Other[a]	0	3.6%	0.7%	0	3.6%	0%
Religious Abuse	0	3.5%	0%	0	3.5%	0%
Exposure to Community Violence	0	2.9%	1.4%	0	3.6%	1.4%

Note. Percentages represent percentages of respondents, not cases.
[a] includes child death, endangerment, driving under the influence with a minor, accosting a minor.

3. Results

3.1. Sample description

A total of 203 prosecutors from 37 states completed the survey. Respondents represented jurisdictions of varying size: 30% were from jurisdictions of population less than 50,000; only 12% were from jurisdictions larger than 500,000. Just over one-fifth (20.5%) were assigned to a designated child abuse unit within their office, 7.0% to a family violence unit, and 14.0% to a related specialized unit (e.g., special victims, juvenile crimes). More than three-quarters of the offices employed vertical prosecution, in which cases are assigned to a single prosecutor throughout the adjudication process. Nearly 90% of the offices employed a victim assistant or advocate on staff, and 93% of the offices participated in a multidisciplinary case review team.

Prosecutors were asked to estimate the number of various types of cases involving child victims that they reviewed and prosecuted in 2014, based on the highest charge (see Table 1). Sexual abuse cases were far more often reviewed and prosecuted than any other type of child maltreatment case. In fact, the median number of sexual abuse cases reviewed and prosecuted was double the median number of physical abuse cases and more than five times the median number of pornography cases. Majorities of respondents had reviewed and prosecuted at least one case of child pornography and child neglect. Half of the respondents had reviewed at least one case involving sexting, defined as "the exchange of sexually explicit text messages, including photographs, via cell phone" (United States Barometer, 2010 v. Barometer, 2010 U.S. App. LEXIS 16032 (2d Cir. 2010)); about one-third of respondents had prosecuted at least one such case.

Respondents were asked yes/no questions about whether child maltreatment victims testified in different types of hearings in their court in 2014. The most common was the preliminary hearing: 36.8% of respondents reported that children testified in preliminary hearings in their jurisdiction. The purpose of a preliminary hearing is to determine if there is sufficient evidence to go forward with a felony prosecution; in some jurisdictions, preliminary hearings are adversarial "mini-trials." The second most common was sentencing hearings (25.5% of respondents), which are no longer adversarial but still require the defendant's presence. The remaining types of proceedings with child testimony were less frequent: competency hearings (which require child witnesses to demonstrate their ability to observe, recollect, and communicate; and to appreciate the difference between truth and lies; 10.9% of respondents), grand jury (9.1%), depositions (7.7%) and other pretrial proceedings (5.5%).

3.2. Challenges

Respondents were asked to rank order the three most common reasons for declining to prosecute child maltreatment cases. The mean rankings for the seven different reasons listed were compared using repeated measures analysis of variance with Bonferroni-adjusted pairwise comparisons. Mean rankings differed significantly, F (6, 1182) = 172.92, ($p < 0.001$). Insufficient evidence to corroborate the child's account had a significantly higher mean ranking ($M = 1.79$) than any other reason. Children being emotionally unable to testify had the second highest mean ranking ($M = 3.17$), and this was significantly higher than children recanting ($M = 3.74$), children being incompetent to testify ($M = 3.96$), children being unwilling to testify ($M = 4.11$), and children's caregivers not supporting prosecution ($M = 4.54$). There were no other significant differences, except that all the reasons mentioned above were more common than an *other* category ($M = 6.68$).

The results of the content analysis of the open-ended question on the biggest challenge were similar to the results on reasons for declining cases. The most common challenges were lack of corroborative evidence (29.4% of respondents) and child difficulties in court (28.9%) Of somewhat lesser concern were unrealistic expectations of judges and juries about who perpetrates child abuse and

Table 2
Availability of Different Types of Evidence – Mean Ranks (N = 201).

Type of Evidence	Mean Rank
Child victim testimony	1.44 [a]
Videotaped child forensic interview	4.17 [b,c]
Medical findings	4.74 [b]
Eyewitness testimony	4.95 [b]
Child's out-of-court statement	5.22 [b]
Crime scene photographs	5.26 [b]
DNA	6.60
Other physical evidence	6.65
Photos or videos	6.98

Note. Bonferroni comparisons: [a] < all other means, [b] < DNA, Photos, Other Physical Evidence, [c] < Child's out-of-court statement, Crime scene photographs.

how they do it (13.9%) and resistance from family members (12.8%).

3.3. Evidence

Prosecutors were asked to rank order the availability of nine different types of evidence in these cases and the mean rank for each type was calculated (see Table 2). Mean rankings were again compared using repeated measures analysis of variance with Bonferroni-adjusted pairwise comparisons. Mean rankings differed significantly, $F(8, 1704) = 118.21$, ($p < 0.001$). Child victim testimony was ranked the most common form of evidence (significantly lower mean rank by far than any other form of evidence). DNA evidence, photos or video of criminal acts, and other physical evidence were the least frequent types of evidence (mean ranks significantly higher than every other type). Videotaped child forensic interview was ranked as more frequent than child's out-of-court statement and crime scene photographs.

3.4. Methods of preparing children

Prosecutors employ a variety of techniques to help prepare children for court appearances, as shown in Table 3. With few exceptions, prosecutors take children on a physical tour of the courtroom to familiarize them with the setting. A majority of

Table 3
Percentages of Prosecutors Using Different Preparation or Support Methods (N = 203).

Preparation or Support Method	*f*	%
Preparing Children to Testify		
Physical tour of courtroom	219	98.2
Coloring book about court	153	59.2
Therapy/comfort animal	98	43.9
Kids in court program	49	22.0
Court doll house	34	15.2
Video tour of courtroom	57	8.5
Other	2	0.9
Assisting Children in Court		
Victim witness advocate with child	147	72.4
Other support person with child	126	62.1
Comfort item (e.g., blanket, doll)	88	43.3
Hearsay exceptions for child's statement	85	41.9
Anatomical diagrams	79	38.9
Management of timing, breaks in child testimony	62	30.5
Limited courtroom audience	62	30.5
Instructions on attorney language, tone, or behavior	48	23.6
Modified oath	39	19.2
Therapy/comfort animal	35	17.2
Anatomical dolls	35	17.3
Courtroom reconfiguration	27	13.3
Closed circuit television	26	12.8
Video recorded interview as well as live child testimony	26	12.8
Other pretrial motions for child-fair procedures	21	10.3
Other	11	5.4
Special jury instructions	10	4.9
Expedited processing (speedy trial)	10	4.9
Video recorded interview in lieu of live child testimony	7	3.4

prosecutors (60%) use coloring books especially designed for this purpose, and more than 40% utilize therapy/comfort animals to help children relax. Other methods are significantly less common. A little over one-fifth of respondents use a "kids in court" program, which is a structured educational program to teach children about court and their role in it. About one-sixth use a court "doll house," which is a toy representation of the courtroom in which children can learn about court and communicate their questions and concerns with a victim advocate or other professional. Less than one-tenth provide a video tour of the courtroom. Respondents in specialized units did not differ significantly from other respondents.

3.5. Methods to support children in court

Table 3 also shows results on prosecutor use of methods to help children when they testify in court. Most commonly, prosecutors assign a victim witness advocate or other person to support the child. Additionally, they often allow children to bring comfort items as another means of support. More than 40% use anatomical diagrams to help children describe the touching they experienced, but fewer than 20% use anatomical dolls. Therapy/comfort animals are infrequently employed to assist children in the courtroom.

Minorities of prosecutors attempt to control the courtroom environment by asking the court to allow children breaks when testifying, to manage attorneys' language and behavior, to modify the oath, or to reconfigure the courtroom so that children are not directly facing the defendant. Thirty percent ask the court to limit the courtroom audience to help alleviate children's anxiety. Many prosecutors (40%) use hearsay exceptions to introduce children's out-of-court statements (wherever possible), although even where admissible, hearsay statements rarely obviate the need for live testimony under the Sixth Amendment (but see Ohio v. Clark, 2015, in which the U.S. Supreme Court ruled that a young child's statement to a teacher was admissible even though the child was not competent to testify). Other techniques, including the use of closed circuit television and videotaped testimony, are seldom used.

Across all questions about supporting children in court, there were only two significant differences based on working in a specialized unit. Respondents from specialized units were significantly more likely to report using management of timing and breaks in children's testimony (39.8%) than respondents who were not in specialized units (24.8%) ($\chi 2$ [1,200] = 5.09, p = 0.024). They were less likely than respondents not in specialized units to file other pretrial motions for child-fair procedures (4.8% vs. 14.5%), ($\chi 2$ [1,200] = 4.87, p = 0.027).

3.6. Expert testimony

To address the need for corroborative evidence, prosecutors often introduce expert testimony to support their cases (see Table 4). Most commonly, prosecutors present testimony from Sexual Assault Nurse Examiners (SANEs), other medical providers, and forensic interviewers. About 40% rely on experts from the crime laboratory. Minorities present testimony from social workers or psychologists.

3.7. Effects of Crawford, Sex Offender Registries and Safe Harbor

Fig. 1 presents the mean ratings on questions about the effects of the *Crawford* decision, sex offender registries, and Safe Harbor legislation, which were Likert scale items transformed here to be on a scale from −2, decreased greatly, to +2, increased greatly. The longer the bar in Fig. 1, the farther the mean is from 0, no change. The mean rating for the effect of *Crawford* on prosecuting child maltreatment perpetrators was between no effect and somewhat decreased (57.8% reported no effect and 41.7% reported that it had decreased prosecutions somewhat or greatly). On average prosecutors felt that the *Crawford* decision had increased child testimony somewhat (61.7% reported that it had somewhat or greatly increased child testimony and 33.0% reported no difference). The mean rating for the effect of *Crawford* on conviction was between no effect and decreased somewhat (62.0% reported no effect and 29.3% felt that it had decreased somewhat since *Crawford*). The average rating for the effect of Safe Harbor laws on prosecuting youth who are commercially sexually exploited was between no difference and somewhat decreased (76.4% reported no difference and 20.8% reported somewhat of a decrease). Prosecutors reported little or no effect, on average, of *Crawford* and Safe Harbor legislation on other outcomes listed in Fig. 1 and little or no effect, on average, of sex offender registries on any outcome listed there. Respondents in specialized units had a significantly higher average rating than other respondents on the effect of Safe Harbor legislation on the

Table 4
Percentages of Prosecutors Using Different Types of Expert Witnesses (N = 203).

Type of Expert	*f*	%
Sexual Assault Nurse Examiner	125	62.5
Forensic interviewer	105	52.5
Other medical professional	102	51.0
Crime laboratory professional	79	39.5
Social worker	68	34.0
Psychologist	40	20.0
Other mental health professional	32	16.0

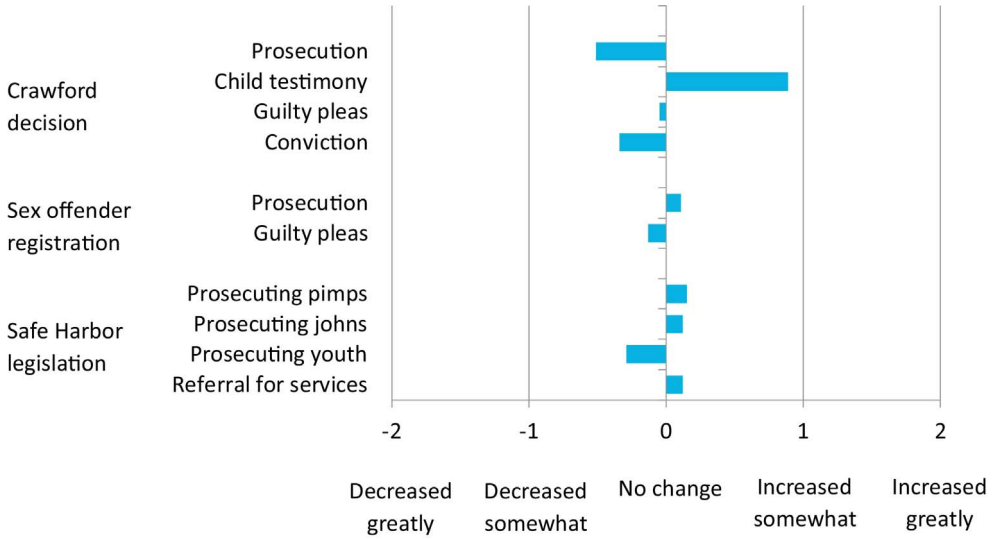

Fig. 1. Effects of Legal Changes on Frequency of Prosecution Practices and Outcomes.*Note.* Values represent means across respondents.

likelihood of prosecuting johns, (M = 0.23, s = 0.43 vs. M = 0.05, s = 0.22) (Welch-Satterthwaite t (39.44) = 2.18, p = 0.035). Of course, both of these averages represent the judgment that this effect of the legislation is minimal. Otherwise there were no differences.

4. Discussion

These findings make it clear that child testimony remains critically important to prosecuting child maltreatment, perhaps even more so in light of the *Crawford* opinion, which a majority of prosecutors felt had increased the need for child testimony. In some jurisdictions, child testimony is important not only at trial but also in several other types of court hearings. Prosecutors' two greatest challenges—availability of corroborating evidence and strength of the child witness—loom large when deciding whether to accept or decline a case. A review of 24 studies of case dispositions found that fully one-third (34%) of child sexual abuse cases referred for prosecution are not charged (Cross et al., 2003). Once accepted, however, 43% of the cases result in guilty pleas (Cross et al., 2003).

These findings underscore the need both to strengthen investigations and assist child victim/witnesses. Better investigations and more support for child victim/witnesses could in turn elicit more guilty pleas, which avoid trials altogether. Perhaps the most compelling evidence in a case is the suspect's confession, which occurs in less than a third of cases (Bradshaw & Marks, 1990; Cross et al., 1994; Faller & Henry, 2000; Gray, 1993; Lippert, Cross, Jones, & Walsh, 2010; Smith, Elstein, Trost, & Bulkley, 1993). Research suggests that the child's disclosure is among the most effective ways to encourage confessions (Lippert et al., 2010). In Staller and Faller's book-length case study of a jurisdiction with a track record of effectively prosecuting child maltreatment cases, confessions were often gained by sharing the child's videotaped forensic interview with the suspect (Staller & Faller, 2009). Most of the prosecutors responding to our survey do, in fact, have access to videotapes of these interviews by virtue of their participation in multidisciplinary teams and Child Advocacy Centers, which almost uniformly videotape forensic interviews with child victims.

Absent a confession, prosecutors seek other sources of evidence to assure that their case does not hinge solely on a child's testimony. As legal scholar John E.B. Myers explains, "The child's credibility is the centerpiece of the prosecution's case and the bulls-eye for the defense" (Myers, 2010 at 48). Thus our finding that child victim testimony was by far the most common form of evidence is particularly salient. As we found, medical findings and other eyewitnesses are rarely available. Many prosecutors in our study introduce expert testimony from Sexual Assault Nurse Examiners (SANEs) or other medical providers and crime laboratory personnel to provide evidence that supports or corroborates a child's story or to explain why DNA or other medical evidence was *not* found. Expert testimony from forensic interviewers and/or helping professionals is also common, based on their encounters with the child victim. However, scientific and medical advances and the input of child-serving professionals may not suffice to overcome the challenges of faltering child witnesses.

Law enforcement investigators have long been encouraged and trained to invest additional effort in corroborating every possible element of a child's statement (Johnson, 2009; Lanning, 2010; Vieth, 1999, 2010). Nothing is considered too small or inconsequential, not only to prove the abuse but perhaps even more importantly, to shore up the child's credibility. Thus, for example, crime scene photographs can corroborate a child's description of where the abuse occurred; radio playlists can confirm what music was playing at the time; fishing licenses and campground registration can support the child's description of a weekend camping trip with the defendant (Vieth, 1999, 2010). In our study, however, prosecutors infrequently noted crime scene photographs and other physical evidence among their cases. Note that the differences between prosecutors in specialized units and other prosecutors were minor, suggesting that the challenges they perceive and methods they employ are similar, though they are likely to differ in ways not measured by the survey.

The results suggest that the *Crawford* decision may have a real but limited impact on prosecution of child maltreatment. Still, over half of the responding prosecutors reported no difference after *Crawford* in the likelihood of prosecution. Presumably, these prosecutors had *always* approached these cases with an expectation that the child's testimony would be required, so from their perspective, *Crawford* had little impact on their prosecution strategy. Indeed, although some of the tools originally developed to assist prosecution of child maltreatment are used regularly, others are seldom or rarely used. Just as Goodman et al. found in 1999, prosecutors rely primarily on tours of the courtroom and the personal attention of victim witness advocates – and increasingly, comfort animals – to prepare children for court and to provide emotional sustenance throughout the entire process. Child professionals have made substantial efforts in some communities to develop methods like kids in court programs and court doll houses, but relatively few jurisdictions use them. Prosecutors may worry that some methods give the appearance of coaching the witness (C. Harp, personal communication, December 11, 2015). The frequency of children's testimony in preliminary hearings, grand jury, and other pretrial hearings may help prosecutors gauge their strength as witnesses and adapt their support strategy as needed, should the case proceed to trial.

Our respondents reported little or no effect of sex offender registries on prosecuting cases and obtaining guilty pleas. This contrasts with Letourneau et al. (2013) findings that sex offender registration requirements may be influential in charging and plea negotiations with juvenile offenders. Perhaps the survey's single-item measures of these effects were not sensitive enough to detect the very specific effects on charging and plea negotiations that registration requirements may have.

The majority of cases respondents reviewed and prosecuted concern sexual abuse. But most prosecutors also had experience with physical abuse, child pornography and child neglect cases as well. Some had experience with other forms of abuse too, including sexting, which did not exist in the last century (see Walsh, Wolak, & Finkelhor, 2013). Some of the forms of victimization to which prosecutors respond have only been a focus of child abuse professionals in recent decades (e.g., exposure to domestic violence, child trafficking). Research is needed on ways to support children who testify in cases involving offenses other than sex crimes, especially those who may fear physical retaliation from potentially dangerous offenders.

5. Limitations

Although it was impossible to calculate response rate, the number of prosecutors who completed the survey was clearly small relative to the number nationally who prosecute child maltreatment, and the sample may not be representative of the entire population of those professionals. On the other hand, we are not aware of any reasons for a selection bias, particularly since the survey was not evaluative or personal. Moreover, a number of the results involve either very low or very high values that are unlikely to be so different in the entire population of prosecutors that it would lead us to substantively different conclusions. So, for example, it seems very likely that a large majority of all jurisdictions provide children a physical tour of the courtroom, even if it is somewhat less than 98.2% found here, and that a very small percentage of all jurisdictions use video recorded interviews in lieu of live child testimony, even if it is somewhat higher than the 3.4% found here. Another limitation is that we could not distinguish between methods that were not used because prosecutors chose not to do so versus methods that were not used because prosecutors did not have occasion to do so.

It is also important to acknowledge that this survey depended on prosecutor memory and self-report, which are likely to match actual case experience imperfectly. Ideally, future research would collect case data and query prosecutors about their decision-making in specific cases.

6. Conclusion

Prosecution of child maltreatment continues to be difficult. Despite the development of technological, legal, and common sense innovations meant to assist prosecutors and reduce the stress on child victims and witnesses, trying cases solely on the basis of children's statements in the absence of corroborating evidence is still a significant and sometimes insurmountable challenge. The need for external corroboration may be even more critical if there are increasing numbers of trafficking and sexting cases involving teenage victims, whose credibility may be questioned, albeit for different reasons. To hold child maltreatment offenders accountable, law enforcement and multidisciplinary teams may need to redouble their efforts to locate corroborating evidence for every element of a child's statement. Doing so can strengthen the child's credibility. Such efforts are especially critical in cases lacking physical or medical evidence of maltreatment.

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