Multidisciplinary Response to Child Sexual Abuse: From Outcry to Prosecution

Evaluating Practice
Three Lenses Viewing the Same Topic

The Researcher and Academic

The Police Criminal Investigator

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

Theodore P. Cross, Debra Whitcomb

Children and Family Research Center, School of Social Work, University of Illinois at Urbana-Champaign, United States
Healdsburg, CA, United States

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.
The Median Number of Cases Prosecutors Reviewed and Prosecuted in 2014, Categorized by Type of Abuse

Because it is so much more common than prosecution of other form of maltreatment, this presentation focuses on prosecution of child sexual abuse.

Source: Cross & Whitcomb (2017)

The median was 0 for all other types of maltreatment.
Holding offenders accountable is critical for serving justice and promoting children’s healing.

We need to shift the burden off of children for holding offenders accountable.

Investigative corroboration is essential for shifting the burden off children.

Law enforcement corroborates the child through and with the multidisciplinary team, not outside of or around it.
"Holding offenders accountable is critical for serving justice and promoting children’s healing"
Results from Interviews of Caregivers in Investigated Cases (Jones, et al., 2010, Quotation for Pages 301-302)

The most common response by caregivers to the question “What was worse than expected about the investigation?” involved disappointment with the thoroughness of evidence collection, perceived failures by investigators to pursue justice fully, and bungled or problematic investigation procedures…Responses from this category included the following examples:

They do not really investigate. I had suspicions about one particular thing, and they did not really look at that. I know he is little and does not talk really well, but I feel they should have done more.

Well, the person who hurt my children was a family member, so I know for a fact that he has never been questioned and nothing has been done to him about this. But my children still have to see him every day and hear comments from him stating that he is untouchable.

How it was dealt with afterwards. There was no follow-up . . . we felt ignored. It was frustrating that everything was not really checked into more. They let it go.
Our Second Principle

“We need to shift the burden off of children for holding offenders accountable”
"The child’s credibility is the centerpiece of the prosecution's case and the bullseye for the defense."
Average Rank for Availability of Different Types of Evidence

It is important to note that the study left out the most available and definitive type of evidence: Suspect confession.
Child Victims Go Through an Extremely Difficult Journey, Including:

- Victim experiences sexual abuse
- Victim outcry, purposeful or accidental
- Reporting person conversation with Victim
- Report to law enforcement and/or CPS
- “Coordinated” Response of MDT/CJ System CAC/FI/MDT
- Investigation/Therapy/Support
- Submission to Criminal Prosecutor/DA
- Defense may require a child psychological evaluation
Stages Where Victimization/Trauma Occurs

- Object of perpetrator’s desire
- Sexual Victimization
- Internalization of Victimization
- Outcry/Disclosure
- Parental/Familial Response to Outcry
- Criminal/Civil Intervention and Forensic Interview
- Living with Consequence
- Testifying in Court
- Criminal/Civil Disposition
The Juvenile Victim Justice System

Source: Finkelhor, Cross & Cantor (2005)
Children may have to be present or testify in a series of "mini-trials"

- Preliminary Hearing
- Probable Cause
- Competency Hearings
- Depositions
- Grand Jury
- Bond Reduction
- Motions to quash/suppress
- Sentencing Phase
- Appeal
## Study of Time Between Law Enforcement Report and Criminal Justice Disposition

<table>
<thead>
<tr>
<th>Time Period</th>
<th>Percentage of Cases</th>
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<tbody>
<tr>
<td>Within 3 months</td>
<td>12%</td>
</tr>
<tr>
<td>3 months to 1 year</td>
<td>24%</td>
</tr>
<tr>
<td>1 to 2 years</td>
<td>29%</td>
</tr>
<tr>
<td>More than 2 years or pending</td>
<td>36%</td>
</tr>
</tbody>
</table>

*Average = 329 days*

This includes cases that did not go to trial. Cases that go to trial take much longer.

*Source: Walsh, Lippert, Cross, Maurice & Davison (2008)*
CONSEQUENCES OF CRIMINAL COURT INVOLVEMENT FOR CHILD VICTIMS

Jodi A. Quas  
University of California, Irvine

Gail S. Goodman  
University of California, Davis

Despite concerns being routinely raised about psychological consequences for child victims of participation in criminal proceedings, empirical research remains limited, and findings have not been integrated within a well-established set of theoretical principles. In the current review, we describe extant research concerning the links between child victims’ involvement in criminal prosecutions and subsequent outcomes, particularly in the domains of mental health and legal attitudes. Findings reveal that, although some facets of children’s legal experiences, such as testifying repeatedly, are associated with adverse outcomes, this is largely the case only under certain circumstances—numerous factors interact to influence consequences of legal involvement. Further, although young children are often quite vulnerable when exposed to negative experiences generally, older children and adolescents may actually be more adversely affected by some features of legal involvement. Overall, the research highlights the complex interplay between children’s legal experiences and children’s development in shaping their reactions to legal involvement and suggests ways to facilitate their participation in the legal process while maintaining fair judicial procedures for the accused.

Keywords: child victims, criminal court, legal attitudes, mental health, testimony

Each year, millions of children are involved in legal actions, including those necessary for the prosecution of crime. These victims include children who
Quas & Goodman (2012) Findings

- Multiple studies show negative mental health outcomes for child sexual abuse victims who testify *repeatedly* in court
- Testifying had worse effects if:
  - Cases lacked corroborative evidence and depended on children’s testimony
  - Children lack support from a non-offending caregiver
- Children (and their parents) were often negative about their experience when the case was dismissed or led to acquittal, or the offender received a lenient sentence
- When there was no guilty verdict and children did *not* testify, they were more negative about their experience than children who testified
- Children valued having a voice in the case
Conclusions about Quas & Goodman (2012)

Quas & Goodman: “turning to the overarching question of whether child victims should be directly involved in criminal proceedings, without hesitation, we answer, ‘yes’.”

Cross, Ernberg, & Walsh (2021) “It is possible that not testifying in a case in which testimony was called for would lead to child outcomes that were as bad or worse than the outcomes of testifying, particularly if defendants are acquitted”

Quas & Goodman: Children may do well if they
➢ Have the preparation and support they need
➢ Can testify in a timely way without significant delays and cancellations
➢ Do not have to testify repeatedly
Our Third Principle

“Investigative corroboration is essential for shifting the burden off children”
Average Rank for Most Important Reason for Declining a Case

- Insufficient evidence to corroborate the child's account (1.79)
- Emotionally unable to testify (3.17)
- Recanting (3.74)
- Child incompetent to testify (3.96)
- Child unwilling to testify (4.11)
- Child's caregivers not supporting prosecution (4.54)

Average Rank across the Sample

Source: Cross & Whitcomb (2017)
Corroboration Findings

In child sexual abuse cases,

Lippert et al. found that a corroborative witness more than doubled the odds of a suspect confession (odds ratio = 2.29).

Walsh et al. found that a corroborative witness came close to doubling the odds of criminal charges being filed (odds ratio=1.70).
Types of Criminal Evidence

**DIRECT-** Evidence which singularly has the ability to prove a criminal case
- Victim ability to testify
- Confession of perpetrator
- Direct Link Evidence
- Eyewitness

**Circumstantial-** Evidence that is corroborative statements of victim, witness etc but does not singularly prove the allegation

**Behavioral and Emotional**- Behaviors and emotional states consistent with victimization
Methods for Obtaining Circumstantial Corroborative Evidence

• Seek corroboration for every detail provided by child in forensic interview
  ◦ Direct evidence of a crime
  ◦ Evidence to support child’s credibility
• Enhanced crime scene evaluation, especially photos
• Interview with the non-offending parent
• Interviewing suspects effectively and obtaining self-incriminating statements

Sources: Johnson, 2009; Vieth, 1999, 2010
Examples of Using Children’s Statements to Gather Circumstantial Evidence that Corroborates Child Victim

<table>
<thead>
<tr>
<th>Child Statement</th>
<th>Investigative Action</th>
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<tbody>
<tr>
<td>Father read <em>Goodnight Moon</em> to me before he touched me.</td>
<td>Search suspect’s house and seize the book</td>
</tr>
<tr>
<td>Uncle George always took me to the blue house</td>
<td>Take photograph of the house</td>
</tr>
<tr>
<td>Grandpa pulled my pants down on our fishing trip</td>
<td>Look for campground registration, photographs of the trip, fishing equipment at Grandpa’s</td>
</tr>
<tr>
<td><em>All About that Bass</em> was playing on the radio on Jersey’s finest 99 FM</td>
<td>Obtain radio playlist</td>
</tr>
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*Sources: Vieth, 2010*
Our Fourth and Final Principle

“Law enforcement responds through and with the multidisciplinary team, not outside of or around it”
Some of the Disciplines on a Multidisciplinary Team

- Law Enforcement/Prosecution
- Child Protective Services
- CAC/Forensic Interviewer
- Victim Advocacy
- Mental Health Care
- Medical
### All Disciplines on the MDT Contribute to Holding Offenders Accountable

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<thead>
<tr>
<th>Discipline</th>
<th>Contribution to Accountability</th>
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<tr>
<td>Forensic interviewer</td>
<td>Child forensic interview provides leads for law enforcement investigation</td>
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<tr>
<td>Child protective services</td>
<td>CPS investigation can inform law enforcement investigation</td>
</tr>
<tr>
<td>Physicians and nurses</td>
<td>Timely forensic medical exam can yield critical evidence (e.g., DNA, evidence of injuries), especially with adolescents</td>
</tr>
<tr>
<td>Victim and family advocacy</td>
<td>Support victims and families throughout the criminal justice process</td>
</tr>
<tr>
<td>Mental health</td>
<td>Emotional healing and coping throughout the criminal justice process (prosecution more likely if mental health problems are reduced)</td>
</tr>
<tr>
<td>Clergy</td>
<td>Spiritual and emotional support throughout the criminal justice process</td>
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CAC Movement Contributions

1) Child and family Friendly facilities to coordinate and streamline justice process
2) Identified MDT`s
3) “Professionalism of Victim Advocacy as a Specialized Discipline”
4) Development of Evidence-based Forensic Interviewing Practices
5) Proliferation of Training Organizations and Conferences on Child Maltreatment
Some Challenges of the Coordinated MDT Response

MDT Response Protocols vs Day to day Practices

LE-911 Calls For Service

CPS-Hotline/Prioritization of Calls

CAC Scheduling and Availability for Forensic Interview

Forensic Interviewer - Availability and scheduling to conduct Forensic Interview
Current Challenges Facing MDT Case Submissions

- Lack of Law Enforcement Experience and Training
- Lack of Prosecutor Experience and Training
- Lack of CAC Capacity to meet MDT Investigative Needs
- Delayed Post Outcry Coordination of Investigating MDT (*Duplicative, Rogue, MF*)
- Poor Forensic Interviews (*Elements, Details*)
- Lack or Poor Criminal Investigative Corroboration (Training, experience, Mentor)
- Poor or Lack of Clinical Support for Victim (Effective therapy thru criminal trial)
- Poor or Lack of Support for Maternal NOC (Effective therapy/support thru criminal trial)
- RECANTATION due to MDT Response (Response induced)
Presenters’ Future Recommendations

1. More research on Child Abuse Investigation and Prosecution
2. National Investigative Multidisciplinary Team Organization
3. Differentiating between Practice/Best Practices/Evidence and Research based Practices
4. Train IMDT in Criminal Investigation of CSAE PRIOR to First Case Assignment
5. Focus and Commitment on “How To” Training Across crimes against Children
6. Addressing Retention of CPS Investigators, LEO’s and Prosecutors


